

# Investors Forum

## VAT on real estate and FIIS/GVBF



# VAT Reform

## Introduction

### Old rules

#### no optional VAT letting

- immovable letting without VAT
- landlord has no right to deduct the VAT on the construction
- non-deductible VAT is incorporated in the rental price

#### warehouse

- Letting with VAT under strict conditions (max 10% offices)

#### short term letting

- in principle exempt from VAT

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|---|--|
| <ul style="list-style-type: none"><li>• parking</li><li>• hotels ...</li><li>• concessions in (air-)ports</li><li>• 'M&amp;O'</li></ul> | <ul style="list-style-type: none"><li>• VAT lease (R.D. n°30)</li><li>• business centres</li><li>• commercial centres / retail parks</li><li>• ad hoc ('active' rent, ...)</li><li>• rights in rem</li></ul> |
|---|--|

### New rules (1/1/19)

#### optional VAT letting

- immovable letting with optional VAT if the conditions are fulfilled
- landlord has immediately right to deduct the VAT on the construction

#### warehouse

- Conditions simplified (max 49% offices, including 10% sales surfaces)

#### short term letting: maximum 6 months

- in principle mandatory subject to VAT (with exceptions)

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# VAT Reform

## Optional VAT letting

### Conditions (4)

1. Letting of **new constructions** or part thereof (and accompanying land)
2. Exclusively used by tenants for their economic activity
  - private individuals (housing), pure holdings, “public authorities”
  - tenants using the property (partly) for other than VAT activities
3. Landlord and tenant agree to apply option to tax
  - pro fisco declaration – non-cancellable – also in case of prolongation / renewal
  - no notification to the tax authorities is needed
4. **New constructions** and ‘important renovations’ (60%-rule) as per 1/10/18 (not for “warehousing”)
  - no VAT due < 1/10/18 on ‘real construction’ costs re the property
  - no problem in case of intellectual costs/ground works/demolition works/stabilization works < 1/10/18
  - no problem in case of contract signing < 1/1/19

# VAT Reform

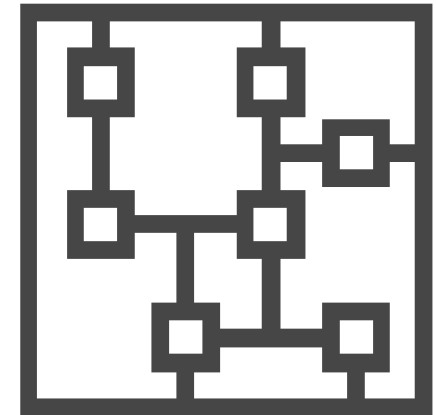
## Optional VAT letting - Modalities

### Revision period

- **25 years** for new constructions/important renovations as per 1/10/18 when the building is object of an optional VAT letting within the first 15 years as from the moment of 'first use'
- Evaluated on a yearly basis on 31 December
- No revision in case of vacancy (conditions)

### Arm's length rental price

- Only between connected parties and
- Tenant has no full right to deduct VAT on the rental price

