PRESS FILE 2019

TUERLINCKX TAX LAWYERS

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TUERLINCKX TAX LAWYERS

Tuerlinckx Tax Lawyers defends the interests of taxpayers and offers answers to any tax issue or issue. The firm also intervenes when the tax aspects are only partially concerned, whether the property is concerned or needs to be organized. His lawyers oversee, among other things, planning, reorganization, mergers, divisions and acquisitions. The firm is competent and rigorous. It is distinguished by the arguments that make it possible to tip a case. The offices are located in Antwerp, Hasselt, Liège and Westerlo.

About Mr. Jan Tuerlinckx

Lawyer Jan Tuerlinckx holds a Law Degree (KUL, 1994) and specialised in Tax Law (EHSAL-FHS, 1995) and in Corporate Law (KUB, 1998).

Jan is a founding partner of Tuerlinckx Tax Lawyers and has developed the law firm into a national network with offices in Antwerp, Westerlo, Hasselt and Liège. The expansion of the law firm beyond the language border is a conscious strategy, since Tuerlinckx Tax Lawyers intends to act nationally, assisting clients in their tax disputes across Belgium.

The firm's development across the national territory was prompted, among other things, by the fact that the Income Tax Code (WIB) is different from one province to the next; the firm therefore works to bridge these differences and interpretations to benefit the taxpayer. The firm also believes that, eventually, a large proportion of tax disputes will be caused by jurisdictional disputes between the different authorities in Belgium.
Jan is a member of the Bar in Antwerp, Limburg and Liège.
After a partnership in two tax law firms, Jan co-founded the Tuerlinckx Tax Lawyers firm in 2011 in Antwerp. He now has more than 20 years experience in tax, corporate and financial law cases – both in terms of negotiation and litigation – and he supervises several important transactions each year.

Tuerlinckx Tax Lawyers specialises in taxation, with a focus on negotiations with the tax authorities and the defence of clients' interests in tax disputes before the courts. The firm also advises individuals and companies on all aspects of taxation, from risk assessment to tax estate planning, to make sure they can benefit from the most favourable tax rates under Belgian law for their capital or investment.
Internationally, Jan is a member of various lawyer and tax organisations and maintains close contacts with law firms with the same profile in neighbouring countries.

Jan has authored many articles about taxation. He lectures regularly at conferences and seminars on tax law and is a popular speaker. His articles and columns are published in De Tijd newspaper, among others, as well as in the economic weekly Trends on a monthly basis.
Jan challenges the Belgian government which has made domestic taxation unnecessarily complicated. He also monitors the rights of Belgian taxpayers, including in the discussion with the tax authorities about the seemingly unbridled access rights of the tax administration in tax disputes, in violation of European regulations.

As an expert, Jan is regularly invited to television programmes, such as on Kanaal-Z, to explain in layman's terms to the general public tax matters relevant to the news. In 2013, for example, the firm launched a successful informative website in response to the announced 'last' fiscal regularisation round. In contrast to the government's failure to provide information, the website described in detail the modalities of the regularisation process organised by the State.
Jan's tone is sharp, well-founded and analytical. He always looks for fair solutions for both the taxpayer and the tax authorities, and he strives to establish a tax system that is fair, transparent and sustainable.

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About TUERLINCKX TAX LAWYERS

Tuerlinckx Tax Lawyers is a Belgian nation-wide law firm specialised in tax law. The firm advises and assists companies, organisations and individuals with tax queries and tax-legal procedures and disputes. Tuerlinckx Tax Lawyers is committed to fair taxation.

The offices of the firm are situated in Antwerp, Hasselt, Liège and Westerlo.

Tuerlinckx Tax Lawyers defends the interest of its clients in relation to litigation and is a partner in providing a solution to all tax problems.

The firm uses its expertise both to advise you and to resolve disputes. They oversee private wealth planning, investments, professional partnerships, corporate reorganizations, mergers and divisions, and corporate takeovers.

The expertise of the firm is in the area of tax law, corporate law, accounting law, asset management and succession planning, support for reorganizations and contracts, money laundering legislation. money and criminal tax law.

