



## Individual tax alert

### Belgium

## 6th State Reform: impact for resident and non-resident taxpayers



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The Law of 8 May 2014 modifying the income tax code and introducing the partial regionalisation of personal income tax has been published on 28 May 2014 in the Belgian Official Journal ([Dutch](#) | [French](#)). The same law introduces several modifications of the non-resident tax regime.

This law enforces the 6<sup>th</sup> State Reform, which changes income taxation for revenue earned as of 1 January 2014 (fiscal year 2015), by introducing the regionalisation of 25.99% of personal income tax. As such, the regions' fiscal autonomy increases with a new regional personal income tax surcharge in addition to the federal income tax.

Click [here](#) to replay our webinar of 22 April for an extensive coverage of the legislation.

### What remains Federal, what becomes Regional?

Several tax reductions remain administered at federal level:

- The tax free lump sum, marital tax credit and tax credit for dependent children
- Tax reductions for pensions saving
- Tax reductions for treaty exempted foreign income
- Deduction of alimony payments

The Regions will apply a regional surcharge on the federal tax, but have yet to vote on their respective decrees establishing their surcharge rates. By default of such Decree being voted before the end of 2014, the law of 8 May 2014 provides for a surcharge rate amounting to 35.117%.

The following tax reductions are regionalised as of income year 2014 (tax year 2015):

- "Housing bonus" ("woonbonus" / "bonus lodgement") (Mortgage loan made to acquire or maintain own dwelling);
- Expenses to protect against fire and burglary;
- Maintenance and restoration costs for protected historical monuments;
- Expenses related to service vouchers and local employment agencies;
- Cost for energy savings and roof isolation;
- Renovation expenses for residences in urban development zones or those leased at a moderate rate

Further to the regionalisation of a significant portion of personal income tax, it might be that for the same personal circumstance and the same level of income, the tax due would differ depending on whether the taxpayer's fiscal residence is in Flanders, Wallonia or Brussels. The localisation of the taxpayer within a given Region is based on the residence on the 1<sup>st</sup> January of the tax year in question.

## Non-resident tax payers

As mentioned in our [25 April 2014 Individual Tax Alert](#), this law also introduces important amendments for non-resident taxpayers (including foreign executives benefiting from the special tax regime for expatriates) with the removal of the “non-resident with abode” category.

Expatriates must earn at least 75% of their professional income in Belgium to benefit from the tax free lump sum, marital tax credit and tax credit for dependent children. In this regard, companies may want to put in place control and monitoring mechanisms for their expatriates’ business travels (to the extent that company policy allows it).

Moreover, for expatriates to benefit from regional tax reductions, they are required to be tax resident in another EEA (European Economic Area) member state. Non-residents eligible for regional tax reductions will be deemed to be located in the Region where their highest income was generated (thus not necessarily the region of residence). The law provides very comprehensive “tie-breaker” rules with regard to localisation of non-residents.

### A few practical considerations:

- A certificate of tax residence is required from the foreign authorities to determine whether the expatriate has kept residence in another EEA or non-EEA country. The country of origin stated in the application for expatriate special tax status is not sufficient.
- In order to determine the 75% threshold, professional income of both partners must be taken into account. This also applies for married persons taxed as single. Professional income earned during the entire calendar year must be taken into account also for year of arrival/departure.
- For tax equalisation calculation purposes, all taxes including regional surcharges need to be taken into account.

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