

Vandelanotte
More than accountants



VANDELANOTTE
**DOING BUSINESS
IN BELGIUM**



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FOR ANY SPECIFIC INFORMATION ABOUT 'DOING BUSINESS IN BELGIUM', CONTACT US AT TAX@VDL.BE.

1. DISCLAIMER

The information in this guide does not constitute advice on any particular matters and should not be considered as such. While reasonable care has been taken in the preparation of this publication, Vandelanotte accepts no responsibility for errors it may contain or for losses sustained by a person that relies on it, caused by negligence or otherwise.

2. GENERAL INFORMATION

Geography and structure of the Belgian State

Belgium is a monarchy and a federal state, situated along the North Sea in the centre of Europe. Belgium shares borders with the Netherlands, France, Germany and Luxembourg. The surface area of the country is about 30.500 km² and the population is about 11 million people. The gross domestic product (GDP) of Belgium in 2018 was 532,1 billion euro.

Belgium is divided into three regions and into three communities. Each region and community has executive and legislative powers. The division into regions relates to territorial issues. The three regions are the Brussels-Capital region, the Flemish region and the Walloon Region. The division into communities is based on language. There are three official languages in Belgium: Dutch, French and German. The three communities are the Flemish community (Dutch-speaking), the French community and the German Community.

Brussels is not only a region, but it is also the capital of Belgium. The city is the home location to many European Institutions and a leading international business centre.

Vandelanotte provides its services in all three these regions and is able to provide them in English, French and Dutch. Vandelanotte has nine offices: six in Flanders, one in the capital Brussels and one in Wallonia. Recently Vandelanotte has opened an office in France. The head office of Vandelanotte is in Kortrijk, West-Flanders.

Economy

The Belgian economy is well integrated with Europe and the rest of the world. Belgium is an attractive base for many companies active in European markets because it has an open economy. There are many active business sectors, the most important are industry, transport and logistics, pharmaceuticals, ICT, agro-food sector, ...

Belgium has a well-developed road- and rail-network. There are several seaports. The country's main seaports are located in Antwerp and in Zeebrugge. In addition, Antwerp is the second largest seaport of Europe. Vandelanotte also has an office in Antwerp. The extensive inland waterway network connects the major Belgian seaports with other European inland waterways.

Belgium has a mainly export-oriented economy. The trade balance (difference between exports and imports) is manifestly positive. Belgium exports mainly intermediate goods (machinery and equipment), but also many chemical and related products.

Investing in Belgium

There are several reasons to invest in Belgium:

- **Strategic location:** Belgium is located in the centre of Europe, adjacent to important countries like Germany, the Netherlands, France and Luxembourg. A number of European business centres are located within 300 km radius: Paris, London, Amsterdam and Frankfurt.
- **Excellent infrastructure:** well-developed airports, seaports, roads and railways.
- **Helpful authorities:** Belgian authorities (federal and regional) will support foreign investors by providing advice on certain matters. The authorities will support the foreign investors by providing assistance in issues concerning manufacturing or R&D facilities, logistic activities, legal advice, government subsidies, etc. For more information we refer to the following websites www.investinlanders.be (Flemish Region), <http://www.investinwallonia.be/> (Walloon Regio) and <http://www.investinbrussels.com/en/> (Brussels-Capital region)

- **Quality of the workforce:** Belgians are flexible, innovative, loyal and excellent at problem-solving. The Belgian employees are some of the most productive in the world. The high quality of the Belgian education system is very important to potential investors. The education is regulated and for the larger part financed by one of the three communities.
- **Quality of life:** Belgium is considered to have a high standard of living, as testified by its excellent health care, housing, education and infrastructure. The Belgian healthcare system is known as one of the best in the world. High quality medical care is provided at a low cost price.
- **Language:** the knowledge of languages in Belgium is also an important asset. In general, most of the inhabitants speak Dutch, French and English.

3. SETTING UP A BUSINESS

3.1 BRANCH VERSUS SUBSIDIARY

A Belgian branch (permanent establishment) of a foreign company is an extension of the head office of the foreign company. It is not a separate legal entity, therefore there are no shareholders. A branch has no minimum assigned capital requirement and requires no own board of directors. A branch is represented by a legal representative appointed by the foreign company. This legal representative does not need to have the Belgian nationality. The foreign (parent) company is fully liable for the liabilities of the branch and the annual financial statements of the foreign company must be filed yearly with the National Bank of Belgium.

In a tax point of view, branches are permanent establishments of non-resident companies. The permanent establishment will pay corporate income tax in Belgium on its income earned in Belgium.

Setting up a branch, however, requires translation of a series of documents, apostils, legalisations of signatures, etc. of the foreign company. This can discourage the shareholders of certain countries and make them opt for a subsidiary. Depending on the area of registration, the documents related to the branch must be drafted in one of the official languages of Belgium: Dutch, French or German.

A foreign company shall logically remain fully liable for all commitments of its branch office. A subsidiary is a separate legal entity with Belgian legal personality which will not share any liability with its parent company.

3.2 FORMALITIES FOR SETTING UP A BUSINESS

Branch

Filing a branch must be carried out at the clerk's office of the Court of Commerce in the judicial district of the branch office's location. Certain documents and information must be submitted in order to set up the branch:

- Address and activities of the branch;
- Identity of the representatives;
- General information on the foreign company (consolidated financial statements, certificate of registration, articles of association, ...);
- Corporate resolution of the foreign company relating to the opening of the branch.
- ...

All these documents need to be translated in the official language of the jurisdiction where the branch is situated. The documents also need to be legalized by a public notary in the foreign company's jurisdiction.

The translated documents and information need to be published in the Belgian Official Gazette by the clerk's office. Furthermore, the most recent annual financial statements of the foreign company must be filed yearly with the National Bank of Belgium.

In addition, the branch needs to obtain a corporate registration number (at the Central Company Bank) and needs to apply for a VAT identification number (at the local VAT administration) if necessary.

The administrative costs depend on the volume of the documents that need to be filed and translated. Most of the costs relate to translating. If all documents are prepared and filed in one time, the total time necessary for filing a branch can be estimated at two to three weeks.

Subsidiary

The different formalities in order to incorporate a subsidiary can be summarized as follows:

- Draft an incorporation deed;
- Draft a financial plan (only for companies with limited liability);
- Deposit of the share capital in a blocked bank account (only in the event of a contribution in cash);
- Draw up the appraisal reports (only in the event of a contribution in kind);
- Notarize the incorporation deed (not for all company forms);
- Register the incorporation deed;
- File for publication in Belgium's Official Gazette;
- Obtain a corporate registration number at the Crossroads Bank for Enterprises (BCE);
- Apply for a VAT identification number (if necessary).

The incorporation deed includes the articles of association and the minutes of the first general meeting of the shareholders, whereby the directors will be appointed.

A financial plan is needed in order to establish a company. The plan will provide a detailed overview of financial resources and requirements that need to be fulfilled in the first two years of activity of the company. A financial plan is required for all companies with limited liability.

The legislator has determined a number of cases in which the founders still can be held personally liable. One example is bankruptcy, pronounced in three years after the creation, if it appears that the capital stock at the foundation was insufficient for the normal exercise of the proposed activity over at least two years. To this end, the financial plan is very important.

In addition, the notary will need a statement of the directors that they accept their function and a business certificate which proves the capacity of the person signing the deed to represent the founding company.

A legal entity must file the articles of incorporation at the registry within 15 days of the final articles of association being drawn up. The company acquires a legal personality only from the date the articles of association are lodged at the commercial court. The most important articles are published in the Appendix to the Belgian official gazette.

For certain business activities, a licence or permit specific to the sector in question is needed. For example: anyone who operates an establishment where food is manufactured or imported, requires a licence from the Federal Agency for the safety of the Food Chain (FASFC).

The time necessary to carry out the formalities can be estimated to about one to three weeks for the incorporation of the company and two to three additional weeks for the BCE and VAT registrations.

3.3 KINDS OF CORPORATIONS

Recently, the Belgian company law has substantially been amended. The new company law, as discussed hereafter, applies to all new companies established from 1 May 2019. For the existing companies, there is provided for a phased transition, whereby all companies must be adapted to the new law by the first of January 2024.

The most important company forms are the limited liability company (BV) and the public limited company (NV). Besides these two, there are a few other, less frequently used company forms.

Limited liability company (BV/SRL)

The limited liability company is formed by one or more partners (physical or legal persons) whose commitment is limited to their contribution.

This company has no share capital.

When establishing the company, the founders need to prove, through a financial plan, that the company disposes of adequate means to start her activity. There is no minimum of means required by law.

Given the absence of share capital, the protection of creditors is guaranteed by means of strict rules to determine the dividends/sums that can be distributed by the company (double test).

A system of resignation and exclusion of shareholders, charged to the company assets, can be incorporated in the articles of association.

