Taxation and Investment in Belgium 2016

Reach, relevance and reliability

A publication of Deloitte Touche Tohmatsu Limited

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Belgium is a constitutional monarchy in which ultimate power rests with a bicameral parliament. The country is divided into three regions: Brussels (the capital), Flanders and Wallonia. Three distinct cultural and linguistic “communities” (Flemish, French and German) each have their own parliaments and executives.

Belgium is a EU member state (with Brussels serving as the seat of the EU), as well as a member of the OECD. Belgium also is a part of the Benelux, a tariff union between Belgium, Luxembourg and the Netherlands. As an EU member state, Belgium is required to comply with all EU directives and regulations and it follows EU regulations on trade treaties, import regulations, customs duties, agricultural agreements, import quotas, rules of origin and other trade regulations. The EU has a single external tariff and a single market within its external borders. Restrictions on imports and exports apply in some cases. Companies operating in Belgium have access to a tariff-free market of consumers through the country’s membership in the EU and free trade with Iceland, Liechtenstein, Norway and Switzerland through other agreements. Trade also is governed by the rules of the World Trade Organization (WTO).

EU Member States		
Austria	Germany	Netherlands
Belgium	Greece	Poland
Bulgaria	Hungary	Portugal
Croatia	Ireland	Romania
Cyprus	Italy	Slovakia
Czech Republic	Latvia	Slovenia
Denmark	Lithuania	Spain
Estonia	Luxembourg	Sweden
Finland	Malta	United Kingdom
France		
EU Candidate Countries		
Albania	Montenegro	Turkey
Macedonia	Serbia	
European Economic Area (EEA) Member States		
EU member states	Liechtenstein	Norway
Iceland		
OECD member countries		
Australia	Hungary	Norway
Austria	Iceland	Poland
Belgium	Ireland	Portugal
Canada	Israel	Slovakia
Chile	Italy	Slovenia
Czech Republic	Japan	Spain
Denmark	Korea (ROK)	Sweden

Estonia	Luxembourg	Switzerland
Finland	Mexico	Turkey
France	Netherlands	United Kingdom
Germany	New Zealand	United States
Greece		
Enhanced engagement countries		
Brazil	India	South Africa
China	Indonesia	
OECD accession candidate countries		
Colombia	Latvia	Lithuania
Costa Rica		

Belgium has an open economy as a result of its economic integration and interdependence with its three main neighboring countries, France, Germany and the Netherlands.

Price controls

As a general principle, Belgium does not have price controls, except in certain sectors, although legislation that prevents abuse of a dominant position effectively prohibits price gouging or predatory pricing. In addition, the government has set a specific pricing policy for the petroleum sector.

Intellectual property

Patents, trademarks, copyrights and industrial designs are legally recognized in Belgium. The recognized holder of intellectual property has exclusive rights to exploit the property, to assign such rights via a license and to bring actions for infringement. For abuse of a patent or trademark, the holder may be awarded damages and may obtain an injunction to prevent continued abuse. A licensee cannot get an injunction alone; it must work jointly with the patent or trademark holder to claim damages.

Patent protection in Belgium can be obtained under the domestic patent law and royal decrees, through the European Patent Convention or through the international PCT (Patent Cooperation Treaty) route, combined with the European route (EURO-PCT).

Trademark and design protection in Belgium can be obtained via the Benelux Convention on Intellectual Property (trademarks and designs), the European Community Trademark and Design system and the international system (the Madrid system for trademarks, the Hague system for designs). The Benelux convention provides for unified registration and protection of trademarks and designs throughout Belgium, Luxembourg and the Netherlands via a single common trademark registration. Trademarks can co-exist within the region if the trademark holder has knowingly tolerated the use of a previously registered trademark for five years. The original holder of the mark forgoes any rights by failing to object in certain situations.

