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The regionalisation of the “housing bonus”: towards a policy adapted to the Brussels context?

La régionalisation du « bonus logement » : vers une politique adaptée au contexte bruxellois ?

Regionalisering van de woonbonus: naar een beleid op maat van het Brussels Gewest?

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Translator: Jane Corrigan

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The regionalisation of the 'housing bonus': towards a policy adapted to the Brussels context?

Translation: Jane Corrigan

The sixth state reform has just made the Regions competent as regards the taxation of mortgage loans for one's 'own and sole' home. Commonly referred to as the 'housing bonus', this system benefits many taxpayers. It is nevertheless the object of criticism. This tax incentive – whose overall value amounts to tens of thousands of euros per person – is granted without income-related conditions. The richest also benefit, when they would have become homeowners without this help. At the same time, the disadvantaged households scarcely make use of it, simply because property prices are too prohibitive for them. This tax incentive raises prices by stimulating the demand, so that in the end it benefits sellers rather than buyers. Finally, the housing bonus (less advantageous by half in this case) discriminates against those who live alone. That just shows that, especially in a context of budgetary restrictions, it is important for the Regions to reconfigure the housing bonus, in particular in a more social sense. In future, this advantage could also be linked to healthiness or energy requirements, or be saved for first-time buyers.

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Introduction

1. Since 1 January 2005,¹ an individual who purchases his or her 'own and sole' home (in the sense that the buyer must live in it *and* not own another property) and who finances it with a mortgage of a minimum duration of ten years, is entitled to deduct the interest, capital depreciations and other insurance premiums paid in connection with his or her loan from his or her income in his or her tax declaration,² for the full duration of the credit. Commonly referred to as the 'housing bonus', this system has replaced another tax incentive – referred to as 'home purchase savings' – which was similar overall (although slightly less advantageous for the taxpayer).

2. In concrete terms, the financial weight of the bonus is far from being insignificant for the taxpayer. With an average annual value of 1,348 euros in Brussels (compared to 1,395 euros in Flanders and 1,310 euros in Wallonia), the aid is applicable each tax year, for the full duration of the loan. Given that the average duration of a mortgage is twenty years, the tax advantage must be multiplied by twenty (thus exceeding a total of 25,000 euros, and 50,000 in the case of a couple).

3. The housing bonus gives rise to discussion for the many reasons discussed below. On 1 July 2014, thanks to the sixth state reform,³ the Regions became competent in this matter, which until then had fallen within the remit of the federal authority. A true revolution is occurring. The object of this article is to provide a few suggestions for reorientation (which may be drawn from our critical remarks in particular) with respect to a tax incentive which is supported by citizens as well as being the subject of debate.

1. Criticisms

1.1. Aid which essentially benefits those who do not need it

4. Firstly, the tax advantage is granted *without income-related conditions*; the richest (and the poorest) are entitled to receive it. This generous universal approach results in the traditional deadweight effect: households which are not really in need benefit essentially from this measure, when they undoubtedly would have become homeowners *without* the help of the public authorities. The support from the state is therefore not a deciding factor – or scarcely – in the purchase of a home by high and average income households. Furthermore, the financial advantage becomes concrete for the person concerned more or less only *two years after* the transaction, as taxes are paid with such a gap in time. And, as an additional illustration (of how the tax advantage is not taken into account when a possible purchase is being considered), the banks themselves do not consider the bonus while evaluating the prospective borrower's ability to pay as well as his or her solvency.

1.2. Aid which remains inaccessible to those who need it

5. This deadweight effect (those who would have gone ahead with a purchase regardless of the support receive public money) would not be too problematic if, at the same time, there was an equal distribution of beneficiaries among the different social classes. This is not the case: the higher the income, the more this tool is used. Thus, no less than 50% of the budget is used up by the two highest income deciles,⁴ while the five lowest deciles account for 15%. The disadvantaged households therefore make little use of the scheme (scarcely 1% for the lowest income decile compared to 58% for the highest) [Valenduc, 2008], with good reason, given the rise in property prices, in particular in Brussels. Since the proclaimed objective of the legislator (in adopting

¹ Programme act of 27 December 2004, *M.B.*, 31 December 2004, *err.* 18 January 2005.

² For the 2014 tax year, the deduction amounts to 2,260 euros maximum, increased by 750 euros in the first ten tax periods and by 80 euros when the taxpayer has three dependent children on 1 January of the year following the year the mortgage was taken out.

³ Art. 5/5, §4 and 81*quater* of the special law of 16 January 1989 on the financing of the Communities and Regions, *M.B.*, 17 January 1989, inserted by articles 11 and 75 of the special law of 6 January 2014 amending the financing of the Communities and Regions, widening the tax autonomy of the regions and financing new competences, *M.B.*, 31 January 2014.