The firm frequently shares its point of view in the form of opinion articles and white papers on its own expertise platform. In addition the firm regularly organizes seminars on tax news for competing colleagues and financial professions.

The clientele of Tuerlinckx Tax Lawyers consists mainly of entrepreneurs and small and medium-sized companies.

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FUNDAMENTAL KNOWLEDGE

- VAT
- Anti-money laundering legislation
- Criminal tax law
- Acquisitions and contract law
- Succession planning
- Registration right
- Accountancy law
- Corporate law
- Financial law
- Income tax
- Succession
- Administrative procedures
- Local taxation
- European and international tax law

KEY ACTIVITIES

- Legal procedures
- Administrative procedures
- Restructuring and contract support
- Liability of directors and shareholder disputes
- Regularisations
- Acquisitions, capital transactions
- Criminal taxation law
- Risk Assessment
- Counsel
- Rulings
- Estate planning

On our website the core competencies and specialisations of lawyers at Tuerlinckx Tax Lawyers are divided into four aspects: TAX, CORPORATE, CRIMINAL AND PRIVATE. Want to know more? Visit: www.tuerlinckx.be/en/specialisations

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Opinion articles (selection)

Read our views and opinions on: www.tuerlinckx.eu/en/shares-expertise

- Stock options and RSUs
  August 9th 2018

- Full access to financial data in the pipeline
  June 21st 2018

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Stock options and RSUs

Doctors have an unenviable position at parties. People bombard them with dozens of medical questions about their ailments, possible medication and corresponding prescriptions, let alone the situation in which and uncle or grandchild makes an unfortunate movement or breaks something. As a lawyer, fortunately, I have always boasted I could be spared all this hassle. In recent times, however, I have had to review this claim. Lately, I've consistently been approached at parties by someone or other who wants to talk about a friend or acquaintance in a senior executive position in a multinational company. After a few minutes of compulsory "small talk", the subject always shifts to the remuneration they received in the form of Restricted Stock Units (RSUs).

The tangle of tax regulations: the forest for the trees

In layman's terms, those Restricted Stock Units are shares that are awarded to employees as a bonus. In this case, the agreement is that the stocks are acquired by achieving future targets. You may automatically associate these to "stock options" which are also granted to employees as a bonus or component of a remuneration package. It is true that RSUs and stock options are in some way comparable. In fiscal terms, however, there is an essential difference between the two, i.e. the moment when their value is taxable. The recipient of a stock option is taxable at the time the option is granted. He or she is charged a standard fee for the option at that time. In principle, this amounts to 9% or 18% of the value of the shares on which the employee has an option. If the option becomes worthless later, that is just bad luck for him or her. On the other hand, if the share value rises and the beneficiary makes sizeable profit when exercising the options, the gain is entirely tax-free. Things are different with RSUs. While no tax is charged at the time the RSUs are granted, it is applied when the employee actually receives the shares. Where the employee always pays tax in the case of stock options, even when the options turn out to be worthless, RSUs are only taxable if the employee actually benefits from vesting the shares.

The forester

In practice, these RSUs are declaration sensitive, however. This is because the RSUs don't have to be declared in the employee's tax return at the time they are granted. In addition, the employer who assigns the RSUs is not required either to report this in any way to the tax authorities. They simply don't know which employees have received RSUs in the past or have gained from vesting those RSUs in the present. Finally, it is true that RSUs are often granted by parent companies abroad and the income from vesting the RSUs cannot be paid in any other way than on foreign securities accounts that employees must open in order to be able to take advantage of the RSUs.

The complexity of the regulations and the lack of legal framework weigh heavily on the correct assessment of the tax on the RSUs payable by the employees. Furthermore, in all honesty, we must acknowledge the temptation among multinationals to create a certain vagueness around the taxation regime for RSUs and, in so doing, convince a group of employees that the revenues from the RSUs are tax-free for them.

RSUs are a matter of fiscal debate, because the tax authorities are subjecting multinationals and their employees to more and more scrutiny in this regard. And employees are now worried. If employees failed to declare the RSUs, they are at risk of facing a tax re-adjustment imposed by the tax authorities. Ideally, the tax authorities should be lenient, as it would be unfair to sacrifice these employees on the altar of excessive tax penalties. They should be excused to a large extent by the complexity of the regulations and the absence of legal framework.

