HOW DOES BELGIUM CONSIDER ENVIRONMENTAL TAXATION?

Jacques Malherbe¹
Isabelle Richelle²

Within the European Union, the environmental policy is a shared competence between the EU and the Member States. Taxation is one of the instruments for its implementation. Belgium, as a Member of the EU, takes part to the decisional process within the EU and has to implement the European policy. However, Belgium is also a federal State and both the Federal and Regional authorities have a certain room for manoeuvre in this field.

It is first important to remind briefly the competences of each of the concerned powers. This being clarified, we shall, in a second chapter describe the most important tax measures existing in the country.

CHAPTER I. THE INSTITUTIONAL FRAMEWORK

I. A direct influence of the EU regulations

As a Member of the European Union, Belgium participates in the elaboration and in the implementation of environmental policies established by the EU. According to the principle of subsidiarity, an action of the EU in this field is possible if the considered objectives can only be realized at the community level. Thus, as they have a shared competence, ¹

¹ Doctor in law and a degree in Economic Sciences from the Catholic University of Louvain. Master of Laws degree from Harvard University. Professor emeritus at the Catholic University of Louvain. Vice-president of the Scientific Committee of the IFA (International Fiscal Association). Partner in Liedekerke in Brussels.

² Professor at the University of Liège. Member of the ECJ Task Force of the Confédération Fiscale Européenne. Associate at Liedekerke in Brussels.
member states can adopt measures of legislative order as long as no community action is undertaken. The waste policy, the water policy and the energy policies are good examples of the action of the EU\textsuperscript{3} to be implemented by Members States.

For example, the “Water Framework Directive”\textsuperscript{4} imposes to integrate into the cost of the water, the costs of distribution as well as the cost of treatment of polluted waters.

The same idea of the “pollutant/payer” is also taken back in the waste directive; thus, for example, in the Walloon region, this principle is at the basis for the determination by municipalities of their taxes for the waste collection.\textsuperscript{5}

Regional taxes are collected by the municipalities.

The EU also adopted Directives implementing its obligations under the Kyoto Protocol. In this field, one must note the Directive 2003/87\textsuperscript{6} introducing a scheme for GHG emission allowance trading within the Community. While not directly oriented towards taxation, that Directive has tax consequences as regards the tax treatment both of emission trading rights received for free by enterprises which are subject to the

\begin{footnotesize}


\end{footnotesize}
scheme and persons who are trading on the market.7

2. Sharing the competences within a Federal State

Within Belgian, competences in the field of environment and taxation are shared between the Federal and Regional authorities.8 Regions have competences for environmental protection, waste policy, policy regarding the dangerous, unhealthy and uncomfortable establishments, the production and the distribution of water.9 The federal State keeps competences as regards the standards of products, the protection against the ionizing radiations and the transit of waste. Municipalities are also concerned by the environmental policy, which a.o. have to organize the removal of the household waste.

Regarding more specifically taxation, it results from article 170 of the Belgian Constitution that taxing powers are competing competences as between the federal and regional authorities. However, Regions are allowed to adopt taxes only in the domains for which there are no federal taxes; for example, income taxes are ruled by the federal level and Regions could not intervene in this field. Furthermore, the Federal State is until now authorized to restrict the regional tax competences or to agree on exclusive competences of the Regions in certain tax fields: as an example, only the Regions are competent to levy tax on water and waste.10

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8 There is a third political subdivision with the Communities (more oriented on the recognition of cultural peculiarities) which is not directly concerned by the environmental policies.
9 See the Special law of institutional reform of 8 August 1980 as amended in 1993, esp. Article 6, §1er, II.
Environmental policies can be led through different instruments like regulations, tax measures, grant of public subsidies or market based instruments.

Non-tax regulations aim at regulating some behaviors and provide for penalties in case of infringement. This is the case, for example, of a Decree of the Walloon Region on waste, having “for objective to protect the environment and the health of the man of any harmful influence caused by the waste.” The decree provides for administrative and criminal penalties in case of infringement. It is possible to combine such regulations with tax instruments.

Environmental taxes aims at incorporating in the prices of the goods or services the costs of some environmental effects. The consumers are so invited to adapt their behavior towards less polluting products (or then to accept the cost of their pollution). Producers are invited to revise their techniques of production in order to reach less polluting levels. Indirectly, this instrument also aims at modifying behaviors.

