

BELGIUM

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0- SYNOPSIS TABLE: TAXATION OF RESIDENTS AND NON-RESIDENTS

	RESIDENTS	NON-RESIDENTS
CORPORATE INCOME TAX	25% resident and non-resident businesses with taxable income in excess of €100,000 20% businesses below €100,000	
TAXES ON CAPITAL GAINS	Included in taxable income, except in some cases	
WITHHOLDING TAXES		
Dividends	15%, 20%, 30%	
Interests	30%	
Royalties	30%	
PERSONAL INCOME TAX	25% - 50%	
OTHER TAXES		
Real estate tax	Variable depending on the province or municipality	
Capital duty	12.5%, 10%	
Registration tax	12.5%/10% (on real estate transfer), 8%/ 5% (if the buyer is a real estate company)	
VAT	21%, 6% e 12% Export, some goods and services are exempt	
LOSSES		
Carried forward	Applied but with some limits	
Carried back	Not applied	
DEPRECIATION		
Fixed assets	Buildings: 3-4% Machinery and plant: 10-20%	
Intangible assets	Goodwill: 5 years	

1- AN OUTLINE OF COMPANY LAW

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
Limited liability company (<i>Société à responsabilité limitée</i>)	There are 2 different types of LLC: -BV/SRL (Société à responsabilité limitée) -NV/SA (Société Anonyme) Both may be listed on a stock exchange. Share capital: -no minimum share capital for the BV/SRL -€ 61,500 for an NV/SA. Shareholders: one or more.+	It must be incorporated by notarial deed.	
Ordinary partnership	It does not have legal personality. It may be formed by two or more partners.		
General partnership	It may be formed by two or more partners. It has legal personality. Partners and responsibilities: active, with unlimited liability and engaged in the management of the company.		
Limited partnership	It has legal personality. Shareholders and responsibilities: one or more shareholders have unlimited liability and control the company, the others have liability limited to their contribution.		
Foundation	It is a non-profit organization whose source of income can originate from a donation. It is subject to income tax to the extent that it carries out a business activity.		
Cooperative society	It has legal personality. Partners and responsibilities: at least three with limited or unlimited liability.		They must submit the tax return and are subject to the related tax.
Branch	A branch is an extension of a domestic or foreign company and does not constitute a separate legal entity. Branches of foreign entities are subject to Belgian corporate income tax if the branch qualifies as a PE in Belgium.		
Sole proprietorship	A sole proprietorship is an unincorporated business with a single owner who is a natural person.		The individual owner pays taxes on the income received or losses incurred from the sole proprietorship.

2- WHEN BELGIAN COMPANIES CAN BE CONSIDERED RESIDENT OR NON-RESIDENT?

A company is considered resident in Belgium when it is incorporated under Belgian law or when the place of business is in Belgium.

3- BUSINESS AND NON-BUSINESS ACTIVITIES (ADMINISTRATIVE OFFICES, LIAISON OFFICES, PURCHASING OFFICES, ETC.)

FSC (*Foreign Sales Corporation*)

An FSC is a company which acts only as a sales office in Belgium.

FSCs were subject to a special tax regime until the 2005 tax assessment year, after which their tax advantages were abolished following EU objections to the regime. Since then, FSCs can apply to the tax authorities for advance rulings on tax matters

Distribution centres

A distribution centre is a Belgian company or a branch of a foreign company that engages in the following activities:

- purchasing raw materials, supplies, finished products and trade goods, either in the centre's own name or on behalf of a group
- storing, administering and packaging the abovementioned goods
- collecting orders from non-group members, but without the authority to action the orders
- selling and/or transporting and supplying the abovementioned goods to group members
- transporting and supplying the above-mentioned goods to non-group members on behalf of group members, and
- invoicing or carrying out financial, value added tax, customs and administrative formalities on behalf of group members in pursuance of the abovementioned activities.

Generally, no significant value may be added to the goods in carrying out these operations.

Distribution centres were subject to a special tax regime until 20 September 2005 (subject to phasing out transitional provisions until the end of 2005), after which their tax advantages were abolished following EU objections to the regime. Since then, distribution centres can apply to the tax authorities for advance rulings on tax matters

Coordination centres

Coordination centres were introduced to provide broad incentives to multinational companies to establish their regional headquarters in Belgium and to allow them to reduce costs by centralising their management and financial activities in an almost tax-free environment. Companies in the banking and financial sector were not allowed to set up coordination centres. On 22 June 2006, the European Court of Justice judged the Belgian coordination centres as forbidden state support. While the European Commission could not require the immediate abolition of the coordination centres, the Solicitor-General of the European Court of Justice recommended that the existing coordination centres continue only until 31 December 2010. The tax advantages of coordination centres were consequently phased out during 2010.

Service centres

Belgian companies and Belgian branches of a foreign company may be recognised as service centres, which can provide services to intra-group members only. In general, the activities of a service centre must be preparatory, auxiliary or supporting in nature and provide information on the goods or services of group entities, support for sales, client administration, training of personnel of the group, etc.

Service centres were subject to a special tax regime until 20 September 2005 (subject to phasing out transitional provisions until the end of 2005), after which their tax advantages were abolished following EU objections to the regime. Since then, service centres can apply to the tax authorities for advance rulings on tax matters

4- WHICH FOREIGN LOCAL UNITS CAN BE OPENED IN BELGIUM: SECONDARY ESTABLISHMENTS, BRANCHES, SUBSIDIARIES OR PERMANENT ESTABLISHMENTS?