At least one director (physical or legal person) must be appointed. This can be a statutory or a non-statutory director. A statutory director is appointed in the articles of association and can only be dismissed based on the majority required for modification of the articles of association. A non-statutory director can be appointed and dismissed by the general meeting based on a simple majority of votes. A managing director for the day-to-day running of the company can also be appointed.

A transfer of shares requires the approval of half of the shareholders, who represent at least three-fourths of the capital. The articles of association can make these rules of transferring shares more flexible or, by contrast, more stringent.

To set up a limited liability company you must fulfil some legal and administrative obligations. The notary deed is necessary.

Public limited company (NV/SA)

The public limited company is a legal entity in which one or more shareholders are willing to invest capital. The liability of the shareholders is limited to their contribution.

The minimum required share capital is 61.500 EUR, each share must be paid up for at least one quarter.

The founders of a public limited company can choose between 3 systems of governance: a single director, a board of directors or a dual system, with a supervisory board and a management committee. A managing director for the day-to-day running of the company can also be appointed.

The shares are freely transferable. This free transmission of shares can be limited in the articles of association or by agreement.

There are some legal and administrative obligations regarding a public limited company. To set up a public limited liability company a notary deed is necessary.

This type of company is mainly used by large enterprises.

Cooperative company (CV)

A cooperative company is a company, a legal entity, set up by at least three shareholders. The shareholders (physical or legal persons) are liable for the amount of the contribution. This kind of company is reserved for companies that aim for the cooperative idea and comply with the specific legal definition of a cooperative company.

There is no share capital and the founders are obliged to prove, through a financial plan, that the company disposes of adequate means to start her activity. There is no minimum of means required by law. Given the absence of share capital, for this company as well the protection of creditors is guaranteed by means of strict rules to determine the dividends that can be distributed (double test).

New shareholders may join by subscribing to new shares, issued by increasing the capital. The criteria to join the company are determined in the articles of association.

The transfer of shares between shareholders is free, under the conditions determined in the articles of associ-

ation. Transferring shares to third parties is only possible if these third parties belong to categories, defined in the articles of association and if these third parties comply with the statutory qualifications.

A system of resignation and exclusion of shareholders, charged to the company assets, is provided by law.

One or more statutory or non-statutory directors (physical or legal persons) run the company. The articles of association describe the procedures for the appointment and the dismissal. A managing director for the day-to-day running of the company can also be appointed.

A notary deed is necessary to set up the company.

General partnership (VOF/SNC)

A general partnership is a legal entity and is set up by at least two or more partners (physical or legal persons). The partners of a general partnership are jointly and severally liable for all commitments entered by the company.

There is no minimum capital required in the general partnership.

To set up a general partnership the legal and administrative obligation are less strict. A notary deed is not necessary, a private deed is sufficient. The private deed needs to be published and registered.

Limited partnership (CommV/SComm)

A limited partnership is a partnership between one or more limited partners and one or more managing partners. The limited partners only bring in capital and are limited liable to the amount of the contribution they have paid or pledged. The managing partners are jointly and severally liable for all commitments of the company.

There is no minimum capital required for a limited partnership.

The legal and administrative obligations are less strict. A notary deed isn't compulsory, a private deed is sufficient but must be published and registered.

Non-profit organization (VZW/ASBL)

A non-profit organisation is a legal entity and consists of at least three persons and pursues a non-profit making goal. It is possible to charge membership fees and organise activities in return for payment where these are compatible with its purpose. This non-profit organisation can't distribute any profits to its members.

There is no minimum capital required.

The articles of association may be drafted by a notarial or a registered private deed.

3.4 BUSINESS INCENTIVES

Besides its geographic location and the excellent transportation networks, there are several other business incentives in Belgium:

- Cash grants for investments in tangible fixed assets;
- Ecological subsidy;
- Reduction of social security contributions;
- Expatriate tax incentives;
- R&D personnel tax incentives;
- Patent tax incentives;
- Overtime, night and shift work tax incentives;
- ...

4. TAXATION

4.1 INTRODUCTION

If a business is operated in an individual's own name, the profits will be subject to personal income tax. If a business is operated as a company, the profits will be subject to corporate income tax. The taxable profits are determined in a similar way, but the rates and some tax deductions are different. The percentage in the case of personal income tax may be as high as 50% plus local surtax, whereas the maximum tax rate for corporate income tax is 29,58%. In 2020, the maximum tax rate for corporate income will further decrease to 25%.

Non-profit organizations are liable to the legal entities income tax.

The legal basis for the personal income tax, corporate tax and the legal entities income tax, is the Belgian Income Tax Code of 1992 (BITC 1992).

Besides these direct taxes Belgium knows VAT, registration duties, inheritance tax, customs duty, excise duty and some other miscellaneous taxes.

4.2 CORPORATE INCOME TAX

4.2.1 GENERAL OVERVIEW

Who is liable to Belgian corporate income tax?

All companies, associations, bodies and institutions that meet at the same time the following criteria:

- They have corporate status;
- They have their residence (registered office, main site, seat of management or administrative headquarters) in Belgium;
- They are engaged in a business or profit making activity in Belgium or abroad.

A non-resident company with a Belgian permanent establishment, is taxable on all income derived from the establishment. In addition, the income of real estate located in Belgium, will be taxed in Belgium, even when there is no Belgian branch.

The corporate tax system at glance

The taxable income is based on the accounting results as reported in the company's annual financial statements. The taxable profit is the increase (or decrease) of reserves plus disallowed expenses and distributed dividends. The increase (or decrease) of reserves is the worldwide profit as it appears in the financial statements, with some adjustments for differences between accounting law and tax law.

The taxable base will practically always be different from the accounting profit. There are some corrections, known as the seventeen adjustments. All the corrections after the third correction do not correspond to an accounting deduction but are purely tax operations.

Some other general tax rules are:

- There is no special holding company regime;
- There is a limited possibility for domestic fiscal consolidation, but no cross-border fiscal consolidation;
- Financing expenses relating to domestic/foreign shareholdings are deductible under certain conditions;
- There are no restrictions on foreign investm

Remark 1

Until 2018 the reimbursement of paid-up capital was free of any taxation. Since 1 January 2018 a reimbursement of capital is deemed to derive proportionally from paid-up capital and from taxed reserves (incorporated and non-incorporated into capital) and exempted reserves incorporated into the capital.

Remark 2

A lot of rules in the Belgian corporate income tax are dependent of the size of the company. A company is a large company as from the financial year following the financial year in which at least two of the following three criteria are exceeded for the second time (to be considered on a consolidated basis in case of affiliated companies):

- Net turnover of 9.000.000 euro
- Balance sheet total of 4.500.000 euro
- Employees number of 50 (average annual workforce)

4.2.2 DEDUCTIONS

A. Disallowed expenses

Deductible professional costs are costs made by the company incurred or borne during the taxable period to obtain or retain taxable income. The authenticity and the amount of the costs has to be proven.

Disallowed expenses are non-deductible expenses. They are accepted as an 'accounting cost', but not accepted as a 'tax cost'.

Examples of disallowed expenses:

- Belgian corporate income taxes (foreign income taxes are deductible);
- Penalties, except the proportional VAT penalties;
- Car expenses: the financial charges and the car phone are fully deductible, the fuel costs are 75% deductible, the other car expenses are deductible for 50 - 100% depending on the CO2-emission;
- Restaurant expenses for 31% of the amount;
- Expenses for clothing (only expenses made for specific professional clothing are deductible);
- Gifts;
- ...

B. Depreciation

Acceptable rates:

| Fixed assets | Percentage |
|---|------------|
| Office buildings | 3% |
| Industrial buildings | 5% |
| Office furniture and equipment, machinery | 10% |
| Formation expenses | 20% |
| IT-equipment | 33,33% |
| Research and development expenses | 33,33% |
| Motor vehicles | 20% |

When the rates used by the company in the annual financial statements are higher than the acceptable rates, these costs will probably not be tax deductible and a tax adjustment must take place.

A company considered as 'large' must compute the depreciation pro rata temporis from the day of acquisition. SME's are allowed to enter a full depreciation annuity in the year in which the assets are acquired. From 2020, SME's should also compute the depreciation pro rata temporis from the day of acquisition.

C. Gains on shares

Under certain conditions, capital gains realised on shares are tax exempt:

when the subsidiary is subject to corporate tax or a similar income tax (see dividend-received deduction), and the two other conditions are fulfilled. The first condition is that there must be an ownership period of minimum 1 year. Next, the participation contains at least 10% or has an acquisition value of 2,5 million EUR.

Otherwise the tax rate is set at:

- 25%: when the subsidiary is subject to corporate tax or a similar income tax but there is no ownership period of 1 year ;
- Normal tax rate of 29,58%: when the subsidiary is not subject to corporate tax or a similar tax rate.

The losses realised on shares are not deductible, unless losses due to liquidation and reflecting a permanent loss of paid-up share capital.

