

Articles

Foreign trust (-like) structures catch Belgium's attention[†]

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Abstract

Recently, Belgium has introduced a duty to declare the existence of foreign 'legal constructs' for those Belgian taxpayers who are considered to be their founder or beneficiaries. The aim of this article is to summarize and clarify the new regulations. Moreover, it seems that the Belgian government is already preparing to take a further step in its renewed efforts to counter tax evasion through the usage of foreign legal structures.

Introduction

Since the outbreak of the financial crisis in 2008 with the euro-crisis following in its wake, many governments have enhanced their efforts to combat tax dodging and aggressive tax-planning. While the Belgian government had already enacted laws compelling taxpayers to declare the existence of foreign bank accounts and life insurance products at earlier points in time, it has now also adopted some legislative provisions which aim to identify the 'beneficial owners' of trusts, *Anstalts*, *Stiftungen*, and other trust-like structures, which have been set up outside of Belgium, in order to be able to subject said persons to effective taxation. These legislative changes follow along the lines set out by Belgium's neighbouring countries, the European Union and the OECD. The purpose of

this article is to provide an overview of Belgium's recent legislative changes in this regard. It will also provide an indication of possible future legislative interventions, which are expected to follow soon.

Compulsory declaration for founders and beneficiaries of foreign private patrimonial structures

The Law of 30 July 2013 concerning several legal provisions¹ introduced a duty to declare the existence of certain 'legal constructs' by their founders or (potential) beneficiaries. The fourth member of article 307 §1 of the Belgian Income Tax Code 1992 now states that taxpayers in Belgium are obliged to declare in their annual tax return whether 'they themselves, their spouse or children, whose income they may legally control pursuant to article 376 of the Belgian Civil Code', can be considered to be the founder or (potential) beneficiary of such a legal construct. Article 2 §1, 13°, and 14° of the Belgian Income Tax Code 1992 provides for a definition of the terms 'legal construct' and 'founder of a legal construct'. Sadly, no accompanying legal definition is provided for the terms 'beneficiary' or 'potential beneficiary'.

The Belgian legislator observed that 'more and more taxpayers are inserting their patrimony in foreign trusts, foundations and other legal constructions,

[†] This article is based on N Appermont, 'Het gebruik van een buitenlandse trust (achtige) figuur door belastingplichtigen in België in het vizier' in R Barbaix and N Carette (eds), *Tendensen Vermogensrecht* (2014) Intersentia 159–70.

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1. Dutch: Wet van 30 juli 2013 houdende diverse bepalingen, BS 1 augustus 2013, 48270.

in countries where these are hardly being taxed, or not even taxed at all'.² Moreover, in many cases, the Belgian Tax Administration has no knowledge whatsoever about the existence of these entities and legal constructs. In turn, this implies that Belgium cannot effectively tax income generated by these entities. Taken together, these observations lead the Belgian legislator to conclude that the current situation allows for a 'tax vacuum'.³ By introducing a duty to declare the existence of legal constructs, the Belgian legislator hopes to deal more effectively with such cases of double non-taxation and to create more transparency with regard to the use of foreign legal constructs.

According to the Belgian legislator, the duty to declare the existence of foreign legal constructs by their founders and their (potential) beneficiaries is in line with various legislative changes introduced by Belgium's neighbouring countries. The Netherlands, for example, have introduced a law in 2010, dealing with so-called 'private segregated wealth' (*afgezonderde particuliere vermogens*).⁴ The governments of France and Luxemburg have stepped up as well and introduced various (legislative) measures in this regard.⁵ The Belgian legislator also points at the proposal to expand the sphere of application of the European Savings Interest Directive,⁶ stating that it wishes to bring Belgian legislation in line with the proposed amendments to the directive.⁷ Lastly, and even though the Belgian government did not mention it in legislative proposal concerning the compulsory declaration of foreign private patrimonial structures, the OECD is considering taking various actions against the phenomenon of offshore tax evasion as

well.⁸ By compelling Belgian taxpayers to reveal the existence of various types of private patrimonial structures to the tax authorities, Belgium hopes to bring itself in line with its direct neighbors and current developments taking place on the international and supranational levels.

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What is a 'legal construct'?