These new policies become integrated in a pre-existing classical tax system based on income taxes and indirect taxes. When introducing new environmental taxes, the ability to pay of the taxpayers must be taken into consideration and ideally, traditional taxes should be decreased. In practice, however, in Belgium, no such link is made all the more since several levels of power are concurring.

On the other hand, if environmental taxes are really efficient in changing behaviors, the revenue they raise should decrease over the time.

Finally, some fees environmentally linked can not be qualified as “taxes” but rather as “redevances” as they are paid for services rendered.

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12 Article 1 of the Decree.

13 See Article 47 to 59 of the Decree.

14 However, the taxable event can not be the fact constituent of an administrative or criminal offence.
by public authorities; this is the case, for example, in the field of the waste policy.\(^\text{15}\) These costs are out of the scope of this paper.

Subsidies include “direct subsidies”, i.e. amounts granted by the public authorities to support the acquisition of certain assets, and “tax incentives” that represent reduction of taxes to be paid by the taxpayers who adopt certain behavior favored by the tax authorities.

In the following, we shall only focus on tax instruments which have been implemented up to now in Belgium. As will be seen, the Federal government tends to use tax incentives, while new taxes or new tax rules, increasing the tax burden, are mostly used at regional levels.

All of the three Regions and the Federal State have elaborated various incentive or dissuasive measures of environmental taxation. This reveals a real consciousness for environment, although these measures do not concretize a global and really coherent environmental policy. However, two main fields of action can be highlighted: vehicles and buildings. Sometimes, it is required that the different levels of power coordinate their action through specific agreements.\(^\text{16}\)

**CHAPTER II. ENVIRONMENTAL TAXES**

1. **Vehicles**

1.1. **Income taxes: deductible professional costs relating to vehicles**

1.1.1. **Vehicles owned by individuals**

Costs relating to the use of vehicles for professional purposes are, as a rule, deductible from the professional income for both individuals and companies: depreciation of the acquisition costs, taxes, insurances, maintenance costs, fuel, interest on loans, etc. are thus deductible expenses.

\(^{15}\) See i.e. the Decree of the Flemish Region of 2 July 1981 concerning the prevention and the management of waste, *M.B.*, 25 July 1981.

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However, little by little, limitations to the full deductibility have been introduced.

As regards individuals, costs relating to the route between the place of residence and the place of work are limited to 0.15 € per kilometer.\(^{17}\) This limitation was introduced in 1992 for budgetary and administrative reasons. This lump-sum amount does not anymore really represent the effective costs incurred by the taxpayers (if it ever did); it has never been indexed since 1992, while indexation is a rule in Belgium individual income taxation. While not introduced for environmental reasons, the measure appears today as a disincentive to the use of personal vehicles. This type of measure is however questionable since there is no real alternative for transportation and since the settling-in outside cities was very widely encouraged.

The deduction of other professional costs related to the use of vehicles, regarding travels other than from the domicile to the place of work is limited to 75% of their amount,\(^{18}\) except as regards fuel and interest on loans for the acquisition of the vehicle which are fully deductible. This 75% limitation was also introduced in the early 1990s' essentially for budgetary reasons. It also impact computation of capital gains or losses on the vehicles which are also taxable/deductible up to 75%.\(^{19}\)

As from January 1\(^{st}\), 2010, deduction of fuel costs is also limited to 75%.\(^{20}\) The Government insists on the coherence of the measure, necessary in the context of reducing personal use of vehicles.

Vehicles covered by the limitation are “cars, mixed cars, and minibuses”. Expenses relating to other kind of professional vehicles are fully deductible.

\(^{17}\) Article 66 §4 of the Belgian Income Tax Code (ITC).

\(^{18}\) Article 66 §1 ITC.

\(^{19}\) Article 24, al. 3 ITC.

1.1.2. **Vehicles owned by companies**

The 75% limitation also applied to company cars.

However, this limitation was recently replaced by a graduated limit based on the polluting level of the cars, depending whether they use gasoline or diesel.\(^\text{21}\)

In a first step, the deduction ranged from 60% if the vehicle emits more than 190 grams of CO2 per kilometer up to 90% if the vehicle with gasoline emits less than 120 grams of CO2 per kilometer.