⁴ The last decile (of ten) includes 10% of the total tax declarations of people with the highest revenue, and the first decile, 10% with the lowest revenue.

the housing bonus) consisted in making home ownership *for all* a widespread model, one may question the effectiveness of the mechanism, as entire sections of the population are not able to become homeowners. It would scarcely be an overstatement to say that the measure serves to keep one's home rather than to purchase it. Those who do not have the means to 'pre-finance' the tax advantage (which takes effect two years later), find it very difficult to become homeowners.

6. To conclude this point, the number of homeowners has nevertheless risen in Belgium over the past few decades. However, in its official notice on the regionalisation of the housing bonus, the Vlaamse Woonraad declares that there is 'no certitude' regarding a correlation between this evolution and the establishment of tax incentives in favour of homeowners, basing itself on international studies which claim that there is 'no link' [Vlaamse Woonraad, 2012]. Other factors must instead be highlighted, such as the improvement in the standard of living and the decline in interest rates. And, in any event, the most recent statistics point to a slight *backward surge* in the number of homeowners in the Brussels Region – which is a first – (39% in 2011, compared to 43% one decade ago),⁵ which is additional proof if ever there was that the bonus lacks effectiveness, despite its high cost for the state.

1.3. Greater aid for those with a high income (which clashes head-on with the principle of progressive tax)

7. Not only do the most well-to-do represent the majority – by far – of those who take advantage of the bonus but, what is more, the public cost is highest for them. Why? This is simply because the deduction is based on the *marginal* tax rate. This deserves an explanation. The deduction is applied *before* the tax calculation, and consists in deducting certain tax deductible expenditure from the taxpayer's tax base. This subtraction takes place in the highest income bracket for the taxpayer, i.e. that which is subject to the highest tax rate in a progressive tax sys-

tem such as ours (with a maximum of 50% – considering that the lower income brackets are taxed at 45%, 40%, 30% and 25%). Consequently, this approach is advantageous for taxpayers with a high income, as their non tax expenditure is greater than that of the modest taxpayer, even though the original deducted amount is identical. Correlatively, from the point of view of the state, the tax on the amount subtracted this way would be considerable (as the rate of personal income tax increases in proportion to financial resources); in any case, more than it would be for lower-income taxpayers.

8. From this perspective, the deduction may unquestionably be considered 'regressive', i.e. the tax advantage increases in proportion to the wealth of the person concerned. Our tax system is supposed to be based on the principle of progressive tax, which, in theory, does not allow a taxpayer with a high income to benefit from a tax incentive which is proportionately greater than that for a less wealthy citizen.

1.4. Aid which puts single people at a disadvantage

9. Another distinctive feature of the housing bonus is that the tax advantage benefits *both members* of the household. This raises a (legitimate) question regarding equal treatment, in as much as the federal tax support proves to be greater when the borrower household is made up of two people rather than one, even when the property purchased and the loan taken out is perfectly identical. Yet, single people generally have a lower income than couples do. The financial effort required in order to purchase a home is therefore proportionately greater.⁶ Would it not have been more appropriate to increase the aid for single people, rather than do the opposite? Let us mention in any event that, contrary to popular belief, a relatively high number of people who live alone take out a mortgage (almost a third of loans⁷), which provides an accurate measure of the issue.

⁵ Comparison of the 2001 census with the 2011 census carried out by S.P.F. Economie.

⁶ For example, the maximum authorised deduction for a couple with three dependent children amounts to 6,180 euros (for the 2014 tax year); this amount is reduced by half (3,090 euros) for a single parent household with three dependent children.

⁷ Exactly 29% [Huyghebaert, 2012].

1.5. Inequitable aid

10. In order to counterbalance the system of deduction based on the marginal rate (which benefits those with the highest income, as mentioned above), the maximum amount of expenditure to subtract from one's income could instead *decrease* in inverse proportion; in other words, the well-to-do household would not be authorised to deduct the same amount as its more modest counterpart. This is far from being the case however, as the maximum is identical for everyone, regardless of the resources of those concerned.⁸ From that perspective, the taxpayer in a state of financial precariousness does not receive more – from a tax perspective – than the others; not to mention those who are too poor to pay taxes and, for this reason, are excluded *de facto* from the pecuniary advantage (assuming that they were able to convince a bank to lend them the money to purchase a dwelling in the first place).

11. In terms of social justice, this characteristic of the housing bonus is at the very least subject to debate. In addition to being ineffective, it also proves to be inequitable. In a word, the fact that the system benefits *de facto* the most well-to-do households must be examined by the public authorities: is this an optimum use of public money?

