

NEWS

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Targeted audits: who are the so-called “taxpayers at risk”?

Like every year, the Federal Finance Department published (on its website) a list of behaviours that could draw the attention of the tax administration and increase the risk of an in-depth tax audit.

If you are a private individual, the tax administration will pay attention to the fact that:

- You claim a deduction for alimony payments, especially if you pay it abroad;
- You deduct your actual expenses as a company directors;
- You did not correctly report rental income from professional premises that you own in Belgium;
- You did not file your tax return on time despite a reminder.

As a company, you are targeted by the tax administration if:

- You did not withhold the income tax due on payments made to foreign workers posted in Belgium for a period of time longer than 183 days per year;
- Your turnover seems unusual compared with the turnovers of companies in a similar situation, or if the company boasts an abnormally growing turnover according to criteria defined by the tax administration;
- You did not respect the 80% limitation for the deduction of income tax paid for alimony payments;
- You constituted an exempted provision for liabilities and risks;
- An inconsistency of the amount reported for previous tax losses has been noted;
- You did not file your tax return on time, despite a reminder.



Benefits in kind (BIK) and current account: new rates for 2017

Royal Decree of 26 January 2018 establishes new reference rates for calculating benefits in kind of any nature.

The reference rate for advances granted to business executives (via debit of their current account) is set at 8,78% for 2017. Although this rate remains exorbitant, there is a slight improvement compared with 2016, (when the rate was set at 9,27%).

The conclusion of a contract for mortgage loan can still reduce the BIK. Think about it...



“Fairness tax”: cancellation of the tax, yes, but with or without retroactive effect?

Recently, the Constitutional Court rendered its final judgement within the framework of the annulment repeal of the Fairness tax. Thereby, it decided to entirely cancel the regime, despite keeping the effects of cancelled provisions for tax returns of years 2014 to 2018 (income 2013 to 2017).

However, there is one exception for “impositions for which the fairness tax was collected on the behalf of Belgian companies that fall within the scope of the Directive (mother-daughter) on the benefits they received from their subsidiaries and that they redistributed in turn”.

For companies that paid this tax and fulfil these criteria, there is a special 6-months claim period starting on 1st March 2018 (which is the publication date of the decree).

Let us recall that the government has already approved a provision that repeals this tax entirely.

Delay for filing private individuals 2018 tax returns (income 2017)

In a press release dated 2 May 2018, the delays for filing private individual tax returns were disclosed as follows:

- “Paper” tax returns must reach the tax administration by 29 June 2018 at the latest;
- Tax returns filed via Tax-on-web must be entered before 12 July 2018;
- Taxpayers receiving a proposition for a simplified tax return must communicate any modification/addendum for these same dates;
- Proxies have until 25 October 2018 to file the tax returns of their clients via Tax-on-Web.

BIK housing - What’s going on?

Based on a recent case law, the advantage stemming from making a building available cannot be assessed differently between private and legal persons (1). Many brave taxpayers had lowered the amount of the BIK down by setting it on the base of the most advantageous evaluation (2), at the risk of seeing this position contested by the tax administration.

On 15 May, the tax administration put an end to this uncertainty and published a circular clarifying its position on the matter, meanwhile we wait for a change of the regulations. Good news for taxpayers: the tax administration confirms that it will accept the profitable 100/60 valorisation of the indexed cadastral income!

This valorisation will also be recognised for claims introduced on this subject. However, it will not be considered for tax breaks lodged after the expiration of the claim period provided for by article 371 CIR 92.

It is therefore vital to dispute the imposition based on the former valorisation with the current 6-months delay from the receipt of the tax bill.



(1) Gent, 24.05.2016 and 20.02.2018 and Antwerp, 24.01.2017. Also see our January 2017 newsletter.

(2) 100/60 of the indexed cadastral income multiplied using a 3.8 coefficient.

Default interest: taxpayers penalised twice

The law of 25 December on the reform of company tax brought the late payment interest rate to 4% and the default interest rate down to 2% (3). This difference in rate that requires the State to pay 2% interest on tax debts whereas taxpayers have to pay a 4% default payment rate of 4% is in itself discriminatory.

Whilst default payment rates were automatically applied until now (4), the law states that these interests will now only be due when the administration has been put on notice by formal summons or via an equivalent procedure. According to an administrative circular, this formal summons can “be in the form of a simple letter, a complaint within the meaning of article 366 CIR or a summons to court”. The same circular also indicates that the formal notice must be addressed to the tax administration once the reimbursement delay has expired. Apart from the fact that this condition is not laid down by law, the default interest would only be due in cases of “late” payment of the tax, i.e., almost never.

It should be stressed that an annulment appeal has been lodged against these new provisions with the constitutional courts.



Catering – 100% deductible depending on the context

Last March, the Minister of Finance aligned with the jurisprudence of the Court of Cassation in terms of VAT and agreed that food, drinks and catering expenses incurred by taxpayers within the framework of events aiming at promoting products and services will be 100% deductible for income tax purposes.

Indeed, the Minister feels that the purpose of the expenditures should be considered, not their nature. Until now, the tax administration always rejected this position and such expenses fall within the scope of publicity fees, not entertainment expenses.



Mobility allocation or “cash for car”

The law introducing the mobility allocation, also known as “cash for car”, was published on 7 May with retroactive effect to 1 January.

The principle of this new law implies that workers who own a company car may now exchange it against a monthly compensation. This allowance enjoys an advantageous social and tax status.

