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2025

Tax trends and developments for MNEs in 2026

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Preface

We are pleased to present our annual corporate tax bulletin offering a concise, practical and forward-looking analysis of the expected tax landscape for multinational enterprises (**MNEs**) in 2026.

In this bulletin, our specialists provide insights on general and specific tax trends and developments impacting MNEs at international and European level, as well as in our four home markets, namely, the Netherlands, Belgium, Luxembourg, and Switzerland.

As the nature of some of the trends and developments identified herein differ per country, the bulletin focuses on the main topics relevant for each jurisdiction and does not discuss the same common topics per country.

We thank all our specialists for their valuable contributions to this document.

Kind regards,

Marja de Best and Bart Heijnen
Loyens & Loeff N.V., 1 December 2025

Marja de Best

Bart Heijnen

The future landscape

In 2025, the trend that important new tax legislation originates at an international level, rather than a domestic level, continued. We expect that this trend will continue in 2026 and future years.

The OECD continues to be a large contributor to new international tax legislation with, for example, new Pillar Two legislation and an update to Chapter VII of the Transfer Pricing Guidelines expected in 2026. In addition, the European Commission is expected to release new tax proposals in 2026, to the benefit of taxpayers. This legislation will be part of initiatives to improve the EU's competitiveness and simplify tax rules, including the EU Blue Carpet Initiative, the Clean Industrial Deal and the "Omnibus on Taxation" package. This is a welcome change after years of new tax legislation introduced by the EU with a view to regulating taxpayers (e.g., the Anti-Tax Avoidance Directive, **ATAD**). Beyond 2026, areas to watch are the pending BEFIT proposal, the potential reactivation of the EU's (2018) proposal to introduce a digital services tax (**DST**) and new (tax) measures to generate revenue to fund the EU's own budget.

At a national level, things have been relatively quiet on the legislative front in the Netherlands. The Dutch annual budget was "policy-light" in 2025, in anticipation of the elections that were held recently (a new Dutch government is currently being formed). In Belgium, the new federal government formed in 2025 is executing an agreement that sets the stage for significant changes in tax policy to enhance Belgium's competitiveness and to foster its economy. In both Switzerland and Luxembourg, tax legislation continues to be rather stable, outside the implementation of Pillar Two.

In all our home jurisdictions we have seen a sharp increase in tax controversy, including both tax audits and disputes, particularly, in the field of transfer pricing. We expect this trend to continue in 2026 and future years as well. The number of mutual agreement procedures (**MAP**) lodged has remained high. The same goes for multi-jurisdictional audits.

Furthermore, a new dimension has been introduced to tax disputes by taxpayers, namely, the claim that (EU) secondary tax legislation breaches their fundamental rights under primary EU law. It will be interesting to see how the European Court of Justice (**CJEU**) will address such arguments in pending proceedings on the Pillar Two Directive and the solidarity contribution from oil & gas companies under an EU Regulation.

Finally, expectations regarding (new) tax legislation are closely linked to (geo)political developments. A particular area to monitor in 2026 is the implementation of the trade deal negotiated between the US and the EU about custom duties & tariffs and further negotiations in this respect.

Vincent van der Lans

Margriet Lukkien

The international landscape

Introduction

As the international tax environment continues to evolve, 2026 is expected to bring significant changes for MNEs. While much of the focus at the international level will likely remain on the ongoing discussions about the "Side-by-Side" system (**Side-by-Side system**) in respect of Pillar Two, the landscape will also be shaped by the recent publication of the 2025 Update to the OECD Model Treaty, with important implications for dispute resolution, home office permanent establishments (PE), and associated enterprises. In addition, the tax landscape in 2026 is expected to be impacted by the growing importance of MAP as a strategic tool for managing cross-border tax risk, the shifting dynamics of digital taxation amid stalled Pillar One negotiations and a proliferation of unilateral digital services taxes (**DSTs**), and the new EU-US trade deal affecting transatlantic business.

Each of these topics is explored in more detail in the following sections to help you anticipate and engage with the issues most likely to shape your 2026 tax strategy.

Pillar Two: Side-by-Side system and other developments

Upon the global agreement on Pillar Two (**GloBE Rules**), the EU took a frontrunner role in the coordinated implementation of these rules, by way of the Pillar Two Directive. As a result, the GloBE Rules have been implemented in (most) EU Member States. Meanwhile, a number of jurisdictions outside of the EU have not implemented the GloBE Rules yet. These jurisdictions include major economic forces such as the US, India, and China.

In June 2025, the G7 published a statement endorsing a Side-by-Side system that is aimed at exempting U.S.-parented multinational groups from both the Under Taxed Profits Rule (**UTPR**) and Income Inclusion Rule (**IIR**). No official guidance has been released by the OECD in this respect yet. Hence, the current GloBE Rules remain applicable to in-scope groups until further guidance is published by the OECD.

In the meantime, the EU seems to take the position that the implementation of the OECD's Side-by-Side system can be made via Article 32 of the Pillar Two Directive, on which basis no reopening and/or amendment of the Directive would be required. The question is how robust this will be. Furthermore, a preliminary reference procedure is now pending before the CJEU, concerning the validity of the UTPR in light of fundamental rights and principles of EU law (see Section 2.2. below).

At the time of preparing this publication, no official news has been published in view of extending the UTPR Safe Harbour to protect undertaxed profits of certain UPEs against the UTPR. Without extension hereof, such undertaxed profits at UPE level could be subject to the UTPR as of FY 2026.

With the Transitional CbCR Safe Harbour generally also expiring at the end of FY 2026 and the first GloBE Information Returns and Top-up Tax returns having to be filed in 2026, the year to come is expected to be a pivoting one from a Pillar Two perspective.

Takeaways and tips

- **Monitor international developments** regarding the negotiations on the 'Side-by-Side' system and guidance from accounting boards.
- **Timely prepare** for the first GloBE Information Return filings.
- **Monitor EU developments** regarding the Pillar Two Directive in view of pending litigation about the validity of the UTPR under EU law.


Charlotte Kiès


Steffie Klein


Jorn Steenbergen

The 2025 Update to the OECD Model

An important development expected to shape the international tax landscape in 2026 is the 2025 Update to the OECD Model Tax Convention on Income and Capital (**OECD Model**) reflecting the latest developments in international taxation and offering enhanced guidance for the interpretation and application of tax treaties (**the 2025 Update**).

Developed and negotiated during the past few years by the OECD's Working Party No.1, the 2025 Update was approved by the OECD Council on 18 November 2025 and will be incorporated into the forthcoming edition of the OECD Model to be published in 2026.

The key changes introduced by the 2025 Update include, among others, the following:

- **MAP (Changes to Article 25 and its Commentary)**: In this regard, the 2025 Update confirms the role of competent authorities in determining whether a matter falls within the scope of a tax treaty for purposes of dispute resolution under the General Agreement on Trade in Services. Furthermore, it introduces changes related to Amount B, aimed at enhancing tax certainty and eliminating double taxation, by preserving the optionality of dispute resolution mechanisms for jurisdictions that do not adopt such a measure.
- **PE (Changes to the Commentary on Article 5 regarding home office PE and the exploration and exploitation of extractible natural resources)**: Regarding the PE concept, the 2025 Update clarifies the circumstances in which an individual's home or other relevant places could constitute a "fixed place of business" of the enterprise for which the individual works. Moreover, the 2025 Update adds an optional provision addressing activities related to the exploration and exploitation of extractible natural resources, introducing a lower PE threshold for countries to agree on.
- **Associated Enterprises (Changes to the Commentary on Article 9)**: The 2025 Update clarifies the application of Article 9 in relation to domestic interest deductibility rules, including those recommended in the final report on BEPS Action 4. Moreover, it introduces corresponding updates to the Commentaries on Articles 7 and 24 to align with these changes.
- **Exchange of Information (Changes to the Commentary on Article 26)**: Regarding exchange of information (EOI), the 2025 Update provides an express clarification that information obtained through EOI may be used for tax matters involving people 'other than those to whom the information originally relates'. Furthermore, it reflects the agreed interpretative guidance on taxpayer access to exchanged information and the disclosure of non-taxpayer-specific information derived from such exchanges.
- **Other changes**: The 2025 Update also introduces other changes to ensure consistency across the OECD Model following the updates described above.

Finally, the 2025 Update also includes the changes and additions made to the observations and reservations of OECD Member countries and the positions of non-Member economies.

For a more in depth overview of the 2025 Update, see our dedicated web post on this topic.

Takeaways and tips

- **Review all the changes introduced by the 2025 Update**, as they may already influence tax authorities' interpretation of existing treaties.
- **Understand new guidance on Home Office PE**, assess potential PE risks, and update your remote work policies accordingly.

Michiel van Kempen

Juan Manuel Vázquez

Kees van Raad

Mutual Agreement Procedures

As global tax rules grow increasingly complex, MAP have become a useful instrument for international tax certainty. MAP provide a formal mechanism for resolving cross-border disputes between jurisdictions, particularly in cases of double taxation or inconsistent application of transfer pricing rules.

For MNEs, MAP offer clarity and consistency in an environment of diverging interpretations of international tax provisions. It no longer functions merely as a reactive dispute resolution tool. MAP are evolving into a strategic instrument for managing tax risk. Proactive engagement, robust documentation, and early identification of bilateral/multilateral exposure will be critical for navigating this landscape.

Looking ahead to 2026, the following aspects should be considered by MNEs. First, regarding MAP caseload and resolution times, recent OECD data shows that MAP inventories remain high and resolution times average 27.4 months, with transfer pricing cases taking even longer. While the BEPS Action 14 minimum standard aims for a 24-month resolution, this remains aspirational for many jurisdictions. With increasingly complex global supply chains, MAP demand is expected to rise further. Second, concerning dispute prevention, we notice that tax authorities and businesses are increasingly turning to proactive tools - such as Advance Pricing Agreements (**APAs**) - to prevent and reduce future disputes. Thus, in 2026 we expect bilateral and multilateral APAs to gain traction as a preferred strategy of MNEs for achieving upfront certainty and minimising the risk of prolonged MAP processes.

Takeaways and Tips

- **Explore multilateral options**: For disputes involving multiple jurisdictions, consider multilateral MAP or APA opportunities early.
- **Invest in prevention**: Strengthen documentation and evaluate APAs to reduce future disputes.
- **Early engagement**: Early and open communication between tax authorities and taxpayers will be essential. Providing timely guidance, standardised compliance requirements and clear documentation expectations helps prevent disputes.

Thomas Uytewaal

Jorn Steenbergen

Digital Taxation: Pillar One and DSTs

A decade after the launch of the OECD's BEPS initiative, the taxation of MNEs in the digital economy remains one of the most complex and politically charged issues in international tax policy. As we enter 2026, this topic demands continued attention from MNE, particularly in light of recent developments and the OECD priorities.

The lack of progress toward signing the Multilateral Convention to Implement Amount A of Pillar One (**MLC**), the OECD's shift in focus towards the Side-by-Side system, and the expiration of the standstill and withdrawal commitments on DSTs in mid-2024 have collectively fuelled the perception that Pillar One is no longer viable, simultaneously accelerating the expansion and proliferation of unilateral DSTs.

