Global Taxation Update

BELGIUM

New Tax on Speculative Stocks and Securities

Until recently, Belgium was one of few developed countries that had no wealth tax or general capital gains tax in its tax legislation. Only capital gains on real estate sold within a certain period after its acquisition was considered taxable, based on the Belgian income tax code.

However, recently a new capital gains tax has been introduced into the Belgian tax legislation. As of 1 January 2016, the Belgian authorities have introduced a tax levy of 33% on "speculative" capital gains realised on quoted stocks and securities.

Stocks And Securities To Which This Tax Applies

The new levy will apply to capital gains realised on quoted stocks, but also quoted stock options, warrants and other quoted financial instruments by means of which the investor invests in underlying assets which consist of one or more quoted stocks (i.e. derivatives).

The tax will apply if such stocks and securities are sold within 6 months of purchase. In the event they have been gifted after they were acquired, capital gains realised on these stocks and securities will still be subject to the new levy, if they are sold within 6 months after they were originally acquired by the donor (or the person in the chain prior to the gift who originally acquired them for valuable consideration if the last donor was also gifted the securities).

Capital gains on profit-sharing and/or convertible bonds are however, not subject to this new tax.

More importantly, an exception has been inserted in the income tax code as a result of which capital gains realised as the result of a company equity based compensation plan (Belgian or foreign) will not be considered taxable. This is provided a taxable benefit has already been recognised on the attribution or vesting of those rights. This applies to performance shares, RSUs, stock options, tradable warrants etc.

Beneficiaries To Whom This Tax Applies

This new "speculation tax" applies to transactions by natural persons and only in so far as the transactions are not related to their professional activity (i.e. a professional trader will not be subject to this levy with regard to transactions which he performs whilst exercising his profession of trader, as his gains will be taxed as professional income). This includes natural persons non-resident in Belgium with regard to capital gains realised through a Belgian intermediary (banks, stock-brokers and other financial institutions in Belgium).

Taxable Income

The new tax will be applied to the difference between the following two terms:

- The sale price received for the stocks or securities, reduced by the amount of the tax on stock exchange dealings (if applicable)
- The original purchase price of the stocks or securities, increased by the amount of the tax on stock exchange dealings paid at the time (if applicable).

The purchase price will have to be sufficiently substantiated and documented. If not, the speculation tax will be applied to the sale price in full.

To determine whether the stocks or securities sold have been held long enough, the LIFO-method (Last In – First Out) is applied per ISIN-category (ISIN stands for International Securities Identification Number) and per transaction. Within an ISIN-category, capital gains may be offset by capital losses, but the taxable income may never be less than zero.

Applicable Rate & Method Of Collection

The rate of the new speculation tax is 33% and no additional municipal taxes will apply.

This tax will be collected in two ways:

- All Belgian intermediaries are obligated to levy this tax on qualifying capital gains realised through their offices and transfer the collected tax to the Belgian authorities. The beneficiaries of these gains (both Belgian residents and non-residents) will then no longer be obligated to report this income in a Belgian income tax return
- Gains realised by Belgian residents and non-residents on Belgian quoted stocks and/or securities and collected in another way than through a Belgian intermediary (and who therefore have not yet been subject to the 33% withholding) will have to be reported in a Belgian tax return, as will gains realised by Belgian residents on non-Belgian quoted stocks and/or securities and collected in another way than through a Belgian intermediary (e.g. through a foreign stock-broker with regard to stocks and/or securities quoted on a foreign stock exchange).

BDO's Comment

It is our opinion that the introduction of this speculation tax is not necessarily the first step towards a general capital gains tax, but that it is possible that more of these very specific gains will be subject to taxation in the future.

Executives planning to move to Belgium should review their investment portfolio to check whether they are likely to be subject to this new tax.

INDIA

Budget 2016

The budget for fiscal year 2016-17, with an agenda to 'Transform India', was tabled in Parliament on 29 February. Acknowledging the role of taxpayers in nation building, the focus of the proposals was aimed at providing:

- Relief to small taxpayers
- Measures for moving towards pensioned society
- Measures for promoting affordable housing
- Reducing litigation and providing certainty in taxation
- Simplification and rationalisation of taxation.

Some of the pertinent personal tax changes proposed are listed below. The provisions will be enacted after it receives assent from the President.