1.6. Aid which has the pernicious (and extremely counter-productive) effect of inflating property prices, and therefore mainly benefits sellers

12. An iron law of the market economy is that the offer price is closely dependent on the demand. A person who sells a dwelling is usually aware of the tax gift which the prospective buyer will receive, and may therefore be tempted to include it in the requested price; while the buyer (who benefits from the tax credit only two years later) is not always aware of this, the seller seems to be better informed. The question may therefore be raised as to whether the housing bonus has had the (added) (pernicious) effect of raising property prices. Far from being iconoclastic, this question is based on an academic study [Huyghebaert, 2012], which succeeded in identifying – amid the traditional inflationary factors (such as the demographic boom) – the influence of the

housing bonus. The study concluded that this additional purchasing power is indeed reflected in the prices [along the same lines, Albrecht and Van Hoofstat, 2012]. Property sellers quickly adapted by taking this into account, perhaps not in the years which immediately followed the establishment of the housing bonus, but soon thereafter. This observation was officially confirmed by the Vlaamse Woonraad, which believes that, 'as additional revenue, the bonus "led to an increase in prices" in as much as "there is a growing demand, whereas the housing offer is not increasing proportionally" (and that, generally speaking, the housing market in Belgium proves to be 'inflexible') [Vlaamse Woonraad, 2012]. Even when compared with other European countries, the rate at which the number of dwellings increases in Belgium 'has not been so slow since 1980' [OECD, 2013]. A shocking conclusion may be drawn: the tax credit essentially benefits *sellers*.

13. Plainly, the bonus supports the demand. As mentioned above, the bonus is not enough of an incentive – and not well known enough – to convince disadvantaged households to 'take the leap' (and purchase a home), as they would have to pre-finance the aid, which is financially impossible for them. But for middle class households which are not indifferent to this help from the state (and perhaps better informed), this knock-on effect exists to a certain extent. And, as a sign of the concern felt by some citizens regarding the plans to revise the bonus (downwards), the number of mortgage requests exploded in September 2014 (+85% compared to September 2013, according to Febelfin); in reality, people are in a hurry to purchase a home while there is still time, as it were, which of course has made prices leap (+13% in the same period).

14. In a word, the financial advantage which is supposed to benefit the buyer proves to be nonexistent, as it has been 'swallowed' (entirely) by the higher prices; there is therefore no tax gift. Or rather, it does not favour the presumed recipient, as the bonus ends up in the pocket of the seller – the final beneficiary of the advantage – instead of that of the buyer. From this perspective, the housing bonus is also ineffective and even counter-productive.

⁸ Voy. *supra* footnote n°2.

1.7. Aid which is a heavy burden for the public budget

15. As mentioned above, the housing bonus is granted without income-related conditions (a maximum, for example). Naturally, this absence of social selectivity – combined with a non modulation of the maximum deductible expenditure – has a cost, and it is substantial. Thus, in 2011, the 2005 housing bonus alone represented a loss of earnings for the tax authorities of 1.227 billion euros for the entire country, distributed as follows: 828 million euros for Flanders, 330 million euros for Wallonia and 69 million euros for Brussels.⁹ And if (all of) the expenditure related to the tax regime before 2005 – which many households still benefit from – is added, the total cost is close to 2.2 billion euros each year, i.e. three times more than the combined regional budgets assigned specifically to housing [Monnier and Zimmer, 2008].

16. Let us examine this revealing budgetary matter more deeply. The federal housing bonus is far from being the only aid granted to homeowners. For example, the Brussels Region offers a range of support for home ownership: loans with preferential interest rates granted by the housing fund (on average 2% lower than the rates of the traditional banking market), housing production subsidised by Citydev (formerly SDRB) for middle income households (which only have to pay approximately two thirds of the market value of the property), possibility to deduct part of the registration fees¹⁰ (favour extended later¹¹), exemption from inheritance tax on the family dwelling for the surviving spouse

(thus avoiding having to sell the property in order to pay the inheritance tax),¹² 'community land trusts' financing, etc. And, not to mention that those who purchase Citydev housing have recently been able to benefit from a reduced VAT rate (6%).¹³

17. In total (federal tax deduction and regional support combined), close to 219 million euros have been devoted to homeowners in Brussels. Compared to the meagre amounts devoted to aid for tenants (in the private market in Brussels), this figure makes one wonder. Not including social housing,¹⁴ less than 12 million euros have been earmarked by the Brussels Region for tenants (essentially via 'move/settling in/rent' benefits intended to compensate for the additional cost involved in moving from substandard housing to decent quality housing, and 'rent' benefits intended to lower the rent item in the household budget, independently of a move), which represents scarcely 5% of overall expenditure in favour of owners. The weakness of this public financial contribution is shocking in itself, and appears to be out of step with reality, as tenants represent the majority in the Brussels-Capital Region (44.75%, compared to 41.45% of owners and 13.8% of tenants in publicly managed or social housing).

18. Furthermore, these ownership support schemes are usually accumulative. The following illustration is telling in this respect [Mathieu, 2014]. For the household (with 42,000 euros in annual income, for example) which purchases a three-bedroom Citydev flat sold for 260,000 euros (benefiting from reduced VAT), obtains a 30-year loan with prefer-

⁹ At the end of 2013, the amount for Brussels reached 101 million.

