Belgium Country Profile

EU Tax Centre

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

EU Member State Yes.

Double Tax Treaties With the following countries, territories and jurisdictions:

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

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Most important forms of doing business	Corporation (SA/NV) or limited liability company (SRL/BV).
Legal entity capital requirements	- Corporation (SA/NV): EUR 61,500 (fully paid in capital). - Limited liability company (SRL/BV): no capital requirements.
Residence and tax system	A company is tax 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 (CIT) return (electronically) after the general shareholders meeting that has approved the annual accounts, but no later than seven months after the closing date of the annual accounts. An extension of the filing deadline is generally granted until the end of September for companies with an accounting year equal to the calendar year.
Corporate income tax rate	The standard CIT rate was reduced to 25 percent as from 2020.

Withholding tax rates

On dividends paid to non-resident companies

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 (WHT), if:

- conditions similar to the conditions of the EU Parent-Subsidiary Directive are met; and
- the relevant treaty includes an exchange of information clause.

Since January 1, 2018, no WHT applies to dividends paid to foreign companies (implementation of CJEU *Tate & Lyle* case):

- 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 WHT cannot be credited or refunded in the hands of the receiving company.

On interest paid to non-resident companies

Generally 30 percent (exemptions may apply). Double tax treaties (DTTs) and EU Directives may reduce or exempt the WHT. Interest paid on bonds issued on the X/N clearing system of the National Bank of Belgium (NBB) is generally exempt for non-residents.

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On patent royalties and certain copyright royalties paid to non-resident companies

Generally, 30 percent (exemptions may apply). DTTs and EU Directives may reduce or exempt the WHT.

On fees for technical services

A WHT of 25 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).

On other payments

For payments related to services a withholding tax of 25 percent on 50 percent of gross amount if (1) Belgium has power to tax (according to DTT), or (2) fee is not taxed in country of residence (if there is no DTT).

Branch withholding taxes

No.

Holding rules

Dividend received from resident/non-resident subsidiaries

Exemption method (dividends received deduction (DRD) of 100 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 carry-forward 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, depending on the DTT, the carry-forward of excess DRDs for dividends from subsidiaries established in third countries.

Capital gains obtained from resident/non-resident subsidiaries

No taxation on the capital gains realized on shares of which the dividends fulfill the taxation conditions for the DRD and that the company holds for an uninterrupted period of at least 1 year.. A participation requirement (10 percent or EUR 2,500,000) applies as well.

Tax losses

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

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With effect from 2018, a minimum taxable income limitation is applicable for companies having taxable income exceeding EUR 1 million. Practically, the deduction of certain tax attributes is limited to 70 percent of the taxable income exceeding EUR 1 million.

The deductions which are concerned by this limitation are:

- incremental notional interest deduction (of the year and carry-forward);
- DRD carry-forward;
- tax innovation income deduction carry-forward;
- tax losses carry-forward.

Tax consolidation rules/Group relief rules

Yes, as of the 2020 tax year, i.e. the FY commencing on January 1, 2019.

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

As a principle, no transfer taxes apply. In certain cases, stock exchange taxes apply.

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 regional tax on deemed rental income.

Controlled Foreign Company rules

Yes, as of the 2020 tax year, i.e. the FY commencing on January 1, 2019.

Transfer pricing rules

General transfer pricing rules

Arm's length principle.

Documentation requirement

Supporting documentation is required.
Formal transfer pricing documentation requirements (Master and Local file) and Country-by-Country Reporting have been introduced.

Thin capitalization rules/Interest limitation 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).

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Belgium introduced a new limitation on deductible interest at the highest of EUR 3 million or 30% of earnings before interest, tax, depreciation and amortization (EBITDA). The rules entered into force from assessment year 2020, covering a taxable period commencing on January 1, 2019 at the earliest.

The new limitation only applies to interest on loans concluded as of June 17, 2016. The existing thin capitalization rule (5:1) remains applicable for interest on 'old' intra-group loans and for interest paid to tax havens.

Interest and EBITDA are calculated on an ad hoc consolidated basis.

Non-deductible interest can be carried forward to the following years without limit. It can also be transferred to other group companies.

The rule is not applicable to stand-alone entities and financial undertakings.

General Anti-Avoidance rules (GAAR)

General anti-abuse rule: if the tax authorities have a presumption or any other evidence that there is fiscal abuse in a transaction, the transaction is re-qualified/ denied. 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/Anti-Hybrid rules

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 CIT on domestic or foreign income / effective CIT rate on foreign income less than 15 percent – or OECD standard for exchange of information is not effectively and substantially applied – or the European black list of tax havens as from January 1, 2021) 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. As a result, the DRD and corresponding WHT exemption will be denied whenever the dividends originate from legal acts or whole of legal acts that are artificial and merely in place to obtain the DRD and / or WHT exemption (GAAR).

Adoption of anti-hybrid mismatches rules as of the 2020 tax year, i.e. the FY commencing on January 1, 2019 (implementation of ATAD).

Advance Ruling system

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

IP / R&D incentives

Patent income deduction (80 percent 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 percent. This deduction applies

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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:

[qualifying R&D costs/total R&D costs] x total income from intellectual property = 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 percent 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 but only on their adjusted incremental equity (capital increase and retained earnings) and to be spread over 5 years.
VAT	The standard rate is 21 percent; reduced rates are 0, 6 and 12 percent.
Other relevant points of attention	No.
Mandatory Disclosure Rules Updates	For country specific information and updates on the EU Mandatory Disclosure Rules please visit KPMG's EU Tax Centre's MDR Updates page.

Source: Belgian tax law and local tax administration guidelines, updated 2021

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