Since January 1\(^{\text{st}}, 2010\), the scale ranges from 120% for vehicles without any CO2 emissions (in practice electric cars) to 50% for vehicles emitting more than 195 or 205 grams of CO2 per kilometer\(^\text{22}\) depending whether they use diesel or petrol. The possibility to deduct 20% more than the effective costs relating to the vehicle is deemed to be a real incentive to invest into electric cars. This incentive extends to costs incurred for the acquisition of electric terminals necessary for recharging batteries. Fuel costs remain deductible at the rate of 75%.

Capital gains and losses on such vehicles are computed based on the rate of deductibility applied to the vehicle.

1.1.3. **Vehicles owned by companies and used by employees**

One of the most interesting incentives for workers in Belgium is the disposal of a company car granted by the company not only for professional use but also for private use (including the travel from home to the work place). As a rule, the benefit resulting from the private use is subject to tax and to social security contribution; however, as the assessment basis is based on a lump-sum amount lower than the real value of the advantage, the disposal of a company car is up to now a really interesting incentive.

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\(^{22}\) Article 198 bis ITC as modified by the Law of 23 December 2009 (article 129), *M.B.*, 30 December 2009.
The valuation of the benefit is based on the fiscal power of the car and on the real number of kilometers driven by the worker for private use. In order to simplify compliance formalities and control, the tax authorities decided to refer to a lump-sum milleage: where the domicile is less than 25 km far from the working place, one refers to an amount of 5,000 km per year; if the distance is more than 25 km, the reference is 7,500 km per year. Thus, for the taxable period 2009, a taxpayer living less than 25 km from the enterprise and disposing of a company car of 9 CV will be taxed on: 5,000 km x 0.2980 = 1,490 €.

This rule is changed as from 1st January 2010. The reference is no more the fiscal power of the car but rather its level of polluting CO2 emissions: the more the car is polluting the higher the advantage is.

The formula to be used is now:

\[
\text{Number of km} \times \text{CO2 emissions per km of the vehicle} \times \text{Coefficient CO2 eur}
\]

where:

- the rule of 5,000 or 7,500 km per year is still of application
- the CO2 emissions per km of the vehicle is determined on the certificate of registration
- the coefficient CO2 eur amounts to
  - 0,00210 € / gramme of CO2 for vehicles using petrol, gas or liquid petroleum gas
  - 0,00230 € / gramme of CO2 for vehicles using diesel

In practice, the new rule does not lead to a high increase of the taxable income computed on the benefit in kind, compared to the previous system. Of course, this could be strengthened in the future by modifying the “coefficient CO2 eur”. However, it is worth noticing that, since the depreciation rule was modified, the company car policies

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23 The coefficient to be use is determined by article 18, §3, point 9 of the Royal Decree implementing the ITC. It is updated yearly.

have turned toward replacing polluting vehicles by smaller and less polluting cars.

1.1.4. Specific rules for enterprises

Two other incentives have been introduced those last years for the enterprises, aiming at exempting capital gains realized on some assets which have to be replaced by other specific less polluting assets.

Thus, as from January 1st, 2000, capital gains realized on “enterprises vehicles” are exempt in case of reinvestment into new vehicles fulfilling some ecological conditions.25 “Enterprises vehicles” are defined as “vehicles allocated to the transport paid by persons, notably buses, buses and cars allocated exclusively either to a service of taxi, or to a rent with chauffeur and vehicles allocated to the transport of goods, notably tractors and trucks, and trailers and semi-trailers with an accepted maximal weight of at least 4 tons”.

A similar rule applies to capital gains realized on boats of inner navigation intended for the commercial navigation on the conditions that the realization value be re-invested into boats of inner navigation for the commercial navigation used in Belgium26 for the professional activity on the condition that they fulfill some ecologic requirements.27

1.2. Vehicles owned by individuals for private use

1.2.1. Acquisition of less polluting cars - federal incentive

The Federal government also intended to encourage individuals to acquire new less polluting cars, emitting less than CO2 115 g/km. A tax credit was introduced amounting to 15% of the acquisition value of the vehicle limited to 4,080 € when the CO2 emission level was lower than 105 g/km, and to 3% of the acquisition value of the vehicle limited to 760 € when the level of CO2 emission ranged from 105 to 115

26 The compatibility of this condition with EU freedoms is questionable.
27 Article 44 ter ITC.
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The tax credit was to be deducted from the global income tax to be paid by the individual.