D. Non-accounting deductions

1. Dividend-received deduction of the year (DRD) and exempted movable income deduction

Remark : Since the reformation of 2017, the DRD increased from 95% to 100%!

Received dividends are fully exempt from corporate income tax, under the following conditions:

- A required holding of 10% or an acquisition price (value) of at least 2.5 million EUR;
- Minimum ownership period of 1 year;
- Participation is held in full property;
- The distributing company does not fall under one of the specific exclusions (in most cases this will mean that the subsidiary must meet the "subject-to-tax requirement").

Dividends received from certain companies (not meeting the "subject-to-tax requirement") are excluded from the deduction:

- Finance, investment and treasury companies;
- A company which is not subject to corporate income tax (or a similar foreign tax) or which is a resident in a tax haven;
- A company with foreign establishments, which are subject to a tax regime more favourable than the tax regime in Belgium;
- Offshore income: dividends from a company, to the extent that the profits of that company, dividends excluded, arise in another country than its country of residence, and are subject to a favourable tax regime;
- Dividends from a company, not an investment company, which redistributes the dividends it receives, unless at least 90% of the dividends received by the transit company would themselves be eligible for the deduction.

Unused dividend-received deduction can be carried forward unlimited in time.

2. Innovation income deduction (IID)

The innovation income deduction is a tax deduction equal to 85% of the net innovation income. The deduction is applicable to income derived from the following intellectual property:

- Patents and supplementary protection certificates;
- Breeders' rights requested or acquired as from 1 July 2016;
- Orphan drugs, i.e. a drug to treat rare diseases, (limited to first 10 years) requested or acquired as from 1 July 2016;
- IP of copyrighted software resulting from a research or development project as defined for the purposes of the partial exemption of wage withholding tax for research and development.

The deductible amount would be 85% of the net R&D-income, restricted in line with the modified nexus approach. The deduction is calculated according to the following formula:

$85 \% \times \text{Net income} \times [(\text{Qualifying expenditure} + \text{Up-Lift}) / \text{Overall expenditure}]$, whereby:

- The “Net income”: net income generated with the R&D-activities;
- The “qualifying expenditure” includes all expenses directly related to the IP asset that are made by the relevant group entity itself or that are outsourced to non-related parties;
- The “overall expenditure” is the “qualifying expenditure” increased by the acquisition costs of the IP asset and any costs related to outsourcing to related parties.

Unused innovation income deduction can be carried forward unlimited in time.

3. Investment deduction of the year and transferred ID

It is possible to deduct a part of the acquisition price or manufacturing cost of new investments from the taxable profit. The deduction requires certain conditions among which the most important one is that the asset is used in Belgium for the professional activity of the company.

| Rates tax year 2020 (for all companies) | |
|---|-------|
| Patents, environmental-friendly R&D and energy-saving investments | 13,5% |
| Investments in smoke extraction and ventilation systems (hotels, restaurants and cafés) | 13,5% |
| Investments for production and recycling of returnable packaging | 3% |
| Staggered deduction for environmental-friendly R&D | 20,5% |

For SME's, there is an investment deduction of 20% for new investments between 01/01/2018 and 31/12/2019. The investment can be a fixed or an intangible asset. For their digital investments, such as investments in digital payment and invoicing systems and the cash register system, SME's can benefit from an investment deduction of 13,5% (or 20% if the fixed assets are acquired or created between 1 January 2018 and 31 December 2019). For investments in the security of company buildings or cars, there is an investment deduction of 20,5% for SME's.

Also the transferred investment deduction from previous years can be subtracted in this stage. Unlike the other investment deductions, the ordinary investment deduction can only be carried forward for one year.

4. Notional interest deduction (NID)

The notional interest deduction can be described as a tax deduction equal to a certain percentage of the incremental equity. The incremental equity is the average weight of the adjusted equity of the last five years. It is a fictitious interest calculated on the equity of the holding (net assets).

A different percentage applies to large companies than to SME's. The percentage for large companies is lower than the percentage for SME's. The percentage for the financial year 2019 (tax year 2020) is 0,726% for large companies and 1,226% for SME's.

Since tax year 2013, the carry forward of new notional interest deduction is no longer possible. NID existing on 31 December 2012 (that could not be deducted of the profits of the taxable period 2012 or a previous taxable period) can be carried forward for seven years. Above one million euro, the carry forward is limited to 60% of the result before this operation.

Remark : Since the reformation of 2017 there is a minimum tax imposed. The taxable profit that exceeds the limit of 1 million EUR can only be deducted for 70% of the taxable profit. This minimum tax restriction applies on the NID, the transferred DRD, the transferred innovation income deduction, the tax losses carried forward and the transferred NID! (Notice that the limitation is not applicable for the SME's in the first four years after foundation.)

5. Tax losses carried forward

Tax losses can be carried forward and can be deducted. A carry back of losses isn't allowed.

6. Minimum taxable base

There are certain profits on which none of the last 5 corrections (the non-accounting deductions) are deductible. These profits form the minimum taxable base. The most important ones are:

- Abnormal or benevolent advantages received from a related party;
- Secret commissions (unreported remuneration expenses such as fees, commissions, benefits in kind, etc.);
- 17% of the benefits in kind for company cars (40% if the fuel cost is wholly or partly borne by the company);
- ...

4.2.3 TAX RATES

A. Corporate income tax rate

The corporate income tax rate is fixed at 29%. A 2% crisis contribution must be added. In total, the corporate income tax is 29,58%. This is a flat tax.

Small and medium-sized enterprises benefit from a reduced tax rate of 20,40% on the taxable profit until 100.000 EUR.

Certain SME's are excluded from the reduced rate:

- Companies owned for at least 50% by one or more companies;
- Companies which do not pay an annual salary of 45.000 euro to one of their directors, or when the taxable profit is less than 45.000 euro, at least a salary equal to the taxable profit. The term salary includes: remuneration, benefits in kind, directors' fees, etc.;
- The 'Financial Companies'. These are companies whose equity and reserves consist of more than 50% in financial assets, unless these participations represent at least 75% of the paid-up capital of the subsidiary;
- Some special companies like certified coordination centres, companies being part of a group to which belongs a coordination center, investment companies and pension institutions.

Remark: Since 1 January 2018, the tax rate was lowered from 33,99% to 29,58%. As from tax year 2021 the tax rate equals 25%!

B. Withholding taxes on dividends, interests and royalties paid to non-resident shareholders

General:

- The domestic withholding tax on dividends, interests and royalties is 30%;
- The applicable withholding tax on distributions to non-residents is dependent from the tax treaty between Belgium and the other country; The parent – subsidiary directive and the interest/royalty directive are applicable in Belgium;
- Dividends also cover liquidation bonuses. Liquidation bonuses are the liquidation proceeds exceeding the share capital and are taxed at 30%.

Distributions to individual shareholders:

- Dividends: the withholding tax is limited by the tax treaties: to most countries 15% (some countries: 10% or 20%);
- Interests: the withholding tax is limited by the tax treaties: to most countries 10% (rates vary between 0% and 30%);
- Royalties: the withholding tax is limited by the tax treaties (rates vary between 0% and 30%).

Distributions to corporate shareholders:

- Dividends: the parent-subsidiary directive is applicable in Belgium. Following this directive no withholding tax will be levied on dividends distributed to a parent company that is resident of the EU, has held at least 10% of the capital of the subsidiary or has an acquisition value of 2,5 million EUR, continuously for at least 1 year and meets the subject-to-tax requirement. This is extended to companies resident in a country that has concluded a tax treaty with Belgium and provides in the exchange of information. Other exemptions or reductions may apply (e.g. tax treaties), otherwise the 30%-rate applies;
- Interests and royalties: 0% when paid to associated, qualifying EU companies (interest/royalty directive). Qualifying companies are subject to corporate tax in the EU, tax resident in an EU member state and of a type listed in the annex to the Directive. Other exemptions or reductions may apply (e.g. tax treaties), otherwise the 30%-rate applies.

4.2.4 ADMINISTRATION

A. Tax calculation and prepayments

Once the tax base of a company has been established, the corporate tax payable can be calculated. To this end, this does not imply the multiplication of the applicable tax rate and the tax base.

There should be taken into account the tax that was paid during the taxable period. Prepayments and withholding taxes can be set off and are repayable. The fixed foreign tax credit (FFTC) relating to interests and royalties can be set off against the corporate income tax but is not refundable. The withholding tax on real estate cannot be set off against the corporate income tax.

Companies need to pay the corporate income tax in advance. When a company did not make prepayments or made insufficient prepayments, the tax payable by the company will increase with a certain percentage (6,75% for tax year 2020). This tax surcharge can be avoided by quarterly prepayments. Small and medium-sized enterprises are exempted from surcharges for the first three years.

The prepayments must take place the 10th day of the 4th, 7th, and 10th month and the 20th day of the 12th month of the financial year. When the company's financial year ends on 31 December, the prepayments must take place at the latest on 10 April, 10 July, 10 October and 20 December.