Copyright is protected by domestic law, which also covers “related rights,” including the rights of performers, producers and broadcasters. The law covers written, audio and visual works. Economic rights under copyright law are valid for 70 years from the death of an author. This law also extends protection to software programs, but unlike other copyrights, protection is automatically vested in the employer unless otherwise agreed.

1.2 Currency

Belgium is part of the Eurozone and uses the Euro (EUR) as its currency.

Countries participating in the Economic and Monetary Union		
Austria	Greece	Malta
Belgium	Ireland	Netherlands

Cyprus	Italy	Portugal
Estonia	Latvia	Slovakia
Finland	Lithuania	Slovenia
France	Luxembourg	Spain
Germany		

1.3 Banking and financing

The national bank of Belgium (i.e. NBB, the central bank) is responsible for issuing currency, supervising payment and securities settlement systems, maintaining statistics and administering the Belgian Treasury.

The framework for Belgian banking law and capital adequacy requirements is set by the EU. As a result, banks from other EEA countries can set up in Belgium on the basis of home-country supervision with a minimum of formalities. This "single passport" arrangement also can be used by non-EEA banks that have a full banking license in another EU country.

Brussels is the financial center of the country.

1.4 Foreign investment

The Belgian government welcomes foreign investment (including wholly foreign ownership of a company) and there are only limited circumstances in which the government may block an investment. Once established, a foreign-owned company is treated in the same way as a Belgian-owned company. Belgium's tax incentives tend to favor innovative companies investing in research and development (R&D) activities.

1.5 Tax incentives

Incentives include those for patent income, R&D and innovation, investment in capital goods (including accelerated depreciation and incentives relating to expatriate employees.

Under the patent income deduction regime, 80% of qualifying adjusted income from gross patents may be deducted from taxable income, resulting in a maximum effective tax rate of 6.8% on qualifying patent income (i.e. 20% of the statutory corporate income tax rate of 33.99% (33% plus the 3% crisis surcharge)). The incentive is designed to encourage R&D activities in relation to the development of patents or improvements to patented products or processes. For Belgian operations, the patent income deduction aims to encourage Belgian companies to take ownership of patents or to improve a patent in an R&D center (Belgian or foreign).

Other R&D incentives include the following:

- An R&D tax credit that allows overall R&D costs to be reduced by 5%-8% (provided certain conditions are satisfied), either by way of a tax deduction or a refundable tax credit; and
- A payroll withholding tax exemption of up to 80%, which is granted to the employer for qualifying researchers, resulting, on average, in a decrease of between 15% and 20% of the salary costs.

1.6 Exchange controls

There are no exchange controls in Belgium. However, the National Bank of Belgium compiles information on cross-border transactions and transactions with nonresidents (including direct investments, securities trades and commercial credits), solely for balance-of-payment reporting purposes.

2.0 Setting up a business

2.1 Principal forms of business entity

The principal forms of business organization in Belgium are the limited liability company (SA/NV – *société anonyme/naamloze vennootschap*), the private limited liability company (SPRL/BVBA – *société à responsabilité limitée/besloten vennootschap met beperkte aansprakelijkheid*), the cooperative limited liability company (SCRL/CVBA – *société cooperative à responsabilité limitée/coöperatieve vennootschap met beperkte aansprakelijkheid)*, partnership (SNC/VOF – *société en nom collectif/vennootschap onder firma*) or SCS/Comm.V. (*société en commandite simple/gewone commanditaire vennootschap*).

Foreign investors are free to operate through any form of business entity recognized under Belgian law (typically an NV or a branch).

The main difference between an SA/NV and an SPRL/BVBA, other than the difference in minimum share capital (which is higher for an SA/NV), is that the SPRL/BVBA is essentially based on "a relationship of trust" among specific associates. For this reason, the shares of a private limited liability company are registered shares and their transferability is restricted (e.g. the other shareholders have preemptive rights to purchase any shares).