Tax Rates

The income tax rates for the individuals for fiscal year 2016-17 shall be below:

While the rates of tax have remained unchanged, the surcharge on income tax is proposed to be increased from 12% to 15% for individuals having taxable income exceeding

INCOME (INR)	AGE OF THE INDIVIDUAL		
	Below 60 years	60 and above but below 80 years	80 years and above
Up to 250,000	NIL	NIL	NIL
250,001 – 300,000	10%	NIL	NIL
300,001 – 500,000	10%	10%	NIL
500,001 – 1,000,000	20%	20%	20%

TYPE OF FUND/SCHEME	NATURE	EXISTING PROVISIONS	PROPOSED PROVISIONS
Recognised Provident Fund	Contribution	Employer contribution in excess of 12% of salary treated as taxable perquisite	Employer contribution computed at least of below, treated as taxable perquisite: • In excess of 12% of salary; • INR 0.15Mn (Refer Note)
	Withdrawal	Not taxable subject to certain conditions	Refer to Note below
Approved Superannuation Fund	Contribution	Employer contribution in excess of INR 0.10Mn treated as taxable perquisite	Employer contribution in excess of INR 0.15 Mn (Refer Note) treated as taxable perquisite
	Withdrawal	Not taxable in certain situations	Refer Note
National Pension Scheme	Withdrawal	Fully taxable	• Exemption for 40% of amount payable to taxpayer at the time of closure of his account or opting out of the scheme • Amount received by nominee on death of taxpayer is exempt

INR 10Mn. The Education cess and Secondary and Higher education cess shall continue to be levied @ 2% and 1% respectively.

Tax On Dividend Income

A new provision to tax dividend income is proposed to be introduced. As per budget proposals, any dividend income in excess of INR 1Mn received from a domestic company will be taxed at the rate of 10% (gross basis) for resident individuals.

Tax Treatment Of Social Security And Pension Funds/Schemes

The amendments proposed by the budget with respect to tax treatment of the Recognised Provident Fund, Superannuation Fund and National Pension Scheme are explained above.

Note – The budget proposals to tax certain portions of these elements was later withdrawn by the Finance Minister.

Deduction Of Interest On Capital Borrowed For House Property

Currently, when computing income from property, the deduction of interest payable on capital borrowed is restricted to INR 0.2Mn if the acquisition or construction of the property is completed within 3 years from the end of the fiscal year in which capital was borrowed. The budget has proposed to increase such time limit of 3 years to 5 years.

Deduction For Payment Of Rent

The existing provisions allow a deduction in respect of rent paid by a taxpayer, not receiving house rent allowance. The deduction allowed for rent expenditure incurred by the taxpayer is the lower of:

- Payment of rent in excess of 10% of total income
- INR 0.002Mn per month
- 25% of total income for the year.

The limit specified in b) above is proposed to be increased to INR 0.005Mn per month.

Payment Of Advance Tax

The tax law mandates payment of advance tax during the fiscal year (April to March) where tax payable by a taxpayer exceeds INR 0.010Mn. The amendments proposed by the budget in terms of due dates of payment of advance tax and amount payable are tabulated below.

Tax Return

- Long term capital gains arising from the

EXISTING PROVISIONS		PROPOSED PROVISIONS	
Due date	**Amount payable (% of such advance tax)**	**Due date**	**Amount payable (% of such advance tax)**
September 15	30	June 15	15
December 15	60	September 15	45
March 15	100	December 15	75
		March 15	100

RETURN TYPE	EXISTING PROVISIONS	PROPOSED PROVISIONS
Due date for filing belated return	2 years from end of fiscal year or completion of assessment, whichever is earlier.	1 year from end of fiscal year or completion of assessment, whichever is earlier.
Due date for filing revised return	• For return filed within due date: 2 years from end of fiscal year or completion of assessment, whichever is earlier. • Belated return cannot be revised.	For return filed within due date or belated return: 2 years from end of fiscal year or completion of assessment, whichever is earlier.

transfer of equity shares on a recognised Indian stock exchange are exempt in the hands of individual taxpayers. The provisions relating to the filing of a tax return mandate filing by individuals whose income exceeds the basic exemption limit (INR 0.25Mn). The budget has proposed that income is calculated without the Capital Gains considered

- The revision of time limits with respect to filing of late returns is as on previous page.

Forms For Filing Tax Returns For Fiscal Year 2015-2016

For individual taxpayers, the due date for furnishing tax return is 31 July 2016. The prescribed forms for filing of tax returns have been notified. A key change to the tax return form is the inclusion of a new schedule "AL - Asset and Liability at the end of the year" applicable for taxpayers having total income in excess of INR 5Mn.

IRELAND

Real Time Credit for Foreign Tax

In cases where there may be a simultaneous deduction of Irish tax and non-refundable foreign tax at source from the same employment income, the Irish tax authorities ("Irish Revenue") have recently issued measures to allow real-time foreign tax relief through the Irish payroll taxes (Pay As You Earn or "PAYE") system.

In order to obtain real-time foreign tax relief there are a number of criteria which must be met:

- The employee must be tax resident in Ireland
- The employee must be employed by an Irish employer under an Irish contract of employment
- The employee must exercise some of the duties of the employment abroad and
- The employee must be subject to a simultaneous deduction of both Irish and non-refundable foreign tax.

Where these criteria are met, Irish Revenue will, on a case-by-case basis, consider an application for granting double tax relief to employees through the PAYE system. Prior to the introduction of these measures, relief for foreign tax paid was only available after the year end.

The application for the relief must be made by the employee as opposed to the employer.

