Newsletter
Analysis of the new capital gains tax

APRIL 2026

Dear reader,

After several months of political discussions, the new capital gains tax was finally adopted on 3 April 2026 and applies as from 1 January 2026. This reform has implications for taxpayers, particularly in the area of Compensation & Benefits.

It notably affects equity-based incentive plans and incentive mechanisms (free shares, stock options, warrants, etc.), as well as the international mobility of employees, with the introduction of, among other things, an exit tax.

In addition, this new tax raises a number of compliance-related questions, including reporting obligations, the possibility to opt out of withholding at source through the intermediary, and the calculation of the tax-exempt threshold, which may vary from year to year.

This new framework therefore calls for further clarification and requires particular attention to a number of key aspects.

In this Newsletter, we first outline the legal framework of this new tax, before addressing specific points of attention in the field of Compensation & Benefits (see point 7 below).

Enjoy the read!

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Key takeaways!

General rules	
Effective date	1 January 2026
Who is affected?	Individuals who are Belgian tax residents; Certain associations and foundations.
Rate	10% for traditional financial assets; Progressive rates (0% to 10% for substantial shareholdings (≥ 20%); 33% for internal capital gains.
Annual allowance	EUR 10,000 for traditional assets (index-linked amount, with limited carry-forward mechanism); EUR 1,000,000 for substantial shareholdings (overall allowance usable over 5 years).
Assets covered	Shares, financial instruments (shares, bonds, funds, ETFs, derivatives, etc.), life insurance and capitalisation products (excluding 2nd and 3rd pillars), crypto-assets, foreign currencies and investment gold.
Excluded assets	Supplementary pensions (2nd and 3rd pillars), pure life insurance, valuables (excluding investment gold).
Acquisition value	For assets held prior to 1 January 2026: value as at 31 December 2025 (with the option to use the historical price for disposals prior to 31 December 2030).
Withholding	Default withholding tax (10%) or opt-out via tax return; Mandatory reporting for substantial shareholdings, internal capital gains, crypto-assets and foreign currencies.
Exit tax	Applicable in the event of a transfer of residence outside Belgium on unrealised capital gains; Automatic deferral of payment within the EU/EEA/countries with a treaty (lapse after 24 months without disposal).

Specific considerations regarding *Compensation & Benefits*
Incentive plans (options, warrants, free shares, shares granted at a discount) are impacted: the acquisition value depends on the type of instrument and the timing of the actual acquisition.
Supplementary pensions (2nd pillar) and pension savings (3rd pillar) are explicitly excluded from the scope of the tax.
Employers play a key role in communicating and retaining documentation evidencing the acquisition value of assets granted under incentive plans.
The tax also impacts employees in an international mobility context, as well as tax equalisation policies.

1 Which assets fall within the scope of the tax?

The capital gains tax applies to financial instruments, crypto-assets, foreign currencies and certain insurance contracts, as well as transactions involving currencies.

Financial instruments:

- Shares (listed or unlisted);
- Bonds;
- Derivatives (options, futures, swaps, warrants, etc.);
- Cash certificates;
- Government bonds;
- Certificates;
- Funds;
- ETFs (exchange-traded funds).

Certain insurance policies:

- Life insurance policies (branches 21, 23, 44, etc.), including foreign policies;
- Capitalisation products, including foreign products.

Crypto-assets: Cryptocurrencies, tokens, stablecoins, NFTs ('Non-Fungible Tokens').

Currencies: Traditional currencies, investment gold and central bank digital currencies.

2 Which assets are excluded from this tax?

The assets excluded from the scope of this tax are:

- Pension savings funds;
- Pension savings life insurance policies;
- Individual life insurance policies qualifying for a tax reduction under long-term savings;
- Life insurance policies providing benefits only in the event of death (e.g., mortgage-linked insurance);
- Valuables other than investment gold (e.g., silverware, jewellery, artworks, wine, collector cards, sneakers, pigeons, etc.).

3 Which taxpayers are concerned?

The capital gains tax applies to individual taxpayers who are Belgian tax residents, as well as to associations and foundations, except those benefiting from a specific approval granting entitlement to a tax reduction for donations.

In the event of a split ownership structure (bare ownership/usufruct), the tax is due by the bare owner upon disposal of the relevant assets, and not by the usufructuary.