Remark: as from 2018 tax supplements resulting from a tax audit will effectively become due, without the possibility to offset these supplements against the tax deductions (exception the DRD of the current year). This measure only applies if penalties of at least 10% are applied.

B. Tax year and return

The tax year is determined by the date on which the financial accounts are closed. For a company with a financial year ending on 31.12.N, the tax year is the following calendar year N+1. When the financial year ends at another calendar date, the tax year is the calendar year in which the financial year ends.

Examples:

| Financial year | Tax year |
|-------------------------|----------|
| 01.01.2018 – 31.12.2018 | 2019 |
| 01.08.2017 – 31.07.2018 | 2018 |
| 01.10.2017 – 31.12.2018 | 2019 |

The annual tax return must be filed within the tax return period. The tax return period may not be shorter than one month starting from the date of approval of the financial statements and may not be longer than six months after the financial year-end.

C. Advance Ruling

An advance ruling may be requested by the taxpayer in writing with a special division of the tax authorities. A ruling will determine how certain tax laws will be applied in a specific situation that on a fiscal level hasn't had any effect yet. Rulings are binding on the tax authorities.

Taxpayers may request a ruling on all issues regarding the application of the tax law, unless the relevant tax law explicitly provides otherwise. The main purpose of rulings is to provide clarity and legal certainty on the application of tax law provisions.

4.2.5 SOME IMPORTANT CONSIDERATIONS

1. Anti-avoidance legislation

- There is a general anti-avoidance provision (GAAR, art. 344 BITC). The provision is used by the tax administration to disqualify all transactions and structures which have no other goal than tax avoidance;
- In Belgium the CFC (controlled foreign company) rules have been implied since the beginning of 2019. The CFC regime will apply if a Belgian company owns a direct or indirect participation in the capital, voting rights or profits of a foreign company that is not subject to tax or subject to corporate income tax at a rate which is less than half of the corporate income tax which will be due in Belgium.
- The CFC regime targets non distributed profits resulting from arrangements which are mainly set up to obtain a tax advantage. However, only the arrangements that have no economic substance will be targeted.
- Transfer pricing rules apply. The arm's length principle is codified in art. 185, §2 of the BITC. This paragraph is the codification into the Belgian legislation of art. 9 of the OECD Model Tax Convention. Other articles of the BITC relating to transfer pricing are:
 - Art. 26: granted abnormal or benevolent advantages are added back to the tax base;
 - Art. 49: basic conditions for the deductibility of expenses;
 - Art. 54: deductibility of the payments of interest, royalties and management/services fees to tax havens or to recipients benefiting from a favourable taxation regime for these payments;
 - Art. 55 and 56: deductibility of interest paid;
 - Art. 344, §2: sale, transfer or contribution of shares, bonds, accounts receivable or other titles to tax havens or to recipients benefiting from a favourable taxation regime need to have economic substance;

Since 2016, Belgian entities that are part of a multinational group should prepare and file a transfer pricing documentation, if they meet the following criteria:

| | |
|------------------------------|--|
| Local file Master file | Belgian group entity exceeds one of the following thresholds: <ul style="list-style-type: none">• Operational and financial revenue of 50 million euros• Balance sheet total of 1 billion euros• Annual average number of employees of 100 full-time equivalents |
| Country-by-country reporting | The group has a gross consolidated group revenue of at least 750 million euros. |

- A company that relocates its corporate seat to another country is deemed to be liquidated for Belgian corporate income tax purposes (with the exception for the European company). The application of this rule can be avoided by keeping a permanent establishment in Belgium. From 2019 on, Belgium starts to levy exit taxes when a resident company moves assets to its foreign permanent establishment, which were not covered in the past.

- Companies that make payments (exceeding 100.000 euro during a financial year) to tax havens are obliged to report this to the tax authorities. The payments are only deductible when they are reported to the authorities and represent real and sincere operations;
- Interest is generally deductible to the extent it does not exceed the market interest rate. If a Belgian resident company pays excessively high interest, the excess is added to its taxable income, unless the interest is included in the beneficiary's taxable income. Where interest is paid by a Belgian taxpayer to a Belgian resident company, the limitation on the deductibility of excessive interest does not generally apply.
- Today, the market interest rate is not defined. As from 1 January 2020 the market interest rate should be determined based on the MFI interest rate (as published by the NBB).

Interest paid to a company in a tax haven or in a country where interests know a favourable fiscal regime is not deductible, unless the payment corresponds to real and sincere business transactions and the rate is not abnormally high.

Belgian law has three undercapitalization rules:

- The "1:1" rule: interest paid on loans granted by an individual shareholder or a director of the company is tax deductible only to the extent that the total loan do not exceed the company's paid-in capital and taxed reserves. The excess interest is requalified as a dividend distribution and is generally subject to a 30% withholding tax.
- The "5:1" rule: interest paid on loans stipulated before June 17th 2016 to a group member or to a beneficiary that is not subject to income tax or to a tax regime that is substantially more advantageous than the normal tax regime in Belgium (tax haven) is not tax deductible for the part of the loans that exceeds five times the paid-in capital and taxed reserves of the Belgian company;
- Since 1 January 2019, the interest deduction on loans (stipulated after June 17th, 2016) is limited to 30% of the EBITDA or EUR 3,000,000.

2. Permanent establishment

A Belgian permanent establishment must keep financial records in conformity with the Belgian minimum standards. The rules relating to the existence of a permanent establishment in Belgium follow the OECD Model Tax Convention but are somewhat stricter.

The taxable income of a permanent establishment includes all profits made through this Belgian establishment. The tax rate is the same as for residents.

3. Tax treaties

A double taxation treaty is a convention between two countries that aim to eliminate the double taxation of income. Belgium has a broad network of tax treaties with different countries (e.g. Germany, Spain, Poland, Hong Kong, China, ...). Most of those treaties follow the OECD model treaty. Belgium generally uses the exemption-with-progression method to avoid double taxation.

4.3 PERSONAL INCOME TAX

Who is liable to Belgian personal income tax?

Personal income tax applies to physical persons, both residents and non-residents. The personal income tax is an annual tax.

A resident is a person whose domicile or seat of fortune (centre of economic interest) is located in Belgium. The domicile or the place of residence is generally defined as the place where an individual has its permanent home. The centre of economic interest is the place from which the domestic affairs are managed (including its capital and having). A resident is subject to tax on its worldwide income, this is the earned income, the income from real estate, the income from movable property and the miscellaneous income.

A non-resident has his domicile or seat of fortune outside Belgium. A non-resident is subject to tax on the income he earns in Belgium or derived from Belgian sources.

There are two legal presumptions with respect to Belgian tax residence. The first presumption is refutable and implies that a registration in the population register is considered to be a Belgian tax-resident. It is possible to prove that the actual tax residence is located outside Belgium. The second presumption is irrefutable and implies that the place of residence is the place where the family, the spouse and the children are located.

Sources of income

There are four categories of the personal income tax:

- Earned income
- Income from real estate
- Income from movable property
- Miscellaneous income

For each of these categories there are specific rules for calculating the net taxable income.

Earned income

Earned income includes employee salaries, wages, replacement income, earnings from a liberal profession, company's director fees and business income (profits) and pensions.

Salaries, wages and replacement income are taxable at the time they are paid or attributed. Profits are taxable when they accrue. The earned income is taxed at progressive rates, but in some cases earned income is taxed at flat rates, for example pension capital sums.

The employees' salaries and wages are liable to tax on the gross amount minus personal social security contributions. Also for director fees, the social security contributions can be deducted from the gross amount. In addition, there is a deduction of actual or lump-sum expenses on earned income. The taxpayer will opt for the actual expenses when this results in a larger total deduction.

| Earned income taxed at flat rates | |
|---|----------------------------|
| Type of income | Tax rate |
| Salary arrears, replacement income arrears | average rate previous year |
| Gross termination compensation | |
| Redeployment allowances | |
| Prepaid holiday | |
| Arrears of maintenance payments | |
| Free arrears | |
| Capital gains from professional activities | 16,5% |
| Young sportsmen's remuneration (income < 19.670 euro, tax year 2020) | 16,5% |
| Volunteer sporting activity as a self-employed secondary activity (income < 19.670 euro, tax year 2020) | 33% |

Income from real estate

To determine the taxable income, the deemed rental income (cadastral income) is used. The cadastral income is the normal average annual net income of a property on 1 January 1975. It is assessed by the Belgian tax authorities. The cadastral income on 1 January 1975 is multiplied by a revaluation index, in order to obtain an up-to-date basis for calculating the tax.

The taxable regime of real estate is dependent on the usage of the property.