The permanent establishment of a foreign company is subject to tax on commercial profits and business profits, unless the agreement in force between Belgium and the country of the non-resident specifies that the services rendered are auxiliary or preparatory or that the agent has no power to negotiate or conclude contracts.

Belgian law provides that the unincorporated branch of a parent company is not a separate legal person but part of the parent company, that tax liability falls on it and that the income is treated as that of a non-resident company. If the branch is a permanent establishment, it is taxed like resident companies.

5- CALCULATING TAXABLE INCOME

Belgian taxable income is based on the income of the company as reported in the annual accounts approved by the shareholders. Taxable income includes all profits or losses such as speculative and non-speculative gains and losses, dividends, interest, royalties, rents, etc. The profit before tax is then adjusted for special deductions as specified in the tax law. Copy of the annual accounts must be attached to the tax return.

The profit before tax is then adjusted for special deductions as specified in the tax law.

The following items are not deductible:

- reserves and accruals that do not have their origin in an event which occurred during the financial year;
- income taxes (except the real estate tax);
- expenses not incurred in generating or conserving profits;
- expenses related to hunting, fishing, sailing and any expenses in excess of what is considered reasonable for business purposes;
- 10% to 40% of most costs relating to the use of cars are disallowed as a business expense as well as 25% of costs with respect to taxis;
- 31% of the amount paid for business lunches and dinners in Belgium and abroad is disallowed: this percentage is normally reviewed annually;
- 50% of the cost of other business entertainment and gifts is disallowed;
- capital losses from and write-downs of shares are generally not deductible. But capital losses realised on shares in a company that has been wound up are deductible up to the amount of the paid-up capital on the shares and capital losses arising on the disposal of shares by credit institutions, investment firms and management companies of collective investment schemes, which often hold shares for short periods of time are deductible;
- fines and penalties;
- social benefits to employees, for example;
- some regional taxes.

Special deductions:

- in general, qualifying dividends received;
- investment allowances;
- notional interests.

The following items are deductible:

- Interest is deductible, provided the rate does not exceed the market rate, taking into account the specific elements of risk attached to the loan. Specific elements of risk include the financial situation of the debtor and the duration of the loan. This rule does not apply to loans granted by Belgian banks or Belgian financial institutions;
- Interest paid by an entity on loans is wholly or partly reclassified as a dividend (losing deductibility against profits and incurring a 30% withholding tax) if some conditions are met;
- intercompany charges, such as charges for management services and royalties are deductible, provided they are made on an arm's length basis;
- Itemised documentation that provides evidence the probable character of the loss of receivables is necessary in order to obtain tax deductions for bad debts.;
- Foreign currency exchange. Profits and losses on exchange differences are recognised for tax purposes on realisation only. Unrealised translation differences on the balance sheet date are ignored for tax purposes. Unrealised losses may be deductible if they become apparent at the balance sheet date.;
- A taxpayer may deduct the write-off of loan investments if a loan proves definitely and unconditionally unrecoverable.;

- A taxpayer may deduct reserves for pension payments actuarially calculated for the year end.
- Vehicle costs. There is a limitation on deductions of all costs related to any use of motor vehicles. This limitation applies to their depreciation, insurance, costs of repair, motor vehicle tax, parking costs, fees paid to car rental companies, etc.
- The costs related to the purchase of the car are deductible in a percentage that varies according to the levels of CO2 emissions, while the costs for fuel and financial costs relating to the purchase of motor vehicles are fully deductible.

From January 2018 a deduction limitation applies to the following items:

- notional interests
- dividend received carried forward from previous tax years
- deduction carried forward from previous tax years
- carry forward of trading losses.

These deductible items are grouped together and a deduction limit of 70% applies in respect of taxable income exceeding €1m.

6- TREATMENT OF LOSSES

Under Belgian tax law, trading losses may generally offset any income and capital gains received in the same or future accounting periods. Losses may not offset income or profits earned from an extraordinary or one-off event, but may be carried forward for an indefinite period. However, the carry-forward of trading losses is subject to certain limitations.

In general, Belgian tax law does not provide for carry-back of losses against prior year profits. However, companies may create a tax-exempt reconstruction reserve of an amount equal to the amount of losses incurred during 2020 (subject to a maximum of €20 million).

Reported tax losses cannot be carried forward in cases where a change of control takes place in a company, unless the takeover can be justified on financial or economic grounds.

A taxpayer is entitled to ask for a ruling on this point.

Justification on financial or economic grounds is presumed to be automatically present in the case of a change of control in a company with financial difficulties that maintains, even partially, the original employment levels and activities of the company. The condition is also deemed to be fulfilled if a transfer of shares or management occurs within a group of companies.

Restrictions apply to the carry-forward of losses in the case of a merger. Where 2 companies merge, of which at least one has accumulated tax losses, the surviving company may only carry forward a portion of these accumulated losses.

7- IS INTEREST DEDUCTIBLE?

Belgian taxpayers may deduct interest paid on an accrual basis, provided that the interest is at “arm’s length”, meaning that the rate does not exceed the market rate taking into account the specific elements of risk attached to the loan, such as the financial situation of the debtor and the duration of the loan. These arm’s length limitations do not apply to interest paid to specified financial institutions such as finance companies, the National Bank of Belgium and insurance companies.