¹⁰ Art. 46bis of the Code of Registration Duties, Mortgage Duties and Court Fees, introduced by article 2 of the order of the Council of the Brussels-Capital Region of 20 December 2002, *M.B.*, 31 December 2002.

¹¹ Art. 2, 1°, of the order of the Parliament of the Brussels-Capital Region of 10 February 2006, *M.B.*, 15 February 2006.

¹² Order of 30 January 2014 amending the Code on inheritance tax, *M.B.*, 6 March 2014.

¹³ Art. XXXVI of annexe A of the royal decree of 20 July 1970 establishing the rate of the value added tax and determining the distribution of goods and services according to these rates, *M.B.*, 31 July 1970 as modified by article 3 of the royal decree of 21 December 2013, *M.B.*, 31 December 2013.

¹⁴ This sector nevertheless includes 38,000 households, despite the fact that it represents only 8% of the housing stock in Brussels. If the other publicly managed or social housing (such as the social housing agencies) is added, this sector received no less than 78.2% of Brussels' budget pertaining to housing in 2014, i.e. 202 million euros.

ential interest rates from the housing fund and benefits from the federal tax credit, the total amount of public assistance amounts to 240,240 euros,¹⁵ i.e. almost as much as the initial amount.

19. One last paradox must be pointed out. Despite its more than substantial cost, the housing bonus has until now not been the subject of much debate, and has been questioned even less. Why? Because it involves a tax deduction which, as such, proves to be not very legible/visible or financially objectifiable by the citizen. It is true that the loss of earnings for the state is generally more difficult to understand than the gross disbursement (the allowance, for example). Furthermore, there is no need to seek further for the reason why, generally speaking, the tax rebate receives so much support from politicians; it is true that the process is easy (although not painless for public finances).

1.8. A 'push towards debt'?

20. Another question must be raised: by granting the tax advantage to those who take out a mortgage to purchase a home, are taxpayers encouraged to get into debt? On reflection, is this system profitable mainly for banks and other credit institutions? The number of outstanding mortgages is very significant in Belgium, representing 188 billion euros at the end of 2013 (having furthermore *tripled* over the past 14 years). Of the 28 member states of the European Union, only 5 countries have a mortgage debt per inhabitant higher than Belgium. Let us also mention that as the current tax incentive scheme is not limited in time (a mortgage loan may have a duration of 20 or 30 years or more, and public support continues), it encourages buyers to get into debt *in*

the long term, which has the pernicious secondary effect of raising prices [Bigot and Hoibian, 2009].

21. The European Commission has already had the occasion to criticise Belgian policy in this area, considering that the favourable tax treatment of mortgage loans constitutes one of the factors which contributes to the household debt and to an overinvestment in property (with the risk of a speculative bubble) [European Commission, 2012]. Some of our neighbours have modified their legislation recently in order to reduce the incentive (sometimes in considerable proportions) or have simply abolished it,¹⁶ not to mention the (many) countries which do not offer tax advantages in view of favouring home ownership.¹⁷

1.9. Aid which may be received an unlimited number of times (and which is therefore not intended for first-time buyers)

22. If the housing bonus must be maintained, it may therefore be appropriate – with respect to the criticism that the aid benefits those who do not need it – to grant it only to first-time buyers. It is indeed crucial to help those who purchase property for the first time to get a foot in the door, especially when the people concerned are young. The result would be that people would benefit from the tax advantage only once. This is currently not the case: as long as a person has sold his or her first property, he or she may benefit again from the tax advantage for his or her next purchase, and so on. Let us mention that the possibility to benefit several times from public home ownership support also exists with respect to registration fees: in order to benefit from the allowance, the buyer cannot be the full owner of another immovable property intended partly or fully as a dwelling, on the date of the purchase

¹⁵ i.e. 163,000 euros for the Citydev grant (in reality, the housing cost the public authorities 423,000 euros but, as explained, the buyer pays only two thirds of it), 34,800 euros for the VAT reduction, 77,230 euros for the differential of interest saved thanks to the loan from the housing fund, and 49,480 euros for the federal tax deduction.

¹⁶ In France, for example, the interest on mortgage loans is now deductible only if the loan was taken out before 1 January 2011. Ireland is in the process of gradually eliminating the deductibility of interest, which will disappear totally in 2017; Portugal is also part of this gradual elimination trend. Finland decided to decrease the proportion of deductible mortgage interest, which dropped from 85% in 2012 to 80% in 2013 and 75% in 2014. Spain totally repealed (after several successive reforms) deductibility for loans taken out as of 1 January 2013.

¹⁷ Germany, Cyprus, Malta, Austria, Slovakia, Slovenia, Lithuania, Latvia, Hungary, Poland, Romania and United Kingdom.

agreement. But nothing prevents him or her from selling and buying a home one after another.¹⁸

23. In this respect, let us mention that, unlike the majority of its neighbours, Belgium decided that capital gains from the disposal of property would be exempt from tax when it is the main residence of the seller or when it is acquired through inheritance (and, in other cases, if the resale takes place five years after the initial purchase). And, furthermore, the possible tax (at a rate of 16.5%) only applies to the gain, and not to the total amount of the transaction. When one considers the bonus taken by the property prices in Brussels for example, with a fourfold increase in values in scarcely two decades [Kahane, Staelens and Franck, 2012], one becomes aware of the profit net of tax¹⁹ which may be raked in thanks to this type of operation.

