

Belgium Country Profile

EU Tax Centre

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Key tax factors for efficient cross-border business and investment involving Belgium

EU Member State Yes

Double Tax Treaties With:

Albania	Georgia	Mexico	South Africa
Algeria	Germany	Moldova	Spain
Argentina	Ghana	Mongolia	Sri Lanka
Armenia	Greece	Montenegro	Sweden
Australia	Hong Kong	Morocco	Switzerland
Austria	Hungary	Netherlands	Taiwan
Azerbaijan	Iceland	New Zealand	Tajikistan
Bahrain	India	Nigeria	Thailand
Bangladesh	Indonesia	Norway	Tunisia
Belarus	Rep. of Ireland	Oman	Turkey
Bosnia & Herzegovina	Isle of Man	Pakistan	Turkmenistan
Brazil	Israel	Philippines	UAE
Bahrain	Italy	Poland	Uganda
Bulgaria	Ivory Coast	Portugal	UK
Canada	Japan	Qatar	Ukraine
Chile	Kazakhstan	Romania	US
China	Rep. of Korea	Russia	Uzbekistan
Congo	Kuwait	Rwanda	Venezuela
Croatia	Kyrgyzstan	San Marino	Vietnam
Cyprus	Latvia	Senegal	
Czech Rep.	Lithuania	Serbia	
Denmark	Luxembourg	Seychelles	
Ecuador	Macau	Singapore	
Egypt	Macedonia	Slovakia	
Estonia	Malaysia	Slovenia	
Finland	Malta		
France	Mauritius		
Gabon			



Forms of doing business	Corporation (SA/NV) or limited liability company (SPRL/BVBA).
Legal entity capital requirements	Yes Corporation (SA/NV): EUR 61,500 (fully paid in capital) Limited liability company (SPRL/BVBA): EUR 18,550, of which at least EUR 6,200 must be paid in capital.
Residence and tax system	A company is resident if its registered office, main establishment, or place of management is located in Belgium. Resident companies are taxed on their worldwide income.
Compliance requirements for CIT purposes	Filing of annual corporate income tax return no later than 6 months after the termination of the company's financial year (electronically).
Tax rate	The standard corporate income tax rate is 33.99 percent.
Withholding tax rates	<p>On dividends paid to non-resident companies</p> <p>Generally 30 percent (exemptions may apply). As of January 1, 2007, dividends paid to companies established in tax treaty countries are exempt from withholding tax, if:</p> <ul style="list-style-type: none"> ■ Conditions similar to the conditions of the EU Parent-Subsidiary Directive are met; and ■ The relevant treaty includes an exchange of information clause. <p>Since December 28, 2015, a withholding tax of 1.6995 percent applies to dividends paid to foreign companies (implementation of CJEU Tate & Lyle case):</p> <ul style="list-style-type: none"> - established in an EEA Member State or in a tax treaty country; - having a participation of less than 10 percent but more than EUR 2,500,000; - held in full ownership for at least one year; - to the extent that the withholding tax cannot be credited or refunded in the hands of the receiving company. <p>On interest paid to non-resident companies</p> <p>Generally 30 percent (exemptions may apply). Double tax treaties and EU Directives may reduce or exempt the withholding tax.</p> <p>On patent royalties and certain copyright royalties paid to non-resident companies</p> <p>Generally 30 percent (exemptions may apply). Double tax treaties and EU Directives may reduce or exempt the withholding tax.</p> <p>On fees for technical services</p> <p>33 percent on 50 percent of gross amount if (1) Belgium has power to tax (according to tax treaty) or (2) fee is not taxed in country of residence (if there is no tax treaty).</p>



On other payments

No

Branch withholding taxes

No

Holding rules

Dividend received from resident/non-resident subsidiaries

Exemption method (dividends received deduction (“DRD”) of 95 percent):

- Participation requirement: 10 percent of the share capital or EUR 2,500,000 of acquisition value;
- Minimum holding period: one year;
- Taxation requirement: (i) subject to tax and (ii) nominal and effective rate under domestic common law rules not less than 15 percent (does not apply to dividends from EU subsidiaries). Other specific exclusions apply;
- Excess carry-forward: As of January 1, 2010, excess DRDs – which could not previously be used – can be carried forward to the following assessment years (for an unlimited period). The new provision only applies to dividends from subsidiaries established in an EU Member State (as of January 1, 2010) and to dividends from subsidiaries established in an EEA Member State (as of January 1, 2011). Nevertheless, the Belgian tax administration accepts, in some cases, the carry-forward of excess DRDs for dividends from subsidiaries established in third countries.