More details on “cash for car” on our website.

(3) It was set at 7% until 2017.

(4) Starting from the month following the tax return, the tax (to be reimbursed) was initially paid.

Foreign VAT and VAT refund, the end of net charges for companies

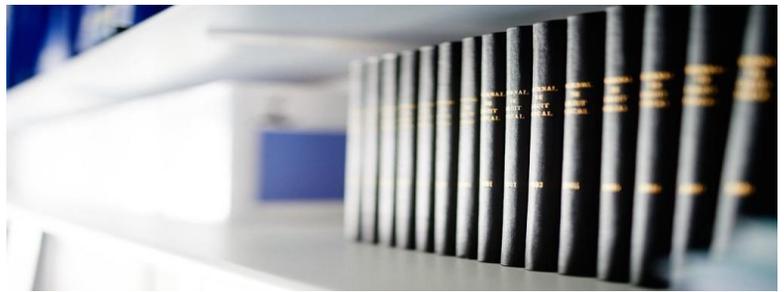
When travelling in Europe, Belgian companies have to cover the costs on which a “local” VAT is applicable. This VAT, which is that of the Member state where the person is travelling, is rarely recouped and often constitutes a net charge for companies.

This VAT may be recovered using a VAT refund for certain fees. This request must be lodged at the latest on 30 September of the year following that when the “local” VAT is applicable. Companies may thus lodge this request for fees paid throughout 2017 until 30 September 2018. The minimum amount for which a request can be lodged is of €50 per member state.

Costs borne from the local VAT include accommodation and hotel, restaurant, taxi, access to a conference, car rental...

Tax Consult's VAT department recently finalised a practical guidebook on this procedure and has developed an especially dedicated service.

Do you have a specific question regarding an expense incurred abroad? Don't hesitate to contact Tax Consult's VAT department on 02 678 17 63 or read the full article on Tax Consult's website.



VAT and e-commerce, Europe confirms its new regulations

The reform of e-commerce regulations was recently confirmed on the occasion of the meeting of the Council of “Financial and economic affairs” of 5 December 2017 after a notice by the European Parliament on 30 November 2017.

From 1 January 2019, thresholds (€ 10 000 and € 100 000) for cross-border electronic services should be in place to help microenterprises and SMEs. Practically speaking, this means that only companies boasting cross-border sales higher than € 100 000 will be subject to the normal regulations.

Many measures should also be in force on 1 January 2021.

- A new one-stop-shop for online delivery of goods and services rendered to cross-border consumers.
- The intra-EU remote sales regime and the regime relative to the exoneration of the import of small parcels will be eliminated.
- A new one-stop-shop for some imports;
- Other simplification mechanisms when the one-stop-shop is not used.

Today, e-commerce sales are mostly regulated by VAT regulations relative to remote sales. The application of these rules often remains uncontrolled despite a crucial need for specific attention stemming from the risks incurred and because of future controls linked to the changes in the regime.

VAT and building rental, the revolution is (finally) under way

On 30 March 2018, the Council of Minister finally confirmed the reform aiming at imposing VAT on the rental of some properties.

Today still, the letting of immovable property in Belgium is VAT exempt. From 1 October 2018, lessors will have the option to impose VAT on their house rentals. Landlord and tenant may jointly choose to impose VAT on the rental income of a building or fraction of the latter insofar as the tenant uses the property within the framework of her/his activities.

Thanks to this option, owners will be able to recover the full VAT on building costs.

The option, thus the application of VAT on some of this rental income, will only concern the rental of buildings built or renovated (to the point that they are considered new) after 1 October 2018. Buildings currently under renovation or for which specific expenses were incurred before 1 October 2018 are not concerned.

A Circular defining this new VAT regime is currently being drawn up by the tax administration. Tax Consult's VAT department will inform you of the publication of the (long-awaited) new measure...

Tax Consult news

1. Tax Consult has been registered as training body by the IEC

The Council of the Institute of Chartered Accountants and Tax Consultants (IEC) recently registered Tax Consult as a training body. This guarantees the professionalism and quality of the Club Fiscal TC seminars.

2. Forum for Expatriate Management: Tax Consult in Amsterdam

Under the leadership of the Head of Alliot's Global Mobility Services Group and associate of Tax Consult's HR Tax & International Mobility department Luc Lamy, the Alliot Group sponsored the Forum for Expat Management recently held in Amsterdam. The Forum proved an unparalleled opportunity for Tax Consult and the Alliot Group to share their expertise with over 250 professionals from 15 countries.

3. Alliot Group's VAT Group and indirect taxes; Tax Consult's VAT department leads European and Global indirect tax

On the occasion of the Alliot Group's yearly conference, VAT specialist in Tax Consult's VAT department Mickael Tatayas was appointed as Head of Alliot's VAT & Indirect Tax Group. This group gathers specialists of the various members of the European and Global network.

4. Customs & Excise, first official training in French-Speaking Belgium

The first Belgian training in customs and Excise delivered by the Université de Liège started early May 2018. The VAT department takes part in this training, which is recognised for its thorough understanding of this taxation that is intricately linked to the VAT and indispensable for cross-border transactions.

5. VAT and Middle-East: Tax Consult reinforces its partnership with local correspondents

Following a recent trip to the Middle East, Tax Consult will publish, in partnership with its local correspondents, an exhaustive article relative to the VAT obligations applicable in that region of the world (threshold of turnover for identification, VAT rates, tax-free zones, etc.).

You can read the full article on our website.

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