The Belgian legislator has inserted a definition of the concept 'legal construct' in Article 2 of the Belgian Income Tax Code 1992. The article makes clear that the concept is supposed to cover two distinct types of legal constructions and legal entities. Even though the term 'legal construct' can mean one of two different things, the legal consequences of an entity or legal construction being covered by the definition provided in Article 2 of the Income Tax Code 1992 remain the same.

In its first meaning: trusts and trust-like structures

In its first meaning a 'legal construct' is defined as follows by Article 2 §1, 13° of the Income Tax Code:

a legal relationship, which is called into existence by a legal act by its founder or through a judicial decision,

2. Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/004, 4; Bill concerning miscellaneous legal provisions, Report for the Commission of Social Affairs, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/007, 23.

3. *Ibid.*

4. Wet van 17 december 2009; A van der Smeede, 'The New Dutch Tax Law on Trusts and New Opportunities' (2011) 17 *Trusts & Trustees* 690–94; W Sonnefeldt and BBA de Kroon, 'International Tax Treatment of Trusts' (2013) *WPNR* 1027, 1030.

5. Art 14 Loi 29 juillet 2011 and Décret du 14 septembre 2012; Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/004, 4.

6. Council Directive 2003/48/EC of 3 June 2003 on the taxation of savings in the form of interest payments, OJ L157, 26 June 2003, 38, last amended by Council Directive 2006/98/EC, OJ L363, 20 December 2006, 129; Proposal for a Council Directive amending Directive 2003/48/EC on taxation of savings income in the form of interest payments, Doc 17096/13 FISC 242, 29 November 2013.

7. Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/004, 4; Bill concerning miscellaneous legal provisions, Report for the Commission of Social Affairs, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/007, 23.

8. See, for example, the report sent by the OECD's Secretariat-General to the participants of the G20, which was organized in St. Petersburg on September 5 and 6 2013 <<http://www.oecd.org/tax/SG-report-G20-Leaders-StPetersburg.pdf>>, accessed 4 August 2014.

and where the goods or rights are placed under the power and control of an administrator in order to manage them for the benefit of one or more beneficiaries and for a specified purpose.

- This legal relationship also has the following characteristics:
 - The ownership-title of the assets stands in the name of the administrator, or on the name of some other person on behalf of the administrator;
 - The goods form a separate fund and are not part of the administrator's own estate;
 - The administrator has the authority and the duty, in respect of which he is accountable, to administer, control and dispose of the goods falling within the legal construct, in accordance with the provisions of the legal construct and any special duties imposed upon him by law.

The main source of inspiration for first definition of 'legal construct', as framed in Article 2 §1, 13° of the Belgian Code of Private International Law. Article 122 of that Code provides a description of the 'trust'.⁹ This means that the first definition of 'legal construct' is specifically designed to cover an array of trust-types, which can be found in different countries all over the world. The bill which introduced the proposal also noted that specific wordings which referred to trusts were deleted and replaced with a more general terminology,¹⁰ in order to catch a multitude of trust-like figures and entities under the definition as well.

The wordings in which the trust is described in Article 122 of the Private International Law Code are themselves based on Article 2 of the 1985 Hague Trust Convention.¹¹ The Explanatory Report of the Hague Trust Convention does note however, that

Article 2 of the Convention does not aim to 'define' what a trust is. It merely denotes which characteristics a legal relationship should have before it is considered to be a trust for the purposes of the Convention.¹² It seems that the Belgian legislator did not take this into account when drafting the text of Article 2 §1, 13° of the Belgian Income Tax Code 1992. The Parliamentary preparation of Belgium's new law even states that the wordings of the new article are based on the 'definition' (*sic*) of the 'trust', which was already inserted into the Private International Law Code a decade ago.¹³ It remains to be seen whether transposing a description, which, as its drafters acknowledged, was never meant to be more than a description, into a legal definition in a tax code will prove to be a smart move. Even though the wordings of Article 122 of the Private International Law Code were adjusted in order to cover more than (certain types of) trusts, there is a distinct possibility that some trusts and trust-like structures cannot be fitted within the definition. In turn, this implies that settlors or founders and beneficiaries of such structures are not obliged to declare the existence of said structures or entities in their annual tax return. Obviously, this was not the intention of the Belgian legislator. In the Parliamentary preparation accompanying the bill which led to the adoption of the Law of 30 July 2013, the drafters mentioned that the definition should cover 'all forms in which such legal constructs appear, whatever their nature may be'.¹⁴ This idea does not seem to fit well within the larger framework of Belgian tax law. It makes no sense to introduce a 'definition' in the Tax Code, only to state that *all* types of legal constructs should be covered by it, even when the wordings of article 2 §1, 13° do not match the nature or characteristics of all legal constructs. When the legislator chose to base its definition upon a description of the trust, it should have

9. Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/004, 5.