The employees themselves should also be given the advice to report to the Central Point of Contact (CPC) foreign securities accounts on which the shares are paid out. This is a legal obligation for every account held abroad. These employees should take into consideration that, when the assets of these foreign securities accounts are transferred to Belgium, Belgian banks may question the origin of the funds. The banks have this obligation under the money laundering laws.

The regulator

The RSUs have also stirred up debates in the Council of Ministers and the Belgian Budgetary Conclave. The latter has decided to introduce an obligation of declaration for domestic companies. From now on they will have to create and fill in a form for shares, stock options and RSUs granted to their employees from 1 January 2018 by a foreign parent company. The government would even like to go one step further by requiring domestic companies to withhold payroll tax on this award or payouts from 1 January 2019. And, eventually, this will create a clearer framework, which will benefit the tax authorities as well as employees.

Voilà! There you have it: a short and practical update on RSUs. Unfortunately, columns have to be written a week in advance, which means that this column will not be published in time for the party of this coming weekend. If, during a good friend's garden party on Saturday evening, I am asked about RSUs, I will not be able to refer to this article. I will, however, for all the subsequent parties. A win for me on two levels: a positive impact on both Trends and my party mood...

Full access to financial data in the pipeline

Almost three years ago to the day, my article "Le cadastre des fortunes arrive" was published under this section. The Central Contact Point (CCP), created by the National Bank of Belgium, has been operational since mid-2015. The CCP is and was the conclusion of the exercise started in 2011 and aimed at recording assets held by private individuals. The CCP is nothing more than a database of all bank accounts, credit agreements and asset management or investment advice contracts. Belgian financial institutions provide the information themselves to the National Bank. Belgians who hold accounts abroad must inform the CCP, specifying which accounts they have and where they are.

Access to the database was initially limited. It could only be used to detect fraud more easily. Three years ago, it was predicted that such access could be quickly expanded, at a simple snap of the legislator's fingers.

And this prediction already was partly confirmed in 2016; since then, the CCP information is available to all collection services responsible for tax receivables, but also non-tax. VAT and customs control services have also been offered access to this information. And although this was not in the initial plans, the prosecution services, the investigating judges, the courts in criminal cases and the Financial Intelligence Processing Unit (CTIF-CFI, also called anti-money laundering unit) have also been granted access to the database.

Despite this expansion in 2016, the CCP's functioning remains rather limited in practice. Under Europe's pressure to a certain extent, policymakers are now assessing whether this operation should not be urgently boosted and whether the intelligence collected by the database should not be more comprehensive and more practical.

The bill of 1 June 2018 outlines the new blueprint for a super financial database. In the future, the CCP will no longer be part of the National Bank of Belgium. This reform is necessary to enable faster and wider access to information, which is imposed on us by the Fifth Anti-Money Laundering Directive, whereby Europe obliges Member States to develop automatic, rapid and efficient data opening in the European Union in the fight against terrorism and money laundering.

As already mentioned, the data stored in the super database will have more depth as regards quality. The definition of "financial institution" subject to the disclosure requirement will be further expanded. This will mean that financial institutions, as well as any institution holding relevant information about the assets of individuals, will be required to cooperate. Financial institutions will also have to provide more information. In the future, a new notification requirement will arise for rented bank vaults and financial transactions involving large cash withdrawals. Currently, only account holders must be included in the CCP; agents are not yet concerned. However, this information is considered useful – and even necessary – in the context of compliance with criminal financial and tax law. That is why, in the future, it should also be included in the super database.

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The data stored will not only be more comprehensive, but also accessible to a larger number of people. Imagine that you have debts and that bailiffs want to serve a preventive attachment order. They will soon be able to access information in the super database in the context of civil and commercial matters, in order to recover debts more easily. Similarly, the scope of competence of notaries will be extended when it comes to issuing the declaration of succession.

Three years ago, the article ended on these thoughts: those who think that this database would be viewed only in case of suspicion of fraud are also dreamers. And if they were indeed dreamers, we can now prove it. The prophecy has come true. But everyone will agree on one thing: you don't need to be Nostradamus to make such a prophecy.