The SPRL/BVBA generally is the preferred form of organization for small (particularly family-owned) firms and also may be used for small management companies. The formation or increase in capital through public subscription is not allowed. Small businesses sometimes opt for a limited liability company form with only one shareholder (the SPRLU/EVBA), but foreign investors normally do not use this form.

The *Societas Europaea* or SE company form also is available. The SE is designed to enable companies to operate across the EU with a single legal structure, to facilitate mergers and create flexibility for companies wanting to move their head office from one EU state to another. Companies from two or more EU member states are permitted to merge to form an SE or create an SE holding company or branch. A company may convert an existing firm to SE status without liquidating. One advantage of an SE is that it is possible to move headquarters to another EU member state with minimal formalities.

Businesses can establish as a European Economic Interest Grouping (EEIG). Companies (even non-EU companies, if the vehicle is a subsidiary in an EU member state) that want to start working with a Belgian company but do not want to commit to a formal joint venture may set up an EEIG. The grouping functions much like a partnership in that the income is taxed in the hands of the member companies. At least two of the companies involved must be from different EU member states.

Formalities for setting up a company

The procedures for setting up any type of company include registration with a notary public/execution of a notary deed, submission of a business plan and registration with the Crossroads Bank for Enterprises. The registration number (company number) with the Crossroads Bank for Enterprises also will be the company's VAT number. This company number must be used in all communications with other businesses or individuals.

Companies planning to issue financial instruments to the general public (i.e. to 150 or more persons) must register with the Financial Services and Markets Authority (FSMA). Special procedures apply for setting up banks, insurance firms and leasing companies.

Forms of entity

Requirements for an SA/NV

Capital. Minimum capital is EUR 61,500. Capital must be fully subscribed and paid up to the minimum level. Where the capital is higher, only one-quarter needs to be paid up, provided the minimum is met. A business plan must be deposited with the notary public who handles company registration, indicating that the capital is sufficient for the company to be viable for two years. If a company fails and it is deemed to have underestimated the required capital, the directors can be held personally liable, even though the entity is a limited company.

Capital may be contributed in forms other than cash, but there are restrictions on contributions in kind. It should be possible to attach an economic value to a contribution in kind. An auditor must make the valuation, except where the contribution is in the form of provision of services or work for the company. The contribution of know-how, intellectual property, goodwill, rental or leasing rights, agreements that will add value to the company and agreements to refrain from competing with the company is permitted. Contributions in kind must be fully paid up immediately for intangibles. An SA/NV must accumulate 5% of net profits annually until this legal reserve reaches 10% of capital. The reserve may be used to offset losses but funds from the reserve may not be distributed as dividends.

Companies must maintain a "normal" debt-to-equity ratio (this is not specifically defined in tax law, although specific thin capitalization rules may apply). No profit distribution is permitted if the value of assets after the deduction from profits of the amount allocated to the legal reserve drops below the value of issued share capital plus the amount of the legal reserve, or if the company did not make an operating profit after the deduction of losses carried forward and transfers to legal reserve. Thus, the company must be trading profitably for dividend payments to be permissible.

Founders, shareholders. There must be at least two founders/shareholders, but there are no residence or nationality requirements.

Board of directors. At least three board members are required; two if the company has only two shareholders. There are no residence or nationality requirements. Corporations and individuals are eligible members, but if a corporation is appointed to a board seat, it must designate an individual (a permanent representative) to represent it on an ongoing basis. Listed companies must have at least three independent directors who must be formally consulted before any major decision is made. Directors are individually liable for management errors.

Management. The board appoints the president of an SA/NV (called the managing director, if in charge of day-to-day management). The board may appoint more than one manager and may appoint managers for special functions. There is no requirement that labor be represented in management or on the board, but a works council must be formed if there are at least 100 employees.

Types of share. Shares may be in registered or dematerialized form (bearer shares are no longer permitted) and they may be issued at or above par; no-par shares also may be issued. In all cases, 25% of shares must be paid in and the minimum statutory capital threshold must be met, if this is higher. Capital shares may be transferred only after completing the capital formation and paying in at least 25% of their value.