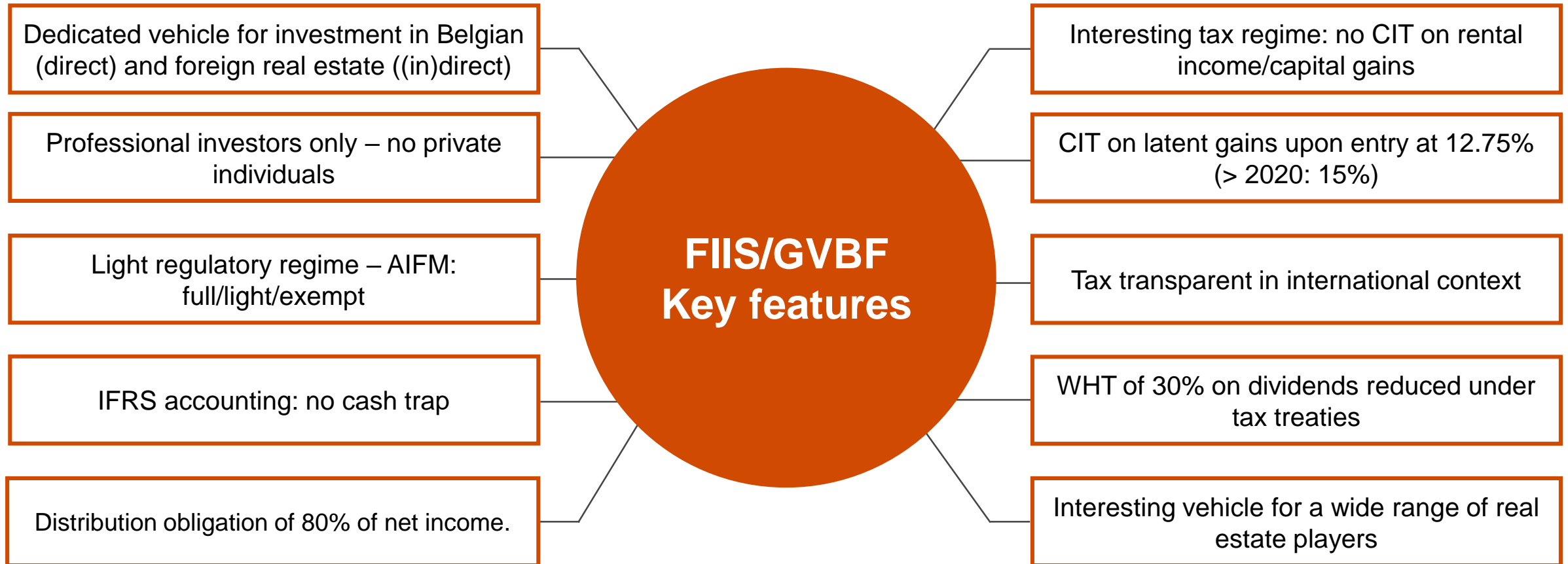


# VAT Reform

## Who are the main winners/losers?

The investors	The tenants	The developers
<p><b>Acquirer of new buildings?</b></p> <p>Acquirer will be able to recover VAT on periodical refurbishment but new system will benefit more to the developers and tenants...</p>	<p><b>Cheaper rent?</b></p> <p>A part of the 21% saving should partly benefit to the tenant</p>	<p><b>(Strong) margin increase?</b></p> <p>21% on the construction costs recoverable in case of opt in</p> <p><b>But</b> risk of negative impact on the rent level and the fair values of lands....</p>
<p><b>Owner of lands?</b></p> <p>Yes, it should increase the fair market value of “available” plots of land as developers will have more room in their total project cost calculation</p>	<p><b>VAT fully recoverable in most cases</b></p> <p>If not, he can refuse to opt in</p>	
<p><b>The loser?</b></p> <p>The owners of old aged buildings falling to meet the 60% threshold in case of renovation</p>	<p><b>The loser?</b></p> <p>The Belgian public sector? They are not allowed to opt in but VAT is always a cost</p> <p><b>The winners?</b></p> <p>Retail and office sectors and also the e-commerce sector, because the new legislation for warehousing also applies to old buildings and even running contracts</p>	<p><b>The loser?</b></p> <p>System is not perfect, but great incentive. No loser BUT</p> <p>How to manage 25 years VAT revision risk in SPA negotiation or in valuation process ?</p>

# FIIS/GVBF



# FIIS/GVBF – Who is in the winning team?

- Dedicated investment vehicle
- No cash trap
- Interesting tax regime

- Full taxation of Belgian investors on div/cap gain
- Vs. classical capital gain planning

- Lightly regulated
- Tax transparency in Belgium
- Tax leakage upon upstreaming from lower tier

