

## Changes in the (para)fiscal treatment of non-recurring result-tied benefits /bonuses.

The **Program Law of 27 December 2012** (published in the Official Belgian Gazette of December 31, 2012) has modified the bonus system as introduced in Belgium in 2008 (the so-called “non-recurring result-tied benefits” based on the Law of 21 December 2007).

**Also after 1 January 2013**, private-sector employers may grant bonuses, which are bound to collective objectives (e.g. increasing the customer satisfaction, increase of the turnover, reduction of waste production) and are determined on the basis of objective criteria, **exempt from income taxes** to their employees.

Provided the compliance with a number of substantive and formal conditions (an approval of the plan is indeed necessary), the bonus for the calendar year 2013 will, to a certain threshold per employee, be exempt from income tax.

Up to 31 December 2012, this bonus was also exempted from the ordinary social security contributions (13,07% employee contribution and +/-35% employer contribution). In exchange, a **special social security contribution of 33%** needs to be paid by the **employer**.

Based on article 75 of the Program Law of 27 December 2012, with effect as from 1 January 2013, the bonus will, in addition, be subject **to a solidarity contribution of 13,07% to be paid by the employee**.

This modification applies also to benefits paid in 2013 but which are tied with the realization of goals related to 2012 (and for which the plan has already been submitted in 2012 for approval).

This means that, if an employer pays a bonus in 2013 to its employees, who is linked to the results of 2012, for an amount of €2.430 (which is the maximum amount of 2012), a social security contribution of 13,07% will need to be deducted through the payroll. As a result of this, the net bonus will be lower for the employees (in fact €317,6 lower). The cost for the employer will however remain the same.

	<b>BONUS paid in 2012</b>	<b>BONUS paid in 2013</b>
Cost employer	3'231.90 €	3'231.90 €
Contribution employer	801.90 €	801.90 €
Gross bonus	<b>2'430.00 €</b>	<b>2'430.00 €</b>
Contribution employee	0.00 €	<b>-317.60 €</b>
Income tax	0.00 €	0.00 €
<b>Net bonus</b>	<b>2'430.00 €</b>	<b>2'112.40 €</b>

In exchange for the additional contribution, as of the income year 2013, **the maximum amount has been raised to €3.100** (for *social security*). Although the threshold has been raised, the bonus can only be paid up to the limit as determined in the (approved) plan.

We note also that the threshold has not been changed yet for tax purposes. If the bonus, after the deduction of 13,07% solidarity charges, is higher than the current threshold for tax purposes (amounting to €2.488), the “overlap” would be subject to income tax. Please note however that we have received confirmation that the threshold for tax purposes will also be increased to €3.100 (by modification of the threshold included in article 38§1, 1° al, 24° BITC).

As from 1 January 2013, the result-tied bonuses will still be exempted from Belgian income taxes (up to in principle the increased threshold of €3.100). Therefore, this kind of compensation remains very attractive compared to the granting of a “normal” cash bonus which is fully taxable at the standard progressive income tax rates (maximum 50% + local tax), which we illustrate hereafter:

	<b>Result-tied BONUS</b>	<b>CASH BONUS</b>
Cost employer	4'123.00 €	4'185.00 €
Contribution employer	1'023.00 €	1'085.00 €
Gross bonus	<b>3'100.00 €</b>	<b>3'100.00 €</b>
Contribution employee	-405.17 €	-405.17
	2'694.83 €	2'694.83 €
Income tax (50%)	0.00 €	-1'347.42 €
<b>Net bonus</b>	<b>2'694.83 €</b>	<b>1'347.42 €</b>

An De Reymaeker  
[an.dereymaeker@vandendijk-taxlaw.be](mailto:an.dereymaeker@vandendijk-taxlaw.be)

Ruth De Baere  
[ruth.debaere@vandendijk-taxlaw.be](mailto:ruth.debaere@vandendijk-taxlaw.be)