Control. An SA/NV must hold at least one shareholders' meeting each year to approve the board of directors' management report and annual accounts (which must be approved within six months of the end of the financial year and published within 30 days of approval). No special quorum is required by law for ordinary meetings and resolutions are passed by majority vote, notwithstanding the fact that the articles of association could determine some specific (attendance and voting) quorums. Special requirements for an attendance quorum (50% of the registered capital) and a majority (75% of the votes) apply to extraordinary meetings, which may be called at any time by the board of directors, the statutory auditor or shareholders representing at least 20% of the capital, to consider amendments to the statutes, a capital increase or decrease, merger or dissolution. To modify the corporate purpose of the company, a majority of 80% of the votes is required. Existing shareholders have preferential rights in the event of a capital increase (but such preferential subscription rights may be cancelled or restricted by a decision of the general meeting of shareholders).

Requirements for a European Company or *Societas Europaea* (SE)

As previously noted, companies in the EU may set up an SE, which facilitates cross-border mergers, the formation of holding companies by companies from more than one EU member state and the creation of joint cross-border subsidiaries. Existing companies also can convert to an SE. An SE is automatically equated to a limited liability company in the member state in which it has its head office and is subject to the tax laws of the country in which it is registered.

Capital. The minimum capital for an SE is EUR 120,000 which must be paid up to at least EUR 61,500.

Registration. An SE must register in the country in which it is set up and must publicize registration through the Official Journal of the European Communities. An SE may move its registered office from one EU state to another without winding up the initial company and setting up another. An SE must be wound up only if the registered office is transferred outside the EU.

Management. An SE can have a single or two-tier board system. Under the two-tier system, board members may be part of the management or supervisory boards but not both. Board approval is needed for major investment and disinvestment decisions, major lending and borrowing operations and the conclusion of large supply and performance contracts. The threshold to determine the size of a transaction requiring board approval is set by the company statutes but it may not be less than 5% of subscribed capital (or of turnover, for supply and performance contracts) or more than 25%.

Disclosure. An SE must draw up annual accounts in accordance with the laws of the member state in which it has its registered office.

Employee participation. Employee participation in management is compulsory. Belgium has recognized the application of existing collective agreements on worker consultation as applying to an SE and has given them force of law and it has implemented the relevant EU directive into domestic law. Agreement on the method of worker consultation must be reached before the company statutes are approved by the first shareholder meeting. Special provisions apply to mergers.

Branch of a foreign corporation

A foreign enterprise may set up a branch in Belgium. Branches are governed by the same rules as Belgian companies with regard to their management and operations in Belgium and subject to the standard corporate income tax rate.

A Belgian branch must be registered in the Crossroads Bank for Enterprises before starting business and must file with the commercial court a certified copy of the bylaws of its head office (or certified translation); a certified copy of the board of directors' decision to set up the Belgian branch; a list of the powers delegated to the legal representative that it must appoint for the corporation in Belgium; the address and activities of the Belgian branch; and the most recent annual and consolidated accounts of the foreign head office. Companies from outside the EU must indicate under which country's law they fall and their registered capital.

A branch also must obtain a company number (for VAT and social security purposes) before commencing business. It must submit information annually on the profits, directors and auditors to the Belgian central bank, together with the company's annual and consolidated accounts. A brief statement of the deposit must be published in the Belgian official journal.

2.2 Regulation of business

Mergers and acquisitions

A merger may not result in the merged companies having a dominant position in the market. The competition law defines concentrations between undertakings as: (1) the merger of two or more previously independent undertakings; or (2) the acquisition of direct or indirect control of the whole or parts of another undertaking by one or more persons already controlling one undertaking; or (3) the creation of a joint venture that carries out on a permanent basis all the functions of an autonomous economic entity.