While renewed retaliatory threats from the Trump administration have tempered this DST momentum, they have not prevented some European countries from expanding the scope and rates of their existing DSTs (e.g. Italy and France) and/or considering the adoption of a new DST (e.g. Germany). Notably, France's Constitutional Court ruling in 2025 upholding the legality of the French DST has further emboldened these unilateral actions.

Beyond the threats noted above, the US is actively working to prevent the spread of national DSTs by incorporating a specific commitment to 'refrain from imposing discriminatory digital services taxes' in its recent trade agreements with several Asian and Latin American countries. Although primarily viewed as a potential response to a hypothetical frustration of the Side-by-Side system, a revival of the proposed Section 899 by the US could also be triggered by countries' attempts to introduce new DSTs.

At the EU level, the trade tensions with the US and the search for new EU revenue have reignited discussions around the need for a European DST. Despite the European Commission's stated preference for a multilateral solution and its reluctance to table a new EU proposal at this stage, the 2018 proposal for a European DST has not been withdrawn from the Commission's 2026 work programme. While a reactivation of the 2018 proposal is not expected in 2026, the policy debate on this topic will continue to gain traction in both national and EU fora, especially when Pillar One negotiations remain on hold.

Looking ahead, while international talks on Pillar One may resume once key issues around the Side-by-Side system are resolved, MNEs should prepare for a continued landscape of fragmented unilateral measures, with certain jurisdictions - particularly in Europe - exploring the expansion of their existing digital tax measures despite geopolitical tensions and trade risks.

Takeaways and tips

- **Prepare for a continued patchwork of unilateral DSTs**: Since expansions of existing DST regimes remain possible, companies providing digital services should actively monitor these developments, assess potential impacts, and update compliance processes accordingly.
- **Monitor EU developments**: Despite the EU Commission's commitment to a global solution, informal debates on an EU DST continue within various policy circles. Thus, companies should closely follow and proactively engage in these discussions to anticipate potential regulatory changes.

Michiel van Kempen

Juan Manuel Vázquez

The EU-US trade deal: Exchanging uncertainty for stability

Following various tariff increases and negotiations, on 21 August 2025, the US and the EU issued a Joint Statement establishing a framework for trade and investments following a political agreement reached by EU Commission's President von der Leyen and US President Trump on 27 July 2025 (**Joint Statement**). Below is a concise overview of the key commitments outlined in the Joint Statement:

The US will apply a tariff ceiling of 15% for most EU exports. Either the Most Favored Nation (**MFN**) tariff or a 15% rate - whichever is higher - will apply to imports of products originating in the EU from most sectors, including cars, semiconductors, pharmaceuticals, and lumber. Certain EU products, such as unavailable natural resources, aircrafts and aircraft parts, will only be subject to the MFN rate. The EU will eliminate tariffs on all industrial products originating in the US. In addition, the EU will provide preferential market access for a wide range of US seafood and non-sensitive agricultural products, with tariff reductions applied through tariff quotas. Sensitive agricultural products from the US such as beef, poultry, rice, and ethanol are excluded from the trade deal.

The Joint Statement indicates that the US and EU will negotiate rules of origin to ensure that the benefits of the political agreement accrue primarily to the US and the EU. For now, non-preferential rules of origin apply.

Aside from tariff measures, the EU has committed to easing several non-tariff barriers affecting US-EU trade. This includes streamlining sanitary certificate requirements for pork and dairy products and offering greater flexibility in the implementation of Carbon Border Adjustment Mechanism (**CBAM**) for US small and medium enterprises (**SMEs**). The EU also states that it will address concerns over the EU Deforestation Regulation. Furthermore, the EU aims to further minimise trade restrictions under the Corporate Sustainability Due Diligence Directive (**CSDDD**) and Corporate Sustainability Reporting Directive (**CSRD**) by reducing administrative burdens and reconsidering certain liability provisions related to due diligence failures and climate transition obligations.

Finally, the EU committed to procure $750 billion worth of US energy products, such as LNG, oil and nuclear energy products through 2028, and $40 billion in US AI chips, while also advancing transatlantic investment, thus expecting EU companies to invest $600 billion across strategic US sectors.

Takeaways and tips

- **Greater clarity expected in 2026**: Although the trade deal between the US and the EU is promising, it should be noted that it only outlines political commitments. Moreover, the proposals of the European Commission implementing part of the trade deal are still pending. It is expected that in 2026, the introduction of legal instruments and further negotiations between the US and the EU will provide additional clarity.
- **Prepare for compliance and assess the impact of tariffs' costs**: In the meantime, US and EU traders can prepare by verifying whether the tariff classification, origin, and customs value of imported and exported products are correct and/or can be optimised. They should also determine which party in a transaction bears the cost of tariff measures for imports into the EU and/or US.


Emma van Doornik


Gijs Groenewoud

The European landscape

Introduction

The European tax landscape is in full development, with 2025 marking one of the most dynamic years in what concerns direct taxation. We have closely monitored these EU law developments and are delighted to share our view on this with you, including an outlook and next steps.

A defining trend in this area is the EU's ambition to take a leading role on global tax reform, as seen in the adoption of the Pillar Two Directive. In 2025, this frontrunner role has led to tensions and a closer scrutiny on EU tax measures, from both Member States and international partners. Legal challenges - such as the preliminary questions referred to the CJEU on the UTPR under the Pillar Two Directive and the procedures in relation to solidarity contributions from oil and gas companies - are testing the limits of EU legislative power.

In 2025, we have seen a recalibration of existing initiatives that would harmonise national tax laws, while also actively utilising soft law to provide more guidance for Member States and taxpayers. While several complex or controversial legislative proposals have been withdrawn (e.g., Unshell, DEBRA and TP), those that are still on the Commission's agenda mostly aim to the benefit taxpayers by increasing simplification and competitiveness. These proposals include the EU Blue Carpet Initiative, the Clean Industrial Deal and the "Omnibus on taxation" package, which is expected to streamline existing directives such as the ATAD and the Directive on Administrative Cooperation (**DAC**). Other pending EU initiatives - such as the proposal for an annual lump sum contribution for large enterprises - signal the Commission's continued intention of exercising fiscal influence within the Single Market. The direction of EU tax law is increasingly shaped by both national courts and the CJEU.

Moreover, the same tax questions are often relevant across all Member States, making awareness essential. As we look ahead to 2026, staying informed and adaptable to these ongoing trends will be crucial for navigating this evolving tax environment.

Dennis Weber

Jorn Steenbergen

Implementation of Pillar Two under pressure in the EU

The year 2025 has also been an important year for the implementation of Pillar Two by EU Member States. The EU initially acted as the frontrunner in the implementation of the work carried out by the OECD and Inclusive Framework (IF) in this regard. With increased international pressure on Pillar Two because of the US position and the G7's agreement on a 'Side-by-Side' system, the EU implementation of this measure has also been scrutinised.

On 17 July 2025, the Belgian Constitutional Court referred preliminary questions to the CJEU on the validity of the UTPR in the Pillar Two Directive. A decision can be expected by the end of 2026 at the earliest. This fundamental case will be the first moment for the CJEU to rule on the validity of the EU's efforts on Pillar Two.

Moreover, the G7 reached an agreement regarding the potential application of the Pillar Two rules on US-based multinationals. While further details have not materialised yet, the agreement would likely entail that US-based multinationals (and certain other multinationals if located in a jurisdiction with an eligible system) would be excluded from the scope of Pillar Two (the Side-by-Side System). The QDMTT remains to apply, also to such groups. The G7 agreement raises fundamental questions on its implementation in the EU legal order, particularly whether Article 32 of the Pillar Two Directive can serve as an appropriate legal basis to implement such an agreement or if additional legislation is required at an EU level. The Side-by-Side System (once adopted) illustrates fundamental and practical issues with the Pillar Two Directive. An important issue, expected to further materialise in 2026, is whether the work carried out at by the OECD and IF (including commentaries and so-called administrative guidance) can be used for a dynamic interpretation of the Pillar Two Directive.

We expect discussions on these fundamental and practical challenges to intensify in the coming years, with an increased focus on general principles of EU law and fundamental rights.

Takeaways and tips

- **EU's implementation of Pillar Two is under pressure**: The preliminary questions on the validity of the UTPR in the Pillar Two Directive and the (potential) implementation of a Side-by-Side System put the EU's implementation of Pillar Two under further pressure.
- **Developments in this area should be closely monitored**: The CJEU's findings on the UTPR under the Pillar Two Directive are likely to set a key precedent for challenging adverse tax provisions included in secondary EU legislation.

Dennis Weber

Jorn Steenbergen

CJEU to rule on validity of solidarity contribution levied from oil and gas sector

In October 2022, the Council adopted Regulation 2022/1854 countering high energy prices (**Regulation**). The Regulation mandates Member States to levy a solidarity contribution from oil and gas companies and a mandatory cap on market revenues. There are several cases questioning the validity of this Regulation pending before the General Court of the EU and the CJEU.

EU action in the field of direct taxation traditionally requires unanimity from all Member States. The regulation closely links to taxation of Member States, but is adopted on a specific legal basis for emergency measures. This legal basis does not require unanimity, but instead only requires the Council to adopt a decision with qualified majority.

The cases are quite fundamental for the constitutionality of EU tax harmonisation. Questions have been referred to the CJEU whether, despite the contribution not being labelled as a tax, the EU legislator is bound by the unanimity requirement for the fiscal measures included in the Regulation. The decision of the CJEU on these questions could shape the ways in which the EU can act in the field of direct taxation.

Takeaways and tips

- **The CJEU judgment on the solidarity contribution from oil and gas companies may shape the ways in which the EU can act in the field of direct taxation**: These procedures could define how the EU can legislate on direct taxation and whether 'unanimity' from all Member States continues to be the only option available for the Council for such purposes.

Dennis Weber

Mick Knops

Jorn Steenbergen

Advocate General questions validity of the ATAD

In a recent opinion, Advocate General Kokott questioned whether the EU rightfully adopted the ATAD and the anti-hybrid mismatch rule in the Parent Subsidiary Directive (*European Commission v Belgium*, Case C-524/23). These doubts affect the constitutional basis of EU tax law. If the CJEU ultimately (partly) agrees with the Advocate General, the impact on both existing and upcoming tax directives would be significant.

As background, each act of the EU must have a valid legal basis under the TFEU. EU tax directives can only be adopted unanimously by all Member States and must "directly affect the establishment or functioning of the internal market". The Advocate General questions whether the ATAD positively affects the internal market, notably because national anti-abuse measures restrict the free movement within the EU.

The absence of a correct legal basis would lead to the annulment of the ATAD. This would be especially relevant for the national implementation of this directive, such as the provisions on earning stripping and various anti-hybrid mismatch rules. While the matter will likely not be considered by the CJEU in the pending case (for procedural reasons), it seems to be only a matter of time until a question on this matter is referred to the CJEU by a national court.