- Belgian real estate not rented out or rented to physical persons and to legal persons other than companies is taxed on the revalued cadastral income (increased by 40% for buildings).
- Belgian real estate rented to a company (or to an individual for professional usage) is taxed on the 'net rental', this is the gross rent less a flat-rate cost deduction of 40% (buildings) or 10% (land). The expenses may not exceed two-thirds of the (non-indexed) cadastral income.
- The taxable income of real estate abroad is the net rental. This is the gross rental less 40% (for buildings) or less 10% (for lands) for standard expenses.

For real estate abroad, there is a distinction between 'countries with treaty' and 'countries without treaty'.

The income from real estate situated in a country with treaty will be exempted with reservation of progression method. If the real estate is situated in a country without treaty, there is also an exemption with reservation of progression method, but only for the half of the amount.

Interest on loans to acquire or retain real estate is deductible from the income from real estate of the borrower. (Other real estate than the own dwelling house.)

[Abolition of the standard interest deduction \(as from tax year 2015\)](#)

The deduction of interests concerning the own dwelling house from real estate income has been abolished since tax year 2015. The Regions are now exclusively competent for the tax advantages relating to the own dwelling house. The standard interest deduction has been converted into a regional tax credit for interests from debts incurred before 1 January 2015 (see below).

[Real estate withholding tax](#)

There is a (final) annual real estate withholding tax. The tax is a final tax because it is not deductible from the personal income tax. The two taxes are totally independent. It is determined as a percentage of the fictitiously estimated rental income of the property. The percentage is 3,97% for the Flemish region and 1,25% for the Walloon region and for the Brussels Capital Region. Tax reductions are possible under certain conditions such as resident children.

Income from movable property

Income from movable property is taxed at flat rates. This income can be taxed at normal progressive rates if this is to the advantage of the taxpayer. The withholding tax will be credited or reimbursed against the final tax, calculated at normal progressive rates.

In general, a withholding tax of 30% applies to income from capital and movable property. Interest from ordinary saving accounts exceeding the exempted amount of 980 euro (tax year 2020) some other specific types of income and economic rights of an author are taxed at a percentage of 15% withholding tax. Besides, dividends to a threshold of 800 EUR (tax year 2020) are exempted from withholding tax.

[Dividends of shares of SME's](#)

A reduced withholding tax applies to dividends allocated by SME's (as defined in article 15 of the Corporation Code / article 1:24 CCA) to new registered shares issued upon cash contributions carried out as from 1 July 2013. The withholding tax is equal to:

- 20% for dividends allocated or assigned on the occasion of the profit distribution relating to the second accounting year following that in which the injection occurred;
- 15% for dividends allocated or assigned on the occasion of the profit distribution relating to the third accounting year following that in which the injection occurred, and of the following profit distributions.

Liquidation reserve

A special tax system of liquidation surpluses has been introduced for SME's. As from tax year 2015, SME's have the possibility to use totally or partially their accounting profit after tax to build up a "liquidation reserve". This reserve must be recorded and held continuously in one or several separate liabilities accounts (it may not be used as basis for any remuneration or allocation). It is liable to a separate tax of 10% when it is built up.

No withholding tax will be due on the part of this reserve held until the liquidation of the company. If dividends are distributed via a withdrawal from this reserve, before the liquidation of the company, the dividends are subject to the withholding tax on income from movable property at the following reduced rates:

- 20% if the distribution occurs during the first five years;
- 5% if the distribution occurs later.

Miscellaneous income

Miscellaneous income is generally taxed separately at fixed rates, although this income can be taxed at normal progressive rates, if this is to the advantage of the taxpayer. In general, miscellaneous income is income from unusual or occasional activities.

- Capital gains on personal real estate are exempted from taxes, unless they are realized on a regular base. The transfer of buildings within 5 years following the acquisition is taxed at a percentage of 16,5%. The transfer of lands within 5 years after the acquisition is taxable at a percentage of 33% and at a percentage of 16,5% in case of a sale within 8 years;
- Prizes, subsidies, awards,... are taxable at a percentage of 16,5%;
- Maintenance payments are taxable at progressive rates and only 80% of the payments are taxable for the recipient;
- Capital gains realised on the transfer of shares are generally exempted in the personal income tax. There are two exceptions:
 - The capital gain is taxable when a major shareholding (more than 25%) is transferred within 5 years after the acquisition to a company not located in the European Economic Area. The tax rate is 16,5%;
 - The capital gain is taxable when the whole transaction is qualified as speculative. This means that the transfer of shares does not fit in the normal management of private assets. The tax rate is 33%.

| Type of income | Tax rates |
|---|--|
| Capital gains on personal real estate (buildings) | 16,5% (< 5 years) |
| Capital gains on personal real estate (lands) | 33% (< 5 years) / 16,5% (> 5 years and < 8 years) |
| Prizes | 16,5% |
| Subsidies | 16,5% |
| Maintenance payments | Progressive rates (only 80% of the income is taxable) |
| Capital gains on shares (major shareholdings) | 16,5% |
| Capital gains on shares (speculative) | 33% |
| Occasional profits and proceeds | 33% |

| Type of income | Tax rates |
|--|-----------|
| Allowances for research workers | 33% |
| Sublease or transfer of lease | 30% |
| Sporting rights (fishing, shooting, ...) | 30% |

“Internal” capital gains: if capital gains on shares, realized at the contribution into a company, are not taxed as miscellaneous income, the paid-up capital (for tax purposes) of the receiving company equals the acquisition value of the contributed shares for the contributor. So any repayment of excess capital will be considered a dividend, subject to a withholding tax of (in principle) 30%.

Deductions

A taxpayer can benefit some deductions:

- The maintenance allowances (80% of the sums paid is deductible from the net taxable income, certain conditions will have to be met);
- The losses incurred in a previous or current tax year.

Tax rates

The Belgian personal income tax rates are progressive. Several types of income are taxed separately.

The rates for income year 2019, tax year 2020 are:

| Taxable income (euro) | Personal income tax rate |
|-----------------------|--------------------------|
| 0 – 13.250,00 | 25% |
| 13.250,00 – 23.390,00 | 40% |
| 23.390,00 – 40.480,00 | 45% |
| Above 40.480,00 | 50% |

Local and regional surtax must be added to these amounts. This is a percentage of the state personal income tax due.

Zero-bracket amount

In the personal income tax a certain amount is exempt from tax. This amount is called the basic zero-bracket amount. The basic zero-bracket amount is 8.860 euro for tax year 2020.

The zero-bracket amount can be increased dependent on the personal status of the taxpayer. For example, the number of children.

Personal allowances tax year 2020:

| | |
|---|-------------|
| Basic personal allowances | 8.860 euro |
| Personal allowances 1 child | 1.610 euro |
| Personal allowances 2 children | 4.150 euro |
| Personal allowances 3 children | 9.290 euro |
| Personal allowances 4 children | 15.030 euro |
| For every extra child | 5.740 euro |
| tra allowance per child less than 3 years old | 600 euro |

Tax reductions

| Expenses | Rate of the tax reduction (tax year 2020) |
|---|---|
| <i>Long-term savings</i> | |
| Individual life insurance premiums and mortgage capital repayments | 30% (max. 705 euro) |
| Personal premiums for group insurance contracts and pension funds | 30% (max. 705 euro) |
| Pension savings | 25% (max. 315 euro) 30% (max. 294 euro) |
| <i>Real estate</i> | |
| Expenses for another dwelling than the own dwelling house: Federal tax credit for long-term savings (individual life insurance premiums + capital repayments) | 30% |
| Expenses for acquiring or maintaining the own dwelling house: regional tax credit (housing bonus) or regional tax credit for long-term savings (loans which are not meeting the conditions for the housing bonus) | Marginal rate (min. 30%) or 30% |
| Federal tax credits (for another dwelling than the own dwelling house) – loans contracted until 31 December 2013 (transitional provision) | Marginal rate |
| Regional tax credit for standard interest, additional interest, "housing-savings", interest relating to the conversion of the old creditable withholding tax on real estate (transitional provision) | Marginal rate |
| Renovation of low-rent dwelling houses | 5% (max. 1.220 euro) |
| <i>Environment</i> | |
| Roof insulation (only Wallonia) | 30% (max. 3.260 euro) |
| "Low energy house" | Fixed at 470 euro |
| "Zero energy house" | Fixed at 1.880 euro |
| Other electric vehicles than private cars | 15% (four wheels: max. 5.150 euro / otherwise: max. 3.140 euro) |
| <i>Other expenses</i> | |
| Gifts (min. 40 euro) | 45% (max. 392.200 euro) |
| LEA vouchers and service vouchers | 30% (max. 1.500 euro) |
| Shares of recognized development funds | 5% (max. 330 euro) |
| Expenses for child care (max. 11,20 euro / day / child) | 45% |
| Tax shelter for equity investments in starting companies | 30% (max. 30.000 euro) or 45% (max. 45.000 euro) |
| Tax shelter for equity investments in growth companies | 25% (max. 25.000 euro) |

Tax year and tax return

The income year is the calendar year in which a taxpayer receives the income, the tax year is the year following on this calendar year.