This mechanism is now replaced by a discount on the invoiced price, granted directly by the seller to the buyer. The seller then claims for reimbursement of the discount by the Federal authority. This new measure has the advantage of immediate benefit of the discount for the individuals, while the tax credit was effective, in practice, several months after the acquisition, at the moment of the tax assessment. The discount amounts are a bit less favorable than before: 15% of the acquisition value limited to 3,280 € for vehicles of less than CO2 105 g/km; 3% of the acquisition value limited to 615 € for vehicles ranging from CO2 105 to 115 g/km.

1.2.2. Acquisition of electric cars - federal incentive

A new tax credit is introduced as per the tax assessment period 2010 for the acquisition of new electric vehicles by individuals. “Vehicles” means motorbikes, tricycles, quadricycles but also cars (which are technically not “quadricycles”) which may transport at least two persons and are flung exclusively by means of electricity.

The taxpayer must choose between this tax credit and the discount on the purchase invoiced price. The tax credit amounts to 15% of the acquisition value of the vehicle limited to 3,280 € for a quadricycle and 2,000 € for a motorbike or a tricycle. As regards cars, the tax credit amounts to 40% of the acquisition price with a limit of 6,500 € per year, on the condition that the car is purchased during the years 2010 to 2012.

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28 Article 145/28 ITC.
29 See article 147 of the Programma-Law of 27 April 2007 (M.B., 8 May 2007) and Royal-Decree of 8 June 2007.
31 Article 145(28), § 1r, final of the BITC as modified by article 123, 3o of the Program-law of December 23, 2009.
This tax credit is completed by a complementary tax credit for the acquisition of electrical terminals to be installed outside the house, for the use of recharging electric cars’ batteries. This credit amounts to 40% of the real expenses for such acquisition, with limitation to 180 € per year.

1.2.3. Acquisition of a new vehicle: the Walloon eco-bonus and eco-malus

The Regions are competent for taxes on circulation of vehicles. The Walloon Region introduced in 2008 an “eco-bonus”\(^\text{32}\) and an “eco-malus”\(^\text{33}\) linked to the level of polluting CO2 emissions which only applies to car owned by individuals resident in the Walloon region.

When the vehicle registered emits more polluting emissions than the replaced vehicle or than a reference level of polluting emissions in the absence of replaced vehicle, the taxpayer has to pay a complement in the tax of circulation. On the contrary, when the registered vehicle emits less, the Walloon region grants an “eco-bonus”. This measure aims clearly at discouraging the acquisition of polluting vehicles.

The regulation has been revised in 2009, mainly in order to adapt the rates according to the technical evolution of vehicles as regards their level of CO2 emissions and to favor especially small and medium-sized vehicles (the value of which is less than 20,000 €).\(^\text{34}\)

The Flemish Region and the Region of Brussels-Capitale also intend to amend the TMC based on an “eco-score”.\(^\text{35}\)

It must also be reminded that the “eurovignette” is due for the usage

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\(^{34}\) Walloon Decree of 10 December 2009 of fiscal equity and environmental efficiency for car fleet and passive houses, M.B., 2 février 2010.

of certain roads by heavy commercial vehicles; it is based on the num-
ber of axles and on the standard of emission pollution "Euro".

1.2.4. Other incentives in favor of professional movements

The employer is allowed to deduct 120% of the effective cost for the
organization of collective transportation of workers from their domicile
to the place of work;\textsuperscript{36} similarly, 120% of the costs paid for the acquisi-
tion of bicycle for the employees, costs relating to their maintenance,
costs connected to sanitary installations for the workers using the bi-
cycle, costs relating to the storing of the bicycles are considered as
professional deductible expenses.\textsuperscript{37} The use of the bicycle is not con-
sidered as a benefit in kind in the hands of the workers, and thus is not
taxable.\textsuperscript{38}

Furthermore, the traveling costs by train supported by the employer for
travels from the domicile to the working place are not taxable welfare
benefits for the workers. The same rule applies to costs connected to a
collective transport of the workers organized by the employer or by a
group of employer, for an amount limited to the cost of a first class
subscription by train for the same distance. The allowance granted by
the employer in relation with another mean of transportation (bicycle
for example) is also tax exempt for the employer for a maximum yearly
amount of 250 €.\textsuperscript{39}

2. Private dwellings

Several measures have been passed those last years in order to favor
the construction or renovation of dwellings with the aim of increasing
their energy efficiency.