Interest paid to directors by their companies may, in certain circumstances, be reclassified as dividends. Such interest is not deductible against profits and is subject to a 30% withholding tax.

Thin capitalization rules also limit the deductibility of interest expenses.

Interest paid is deductible even if the taxpayer has used the amounts borrowed to acquire assets or investments, the income from which is not taxable in Belgium or is taxable at a reduced rate (eg dividends from Belgium or foreign permanent participations).

8- IS DEPRECIATION DEDUCTIBILITY ACKNOWLEDGED?

The method applied is the straight-line method and, in certain cases, the declining balance depreciation methods. The method used must be the one appearing in the financial statements approved by the shareholders.

Depreciation is based on the economic life of the asset. In the straight line method, the following annual depreciation rates are generally accepted:

Office buildings	3%
Factory buildings	4%
Office equipment	10%
Plant and machinery	10-20%
Vehicles	20-25%
Office computers	20-33%
Tools	33%
Start-up expenses	20-100%
Leasehold improvements	10% or term lease

Land is not depreciable.

When a taxpayer elects to use the declining balance method, the maximum rate of depreciation is twice the annual straight-line rate. A taxpayer may not use the declining balance method for:

- cars and minibuses (excluding cars exclusively used for taxi services or chauffeured hiring), and
- assets leased to third parties by the taxpayer claiming the depreciation.

The annual depreciation provision under the declining balance method may not exceed 40% of the cost of acquisition or construction.

The amortisation period of intangible assets is generally 5 years. A taxpayer may depreciate intangible assets related to research and development (R&D) over a minimum period of 3 years. Generally, goodwill acquired in the course of taking over another business is written off over 5 years. Patents are written off based on their expected useful life up to a maximum of 30 years. The declining balance method is not an acceptable depreciation method for intangible assets.

The depreciable base is normally equal to the acquisition or production cost of the asset net of grants received, increased by purchase-related costs (eg import duties, transport and installation costs). In many cases a taxpayer may write off these related costs in the year incurred.

Corporate enterprises acquiring or constructing new tangible or intangible fixed assets to be used in Belgium for business purposes during the tax period can deduct a percentage of the acquisition costs of this investment from their taxable profits.

9- WHAT TAX TREATMENT IS APPLIED TO RESIDENT COMPANIES?

Belgian resident companies are subject to tax on their worldwide income, profits and capital gains, unless they are expressly exempted by state law or a Bilateral Tax Agreement.

For the 2023 tax year, a basic Belgian corporate income tax rate of 25% applies for resident and non-resident businesses with taxable income in excess of €100,000. Businesses with taxable income below €100,000 may be taxed at the marginal rate of 20% if a number of additional requirements are fulfilled.

From 2018, the single marginal rate applies if an entity meets certain conditions relating to the company's size, activities, entity shareholding, capital rate of return, and manager remuneration. The reduced rate applies if the company is an SME, if at the end of the financial year, less than 50% of the Belgian company's shares are held by one or more companies, if investments in other companies' shares do not exceed 50% of paid-up capital and if the Belgian company pays one of its directors or partners at least €45,000 annually.

Cooperative societies approved by the National Cooperation Council are entitled to the reduced rate even if they do not fulfil the conditions relating to shareholding, ownership of shares in other companies and remuneration of managers. The other conditions remain applicable.

The Belgian tax authorities grant a temporary option for separate taxation of earlier exempt reserves. This taxation opportunity is called “spread out taxation”. Temporarily tax-free reserves are profits on which taxpayers need not pay tax immediately. Where reinvestment occurs, taxation of the capital gain is spread over the depreciation period of the assets in which the taxpayer reinvests the realisation proceeds. For reinvestments in buildings, ships or aircraft, the reinvestment period is 5 years. In all other cases, the reinvestment period is 3 years.

In 2006, the European Court of Justice banned the Belgian coordination centers which continued to exist until 31 December 2010. The tax advantages were therefore phased out over the course of 2010.

The coordination centers had been created because they allowed some tax benefits for multinationals, thus encouraging them to establish their own offices in Belgium at reduced costs, taxing them not on the income actually produced, but on a flat-rate basis. The coordination center paid a tax agreed with the tax authorities that ranged between 4% and 10%.

10- ARE GROUP COMPANIES CONSIDERED SINGLE COMPANIES FOR FISCAL PURPOSES?

Group tax consolidation rules apply in Belgium from the 2020 year of assessment. Under the rules, a 90% direct participation requirement must be met for a period of at least five consecutive years. Companies within the group may transfer profits to other companies in the group in order to offset current year losses. The amount of profits transferred cannot exceed the losses of the receiving company. In addition, the company transferring profits is required to make an additional payment to the receiving company equal to the amount of tax that would have been payable on those profits by the paying company. Certain companies, such as investment companies, are excluded from the regime.

11- WHAT TAX TREATMENT IS APPLIED TO FOREIGN LOCAL UNITS AND NON-RESIDENT COMPANIES?

Under Belgian law, an unincorporated branch of a parent company is treated as being a part of the parent company. As a result, where the parent is a foreign company, the tax liability for any Belgian source income falls on the parent, and the income is treated accordingly as that of a non-resident company. Interest and royalty payments made by the branch are deductible only if they relate to assets located in Belgium.