10. Bill concerning the Code of Private International Law, *Parl. St.* Chamber of Representatives.

11. Hence, the provisions of art 2, §1, 13° of the Belgian Income Tax Code 1992 were translated into English, taking into account the wordings of the (authentic) English version of the Hague Trust Convention.

12. A von Overbeck, *Explanatory Report on the 1985 Hague Trust Convention*, HCCH Publications, 1985, nr. 36–38.

13. Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/004, 5.

14. *Ibid.*

taken into account the possibility that not all types of trusts and trust-like structures might be covered by that definition. Moreover, Article 170 of the Belgian Constitution contains the so-called principle of legality in tax law, which implies that it is up to the legislator to determine all essential elements of a tax. If the purpose of inserting this caveat into the preparatory works was to allow for the tax administration to determine the meaning of 'legal construct', this seems to be contrary to the principle of legality in tax matters.

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Belgium also made some other changes to the wordings of Article 122 of the Private International Law Code when transposing them into a new subparagraph of Article 2 of the Tax Code. For example, Article 2 §1, 13° states that one of the characteristics of a 'legal construct', as understood for the purposes of Belgian tax law, is that the 'ownership-title' stands in the name the administrator. The French version of Article 2 §1, 13° mentions '*la titre de propriété relative aux biens ou droits en question*'. On the other hand, the authentic French version of the Hague Trust Convention speaks of '*la titre relatif aux biens du trust*'. The French version of Belgium's Private International Law Code contains the same wordings. It may be clear that the Belgian Income Tax Code attaches more importance to the question who the owner of the 'trust-assets' is than the Hague Trust Convention itself, otherwise there would have been no reason to change some of the wordings in the first place. However, these changes might give rise to unforeseen consequences. For example, the Quebec trust is considered to be an 'ownerless'

trust.¹⁵ As a 'patrimony by appropriation' it is considered to be an autonomous entity in which neither the settlor, nor the trustee and nor the beneficiary have any real right.¹⁶ Article 1278 of the Quebec Civil Code states that the titles relating to the property of which the trust is composed are drawn up in the name of the trustee, who administers the trust assets. The French version of the Quebec Civil Code speaks of '*les titres relatifs aux biens qui composent [la fiducie]*'. Such a title does fit the description provided by the Hague Trust Convention and the Belgian Private International Law Code, but lacking any real right, the trustee cannot be said to have a '*titre de propriété*'. Even though the usage of a Quebec trust by a Belgian taxpayer might or might not give rise to any problems regarding taxation, it seems unclear whether the settlor or beneficiary of a Quebec trust is compelled to declare the existence of such a trust in his annual tax return.

Another example of the importance attached to the concept of property by the Belgian legislator, is the fact that the explanatory section of the bill introducing the legal provisions concerning the duty to declare legal constructs, provides an interpretation of the wordings 'placed under the power and control of an administrator'. It is stated that the legislator aims at transfers of ownership, in the sense of 'abandoning' the right of ownership, without the person abandoning the property receiving immediate, actual and equivalent consideration, but where certain duties can be imposed upon the administrator.¹⁷ This would mean that 'the transformation' of moveables, by investing in a mutual fund and subsequently receiving participating shares or certificates, is not a transaction covered by this definition.

Lastly, the Belgian *secrétaire d'Etat* for the combat of tax fraud has made clear that the sphere of application of the new duty to declare does not encompass legal persons, such as foundations, which are

15. M Cantin Cumyn, 'Regarding the Diversity of the Trust' in L Smith (ed), *Re-imagining the Trust* (2012) Cambridge University Press 1, 20–23.