Takeaways and tips

- **Doubts raised on ATAD's legal basis will increase scrutiny**: Recent doubts about sufficient legal basis recently raised by Advocate General Kokott cast further doubt on the validity of the ATAD and will likely increase legal scrutiny against the earning stripping and anti-hybrid mismatch rules.

Dennis Weber

Jorn Steenbergen

European Commission shifts focus

The European Commission is shifting its EU tax policy strategy, moving away from proposing hard legislation to combat tax avoidance and evasion or implementing OECD-designed measures, and placing greater efforts on both developing its own EU-centered initiatives mainly aimed at promoting simplification and EU competitiveness. Central to this shift are the forthcoming "Omnibus on taxation" package, the withdrawal of several pending legislative proposals deemed less aligned with the new EU priorities and the preservation of other proposals amid ongoing international negotiations. These three aspects are further discussed in the sections below.

Simplification and competitiveness

The European Commission has indicated that a proposal for simplifications in various existing EU tax directives is expected to be presented in Q2 2026 under the so-called Omnibus on taxation package (**OTP**). The OTP may require Member States to amend their implementation of among others the ATAD and the DAC and could therefore have a significant effect on taxpayers.

The European Commission is considering technical adjustments to mitigate the procyclical effects of ATAD's earnings stripping rule, possibly by accounting for inflation, loss-making years, revising the treatment of third-party loans, and clarifying the exemption for public infrastructure and social housing. For the controlled foreign company rule of the ATAD, the aim is rationalisation and simplification through a single harmonised model instead of the current dual system, likely with exemptions for SMEs. The reform focuses on ensuring consistency and reducing administrative burdens rather than expanding the material scope of the existing rules.

The second part of the OTP will likely recast the DAC. The European Commission aims to streamline overlapping provisions and improve coherence across the existing framework, from DAC1 to DAC9. Particular attention will be given to the hallmarks in the Mandatory Disclosure Rules (DAC6), which drew strong criticism during public consultation. Several hallmarks may be revised. The hallmarks from the proposal to address the misuse of shell entities (the Unshell Proposal) may be incorporated directly into the DAC. Further specific amendments to other versions of the DAC (e.g. rules on tax reporting by digital platforms under DAC7) are also expected. The expected recast of the DAC will be based on the latest evaluation of such a directive made by the European Commission and published on 19 November 2025 (see our dedicated web post on this development).

The OTP also reflects the European Commission's intention to improve EU competitiveness by ensuring simpler regulation and smoother implementation of EU rules. These priorities are also reflected in several (upcoming) initiatives in the field of direct taxation, including the Commission recommendation on the tax treatment of sustainable investments (Clean Industrial Deal) and the expected recommendation on the tax treatment of Employee Stock Options (Blue Carpet Initiative).

Takeaways and tips

- **EU simplification package may reshape the ATAD and the DAC**: The simplification package being prepared by the European Commission could significantly impact existing directives like ATAD and DAC and reshape compliance rules and national anti-abuse rules (notably, earnings stripping).

Withdrawals of other proposals: Unshell, DEBRA and TP Directives

Because of the European Commission's new priorities, the latter has recently announced that several pending tax proposals that allegedly do not seem to contribute to the goal of enhancing EU competitiveness will formally be withdrawn. These include the proposals for an Unshell Directive, the Debt-Equity Bias Reduction Allowance (DEBRA Directive) and the Transfer Pricing Directive. Particularly, the proposal for an Unshell Directive (also known as ATAD3) was considered to be the most relevant for practice. As mentioned above, parts of the Unshell Directive might be included in the DAC recast.

Pending proposals

Several other EU direct tax proposals will remain pending, notably the proposal for a common consolidated corporate tax base (**BEFIT**), the proposal for a DST and the proposal for corporate taxation based on a significant digital presence. It seems that the Commission intends to continue the work on BEFIT, despite the initial objections by Member States in view of their sovereignty. The proposals in relation to digital taxation measures will likely remain pending due to the absence of an agreement on Pillar One. These proposals may be revived once there is more clarity in that respect.

Dennis Weber

Jorn Steenbergen

European Commission proposes annual lump sum contribution for large enterprises

As part of the EU's budget negotiations, the European Commission has proposed the "Corporate Resource Europe" (**CORE**), which would be levied from large companies as an annual lump sum payment, based on their net turnover. The CORE would be levied by Member States on behalf of the EU, and its proceeds would go to the EU budget. The CORE is the first proposal that would effectively impose an EU tax on taxpayers.

The measure is included in a new proposal tabled by the Commission on new own resources (i.e., funding streams for the EU budget that should reduce the burden on national contributions), which also proposes various other forms of own resources.

The adoption of the new own resources proposal requires unanimous agreement by all EU Member States in the Council. Without a change to the EU Treaty, a direct EU tax seems legally complex. Also politically, there are already issues with the CORE. The discussions among the EU Member States are still at an early stage, but first indications suggest that the CORE has been universally rejected by all Member States and that there is no support for it in its current form. Nonetheless, the proposal for the CORE shows the retained interest of the Commission to rely on taxation for the EU's own resources.

Takeaways and tips

- **CORE reflects the EU's push for direct corporate taxation, though adoption remains unlikely**: The CORE proposal signals the EU's push towards direct corporate taxation, but objections raised by Member States makes its adoption unlikely, at least in its current form.

Dennis Weber

Jorn Steenbergen

CJEU opens the door for withholding tax reclaims by investment funds

In a judgment delivered on 27 February 2025 (*F S.A. v Dyrektor Krajowej Informacji*, Case C-18/23), the CJEU clarified under which circumstances a foreign investment fund qualifies for the tax exemptions foreseen under national tax regimes in the investing Member State. The decision marks a significant shift in favour of cross-border fund structures and opens the door for more successful withholding tax reclaims.

Importantly, the CJEU rejected the formalist approach that is often applied in national laws to recognise the application of national tax exemptions. Member States often require foreign investment funds to meet exactly the same requirements as domestic investment funds, such as a specific management or legal form. The case law from the CJEU confirms that this approach is too strict. Differences in legal form, management structure (e.g., external versus internal), or distribution requirements do not automatically disqualify a fund from the possibility of benefiting from a tax exemption under a national tax regime. Instead, the Court emphasised a substance-over-form approach, focusing on whether the foreign fund achieves the same investor protection and regulatory oversight as domestic equivalents.

The judgment strengthens the position of both EU/EEA and non-EU investment funds and also provides a clearer framework for national courts to assess comparability. While the judgment does not create automatic entitlement to national tax benefits, it does set a high bar for Member States to justify exclusions.

Takeaways and tips

- **Fund managers should proactively assess reclaim opportunities**, particularly in light of the substance-over-form approach maintained by the CJEU.

Dennis Weber

Jorn Steenbergen

VAT Trends

VAT systems across the EU are evolving rapidly, with major reforms such as the VAT in the Digital Age (**ViDA**) package aiming to modernise compliance, reduce fraud, and streamline cross-border transactions. Alongside these changes, longstanding debates continue around the VAT implications of transfer pricing arrangements, reflecting persistent uncertainty in the absence of clear rules. The following sections highlight these central trends and their impact on EU businesses.

VAT in the Digital Age package adopted

The ViDA proposal was adopted by the Council of the EU on 11 March 2025. ViDA will bring significant changes to the EU VAT system, aimed at improving VAT efficiency, reducing fraud, and minimising foreign VAT registrations. The new rules will be implemented gradually in the years 2027 - 2035 and consist of three pillars: (i) digital reporting requirements; (ii) the single VAT registration; and (iii) the VAT treatment of the platform economy.

- **Digital Reporting Requirements**
  The digital reporting requirements introduce mandatory e-invoicing and real-time transaction reporting for cross-border B2B supplies within the EU. Starting 1 July 2030, e-invoicing will be mandatory for cross-border B2B supplies, with real-time electronic reporting to tax authorities at the moment the invoice is issued or should have been issued.
- **Single VAT Registration**
  The ViDA proposal aims to reduce VAT compliance obligations by minimising foreign VAT registration obligations for businesses involved in cross-border transactions. The idea is that businesses will have to maintain one single VAT registration in only one Member State. This will be achieved by expanding the One Stop Shop and introducing a mandatory reverse charge mechanism over the coming years.
- **Platform Economy**
  The platform economy rules impose new VAT obligations on digital platforms. Under ViDA, new VAT obligations will be imposed on platforms facilitating short-term accommodation and passenger transport. The existing VAT liability for goods supplied by non-EU sellers will also be extended to cover more situations.

Takeaways and tips

- **Update invoicing, reporting and registrations**: Already as of 2026, businesses should start amending their invoicing and VAT reporting processes and assess whether their foreign VAT registrations are still required after the implementation of the ViDA rules.
- **Prepare for new platform obligations**: The ViDA rules introduce new obligations and liabilities for platforms that facilitate supplies of goods. Businesses offering passenger transport by road and short-term accommodation and platforms that facilitate these services will also have to apply new VAT rules.

Transfer Pricing & VAT

The VAT implications of transfer pricing arrangements have been subject of ongoing debate for several years, primarily due to a lack of clear VAT rules. In recent judgments, the CJEU offers more clarity on this topic, particularly in the Arcomet case (C-726/23), where the CJEU held that transfer pricing adjustments may be subject to VAT when they are contractually stipulated in an intra-group agreement.

Takeaways and tips

- **Businesses should review the VAT implications of their group's transfer pricing policies**: They should ensure that their transfer pricing such policies minimise the VAT (compliance) burden.


Bart Heijnen


Gino Sparidis


Bram Middelburg

Excise Duties and Customs

European Commission proposal for the revision of the Tobacco Taxation Directive

On 16 July 2025, the European Commission adopted a proposal to revise Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco (**Tobacco Taxation Directive**). The proposed revision of this Directive primarily aims to update the legal framework for the taxation of tobacco and ensure the proper functioning of the internal market.

The key aspects of the proposal are as follows:

- Extending the scope of the Tobacco Taxation Directive to other tobacco-related products that are currently outside the scope of EU excise legislation, such as liquids for electronic cigarettes, nicotine pouches, and other nicotine products.
- Extending the scope of the Tobacco Taxation Directive to raw tobacco, meaning any form of harvested tobacco that has been cured or dried and does not qualify as manufactured tobacco, which is already subject to the current Tobacco Taxation Directive. The inclusion of raw tobacco in the Directive would make it subject to the excise movement and control system (**EMCS**).
- Raising the minimum excise duty rates on tobacco and tobacco-related products. Furthermore, minimal excise duty rates will be set for more specific categories of tobacco product or tobacco-related product, with distinctions made between, for example, cigarettes, heated tobacco, and liquids for electronic cigarettes.

- Instead of applying the same minimum excise duty rate in each EU Member State, minimum excise duty rates will partly depend on the specific economic situation in each EU Member State, based on the purchasing power of its residents, alongside an overarching EU minimum excise duty rate expressed in nominal terms, which will be subject to a periodic review.