The following are not subject to the tax: usufructuaries holding usufruct rights over the relevant assets, companies and non-Belgian tax residents.

4 What is the applicable tax rate?

The capital gains tax is structured around three distinct regimes, depending on the nature of the capital gain realised:

- Capital gains on traditional financial assets (shares, funds, crypto-assets, life insurance, etc.), taxed at 10%;
- Capital gains on substantial shareholdings (at least 20% of the share capital), subject to a favourable progressive scale;
- Internal capital gains (transfer to a controlled company), taxed at 33%.

These rates apply only to capital gains arising from the normal management of private assets. Transactions of a speculative or professional nature remain subject to the existing tax regimes, i.e., progressive personal income tax rates for professional income, or a separate 33% rate for miscellaneous income resulting from abnormal asset management.

4.1 Capital gains on conventional financial assets: 10% rate

For taxpayers who do not hold a substantial shareholding in a company capital gains are subject to a 10% tax rate.

These taxpayers benefit from an annual exemption on the first EUR 10,000 of capital gains (index-linked amount). The unused portion of the first tranche of EUR 1,000 (index-linked amount) may be carried forward to subsequent years and added to the base exemption, with a maximum carry-forward period of five years. Accordingly, a taxpayer who realises a capital gain of EUR 10,000 in 2026 will not benefit from any carry-forward to 2027.

4.2 Capital gains on substantial shareholdings: progressive rates

A shareholding is considered substantial where the taxpayer holds at least 20% of the rights in a company. In such cases, capital gains are subject to the following progressive rates:

- From 0 to EUR 1,000,000: 0%;
- From EUR 1,000,000 to EUR 2,500,000: 1,25%;
- From EUR 2,500,000 to 5,000,000 EUR: 2,50%;
- From EUR 5,000,000 to EUR 10,000,000: 5%;
- Above EUR 10,000,000: 10%.

These amounts are not index-linked.

Taxpayers benefit from an exemption of up to EUR 1,000,000, the use of which is spread over time, as it is reduced by the brackets already used during the four preceding taxable periods.

4.3 Internal capital gains: 33% rate

A capital gain is considered “internal” where a taxpayer transfers shares to a company that he or she controls, directly or indirectly, taking into account the shareholdings of the spouse, descendants, ascendants and collateral relatives (including those of the spouse) up to the second degree. In such cases, the capital gain is taxed at 33%, instead of 10%. This regime already existed prior to the new law, which confirms it without modifying its scope.

5 How is the capital gain determined?

5.1 General rules

A capital gain corresponds to the positive difference between the disposal value and the acquisition value of the asset, it being specified that costs and taxes incurred in connection with the acquisition or disposal of the asset are not taken into account in the calculation.

The capital gain is realised at the time of a transfer for consideration of the asset by the taxpayer. This therefore includes sales, exchanges or contributions of the asset. A donation does not trigger the tax, as it is by definition not carried out for consideration. Similarly, capital gains realised upon the exit from joint ownership within three years following a death, divorce or the end of a cohabitation (legal or de facto) are exempt.

In principle, only realised capital gains are taxable. Unrealised capital gains, i.e., gains accrued on assets that have not yet been disposed of, are not taxed, except in the specific case of the exit tax described under section 5.5 below.

The taxable amount of the capital gain is determined after deduction, where applicable, of any capital losses. It should be noted that the offsetting of capital gains and capital losses may only occur within the same category of assets among the three existing regimes: the general regime for financial assets, the regime for substantial shareholdings and the regime for internal capital gains. Accordingly, a capital loss falling under the substantial shareholding regime cannot be offset against a capital gain falling under the general regime, and vice versa.

Furthermore, capital losses that could not be offset during a given year cannot be carried forward to subsequent years and are therefore definitively lost.

In the event of a partial disposal of identical financial assets acquired at different dates and at different prices, the so-called “FIFO” method (First In, First Out) applies. In practice, the assets deemed to be disposed of first are those acquired earliest. The acquisition value to be taken into account for the calculation of the capital gain therefore corresponds, in priority, to the purchase price of the oldest assets.

However, a distinction must be made between assets acquired before 31 December 2025 and those acquired as from 1 January 2026, each category being subject to specific rules for determining the acquisition value.