The filing date is around June 30 for resident taxpayers. The filing date for non-residents is during the last quarter of the year following the income year.

Spouses and legal cohabitants must submit one return, but the incomes are taxed separately. Separate returns are applicable in some cases, for example in the year of marriage or the year in which the legal cohabitation is registered.

4.4 VALUE ADDED TAX (VAT)

Value Added Tax (VAT) is a tax on goods and services provided by a business. It is a consumption tax. The tax is due on the added value.

VAT is charged at each stage of the production chain and in the distribution of goods and services. The company who charges the VAT is required to pay the VAT amount to the tax authorities.

Basically, the VAT paid on purchases can be deducted from or set off against the VAT due. Only the balance of VAT due must be paid to the tax authorities. If there is a balance of deductible VAT, the amount can be recovered from the tax authorities. The real VAT cost is borne by the final consumer.

The legal basis is the Belgian VAT Code, which is based on the EU directive 2006/112/EC.

Who?

A taxable person is anyone who, in the performance of an economic activity, carries out, in a regular and independent manner, whether on a principal or accessory basis, with or without profit motive, the supply of goods or services referred to in the VAT code, irrespective of the place where that activity is carried out.

Tax rate

The rate depends on the nature of the transaction. The scheme below shows the different applicable rates:

| | VAT rate | Applies to | Examples |
|----------------------|----------|---|--|
| Standard rate | 21% | All goods and services not eligible for one of the reduced rates. | New cars, cosmetics, ... |
| Reduced rates | 12% | Certain goods or services which are economically or socially important. | Margarine, pay television, social housing, certain solid fuels (e.g. coals), restaurant and catering services (excluding drinks served), ... |
| | 6% | Particularly for commodities and services with social character. | Food, construction, living animals, passenger transport, pharmaceutical products and medical equipment, water supply, ... |
| Zero rate | 0% | | Newspapers, magazines published at least 48 times a year, ... Goods for recycling |

Taxable transactions

The Belgian VAT Code describes four taxable transactions: supply of goods, supply of services, import of goods and intra-community acquisitions of goods.

Exemptions

There are two kinds of exemptions. The first group of exemptions reserves the right to deduct VAT on purchases. These are the exemptions of art. 39 to 42 VAT code. The exemptions of the other group are included in art. 44 of the VAT code and no VAT deduction is allowed.

[Exemptions of art. 39 to 42 VAT code](#)

These are exemptions in the framework of international transactions such as export, import, intra-community supplies and acquisitions, international transport,....

A person establishing an exempted activity of art. 39 to 42 of the VAT code can deduct the VAT paid to its suppliers.

[Exemptions of art. 44 VAT code](#)

- Certain activities with a cultural or social nature. Examples are doctors and educational institutions;
- The rental of real estate. There is an optional regime for new real estate to rent with VAT since October 2018.
- Banking transactions and financial services;
- Insurance services;
- ...

A person establishing an exempted activity of art. 44 of the VAT code cannot deduct the VAT he paid to its suppliers.

The taxable amount

The taxable amount includes the value of everything obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply. This amount also includes the commission, insurance and transportation costs, taxes (except VAT), duties and levies.

Limitation to VAT deduction

The VAT deduction on business assets partly used for private purposes is limited to the actual professional use.

In addition, limitation to VAT deduction applies to different expenses made by the company:

| Expenses | VAT deductible (general rule) |
|---------------------|--|
| Gifts | VAT is deductible for one gift offered with a cost below 50 euro (excl. VAT) per commercial relationship per calendar year |
| Reception costs | 0% |
| Passenger car costs | Actual professional use with a maximum of 50% |
| Restaurant costs | 0% |
| Hotel costs | 0% |

Obligations

[Registration](#)

Anyone who is liable to pay Belgian VAT and any taxable person established in Belgium must register for VAT purposes and file for a VAT identification number.

Taxable persons established in another EU Member State can choose to register for VAT either directly or by appointing a VAT representative. Other taxable persons (not established in an EU Member State) don't have the choice, they have to register by appointing a VAT representative.

A Belgian VAT number is assigned to each VAT payer. A Belgian VAT number is composed of the letters BE followed by a ten-digit number, BE 0123.456.789. This number must be written in all contracts, invoices, order forms, etc.

[Invoicing](#)

In general, a taxable person must issue invoices. Some are excluded from the obligation. Paper and (under certain conditions) electronic invoices are possible.

[VAT-Bookkeeping](#)

The taxable person is required to keep accounts adapted to the size of his activities in order to enable the application and supervision of the Belgian VAT.

There are different books which have to be kept (on paper or electronically):

- A purchase journal, this is a book listing all the purchase invoices;
- A sales journal, this is a book listing all sales invoices;
- A financial journal
- A book of daily receipts;
- A list of fixed assets and a number of special accounts;
- Certain registers.

[VAT returns](#)

There are monthly and quarterly VAT returns. In principle, the taxable persons must file a monthly return. A quarterly return is allowed when the annual turnover doesn't exceed 2.500.000 EUR. The returns must be filed with the VAT authorities by the 20th of the month following the period to which it relates. The payment of VAT to the Belgian authorities must be done within the same period as the VAT-return. The VAT payments can be made from a foreign bank account.

In the case of quarterly returns, it is possible that the tax payer must make prepayments. A prepayment amounts one third of the tax payable in the previous quarter. These prepayments must be made by the 20th of the second and the third month of the calendar quarter.

[Annual sales listing](#)

Taxable persons must file an annual listing for services to its Belgian registered VAT customers. However, enterprises that only conduct activities that are exempted from VAT according to article 44 Belgian VAT Code are not obliged to file this listing.

The annual sales listing must be filed by 31 March of each year.

[European sales listing](#)

The European Sales listing contains the Intra-community supplies exempt from VAT. There are three categories: intra-community supply of services, intra-community supplies of goods and intra-community supplies of goods in the framework of triangulation.

The European sales listing must be filed by the 20th of the month following the reporting period. Taxable per-

sons with monthly returns must also file the European sales listing on a monthly basis. The taxable persons with quarterly returns, should file the European sales listing quarterly.

[Intrastat](#)

In the monthly intrastat declaration companies provide information about their Intra-community (intra-EU) flows of goods. The intrastat declaration must be filed the 20th of the month following the month to which it relates.

Permanent establishment

A permanent establishment is subject to the same VAT obligations as a Belgian resident entrepreneur.

In the case in which a foreign entrepreneur doesn't have a permanent establishment in Belgium, different rules apply. Generally, a foreign entrepreneur should only register for Belgian VAT purposes if he performs taxable activities for which he is liable to pay Belgian VAT, e.g. import of goods.

When a foreign company supplies a good or a service in Belgium, to a taxable person, the VAT is generally due by the customer. (under certain other conditions) Following this general rule, the foreign company does not need to register for Belgian VAT purposes when he performs taxable activities in Belgium.

Special system for small enterprises

A tax exemption applies for the supply of goods and services by enterprises whose annual turnover does not exceed 25.000 euro excl. VAT. On the other hand, they are not entitled to deduct the VAT on their purchases. This exemption system does neither apply to certain immovable transactions, nor to certain transactions with new means of transport. Under certain conditions, these enterprises can be subjected to the normal VAT system.

4.5 REGISTRATION DUTIES

General

Registration duties are a tax on the registration of deeds or documents. The regions are responsible for the registration duties.

Examples of deeds and documents that must be recorded are notarial deeds, deeds relating to real estate situated in Belgium, the decisions and judgements of a Belgian courts or tribunals, ...

Some examples of different types of registration duties are registration of the establishment of a mortgage, of the sale of real estate, of the rental of real estate, of gifts, of matrimonial contracts and court decisions, of the division of real estate,...

The evidence of registration is a reference made by the administration on the deed or the document.

Sale/division of real estate

Registration duties need to be paid on the sale and the division of real estate. The standard rates on the sale of real estate are:

| | |
|-----------------|-------|
| Flemish region | 10% |
| Brussels region | 12,5% |
| Walloon region | 12,5% |

Reductions are possible under certain conditions such as the sale to real estate dealers or the sale of a modest house (house or apartment for the accommodation of a family or one person). In the Flemish region, the tax rate for the purchase of the family home can be reduced to 7%.

The standard rates for a division of real estate are:

| | |
|-----------------|------|
| Flemish region | 2,5% |
| Brussels region | 1% |
| Walloon region | 1% |

Donations

A donation of real estate has to be made official by a notarial deed and so is automatically subject to gift duties.

A donation of movable property should not always be registered. An example is a transfer from hand to hand. When this transaction is not registered, there is no registration duty due but this means that the donor must survive for at least three years after the day of the gift, otherwise inheritance tax is due.