If a branch qualifies as a permanent establishment, the tax obligation falls on it as if it were a company resident in Belgium. In addition, the permanent establishment can also benefit from lower marginal tax rates, if it meets the conditions set out.

12- ARE CAPITAL GAINS TAXED?

Capital gains are generally taxed at the ordinary corporate income tax rates. Realised capital gains are included in the taxable income of the corporation and taxed at the full corporate tax rates, except in the following cases:

- capital gains on the disposal of tangible and intangible assets (other than financial assets) if certain conditions are met;
- capital gains on the disposal by corporate shareholders of shares in Belgian or foreign companies that qualify for the dividend participation exemption, provided the shares were held for a minimum period of one year and a minimum participation threshold of 10% or €2.5m is met;
- Capital losses on the disposal of shares are not deductible and cannot be carried forward.

13- WHAT TAX TREATMENT IS APPLIED IN CASE OF COMPANY LIQUIDATION?

Belgian tax law treats liquidation distributions as the repayment of capital up to the amount of revalued paid-up capital. Liquidations are tax free to the shareholder to the extent that they are treated as a repayment of capital.

Distributions that exceed revalued paid-up capital are treated as dividends and are taxed accordingly.

After deduction of the tax payable and the revalued paid-up capital, amounts distributed to shareholders are subject to a special tax of 25% on the liquidation distribution in excess of the company's capital, unless an exemption applies. Liquidation distributions received by Belgian companies qualify for the participation exemption provided certain conditions are fulfilled

It is possible to carry out a tax-free merger, provided that the following conditions are satisfied:

- the absorbing company is a Belgian company
- the merger is carried out in accordance with Belgian company law, and
- the merger or transfer of assets has a legitimate business purpose.

If these conditions are met, there is no taxation of former reserves or capital gains arising on the merger. The absorbing company takes over the assets of the target company at their original tax value and the transfer is effectively treated as if it had never taken place.

Tax at the full corporate rate may apply where there is no issue of new shares and tax-free reserves must be absorbed in the absence of taxable reserves.

The above rules extend to situations where a company transfers all the assets and liabilities of its Belgian operations to one or more branches it has in other EU member states. The transfer must have a legitimate business purpose and a Belgian PE must continue to use the assets transferred.

14- TRANSFER OF REPURCHASE OF SHARES: HOW ARE THEY TAXED?

Under Belgian tax law, capital reductions are proportionally allocated to paid-up capital and reserves. The portion allocated to reserves is subject to dividend withholding tax, unless exempt.

Under Belgian tax law, repurchase of a company's own shares is generally taxed as a distribution at a rate of 30%.

15- WHAT OTHER TAXES ARE APPLIED IN BELGIUM?

VAT

VAT is normally applied at the rate of 21%.

The reduced rates of 12% and 6% are applied as follows.

12% rate: applied on some foodstuffs; certain agricultural supplies; some social housing; some construction work on new buildings; certain energy products e.g. coal, lignite, coke; some pesticides and fertilizers; certain tyres and inner tubes for agricultural use.

6% rate: applied on some foodstuffs (including takeaway food); soft drinks; water supplies; some pharmaceutical products; some medical equipment for disabled persons; domestic transport of passengers; some books (including e-books); newspapers and periodicals (with certain exceptions); entrance to cultural events and amusement parks; some social housing; certain repair and renovation of private dwellings; some agricultural supplies; hotel accommodation; admission to sporting events; use of sports facilities; intra-community and international road, rail and inland waterways transport; some motor vehicles (cars for the disabled); some social services; certain undertaker and cremation services; minor repairs (including bicycles, shoes and leather goods, clothing and household linen); firewood; cut flowers and plants for decorative use and food production; writers and composers; firewood; restaurants and catering (all beverages excluded).

Restaurants and catering services benefit from a reduced VAT rate of 12% (except for alcoholic products).

From 1 January 2021 to 31 December 2022, imports of vaccines against COVID 19 were exempt.

Real estate tax

Real estate tax is levied on all properties located in Belgium. The basis is a notional net rental value determined by the tax administration. The real estate tax includes a regional tax, a provincial tax and a communal tax. These taxes vary depending on the region, the province and the commune. The real estate tax is fully deductible from taxable profits, but cannot be credited against corporate income tax.

Capital duty

Capital duty is levied on a capital contribution made by an individual in the form of real estate partly or wholly designed or used as a dwelling. Capital duty is levied at a rate of 12.5% in the Brussels and Walloon regions, and 10% in the Flemish region. Capital duty on contributions in cash has been abolished.

Social security premiums

Both the employee and the employer must pay social security premiums on gross salaries and wages. The rate on the employee's portion is 13.07%. The rate on the employer's portion ranges from 24.2% to 35.6% .

Registration tax

On the transfer of real property, the purchaser must pay registration tax on the purchase price. The rate depends on the area of Belgium in which the real property is located:

- Walloon region and Brussels — 12.5% (15% for a third property in the Walloon region)
- Flemish region — 10%.

A lower tax rate applies if the purchaser is a real estate company; the rate depends on the region and the period for which the real property is held, and is typically 5%, increasing to 8% in Brussels.