We shall briefly review them hereafter and shall distinguish measures
at the federal and regional levels.

\textsuperscript{36} Article 64 ter, 1\textdegree ITC.
\textsuperscript{37} Article 64 ter, 3\textdegree ITC.
\textsuperscript{38} Article 38, §1, 14\textdegree ITC.
\textsuperscript{39} Article 38, §1, 9\textdegree ITC.
2.1. **Federal measures**

The incentive in most cases is granted through a tax credit mechanism, where the amount of the tax credit is deducted from the global income tax to be paid by the taxpayer or the tax unit (marries spouses or co-habitant persons).

2.1.1. **Tax reduction for expenses aiming at energy savings**

A tax credit is granted for various investments in the house aiming at energy savings. The tax credit computation varies depending on the kind of investment made. It is limited to 2,000 € per year and per dwelling, for all the possible investments; the credit is increased by 600 € for some specific works.

The Tax Code lists the “energy saver” works which can benefit from a tax reduction: replacement of the former boilers, and maintenance of boilers, installation of a system of heating of the water by mean of the solar energy, installation of photovoltaic panels for the transformation of solar energy into electric energy, installation of any devices of geothermal powerproduction, installation of double glazing, insulation of the roof, of walls and grounds, energy audit of the house.

The works must fulfill some specific conditions. No tax credit is granted should these conditions not be fully respected.

The incentive is granted for any dwelling owned by the taxpayer, thus not only for his own residence. It is also granted to the tenant for the house he/she occupies.

In order to maximize the tax credit, the taxpayers used to split the investment on two or three years. This is why the Government decided to allow for a carry-over of the tax credit which exceeded the yearly limit, on the three periods following the investment period; it is thus no more useful to split the investment; this favor is granted only for

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40 These amounts are indexed yearly.

41 These conditions are specified in Annex II bis of the Royal Decree implementing the BITC.
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works relating to dwellings occupied since at least five years.\textsuperscript{42}

Similarly, when the global tax amount is insufficient to set-off the whole amount of the tax credit, the excess not credited can be refund by the tax payer; however, this measure will only apply for tax credit relating to expenses paid a) in 2009 and 2010 for isolation of the roof, walls and grounds;\textsuperscript{43} b) in 2010, 2011 and 2012 for other energy saving investments: replacement of former boilers, maintenance of boilers, double glazing, energy audit.\textsuperscript{44}

2.1.2. \textit{Passive houses, low energy houses and zero energy houses}

A tax credit is also granted for passive houses, low energy houses and zero energy houses.

Both the acquisition and the construction of such houses and the renovation of older buildings into such houses are considered on the condition they are located in Belgium or within the EEE.

The tax credit amounts to

\begin{itemize}
  \item 300 € per year and per house as regards low energy houses;
  \item 600 € per year and per house as regards passive house;
  \item 1,200 € per year and per house as regards zero energy houses.
\end{itemize}

The tax credit is granted for ten successive years as from the period where the certification as low energy, passive or zero energy houses is granted. It benefits only to the owner, not the tenant.

2.1.3. \textit{Tax credit for “green loans”}

In order to facilitate those investments, the Federal Government also grants two advantages in relation with loans concluded for the finan-
cning of these investments.

On the one hand, under certain conditions, a “bonus of interest” is granted whereby the Government supports a part of the interest charged on the loan.\textsuperscript{45}

On the other hand a tax credit for “green loan” is granted\textsuperscript{46} in relation with interest paid by the taxpayer on loans concluded for the financing of energy saving investments.

The tax credit amounts to 40\% of the interest effectively paid during the taxable period, after deduction of the “bonus of interest” paid by the Federal State. Some specific conditions relating to the loan must be fulfilled; a.o., the financed amount cannot exceed 15.000 € and the loan must be concluded for the exclusive aim of financing energy saving investments.

\section*{2.2. \textit{Regional measures}}

\subsection*{2.2.1. Property tax}

The property tax (“précompte immobilier”/“onroerende voorheffing”) is based on the annual average net normal income of the not built buildings, built buildings and equipment (“revenu cadastral”/kadastrale inkomens”).