5.2 Assets acquired before 31 December 2025

For assets acquired before 1 January 2026, the principle is clear: the reference value is the value as at 31 December 2025. This mechanism crystallises the tax position at that date and, in practice, neutralises the latent capital gain accrued up to that point.

A strategic alternative remains available. For disposals carried out at the latest on 31 December 2030, the taxpayer may opt to use the historical acquisition value of the asset instead of the value as at 31 December 2025, provided that this can be substantiated. In such case, the calculation is based on the average acquisition value of the assets held prior to that date, and not on the basis of the FIFO method.

In practice:

- where there is a latent capital loss as on 31 December 2025, it is advisable to use the historical acquisition value (subject to proof by the taxpayer);
- where there is a latent capital gain as on 31 December 2025, it is advisable to use the value as on 31 December 2025.

As from 1 January 2031, taxpayers may no longer rely on the historical acquisition value.

5.2.1 Listed assets, including currencies

For financial assets listed on a regulated market, the last closing price of the year 2025 is taken into account.

5.2.2 Unlisted assets

For unlisted financial assets, the highest of the following values must be taken into account:

- The value of the asset determined upon a disposal, a capital increase or the incorporation of the company between 1 January and 31 December 2025;
- The value resulting from a valuation formula provided for in a contract or in a contractual put option relating to such financial assets, in force as at 1 January 2026;
- Where the financial assets consist of shares, the value obtained by applying a standard valuation method (i.e., equity increased by four times the EBITDA of the last financial year closed before 1 January 2026).

In certain cases, the value of the asset may also be determined on the basis of a valuation carried out by an independent statutory auditor who does not act as auditor of the company concerned, or by an independent certified accountant. Such valuation must be completed by no later than 31 December 2027.

It should be noted that the tax authorities retain the right to review this valuation a posteriori and, where appropriate, to challenge it where elements suggest that the value retained does not reflect market conditions, in particular in the event of overvaluation.

5.2.3 Life insurance (or capitalisation schemes)

For contracts entered into before 1 January 2026, the reference value used for the calculation of the capital gain is the inventory reserve of the contract as at 31 December 2025, increased by any premiums paid after that date.

For redemptions carried out before 31 December 2030, the taxpayer may, however, opt to use the premiums paid up to 31 December 2025 as the reference value, where this is more favourable.

Upon redemption or termination of the contract, the taxable capital gain corresponds to the positive difference between the capital or surrender value received and this reference value.

In the event of a partial redemption, the capital gain is determined proportionally to the portion of the contract actually redeemed.

Transactions carried out within the contract (arbitrages, purchases or sales of underlying assets) do not trigger the tax. Taxation is deferred until the effective exit from the contract.

5.3 Assets acquired as from 1 January 2026

For assets acquired as from 1 January 2026, the determination of the acquisition value does not raise particular difficulty: it corresponds to the price effectively paid by the taxpayer.

However, certain situations are subject to specific rules.

Thus, for example, the granting of stock options, warrants, free shares or shares acquired at a discount is subject to specific rules, as further detailed in section 7 below.

5.4 Burden of proof

The taxpayer must be able to prove the acquisition value of the assets. If this value is not established on the basis of supporting evidence, the acquisition value of the financial asset will be deemed to be zero, and the taxable capital gain will therefore correspond to the full disposal price.

From a Compensation & Benefits perspective, it is recommended that employers ensure that beneficiaries are provided with all documentation evidencing the value of the assets granted (grant letters, exercise confirmations, valuations at vesting, etc.) and that they are encouraged to retain such documentation carefully. Failing this, employees may be unable to demonstrate their acquisition value and may be taxed on the full disposal proceeds.

5.5 Exit tax

An exit tax is due when a taxpayer transfers their tax residence outside Belgium: the latent capital gains on the financial assets held at the time of departure are, in principle, taxable.

If the taxpayer establishes residence in a Member State of the EU, the EEA, or in a state with which Belgium has concluded a treaty providing for mutual assistance in the recovery of taxes, payment of this tax is automatically deferred until the actual disposal of the assets.

The tax liability is definitively extinguished in two cases: either the taxpayer restores their tax residence in Belgium within a period of 24 months, or 24 months elapse after the departure without the assets being disposed of, in which case no exit tax will ultimately be due.

6 How will this tax be collected?

6.1 Withholding tax vs. tax return

The collection mechanism varies depending on the category of capital gain.