Alternative minimum tax (AMT)

The Belgian tax authorities have the right to apply corporate tax to a minimum tax base in the event that the taxpayer fails to provide proper and detailed records. Under no circumstances may the amount of the determined taxable profit be lower than €19,000.

Tax based on environmental issues

Belgium has special taxes based on environmental issues. These taxes are paid by the consumer and are applied on packing of beverages and paper.

Tax on insurance premiums

The rate of tax on insurance premiums is generally 9.25% although there are particular rates for certain types, including:

- a 4.4% rate for term assurances and life annuities
- a 1.4% rate for maritime and river insurance and certain types of motor vehicle insurance, and
- a 2% rate on most life insurance policies.

Insurance companies with head offices in Belgium must pay this tax. Foreign insurance ventures outside Belgium that have head offices within the EU may choose, but are not required, to appoint a responsible representative. This person can be a commission agent or broker, who resides in Belgium.

Tax on gambling winnings

There is a regional tax on gambling winnings in Belgium. The rate is 15% in the Flemish region, 11% or 15% in Brussels and 11% in Wallonia.

Motor vehicles tax

It is calculated according to the type of vehicle and its use.

Excise taxes

Excise taxes are levied on certain products such as oil and gas, tobacco, wine, liquor, soft drinks and coffee. An excise tax known as the AUVIBEL levy (a copyright levy) applies to digital storage devices, including external hard disks, memory cards, USB devices, MP3 devices, tablets and other electronic equipment.

Stock exchange transactions tax

The purchase or sale of securities is subject to tax rates ranging from 0.12% to 1.32%, depending on the type of transaction.

Withholding tax on royalty payments

The domestic withholding tax rate in Belgium is 30% for royalties. No withholding tax applies on royalties paid to a related company within the EU (related means a direct or indirect shareholding of more than 25%).

Annual bank tax

An annual bank tax applies to Belgian credit institutions and Belgian branches of foreign credit institutions. The bank tax is imposed on the amount of “debts to clients”, as defined, at a rate of 0.13231%.

Annual tax on the securities account

From February 26 2021, an annual tax applies to securities accounts with a value of more than € 1 million held by legal entities and both resident and non-resident individuals. The tax rate is 0.15%, with a maximum of 10% of the difference between the tax base and 1 million euros. The standard tax period runs from 1 October to 30 September. Credit institutions, insurance companies, investment companies and pension funds are exempt.

Temporary solidarity contribution on oil companies

A temporary solidarity contribution applies to companies in the oil sector for 2022 and 2023, which, for oil companies that are active in Belgium, amounts to €6.90 per tonne of crude oil imported into Belgium between 1 January 2022 and 31 December 2023, whereas for oil companies that are defined as primary participants for 2022 for diesel and petrol, amounts to €7.80 per cubic metre of product released for consumption between 1 January 2022 and 31 December 2023.

16- DIVIDENDS, INTEREST AND ROYALTIES: HOW ARE THEY CONSIDERED AND TAXED?**Dividends**

There is no withholding tax on dividend distributions between two Belgian companies or a Belgian and one from the EU, nor on dividends distributed to qualifying foreign companies resident in an EEA state or in a jurisdiction with which Belgium has signed an AFB, provided certain conditions.

If the above conditions are not met, the 30% withholding tax will be applied, possibly reducible to 15% or 20% by a tax treaty. The withholding tax can then be offset against the corporate tax of the receiving company and reimbursed where it results in credit.

A withholding tax of 30% is applied to distributed dividends, which can be reduced in case of tax treaty.

Royalties

Belgian withholding tax is deducted at source from royalties paid by a Belgian company to a non-resident at an effective rate of 30%, unless a lower rate applies under an applicable tax treaty

Interest

Belgian withholding tax is deducted at source from interest paid by a Belgian company to a non-resident at an effective rate of 30%, or at a lower treaty rate.

17- HOW ARE CALCULATED STOCKS OR INVENTORIES?

Inventory may be valued in Belgium either using the first-in first-out (FIFO), last-in first-out (LIFO) or weighted average methods. Inventory may be written down for tax purposes and accounting purposes if the taxpayer can identify the specific elements on which the write-down is necessary.

18- HOW ARE RESIDENT INDIVIDUALS TAXED?

Tax liability criteria

Residents are subject to Belgian tax on their worldwide income.

The definition of a Belgian resident, as laid down in the Belgian Income Tax Code is as follows: each physical person who has established in Belgium a domicile or the centre of economic interests; a Belgian diplomatic or consular officer or delegate; any other officer, representative or delegate of the Belgian State or subpart of the State, possessing Belgian nationality and performing their duties in a foreign country where they do not reside permanently.

Tax rates

Belgium applies taxes solely with reference to residence and sources.

The resident individual rates of income tax applying for 2023 income are as follows:

<i>Taxable income</i> <i>€</i>	<i>Income tax</i>
0 – 15,200	25%
15,200 – 26,830	€3,800 + 40% of income beyond € 15,200
26,830 – 46,440	€8,452 + 45% of income beyond € 26,830
Oltre 46,440	€17,276.50 + 50% of income beyond € 46,440

The amounts and bands are updated annually or biennially with an indexation coefficient.

A communal tax is also levied, ranging from 0% to 9% of income tax payable (depending on the location of the individual's residence).

Main deductions and reliefs

Spouses and unmarried partners living legally together are required to file a joint tax return, but the total income of each spouse or partner is assessed separately.

