New Tax Regime for Expatriates in Belgium

Webinar
17 May 2022
With you today

Carolien Van Echelpoel
Partner
KPMG Tax, Legal & Accountancy
cvanechelpoel@kpmg.com

Ferdy Foubert
Partner
KPMG Tax, Legal & Accountancy
ferdyfoubert@kpmg.com

Register for the GMS Flash Alerts to stay up to date
https://tax.kpmg.us/forms/subscribe-gms-flash-alert.html
1. Setting the scene
2. New expatriate tax regime
3. Transitional measures
4. Call to action
Setting the scene
New tax regime for expatriates in Belgium

- **Circular Letter of 8 August 1983**
- **Program Law of 27 December 2021**
- **Royal Decree of 5 March 2022 – application form**
- **Royal Decree of 17 March 2022 – social security**
- **Circular Letter of 6 May 2022**
- **Application form for opt-in**

- **Entry into force**
  1 January 2022

- **Filing deadline for opt-in**
  End of expiration period (tbc)
  31 July 2022
New expatriate tax regime
Introduction of 2 new tax regimes

01 Regime for Inbound Taxpayers
BBIB/RSII

02 Regime for Inbound Researchers
BBIO/RSICI
An Inbound Taxpayer =

- an employee or an executive company director that is

- either directly recruited abroad by
  ▪ a domestic company; or
  ▪ a Belgian establishment of a foreign company; or
  ▪ a national or international non-profit association

- or seconded to Belgium by a foreign company that is part of a multinational group to
  ▪ one or more domestic companies; or
  ▪ one or more Belgian establishments of a foreign company that is part of the same multinational group; or
  ▪ a national or international non-profit association

- to carry out a remunerated activity in Belgium
## Tax regime for inbound taxpayers/researcher

The inbound taxpayer should meet the following cumulative conditions:

- During 60 months prior to the start of the employment:
  - Not have been considered a tax resident of Belgium; and
  - Not have lived within a distance of 150 km from the Belgian border; and
  - Not have been subject to Belgian personal income tax for non-residents on employment income.

- Receive a remuneration of at least **EUR 75,000** per calendar year for services rendered in Belgium (not applicable for inbound researcher)

- Receive the approval from the tax authorities
Tax regime for inbound researchers

**CONDITIONS**

1. PhD or Master Degree in STEM disciplines
2. OR 10 years of relevant experience
3. 80% of time involved in research
4. No salary threshold

Every employee that, alone or in group, exclusively or primarily, carries out research activities of a scientific, fundamental, industrial or technical character, in a laboratory or an enterprise carrying out one or more programs for research and development.
The inbound taxpayer must receive a **remuneration** from the company **for services rendered in Belgium** that exceeds **EUR 75.000** per calendar year.

**Gross remuneration**
- Before deduction of social security contributions
- Including holiday pay, 13th month, ...
- Excluding:
  - Severance pay
  - Replacement income
  - Exempted remuneration
  - 30% cost proper to the employer
- When submitting the application, only remuneration that is certain at that moment will be considered for the threshold

| Base salary | 65.000 EUR |
| CPE (30%) | 31.200 EUR |
| Allowances | 18.000 EUR |
| Company car | 5.000 EUR |

ZOOM IN: minimum remuneration of 75.000 EUR
ZOOM IN: minimum remuneration of 75,000 EUR

- For activities carried out in Belgium → salary split
- Assessed
  - At the time of the application
  - At the end of each taxable period during which the regime was applied
- In case of a split year (arrival, departure, end of regime or work interruption without continued payment of salary) → pro rata based on the number of days
- A change in working regime: no pro-rata of salary threshold
- Index is possible every three years, earliest for income year 2024
- If not threshold is not met during a given year, the regime will be lost permanently
ZOOM IN: minimum remuneration of 75,000 EUR