The European Commission aims for the revised Tobacco Taxation Directive to be adopted in national legislation by the EU Member States by 31 December 2027, and for the adopted measures to apply in the EU Member States as of 1 January 2028.

Takeaways and tips

- **New nicotine products are addressed**: The proposed revision of the Tobacco Taxation Directive addresses a new generation of nicotine products that have emerged since the latest revision of this Directive in 2011.
- **Taxation as a tool to reduce tobacco use**: The proposed revision also reflects the EU's view that taxation plays a pivotal role in reducing tobacco consumption, deterring young people from smoking, combating illicit manufacturing within the EU, and reducing cross-border shopping of tobacco products by consumers between different EU Member States.


Emma van Doornik


Gijs Groenewoud

Common position on the new Union Customs Code adopted by the Council

On 17 May 2023, the European Commission published a proposal for a new Union Customs Code aimed at digitising, simplifying, and reducing the costs associated with customs processes, as well as enabling EU Customs to better protect the financial and non-financial interests of the EU, its Member States, and the single market.

Key aspects of the proposal include the introduction of the EU Customs Data Hub, through which economic operators can submit customs data via a single EU interface, the establishment of an EU Customs Authority responsible for EU-wide risk management, the Trust and Check trader system, which enables economic operators to benefit from simplified customs formalities, and a new approach to e-commerce import processes. On 27 June 2025, the EU Member States adopted a common position on the new Union Customs Code, which is now subject to negotiations between the European Parliament and the European Council to finalise the text before it can enter into force.

As part of this common position adopted on 27 June 2025, the proposal introduces a non-discriminatory Union handling fee for goods imported directly by consumers. This measure aims to address the rising costs of supervising customs compliance for such consignments and the significant influx of these goods. The Union handling fee is expected to be set at EUR 2 per consignment and will be incurred by the importer (i.e., the online retailer or intermediary selling products to consumers in the EU). In addition, on 13 November 2025, the European Council presented a transitional plan abolishing the rule that products with a customs value of less than EUR 150 may enter the EU without customs duties being paid. Although abolishing the EUR 150 duty exemption threshold is already part of the common position on the new Union Customs Code, the Council has presented this transitional plan to apply as soon as possible in 2026 due to the urgency of preventing undervaluation and the practice of splitting consignments into individual parcels.

Pending negotiations between the European Parliament and the European Council, it is expected that the Union handling fee and the abolition of the EUR 150 threshold enter into effect in 2026, and no later than 1 November 2026. Other parts of the new Union Customs Code are expected to take effect in phases, beginning in 2026 with the provisions empowering the European Commission to adopt delegated and implementing acts.

Takeaways and tips

- **New Union handling fee and abolition of duty exemption threshold**: The introduction of a Union handling fee and the abolition of the €150 duty exemption threshold are expected to impact e-commerce traders and logistics service providers. Since these measures are a priority for the EU Council, they could be implemented well before 1 November 2026.
- **Negotiations on New Customs Code**: The common position on the new Union Customs Code is now subject to negotiations between the European Parliament and the European Council, and it is expected that an agreement will be reached in 2026.

Emma van Doornik

Gijs Groenewoud

The Netherlands
Domestic landscape

Introduction: The Dutch Landscape

Following the resignation of the Dutch government earlier this year, a caretaker government is in place until a new coalition has been formed. As a result, the Tax Plans 2026 presented on 16 September 2025 (**Budget Day**) were policy light. In this section, we briefly outline these plans, which, in amended form, were adopted by the Second Chamber of Parliament on 27 November 2025.

In sections 3.2. to 3.6., we outline some other developments in Dutch tax law, partly based on recent (Dutch) court cases, which are relevant for MNEs in 2026.

Tax Plans 2026
For MNEs the implementation of the latest OECD Pillar Two Guidance and the EU directive addressing the exchange of information on minimum taxation in the Minimum Tax Act 2024 is an important part of the Tax Plans 2026. For the fund industry the proposals for additional grandfathering rules for partnerships are relevant. These grandfathering rules are summarised below. In addition, the 2-year postponement of the Budget Day proposal to increase the effective level of taxation of income from lucrative interests in Box 2 as of 1 January 2025, is important for the fund industry because carried interest schemes and certain leveraged management incentive plans are generally qualified and taxed as lucrative interests. In this respect reference is made to section 3.4.2.

Grandfathering rules for partnerships/FGRs

As of 1 January 2025, Dutch and non-Dutch limited partnerships are, as a main rule, classified as transparent for Dutch tax purposes, except when a partnership should be considered a fund for joint account (**FGR**). Also, as of 1 January 2025, an amended FGR definition was introduced. However, the new FGR definition gives rise to (re)classification issues and uncertainties and, therefore, additional amendments to the FGR definition are being investigated. Legislative proposals in this regard are expected to be published for consultation before the end of 2025, with entry into force on 1 January 2027 at the earliest.

Based on grandfathering rules, partnerships that were classified as tax transparent prior to 2025 and which should be considered an FGR under the new classification framework are, under conditions, allowed to implement a redemption mechanism during the calendar year 2025 to retain a tax transparent classification going forward.

Because of the expected changes to the FGR definition, additional and more broad grandfathering rules have been proposed on Budget Day. Partnerships that should be considered an FGR under the new classification framework, may retain their tax transparent status until 1 January 2028, provided that certain conditions are met. The original proposal limited these additional grandfathering rules to tax transparent partnerships established prior to 1 January 2025. Based on an amendment voted in on 27 November 2025, these grandfathering rules will also cover partnerships established as of 1 January 2025 that intend to qualify as tax transparent as these partnerships face the same uncertainties.

The period of application of these grandfathering rules may be shortened if any further amendments to the FGR definition will enter into force prior to 1 January 2028 (e.g., on 1 January 2027). For more details on this proposal and other proposals relevant for corporate taxpayers, we refer to our website post.

Observations and entry into force

It is now expected that the First Chamber of Parliament will vote in favour of the Tax Plans on 16 December 2025. If voted in by the First Chamber, the Tax Plans 2026 will enter into force as of 2026, unless indicated otherwise.

Liesbeth Hendrix

Interest deduction: base erosion and earnings stripping (article 10a and 15b CITA)

The Dutch Supreme Court published an important judgment regarding the anti-base erosion rule under Article 10a of the Dutch Corporate Income Tax Act (**CITA**) and the abuse of law doctrine (*fraus legis*) on 5 September 2025 (*Brillenzaak*). In this judgment, the Supreme Court ruled that the abuse of law doctrine prevented the deduction of interest. The Court considered that the interest deduction could not be denied by virtue of article 10a of the CITA as the loan had not been artificially rerouted. However, interest deduction may still be disallowed on the grounds of artificial arrangements occurring outside the scope of article 10a CITA. In such circumstances, there could be a conflict with the object and purpose of the CITA in general, which may constitute abuse of law.

Effective as of 1 January 2025, the fiscal EBITDA percentage for the application of the earnings stripping measure (article 15b CITA) has been increased to 24.5%. The franchise of EUR 1 million is still in place. The so-called anti-fragmentation rule has not been implemented. Nevertheless, the Dutch government is still on the look-out for abusive situations with currently ongoing evaluations of the earnings stripping measure, including its franchise.

Under circumstances, the earning stripping measure leads to a significant increase of the Dutch tax base. This limitation could be particularly detrimental for certain taxpayers (e.g., those operating in capital-intensive sectors). It could also affect taxpayers that are not involved in any tax base erosion nor shifting of profits. Consequently, the Dutch rules seem to stretch beyond the purpose of the ATAD, on which the earning stripping measure is based.

Takeaways and tips

- **Increased importance of the abuse of law doctrine**: Having successfully applied the abuse of law doctrine in the mentioned case law, it is likely that the Dutch Tax Authorities (**DTA**) will invoke this anti-abuse concept more often. As such, it has become increasingly important to assess the business reasons and substance of financing structures, also outside the scope of the Dutch base erosion rules (article 10a CITA).
- **In-depth review of (financing) arrangements**: It is not sufficient to merely look at the interest paid and/or received when assessing the impact of the earnings stripping measure. Payments that are economically similar to interest could also be in scope of the limitation, even if not accounted for as interest in the financial accounts. Alternative financing arrangements and other similar arrangements should be reviewed carefully for such elements.
- **Objections against earnings stripping measure**: Many taxpayers will receive final assessments for 2021 and subsequent years in the coming period. Also given the increase in interest rates since 2021, taxpayers should assess whether they want to file objections against their earnings stripping position. This is particularly relevant if base erosion is not in question at all (e.g., no cross-border funding and/or only external debt).

Joost van Helvoirt

Riemer Reitsma

Monitoring in the Tax Control Framework

Monitoring is the systematic evaluation of tax processes and control measures by taxpayers to ensure that tax risks are identified and managed in a timely manner. The Tax Control Framework (**TCF**) and its monitoring phase are no longer just a matter for companies that have concluded a so-called Horizontal Monitoring agreement with the DTA. In recent years, the DTA have increased their expectations regarding the monitoring activities that taxpayers have implemented in their TCF.

Monitoring is viewed as an effective tool to detect, assess, and improve tax control effectiveness over time. In practice, the quality of a company's monitoring directly affects the audit activities of the tax authorities. In other words: if the authorities can rely on a taxpayer's (monitoring of its) TCF, they are in the position to reduce their audit activities.

A structured approach to monitoring is encouraged, often using a risk control matrix that maps identified tax risks. The following monitoring methods are commonly applied:

- **Key Control Testing**: Verifying whether (key) controls focused on key risks were executed and documented, with a focus on evidence and follow-up actions.
- **Data Analysis**: Using data tools to scan entire datasets for anomalies, enabling a proactive detection of actual errors and process weaknesses in the tax (compliance) process. While effective, data analysis alone does not provide statistical **assurance and should be complemented by other methods.**
- **Statistical** Sampling: Applying audit-standard sampling to estimate error rates and uncover blind spots, especially where unknown risks may exist.

The DTA encourages organisations to adopt a multi-year monitoring calendar that spreads activities across time and tax domains.

Takeaways and Tips

- **Monitoring no longer seems optional**: Even though having a properly functioning TCF (including monitoring) is not required by law, the DTA expects all large taxpayers to actively monitor key tax risks. This includes structured evaluations and documentation of control effectiveness.
- **Use multiple monitoring methods**: Combining techniques like key control testing, data analysis, and statistical sampling helps to detect errors and avoid blind spots.
- **Effective monitoring builds trust**: A well-structured monitoring process signals to the DTA that your organisation actively manages tax risks, which may strengthen your organisation's relationship with the DTA and potentially also with other stakeholders.

Joost van Helvoirt

Kaïm Buma

Private equity - Taxation of lucrative interest

Taxation of lucrative interest - current state of play

Certain types of management investment plans, such as sweet equity shares and carried interest, may qualify as a so-called lucrative interest. A lucrative interest is an instrument that may be considered granted with the intention to also form a remuneration for services rendered by that individual (e.g., employment or management services), which should in general offer potentially a disproportional high return.

