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## Tax shift Law

The federal Parliament has approved the draft law which contains tax measures implementing the tax shift. With the tax shift the Government wants to achieve lower burdens on professional income and also stimulate work and economic innovation/growth. On the other hand indirect taxes and taxes on financial income for individuals are increased.

Apart from lowering the employers social security contributions and the contributions for self-employed, the tax shift law comprises the following tax measures.

### Incentives for business

#### Investment deduction

- The investment deduction for ordinary investments for the purposes of individual income tax (currently 3.5%) and corporate income tax (for SMEs - currently 4% for investments in 2014 and 2015) will be increased to 8% (the deduction for SMEs will also be extended indefinitely).
- SMEs will only be defined referring to article 15, § 1 to 6 of the Company Code.
- Entry into force: investments made as from 1 January 2016.

#### High-tech products

- Introduction of an increased spread deduction (20,5%) for investment in means of production of high-tech products under the condition that it concerns products of which the production is new and that those products add increased spending in R&D at the moment of the first series production.
- The nature and characteristics of the fixed assets and high-tech products will be determined by Royal Decree.
- Entry into force: investments made as from 1 January 2016.
- For companies that produce high-tech products, the exemption from withholding tax for shift and night work is increased by 2,2%, but only for workers to the extent that they are effectively employed in the production of high-tech products.
- Entry into force: as from 1 January 2016.

#### Wage withholding tax

- The exemption of wage withholding tax for shift and night work will be increased to 22,8% as from 1 January 2016.
- The general exemption of payment of wage withholding tax of 1% is abolished for the profit sector but preserved for the non-profit sector.
- The increase of the general exemption for SMEs by 0,12% is preserved. The exemption for SMEs in the profit sector is thus 0,12% and for SMEs in the non-profit 1,12%.
- Entry into force: 1 April 2016.

#### Increase of purchasing power

##### Lump-sum business expenses employees

- The higher limit of the first bracket of 30% of the salaries of employees will be increased from 3.800 to 5.505 EUR (to be indexed) as from AY 2017.
- As from AY 2019, only the percentage of 30% will remain and the maximum lump sum of business expenses will be increased from 2.760 to 2.950 EUR (to be indexed).

##### Individual income tax rates

- The lower limit of the bracket of 30% will be increased from 5.705 to 7.070 EUR (to be indexed) as from AY 2017. Following that the application of the 25% bracket is increased.
- As from AY 2019, the bracket of 30% will be abolished and the higher limit of 40% will be increased from 13.530 to 13.940 EUR (to be indexed).
- As from AY 2020, the higher limit of the bracket of 40% will be further increased to 14.330 EUR

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(to be indexed).

#### **Tax-free sum**

- The limit income for the application of the increased tax-free sum (basis amount of art. 131 BITC) will be increased from 15.220 to 25.220 EUR (to be indexed) as from AY 2019, the correction for the transformation of the deduction for own dwelling in a tax reduction will be abolished, also as from AY 2019.
- As from AY 2020, the basis amount of the tax-free sum is uniformly set at 4.785 EUR (to be indexed).
- A mechanism is provided to avoid that the abolition of the 30% bracket has no positive cash effect because of a high tax-free sum (as from AY 2017).
- The rules in case of a common assessment will be changed (as from AY 2017).  
Tax reduction for pensions and replacement income
- The basis amounts are reduced from 1.344,57 to 1.148,93 EUR (to be indexed) (art. 147, al 1, 1° to 7° BITC) and from 1.725,98 to 1.530,34 EUR (to be indexed) (art. 147 al 1, 9° BITC) as from AY 2020 (in line with the uniform tax-free sum).
- The additional tax reduction is abolished as from AY 2020.

#### **Taxation of financial income**

##### **Speculation tax**

- Tax of 33% on capital gains on listed shares (including share certificates) / options / warrants and other stock quoted financial instruments on shares (e.g. derivatives like futures ...) held for less than six months. The speculation tax is only applicable on resident and non-resident individuals and if the investment in shares is not their professional activity.
- Are not included: capital gains on parts in undertakings for collective investment, capital gains on shares/options/warrants received in the course of his professional activities and for which, if need be, a taxable income is determined in the hands of the employee and the capital gains on shares/options/warrants or other financial instruments that are initiated exclusively by the issuer and for which the tax payer did not take any initiative.
- Are included: capital gains in case of short transactions involving shares, capital gains on donated shares (if the shares were acquired for consideration within 6 months).
- The LIFO method is used to determine the holding period of the shares.
- The tax base is the difference between the price received (minus stock exchange transaction tax) and the price paid (plus the stock exchange transaction tax). If the price paid is not known, the WHT will be withheld on the price received (any excess can be recovered through the tax return).
- Globalization of this income, even if more advantageous, will not be applied.
- Deduction of capital losses will only be possible in a very restrictive way.
- Entry into force: shares, options, warrants and other financial instruments acquired as from 1 January 2016.

##### **Withholding tax on movable income**

- Increase of the rate of the withholding tax on dividends and interests from 25 to 27%.
- The reduced rate of 15% for residential real estate investment companies and "people loans" is abolished.
- The rate for distributions of the liquidation reserve within five years or for reductions of capital (constituted by recontributed distributed reserves – in the context of the regime of internal liquidation) within four or two (SME) years is increased from 15 to 17% (at the constitution of the liquidation reserve or the capital, a tax of 10% was already due).
- The reduced rate of 15% for savings accounts (above exempt amount) and the "Leterme certificates" does not change
- Entry into force: income paid/attributed as from 1 January 2016.

##### **Legal constructions**

- The law also adapts the transparency tax or Cayman tax. Apart from some technical corrections following measures are taken:
- First the tax payer will have to identify the legal construction in his yearly tax return by mentioning the name, legal form, address, and tax id. For trusts and similar contracts the tax payer will also have to mention the name and the address of the trustee.
- For applying the exception that some legal forms are not considered to form a taxable legal construction (e.g. collective investment entities), the law now attaches the condition that these legal forms can't be single owned or controlled by the same person and/or his family.
- Entities that have enough substance and are established in the EER or treaty countries, and by

this can benefit from an exception on the Cayman tax, will have to be mentioned in the yearly tax return.

- Entry into force : assessment year 2016

#### **Indirect tax**

##### **VAT**

- The exemption from VAT on certain esthetic procedures and treatments by doctors will be abolished. It concerns esthetic procedures which are not included in the nomenclature, or, if they were, do not meet the conditions to qualify for compensation in accordance with the rules on the compulsory insurance for medical care and benefits. The VAT exemption is also abolished for medical and hospital care (and all closely related activities) of a patient undergoing such treatment.
- Distinction between the medical and paramedical profession. The exemption will only apply to services provided by the statutory paramedical professions which are exhaustively listed in the Explanatory Notes. The exemption for paramedical professions is otherwise limited to the services of care included in the nomenclature, regardless of the number of nomenclature services which give entitlement to reimbursement.
- Reduction of VAT rate on construction of schools (for both supplies, immovable works and leasing) to 6%.
- Entry into force: 1 January 2016.

##### **Excise duties**

- Increase of excise duties on soft drinks and indexation of excise duties on non-alcoholic beverages and coffee.
- Increase of excise duties on tobacco over several years (2016-2020).
- Adaptation of excise duties on energy products (including increases for diesel and reduction for gasoline).
- Entry into force: 1 November 2015.