

GMS Flash Alert



2021-061 | February 24, 2021

Belgium – Tax Treatment of Expatriate Benefits-in-Kind Clarified

In response to a parliamentary question, Belgian’s Minister of Finance clarified the tax treatment of temporary housing costs and tax return assistance costs provided by employers to foreign nationals benefitting from the special expatriate tax regime.¹

WHY THIS MATTERS

The qualification of certain employer-provided temporary housing costs and tax return assistance costs as benefits-in-kind in principle could increase the taxable income of the expatriate and could have an impact on the employer’s reporting and withholding tax obligations.

The Belgian expatriate tax regime was introduced to attract foreign investments in Belgium by decreasing the wage costs for employers. Given that the expatriate tax regime benefits the employer, it is important for employers to make sure that Belgian income tax returns for expatriates are prepared, filed and followed up in accordance with Belgian income tax legislation.

Background

Belgium has an attractive special expatriate tax regime for foreign nationals working temporarily in Belgium, offering significant benefits and decreasing the cost of employing individuals in Belgium.²

The taxable remuneration of an expatriate eligible to benefit from the special tax regime is reduced by deducting so-called tax-free allowances, up to a limit of EUR 11,250/EUR 29,750. These allowances are considered to be reimbursements of costs properly borne by the employer and are, therefore, not taxable in the hands of the individual employee.

A distinction is made between repetitive expenses and non-repetitive expenses.

Repetitive expenses that qualify for exclusion include tax equalisation, home leave allowances and those granted to cover the differences in cost-of-living and housing between Belgium and the expatriate's country/jurisdiction of origin.

Moving costs on arriving in or leaving Belgium, and other initial costs of first arrival in Belgium such as temporary housing and related (utility) costs, qualify for exclusion as non-repetitive expenses provided they are reasonable.

Minister of Finance's Reply to Parliamentary Question

Following a parliamentary question of 5 November 2020, the Minister of Finance confirmed that temporary housing and related costs pending the move to a suitable home in Belgium are considered as costs proper to the employer and therefore tax-exempt. The Minister of Finance clarified that a maximum period of three months after the arrival of the expatriate in Belgium is considered temporary.

If the temporary housing exceeds three months, the reimbursement by the employer (or the provision of temporary housing by the employer exceeding three months) is considered to be a taxable benefit-in-kind for the expatriate, which retroactively applies to the time of arrival in Belgium. This taxable benefit-in-kind must be included in the annual taxable remuneration of the expatriate, but may be included in the recurring tax-free allowances up to a limit of EUR 11,250/EUR 29,750. The rule applies whether the expatriate is remunerated on a gross or net salary package.

The Minister of Finance further stated that the cost with respect to the preparation, completion and follow up (including tax audit) of the annual income tax return of the expatriate cannot be considered costs proper to the employer and therefore qualify as taxable income in the hands of the expatriate. Similarly, this taxable benefit-in-kind is included in the annual taxable remuneration of an expatriate. This applies whether the expatriate is remunerated on a gross or net salary package.

KPMG NOTE

The position of the Minister of Finance seems strict and not in line with the philosophy of the expatriate tax concession; however, the practical implications should be further analysed.

The rules can be complex and employers should consult with their professional tax advisers. The KPMG International member firm in Belgium can assist companies in discussions with the Belgian tax authorities with respect to the above developments.

FOOTNOTES:

1 Parliamentary question of 05/11/2020 -DO 2020 2021 05750.

Chambre des Représentants de Belgique/Belgische Kamer van Volksvertegenwoordiger -- Questions et réponses écrites/Schriftelijke vragen en antwoorden - 16-12-2020, QRVA 55. 0312020202105750 (05-11-2020) Question no./Vraag nr. 57 -- Barbara Pas: Mise à disposition de logements pour les besoins de travailleurs étrangers/Ter beschikkingstellen van woningen voor buitenlandse werknemer.

2 For more, see KPMG's [Taxation of International Executives: Belgium](#).

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Belgium:



Ferdy Foubert
Partner
Tel. + 32 2708 3817
ferdyfoubert@kpmg.com



Saadia Abdi
Senior Manager
Tel. +32 27083650
sabidi@kpmg.com

The information contained in this newsletter was submitted by the KPMG International member firm in Belgium.

© 2021 KPMG Tax and Legal Advisers burg. CVBA/SCRL civile, is a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2021 KPMG LLP, a Delaware limited liability partnership 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. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to <http://www.kpmg.com>.