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CHINESE DESK NEWSLETTER

VGD 会计师事务所中国部财税新讯





VGD Chinese desk: tax flash - new tax treaty between China and Belgium

VGD 中国部：税务及时新闻 – 中国比利时新避免双重税收协定

On 7 October 2009, a new double tax treaty and protocol on double taxation were signed by Belgium and China in Brussels.

After going through the necessary approval procedures, the new double tax treaty (DTA) has finally entered into force on January 4th, 2014.

The new treaty will replace the existing DTA, which has been in force since April 18, 1985.

Without going into the specifics we already argue that the new treaty is very beneficial, making Belgium an ideal partner for structuring pan-European investments.

Below we elaborate briefly on some key features.

中比新税收协定于2009年10月7日在布鲁塞尔签订。

经过必要的审批程序，新税务协定在2014年1月4日正式生效。

新协定将代替现行的1985年4月18日签署的“八五协定”。

暂不从细节上去分析，我们认为新协定对双方的合作是非常有利的，并且令比利时成为在欧洲投资企业的最佳合作伙伴。

以下我们探讨一下一些主要细节。



► Dividends 股息

The new DTA reduces the withholding tax (WHT) rate on dividends from 10% to 5%, provided that certain conditions are met:

新协定规定在以下情况下，所征预提税款由股息总额的 10% 降到 5%：

1	The beneficial owner is a company (other than a partnership) which.	· 受益所有人是公司（合伙企业除外）
2	Prior to the moment of the payment of the dividends, has been holding, for an uninterrupted period of at least 12 months.	· 并在支付股息前至少连续 12 个月内
3	A directly shareholding of at least 25% in the company paying the dividend.	· 直接拥有支付股息的公司至少 25% 资本

In all other cases, the WHT rate will remain at 10%.

其他情况下，所征预提税维持在 10%。



► Royalties 特许权使用费

The withholding tax rate of royalties is reduced from 10% to 7% of the gross amount of the royalties.

所征预提税款由特许权使用费总额的10% 降到7%。

► Interest 利息

The withholding tax rate of interest remains 10% unchanged compare to the former treaty.

与之前协定相比，所征利息预提税款维持10% 不变。

In this respect it could be envisaged to channel Chinese financing via a company located in the Netherlands (provided that substance criteria are met). The Netherlands do not withhold any taxes on interest payments to non-residents.

在这方面我们设想一下如何经由荷兰的公司在中国融资（前提是要满足一些基本条件）。荷兰在利息方面不对非居民征税。

比利时公司可以很容易地设立一个荷兰分公司。

The Dutch company can easily be a subsidiary of a Belgian company.



► Capital Gains on shares 股权的资本收益

In general, the new DTA adopts the standard capital gains clauses on the taxation of shares found in China's recent DTAs.

Besides the clause stating that the sale of real estate companies can trigger tax locally, there is a specific clause regarding the sale of shares in case the sellers holds a certain percentage of the shares being sold.

Gains received by a Belgian company from disposals of shares in a Chinese company other than shares in which there is substantial, regular trading on a recognized stock exchange may be taxed in China if the Belgian resident (directly or indirectly) holds 25% or more in any 12-month period before disposal (and vice-versa).

大致上说，新协定采用了中国最近签订协定的标准资本收益条款。

除了有关公司在转让当地不动产时能被不动产所在国征税的条款外，还有一项特定条款对持有有一定比例的被转让股份的卖方出售股份作出规定。

当比利时居民公司直接或间接持有中国公司 25% 或以上资本，但转让前持有期在 12 个月以内的时候，比利时公司在转让中国公司股份（除在被认可股市上交易股票）的收益可以在中国被征税（相反亦同）。



► **Additional remark** 其他事项

Note that the new treaty only applies:

·for withholding taxes: all revenue received as of January, 1th 2015.

·other income taxes (e.g. capital gains): revenue received during a taxable period starting on or after January, 1th 2015.

Please feel free to contact us if you have any questions.

请注意，新协定只适用于：

·对于预提税：在 2015 年 1 月 1 日之后的收益

·其他所得税（例如：资本收益）：由 2015 年 1 月 1 日开始的财政年开始所得的收益。

如果有其他问题，欢迎随时联系我们。



Knowledge partner of Chinese companies in Europe

At VGD we support entrepreneurs and their investors in their ambition to structure and to develop their businesses. In addition to our services, we offer entrepreneurs a sounding board, by challenging your opportunities and providing alternative ideas.

By investing in a knowledge partner you invigorate the long term success of your business and create the platform to fully enjoy your passion for business.

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