As a principal rule, proceeds derived from lucrative interests are taxed in Box 1 (progressive income tax rates up to 49.5%). However, under certain conditions, it is possible to elect for taxation in Box 2. As of 2024, Box 2 comprises of two tax rates. The higher Box 2 tax rate for 2025 (and 2026) is 31% and a lower Box 2 tax rate can be applied on the first EUR 67,804 (EUR 68,843 for 2026) of income (double for two persons that qualify as partners). Income derived from lucrative interests can only be taxed in Box 2 if the following three conditions are met:

- The lucrative interest is held indirectly via a non-transparent entity;
- The taxpayer holds a "substantial interest" (*aanmerkelijk belang*) in that entity (in short, 5% or more (of a class of) the shares); and
- At least 95% of the lucrative interest proceeds are distributed to the taxpayer in private within the same calendar year.

It should be noted that Box 2 taxation only applies to the return on investment. Any underpayment upon acquisition may already be taxed as employment income / services remuneration in kind (taxable in Box 1).

Proposed increase Box 2 taxation lucrative interest income

Following a motion submitted prior to Dutch Budget Day 2025, an increase in the effective level of taxation in Box 2 for lucrative interest income was proposed for 2026, based on a multiplier to be applied to the income. The proposal results in lucrative interest income being effectively taxed at a rate of from 28.45% to 36% in Box 2. Although initially intended to enter into effect in 2026, the proposal has for now been postponed until 2028. It should therefore be expected that the 'regular' Box 2 rates as described in section 3.4.1 will continue to apply in 2026. Any developments in this respect should however be monitored.

Erik Kastrop

Fleur Lubbers

Dividend Withholding Tax - Holding Structures

In its rulings of 25 April 2025 (non-resident corporate income tax) and 18 July 2025 (dividend withholding exemption), the Dutch Supreme Court clarified the application of domestic anti-abuse provisions in international holding structures and their alignment with the EU abuse-of-law doctrine.

A key takeaway is that while the presence of a tax advantage, or the absence of economic substance, may indicate potential abuse for a structure or transaction (or an element of such transaction or structure) these factors are not conclusive. Taxpayers must have the opportunity to rebut by demonstrating business reasons or (at least) demonstrate that the arrangement was not primarily aimed at obtaining an improper tax benefit. This requires a holistic assessment of the transaction or structure, taking into account all relevant facts and circumstances, including its historical context, any subsequent changes in circumstances, and the overall tax effect of the transaction or structure.

The assessment should thus also be dynamic in the sense that a structure originally set up purely for business reasons, may transform into an abusive (sub)structure due to certain events or actions (or inaction). Conversely, a structure lacking economic substance and resulting in a tax advantage, must not necessarily be considered as abusive. The taxpayer can still defend that the structure was not primarily aimed at obtaining an improper tax benefit.

Takeaways and tips

- **Increased attention for holding companies**: The DTA are likely inclined to place exempt dividends to (family) holding companies under further scrutiny, having successfully challenged the application of the dividend withholding tax exemption in aforementioned cases. Investors should carefully assess the functional substance and genuine link between their holding companies and Dutch (passive) investments
- **Existence of a material business is not enough**: The presence of a material business itself is insufficient. The Supreme Court emphasised that the shareholding in the Dutch company must be functionally attributable to those business operations in order to benefit from the dividend tax withholding exemption.

Imme Kam

GAAR and the Participation Exemption: New CJEU Guidance and Dutch Codification

In April 2025, the CJEU delivered its judgment in *Nordcurrent Group UAB* case (C-228/24), clarifying how the general anti-abuse rule (**GAAR**) in the Parent-Subsidiary Directive (**PSD**) applies to national participation exemptions. The Court confirmed that Member States may deny a participation exemption if the structure is "non-genuine" (i.e., set up without valid commercial reasons reflecting economic reality, even if it is not a classic conduit or pass-through entity). This marks a broader approach to abuse testing under the PSD as the assessment is not limited to the moment of dividend distribution, and all relevant facts and circumstances must be taken into account.

The Court also introduced a temporal and dynamic dimension. Earlier or later activities of the company may affect the analysis. A structure can even "change colour" (i.e., be initially genuine but later considered artificial if continued despite changing circumstances). This gives tax authorities an additional tool to challenge ongoing arrangements that no longer reflect commercial reality.

Importantly, the CJEU clarified that the GAAR in the PSD is not limited to abuse of the withholding tax exemption but also applies to national participation exemptions. The Court thereby rejected the narrower interpretation suggested in the European Commission's 2014 explanatory statement, which had indicated that the GAAR targeted only abuse of withholding tax exemptions. As a result, the anti-abuse test potentially applies to all dividend flows within the scope of the PSD, irrespective of which provision is invoked.

This development coincides with the Netherlands introducing a written GAAR into the Corporate Income Tax Act 1969 as of 1 January 2025, implementing Article 6 of the ATAD. Although the government maintains that this provision merely codifies the *fraus legis* doctrine, it gives the DTA a statutory basis to deny tax benefits where arrangements lack commercial substance and mainly pursue a tax advantage contrary to the law's purpose.

In the pending case C-203/25, *NEO Group*, the CJEU will have a new opportunity to clarify how the general anti-abuse rule under the PSD should be applied, particularly in situations where a structure may appear genuine at entity level but forms part of a wider non-genuine arrangement.

Takeaways and Tips

- **Expect closer audit focus**: Participation exemption claims, and intra-group dividends could be reassessed under the broadened GAAR scope.
- **Substance and continuity**: Demonstrate genuine economic activity and ensure structures remain justified over time.
- **Review documentation**: Reassess intercompany arrangements with the "non-genuine arrangement" test and revisit them periodically.

Dennis Weber

VAT trends and developments

VAT changes for activities involving shares

New administrative guidelines on the VAT position of companies involved in purchasing, holding and selling shares took effect on 1 July 2025. The new administrative guidelines partly changed the Dutch input VAT deduction position of VAT taxable persons that perform activities with shares.

Main rule: no input VAT deduction

As a main rule, holding shares in another company remains a non-economic activity. Hence, the input VAT on share related costs is generally non-deductible for a VAT taxable person that is also shareholder. A VAT taxable person holding shares in another company in principle also limits that VAT taxable person's right to recover VAT on general costs.

Exceptions with possibilities of input VAT deduction

In certain cases, the input VAT deduction of a VAT taxable person is not limited by its activity of holding shares in another company. Most notably, this is the case if the shareholder: (i) supplies goods or services for remuneration to the company in which the shareholder holds shares; or (ii) holds the shares as to reorganise, support, or expand its own economic activities.

A VAT taxable person that acquires shares in the other company can, if those shares held fall within the two aforesaid situations, also treat the acquisition costs as general costs. The pro rata VAT deduction applies to such general costs of the VAT taxable person.

A taxable person who sells shares held under either of the two aforementioned situations, or who sells shares to use the proceeds for its own economic activities, must allocate the incurred costs as follows:

- **Direct costs**: The input VAT on costs directly used for the share sale is non-deductible if the buyer of the shares is in the EU and are deductible if the buyer is outside the EU.
- **General transaction costs**: The input VAT can be deducted on the pro rata basis. The proceeds obtained with the sale of shares may be excluded from the pro rata calculation if the sale is an incidental financial activity. According to the new guidelines, such an incidental activity is not present, if the seller is (affiliated to) a private equity company.

Takeaways and tips

- **Review** shareholding structures: Holding shares may dilute VAT recovery unless exceptions apply.
- **Determine VAT position in M&A projects**: Acquisition and sales of shares require careful analysis on possibilities to deduct input VAT on costs.
- **Optimise early**: Timely VAT planning can significantly reduce transaction costs, especially for cross-border deals.

VAT exempt negotiation in shares

New administrative guidelines on the VAT exemption for negotiating in share transactions entered into force as of 16 October 2025. In business acquisitions or disposals, M&A advisors guide parties through the process. The scope of the VAT exemption for negotiating in transactions was long unclear. Older Dutch Supreme Court rulings suggested a strict interpretation, while recent EU case law and certain internal documents of the Dutch tax authority indicated a broader approach.

The new administrative guidelines clarify that intermediary services are VAT exempt if they cover a key transaction phase (orientation, preparation, negotiation, or contract signing), even if no deal is concluded or not all phases are included. The VAT exemption may also apply when parties already know each other or when multiple advisors act as intermediaries.

Takeaway and tips

- **Businesses should review existing and new M&A agreements from a VAT perspective**: The VAT exemption can significantly reduce costs when the businesses involved have limited input VAT deduction rights.

New VAT and RETT rules

As of 1 January 2026, the following VAT and real estate transfer tax (**RETT**) measures are introduced in the Netherlands:

- A new five-year input VAT revision period will apply to real estate-related investment services with an invoice amount of € 30,000 or more. If the use of these services changes during the revision period compared to the initial year, a VAT correction may be required.
- The standard VAT rate of 21% will apply to short-term accommodation provided by hotels, guesthouses, and holiday companies. Previously, these services were taxed at the reduced rate of 9%.
- The RETT rate for acquisitions of residential real estate by purchasers who will not reside in the property (e.g., investors, second homes) will decrease from 10.4% to 8%.

Bart Heijnen

Gino Sparidis

Bram Middelburg

Belgium
Domestic landscape

Introduction: The Belgian Landscape

At the end of January 2025, Belgium saw the formation of a new federal government, with five political parties reaching an agreement that sets the stage for significant changes in tax policy affecting both individuals and businesses.
The government agreement reflects the Belgian government's ambition to enhance Belgium's competitiveness and foster a resilient, innovative, and sustainable economy. To address budgetary needs, a broader tax base was announced for certain taxpayers. While the first set of measures has already been implemented, several important reforms, such as the introduction of a capital gains tax, remain under discussion. Looking ahead, 2026 is expected to be a pivotal year for further tax reforms in Belgium.

Monitoring these developments will be essential in the coming year, especially as budget needs will continue to present challenges for the government. Staying informed and prepared will help ensure that your financial and business strategies remain aligned with the evolving regulatory environment.

Nicolas Lippens

Linda Brosens

Is your financing and holding structure built to stand the test of time?

The Belgian Tax Authorities (**BTA**) are for several years now increasingly relying on the GAAR and beneficial ownership to challenge the application of the dividend or interest withholding tax (**WHT**) exemption in case the activity of a holding or finance company is rather limited, and/or the income is passed on soon after their receipt to persons who cannot benefit themselves from a Belgian WHT exemption. The focus of the BTA on holding and finance structures is mainly driven by CJEU case law.

In the recent *Nordcurrent* Case (C-228/24), the CJEU further indicated that the assessment of a non-genuine or artificial arrangement should not be limited to the factual situation at the time of the dividend distribution. To establish whether the establishment of a company is a non-genuine arrangement, also circumstances prior to the dividend distribution must be considered, especially where that company was set up for valid commercial reasons and the genuine nature of its activity before those dates is not called into question. At the same time, the CJEU also indicated that it cannot be ruled out that an arrangement, initially put into place for valid commercial reasons which reflect economic reality, must be regarded as not genuine from a certain point onwards, because the arrangement has been maintained despite a change in circumstances. Considering this recent case law, documenting the business reasons for maintaining a company or a financing structure when circumstances change will become critical as well.