For capital gains on traditional financial assets, the taxpayer has two options:

- withholding tax of 10% levied by the financial intermediary, which applies by default in the absence of an explicit choice by the taxpayer;
- an opt-out, whereby the taxpayer chooses to declare the capital gain through their tax return and to pay the tax after receipt of the tax assessment notice. This method offers the advantage of an accurate calculation, taking into account all relevant elements (capital losses, exemptions, higher acquisition value), without any subsequent regularisation. In that case, the financial institutions transmit the data relating to the capital gains directly to the tax authorities.

In the absence of an opt-out, the financial intermediary automatically applies the withholding tax, without taking into account capital losses or personal exemptions. If the amount withheld exceeds the tax effectively due, the taxpayer may recover the difference through their tax return.

For taxpayers holding crypto-assets, foreign currencies and investment gold, as well as for internal capital gains and capital gains on substantial shareholdings, the capital gains tax must, by contrast, be declared mandatorily via the tax return, without the possibility of a final withholding tax by financial institutions. This obligation applies exclusively to capital gains falling within these specific categories; insofar as the same taxpayers also hold traditional financial assets, the application of a withholding tax remains possible for those assets.

In a Compensation & Benefits context, employers offering incentive plans based on financial instruments (shares, warrants, options) would be well advised to anticipate questions in due time regarding the applicable collection mechanism. Proactive communication on the choice between withholding tax and declaration via the tax return, as well as on the deadlines within which an opt-out must be exercised, is recommended and should take place no later than 31 August 2026.

6.2 Transitional arrangements relating to the deferred entry into force of the capital gains tax

The delay in the adoption of the legislation introducing the capital gains tax has prompted the legislator to provide for several transitional measures applicable prior to the entry into force of the final regime.

These provisions are intended not only to provide a fiscal framework for the transitional period but also to allow financial institutions to implement internal monitoring of the capital gains tax, adapt their IT systems, and establish the necessary operational and control processes.

Bank products

- **Period from 1 January to 31 May 2026**

  During this initial phase, realised capital gains are taxable, but no automatic withholding is performed by financial intermediaries. Investors then have two options:

  - either, they explicitly request the financial institution, no later than 31 August 2026, to withhold an amount equal to the withholding tax on the capital gains realised during this period. This amount is transferred to the tax authorities no later than 30 November 2026. In that case, these capital gains are exempt from any further declaration obligation;
  - or, they do not make such a request and must include the relevant capital gains in their tax return for the 2026 income year, to be filed in 2027, with payment of the tax upon receipt of the tax assessment notice.

  Opting for a withholding equal to the withholding tax for this period applies for the entire 2026 income year as a choice not to make use of the ordinary declaration route. The taxpayer nevertheless retains the right to recover, via the tax return, any excess amount withheld if capital losses or exemptions were not taken into account.

- **From 1 June 2026**

  As from 1 June 2026, collection of the capital gains tax by way of withholding becomes the rule for bank products. Investors may opt out of this mechanism by notifying their financial institution in advance. In that case, no withholding is applied, the financial institution transmits the capital gains data to the tax authorities, and the taxpayer declares the capital gains in their tax return with subsequent payment of the tax.

Insurance products

- **Period from 1 January to 31 August 2026**

  A specific transitional regime applies to insurance products. During this period, the investor is deemed to have opted for the absence of withholding tax, meaning that the capital gains must mandatorily be declared in the tax return for the 2026 income year, to be filed in 2027.
  It nevertheless remains possible to expressly request the insurer to apply a withholding equal to the withholding tax for transactions carried out during this transitional period.

- **From 1 September 2026**

  As of 1 September 2026, insurers will in principle apply a withholding tax on capital gains, unless the investor expressly indicates that they wish to declare the gains via the tax return.
  Investors opting for declaration via the tax return must notify their opt-out to the insurer no later than 31 August 2026 in order for it to apply as from the entry into force of the final regime.

7 Key Considerations Regarding *Compensation & Benefits*

The new capital gains tax has concrete and immediate implications for *Compensation & Benefits*.

