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**Belgium – Changes Enacted to Regional Taxing Powers, Taxation of Nonresidents**

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In Belgium, new rules granting the regions an expanded scope of fiscal autonomy vis-à-vis the federal government have entered into force. These changes apply as of 1 July 2014 and have retroactive effect to 1 January 2014. Also, in a related development, adjustments have been made to the taxation of nonresidents.

## Why This Matters

International assignment tax professionals and program managers will need to be more mindful of the taxing powers and policies at the regional level in Belgium given the transfer of certain tax competencies from the federal authorities to the regions.

The changes to nonresident taxation will impact employees on international assignments to and from Belgium in terms of how tax residency is defined and determined. These changes will apply from income year 2014.

In light of the new rules, employees on international assignments to/from Belgium and their employers should take stock of their situations and establish the employee's status (resident or nonresident) in order to determine their tax liability and compliance obligations.

## New Powers to Regions Concerning Personal Income Tax

### *Background*

The revised Finance Act (Special Law of 6 January 2014), published in Belgium's official gazette on 31 January 2014[1] contained provisions granting the regions autonomous fiscal powers concerning personal income tax. A new law published in Belgium's official gazette of 28 May 2014[2] gave effect to the changes regarding regional fiscal autonomy authorized by the aforementioned Special Law, as well as to nonresident taxation changes (which we discuss later in this newsletter).

### *New Rules*

Under the new rules, which apply as of 1 July 2014 and have retroactive effect to 1 January 2014, the regions have been given the possibility of raising regional income tax surcharges (e.g., *taxe additionnelle régionale sur l'impôt des personnes physiques,* the so-called "regional supplementary tax"). In addition, the regions can also allow discounts, apply tax increases and reductions, and allow refundable tax credits.

Additionally, a number of tax expenditures have been transferred to the regions such as:

- tax relief regarding a person's own dwelling (for a second or subsequent home, the federal government remains competent);
- service vouchers and local employment agency ("LEA") cheques;
- renovation of houses in specifically designated urban zones[3];

- renovating houses let-out at a low-rent;
- securing homes against burglary and fire;
- maintenance and restoration of protected monuments and sites.

***KPMG Note***

Under the recent legislation, the autonomous powers of the regions to levy personal income tax and to grant tax relief have been largely extended. Although the law applies in general as from assessment year 2015 (income earned as from 1 January 2014), it is expected that the regional authorities are not going to make any important changes to their tax systems before assessment year 2016. The extra powers granted to the regions may not have any impact on the 2014 income for resident taxpayers. However, the changes with respect to nonresident taxpayers will already have an impact for 2014 income.

## Changes to Taxation of Nonresidents

***Background***

The modifications to nonresident taxation are being made to help redress any conflicts with European Union legislation.

Going forward, nonresident taxpayers will fall into one of three categories:

- nonresident individuals from the European Economic Area (EEA) with at least 75 percent of their earned professional income in Belgium;
- nonresident individuals from outside the EEA with at least 75 percent of their earned professional income in Belgium;
- ‘ordinary' nonresidents.

The existing category of nonresidents with a home in Belgium has been abolished.

Only the first category of nonresidents will be entitled to benefit from the regional tax rules on personal income tax.[4]

***KPMG Note***

The new absolute 75-percent limit can have a negative impact on taxpayers who enjoy expatriate status in Belgium and who travel more than 25 percent of their time on business, as these taxpayers will lose the benefit of the regional tax reductions and personal exemptions.

To determine the region to which a nonresident belongs, specific location rules are contained in Belgium’s Income Tax Code.

The new rules for the taxation of nonresidents apply as from assessment year 2015.

## Future Tax System Changes

Finally, the Belgian tax administration is authorized to prepare a new coordinated version of the Income Tax Code. The coordination is a task for the next government, which is expected to include a reform and simplification of the tax system in its programme of government. (However, with the granting of the above-discussed new powers and opportunities given to the regions, any simplification of the tax system may be some ways off in the future.)

*Footnotes*:

1 *Loi spéciale portant réforme du financement des communautés et des régions, élargissement de l'autonomie fiscale des régions et financement des nouvelles competences*, published in the *Moniteur Belge/Belgische Staatsblad*, 31 janvier 2014.

2 *Loi modifiant le Code des impôts sur les revenus 1992 à la suite de l'introduction de la taxe additionnelle régionale sur l'impôt des personnes physiques visée au titre III/1 de la loi spéciale du 16 janvier 1989 relative au financement des Communautés et des Régions, modifiant les règles en matière d'impôt des non-résidents et modifiant la loi du 6 janvier 2014 relative à la Sixième Réforme de l'Etat concernant les matières visées à l'article 78 de la Constitution*, published in the *Moniteur Belge/Belgische Staatsblad*, 28 mai 2014.

3 These urban zones are considered to be in need of renovation and renewal. To promote such renovation the government decided that it needs to take positive steps to provide incentives.

4 Except for some double taxation treaties that include a non-discrimination clause which allows for any personal allowances to be granted proportionally.

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The information contained in this newsletter was submitted by the KPMG International member firm in Belgium. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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