Takeaways and tips

Recent developments in case law highlight the importance of robust documentation and ongoing assessment of the commercial reasons for your financing and holding structures. To mitigate risks and ensure compliance, the following best practices are highly recommended:

- **Continuously document business reasons**: maintain thorough records detailing the commercial rationale for the location and use of each company or financing structure within your group. This documentation should be updated regularly and reflect the genuine business purpose behind each arrangement.
- **Ensure sufficient substance**: confirm that each entity has adequate substance to support its activities. This includes operational presence, decision-making capacity, and resources that align with its stated business purpose.
- **Manage cash flows wisely**: monitor and manage cash flows to ensure that income received is used for legitimate investments or business activities, rather than simply being passed through to parties who may not qualify for Belgian WHT exemptions.
- **Reassess when circumstances change**: if there are changes in business strategy or group structure, promptly reassess, update, and document the commercial reasons for maintaining each company or financing structure.

Nicolas Lippens

Linda Brosens

Is it time to assess the tax deductibility of financing expenses?

Intragroup financing remains a key instrument for corporate groups to optimise the use of internal liquidity and ensure flexible access to funding. Yet, the tax deductibility of financing expenses - whether in related-party or third-party settings - has become one of the most debated and dynamic areas of Belgian corporate taxation.

When structuring or reviewing a financing arrangement, companies must navigate a complex interplay of rules. These include transfer pricing (**TP**) principles requiring arm's length remuneration, mechanical restrictions such as the ATAD interest limitation rule linked to a company's EBITDA, and the general deductibility test, which only allows expenses incurred to obtain or maintain taxable income. Aligning with all these provisions is, and will remain, a demanding task for taxpayers seeking robust and defensible financing structures.

Recent tax audits and court cases demonstrate that the BTA actively use these provisions to challenge intragroup financing. Under TP rules, the BTA not only scrutinises the interest rate -including credit rating assessment and the impact of implicit group support - but also the debt capacity itself, questioning whether (part of) the debt is arm's length. Cash pool arrangements are another recurring focus area, especially the allocation of cash pool benefits and the possible reclassification of structural deposits or borrowings as long-term loans.

Beyond TP, the purpose test under Article 49 of the Belgian Income Tax Code - requiring that an expense is incurred to generate taxable income - is increasingly invoked. This test is applied to debt push-downs, dividend-financed borrowings, or situations where funds are not effectively used (e.g. deposited in a cash pool). Case law remains mixed, with debates often turning on the taxpayer's documentation of the loan's purpose and the evidence available at the time of borrowing.

Moreover, these discussions can arise throughout the life of a loan, for example, when a company simultaneously holds interest-bearing debt with flexible repayment terms while placing excess cash in a pool or distributing dividends.

Takeaways and tips

- **Review your financing structures**: Given recent developments, companies should proactively review their financing structures - both at inception and on an ongoing basis - to ensure consistency between transfer pricing, documentation, and actual use of funds, considering emerging legislation, case law, and audit trends.

Aldo Engels

Dividend withholding tax: key attention points for your shareholders

Under Belgian tax law, dividends distributed by Belgian companies are generally subject to a 30% WHT. However, following the *Tate & Lyle* judgment by the CJEU (C-384/11), Belgium implemented a full exemption from WHT for participations of less than 10% but with an acquisition value of EUR 2.5 million held by a company established in the EEA or in a state with which Belgium has concluded an agreement for the avoidance of double taxation if exchange of information is possible. A recent amendment introduced an additional requirement: the participation must be recognised as a Financial Fixed Asset by the foreign recipient company, provided that the company does not qualify as a small company.

To qualify, the shareholding must serve a long-term purpose and not be held solely for investment. The assessment depends on the specific facts, including the relationship between the companies, and must be made when dividends become payable. If the shares are held only for investment, they do not qualify.

The concept of Financial Fixed Assets is recognised under Belgian GAAP, but may not be widely understood in all accounting standards, especially outside the EU. It's advisable to review the accounting treatment of your participation now to understand the tax implications for future dividend distributions.

Takeaways and tips

- **Determine Financial Fixed Asset qualification**: Shareholders relying on the Tate & Lyle WHT exemption must verify whether the shareholding qualifies as a Financial Fixed Asset. In case of doubt, it should be considered to obtain an opinion from a reputable accounting firm or from a Belgian tax expert confirming that the conditions to apply the Tate & Lyle exemption are met.

Nicolas Lippens

Linda Brosens

Exit tax: key attention points for your shareholders

Belgium's corporate tax landscape continues to evolve, with recent changes to the exit tax regime that have significant implications for both resident and non-resident shareholders in case of certain reorganisations.

For many years, Belgian corporate income tax law included an 'exit tax' provision, under which the emigration of a company is treated as a fictitious liquidation. This fiscal fiction triggers corporate tax on any latent capital gains and exempt reserves of the emigrating entity. Such emigration did not result in a taxable dividend for shareholders subject to the continuation of the legal personality for legal and accounting purposes.

Recent legislative changes now also deem shareholders to receive a dividend upon a company's emigration or upon certain cross-border reorganisations (such as mergers involving the transfer of assets abroad). The taxable amount is calculated as the positive difference between (i) the fair market value of the assets distributed upon liquidation, less liabilities, and (ii) the fiscally paid-in capital.

The (deemed) liquidation dividend will for individual shareholders be taxable as movable income at a rate of 30% (exemptions or reductions might apply) and for corporate shareholders at the standard corporate income tax rate (unless the participation exemption regime can be applied).

This new exit tax for shareholders results in the following reporting obligations:

- Both Belgian and foreign shareholders must report this (deemed) liquidation dividend in their Belgian income tax returns.
- Emigrating companies are required to provide individual forms to shareholders, specifying the amount of the fictitious distribution. Failure to comply may result in a separate assessment at a rate of 100%.

These new rules raise important questions regarding their compatibility with EU fundamental freedoms and tax treaties. As a result, legal challenges and disputes are anticipated in the near future.

Takeaway and tips

- **Assess tax implications and ensure compliance before a reorganisation**: If your multinational group is considering a reorganisation, it is essential to assess the potential tax impact of these changes in advance and to ensure compliance with the new reporting obligations.

Nicolas Lippens

Linda Brosens

Carried interest

A new carried interest tax regime has been introduced in Belgium to create a more competitive framework compared to those existing in neighbouring countries. The government's objective is to stimulate investment fund activity in Belgium. Previously, there was no specific tax regime for carried interest in Belgium, which led to uncertainty regarding the tax qualification of such income.

Under the new rules, the regime applies exclusively to managers who hold their carried interest shares directly in a private capacity (i.e., not through a management company). The excess return from these shares will be taxed as movable income at a flat rate of 25%, without any social security contributions. This treatment applies regardless of whether the distribution is classified as a dividend, capital gain, share redemption, or liquidation bonus. No grandfathering rule has been included, meaning that all distributions made after 29 July 2025 will fall under the new regime, except for carried interest vehicles already in liquidation before that date.

Takeaways and tips

- **Review your structure**: Fund managers should review their current structure to determine whether changes are appropriate in light of the new legislation.

Nicolas Lippens

Erdem Yüksel

Tax and transfer pricing

TP continues to be a key agenda point of the BTA. Annual audit waves are launched, selecting taxpayers based on data-mining techniques applied to filed Local Files (e.g., losses, fluctuation of results, or certain transactions such as business restructurings). In addition, companies that are not compliant with Belgian TP documentation filing requirements are increasingly being targeted.

The updated TP documentation package (i.e. CbCR, Local File, Master File), to be filed for the first time in 2026, introduces extended documentation requirements. In-scope taxpayers should timely consider these new forms to ensure compliance.

A recent surge in TP case law shows a move away from settlements toward more litigation. Current disputes and court cases reveal a sustained focus on financial transactions (e.g. implicit support, use of internal and external CUPs, comparability adjustments) and IP arrangements (e.g. DEMPE analysis and benefit test for royalties). The denial of losses inconsistent with a taxpayer's functional profile or the reallocation of profits based on the OECD risk control framework remains another frequent issue raised in audit practice.

In addition, recent developments in other tax domains highlight that the interplay with TP is gaining importance. On the one hand, tariffs have re-emerged as a disruptive factor in global supply chains across the EU and the US (see section 1.6. above), creating an uncertain trade environment. As global tariff regimes evolve, it becomes increasingly important for businesses to evaluate the interaction between TP and customs, including which entity (or end customer) should bear tariff costs - an assessment that must align with the applied TP model and, in some cases, may require modifications to the applied TP.

On the other hand, the interaction between TP adjustments and value-added tax has gained renewed importance following the recent *Arcomet* judgment (C-726/23) of the CJEU (see section 2.7.2. above). The CJEU confirmed that year-end TP adjustments may constitute remuneration for intra-group services when contractually agreed and directly linked to supplies, thereby falling within the scope of VAT. This ruling strengthens the expectation of alignment between TP documentation and VAT treatment and may increase compliance requirements and VAT leakage risks in partially exempt sectors.

Takeaways and tips

- **Continuously assess your TP position**: It is recommended to assess the robustness of TP models and documentation - both at setup and on an ongoing basis - and ensure alignment with developments in VAT and customs.

Aldo Engels

First-Time Infringements in Good Faith - Legal Reform and Practical Implications

In Belgium, tax increases for direct taxes are determined based on the nature and severity of the infringement, ranging from 10% to 200% of the tax due. Historically, the BTA had a discretionary power to waive the 10% increase for first-time infringements where no bad faith was present. However, this was rarely applied in practice, leading to criticism over arbitrary penalty policies.

Pursuant to a legal reform as of 29 July 2025, the law provides that no tax increase applies to a first infringement committed in good faith. An infringement qualifies as "first" if no similar violation was sanctioned in the four preceding assessment years. Good faith is presumed unless the BTA can prove bad faith or intent to evade taxes. This presumption does not apply to *ex officio* assessments, where the taxpayer must prove good faith - a distinction currently under review by the Belgian Constitutional Court.

Despite the reform, the concept of good faith remains vague. The only guidance provided is that it reflects a sincere belief of acting lawfully. In practice, under the new rule, the BTA now increasingly challenges the good faith of MNEs.

For older assessments predating the reform, taxpayers may invoke the principle of *lex mitior*, arguing that the more lenient rule should apply retroactively. The Ghent court of appeal confirmed this position in a judgment of 18 November 2025.

Takeaways and tips

- **More fairness but unclarities around good faith**: The reform improves fairness but shifts disputes towards defining "good faith."
- **Unequal burden of proof**: *Ex officio* assessments can be challenged based on unequal burden of proof.
- **Invoke the new rule for pending assessments**: Taxpayers can invoke the new rule for older assessments pending before court or the BTA.

Lizelotte De Maeyer

Are you prepared for a tax dawn raid?

The BTA regularly conduct on-site audits, also known as tax dawn raids. These audits are subject to strict legal safeguards.

