

1. Accounting: offsetting orders in progress against payments received on account of orders

With the transposition into Belgian law of European Directive 2013/34/EU, this form of offsetting is now possible. In fact, Article 71 of the Royal Decree implementing the Company Code provides, by contract, for amounts in financial statements disclosed under the headings “*Contracts in progress*” and “*Advances received on contracts*” to be offset.

Offsetting these amounts will have the effect of improving some companies’ financial ratios, by reducing their total assets.

The rule applies to financial years commencing on or after 1 January 2016.

2. E-invoicing: legal aspects of digitisation

As a result of the transposition into Belgian law of Council Directive 2010/45/EU, since 1 January 2013 electronic and paper invoices have been treated exactly the same way in Belgium.

Both the Directive and the Belgian rules stipulate that all invoices must exactly match the actual delivery of goods and services. Thus a series of regulations lay down a number of fundamental concepts, such as authenticity of origin, completeness, legibility and acceptance.

Authenticity and completeness can be ensured by implementing a management control process which establishes a reliable audit trail between an invoice and the service concerned (a link between, for example, orders, delivery, invoicing and payment). Specific technologies can also be implemented, such as an advanced signature or structured data exchange.

The legibility criterion is deemed to have been met if the invoice can be submitted within a reasonable period in a form that is legible on screen or after printing.

The acceptance process is the same as for a paper invoice, i.e. by paying it.

Needless to say, our clients can rest assured that these concepts have been properly implemented at Tax Consult!

3. Subsidised advice: a reminder

A quick reminder for anyone who may not yet be aware: the Brussels-Capital region provides subsidies of 50% and up to EUR 15,000 for (one-off) consultancy.

There are two types of subsidy:

- “pre-activity” assistance: for prospective business owners who want to establish or resume a business with a view to developing its economic activities. This covers various forms of advice on establishing or transferring a business;
- assistance towards advice or feasibility studies covering all kinds of one-off advice that is not connected with the day-to-day management of the business.

Support with consultancy services is only available for “micro”, small and medium-sized enterprises operating in the Brussels-Capital region.

For more information, please get in touch with our Corporate Tax team.

4. International: new rules on the sharing of advance rulings in Europe

From 1 January 2017, EU Member States will be required to automatically share information about advance rulings relating to cross-border matters and advance agreements regarding transfer pricing¹.

The information that Member States must automatically share includes the identification details of the person concerned, a summary of the content and the period of validity of the advance ruling or agreement, the other Member States likely to be affected, etc. To enable and facilitate this sharing of information, the Commission will be developing a “central secure repository” for Member States, containing this information.

One major, retroactive effect is also planned: before 1 January 2018, Member States must share information on advance rulings or advance agreements issued, amended or renewed since 2012. This information does not have to be divulged if the rulings or agreements issued in 2012 and 2013 were no longer valid as at 1 January 2014. For advance rulings or agreements issued, amended or renewed from 1 January 2014 onwards, the information must be shared, regardless of whether those rulings or agreements are still valid.

5. VAT liability of legal entities acting as director, manager or liquidator of a company

From 1 June 2016, all legal entities acting as director, manager or liquidator must be deemed liable for VAT. As previously announced, the tax authority has decided to put an end to the leeway previously granted, which allowed this category of taxpayer to opt for the services in question not to be taxed.

In a decision (no. E.T. 127.850 of 30.03.2016), the tax authority expresses its opinion on a number of questions, among them:

- It does not allow the recovery of historic VAT;
- It regards directors' fees as supplementary remuneration that is directly connected with the activity performed as administrator or manager, meaning that it is also taxable;
- Directors' fees awarded by the general meeting prior to 01.06.2016 may still benefit from the leeway, irrespective of the date of the invoice or actual payment;
- For services rendered from 01.06.2016 onwards, the leeway may still be applied if an invoice was issued or the fee was received, in full or in part, no later than 31.05.2016. Thus no VAT is due on the amount invoiced or the amount received;

¹ Transposition of Directive 2015/2376/EU, approved by the Council on 8 December 2015.

- For intra-Community services (B2B services) or if the recipient is a legal entity under public law for VAT purposes, the leeway may still be applied if the fee was received, in full or in part, no later than 31.05.2016. Thus no VAT is due on the amount received.

6. Gifts of property: a quick update

Despite the growing complexity of duties payable on gifts of property as a result of regionalisation, the changes recently made to the rates of these duties by the country's three Regions are good news for taxpayers - at least, that is, where the new rates applicable in Flanders and Brussels are concerned. Since 1 July 2015 and 1 January 2016 respectively, these two Regions now have four progressive tax brackets for gifts of property with, for amounts of EUR 450,000.00 upwards, a marginal rate of 27% for direct heirs (children, spouses and legal cohabitants) and a marginal rate of 40% among other persons.

In contrast, since 1 January 2016 the Walloon rates applicable for direct heirs have comprised seven progressive tax brackets for which the marginal rate, for amounts upwards of EUR 500,000.00, is 30%. The Walloon rates applicable among people in other categories are even less straightforward as, after applying eight progressive tax brackets and for amounts upwards of EUR 450,000.00, they are as much as 40% among siblings and 50% among other persons.

By way of example, here is a comparison of the total tax burden on a gift of a property with a value of EUR 750,000 depending on whether the applicable duties are Flemish, Brussels or Walloon.

Gift of property with a value of EUR 750,000				
	New general rate in FLANDERS/BRUSSELS		General rate in WALLOON	
Gift to 1 child	€130,500	17.4%	€148,500	19.8%
Gift to 2 children	€72,000	9.6%	€90,000	12%
Gift to 1 sibling	€215,000	28.66%	€240,000	32%
Gift to 2 siblings	€145,000	19.33%	€180,000	24%
Gift to 1 nephew/niece	€215,000	28.66%	€280,000	37.33%
Gift to 2 nephews/nieces	€145,000	19.33%	€200,000	26.66%
Gift to 1 cousin/friend	€215,000	28.66%	€325,000	43.33%
Gift to 2 cousins/friends	€145,000	19.33%	€275,000	36.66%

Why make it simple?

7. Personal income tax (2015 income): submission deadlines

A quick reminder of the various deadlines for submitting 2016 tax returns (2015 income):

- 30 June 2016 - for “paper” returns;
- 13 July 2016 - for returns via Tax-on-Web.

Agents have until 27 October to submit returns via Tax-on-Web for their clients.