THE BELGIAN DIAMOND TAX REGIME

The Belgian Diamond Regime in a Nutshell

Under the new Belgian Diamond Regime, which applies retrospectively from 1 January 2016, the taxable base of registered diamond dealers is determined as follows:

- 2.1% of the turnover minus expenses, provided the expenses do not reduce this to less than 0.55% (0.65% for 2016) of the turnover;
- plus the shortfall, if any, between the manager's remuneration and a specified reference amount.

The normal corporate tax rate (or personal tax rate in the case of non-corporate entities) is then applied to the taxable base as determined above.

What does this mean?

- The actual gross margin (i.e. revenue minus cost of goods sold) realised by the diamond dealer is irrelevant for tax purposes. Instead, the starting point for computing the taxable base is a fixed gross margin that is assumed to be 2.1% of turnover. Revaluations to the inventory (including reductions) will therefore have no tax impact.
- Expenses, including notional interest but excluding polishing costs, are deductible (subject to the 0.55%/0.65% requirement). Therefore, to the extent possible, expenses should not be integrated in the value of the inventory, but booked separately in the accounts to allow for tax deduction.
- One manager must be paid a certain minimum (brutto) remuneration, otherwise the shortfall will subject to tax. Do note that this is a tax deductible expense for the diamond dealer.

Who does it apply to?

- The Diamond Regime applies to all registered diamond dealers selling out of their inventory, regardless of whether they are companies or individuals (i.e. sole proprietors) in Belgium.
- Diamond selling companies of mining groups may opt in.
- It applies to diamond polishers and other dealers who polish their rough stocks before selling polished stones. However, polishing costs are not deductible, as stated above. In other words, such polishers are taxed based on the fixed pure trading margin of 2.1%. Since the higher margins of the value-added polishing are disregarded for tax purposes, the associated polishing costs have been correspondingly disallowed.
- It does not apply to diamond brokerage or sales made out of a third party's inventory. In such cases, the brokerage fees / commissions are taxed as per normal. This arrangement should be reflected on the invoices and the diamonds should not be recorded on the balance sheet.
- It does not apply to jewellery (once the diamond is set, it falls outside the scope) and securitisation programmes.
- It does not apply to trades that are not sincere and habitual (i.e. abusive).
- Where an entity derives more than one type of income (e.g. brokerage and trading income), the Diamond Regime treatment applies only to the applicable income streams (e.g. trading income).