**EN- New double taxation treaty between Belgium and the Netherlands**

June 21, 2023 marked the signing of a double taxation treaty between Belgium and the Netherlands. Once ratified and approved by the respective parliaments, this new agreement will enter into force, replacing the current agreement dating from 2001. The revised agreement includes provisions designed to resolve problems encountered in applying the previous version. In addition, it incorporates anti-abuse mechanisms in line with the OECD's BEPS actions.

Firstly, unlike the current treaty, the new one will be restricted in scope to income taxes, thus excluding capital taxes. This will specifically impact the liability of Dutch residents to the annual 0.15% tax on securities accounts, known as "TACT".

In addition, specific adjustments under this agreement are designed to address the situation of teachers, professors, athletes and artists working abroad. Contrary to the provisions of the current agreement, this category of individuals will no longer benefit from a special regime. They will therefore be taxed in the country where they exercise their professions. However, athletes and artists working on a short-term basis will continue to be taxed in their country of residence.

Secondly, the new treaty introduces changes with regard to directors and major shareholders. Where the latter have emigrated from the Netherlands to Belgium and own their own company (Besloten Vennootschap), the new treaty stipulates that the Netherlands reserves the right to tax dividends for 10 years following the date of emigration, even if the company has established its registered office in Belgium. Furthermore, Belgium waives the imposition of taxes on the transfer of shares or the dissolution of the BV if a tax claim remains outstanding on the Dutch side. This claim must be linked to the appreciation in value of the shares during the period in which the shareholder was resident in the Netherlands.

The new treaty between Belgium and the Netherlands also includes provisions to combat tax evasion through treaty abuse. In fact, the BEPS project to combat tax base erosion and profit shifting has been added to the treaty. As a result, the new treaty allows the country where the activities are carried out to levy tax on corporate profits.

Finally, although there have been many internal legal questions about pension levies in recent years, the article on pensions (Article 16 of the new treaty) remains unchanged. Furthermore, the new treaty does not address the situation of cross-border workers who telework. Discussions on this issue between Belgium and the Netherlands are still ongoing.

It will be some time before the new double taxation treaty between Belgium and the Netherlands comes into force.

Brussels, august 2023