The Competition Council has jurisdiction over smaller mergers and the European Commission must be notified of larger mergers. Smaller companies that need to obtain clearance in several EU states can opt to apply for the Commission to act as a one-stop shop. The Commission can refer larger mergers to a member state's competition authority if the impact is largely restricted to a single member state. Belgian law closely follows the approach of EU law.

Mergers with a Community dimension fall within the jurisdiction of the European Commission. The EU has jurisdiction over mergers in two situations:

1. Where the combined aggregate worldwide turnover of all of the undertakings concerned is more than EUR 5 billion and the aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR 250 million, unless each of the undertakings concerned

achieves more than two-thirds of its aggregate EU-wide turnover in a single member state; and

2. Where the aggregate global turnover of the companies concerned exceeds EUR 2.5 billion for all businesses involved, aggregate global turnover in each of at least three member states is more than EUR 100 million, aggregate turnover in each of these three member states of at least two undertakings is more than EUR 25 million and aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR 100 million, unless each achieves more than two-thirds of its aggregate EU-wide turnover within one and the same state.

If a merger normally would not fall within the purview of the European Commission, the affected companies may ask the Commission to review it if they otherwise would be obliged to notify three or more member states. The Commission proceeds as a “one-stop shop” only if none of the relevant member states objects within 15 days.

Monopolies and restraint of trade

The application and enforcement of competition law are the responsibility of the Belgian Competition Authority. The Belgian Competition Authority investigates cases covered by the law and ensures proper enforcement of decisions. It also rules on mergers and takeovers.

Book IV of the Economic Code prohibits agreements, decisions and concerted practices between undertakings that intend to or result in the prevention, restriction or distortion of competition to an appreciable extent within the relevant Belgian market. The code provides a nonexhaustive list of prohibited practices, including the following: directly or indirectly fixing purchase or selling prices; limiting or controlling production, markets, technical developments or investment; and applying dissimilar conditions to equivalent transactions with different trading parties.

The Economic Code prohibits abuse by one or more undertakings of a dominant position in the relevant Belgian market, the existence of which is determined by applying EU rules. The following practices are specifically prohibited: directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions; limiting production, markets or technical development to the prejudice of consumers; applying dissimilar conditions to equivalent transactions with different trading parties; and concluding contracts subject to acceptance by other parties of irrelevant supplementary obligations.

2.3 Accounting, filing and auditing requirements

The annual accounts of Belgian companies must be drafted in accordance with Belgian Generally Accepted Accounting Principles (GAAP). The use of International Financial Reporting Standards (IFRS) is obligatory for consolidated accounts of listed companies and optional for consolidated accounts of others, but may not be used for the annual accounts. Financial statements must be submitted annually to the National Bank of Belgium.

Large companies must publish full annual financial statements (balance sheet and income statement) complying with accounting rules in the EU Fourth Directive or with International Accounting Standards (IAS). The use of IAS and the publication of half-yearly statements are compulsory for the consolidated accounts of listed companies. Quarterly publication of financial information is compulsory for listed companies. Small companies may publish accounts in a simplified form.

Foreign companies with a branch in Belgium are required each year to deposit with the National Bank of Belgium (within one month after the general meeting of shareholders and seven months following the closing of the financial year, at the latest), a copy of the annual accounts of the head office and consolidated accounts (together with a social balance sheet of the Belgian permanent establishment, if it employs personnel in Belgium). This copy of the (consolidated) annual accounts must be drawn up in one of the three languages of Belgium (Flemish, French or German) depending on the jurisdiction of the company.

In principle, the financial statements must be audited by a statutory auditor. An exception to this obligation exists for certain types of company.

3.0 Business taxation

3.1 Overview

The principal taxes affecting companies are corporate income tax, payroll taxes on remuneration paid to employees and directors, VAT, transfer tax, insurance premium tax and, depending on the location of the company, certain regional or local taxes. In some cases, specific “minimum taxes” may apply, such as where a taxpayer receives abnormal or benevolent advantages; or cases in which the secret commissions tax, the 0.412% (including surcharge) tax on otherwise tax-exempt capital gains on shares realized by large enterprises or the 5.15% (including surcharge) fairness tax on large enterprises apply.