The gift duties depend on:

- The value of the goods;
- The degree of the relationship between the donor and the beneficiary.

| | Flemish region | Brussels region | Walloon region |
|---|----------------|-----------------|----------------|
| <i>Movable property (specific conditions apply for some regions)</i> | | | |
| Between lineal relatives, between spouses and between legal cohabitants | 3% | 3% | 3,3% |
| Between all other persons | 7% | 7% | 5,5% |
| <i>Immovable property and non-qualifying movable property</i> | | | |
| Between lineal relatives, between spouses and between legal cohabitants | 3% - 27% | 3% - 27% | 3% - 27% |
| Between all other persons | 10% - 40% | 10% - 40% | 10% - 40% |

The gift duties for immovable property in the Flemish region could be reduced when an energy-saving investment is carried out within five years after the gift.

Transfer of family businesses and companies

Under certain specific conditions, a family business or company can be transferred exempt from gift duties. The rules concerning the transfer of a family business differ depending on the region where the person is domiciled.

| | |
|-----------------|----|
| Flemish region | 0% |
| Brussels region | 0% |
| Walloon region | 0% |

4.6 INHERITANCE TAX

General

The inheritance tax is a tax paid by a person who inherits assets (money, property, ...) of a deceased person. Inheritance tax is due on the value of the entire estate of a deceased person who was domiciled in Belgium. If the deceased person wasn't domiciled in Belgium at the time of death, the transfer duty upon death still applies to real estate situated in Belgium.

All the heirs must file together an inheritance tax return. Contents of the inheritance tax return are the identification of the deceased, the declarants, a statement of assets and liabilities,... The inheritance tax return is the basis for the calculation of the inheritance tax.

Rates per region

The amount paid as inheritance tax depends on:

- The value of the estate;
- The degree of the relationship between the heirs and the deceased;
- The region where the deceased had his fiscal domicile at the time of death.

Each region has its own rates, reductions and specific rules for calculating the taxable base.

The rates applicable in the different regions are:

| | Flemish region | Brussels region | Walloon region |
|---|----------------|-----------------|----------------|
| Between lineal relatives, between spouses and between legal cohabitants | 3% - 27% | 3% - 30% | 3% - 30% |
| Between brothers and sisters | 25% - 55% | 20% - 65% | 20% - 65% |
| Between uncles or aunts and nephews or nieces | 25% - 55% | 35% - 70% | 25% - 70% |
| Between all other persons | 25% - 55% | 40% - 80% | 30% - 80% |

4.7 CUSTOMS DUTY

Belgium is part of the European customs union and applies the European customs tariffs and regulations. These procedures are based on the Community Customs Code and on the decrees issued for its implementation. Goods entering the European Union in Belgium are in principle taxed with customs duties. The tariffs are based on the nature of the goods and the country from which they have been imported. The tax base generally is the customs value and sometimes the quantity.

Companies also need to have an EORI – number. The EORI – number allows corporations to identify themselves with customs and enables them to import goods in- and outside of the European Union.

4.8 EXCISE DUTY

Belgium applies the European excise duty tariffs and regulations. Excise duties are levied on alcoholic drinks, tobacco products and mineral oils. In addition, in Belgium excise duties are also levied on coffee and non-alcoholic drinks.

4.9 OTHER TAXES

Belgium knows a few other taxes such as a tax on stock-exchange and carry-over transactions, annual tax on insurance transactions, annual tax on profit-sharing schemes, tax on long-term savings and a bill-posting tax.

5 EMPLOYMENT AND SOCIAL SECURITY

5.1 LABOUR LAW

Employment is a very regulated issue in Belgium. Specific work rules, set up by joint committees composed of both employers and workers/employees, apply in the different sectors. Work conditions and minimum wages are strictly determined.

In Belgium there is a difference between white collar employees and blue collar workers. In what follows a few important rules for employees are discussed.

Agreement

When both parties agree to work together for an indefinite time or did not agree on a particular time, the agreement is to be assumed an agreement of indefinite term. In principle, the agreement doesn't have to be in writing. A written labour agreement for an indefinite time is only compulsory for specific clauses but is highly recommended and customary. It insures the employer that there are no ambiguities and no grounds for disputes.

A fixed term contract and a part-time contract should always be in writing. A labour agreement for a fixed term is an agreement where both parties agree to work together starting from a particular day for a fixed term in time. (For example: one month) There can only be maximum four agreements with each a minimum term of three months in a period of two years.

Labour time

The number of working hours for a full-time employment is established at 38 hours per week (effective hours per week or 38 hours on average over a specified reference period). When the employees effective work for 39 or 40 hours a week, there must be allocated 6 or 12 compensatory days of rest over a one-year reference period.

Concerning the above normal limits of working time are there some derogations: derogation directly permitted by law without prior authorisations (p.ex. work organised in successive shifts (max.: 11 hours/day and 50 hours/week) or derogation acquired by royal decree.

The maximum daily time is 8 hours per day. In certain cases it is possible to increase the daily working time to 9 hours per day (if the worker does not work more than 5½ days a week (work schedule in which the worker, in addition to his weekly day of rest, has at least half a day's rest) or to 10 hours per day (if the worker is absent from home for more than 14 hours a day because of the distance between the workplace and their place of residence or stay).

Legal holiday

In Belgium there are ten public holidays. The specific dates for 2020 are:

| | |
|--------------------------|---|
| New Year | Wednesday, January 1st |
| Easter Monday | Monday after Easter (Monday, April 13, 2020) |
| Labour Day | Friday, May 1st, 2020 |
| Ascension | 39 days after Easter (Thursday, May 21, 2020) |
| Pentecost Monday | Monday, June 1st, 2020 |
| Belgian National Holiday | Tuesday, July 21, 2020 |
| Assumption | Saturday, August 15, 2020 |
| All Saints 'day | Sunday, November 1st, 2020 |
| Armistice day | Wednesday, November 11, 2020 |
| Christmas | Friday, December 25, 2020 |

Leave

The right to the number of vacation days is determined in function of the work performed in the previous year. The minimum statutory annual vacation period is 20 days per year, based on a full-time employment (38h/week) during the previous year. Additional vacation days can be granted but this is not customary.

In Belgium there are great number of different vacation configurations, amongst which time-off for maternity leave, time-off for urgent reasons, short leave of absence, adoption leave, paid educational time-off, and time credit or career interruption. In case of urgent reasons: illness, an accident or hospitalization of a nearby family member, an employee has the right to take family leave. This family leave can be allowed for maximum 10 days per year. The employee does not receive any wages.

Wages

In Belgium, wages and salaries paid out as remuneration to blue-collar workers and white-collar workers by the employer need to be at least equal to the minimum that has been established in the collective labour agreements on the sector level (joint committee).

Blue-collar workers are paid by hour, white-collar employees are paid per month.

The different collective labour agreements (CAO) set minimum wages and wage levels in many industries. These agreements are often extended to other benefits for workers such as holiday bonuses and healthcare.

End of year bonus

In most sectors or companies there is a right to an end of year bonus. The end of year bonus is in the most cases equal to the gross wage of the last month of the year.

Vacation pay

The amount of vacation pay depends on whether it is a blue-collar worker or a white-collar employee.

Vacation pay to blue-collar workers is paid by the National Annual Vacation Service (RJV) or a vacation fund. This amount is derived from the social security contributions that are being paid on the wages by the employer.

The vacation pay to white-collar employees is paid directly by the employer. It consists of single vacation pay and the double vacation pay. The single vacation pay is the normal salary that is paid when an employee takes his days of vacation. The double vacation pay for a full-time work performance is equal to 92% of the gross monthly salary.

The double vacation pay is normally paid in the month in which the employee takes his main vacation of the year (normally June or July).

Early vacation pay (departure pay) needs to be paid when a white-collar employee leaves his employer or reduces his employment fraction.

Benefits

[Meal vouchers](#)

For every day which the employee effectively performs work activities, can a meal voucher be given. The right to meal voucher needs to be embodied in a collective labour agreement or by an individual agreement. An employer cannot contribute more than 6,91 euro per voucher.

[Group insurance](#)

In some sectors employers are obliged to have a group insurance. The group insurance is known as an interesting alternative pay, whereby employees build up pension savings.

These contributions are 100% tax deductible for the employer and tax exempt for the employee. In addition, lower patronal social contributions have to be paid (8.86%) as well as 4,4% taxes.

The employee has to pay social contributions on the one hand between 0 and 2% and on the other hand of 3.55% of the gross amount and taxes of 10% with withdrawal of the funds when retiring. If the employee withdraws the funds at the age of 61 and he hasn't reached the age at which he is able to retire, they will be taxed at 18%. If the employee withdraws these any sooner, for instance at the age of 60, the funds will be taxed at 20%.

Car

As an employer you can provide your employees with a company car. This means that the employee can use this car for all movements, both regarding his professional as well as private life.

The employee himself also needs to pay an amount 'benefits in kind' for the private use of the company car. These are calculated on the basis of the age of the car, the CO2-emissions and the catalogue price of the car.