16. Art 1261 of the Quebec Civil Code.

17. Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/004, 5.

established within Belgium.¹⁸ The Belgian authorities are already aware of their existence, and there are no issues regarding their detection to begin with. However, according to the *secrétaire*, the existence legal constructs without legal personality which are set up in Belgium in order to avoid taxes should be declared.¹⁹

In its second meaning: certain other entities

Article 2 §1, 13° b) of the Belgian Tax Code states that

a legal construct also means foreign corporations, establishments and bodies without legal personality in the meaning of article 227, 2° and 3° [of the same code], which are established in tax havens or, within their state of establishment, are subject to a tax regime which is significantly more favourable than would be the case in Belgium.

More specifically, legal persons and other entities which are not subject to any income tax in their state of establishment, or which are subject to specific beneficial tax regimes where income generated by capital or movables is concerned, should be declared by Belgian taxpayers in their annual tax return, when the legal rights to the shares, participating certificates or economic rights are kept in the hands of Belgian taxpayers.

Thus a corporation which is subject, in its state of establishment, to a tax regime which is comparable with the Belgian tax regime, is not covered by this definition. Belgian commentators have already noted that corporations which can benefit from a certain tax exemption- or deduction regime for dividends and capital gains, such as the Dutch BV or the Soparfi in Luxembourg.²⁰

The second definition of 'legal construct' is, by its nature, very broad and difficult to apply in practice. Phrases such as 'significantly more favourable' are very much dependent on subjective appreciation and difficult to apply in practice. Therefore, the Belgian legislator has delegated an authority to the Executive to issue a Royal Decree which provides a list of 'legal persons' (*sic*) which are to be declared. On April, 2nd 2014, the Belgian government published said Royal Decree in the *Moniteur Belge*.²¹

The Belgian legislator already indicated from the start that the Royal Decree will probably be inspired by the list annexed to the draft proposal for the new Savings Tax Directive.²² Thus, this solution seems to be inspired by the approach taken by the European Union in tax matters. However, Annex 1 to the draft proposal for a new Savings Tax Directive also contains numerous trusts and trust-like figures.²³ For reasons of legal certainty, and in order to avoid the uncertainty regarding the exact scope of this definition which we have touched upon above, the choice not to include these types of legal constructs in a definitive list can be deplored. Especially now that the European Union has already provided the same amount of inspiration as it has done for the second type of legal constructs.

In accordance with the Belgian legislator's ambitions, the list contained in the Royal Decree seems to be heavily inspired by the first Annex attached to the Savings Directive Proposal. It seems that all legal persons present on that list have copied into the Belgian list. Because the list is based on the first Annex attached to the Savings Directive Proposal, it does not include legal persons established in accordance with the law of any EU-countries, save one. The only legal person figuring on the Belgian list which was not included in Annex I is the *société de gestion de*

18. Bill concerning miscellaneous legal provisions, Report for the Commission of Social Affairs, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/007, 27.

19. *Ibid.*

20. J Bonn  and W Veters, 'private vermogensstructuren aangepakt met doorkijkbelasting' (2013) 42 *Fiscale Actualiteit* 1, 1.

21. Royal Decree of 19 March 2014 executing art 2, §1, b), 2nd member of the Income Tax Code 1992 introduced by the Law concerning miscellaneous provisions of 30 July 2013, *MB* 2 April 2014, 28400.

22. Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012-2013, nr. 53-2891/004, 5.

23. Proposal for a Council Directive amending Directive 2003/48/EC on taxation of savings income in the form of interest payments, Doc 17096/13 FISC 242, 29 November 2013, Annex I.

patrimoine familiale (SPF) from Luxembourg. The activities of such an SPF only consist in acquiring, selling, and managing financial assets, in the absence of any commercial activity. However, because SPFs are exempted from corporate taxation and no withholding tax is levied on dividend income of its shareholders who are not resident in Luxembourg, the Belgian government decided to include the SPF in the list as well.

Notably, the Luxembourg SPF is not included in Annex II accompanying the Savings Directive Proposal either,²⁴ and as such it not considered to be an entity or legal arrangement which is considered to be subject to effective taxation (for the purposes of Article 4(2) of the Proposal). It remains to be seen whether the choice to include just one legal person from an EU-country is in accordance with European internal market rules.