7.1 The Granting of Warrants, Stock Options, Free Shares, and Shares at a Discount

When a company implements an incentive plan based on the granting of stock options, warrants, free shares, or shares granted at a discount, it is necessary to anticipate the tax consequences for beneficiaries with regard to the capital gains tax. The key challenge lies in correctly determining the acquisition value and the reference date to be used for the subsequent calculation of the taxable capital gain.

7.1.1 Stock Options and Warrants

Subject to compliance with certain conditions, the grant of warrants and options may be exempt from (ONSS) social security contributions.

Furthermore, the grant of stock options, subject to specific conditions, qualifies for a particularly favourable lump-sum tax benefit: the employee is taxed at the time of grant on a lump-sum basis that is generally lower than the actual value of the benefit.

For stock options, taxation takes place at the time of grant on a lump-sum basis.

For the calculation of the capital gain, however, the value of the share at the time of exercise of the option is considered, rather than the value at the time of grant. The grant date is therefore not decisive for the subsequent calculation of the capital gain (the increase in value between the value of the share at grant and the value at exercise of the option is consequently not subject to the capital gains tax).

> <u>Example</u>:
>
> *An option is granted in 2026 when the share is worth EUR 10. The employee is taxed on a lump-sum basis upon grant. He exercises his option in 2028, at a time when the share is worth EUR 25. This value of EUR 25 constitutes his acquisition value. If he immediately sells the share at EUR 30, the taxable capital gain amounts to EUR 5 per share (30 – 25), on which a tax of 10% is due, i.e., EUR 0.50 per share.*

The situation is different when the incentive is based on the granting of listed warrants. In that case, the beneficiary does not necessarily receive an option that must be exercised to acquire the underlying share, but rather a tradable financial instrument whose value may evolve independently and which can be sold on the market.

> <u>Example</u>:
>
> *If an employee receives listed warrants in August 2026 with a market value of EUR 8 per warrant at the time of grant (the value generally used for taxing of the benefit) and resells these warrants*

in September 2026 for EUR 9, the capital gain subject to capital gains tax will generally be calculated based on the difference between EUR 9 and 8 per warrant.

In the context of a 10% capital gains tax, such a capital gain could therefore be subject to tax at a rate of 10% of this difference. Thus, for a capital gain of EUR 1 per warrant, the tax due would amount to EUR 0.10 per warrant.

Note that if the employee sells their warrants shortly after grant (e.g., in the weeks that follow), the realised capital gain will generally be limited, or even non-existent, since the acquisition value corresponds to the value used for the taxation of the benefit. This is precisely the benefit of this mechanism for beneficiaries who wish to sell their warrants quickly.

7.1.2 Free shares or shares granted at a discount

Unlike options and warrants, free shares and shares granted at a discount are taxed at the moment they are effectively acquired by the beneficiary (i.e., at vesting). This value also constitutes the acquisition value for the subsequent calculation of the capital gain.

The granting of shares at a discount may, in certain cases, benefit from favourable tax treatment through two distinct mechanisms:

- subject to compliance with certain conditions (in particular that the shares remain non-transferable for a blocking period of two years), 16.67% of the value of the benefit granted to the employee in the form of listed shares at a discount may be exempt from tax;
- where a company carries out a capital increase and grants its employees a discount of up to 20%, the employee may, subject to certain conditions, benefit from an exemption from both tax and social security contributions on the amount of that discount.

However, in both cases the calculation of the capital gain is based on the actual market value at the time of acquisition, irrespective of the discount granted and of the tax advantages from which the employee benefited at grant.

Examples:

A company carries out a capital increase and offers its employees the opportunity to subscribe to shares at a price of EUR 80, while the market value is EUR 100, corresponding to a discount of 20%. Provided that legal requirements are met, the employee is exempt from income and social security taxes on the EUR 20 discount: therefore, this benefit is not taxed at the time of grant.
However, for the calculation of capital gains, the acquisition value used will be the actual market value at the time of subscription, i.e., EUR 100, and not the price paid of EUR 80. If the employee sells their shares in 2030 for EUR 130, the taxable capital gain will be EUR 30 per share (EUR 130 –100), subject to a 10% tax, or EUR 3 per share.

7.2 Pension Plans

Supplementary pension plans under the second pillar (group life insurance, individual pension commitments, etc.) are explicitly excluded from the scope of the capital gains tax.

These products remain subject to their own tax regime (taxation upon withdrawal via the ZIV/AMI contribution, the solidarity contribution and the tax on pension capital), without any additional levy being introduced by the new capital gains tax.