The real-time credit procedure does not apply to the Universal Social Charge (USC) on employment income. In circumstances where the Irish effective tax rate is lower than the foreign effective rate, some of the foreign tax may be available as a credit against USC payable on the income which is subject to foreign tax. However, such credit will only be granted by way of end of year review.

Revenue Procedure – Treaty Countries

An estimated credit may be granted in 'real time' where foreign tax is paid in a country with which Ireland has a Double Taxation Agreement (DTA) in place. The foreign jurisdiction must be allocated a taxing right under the relevant DTA and the foreign tax suffered at source must be non-refundable.

It must be noted that this credit can only be estimated as the Irish effective rate of income tax will not be known until year end. As a result, Irish Revenue will prepare an estimate of the real-time foreign tax relief and this credit will be given through the PAYE system.

All credits granted in this manner will be subject to an end-of-year review when the employee files their annual tax return with Irish Revenue. Proof of the final tax liability in the foreign jurisdiction will be required as part of this review.

Revenue Procedure - Non-Treaty Countries

When an employee exercises some of the duties of the employment outside of Ireland in a non-DTA jurisdiction, there is no double tax credit relief.

However, unilateral relief may be granted by giving a deduction in respect of the non-refundable foreign tax. This deduction will be expressed as a tax credit through the PAYE system. The employee must provide Irish Revenue with evidence of the amount of the foreign tax deducted at source that is non-refundable.

BDO's Comment

These changes offer significant assignment planning and cash flow opportunities for expatriate employees who meet the criteria set out above.

LUXEMBOURG

Payroll reform from 2017

On 29 February, 2016 the Government presented its tax reform project, which should enter into force on 1 January 2017. The main points of interest are as follows:

Abolition Of The Temporary Budget Balancing Tax

The temporary budget balancing tax introduced on 1 January 2015 and fixed at 0.5% will be abolished on 1 January 2017.

Changes To Tax Credits

The tax credit for employees ("CIS"), currently set at €300 per year, as well as the tax credit for single parents ("CIM") currently set at €750 per year will vary from 2017 depending on the employees' annual income. Changes may also be made as to how the tax credits are indicated by the tax authorities on an individual's tax card. This process may be modified to take into account these changes. The new rates are as follows:

CIS	CIM
Annual income from €936 to €11,265 €300 to €600/year Annual income from €11,265 to €40,000 €600/year Annual income from €40,000 to €80,000 €600 to €0/year	Annual income from €0 to €35,000 **€1,500/year** Annual income from €35,000 to €105,000 **€1,500 to €750/ year**

Changes To The Tax Scale

Currently, annual income over €100,000 is taxed at 40%, as well as an additional 7% contribution to the Employment fund for income up to €150,000 and of 9% for income above this amount.

With the 2017 tax reform, two additional tax brackets will be added to the tax table. Annual income between €150,000 and €200,000 will be taxed at 41%, and income higher than €200,000 will be taxed at 42%. The effective tax rates are therefore as follows:

ANNUAL INCOME	2016	2017
€100,002 to €150,000	42.8%	42.8%
€150,000 to €200,004	43.6%	44.69%
> €200,004		45.78%

Valuation Of The Benefit In Kind For A Company Car

The company car benefit in kind value is currently fixed at 1.5% of the purchase price of the brand new car (options and VAT included). Going forwards the monthly amount of the benefit in kind for company cars will be determined by the engine type and the level of CO_2 emissions of each vehicle. Additional information is expected, but the benefit in kind values are expected to be as follows on the next page.

BDO's Comment

There are some significant changes to personal taxation rates due to be enacted in 2017. Please ensure you are aware of your obligations.

CATEGORIES OF CO^2 EMISSIONS	MONTHLY BENEFIT IN KIND (% OF THE VEHICLE PURCHASE PRICE)			
	2016	2017		
	All categories	Gasoline vehicle	Diesel vehicle (sole or hybrid)	Cycle according to Highway code (Bike or E-Bike)
0g/km	1.5%	0.5%	0.5%	0.5%
>0-50g/km	1.5%	0.8%	1%	
>50-110g/km	1.5%	1%	1.2%	
>110-150g/km	1.5%	1.3%	1.5%	
>150g/km	1.5%	1.7%	1.8%	

UNITED KINGDOM

Short-Term Business Visitors – new UK/UAE comprehensive tax treaty coming soon

The absence of a tax treaty with UAE has to date created UK tax issues for short-term business visitors to the UK who perform substantive duties whilst in the UK. In general, there is no personal taxation for employees in the UAE so it was somewhat surprising to see a comprehensive tax treaty agreed, including the standard dependent services (employee) article & conditions. The treaty is likely to apply from 6 April 2017 and will exclude from the charge to UK tax those performing UK duties who meet all treaty conditions. The fact that there is currently no personal tax in such jurisdictions will not be a barrier to UK tax exemption.

BDO's Comment

A significant number of UK businesses have employees in the UAE and large numbers of expatriates working there have ongoing UK connections. The treaty when in force will be a welcome relief and will help to reduce or eliminate future UK tax liabilities.

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