24. In any case, one may wonder if our current tax regime – based on the housing bonus – encourages speculation, as owners are in no way discouraged financially from purchasing property in order to sell it at times of rising prices, for example. This phenomenon would contribute to the sharp rise in prices, thus confirming the above hypothesis.

1.10. Various

25. Various criticisms and suggestions, perhaps more peripheral, may be made regarding the housing bonus.

26. Firstly, the tax advantage could have been focused more on the primary market (new housing), for the express purpose of stimulating the housing offer and construction. However, this idea has never been pursued by our rulers.

27. The French model of tax support for the rented sector has not been followed either. South of the border, a plethora of tax incentives have been thought up to the benefit of those who purchase property and then let it (Robien, Borloo, Scellier, Duflot, etc. laws); sometimes with pernicious effects, the housing which is built (in an exclusively fi-

nancial logic) does not always meet existing needs. The opposite is true in Belgium: in the case of letting, the cadastral income is increased by 40%.

28. Furthermore, the authorities assure that they are fighting against urban sprawl and promote the densification of existing cores, for reasons related to energy, the environment, mobility and landscape conservation. If they were consistent, they would therefore increase the tax credit in favour of households which have chosen to live in urban centres. They have not done so.

29. Another aspect raises questions. Even if the deduction concerns a person's 'own and sole' home, nothing prevents owners from letting the dwelling later and from continuing to benefit from the tax advantage, as long as they lived in the dwelling on 31 December of the year during which they took out a loan (and that they have not acquired another property). If they decide to let the housing, those who have received the tax support from the state are in no way obliged to prove in return any moderation in setting the rent. The aid received may in a sense be converted into purely private profits; owners are authorised to make the most profit from a dwelling purchased (in part) with public money.

30. Finally, at a time when energy savings are supposed to be promoted, it is surprising to see this tax advantage (the vast majority of which is used in the secondary market, i.e. the existing housing stock, instead of the primary market, which concerns new housing) granted independently of any commitment to upgrade energy efficiency. At the very least, a modulation of the aid (according to efforts in this respect) should be considered.

¹⁸ Article 46bis of the Code of Registration Duties, Mortgage Duties and Court Fees.

¹⁹ Unless it involves an activity of a speculative nature (as opposed to the 'normal management of personal assets consisting of property [...]'), according to the terms of art. 90, 1°, of the Code on income tax). For a recent illustration, voy. Cass., 21 November 2013, *Fiscologue*, 2013, n°1365, p. 11.

2. Institutional evolution

2.1. From deduction to reduction

31. The housing bonus no longer exists since 1 January 2015. For technical reasons beyond the framework of this article, the federated entities are legally prevented from granting tax deductions. Subsequently, the federal authorities have resolved, before passing the responsibility on to the Regions, to transform the deduction into *tax reduction* (of 45%), from this date. This solution, however, will only apply (by default) if the Regions replace their own regime with it.

32. What makes the tax reduction different from the deduction? The latter applies only when the amount of tax has been determined, *after* it has been calculated. It is deducted from the tax owed and, in concrete terms, is a fraction – identical for all the taxpayers – applied to the total taxation (45% in Brussels – Wallonia and Flanders decided recently to lower the threshold to 40%, from 1 January 2015 for the former), regardless of the level of income of the person concerned. For this reason, the reduction may be seen as more egalitarian than the deduction (at the marginal rate) as, in relative terms, the tax bonus received by the rich is *not* greater. In this way, fair taxation is somewhat restored. Nevertheless, this solution is not (always) in keeping with the principle of progressive tax.

33. It is of course far too early to make any scientific assessment of the reduction mechanism, which has just come into effect. Based on criticisms pertaining to the deduction, our suggestions for reorientation may prove to be successful in the new institutional situation. However, it is surprising that the Brussels Region has not taken the opportunity to at least reduce the federal rate of tax reduction (as its counterparts in the north and the south have done), which would have contributed already to combating the deadweight effect. And, if there is a modifica-

tion (an evaluation is under way), it will not be implemented before 2017, which seems late.

2.2. Is Brussels in a budgetary trap?

34. As mentioned above, the cost of the bonus is a heavy burden. This is not all: if the federal state's policy is maintained in full by the Brussels Region, these already significant amounts may be 2.5 times greater in 15 years. Based on the 2005 regime, the amount of 185 million euros – and even 274 million euros – is expected to be reached by 2027 [Rassemblement bruxellois pour le droit à l'habitat, 2014]. The latest up-to-date forecasts (May 2014) for expenditure related to property tax deductions in Brussels substantiate this concern, as a doubling of the cost is expected between the 2008 and 2019 tax years (from 79.63 to 154.75 million euros, housing and remainder of the previous system combined) [SPF Finances, 2014]. And, at national level, this expenditure should reach 4.9 billion euros (2.7 billion for the 2005 regime alone).²⁰ As they are based on the current burden and not on future costs, the means allocated by the federal state to finance the new competence are very far from being sufficient.