The same applies to individual life insurance policies under the third pillar (pension savings or individual long-term savings), which likewise fall outside the scope of the capital gains tax.

Life insurance policies taken out outside these tax-favoured frameworks, such as certain traditional branch 21 and branch 23 insurance products, may fall within the scope of the capital gains tax.

7.3 Change of tax residence

Within international groups, the introduction of an exit tax on capital gains is highly relevant for employees who may change their tax residence. A departure from Belgium may indeed give rise to taxation on latent capital gains on financial assets held, even in the absence of an actual disposal.

This mechanism can have a significant impact on share-based and other capital participation plans (shares, stock options, warrants, etc.) and may lead to liquidity issues, international double taxation and compliance challenges. Proper anticipation of mobility movements is therefore essential, both for the employees concerned and for employers.

Similarly, foreign workers who establish their tax residence in Belgium will be subject to this capital gains tax as soon as they become Belgian tax residents.

Conversely, employees who are not Belgian tax residents, including cross-border workers and certain seconded employees, are in principle not subject to Belgian capital gains tax, even if they hold financial assets through a financial institution established in Belgium or participate in a Belgian incentive plan. Their tax position must be assessed on an individual basis, in light of the applicable double taxation treaties.

Employers applying a tax equalisation policy should pay close attention to the potential impact of the new capital gains tax on the scope of such clauses, as it may give rise to unforeseen costs.

7.4 Declaration of capital gains by the taxpayer

7.4.1 General Declaration Obligations

It is the responsibility of the taxpayer to ensure that capital gains, any capital losses and the annual exempt thresholds are correctly reported, regardless of whether the tax is collected by way of withholding or via the tax return. Where a withholding tax is applied, exemptions and capital losses are not automatically taken into account by the financial institution, so that a regularisation through the tax

return is required in order to benefit from them. An incomplete or inaccurate tax return may result in the full or partial loss of these benefits.

Example:

"An employee sells warrants granted by his employer and realises a capital gain of EUR 1,000, on which the financial institution automatically applies a withholding tax of EUR 100 (10%). If the employee realises no other capital gains during the year and his total capital gain remains below the annual exempt threshold, he may recover the full amount withheld through his tax return, provided that the return is completed correctly. In the absence of a tax return, such a refund will not take place automatically."

7.4.2 Foreign employees establishing their tax residence in Belgium

Foreign employees who establish their tax residence in Belgium become subject to the capital gains tax as from their arrival, but only in respect of the portion of the capital gain accrued during their Belgian tax residence. The acquisition value to be taken into account is, in principle, the value of the asset at the time the tax residence is established in Belgium.

Example:

A taxpayer acquires assets for 100 in 2024. He becomes a Belgian resident in 2026 when they are worth 90, then resells them in 2027 for 95. The taxable capital gain in Belgium is 5 (95 – 90).

It is essential to accurately document the date on which tax residence in Belgium is established, as this date constitutes the reference point for determining both the acquisition value and the value of the assets at that time.

8 Other Specific Situations

This newsletter is not intended to be exhaustive. Other specific situations are also governed by law but have not been discussed here, notably mergers, spin-offs, and corporate restructurings (for which specific tax-neutral regimes are provided), changes in marital status or matrimonial regime, inheritances and the dissolution of joint ownership, the interaction of this new tax with the Cayman tax (levied on legal structures) or with the savings tax (levied on certain funds investing a certain percentage of their assets in debt instruments), or the rules applicable to assets denominated in foreign currencies.

9 Conclusion

The capital gains tax is part of the government's vision to rebalance the Belgian tax system. By broadening the tax base to include capital income, the aim is to generate revenue that will, over time, allow for a reduction in the tax burden on labour without destabilising public finances.

It remains to be seen whether this balance will actually be achieved and maintained. For once this type of tax is enshrined in law, all it takes is a change in the majority to raise the rate.

In the context of compensation plans involving financial assets, employers also have a key role to play. Providing clear and proactive information to employees regarding the tax implications of shares, stock

options, warrants, or other financial instruments is recommended, both at the time of grant and during subsequent events that may generate taxable capital gains. This vigilance is particularly important for employees with international mobility, for whom the introduction of an exit tax can have significant tax consequences.

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