



Global Investment and Innovation Incentives Gi³ alert

Reminder of restrictions on combined application of R&D tax credit and wage withholding tax exemption for researchers

Although Belgian legislation does not prohibit the application of a combination of research and development (R&D) incentives in respect of the same activities or assets, certain restrictions apply for taxable periods ending on or after 1 April 2022. New legislation on the reduction of labour costs as part of the “mini tax shift” was published in Belgium’s official journal on 31 March 2022 and includes provisions intended to prevent companies “double-dipping” by claiming both the R&D tax credit and the partial wage withholding tax exemption for researchers in respect of the same costs.

Offset of R&D wage withholding tax exemption and R&D tax credit

As from taxable periods ending on or after 1 April 2022, companies that apply the R&D tax credit on the remuneration of researchers will see their tax savings reduced if they also benefit from the partial wage withholding tax exemption for the same researchers.

An amendment to article 289quater of the Belgian Income Tax Code (ITC 1992) provides that where the investment or cost value of fixed assets eligible for the R&D tax credit includes the remuneration of researchers on which the partial wage withholding tax exemption for researchers has been claimed, the calculation basis of the R&D tax credit should be adjusted by the amount of the wage withholding tax exemption (article 275/3, ITC 1992).

Companies must make the correction only in their annual tax return; it is not a requirement to correct the accounting value of the capitalised R&D expenses, or the amount to be declared to the regional authorities to request the regional environmental attest.

The limitation does not apply to the investment deduction for R&D (unlike the R&D tax credit). Depending on the circumstances and amounts involved, the investment deduction may therefore become more attractive. Companies also may wish to evaluate the possibility of claiming a combination of either the R&D tax credit or the investment deduction on different assets.

Deloitte Belgium is able to support companies to evaluate the impact of the application of the R&D tax credit in combination with the R&D partial wage withholding tax exemption.

Capitalisation of R&D expenses

R&D related expenses must be capitalised before the end of the taxpayer's tax year to be eligible for the application of the R&D tax credit or R&D investment deduction and must be treated differently for accounting and tax purposes.

Deloitte Belgium is able to support companies to review their capitalisation policies and compile the necessary evidence to support capitalisation of R&D expenses, including the potential positive impact on the innovation income deduction.

Filing deadline to claim R&D tax credit and R&D/energy investment deductions

The deadline for filing with the competent authorities the necessary certificates supporting claims for the R&D tax credit and R&D investment deduction (in Brussels and Wallonia) and the energy investment deduction (in Brussels, Flanders, and Wallonia) for qualifying capitalised expenses in financial year 2022 is 31 March 2023. There is no official deadline in Flanders for filing the certificate for the R&D tax credit and R&D investment deduction but the recommendation is also to file by 31 March 2023 and certainly before the tax return for the year is filed.

Deloitte Belgium can support taxpayers in obtaining the environmental attest from the Leefmilieu Brussel (Brussels), the Departement Omgeving (Flanders), or the Direction générale opérationnelle Agriculture, Ressources naturelles et Environnement (Wallonia).

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