35. How can this upward trend be explained? The method of calculation provided for in the special finances act should be advantageous for Brussels, in as much as it is based on the personal income tax contribution rather than on the usage ratio of the bonus. In effect, these budgetary resources will be apportioned among the Regions according to the distribution key for personal income tax;²¹ and, as the share of this tax represented by Brussels amounts to close to 8.4% (for 2015), for a usage rate of the tax deduction stagnating at 6.7%, the system devised by the finances act is unquestionably favourable to the Brussels-Capital Region.

36. Two elements of nuance should however be mentioned. Firstly, the budget was adopted according to calculation methods (deduction at

²⁰ Cf. Vlaams Parlement, Commissie voor Algemeen Beleid, Financiën en Begroting Vergadering, session of 24 January 2012, *Doc.* 61 (2011-2012).

²¹ Art. 35*decies* of the special law of 16 January 1989 on the financing of the Communities and Regions, *M.B.*, 17 January 1989, inserted by article 32 of the special law of 6 January 2014 amending the financing of the Communities and Regions, widening the tax autonomy of the regions and financing new competences, *M.B.*, 31 January 2014.

the marginal rate) which are obsolete; they prove to be less costly for the Brussels Region than the new ones (as, in the Brussels Region, the marginal average taxation rate remains far below 45% – the rate for the tax reductions); in other words, those who are currently taxed at a rate lower than 45% – and they represent the vast majority in Brussels – gain from this, to the detriment of public finances. And, more fundamentally, the tax expenditure is destined to increase exponentially each year until the bonus reaches its cruising speed (only in 2024), as the outlay is cumulative (including both the new borrowers *and* the continued payment of the tax advantage to the old ones). This is all very logical: each beneficiary enjoys the tax advantage for the full duration of their loan and, each year, new households take out a loan. While in 2005, tax expenditure was limited to advantages granted to first-time borrowers, from 2006, the public authorities have had to take responsibility for the housing bonus for borrowers whose contract was signed during the current year, as well as continue to pay the advantage to those whose loan was taken out the year before, and so on. A 'plateau' will be reached only in 2024, when the newcomers will be compensated by the outgoing taxpayers (who will have paid off their loans and, therefore, will no longer benefit from the tax advantage).

37. Plainly, in the coming years, the amounts allocated to the federated entities will not correspond to the actual costs which they will have to bear, with the Brussels Region in the lead. However, if the latter receives a provisional amount of approximately 120 million euros for 2015 – which may seem to be little – a final benchmark amount will be calculated later, in the light of a report drafted by the Court of Auditors (which will take into consideration the actual tax expenditure – with no changes in policy – for this tax year); this report will be ready by 31 December 2016 at the latest, based on information provided for that purpose by 31 October 2016 at the latest.

38. The Brussels Region could have controlled the budgetary 'slip' to a certain extent, for example by deciding to lower the tax reduction rate to 40% (as seen in Wallonia and Flanders); the average inhabitant of Brussels would have continued to gain (with respect to the previous

regime), with the average marginal tax rate remaining below the 40% threshold over the years. However, the authorities decided not to make any changes to the system inherited from the federal state (in any case, not before 2017).

3. Suggestions for reorientation

3.1. Abolition, adaptation or prolongation?

39. There are obviously many avenues for reflection for the future regional legislator. In theory, the authorities have a lot of freedom in the transposition. How can they be guided along the way?

40. Generally speaking, moderation is recommended. Firstly, an abolition (or a very radical reduction) of the housing bonus would result in a more or less sharp downturn in the housing market as a whole.²² The issue is controversial, however; in this respect, the Dutch counter-example keeps returning like a sort of refrain, but in the light of the experiences of other European countries, some people feel that this concern 'must not be exaggerated' [De Decker, 2014]. In any case, if an option of this type must be chosen, the authorities should at least ensure that the effect of the measure is spread over time, to achieve a progressive 'phasing out'. And perhaps more targeted alternatives should be implemented at the same time to continue to support home ownership, such as granting a reduced VAT rate according to the price of the dwelling (for sale or to let) and not the status of the operator, lowering registration fees (or refocusing the allowance on low-income households), etc.

41. In all likelihood, however, the bonus will be maintained (rather than eliminated) for political and symbolic reasons. At the very least, the form of this tax advantage, its amount and the conditions for granting it should be reconsidered, in order to keep pace with the social changes observed since the implementation of this measure, which reinforces the need for security through home ownership.