Capital gains obtained from resident/non-resident subsidiaries

Separate taxation of 0.412 percent on the capital gains realized on shares of which the dividends fulfill the taxation conditions for the 'dividends received deduction' and that the company holds for an uninterrupted period of at least 1 year. If holding period condition is not fulfilled, capital gain is taxable at separate rate of 25.75 percent.

Tax losses

Losses may be carried forward indefinitely. Carry-back is not permitted.

Tax consolidation rules/Group relief rules

No

Registration duties

Belgium’s capital duty rate is 0 percent. Only a fixed registration duty of EUR 50 is due.

Transfer duties

On the transfer of shares

No

On the transfer of land and buildings

In principle, 10 or 12.5 percent (depending on the region where the immovable



property is located).

Stamp duties

No

Real estate taxes

Annual tax on deemed rental income.

Controlled Foreign Company rules

No

Transfer pricing rules

General transfer pricing rules

Arm's length principle.

Documentation requirement?

Supporting documentation is required.

Formal TP documentation requirements (Master and Local file) and Country-by-Country Reporting have been introduced.

Thin capitalization rules

Yes (5:1 debt-to-equity ratio for interest paid to tax-privileged recipients or to group companies (applicable as from July 1, 2012) and 1:1 ratio for interest paid to directors (individuals) or to shareholders (individuals)).

General Anti-Avoidance rules (GAAR)

General anti-abuse rule: a legal act or a series of legal acts establishing one single transaction cannot be appealed to the tax authorities, if the latter demonstrates by presumptions or any other evidence that there is fiscal abuse. It is up to the taxpayer to prove that the legal qualification chosen is justified by reasons other than tax avoidance. If the taxpayer is unsuccessful in proving its case, the tax authorities will be allowed to determine the taxable base and tax computation as if no fiscal abuse had taken place.

Specific Anti-Avoidance rules/Anti Treaty Shopping Provisions

Interest, royalties, and service fees paid to tax havens are not deductible except if the taxpayer proves that the expenses are connected to transactions actually carried out and do not exceed normal limits.

As of January 1, 2010, payments to tax havens (nominal tax rate less than 10 percent/ no corporate tax on domestic or foreign income / effective corporate tax rate on foreign income less than 15% – or OECD standard for exchange of information is not effectively and substantially applied) must be reported in a special tax form.

Anti-hybrid and anti-abuse rules in EU Parent-Subsidiary Directive have been transposed into Belgian legislation.

Advance Ruling system

Yes, binding ruling generally issued for a period of 5 years.



IP / R&D incentives

Patent income deduction (80% of gross patent income) was cancelled as of July 1, 2016 (with 5 years grandfathering period - June 30, 2021) as it was not in line with OECD modified nexus approach.

New Innovation income deduction available as of July 1, 2016. The net income from qualifying intellectual property can be deducted at 85%. This deduction applies to income from patents or supplementary protection certificates, breeders' rights, orphan drugs, data and market exclusivity and copyrighted software. Capital gains on such IP also qualify if reinvested.

The net income is determined based on the 'modified nexus approach', according to which there should be sufficient substance and an essential link between the expenses, the IP and the related IP income. This is expressed in the following formula:

$$\text{[qualifying R\&D costs/total R\&D costs]} \times \text{total income from intellectual property} = \text{qualifying income from intellectual property}$$

Qualifying expenditure includes the cost of outsourcing to unrelated parties, whereas the cost of outsourcing to related parties is excluded. An up-lift of 30% of qualifying costs is provided.

The unused deduction can be carried forward.

Other incentives

Notional interest deduction: both resident companies and Belgian branches of non-resident companies can deduct a notional (or deemed) interest on their equity (share capital, reserves and retained earnings) as adjusted. For most companies, the NID results in a substantial reduction of the effective tax rate.

VAT

The standard rate is 21 percent; reduced rates are 0, 6 and 12 percent.

Other relevant points of attention

No

Source: Belgian tax law and local tax administration guidelines, updated 2017



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