Who is considered to be a ‘founder’?

As we have indicated, any person who is considered to be the founder or settlor of a legal construct in the sense of Article 2 §1, 13° of the Income Tax Code 1992 should declare the existence of said legal construct. The same holds true when a taxpayer’s spouse or children, whose income he may legally control, can be considered to be the founder of a legal construct.

Article 2 §1, 14° of the Income Tax Code 1992 clarifies that the following persons can be considered to be a ‘founder’:

- Any natural person who has set up a legal construct outside of his or her professional activities;
- Any natural person who brought assets into the legal construct, when it was set up by a third party;
- Any natural person who is the direct or indirect heir of one of said natural persons, from the time of their passing onwards. Unless said heirs show that they, or any person entitled to their assets, in

no way and at no point in time will receive any benefit from a legal construct within the meaning of Article 2 §1, 13° a);

- Any natural person who holds legal rights to the shares, participating shares, or economic rights to the assets contained within any legal construct within the meaning of Article 2 §1, 13° b).

The overview of the different meanings allocated to the term ‘founder’ show that the Belgian legislator has aimed to give the term a very broad meaning, designed to cover a multitude of situations.

The first definition is quite straightforward: any natural person who creates a legal construct in a private capacity will be considered to be its founder. In the case of a trust, this will be the trust’s settlor. The purpose of the second definition, then, is to make sure that any natural person who cannot formally be considered to be a founder, because he or she acts through an intermediary who formally sets up the legal construct will, still be obliged to declare the existence of said legal construct when he or she provides the assets which are contained within the legal construct.

When the natural person who is the founder of a legal construct passes away, the third definition makes sure that the capacity of founder is carried on by his direct or indirect heirs. The term ‘benefits’ should be given a broad interpretation. For example, any costs borne by the legal construct or the making available of an immovable are deemed to be a benefit.²⁵ Again, the definition is coined in very broad and general terms. For many taxpayers, it can be rather burdensome to prove that ‘in no way and at no point in time’, they will be receive any ‘benefit’ from a legal construct. In fact, this seems to be a negative burden of proof, which seems difficult to meet for many taxpayers.

Lastly, anyone holding shares, participating shares or ‘economic rights’ to the assets contained within the legal constructs, which will be included within the list

24. Ibid, Annex II.

25. Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012-2013, nr. 53-2891/004, 5.

will be considered to be a 'founder' and should declare the existence of the legal construct.

No definition of (potential) beneficiary

Contrary to what is the case for the terms 'legal construct' and 'founder', the term '(potential) beneficiary' will not be separately defined in the Income Tax Code 1992. The consequence is that the term (potential) beneficiary is still quite vague. It can be hard to determine whether someone is a potential beneficiary of a legal construct at any point in time. For example, a trustee is normally obliged to inform any (potential) beneficiaries of a trust of their status. However, due to the size of the class of potential beneficiaries of some discretionary trusts, it is generally accepted that the trustee(s) cannot be expected to inform every single (potential) beneficiary of their status under the trust.²⁶

A potential beneficiary is only obliged to declare the existence of a legal construct when he or she has knowledge of the existence of the legal construct. However, much will be dependent on how the knowledge-requirement will be interpreted in practice. When the existence of a foreign legal construct was not declared by a (potential) beneficiary it can be hard to determine whether the person in question did not know about the legal construct or whether said person violated the duty to declare its existence. Perhaps it would have been better to include an obligation to declare the existence of a legal construct only for those beneficiaries which actually receive any benefit from a legal construct.

Onwards to a transparent taxation?

In December 2013, some commentators indicated that the Belgian government was already preparing the next step to take in its renewed (tax) treatment

of foreign legal constructs.²⁷ The proposals discussed below have not yet been accepted by the Belgian Parliament, so their concrete content cannot be ascertained for sure. Therefore, the discussion will be restricted to indicating the general direction in which the proposal seems to head.