Hospitalization insurance

A hospitalization insurance is an interesting alternative pay for the employee that is used regularly for white-collar employees. In some sectors it is obliged. Often the hospitalization insurance is entirely free for the employee and for a little cost also accessible for their family.

The company can have a collective hospitalization insurance to lower the costs. The contributions for this insurance paid by the employer are free from social contributions for both the employer as the employee since it's not seen as pay. The contributions for the insurance are also free from taxes.

Occupational expenses

The employer can grant a package of occupational expenses for costs that the employee has to make during working activities (parking costs, lunch costs, etc.).

These occupational expenses are not considered to be wage, since they are meant to pay back the expected expenses made by the employee. The employer and employee don't have to pay social contributions or taxes on this amount.

Illness

When an employee becomes sick or becomes the victim of an accident (excluding an occupational accident), his normal salary has to be paid by the employer during the initial period:

Blue-collar worker :

| Period | Part of the normal salary | |
|-----------------|---|---|
| | To be paid by the employer | To be paid by the health insurance |
| 1st – 7th day | 100% | |
| 8th – 14th day | 85,88% | |
| 15th – 30th day | 25,88% from the part of the salary that does not crosses the limit of the Z.I.V. 85,88% from the part of the salary that crosses the limit of the Z.I.V. | 60% (limited to the amount of the Z.I.V.) |
| 31th day - | | 60% (limited to the amount of the Z.I.V.) |

White-collar employee :

| Period | Part of the normal salary | |
|----------------|----------------------------|--|
| | To be paid by the employer | To be paid by the health insurance |
| 1st - 30th day | 100% | |
| 31th day - ... | | 60% (limited to the amount of the Z.I.V) |

Termination of the contract

The first way to terminate a labour agreement is by mutual agreement. Both employee and employer agree the termination of the employment agreement.

In the case of an employment of indefinite term, either party can prematurely terminate the agreement by giving notice of cancellation. During the term of cancellation, the employee remains in the employ of the employer and continues to receive his salary accordingly. At the end of the term of cancellation, the employment agreement is effectively terminated.

There are certain minimum conditions that need to be fulfilled for the term of notice of cancellation. When certain fixed formalities are ignored in the process, the notice of cancellation becomes null and void.

The length of the term of cancellation will vary, depending on whether it is for a white-collar employee or a blue-collar worker.

Starting from 01/01/2014 all new contracts follow the new terms for the period of notice, due to the blue and white collar worker harmonization.

Termination by employer:

| | | | | | | | |
|--------------------------|----------|-----------------|----------|-----------------|----------|-----------------|----------|
| <3 months | 1 week | 7 years | 24 weeks | 22 years | 64 weeks | 37 years | 79 weeks |
| 3 < 4 months | 3 weeks | 8 years | 27 weeks | 23 years | 65 weeks | 38 years | 80 weeks |
| 4 < 5 months | 4 weeks | 9 years | 30 weeks | 24 years | 66 weeks | 39 years | 81 weeks |
| 5 < 6 months | 5 weeks | 10 years | 33 weeks | 25 years | 67 weeks | 40 years | 82 weeks |
| 6 < 9 months | 6 weeks | 11 years | 36 weeks | 26 years | 68 weeks | 41 years | 83 weeks |
| 9 < 12 months | 7 weeks | 12 years | 39 weeks | 27 years | 69 weeks | 42 years | 84 weeks |
| 12 < 15 months | 8 weeks | 13 years | 42 weeks | 28 years | 70 weeks | 43 years | 85 weeks |
| 15 < 18 months | 9 weeks | 14 years | 45 weeks | 29 years | 71 weeks | 44 years | 86 weeks |
| 18 < 21 months | 10 weeks | 15 years | 48 weeks | 30 years | 72 weeks | 45 years | 87 weeks |
| 21 < 24 months | 11 weeks | 16 years | 51 weeks | 31 years | 73 weeks | | |
| Above 2 years | 12 weeks | 17 years | 54 weeks | 32 years | 74 weeks | | |
| 3 years | 13 weeks | 18 years | 57 weeks | 33 years | 75 weeks | | |
| 4 years | 15 weeks | 19 years | 60 weeks | 34 years | 76 weeks | | |
| 5 years | 18 weeks | 20 years | 62 weeks | 35 years | 77 weeks | | |
| 6 years | 21 weeks | 21 years | 63 weeks | 36 years | 78 weeks | | |

Termination by employee:

| | |
|----------------|----------|
| <3 months | 1 week |
| 3 < 6 months | 2 weeks |
| 6 < 12 months | 3 weeks |
| 12 < 18 months | 4 weeks |
| 18 < 24 months | 5 weeks |
| Above 2 years | 6 weeks |
| 4 years | 7 weeks |
| 5 years | 9 weeks |
| 6 years | 10 weeks |
| 7 years | 12 weeks |
| >= 8 years | 13 weeks |

When the employment agreement is broken, there comes immediately an end to the labour agreement and must the party that breaks the employment agreement pay to the other party an indemnity.

In the event of urgent cause, the employment agreement may be terminated without notice period that must be respected or an indemnity that has to be paid. Urgent cause refers to a serious infringement that renders any and all possible collaboration between employee and employer immediately and irrevocably. In this matter there is a strict procedure that needs to be respected.

Contracts of definite term or for defined work activities terminate automatically. No specific formalities are required in the process of termination.

In principle, a contract of definite term or for a defined work performance cannot be terminated unilaterally before the end date of the labour agreement except during the first part of the labour agreement (with a maximum of 6 months); urgent cause or by mutual agreement. When the labour agreement is unilaterally terminated during the second part of the labour agreement an indemnity has to be paid that is equal to the wage for the remaining duration of the contract for definite period. However the indemnity may not be more than the double of the normal notice period that must be paid when it would be a contract for indefinite period.

5.2 EMPLOYMENT OBLIGATIONS

Labour accident insurance

An employer is obligated to close (before the employee enters the company) a labour accident insurance. The labour accident insurance covers accidents that happens during the execution of activities under the employment agreement, it also includes accidents that may occur during the employee's movements between home and the workplace.

Standing employment conditions

Every employer is obligated to provide a copy of the labour regulations to every new employee.

The labour regulations contain the principal rights and obligations of the employees and employer, for example the start and the duration of the working hours, collective vacation days...

Enrolling with employment services and social security

Each employer needs to register with an occupational health care service and the social security office (ONSS).

Liability insurance

The purpose of the liability insurance is to cover the extra-contractual civil liability of the insured company for damage to third parties as a result of different events that have occurred during the course of the business of

the company, whether it happens within the company or outside.

Mostly the material damage, physical damage, intangible damage, and very often pure immaterial damage (which is not the result of guaranteed physical injury or property damage) is insured.

The contribution for a liability insurance is calculated based on the type of activity of the company, the insured amount and scope of the guarantee. Pricing can be based on the number of employees and / or turnover of the company. Usually there is a franchise included in the policy.

5.3 SOCIAL SECURITY

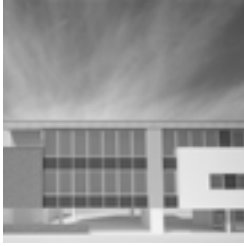
In Belgium you can work as an employee or as a self-employed person. Self-employed persons are working for a company without an authority connection towards the company. Self-employed persons are entitled to organize their work without complying to instructions from the company. Social security contributions are lower for self-employed persons.

Belgium has an extensive social security system which provides cover for medical care, unemployment, pensions, maternity, accidents, workplace injuries as well as hospital pay.

Employers have to register with the National Social Security Office (ONSS) where the social security contributions will be paid.

An employer who hires for the first time employees in Belgium who are subject to the Belgian social security system, benefits from an exemption for the employer social contribution for an amount of 25%. Based on the current legislation, this exemption of 25% applies unlimited in time and applies to employees employed at the latest by 31/12/2020.

| Employees 2020 | Blue collar | White collar |
|---|---|---|
| | Gross x 1,08 | |
| Contributions by the employee | 13,07% | 13,07% |
| Contributions by the employer | ±26% excluding the annual vacation contribution + contribution for an end of year bonus if the end of year bonus is paid by a fund | ±26% |
| The percentages are given as an indication but are depending on the joint industrial committee to which the employer belongs. | | |
| Self-employed (as main occupation) | | Per quarter |
| | First Year | |
| 0,00 to 7.226,46 | € 381,66 | Reduced social security contribution only for the first four quarters of affiliation. From the fifth quarter of affiliation must at least € 739,05 be paid. |
| 7.226,46 to 9.329,19 | € 492,70 | Reduced social security contribution only for the first four quarters of affiliation. From the fifth quarter of affiliation must at least 739,05 € be paid. |
| More than 9.329,19 to 60.427,75 | 20,5% | Minimum € 739,05 |
| 60.427,75 to 89.051,37 | 14,16% | 14,16% |
| 89.051,37 to ... | € 4.235,56 | Maximum social contribution |



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