<table>
<thead>
<tr>
<th>All figures in EUR</th>
<th>Offer</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross salary</td>
<td>60,000</td>
<td>60,000</td>
</tr>
<tr>
<td>13th month</td>
<td>5,000</td>
<td>5,000*</td>
</tr>
<tr>
<td>Holiday Pay</td>
<td>4,600</td>
<td>4,600*</td>
</tr>
<tr>
<td>CAO 90</td>
<td>2,000</td>
<td>-</td>
</tr>
<tr>
<td>BIK company car</td>
<td>2,500</td>
<td>2,500</td>
</tr>
<tr>
<td>Meal voucher (employer contribution)</td>
<td>1,520</td>
<td>-</td>
</tr>
<tr>
<td>Eco vouchers</td>
<td>250</td>
<td>-</td>
</tr>
<tr>
<td>Employer contribution group insurance</td>
<td>3,000</td>
<td>-</td>
</tr>
<tr>
<td>Performance bonus**</td>
<td>3,000 – 15,000</td>
<td>-</td>
</tr>
<tr>
<td>** Threshold for regime</td>
<td>75,100</td>
<td>72,100</td>
</tr>
</tbody>
</table>

→ Sign-on bonus?
→ Impact of flexible reward

* In the first year of employment, the employee may not be entitled to holiday pay and only a partial 13th month

** Subject to KPIs, bonus can be 0
Reimbursement of cost proper to the employer

Under both regimes, the following expenses can be reimbursed tax-free

- Non-recurring expenses
  - Moving
  - Installation
  - School fees for education in Belgium for the children of the inbound taxpayer or his/her partner
- Recurring expenses directly arising from employment in Belgium
ZOOM IN: non-recurring expenses

1. Moving

- Included
  - one house hunting trip to Belgium
  - travel costs for move to Belgium for the inbound taxpayer, partner, and their children
  - costs to disassemble, pack-up, transport and assemble furniture belonging to the inbound taxpayer
  - hotel expenses for inbound taxpayer, partner, and their children for the first 3 months of the start of the employment in Belgium

- Supporting documents required

- Excluded
  - costs related to the shipment of pets
  - costs related to storage of furniture belonging to the inbound taxpayer, partner and their children
  - costs associated with the termination of the lease for home abroad
  - costs associated with sale of home or capital loss realized
2. Installation
- Purchase of material destined to stay in the house in Belgium (paint, wallpaper, build-in lightning, etc) and household appliances.
- during the first 6 months following the arrival in Belgium
- limited to EUR 1.500
- Supporting documents required

3. School fees
- In a private or international school in Belgium
- Children that moved with (one of) their parents to Belgium
- Belgian school age
- The costs are limited to the tuition fee
- Supporting documents required
ZOOM IN: recurring expenses

- **On top** of the gross remuneration
  - Limited to 30% of the remuneration, excl CPE
  - Deemed to cover recurring costs related to employment in Belgium (housing in Belgium, cost of living, home leave, emergency leave)
  - Can be combined with for example rep allowance, home work allowance
  - No supporting documents required

- **Capped at EUR 90.000**
- Pro-rated in case of split year
- Also exempted from (employer and employee) social security contributions

<table>
<thead>
<tr>
<th>BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>75.000 EUR</td>
</tr>
</tbody>
</table>

- **CPE 90.000 EUR**
- **Gross remuneration 360.000 EUR**
- **No CPE unless researcher**
- **Gross remuneration 75.000 EUR**
- **CPE 23.077 EUR**
- **Gross remuneration 76.923 EUR**

**Gross remuneration 35.000 EUR**

**Limited to 30% of the remuneration, excl CPE**

**Deemed to cover recurring costs related to employment in Belgium (housing in Belgium, cost of living, home leave, emergency leave)**