A complex system of relatively minor tax rebates exists for individuals who are supporting a dependent spouse, child, student, invalid relative, parent, parent-in-law, sibling, or a parent or grandparent over the age of 65.

The child allowance amounts for 2023 - generally allocated to the spouse or partner with the higher tax base –are as follows:

	<i>Exemption</i>	<i>Cumulative exemption</i>
First child	1,850	1,850
Second child	2,910	4,760
Third child	5,900	10,660
Fourth child	6,590	17,250
Fifth and each subsequent child	6,590	...

Inheritance and gift tax

If the deceased was a resident of Belgium, the property tax is paid by all beneficiaries, resident and non-resident, on the net inherited amount, at rates ranging from 3% to 80% depending on the family relationship and the inherited amount.

If the deceased was not a resident of Belgium, the tax is applied only on the gross value of the property located in Belgium and owned by the deceased, at the same rates as above.

A tax of 3% to 80% is applied to donations certified by a notary deed or registered in Belgium.

Pension, social security and national health policy

It is the policy of the Belgian Government to encourage individuals to save for their own retirement by contributing to superannuation or pension funds. Within specified limits, contributions to a superannuation fund or pension fund in Belgium give rise to tax relief.

Belgium has a comprehensive health service financed by social security contributions. Employees are fully reimbursed by their mutual fund for medical expenses incurred above a certain threshold. The level of the threshold depends on the taxable income of the family unit.

According to EU provisions the Belgian residents - employees and self-employed workers - must subscribe to compulsory social security programs for old-age pensions, unemployment benefits, sickness and disability payments, family benefits, accidents at work and costs for health care. Contributions are paid by employees (13.07% of gross salary) and by employers (24.2% -25% before 1 Jan 2020- for white-collar workers and 36% for blue-collar workers)

19- HOW ARE FOREIGN INDIVIDUALS TAXED? WHEN ARE THEY CONSIDERED RESIDENT?

Tax liability criteria

The definition of a Belgian resident, as laid down in the Belgian Income Tax Code is as follows: each physical person who has established in Belgium a domicile or the centre of economic interests; a Belgian diplomatic or consular officer or delegate; any other officer, representative or delegate of the Belgian State or subpart of the State, possessing Belgian nationality and performing their duties in a foreign country where they do not reside permanently.

Tax rates

Belgium applies taxes solely with reference to residence and sources.

The rates relating to the fiscal year 2023 applied to the income of non-residents are the same as for residents:

Taxable income €	Income tax
0 – 15,200	25%
15,200 – 26,830	€3,800 + 40% of income beyond € 15,200
26,830 – 46,440	€8,452 + 45% of income beyond € 26,830
Over 46,440	€17,276.50 + 50% of income beyond € 46,440

The amounts and bands are updated annually or biennially with an indexation coefficient.

A municipal tax calculated on income tax is also applied, which for non-residents is set at 7%.

Main deductions and reliefs

Spouses and unmarried partners living legally together are required to file a joint tax return, but the total income of each spouse or partner is assessed separately.

The deductions provided for residents are not usually applied to non-residents, unless they come from EEA countries and if at least 75% of the total income is from Belgian sources.

Inheritance and gift tax

If the deceased was not a resident of Belgium, estate tax is levied only on the gross value of the property owned by the non-resident in Belgium at the same rates applied to residents: from 3% to 80%, depending on the relationship and of the inherited amount.

Pension, social security and national health policy

It is the policy of the Belgian Government to encourage individuals to save for their own retirement by contributing to superannuation or pension funds. Within specified limits, contributions to a superannuation fund or pension fund in Belgium give rise to tax relief.

Belgium has a comprehensive health service financed by social security contributions. Employees are fully reimbursed by their mutual fund for medical expenses incurred above a certain threshold. The level of the threshold depends on the taxable income of the family unit.

According to EU provisions the Belgian residents - employees and self-employed workers - must subscribe to compulsory social security programs for old-age pensions, unemployment benefits, sickness and disability payments, family benefits, accidents at work and costs for health care. Contributions are paid by employees (13.07% of gross salary) and by employers (24.2% -25% before 1 Jan 2020- for white-collar workers and 36% for blue-collar workers).

20- TERMS FOR TAX PAYMENTS: THE FISCAL YEAR IN BELGIUM

Tax returns must be submitted one month after the annual general meeting of shareholders and no later than 6 months after the end of the accounting year, unless the tax authorities indicate otherwise.

Taxpayers must submit the return forms electronically by the date indicated on the form.

In case of late or insufficient payment, a penalty ranging from 10% and 200% is applied. In the event of insufficient payment of the tax advance, an interest of 5.25% is applied on the unpaid sum.

21- WHAT TAX INSPECTIONS ARE MADE?

Belgian tax inspectors generally perform tax audits on a company every 6 years. An audit could be as simple as a request for additional information. If there is suspicion of fraud, tax inspectors are empowered to visit the company at any time. If the fraud is confirmed, a special tax department is charged to perform a thorough inspection.

Taxpayers must submit tax returns to the tax authorities, attaching copies of annual reports and explanatory details.

The Belgian tax authorities may also examine a company's books and records to determine whether intercompany transactions are being conducted on an arm's length basis.

22- CAN TAXPAYERS AGREE IN ADVANCE THEIR TAX TREATMENT?