²² Of the order of 25%, assures economist Julien Manceaux on behalf of the bank ING (*L'Écho*, 25 June 2014, p. 26).

42. In this respect, there are a number of suggestions for reorientation related to the criticisms expressed above. The aid could be increased to the benefit of low-income households (and even exclude the households with the highest income), the tax advantage could be reinforced to the benefit of single people, it could be granted only to first-time buyers, it could be linked to environmental, energy or rent requirements, etc. From our perspective, reasoned conditionality would in no way lessen the impact of this tremendous tool for social advancement (in theory); it must simply reflect the current political priorities more accurately.

43. Another solution would be to simply prolong the regime 'by default' advocated by the federal state (just before regionalisation), i.e. the uniform tax reduction of 45%. However, this approach proves to be more expensive (than the previous deduction system) for the Brussels Region as the average marginal tax rate is far from reaching the threshold of 45% in Brussels, as mentioned above. It is possible, however, to modulate this reduction rate according to the level of income, which would result in a more 'progressive' mechanism.

44. In any event, it seems important that the possible amended regime should only apply to *new* property transactions. The basic precepts of legal security prohibit the modification of the rules of the game under way for all those who have taken steps to purchase a property with the current housing bonus integrated in their financial calculations.

45. In this respect, let us mention that many Belgians (a third of them) currently hold at least one mortgage.²³ On another level, while no less than 594,400 property tax deductions were made in Flanders in 2011 (i.e. 15.4% of the total number of declarations²⁴) and 250,200 in Wallonia (11.5%), this figure drops to 51,200 in Brussels (7.2%); this difference must be put into perspective, with a much smaller proportion of homeowners in the Brussels Region (39%) than in the two other Regions (66% in Wallonia and 71% in Flanders). The proportion of homeowners is traditionally less significant in an urban environment than in rural areas, but the quantitative differential for deductions is also explained by the high purchase price (which is growing rapidly, as we have seen) of housing in Brussels,²⁵ combined with the limited income of a large part of the population.²⁶

3.2. Establish more degression

46. Another series of proposals should be mentioned in order to broaden the analysis. What if the regional authorities made the tax credit *degressive* (in time)? The financial effort is the greatest at the *beginning* of a mortgage repayment for at least two reasons. Provided that the person concerned borrowed at a fixed rate (which is the case the vast majority of times) and kept his or her job, the monthly burden – which is invariable – decreases over the duration, in relative terms, since the person's income inevitably increases according to the health index, even if the person concerned does not receive a salary increase. The second reason is that statistics show that people's professional

²³ 31.9% at the end of 2012. Not everyone benefits necessarily from the housing bonus, since their dwelling is perhaps not their 'own and sole'.

²⁴ The relative weakness of this percentage should not be surprising: very many households have *already finished repaying* their mortgage loan, or have inherited their home (when they have not purchased it entirely with their own money, which happens more rarely).

²⁵ In 2012, the average price of flats was 218,000 euros in Brussels, compared to 207,000 euros in Flanders and 162,000 euros in Wallonia. The rift is widening with respect to houses in Brussels, where the average price is 354,000 euros; the price of houses has stagnated in Flanders (207,000 euros) and is even lower in Wallonia (147,000 euros), due to the simple fact that this type of housing is found more in a rural setting, which is less expensive (whereas flats are found mainly in urban areas, which are more expensive).

²⁶ The average income per inhabitant reaches 17,146 euros in Flanders, 15,277 euros in Wallonia and only 12,885 euros in Brussels. Source : SPF Economie, *Statistique fiscale des revenus*.

situation generally improves with time (promotion, change of work, etc.), so that households have more financial means in mid-career than at the beginning.

47. For these reasons, we feel that the amount of the future bonus should be significantly greater at the beginning of the loan repayment than at the end, with an annual decrease, for example. There is a similar system today (with the abolishment of the increase of 750 euros after the tenth tax period), but a more linear and more gradual approach would be better. Or in a more abrupt manner, the application of the bonus could be limited in time (the first ten years of the loan for example, and not after that).

48. Implicitly, the focus should be on *home ownership* as a priority, and perhaps less on its maintenance. Besides, the rate of defaulting homeowners (who are unable to make their monthly mortgage payments and are therefore subject to foreclosure) is relatively low²⁷ with respect to the overall number of people who have taken out a mortgage loan in Belgium. Furthermore, the regional entities *already* ensure a protection against non payments by offering borrowers free insurance against the loss of income.²⁸ In any case, this is one of the ways in which the housing bonus will be socialised somewhat.

3.3. Transform the deduction into allowance

49. A last proposal may be made: in order to provide preferential aid to young households, it would be worthwhile to transform the tax deduction (whose positive effects are delayed, as mentioned above) into a sort of investment allowance which could be available immediately. This would benefit greatly those with limited resources who are not able to wait two years to receive the aid, and who do not have the means to

become homeowners without it. This road has not been taken. Not to mention that the poorest people do not pay tax anyway, which makes the deduction of interest 'of no interest'.

