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Officials Hope New Tax Regime Will Attract Multinationals

by Marc Quaghebeur

After the last Belgian ministerial meeting of 2004, Prime Minister Guy Verhofstadt announced on December 23 that the government has agreed to the principle of a "notional interest deduction" system. The Belgian government wants to use this new regime as a valid alternative that could convince multinational groups to maintain the activities of their Belgian coordination centers.

Coordination centers are companies that are part of a multinational group that provide specific accounting, administrative, and financial services to other companies of the group. Their profits have been calculated using the cost-plus method, but not all of their costs were taken into account; in particular, finance and personnel costs are not included in the taxable base of the coordination centers. Moreover, coordination centers are entitled to an exemption of withholding tax on the payment of dividends, interest, and royalties, and an exemption of capital tax.

In 2003 the European Commission decided that Belgium's favorable coordination centers regime is incompatible with EU state aid rules. Belgium has revised the regime to meet the objections of the European Commission on state aid grounds. (For related coverage, see *Tax Notes Int'l*, Sept. 13, 2004, p. 977.) Belgium will extend the withholding tax exemption to all Belgian companies, and it will end the capital tax exemption for coordination centers, while the Belgian capital tax rate of 0.5 percent will be lowered to 0.25 percent or 0.3 percent for all Belgian companies. More importantly, Belgium will for the first time require coordination centers to include finance and personnel costs in their taxable base.

However, it is anticipated that the reduced tax regime would mean the end of the coordination center regime and that coordination centers would leave Belgium, resulting in a loss of some 10,000 jobs and about €700 million in taxes.

Under the new favorable tax regime outlined by Prime Minister Verhofstadt, all Belgian companies would be entitled to set off the hypothetical cost of their equity against their profits. This interest deduction would be based on the interest rate paid on 10-year linear bonds issued by the Belgian State (around 3.50 percent). This interest rate would be calculated on the company's share capital and reserved profits. Preliminary contacts have indicated that the European Commission does not have any objections against the new tax regime.

According to the government's agenda for the introduction of the new risk capital tax regime, the draft bill should be finalized by the end of June 2005, and the new legislation should enter into force on January 1, 2006.

However, the government has given itself the time to decide how it will finance the cost of this new tax regime, estimated to be between €200 million and €1 billion. The socialist parties in the federal government want to find some compensation for this tax regime (in the form of a generalization of the capital gains tax on the sale of a substantial shareholding in a Belgian company, a cut in the beneficial tax regimes for dividends, or the participation exemption for dividends received, among others). The liberal parties hope that the tax regime will finance itself in the form of new jobs and indirect tax returns.

Tobin Tax Law Published

The new law approved by the Parliament on November 19 that introduces a tax on the exchange of foreign currency, bank notes, and coins was published in the Belgian State Gazette of December 24, 2004 (*Moniteur belge 2004*, p. 85760). (For prior coverage, see *Tax Notes Int'l*, Nov. 29, 2004, p. 727.)

Belgium is the first country to adopt legislation to levy a tax on any currency exchange transactions that take place within its borders. The law will only enter into force when all member states of the European Economic and Monetary Union have adopted a similar tax on currency exchange transactions, or when it is made mandatory by a European regulation or directive.

The Tobin tax is a two-tier tax rate, as proposed by Professor Paul-Berndt Spahn. Ordinarily tax is levied at a rate of 0.02 percent of the gross amount of any currency exchange transaction, but speculative transactions will be subject to a higher tax rate to be determined by the EU Council of Economic and Finance Ministers under article 59 of the EC Treaty (with a maximum of 80 percent). Speculative transactions are any currency exchange transactions that are outside the fluctuation margin of a central rate to be determined by Royal Decree in relation to a progressive mean rate calculated over 20 days. ✦

✦ *Marc Quaghebeur, Vandendijk & Partners, Brussels*