

## **Direct taxation: Commission formally requests Belgium to change discriminatory tax rules on inbound dividends received by natural persons**

***The European Commission has formally requested Belgium to amend rules leading to the discriminatory taxation of certain inbound dividends received by natural persons. These inbound dividends are subject to a tax of 25%, whereas the same domestic dividends are subject to a tax of 15%. The Commission considers that the Belgian provisions restrict the free movement of capital and the freedom of establishment.***

Under Belgian law, natural persons resident in Belgium pay a tax of 15 % on dividends paid by a Belgian company of which the majority of the shares are held by natural persons or of which part of the capital is contributed by a "PRIVAK", a private investment company established in Belgium.

Dividends paid out by similar companies resident in other EEA States are subject to a tax rate of 25%.

### Background

The incriminated provisions are article 269, third paragraph, letter d, in connection with article 201, first paragraph, 1° of the Belgian Income Tax Code. In the opinion of the Commission these provisions are incompatible with articles 49, 54 and 63 of the Treaty on the Functioning of the European Union (TFEU) and with the corresponding articles 31, 34 en 40 of the Agreement on the European Economic Area.

The request takes the form of a reasoned opinion (the second step of the infringement procedure provided for by Article 258 TFEU. If there is no satisfactory reaction to the reasoned opinion within two months, the Commission may decide to refer the matter to the Court of Justice of the European Union.

The Commission's case reference number is 2008/4155.

For press releases on infringement cases in the taxation or customs field, see: [http://ec.europa.eu/taxation\\_customs/common/infringements/infringement\\_cases/index\\_en.htm](http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/index_en.htm)

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