In practice, the following points typically lead to disputes during dawn raids: (i) whether valid consent was given, (ii) how documents protected by professional privilege are handled, and (iii) whether the BTA can request taxpayers to provide full copies of entire servers and mailboxes that may include private data.

Consent

Recent case law confirms that consent must come from a properly authorised person and can be withdrawn at any time. It is essential to document whether consent was granted, withheld, or revoked, and to terminate the consent upon absence (or withdrawal) of consent. It is also crucial to make sure that unauthorised persons do not create a misleading appearance of representative authority, on which the tax authorities can legitimately rely.

Privilege

The BTA frequently requests access to documents and communications with lawyers or accountants. These materials remain protected by professional privilege, even if they are held by the taxpayer. Taxpayers may refuse to disclose or copy such documents and instead have them sealed by a bailiff and submitted to the relevant disciplinary authority (e.g., the President of the Bar or the Institute of Tax Advisors and Accountants). If confidentiality is confirmed, the BTA cannot access the documents. Although the BTA continues to challenge this principle, case law supports the taxpayer's position, and a related appeal is currently pending before the Belgian Supreme Court.

Private data

Finally, the BTA often requests full access to servers and mailboxes. Taxpayers should ask why such access is necessary and may refuse to provide full copies if relevance is unclear. Recent case law confirms that the presence of private data does not prevent access, provided that the request for a copy of the mailbox or server is justified. It is up to the BTA to perform a triage and exclude fiscally non-relevant information.

Takeaways and tips

- **Develop and communicate your tax dawn raid step plan**: It is highly recommended to develop a clear and comprehensive tax dawn raid step plan, and to ensure that this step plan is known and followed by reception staff, employees, and company representatives.


Lizelotte De Maeyer


Vicky Sheikh

E-invoicing: effective 2026 onwards

During 2025, two significant developments have started reshaping the VAT compliance landscape with further impact expected for 2026.

At the start of 2025, the Belgian VAT chain (i.e., the administration of VAT returns) underwent a major redesign, with some measures scheduled for phased implementation throughout the year. However, in October 2025, BTA has announced a postponement “until further notice” for certain updates, namely:

- The new VAT refund process remains pending. Refund requests will therefore continue to apply for the total accumulated VAT credit;
- The tolerance allowing to file the VAT return the next working day when the legal deadline falls during the weekend or bank holiday continues to apply for both quarterly and monthly filers and is expected to remain permanently for monthly filers;
- The current bank account for VAT payments remains unchanged.

Long anticipated under the EU’s ViDA package (see section 2.7.1. above), the e-invoicing reform will enter into force in Belgium on 1st January 2026. Its scope and obligations have been known for some time now, but two recent clarifications deserve attention:

- The BTA announced a “tolerance period” for concerned taxpayers. While details on scope and duration of the tolerance remain vague, the competent minister confirmed that the focus will be on ensuring a smooth transition rather than imposing penalties. The official circular on e-invoicing is still awaited.
- A grey area remains regarding entities registered for VAT in Belgium without being established in Belgium. Based on a strict reading of current legislation, these entities are required to issue e-invoices from 2026 when transactions involve a recipient using a VAT number starting with “BE”. This interpretation is however controversial, as the EU VAT Directive prohibits Member States from imposing such obligations on non-established taxpayers. It is therefore expected that these entities will fall outside the scope of the e-invoicing requirement.

Takeaways and tips

- **Prepare for new e-invoicing requirements**: Businesses subject to the new e-invoicing requirements are strongly encouraged to take immediate action to ensure they are fully prepared for the upcoming transition.

Bert Gevers

Sébastien Nothomb

Last developments on the notion of fixed establishment for the purposes of VAT

In the *Cabot Plastics Belgium* case (C-232/22), the CJEU addressed a pivotal question referred by the Court of Appeal of Liège, namely whether a Belgian entity of a Swiss group could be considered a fixed establishment of its Swiss parent for VAT purposes. The BTA contended that the Swiss parent had a fixed establishment in Belgium, as toll manufacturing activities were performed locally using the Belgian entity's technical and human resources as if they were under the parent's direct control.

In its judgment, the CJEU emphasised the following key principles:

- Mere group membership is insufficient to constitute a fixed establishment for VAT purposes.
- A foreign company must have local resources at its disposal as if they were its own, supported by specific contractual arrangements.
- An entity cannot simultaneously provide and receive the same services, as previously established in the *Berlin Chemie* case (C-333/20).

Applying these principles, the Court of Appeal of Liège determined that the Swiss parent company did not have a fixed establishment in Belgium through its Belgian subsidiary. This decision reaffirms the CJEU's established jurisprudence and provides valuable guidance for multinational groups operating in Belgium.

Bert Gevers

Sébastien Nothomb

Luxembourg
Domestic landscape

Introduction: The Luxembourg Landscape

The Luxembourg tax landscape continues to be characterised by political stability, with targeted (but significant) measures proposed in 2025 to increase legal certainty and competitiveness. The 2026 budget bill does not contain any significant measure relevant for corporate taxpayers.

For corporate taxpayers, the most relevant development, next to ongoing Pillar Two implementation, is a circular published in August 2025 on the carve-out from the reverse hybrid rules for "collective investment vehicles". The three criteria of such carve-out are vaguely defined in the law and related EU directive, such that it was rarely used. The tax authorities provide useful interpretative indications, notably:

- The "widely-held" criterion is considered met if the fund is designed to raise capital from multiple unrelated investors and no individual person holds more than 25% of the capital or voting rights or controls the fund.
- The "diversified portfolio of securities" criterion is met in essence when the fund - based on its investment policy and on market exposure - does not invest more than 30% of its assets or commitments in a single category of securities issued by the same issuer. Moreover, regular loans count as "securities" for this purpose.
- The "investor protection regulation" criterion is met if either the fund or a fund manager is subject to supervision of the regulator under the relevant EU directives (UCITS or AIFMD).

Another circular updated the tax authorities' thinking on the interest rate on shareholder current accounts, reenforcing the requirement for such interest to be at arm's length and providing for some simplification measures when the shareholder is an individual.

Last but not least, a reform of the carried interest tax regime is expected to be voted prior to year-end. This reform is relevant for the asset management sector.

Pillar Two update

Regarding Pillar Two, there were no significant updates in Luxembourg in 2025 other than an additional Q&A issued by the *Commission des Normes Comptables*, which is the Luxembourg accounting board (**CNC**).

The CNC recommends disclosing in the notes to the financial statements qualitative or quantitative data as regards the (known or anticipated) impact of Pillar Two as soon as the subsidiary expects that its consolidating group is likely to fall in scope of Pillar Two.

The CNC also provides guidance on the disclosing of deferred tax assets (DTAs). In the CNC's view, it is better to disclose them in (the notes to) the standalone accounts rather than solely in the consolidated financial statements, so that it is easier to trace and allocate them.

As from the first year in which the entity is in scope of Pillar Two, sufficiently detailed information (as determined by the management of the entity) on the Pillar Two impact should be disclosed, if such an impact is expected to be significant. In particular, Pillar Two top-up tax liability should be well identifiable. The CNC also recommends tracking the use and accumulation of the tax attributes (e.g., losses carried forward) to ensure greater transparency and traceability, so that the accounts comply better with the principle of true and fair view.

Takeaways and tips

- **The first deadline for Pillar Two compliance falls in 2026 (in respect of tax year 2024)**: MNEs should ensure projections are accurate and conclusions are correctly reflected in the financial statements of their Luxembourg subsidiaries.
- **Pillar Two rules and guidance continue to evolve**: New guidance may substantially affect prior projections and must therefore be monitored and analysed in detail.

Peter Adriaansen

Pierre-Antoine Klethi

Pending tax litigations: what can be expected?

In relation to tax litigation, the year 2025 is marked by a particularly low success rate for taxpayers both in first instance and in appeal before the administrative court. This may be caused by the re-focusing of the tax authorities on cases which they believe to be stronger, as well as numerous predictably unsuccessful attempts of taxpayers to succeed in court against the odds.

The most relevant judgment by the Luxembourg administrative court related to the debt/equity classification of financial instruments. The court stated that it is not a mathematical exercise of adding criteria in favour of equity and those in favour of debt; a global economic analysis is required, and the overall circumstances are key. In the same judgment, the court also noted that the 85/15 debt/equity ratio for the funding of exempt participations is not binding on the tax authorities.

In first instance, the administrative tribunal issued a few judgments with broader relevance, in which it found that:

- Absent a tax ruling, one cannot invoke legitimate expectations based on the tax authorities' position in prior years because of the annual character of taxation.
- The substance and actual activities of a foreign PE must be appropriately documented and substantiated for the income claimed to be allocable to such foreign PE to be exempt in Luxembourg.
- The tax authorities can claim a hidden distribution has occurred without being required to precisely identify the beneficiary of such hidden distribution.
- A loan taken to fund a dividend distribution was not related to the operations of the borrowing company, so that interest was not deductible as a business expense.

Looking ahead to 2026, tax litigation is expected to continue focusing on topics such as (i) transfer pricing (with the tax authorities developing increasingly sophisticated reasoning to sustain their challenges), (ii) abuse of law and (iii) directors' liability for unpaid taxes.

Takeaways and tips

- **Expect transfer pricing audits and litigation to increase**: Taxpayers should ensure they have adequate documentation on file.
- **Mitigate exposure to challenges by the tax authorities**: Taxpayers should ensure that substance and functions are supported by appropriate evidence, that all intragroup transactions are documented and that in general the legal documentation properly reflects the economic substance of a transaction.

Peter Adriaansen

Pierre-Antoine Klethi

Switzerland
Domestic landscape

Introduction: The Swiss tax landscape

Switzerland remains a globally attractive jurisdiction for MNEs and high-net-worth individuals, offering a stable, decentralised, and competitive tax environment.

Corporate Income Tax (CIT)

The federalist structure of the Swiss tax system results in significant regional variation in effective tax rates, which in 2025 range from approximately 11.2% to 22.3%, depending on the canton. The cantons continue to compete for business investment by adjusting tax rates and offering tailored incentives, such as the patent box regime, R&D super deduction, notional interest deduction, and tax holidays. However, with the introduction of global minimum taxation, Switzerland is seeing a shift from tax rate competition to subsidy-based competition.

Personal Income Tax

Personal income taxes and wealth taxes remain at a low level and range from approximately 22% to 42% in 2025 (for an unmarried individual, not considering church tax), depending on the canton. A reform is being discussed for the taxation at individual level regardless of marital status aiming to eliminate higher taxation of dual-income households.

Further, Switzerland has favourable inheritance rules as well as the lump-sum taxation regime for wealthy foreigners. On 30 November 2025, the Swiss population voted on the taxation of inheritances above CHF 50 million. This initiative was rejected.

