

Belgian Federal Budget 2012 – Final proposed tax measures

Last week an agreement was finally reached on the 2012 Belgian Federal Budget. As indicated in our Client Briefing of October 2011, a number of important new tax measures were proposed during the negotiations. The final list of measures adopted last week has been narrowed down considerably and has now been confirmed by the government in formation. However, please note that some important details of the new tax measures still need to be worked out and agreed on.

For your information and convenience, we will list out the most important amendments that would affect companies and individuals in a table attached as well as some other divers measures.

As always, we will closely follow up this issue and we will keep you informed on any evolutions.

Please do not hesitate to contact us should you have any concerns or questions at this point with respect to the final proposed tax measures.

Key Issues

Companies

Capital Gains (CG) on Shares

Withholding Tax (WHT) on Investment Income

Notional Interest Deduction (NID)

Thin capitalization restrictions

Individuals

Withholding Tax (WHT) on Investment Income

Wealth Tax

Tax treatment of Employee Stock Options (ESOP)

Other

Stock exchange tax

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I. COMPANIES

	Current situation	Final proposed measures
Capital Gains (CG) on Shares	<ul style="list-style-type: none"> ✓ Exemption of net CG (only subject to the condition that the distributing company is a normal taxable company) 	<ul style="list-style-type: none"> ✓ Exemption remains in place, except in the case of a re-sale of shares within 1 year, which will give rise to a 25% taxation of the CG realized
Withholding Tax (WHT) on Investment Income	<ul style="list-style-type: none"> ✓ 15% WHT on interest ✓ 25% WHT on dividends, reduced to 15% WHT for dividends on certain types of shares ✓ 10% WHT in case of liquidation or share buyback 	<ul style="list-style-type: none"> ✓ 21% WHT on all interest payments (with the exception of certain State bonds issued before 2012: 15% WHT) ✓ 25% WHT on dividend payments remains in place but 15% reduced rate is increased to 21% WHT ✓ 10% WHT in case of liquidation remains in place
Notional Interest Deduction (NID)	<ul style="list-style-type: none"> ✓ Rate: annual rate based on the OLO (3.425% for large companies and 3.925% for SMEs for assessment year 2012) ✓ Carry-forward excess NID: 7 years 	<ul style="list-style-type: none"> ✓ Rate: fixed rate of 3% for large companies and 3.5% for SMEs ✓ Carry-forward excess NID: no longer possible for new NID ✓ Existing carry-forward excess NID can continue to be used but tax advantage spread in time
Thin capitalization restrictions	<ul style="list-style-type: none"> ✓ No general thin-capitalization restrictions, except for interest paid to certain categories of related lenders or interest paid to low taxed lenders 	<ul style="list-style-type: none"> ✓ A general debt to equity ratio will be introduced: the exact ratio is still to be confirmed but will probably be 5:1

II. INDIVIDUALS

	Current situation	Final proposed measures
Withholding Tax (WHT) on Investment Income	<ul style="list-style-type: none"> ✓ 15% WHT on interest ✓ 25% , 15% or 10% WHT on dividends (cf. companies) 	<ul style="list-style-type: none"> ✓ 21% WHT on all interest payments (with the exception of certain State bonds issued before 2012: 15% WHT) ✓ 25% WHT on dividend payments remains in place but 15% reduced WHT rate is increased to 21% ✓ 10% WHT in case of liquidation remains in place
Wealth tax	<ul style="list-style-type: none"> ✓ No wealth tax 	<ul style="list-style-type: none"> ✓ Wealth tax for individuals receiving more than 20,000 EUR interest and dividend income per year ✓ Rate: 4% on top of the 21% WHT rate on interest/dividend income on the part exceeding the 20,000 EUR
Tax treatment of Employee Stock Options (ESOP)	<ul style="list-style-type: none"> ✓ Provided certain conditions are complied with, ESOPs may benefit from a special favourable tax treatment in Belgium ✓ Under this favourable tax treatment, the taxable benefit is deemed equal to 15% of the value of the underlying shares (regardless of the ultimate gain realized by the employees on the exercise of the options) 	<ul style="list-style-type: none"> ✓ The 15% deemed taxable benefit will be increased to 18%

III. OTHER

	Current situation	Final proposed measures
Stock exchange tax	<ul style="list-style-type: none"> ✓ A stock exchange tax is levied on certain secondary market securities transactions ✓ The applicable rate is 0.07%, 0.17% or 0.5%, depending on the type of security transferred. The tax is capped at EUR 500 or EUR 750 	<ul style="list-style-type: none"> ✓ Both the rates and the caps would be increased by 30%

This Client briefing does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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