However, Regions can grant reduction on the property tax. Actually, the property tax consists of three parts benefiting the Region, the Provinces and the municipalities. Any reduction of tax decided by a Region thus impacts the revenue of provinces and municipalities. The basic regional rate amounts to 1.25\% of the “revenu cadastral”.

Some reductions exist relating with economic expansions laws and apply to investments in equipment or in real estate; these reductions are not directly linked with environment even if environmental investments may benefit from them.


\textsuperscript{46} Article 145(24), §3 CIR.
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More environmentally related, are the Flemish and Walloon reduction of property taxes for some protected sites “Natura 2000” consisting in land and forests reserves.

In 2009, the Walloon region introduced a real estate tax reduction in favor of “passive dwellings”.47 The property regional tax rate is reduced under certain conditions.

The rate to be considered varies to the year of imposition with regards to the year where the quality of passive house has been notified. The tax will increase as time goes by. In practice, the tax advantage splits over four assessment periods. The first year, the rate will amount to 20% of the normal rate; it amounts to 40%, 60%, 80% respectively for the second, third and fourth years.

The advantage is granted only in case of renovation of an old house into a passive dwelling, not for construction of a new building. The house must be occupied for the first time before December 31, 2012, and it must be the sole house residence of the taxpayer.

The Flemish Region also grants similar incentives since the assessment year 2009; the property tax rate is reduced by 20% or 40%, during ten years, for houses with some specific level of energy efficiency.48 As this reduction has an influence on additional taxes received by provinces and municipalities, a specific indemnification is granted by the Flemish region to these authorities.49

2.2.2. Subsidies

Beside the federal tax incentives, and the regional property tax reductions, the Regions usually also grant subsidies both for individuals and companies aiming to improve the energy efficiency of professional and private buildings. The description of such subsidies is out of the scope

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48 Article 257, 4º, 6º BITC as modified by the Flemish Decree of 23 may 2008, article 4, M.B., 13 June 2008.
of the present study.

3. Enterprises

3.1. Property tax

Both the Flemish and the Walloon Regions now grants full exemption of property tax for new equipment used within an enterprise; enterprises are thus encouraged to invest in more high-performance assets, which should be environmentally friendly.

In this context, it has been decided that wind-machines are to be treated as equipment, with the consequence that such equipment invested as from 1 January 1998 in the Flemish Region or as from 1 January 2005 in the Walloon Region benefits from the exemption of property tax.50

3.2. Corporate tax and subsidies

All three Regions nowadays grant subsidies to individuals and companies in relation with some of their investments aiming at reducing the consumption of energy.

These grants are not taxable for private individuals. When received by a business, be it held by individuals or companies, these subsidies are taxable.51 However, subsidies in capital benefit from a specific regime of spread taxation, following the rhythm of depreciation applied to the invested asset.52 Furthermore, in order to avoid subsidies granted by the regions to return to the federal revenue through corporation income tax, they are now totally and definitively tax-exempt for companies (not for individuals).

This exemption applies to

51 Article 24, 1º ITC.
52 Article 362 ITC.
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- subsidies in capital and in interest granted by regions within the framework of the legislation of economic expansion with the aim of the acquisition or of the constitution of intangible and tangible assets by companies;\(^{53}\)

- subsidies in capital and in interests on intangible and tangible assets, which are granted to companies by the competent regional institutions within the framework of the help to research and development, in the respect for the European state aid rules.\(^{54}\)

This exemption is not directly environment oriented; however, investments having an environmental purpose and being covered by public grants might benefit it.

### 3.3. Corporate taxation

#### 3.3.1. Deduction for investment

With the “deduction for investment”, companies are allowed to deduct from the tax basis a certain percentage of their investment realized during the tax year, both tangible and intangible assets in so far as they are acquired as new and used in Belgium\(^ {55}\) for the professional activity (of companies or of individuals being entrepreneurs or liberal professions). It is possible for companies to convert the deduction for investment into a tax credit for investment.

At present, the deduction for investment is limited to certain type of investments:\(^ {56}\)

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\(^{53}\) Article 193 bis ITC, introduced by article 117 of the Law of 23 December 2005 (\textit{M.B.}, 30 December 2005), applying to subsidies notified as from 1\(^{st}\) January 2006. According to the preparatory works, would be covered, allowances and subsidies granted by the Flemish Region according to the Decree of 18 May 1999; by the Walloon Region according to the Decree of 5 July 1990 and Orders of 29 September 1994 and of 7 July 2005; by the Region Brussels-Capitale by the Ordonnance of 21 February 2002 and the Order of 18 July 2002.