Taxpayers may obtain advance rulings for most matters in relation to Belgian tax, except the following:

- transactions identical to prior transactions for which the taxpayer has already sought and obtained a ruling
- transactions for which an advance ruling is not appropriate (eg lump sum taxation regimes)
- questions in connection with the collection and pursuit of taxes
- transactions with essential elements involving the use of tax havens that do not cooperate with the OECD
- transactions with a country listed as a tax haven by the Belgian authorities when that country does not have a double tax treaty with Belgium that includes an exchange of information clause, and
- transactions without economic substance in Belgium.

The taxpayer must make requests for rulings in writing and in respect of an actual case in advance of the applicable transaction. The Belgian Tax Administration located in Brussels is responsible for advance tax rulings. The tax authorities normally reply within 3 months (6 months where further information is necessary) and publish the ruling in an anonymous form in their official bulletin.

An advance ruling is valid for a maximum of 5 years.

23- WHAT EXCHANGE CONTROLS ARE CARRIED OUT?

Certain payments to and from abroad have reporting requirements only with regard to anti-money laundering.

Payments in excess of €10,000 to a Belgian resident from abroad, or by a Belgian resident abroad, must be reported by the bank or the operating accountant to the CFI (anti-money laundering authority).

24- WHAT TAX RELIEFS AND INCENTIVES ARE GRANTED BY THE BELGIAN GOVERNMENT?

Partial exemptions on payroll withholding taxes

A partial exemption on payroll withholding taxes is available to start-up businesses for the first 4 years of trading. The partial exemption is 10% for small companies and 20% for microbusinesses. A microbusiness is required to meet at least 2 of the 3 following criteria at the end of the tax year: balance sheet total not exceeding €350,000, sales (excluding VAT) not exceeding €700,000, and average number of employees not exceeding 10.

Exemption from real property tax

An exemption from the tax is applied to some real estate properties such as clinics, rest houses, churches, national monuments, schools and foreign properties such as, for example, embassies. There are also temporary exemptions (eg: unoccupied or decayed houses) based on particular provisions in order to facilitate economic expansion

Accelerated depreciation

For tax purposes, accelerated depreciation provides a way of deferring corporate income taxes by reducing taxable income in current years in exchange for increased taxable income in future years. This is a valuable tax incentive that encourages the purchase of and investment in new assets.

Investment deductions

Generally, the deduction is applied in the tax year in which the investment is made (one time deduction). Some taxpayers, however, may choose to take the deduction over the duration of the depreciation period (spread deduction).

Belgian companies and Belgian branches of foreign companies were eligible for a special tax deduction for patent income leading to a tax rate of 6.8% until 30 June 2021.

Tax credit for research and development (R&D)

Belgian companies and Belgian branches of foreign companies that invest in fixed assets eligible for increased investment deductions for patents and for R&D may instead obtain a tax credit, which may be carried forward for the next 4 years where there is insufficient income for offset in the current year. After 5 successive tax years without sufficient setoff, the taxpayer will receive a refund for the remaining tax credit.

Innovative companies

“Young innovative companies” can profit from an exemption of 80% of Belgian company payroll withholding tax for research workers in the R&D department. To qualify as a young, innovative company, a company must spend at least 15% of its expenditure on research, have existed less than 10 years, have been newly-formed and not the consequence of a concentration, restructuring or extension of activities, and be a small company (ie: have no more than 50 employees, actual maximum turnover of €9 million and balance sheet total of no more than €4,500,000).

Reserved earnings

Belgium has a special investment reserve for small businesses, which benefit from a tax exemption for undistributed income, provided that certain conditions are met.

The tax exempted reserve amounts to 50% of the increase in taxable reserved earnings of the taxable period before establishment of the reserve for investments and after deduction of 4 elements:

- exempt capital gains on shares
- the tax-exempt part of capital gains on cars
- a reduction of the paid-up capital (calculated as the weighted average of the taxable period compared to the last previous taxable period in which the company has benefited from a contribution to the tax-exempt investment reserve)
- an increase in the receivables of the company towards individuals, shareholders, directors, company managers, persons with analogous functions, or the spouse or minor children of the individuals so described.

The tax free reserve is limited to €37,500 per taxable period.

Support for audiovisual production activities

Since 2003, Belgian tax incentives have been available to investors in audiovisual productions. From 2017, audiovisual productions also include stage productions, such as theatre, opera, classical music, dance and cabaret and, from 2019, also the video game industry.

A company investing in the production of a European audiovisual work is entitled to a provisional tax exemption corresponding to 310% of qualifying funds invested.

The audiovisual work must be produced by a Belgian resident production company (or the PE of a non-resident company) the principal purpose of which is the development and production of audiovisual works for the cinema or television.

Subsidies

Capital and interest subsidies from the Belgian district authorities are exempt from corporate tax within the framework of economic expansion legislation.

Payroll withholding tax reduction for areas in difficulty

Reductions in Belgian payroll withholding tax are available for employers who invest in areas designated as being in difficulty. Areas in difficulty are determined by the Belgian Minister for Finance based on the number of collective redundancies within one or more companies in a certain area. To qualify, the number of collective redundancies in the area must normally exceed 500 in a 3-year period, but may be reduced to 250 for areas with high youth unemployment. The tax reduction percentage is currently 25% and the maximum exemption per employer is €7.5 million within a 3-year period and is valid for 2 years.

