Reprinted from *Tax Notes Int'l*, October 17, 2005, p. 236

taxanalysts
Respectfully disagreeable since 1970.
tax notes international

Government Announces Budget, Tax Proposals

by Marc Quaghebeur

Belgian Prime Minister Guy Verhofstadt on October 11 presented the federal government's policy statement to Parliament. The presentation was part of his State of the Union address in the Chamber of Deputies (the lower house of Parliament). The policy document and 2006 budget have been officially endorsed by Verhofstadt's Cabinet.

Verhofstadt said that by 2015, one in five Belgians will be over the age of 65, which means that fewer workers will be paying the social security provisions for a larger group of retirees. That situation requires a new approach to boost employment, he said. Verhofstadt added that the federal government has devised an intergenerational solidarity agreement that will include measures aimed at reforming social security, retirement, and employment. Furthermore, he announced that to ensure the exportation of products rather than jobs, the tax on labor will be reduced by €9 million.

The government wants to modify the financing of the social security system so that it weighs less heavily on employment. Verhofstadt is therefore proposing that 15 percent of the proceeds of the withholding tax on investment income and 30 percent of the taxes on unhealthy products (such as tobacco) be allocated to the social security system.

He said the reduction of the national debt is continuing and that targeted tax reductions will remain a government priority. Belgium is performing better than the Eurozone average, he added, predicting economic growth of 2.3 percent this year.

The most important new fiscal measures proposed in the policy statement and 2006 budget are described in more detail below.

Taxation of UCITS Capital Gains

The government plans to introduce a levy of 15 percent on the capital gains of undertakings for collective investment in transferable securities (UCITS) that invest more than 40 percent of their assets in bonds that would take effect January 1, 2006. To determine the capital gain, the interest portion of the inventory value (the taxable income per share) of the fund would be calculated on a daily basis. That would indicate the percentage of the capital realized at the time of the sale of the UCITS that constitutes interest. If the taxable income per share is positive, a withholding tax of 15 percent would be due.

The government took its inspiration from the EU savings tax directive (Council Directive 2003/48/EC (June 3, 2003)), which requires Belgium to levy a specific EU withholding tax on the interest that is accrued or capitalized on the sale, refund, or redemption of shares or units in UCITS by non-Belgian-resident EU citizens.

Under Belgian law, that portion of the interest is not subject to taxation; it constitutes a capital gain that is, in principle, tax-exempt. However, interest received from UCITS that distribute their profits is subject to a withholding tax of 15 percent. (The withholding tax on investment income (dividends, interest, royalties, and so on) is, in principle, the final tax.) Capitalization UCITS investing mainly in stock, and investment funds with a guaranteed capital, are tax-exempt.

Taxation of Insurance Products

The government also would introduce in 2006 a levy of 1.1 percent of the premiums paid on branch

21, 23, and 26[1] life insurance contracts (these are general life insurance contracts, unit-linked life insurance contracts, and capitalization life insurance products, the latter being relatively rare in Belgium).

Those life insurance products are largely investment products that tend to remain untaxed. The levy would be payable by the insurance companies, but it is not yet clear how the government plans to prevent the insurance companies from passing the cost along to their customers. It is expected that foreign insurance companies, which can freely sell their products in Belgium, would not have to pay the tax.

A New Tax Amnesty

Although the government does not want to call it a tax amnesty, it has proposed the introduction of a "general permanent regularization procedure" for tax evaders. Under the plan, individuals and enterprises that have not declared all their taxable income would have to declare that income and, after a tax audit, would have the opportunity to pay the tax due without any penalties or criminal procedures. That would provide a second chance for individuals who did not take advantage of last year's tax amnesty for their investment income. (For prior coverage, see *Tax Notes Int'l*, Jan. 12, 2004, p. 115.)

Instead of filing an anonymous single, final tax return and paying a penalty of 6 percent or 9 percent of the previously undeclared income, taxpayers would have to come clean and pay a withholding tax of 15 percent (in the first half of 2006), 20 percent (in the second half), or 25 percent (in the first half of 2007).

The government hopes to collect an initial €300 million in 2006, and a recurring €100 million a year from the regularization procedure.

Other Measures

Earlier this year, the government awarded a contract to Belgian bank Fortis to securitize outstanding tax claims worth €10 billion: The state collects a payment of €500 million, and Fortis will issue bonds and offer them to institutional investors. Any proceeds exceeding €500 million will be shared by Fortis and the state. The government has now decided to securitize some of its outstanding VAT claims.

It also expects to accrue an extra €130 million from measures to fight fiscal fraud, and to receive €140 million from the sale of the Belgian embassy in Tokyo. The sale of other buildings is expected to yield an additional €500 million.

At the same time, the government has proposed a few minor tax benefits. Taxpayers contributing to a private pension savings plan would see their tax credit increase by about 25 percent. That means that instead of €620, they would be able to invest €755 and get a tax credit of between 30 percent and 40 percent of their contribution. Taxpayers who take early retirement would not see their pension entitlements cumulated with and taxed on top of their partners' earnings.

Verhofstadt took credit for the new risk capital deduction that will enter into force on January 1, 2006. The new tax regime will give Belgian companies a deduction equal to about 3 percent to 4 percent of their equity. It will replace the existing coordination center tax regime. (For prior coverage, see *Tax Notes Int'l*, Aug. 15, 2005, p. 590.) ◆

♦ *Marc Quaghebeur, Vandendijk & Partners, Brussels*

[1]Those numbers refer to the general classification of insurance contracts established in annex 1 to the Royal Decree of February 22, 1991 (general regulation for the supervision of insurance enterprises).