50. Nevertheless, we must bear in mind that this solution, which amounts to transforming a tax advantage spread over several years into direct aid in the form of a lump sum, would require the public authorities to mobilise a considerable amount of money all at once.

3.4. A principle of budgetary reality

51. That being so, and despite the aptness of these suggestions, a principle of budgetary reality may rapidly emerge. As mentioned above, the funds which accompany this transfer of competence may not be sufficient, in as much as these means must be used to assist new buyers as well as ensure the continuation of deductions pertaining to existing loans. If need be, the amount of the tax bonus should perhaps be reduced, for past buyers as well (notwithstanding the opinions of policy makers).

52. However, the new executive of the Brussels Region proudly asserts that 'the government will provide more support for home ownership', and sets the tone for the future housing bonus: 'At the very least, the existing tax incentives will be maintained, and as far as possible rendered more flexible and even broadened [...] Furthermore, the "housing loan" tax deductibility will be maintained and evaluated in the framework of the (global) tax reform, which will be implemented in 2017'.²⁹ It is impossible to know if the broadening in question will concern the target public or the amount of financial aid itself.

53. Already, without an additional budget, it is unrealistic to believe that the previous regime could be prolonged without any changes.

²⁷ 8,000 [P. De Decker and V. Geurts, 2004].

²⁸ Voy. in particular art. 112, §2, of the Brussels Housing Code (the implementation decree is still pending). In Wallonia, the free insurance against the loss of income covers for three years, for the amount of 6,200 euros per year, the default in the repayment of a mortgage due directly to the loss of employment or work incapacity (decree of the Walloon Government of 21 January 1999 establishing insurance against the loss of income due to the loss of employment or work incapacity, *M.B.*, 25 February 1999).

²⁹ Agreement of the majority 2014/2019, p. 95.

Then what of the announcements to extend the system? But politics is never only about priorities. At the very least, it will not be easy for Brussels to reconcile this universalist ambition with another more social objective, announced publicly: 'With respect to low- or average-income families, the purchase of their first dwelling will be more advantageous from a tax perspective.'³⁰ The squaring of the circle is not far off.

54. As a backdrop to their reflections, the authorities must not lose sight of the fact that an excessive promotion of home ownership (in this case through tax incentives) always carries risks, of which there are at least three: the intensification of urban sprawl involving the middle class from the Brussels Region (as seen in recent decades), the rise in purchase prices (triggered by an increase in/stimulation of the demand, as seen in Flanders a few years ago when registration fees decreased from 12.5% to 10%) and, finally, the increase in the household debt. A cautious approach is therefore warranted.

55. We are well aware that housing-related tax represents a *whole*, with a complex structure, whose elements are closely interdependent; making changes to one of the elements without introducing compensations with respect to the others could upset the overall balance. In this matter, it is therefore necessary to avoid any unilateralism.

56. Nevertheless, these arguments would not prevent a calm and objective discussion on the housing-related tax, without bias or doctrinaire obstinacy. To refuse the very principle of this discussion could be seen as a corporatist withdrawal.

Conclusion

57. The housing bonus, as mentioned above, is characterised by a lack of equity and effectiveness, among others. It is up to the Regions to take the opportunity represented by the sixth state reform to reconfigure it, in order for it to better meet the general objectives of their housing policies. It has meant that, by increasing the advantages (tax-related, but not only) for homeowners, the final purpose of the tax (as well as that of the deductions/reductions system) has perhaps been forgotten: to ensure the redistribution of wealth in the fairest possible way, and not to encourage by all accounts (and somewhat blindly) one lifestyle rather than another. It may be judicious in this respect to bear in mind that the housing bonus is not supposed to represent direct aid for home ownership or an independent system; it constitutes no more than a modalisation of personal income tax through deduction/reduction.

58. At the same time, a Region such as Brussels must ensure that its housing market maintains a certain vitality, as more than 40%³¹ of its own tax revenue comes from registration fees (this tax revenue then represents 39% of the Region's finances³²). In this respect, a sudden drop in the number of transactions, perhaps triggered by overly radical announcements, might cut into the Region's tax base significantly and, subsequently, affect its capacity to address the challenges which it must face today, such as population growth for the most part.

59. The road is undoubtedly narrow between these two points. But constraint generates creativity, in politics as well as in other areas.

³⁰ Part 2 of the Annexe à l'Exposé général du Budget des recettes et des dépenses de la Région de Bruxelles-Capitale pour l'année budgétaire 2015, *Doc.*, Parl. Rég. Brux.-Cap., sess. ord. 2014-2015, n°A-51/2, p. 114.

³¹ 503 million euros, of a taxation total of 1.245 billion (Budget des recettes et des dépenses pour l'année budgétaire 2014, *Doc. parl.*, Rég. Brux.-Cap., sess. ord. 2013-2014, n°A-463-1, p. 142).

³² *Ibidem*, p. 142.

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