Dominique Meili

Pillar Two: implementation challenges and trends

Switzerland has implemented Pillar Two through the Swiss Minimum Taxation Ordinance (**MindStV**), introducing QDMTT from 1 January 2024 and IIR from 1 January 2025, while UTPR remains postponed. The MindStV statically references the OECD GloBE Rules as of 20 December 2021 and permits interpretative use of the Commentary and Administrative Guidance, provided they do not alter the original meaning of the GloBE Rules. Therefore, any changes to the GloBE Rules or interpretative materials that affect their meaning would require a revision of the MindStV. A revised draft of the MindStV was published for public consultation on 30 April 2025.

Additionally, Switzerland's implementation depends on meeting the constitutional requirement of adopting an "international standard". The proposed Side-by-Side system excluding U.S.-parented MNEs is raising concerns as major economies may not adopt Pillar Two and this condition may not be met anymore. The Swiss government has yet to formally respond to the Side-by-Side proposal. The compliance process is handled via the electronic OM Tax platform, which is the cantons' joint web solution for collecting supplementary tax launched in 2025. Key deadlines include: (i) mandatory registration by 1 January 2025, (ii) filing of first QDMTT return for FY2024 by 30 June 2026, and (iii) filing of first IIR return for FY2025 by 30 June 2027. Subsequent QDMTT and IIR returns must be filed within 15 months after the financial year. During the Transition Period, a transitional penalty relief is available in connection with the filing of a GIR.

Takeaways and tips

The tax basis under Pillar Two may deviate materially from the Swiss CIT basis. In particular, the following should be considered:

- **Accounting divergence**: GloBE calculations require an acceptable accounting standard like IFRS, US GAAP or Swiss GAAP FER, while Swiss tax law is based on statutory accounts under Swiss commercial law. This creates **compliance complexity and necessitates dual reporting.**
- **Non-deductibility**: In contrast to CIT expenses, top-up taxes are not deductible for CIT purposes. On the other hand, the deductibility of participation impairments for CIT purposes may lead to distortions under GloBE.
- **New incentives**: Traditional tax incentives like the patent box and R&D super deduction have become less attractive in low-taxed cantons as their benefit may be compensated by a higher top-up tax. Therefore, cantons have started to introduce new incentives which are not harmful under Pillar Two.

Dominique Meili

Julia Ann Nigg

Fabian Sutter

Transfer Pricing hot topics

The TP landscape in Switzerland continues to evolve, shaped by judicial decisions, tax authorities' guidance, and heightened enforcement. As of 2025, the Swiss Federal Tax Administration (**SFTA**) aligns closely with OECD guidelines while emphasising domestic principles, such as safe harbour rates, to ensure arm's length compliance.

The SFTA has intensified TP-related audits since 2024, driven by an increase in international TP disputes and forming of new department teams specialised in TP. MNEs face increased scrutiny during audits and are regularly asked to substantiate related party transactions and provide adequate TP documentation. Additionally, certain cantonal tax authorities are also closely examining applied TP methods in corporate income tax filings. This trend of increased enforcement is expected to persist, underscoring the importance of APAs and robust TP documentation to mitigate risks.

Important case law for 2025 and impact on future fiscal years

- **Safe Harbour vs. Benchmarks**: In a landmark 2024 ruling, the Swiss Federal Supreme Court (**FSC**) clarified that safe harbour interest rates for intercompany loans, published annually by the SFTA, are not binding if taxpayers deviate from them (FSC ruling dated 17 July 2024, 9C_690/2022). Taxpayers must substantiate arm's length conditions with benchmark studies, shifting the burden of proof. This decision, reaffirmed in subsequent cases, emphasises comprehensive documentation, particularly for financial transactions, to avoid disputes when deviating from safe harbour rates.
- **Periodicity and Margin Smoothing**: The Administrative Court of Zug rejected multi-year margin averaging and retroactive adjustments, reinforcing the periodicity principle (Administrative Court Zug ruling dated 5 December 2024, A 2023 1). Arm's length interquartile ranges must be applied annually, preventing loss smoothing across periods. This aligns with the benefit equalisation doctrine, ensuring equitable profit allocation without tax advantages. While multi-year data can evaluate comparable consistency or identify anomalies, it cannot justify low-performing years, especially with retroactive pricing adjustments. Taxpayers should prepare economic justifications for outlier years, such as losses, to strengthen their position. They cannot solely rely on the defence argument that on a multi-year period the determined interquartile range is still met.

Practice insights

For commodity trading, the functional profile remains critical for method selection. Courts emphasise delineating roles (e.g., low-risk procurement centres versus full-fledged trading operations, to apply methods like Cost Plus for routine functions or Transactional Net Margin Method (**TNMM**) for complex activities). TNMM remains Switzerland's most prevalent method, but alignment with the entity's risk and asset profile is essential. Recent case law highlights that mismatched functional profiles may lead to recharacterisation, risking significant Swiss withholding tax exposure in certain cross-border constellations.

These developments reflect a maturing TP regime in Switzerland, balancing global standards with local rigor. Taxpayers should prioritise up to date documentation, functional accuracy, and proactively obtain unilateral rulings from Swiss tax authorities to navigate this complex environment effectively.

Takeaways and tips

- **Expect Increased Audit Scrutiny**: Since 2024, the SFTA has intensified TP audits, forming specialised teams and closely aligning with OECD guidelines. MNEs should be prepared for more frequent and detailed requests for TP documentation and substantiation of related party transactions.
- **Caution with Financing Transactions**: The FSC clarified in 2024 that SFTA's safe harbour interest rates for intercompany loans are not binding if a taxpayer chooses to deviate from them. In such cases, the taxpayer must provide robust benchmark studies to prove arm's length conditions, shifting the burden of proof onto the taxpayer.
- **Functional Profile Drives Method Selection**: The chosen TP method (often the TNMM) must precisely align with the actual functional and risk profile of the Swiss entity. A misjudgment can lead to recharacterisation and significant risks, including Swiss withholding tax exposure in cross-border scenarios.

To navigate this evolving landscape, taxpayers are advised to review and maintain up-to-date TP documentation, ensure functional accuracy in their TP analyses and consider proactively seeking unilateral APAs or rulings from Swiss tax authorities to mitigate audit risks and have legal certainty.


Pascal Haessig


Fabian Sutter

Management incentive schemes: Cantonal differences and practical considerations

Management incentive plans (**MIPs**) are widely used to align executive interests with shareholder value. In Switzerland, however, their tax treatment may vary significantly across cantons, requiring careful structuring to avoid unintended personal income tax consequences. The main reason for complexity is the fact that individual taxpayers can in certain circumstances achieve a tax-free private capital gain which requires appropriate structuring.

Swiss tax law generally distinguishes between *genuine* (*echte Mitarbeiterbeteiligungen*) and *non-genuine* (*unechte Mitarbeiterbeteiligungen*) employee participations. Genuine participations involve actual equity ownership and may, under certain conditions, result in tax-free capital gains for individual income tax purposes upon sale. They are regularly subject to tax at grant (on the difference between fair value at grant and acquisition price) with subsequent sale typically resulting in a tax-free capital gain.

Non-genuine participations, such as, for example, phantom shares or co-investments lacking full shareholder rights, only offer a monetary benefit linked to the performance of the underlying equity and are taxed as employment income. Such instruments are generally taxed at exercise/receipt.

Valuation plays a key role in individual income taxation. The SFTA's circulars (SFTA Circulars 37 and 37A) provide guidance in this regard. If genuine employee participations are obtained at fair value, no further income tax consequences arise. If a fair value cannot be determined, the SFTA proposes to apply a "formula value" (i.e., simplified valuation approach) at grant. Any sale within five years results in a taxation of the difference between formula value at sale and the higher fair value ("excess taxation"). Any sale after five years results in a full tax-free capital gain.

Cantonal practices diverge, especially when it comes to the taxation of such excess profits. While certain cantons tax such over-profits as employment income, others allow a switch-over to the fair market value method, resulting in a tax-free capital gain. In specific cases, a personal holding company can be a strategic tool to mitigate the risk of over-profit taxation by benefitting from the book value principle and privileged taxation of dividend income from qualifying participations.

Takeaways and tips

- **Divergent tax treatment depending on the canton**: Swiss canton-specific practices regarding the taxation of MIPs vary widely.
- **Confirmation via rulings**: Valuation and timing rules should therefore be confirmed locally via advance tax ruling requests to ensure legal certainty and avoid mismatches and disputes.
- **Consider planning tools**: Depending on the structure of the MIP, various planning tools (e.g., personal holding companies or tailored vesting arrangements), may help optimise the employee's tax position.

Complexity further increases when managers reside in different cantons. While social security contributions are assessed in the employer's canton, personal income tax follows the employee's residence. This can lead to mismatches in reporting and withholding obligations. Securing tax ruling confirmations for MIPs not only in the canton where the employer is based, but also in the cantons of residence of participating employees ensures alignment and prevents disputes.

Seraina Graf

Fabio Sonderegger

Fabian Sutter

Swiss VAT developments

On 1 January 2025, the partially revised VAT law came into force. The implemented changes to Swiss VAT affect both national and international companies operating in Switzerland and Liechtenstein. Key changes address digital platforms and travel agency services (tour operators).

Digital platforms

A significant reform introduced tax liability for electronic platforms, treating them as taxable entities for Swiss VAT purposes. All sales of goods facilitated through these platforms (applicable to B2B, B2C, C2B, or C2C) are now attributed to the platform itself. This measure ensures that Swiss VAT is applied to all goods delivered to customers in Switzerland via digital platforms, closing loopholes previously exploited by foreign mail-order companies through exemptions on small consignment imports. The regulation aligns Switzerland with international standards, particularly in the EU. Non-compliant platforms face stringent penalties, including import bans, destruction of consignments, or public naming.

Travel agencies and tour operators

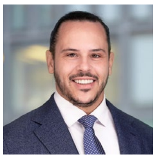
The revised VAT provisions also affect travel agencies and tour operators. Under a new "place of supply" principle, travel services and related agency services are deemed to be provided at the registered office of the travel agency, regardless of where the services are consumed. As a result, foreign travel agencies and tour operators offering trips to Switzerland or Liechtenstein are no longer required to register for VAT in Switzerland. However, they are also not entitled to reclaim input VAT on services purchased in Switzerland.

Important case law

A recent ruling by the Swiss Federal Administrative Court on July 4, 2025 (A-1477/2024) upheld the SFTA's practice regarding input VAT deductions for holding entities with qualifying participations of at least 10%. The court clarified that input VAT deductions must be assessed in the context of the entity's entire business activities. Consequently, holding entities engaged in non-taxable activities (e.g. generating interest, capital income, or providing educational services) are not entitled to deduct the full input VAT related to their qualifying participations. The determination of the input tax adjustment key must be appropriate and determined on a case-by-case basis.

Takeaways and tips

- **VAT obligation for electronic platforms**: As of 2025, Swiss and foreign electronic platforms are subject to Swiss VAT.
- **No registration obligation for non-resident travel agencies**: Foreign travel agencies no longer need to register for VAT in Switzerland but lose the right to input tax deductions for Swiss services purchased.
- **Limited VAT deduction for certain holding companies**: Holding companies with mixed activities have limited input tax deduction rights, based on their overall business activities.



Joaquin Bouza

Fabian Sutter

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