Belgium; European Union

Government Submits Bill on Changes to Minimum Taxation to Parliament

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On 6 March 2023, the government submitted a bill on changes to the minimum tax to the parliament.

The proposed changes to the minimum tax include the following:

- allowing the transfer of tax credits to a non-related company but only if the transferred amount exceeds 80% of the net present value;
- a provision under which a group entity can decide not to exclude dividends on a shareholding, voting or profit right of less than 10%;
- no reduction for a disputed domestic top-up tax or a top-up tax that cannot be collected due to constitutional provisions or other legal agreements;
- a provision on the amount of deferred taxes due to the creation and use of tax credits. This rule covers situations where:
  - the jurisdiction requires that foreign income is offset against domestic losses before foreign tax credits can be offset against tax on foreign income;
  - the group entity incurs a domestic tax loss that is fully or partially compensated by foreign income; and
  - the domestic tax regime allows that foreign tax credits are used to offset a tax liability in a subsequent year for income included in the calculation of qualifying income or loss of the group entity;
- a new definition on the adjusted domestic taxes;
- taxpayers filing a minimum tax declaration in another EU Member State must disclose this fact and their Belgian top-up tax liability under the IIR or UTPR rules in their Belgian tax declaration;
- the option to exclude certain dividends applies for 5 years;
- the option for applying safe-harbour rules must be made annually;
- a provision on permanent safe harbours for non-material group entities based on the OECD guidelines;
- a provision on country reports for temporary safe-harbours based on the OECD guidelines. This provision also contains clarifications on the acceptable financial accounting anti-abuse measures for hybrid arbitrage regulations;
- a provision to implement the UTPR safe-harbour; and
- a transitional regime for blended CFC, such as the US GILTI.

The above changes would apply for accounting years starting from 31 December 2023.

The full text of Bill No. 55-3866 is available here (as a PDF, in Dutch and French only).