

Belgium Introduces a Tax Regime for the Sharing Economy

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Belgium's Programme Law of July 1, 2016, sets up a framework for taxing income received from the sharing economy, consisting of an advantageous (but limited) tax regime for individual service providers who operate through a digital platform and tax withholding at source by the digital platform.

The sharing, or peer-to-peer, economy is booming as digital platforms and apps (such as Uber, MenuNextDoor, Airbnb, and AirBsit) allow individuals to provide new services from sharing cars, cooking takeaway meals for their neighbors, renting rooms, babysitting, and more.

However, the tax regime of the income made from those peer-to-peer marketplaces was far from clear and often escaped taxation in Belgium. A private sale of castoff clothes or a property is not liable to capital gains tax as long as it occurs within the normal management of one's private estate. The private letting of property is taxed as rental income. As long as the income is not made as part of a professional activity, such income from an occasional activity was, in principle, to be characterized as "miscellaneous income" that was liable to tax at a fixed rate of 33 percent. Understandably, many taxpayers who had been providing takeaways or babysitting services forgot to declare the income from these occasional activities.

The new law achieves two objectives because it sets up an adapted and transparent tax regime to manage those peer-to-peer marketplaces while enabling individuals to try their hand at entrepreneurship in a small sideline activity. The sharing economy allows individuals to start a new activity without any starting capital and with little or no risk.

The law introduces a new type of income in the category of "miscellaneous income" for income from the sharing economy that will be taxed at 20 percent (after the deduction of a 50 percent allowance). In fact, it is an effective tax rate of 10 percent as long as the income does not exceed €5,000 per year.

To qualify for this new tax regime, the income must have been provided, outside a professional activity, by way of services by an individual to another individual (who is also acting in a private capacity), on the basis of agreements that have been put in place by a recognized digital platform or a digital platform set up by the authorities, and payment is exclusively organized through the digital platform. A service provider who also offers his services via other channels than the digital platform, or to legal entities or to professionals, will be disqualified.

The 10 percent tax will be withheld at source by the digital platform and paid to the tax authorities. Sharing economy start-ups are required to register with and be approved by the tax administration, and they will have to ban cash payments. All transactions are to be paid electronically so that payments can be traced.

When the income from this activity exceeds €5,000 per year, the entire income will be deemed to constitute income from a professional activity and be taxed as business income.

The text of the law is restrictive; it is limited to services in the sharing economy. The supply of goods falls outside the scope of this legislation. Moreover, the mere letting of real property or movables is excluded. That means that income from Airbnb and car sharing are, respectively, income from real property and income from movables. However, if the Airbnb host provides breakfast, that part of the income would fall within the scope of income from the sharing economy. And while car sharing would fall outside the scope of the law, Uber services would fall within.

When an Airbnb service offers bed and breakfast, and does not charge separately for the services, the income will have to split into real property income, income from the letting of the furniture, and income from providing services. If there is no clear division, the income from the services will be deemed to be 20 percent of the total cost.

Royal Decree 38 of July 27, 1967, which governs the social security regime for self-employed persons, is adapted to exclude from social security individuals who earn less than €5,000 from the sharing economy. They will not have to register as self-employed and will, therefore, not have to pay social security contributions.

They will also not have to register with the enterprises' database and will not have a business number. The income from the sharing economy will be VAT exempt (the VAT threshold is €25,000) so that individuals will not have to charge VAT (but they cannot recover the input VAT). Furthermore, they will not have to file an annual client listing.

The new rules apply from July 1, and the limit is set at €2,500 for 2016 (instead of €5,000).

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