

Tax alert: How to deal with the Belgian fiscal measures for 2006?

The Belgian government announced tax measures that will be effective from 01/01/2006. Although several details are not yet clear and the legal framework is still under construction, the intention and the impact are undisputed. The purpose of this document is to guide you through this tax measures and to indicate concrete solutions.

Capital gains tax:

In 2004 the government "encouraged" the Belgian investor to bring his offshore assets back to Belgium. This was done through fiscal amnesty, silent regularization and wild repatriation. Many feared at that time that this would soon be followed by some sort of a wealth tax.

Now, the government announced that capital gains tax is due on all investment funds holding less than 60 percent shares. The 15 percent taxation is calculated on the interest and capital gains of the bond part of the fund generated after 01/07/05.

Such measure does not increase the credibility of the government.

The Belgian investor could already avoid the EU Savings Directive by transferring his investments into a **qualifying life insurance policy**. He is now also in a position to avoid the Belgian taxation by transferring the concerned investment funds **into a qualifying life insurance policy**.

Life insurance tax:

A tax of 1.1 percent is due on all premiums of life insurances of the type Branches 21, 23 and 26. Although this taxation is meant for the life insurance companies (located in Belgium) it is clear that at the end it will be the end-client who will have to pay.

Again, cashing in on the success of the domestic life insurance sector does not increase the credibility of the government.

Belgium is not qualified to levy taxes on **Luxembourg life insurance premiums**. Therefore switching your Belgian contracts and premiums into **a Luxembourg compliant life policy** is one way to avoid this taxation.

Tax amnesty:

Fiscal sinners can step forward and sort out their past through a "personal regularization" with the tax authorities. All due taxes will have to be paid: e.g., income tax on the source, income tax on the revenue and inheritance tax. No fine until 01/07/06, a 5 percent fine until 01/04/07 and a 10 percent fine from then onwards.

Although there is absolutely no anonymity in this personal settlement, the tax authorities guarantee confidentiality. How effective this is done in reality is hard to imagine. And how the next government is going to deal with this information remains to be seen too.

When the pressure on offshore assets is climbing the interest for a fully legal and compliant structure that offers financial privacy as well as tax efficiency is also climbing.

A qualifying Luxembourg life insurance can be a solution for many Belgian investors. The decision for such a Luxembourg life insurance is justified by dozens of valid onshore motives. Organizing one's succession planning in a "managed" way without losing control but with avoidance of inheritance tax is one of them.

Why wait and postpone if you know that the fiscal climate will not improve. Clients that have a qualifying life policy in force are best protected against any future change in law. If you and/or your client want to discuss the issue, please feel free to contact me.