**Can be combined with for example rep allowance, home work allowance**

**No supporting documents required**

**Capped at EUR 90.000**

**Pro-rated in case of split year**

**Also exempted from (employer and employee) social security contributions**
### Case 1

**Role:** Procurement director  
**Family situation:** Single

<table>
<thead>
<tr>
<th>All figures in EUR</th>
<th>Local Employee</th>
<th>Deduction from salary</th>
<th>On top of salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross remuneration</td>
<td>100,000</td>
<td>100,000</td>
<td>80,000</td>
</tr>
<tr>
<td>Costs proper to the employer (CPE)</td>
<td>-23,076</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belgian EE social security</td>
<td>-13,070</td>
<td>-10,053</td>
<td>-10,456</td>
</tr>
<tr>
<td>Taxable remuneration</td>
<td>86,930</td>
<td>66,871</td>
<td>69,544</td>
</tr>
<tr>
<td>Belgian income taxes</td>
<td>-36,082</td>
<td>-25,404</td>
<td>-26,827</td>
</tr>
<tr>
<td>Costs proper to the employer (CPE)</td>
<td>23,076</td>
<td></td>
<td>20,000</td>
</tr>
<tr>
<td>Net remuneration</td>
<td>50,848</td>
<td>64,543</td>
<td>62,717</td>
</tr>
<tr>
<td>Cost to company</td>
<td>125,000</td>
<td>119,231</td>
<td>120,000</td>
</tr>
</tbody>
</table>
ZOOM IN: recurring expenses

- Recurring expenses must be **contractually agreed**
- Fictitious deduction from gross salary is not allowed. Should be paid on top
- Parties can agree a lower gross salary but should accept all consequences → (Potential) impact on remuneration components that depend on gross salary, e.g.
  - 13th month, holiday pay
  - Bonus
  - Complementary pension contributions
  - Complementary invalidity insurance
  - For inbound researchers: watch out for threshold for work permit purposes of legal pension (ceiling of EUR 64,176,39 for 2022)
  - Termination payment
ZOOM IN: residency

Normal residency rules

Normally considered as tax resident of Belgium, unless non-resident based on the income tax treaty.

**Resident**
- Worldwide income
- Including foreign income (real estate, investment income,...)
- In-scope for stock exchange tax, cayman tax, reporting of foreign bank accounts, foreign life insurances, ...

**Non-resident**
- Resident certificate of home country to be provided annually

Normal residency rules will apply.
Tax regime for inbound taxpayers/researcher

- Applicable for the duration of the employment in Belgium with a maximum of **5 years**

- If the employment in Belgium is continued beyond 5 years, the special tax regime for Inbound Taxpayers can be **extended with 3 years** (8 years in total) provided:
  - the employer continues to meet the condition
  - the annual minimum gross remuneration of EUR 75,000 continues to be met
  - an application to extend the regime is filed within 3 months following the expiration of the 5-year term
Tax regime for inbound taxpayers/researcher

- Employer must submit an application with the tax authorities within 3 months following the start of the employment in Belgium

- Required documents
  - Employment contract or Letter of Assignment
  - Detailed calculation of the annual gross remuneration
  - Certificate signed by the inbound taxpayer

- Expiry period expiring at the earliest on 31 July 2022 → still to be confirmed

- Extension of the regime beyond 5 years: file a new application at the latest within 3 months after the expiration of the 5-year term.

- Decision within 3 months following the date of submission. When granted, the regime is applicable retrospectively as from the start of the employment in Belgium.

- Annual nominative list of all individuals that benefited from the regime in the preceding year to be submitted by 31 January of the following year.
3 Transitional measures
Tax regime for inbound taxpayers/researcher

Individuals that benefited from the old expatriate tax regime less than 5 years on 1/1/2022 can **opt-in** for the new regime provided they meet the following conditions from the start of the employment:

- **During 60 months prior to the start of the employment:**
  - Not have been considered a tax resident of Belgium; and
  - Not have lived within a distance of 150 km from the Belgian border; and
  - Not have been subject to Belgian personal income tax for non-residents on employment income.