Reconstruction reserve

Companies may create a tax-exempt reconstruction reserve of an amount equal to the amount of losses incurred during 2020 (subject to a maximum of €20 million) in the 2022, 2023 and 2024 tax assessment years.

The reconstruction reserve is not available to companies that are related to companies located in a tax haven, were in financial difficulties on 18 March 2020, or distribute dividends, repurchase their own shares or reduce their capital between 12 March 2020 and the deadline for filing the corporate income tax form in respect of the tax year in which the reconstruction reserve is created.

25- HAS BELGIUM SIGNED BILATERAL TAX AGREEMENTS WITH OTHER COUNTRIES? TABLE OF WITHHOLDING TAXES

The following rates of Belgian withholding tax apply to non-resident entities.

	<i>Dividends</i>	<i>Interests</i>	<i>Royalties</i>
	<i>%</i>	<i>%</i>	<i>%</i>
<i>Non-treaty countries</i>	30	30	30
<i>Treaty countries</i>			
Albania	5/15	5	5
Algeria	15	0/15	5/15
Argentina	10/15	0/12	3/5/10/15
Armenia	5/15	0/10	8
Australia	15	10	10
Austria	0/15	0/15	0/10/30
Azerbaijan	5/10/15	0/15	5/10
Bahrain	0/10	0/5	0
Bangladesh	15	0/15	10
Belarus	5/15	0/10	5
Bosnia and Herzegovina	10/15	15	10
Brazil	10/15	0/10/15	10/15
Bulgaria	0/10	0/10	0/5
Canada	5/15	0/10	0/10
Chile	0/15	5/15	5/10

China	5/10	0/10	7
Congo	5/10	0/10	10
Croatia	5/15	0/10	0
Cyprus	0/10/15	0/10	0
Czech Republic	0/5/15	0/10	0/5/10
Denmark	0/15	0/10	0
Ecuador	15	0/10	10
Egypt	15/20	15	15
Estonia	0/5/15	0/10	0/5/10
Finland	0/5/15	0/10	0/5
France	0/10/15	0/15	0
Gabon	15	0/15	10
Georgia	5/15	0/10	5
Germany	0/15	0/15	0
Ghana	5/15	0/10	10
Greece	0/5/15	0/5/10	0/5
Hong Kong	0/5/15	0/10	5
Hungary	0/10	0/15	0
Iceland	5/15	0/10	0
India	15	10/15	20
Indonesia	10/15	0/10	10
Ireland	0/15	0/15	0
Israel	15	0/15	0/10
Italy	0/15	0/15	0/5
Ivory Coast	15	15	10
Japan	0/10	0/10	0
Kazakhstan	5/15	0/10	10
Korea	15	0/10	10
Kuwait	0/10	0	10
Kyrgyzstan	15	0/15	0
Latvia	0/5/15	0/10	5/10
Lithuania	0/5/15	0/10	5/10
Luxembourg	0/10/15	0/15	0
Macedonia	0/5/15	0/15	10
Malaysia	15	10	10
Malta	0/15	0/10	0/10
Mauritius	5/10	0/10	0
Mexico	0/10	0/5/10	10
Moldova	15	0/15	0
Mongolia	5/15	0/10	5
Montenegro	10/15	15	10
Morocco	6,5/10	0/10	10
Netherlands	0/5/15	0/10	0
New Zeland	15	10	10
Nigeria	12,5/15	12,5	12,5
Norway	0/5/15	0/10	0
Pakistan	15	0/15	0/15
Philippines	10/15	0/10	15
Poland	0/10	0/5	5
Portugal	0/15	0/15	0/10
Romania	0/5/15	0/10	5
Russia	0/5/15	0/10	0
Rwanda	0/15	0/10	10
San Marino	0/5/15	0/10	5
Senegal	15	15	10
Serbia	10/15	15	10
Seychelles	0/5/15	0/5/10	5
Singapore	0/5/15	0/5	3/5

Slovakia	0/5/15	0/10	0/5
Slovenia	0/5/15	0/10	0/5
Southafrica	5/15	0/10	0
Spain	0/15	0/10	0/5
Sri Lanka	15	0/10	10
Sweden	0/5/15	0/10	0
Switzerland	0/15	0/10	0
Taiwan	10	0/10	10
Tajikistan	15	0/15	0
Thailand	15/20	10/25	5/15
Tunisia	5/15	0/5/10	11
Turkey	15/20	0/15	10
Turkmenistan	15	0/15	0
Ukraine	5/15	0/2/10	0/10
United Arab Emirates	0/5/10	0/5	0/5
United Kingdom	0/10	0/10	0
United States	0/5/15	0	0
Uruguay	0/5/15	0/10	10
Uzbekistan	5/15	0/10	5
Venezuela	5/15	0/10	5
Vietnam	5/10/15	0/10	5/10/15

Belgium has signed TIEAs with the following countries, based on the OECD model convention: Andorra, Anguilla, Antigua and Barbuda, Aruba, Bahamas, Belize, Bermuda, Cayman Islands, Cook Islands, Dominica, Gibraltar, Grenada, Guernsey, Jersey, Liechtenstein, Monaco, Montserrat, Saint Kitts and Nevis. Saint Lucia, Saint Vincent and the Grenadines.