First of all, the legislator seems to have the intention of introducing an 'ownership-fiction' through which the income generated by the assets contained within the legal construct are not deemed to belong to a separate patrimony, but will be attributed to the person(s) who are considered to be the founder(s) of the legal construct. For tax purposes, the founder will be considered to be the owner of the assets contained within the legal construct. The attribution will take place on a fiscally transparent basis: all types of income will retain the qualification²⁸ which they would have had when the income would have been generated by assets directly belonging to the founder. For example, income from immovable property will retain its fiscal qualification, even when the income is channeled through a legal construct. It will not be qualified as income from movable property. Thus the existence of the legal construct will be ignored. This 'look-through approach' can be set aside for legal constructs in the meaning of Article 2 §1, 13° b) when it showed that the legal construct is effectively taxed at a minimum rate of 10 per cent in its state of establishment.

Secondly, the term 'potential beneficiary' will be replaced by the somewhat clearer term 'third-beneficiary', which will be defined in Article 2 §1, 15° of the Income Tax Code 1992. Any person who, at any time or in any way, receives a benefit from the legal construct, would be considered to be a 'third-beneficiary'. Moreover, there would be no legal incompatibility between the capacities of 'founder' and that of 'third beneficiary'. On the other hand, a new tax might be introduced for benefits distributed by the legal construct to such third-beneficiaries. In practice,

26. AJ Oakley, *The Modern Law of Trusts* (9th edn, 2008) Sweet & Maxwell 812.

27. J Bonn  and W Vetter, 'private vermogensstructuren aangepakt met doorkijkbelasting' (2013) 42 *Fiscale Actualiteit* 1–4.

28. The Belgian income tax for natural persons is classified into four categories: income from immovable property, income from movable property, miscellaneous income, and earned income.

though, the introduction of such a tax would not alter many existing situations. Many types of benefits awarded by legal constructs are already subject to taxation under the existing legal framework today. They are regarded as separate taxable income, and are usually taxed at a rate of 25 per cent. The new tax on benefits distributed by a legal construct would be made to fit within this scheme, through the introduction of a new category of ‘miscellaneous income’, also separately taxed at a rate of 25 per cent. This seems to create an overlap with most types of income which are already known today. It seems that the Belgian legislator aims to introduce a catch-all provision, in order to avoid discussion. However, also in this case, some exceptions to the general rule that the benefits should be taxed in Belgium would be introduced in order to avoid cases of double taxation or the taxation of assets which merely return to the founder who has brought them into the legal construct. When the income distributed by the legal construct is shown to be subject to an effective and equivalent taxation regime for legal constructs abroad, the same benefits will not be taxed again in Belgium. On the other hand, when a founder shows that he is merely receiving back assets or capital from the legal construct, which he has brought into the legal construct, this will not be deemed to be a taxable event.

Moreover, legal persons which are taxable in the legal entities income tax-regime (which is not the same as the corporate income tax-regime in Belgium) will be compelled to declare the existence of any legal construct, when that legal person is considered to be a third-beneficiary. This implies that a third-beneficiary need not be a natural person.

Lastly, the competences and powers of the tax administration will be enhanced. For example, the tax administration will be authorized to demand the presentation of certain documents by the legal structure’s founder(s) and/or beneficiaries. This might involve the structure’s books and even the settlor’s letter of wishes in the case of a trust. In some cases therefore, merely declaring the existence of any given legal construct will not be the end of the story.

Conclusions

By introducing a duty for taxpayers to declare the existence of ‘foreign legal constructs’, Belgium seems to have taken a next step in its efforts to combat the international ‘beneficial ownership problem’. The aim of the new legislation is not to prohibit the use of foreign legal constructs,²⁹ but to create more transparency in the use of such constructs and to prevent problems in the detection of wealth, which taxpayers might have brought into legal structures abroad. We should be cautious, however, not to think of trusts and trust-like structures only in a context of tax avoidance. Legal structures such as trusts, foundations, *Anstalts*, etc. . . . can also serve various other (legitimate) roles in structuring estates and patrimonies in a manner which may suit almost any specific situation. Moreover, tax considerations are not always the first and foremost reasons for opting to employ these structures. Hopefully, the Belgian legislator will also keep this in mind.

The aim of the new legislation is not to prohibit the use of foreign legal constructs

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29. Bill concerning miscellaneous legal provisions, amendments, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/004, 4; Bill concerning miscellaneous legal provisions, Report for the Commission of Social Affairs, *Parl. St.* Chamber of Representatives, 2012–2013, nr. 53-2891/007, 23–24.