- Receive a remuneration of at least EUR 75,000 per calendar year for services rendered in Belgium (not applicable for inbound researcher)

- Receive the approval from the tax authorities
Tax regime for inbound taxpayers/researcher

- New regime will be applicable as of 1 January 2022
- For a maximum duration of 5 years (extendable with 3 years) starting from the initial start of the activities in Belgium
- Application should be filed by 31 July 2022. Application form still needs to be published
- Recurring expenses should come on top of gross salary and this should be contractually agreed → need to revise employment contracts/assignment letters
  - Parties can mutually agree to lower the gross salary
  - Confirmed by the tax authorities
- Individuals that benefit from the old regime and do not opt-in for the new regime or are not eligible to opt-in, can remain under the old expatriate tax regime until 31 December 2023 at the latest (provided no essential changes to employment situation)
Tax regime for inbound taxpayers/researcher

- Decision to opt-in will depend on a number of criteria such as
  - Anticipated end date of assignment
  - Years left under the new regime
  - Impact on personal income
  - Company policy (on equalization)
  - Impact of travel exclusion for 2022 and 2023
## Case 2

**Role:** Managing Director

**Benefiting from current regime:** 3 years

### Details

- **Travel:** 25%
- **Gross remuneration:** 400,000 EUR
- **Foreign dividend income (net):** 20,000 EUR
- **Location (home):** USA
- **Family situation:** Single

### Table: Remuneration Details

<table>
<thead>
<tr>
<th>Description</th>
<th>Old regime 25%</th>
<th>New regime</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>All figures in EUR</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross remuneration (including CPE)</td>
<td>400,000</td>
<td></td>
</tr>
<tr>
<td>Costs proper to the employer (CPE)</td>
<td>-11,250</td>
<td></td>
</tr>
<tr>
<td>Gross remuneration (excluding CPE)</td>
<td>388,750</td>
<td>310,000</td>
</tr>
<tr>
<td>Belgian EE social security</td>
<td>-50,810</td>
<td>-40,517</td>
</tr>
<tr>
<td>Taxable income before travel exclusion</td>
<td>337,940</td>
<td>269,483</td>
</tr>
<tr>
<td>Travel exclusion</td>
<td>-84,485</td>
<td>-</td>
</tr>
<tr>
<td>Taxable remuneration</td>
<td>253,455</td>
<td>269,483</td>
</tr>
<tr>
<td>Belgian income taxes</td>
<td>-124,988</td>
<td>-133,520</td>
</tr>
<tr>
<td>Costs proper to the employer (CPE)</td>
<td>11,250</td>
<td>90,000</td>
</tr>
<tr>
<td>Travel exclusion</td>
<td>84,485</td>
<td>-</td>
</tr>
<tr>
<td><strong>Net remuneration</strong></td>
<td><strong>224,202</strong></td>
<td><strong>225,963</strong></td>
</tr>
<tr>
<td>Belgian income taxes on foreign dividend</td>
<td>-6,000</td>
<td></td>
</tr>
<tr>
<td><strong>Net</strong></td>
<td><strong>224,2020</strong></td>
<td><strong>219,963</strong></td>
</tr>
<tr>
<td><strong>Cost to company</strong></td>
<td><strong>497,188</strong></td>
<td><strong>477,500</strong></td>
</tr>
</tbody>
</table>

**Family situation:** Single

**Location (home):** USA

**Gross remuneration:** 400,000 EUR

**Foreign dividend income (net):** 20,000 EUR

**Travel:** 25%

**Role:** Managing Director

**Benefiting from current regime:** 3 years

---

© 2022 KPMG Tax, Legal & Accountancy, a Belgian BV/SRL and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.
## Transitional measures

<table>
<thead>
<tr>
<th>Timeline</th>
<th>1/01/2022</th>
<th>31/07/2022</th>
<th>2023</th>
<th>2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>New expatriates meeting the conditions</td>
<td>Individuals arriving as from 1/01/2022 can only benefit from the new regime</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current expatriates meeting the conditions for new regime</td>
<td>New regime for remaining period up to maximum 8 years following the start of the employment in Belgium</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Fade-out – continue current expat regime – maximum 2 years</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current expatriates not meeting the conditions for new regime</td>
<td>Fade-out – continue current concessions – maximum 2 years</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Option to switch to new regime
- If less than 5 years under the current concessions
- File application before 31/07/2022
4

Call to action
1. Review current expat population
2. Review contractual arrangements
3. Review and update policies
4. Communicate
5. Prepare payroll instructions
6. Monitor and plan for future
Thank you
Q&A