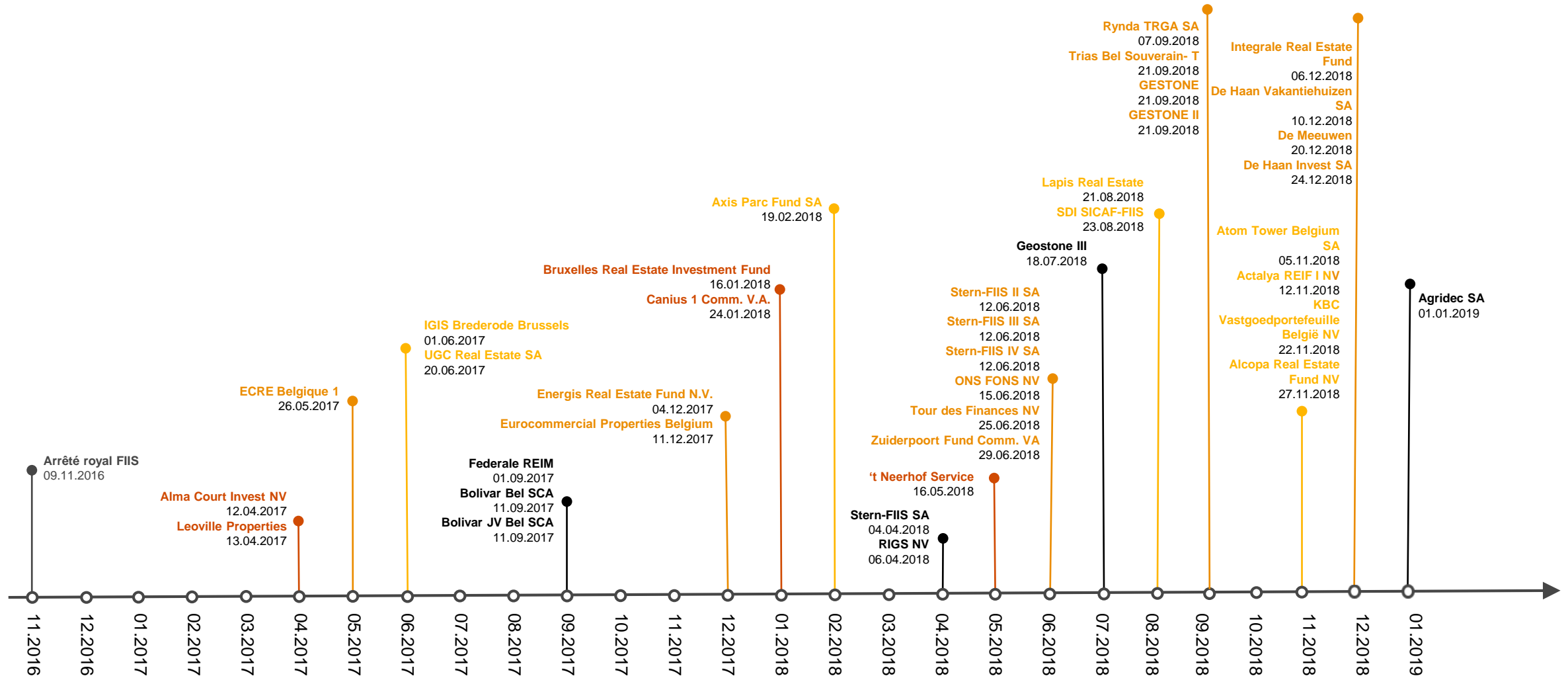


- Structuring vehicle for Belgian funds
- Competitive with Lux funds
- Features to protect asset managers

- Corporate structuring vehicle
- Allows entry of investors in group's real estate
- Full taxation of BE shareholders on div / cap gain

- Stable revenue flow
- No cash trap
- Specific WHT exemption

# FIIS/GVBF – Status as per 4 January 2019





# Let's debate!

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