\(^{54}\) Article 193 ter ITC, introduced by article 140 of the Law of 25 April 2007 (\textit{M.B.}, 8 May 2007), applying to subsidies notified as from 1\(^{st}\) January 2007.

\(^{55}\) The condition might not be compatible with EU requirements.

\(^{56}\) Restrictions to the broader scope of the measure was justified by budgetary reasons.
– investments in research and development in favor of the environment (both for companies and individuals: 13.5% or 20.5% if the taxpayer chooses to split the deduction over several years. The deduction is not granted to companies opting for the tax credit for research and development.

– “energy saving” investments: 13.5% (both for companies and individuals);

– investments facilitating the re-use of containers for drinks and industrial products (only for companies): 3%.

Investments considered as “energy saving” are listed in the R.D./ITC: they include a.o. the more effective insulation of buildings built before January 1st, 1980, the limitation of the losses of energy in existing greenhouses or during the replacement of former greenhouses by news, the limitation of the losses of energy by the insulation of devices, gates and girdles of transport in service, the limitation of the losses of energy in the existing ovens, the limitation of the losses by ventilation of certain buildings, the recovery of residual heat, the harnessing of the direct or diffuse radiation of the sun, the use of wind energy, etc.

3.3.2. Tax credit for patents, research and development

The deduction for investment can be converted into a tax credit for patents, research and development; the tax credit is equal to the amount of the deduction for investment multiplied by the corporate tax rate of 33.99%. The result is imputed on the corporate tax; in case the corporate tax is not sufficient for the imputation, the excess can be carried-forward for four years.

This tax credit benefits only companies, and relates to patents and assets aiming at promoting research and development of new products and of advanced technologies which have no effect on the environment or which aim at minimizing the negative effects on the environment.57

3.3.3. *Income tax and depreciation*

Depreciation of assets is based on their effective use during the tax period. New kind of asset raises the question of their depreciation. How to depreciate, for example, photovoltaic panels? According to the Minister of Finances, five-year would not be acceptable while twenty-years might be excessive, despite the fact that producers of these panels offer a long-term guaranty.\(^{58}\)

3.3.4. *Regional taxes are not deductable expenses for corporate income tax*

Since the assessment period 2004, taxes paid to the regions are not anymore deductable expenses for corporate taxation.\(^{59}\) This measure is directly linked with the regional environmental policies. The federal state wants to avoid that regional disincentive taxes in the framework of regional environmental policies become incentive at the federal level due to their deductibility (and that part of these costs is supported by the federal state).

4. *Ecotaxes*

Since their introduction in Belgium in 1993, ecotaxes have been amended several times. Their objectif is to encourage consumers to buy products which more environmentally friendly through taxing and thus increasing the price of certain products which are not environmentally friendly.

Technically, ecotaxes are assimilated to excise duties which are due on the occasion of the sale of a product because of the ecological nuisances which it is considered to generate. The tax is due by the retailer.

Are subject to the ecotax, disposable cameras, piles and container of

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certain industrial products (ink, glues, solvents). As an example, the ecotax on disposable cameras is of 7.44 € per camera. However, the tax is not due or is reduced when the object is recycled.

The contribution on packaging strikes containers for drinks, reusable as not reusable. The contribution amounts to 1.41 € per hectoliter for individual products contained in reusable containers, and to 9.86 € in case of use of non reusable container. The “reusable” character of a recipient is defined by the law and requires a.o. that the container can be reused at least seven times.

The environmental contribution is a tax likened to excise duties collected because of the CO2 emissions produced during the manufacturing of certain products. It applies a.o. to disposable bags in plastics, to plastic disposable ustensibles of cooking, or still to the aluminum foil.

Besides these ecotaxes, there also exist contributions to be paid to some recognized organizations which are in charge of recycling and value waste. Such contributions concern wrapping, electric and electronic equipments.

The Walloon Region extends these contributions to piles, worn tyres, waste of paper, outdated medicine, old vehicles, leasure and sport equipments, used oils, electric and electronic tools.

Brussels, September 2010.