As noted above in 1.5, Belgium offers a number of tax incentives, including incentives for R&D and innovation, investment in capital goods (including accelerated depreciation) and a patent income deduction.

Legislation on income taxation is largely contained in the Income Tax Code supplemented by specific regulations and royal decrees. The power to levy taxes is vested in parliament. However, a law must be signed by the king before it can enter into force; the law is then published in the official gazette. The government deals with tax matters through the Ministry of Finance. The tax administration comprises authorities at the federal, regional and local levels.

Belgium has implemented the EU directives, including the parent-subsidiary, interest and royalties and merger directives. Legislation to implement the recent changes made to the parent-subsidiary directive (namely the anti-hybrid rule and general anti-avoidance rule) has yet to be passed. Belgium also had implemented the savings directive, which required the exchange of information between tax administrations when interest payments are made in one EU member state to an individual resident in another member state. The directive was repealed from 1 January 2016 to coincide with the introduction of the common reporting standard (CRS) within the EU through the implementation of a new directive on the mandatory exchange of information.

Belgium Quick Tax Facts for Companies	
Corporate income tax rate	33% (33.99% including the crisis surcharge)
Crisis surcharge	3%
Fairness tax	5% (5.15% including the crisis surcharge)
Secret commissions tax	50%/100% (51.5%/103% including the crisis surcharge)
Branch tax rate	33% (33.99% including the crisis surcharge)
Capital gains tax rate	0%/25%/33% (0%/25.75%/33.99% including the crisis surcharge); separate tax of 0.4% (0.412% including the crisis surcharge) may apply for fully exempt capital gains
Basis	Worldwide
Participation exemption	Yes
Loss relief	
− Carryforward	Indefinite
− Carryback	No
Double taxation relief	Yes
Tax consolidation	No
Transfer pricing rules	Yes
Thin capitalization rules	No general rule, but specific debt-to-equity ratio rules apply

Controlled foreign company rules	No
Tax year	Accounting year
Advance payment of tax	Yes
Return due date	Six months after the end of the financial year (extension can be granted)
Withholding tax	
− Dividends	0%/1.6995%/10%/15%/20%/27%
− Interest	0%/15%/27%
− Royalties	0%/15%/27%
− Branch remittance tax	No
Capital tax	No, except for a fixed fee of EUR 50 (other than in limited circumstances)
Social security contributions	Approximately 32%/37.58%
Real estate tax	1.25%/2.5% (plus the local surcharge)
Stamp duty	Generally no, certain limited exceptions
VAT	21% (standard rate)/0%/6%/12% (reduced rates)

3.2 Residence

A corporation is resident in Belgium if its principal establishment, registered office or place of management is in Belgium. The place of incorporation is irrelevant.

3.3 Taxable income and rates

A resident company is liable to corporate income tax on its worldwide profits and income, including capital gains. A nonresident company is taxed only on Belgian-source income. A nonresident company without a permanent establishment in Belgium is liable for a final withholding tax on Belgian-source dividends, interest and royalties and to the nonresidents' tax on Belgian real estate income. Certain other payments (e.g. service fees or fees for technical assistance) made to nonresident companies (or individuals) without a Belgian permanent establishment or a Belgian establishment (as defined under domestic legislation) may, under specific circumstances, be subject to a withholding tax.

The corporate tax rate applies to both subsidiaries and branches. The standard rate is 33% (plus a 3% crisis surcharge, resulting in an aggregate tax rate of 33.99%). Independent nonfinancial companies with taxable income of less than EUR 322,500 pay tax at 24.25% on profits of up to EUR 25,000; 31% on profits between EUR 25,000 and EUR 90,000; and 34.5% on profits between EUR 90,000 and EUR 322,500 (all rates are increased by the 3% crisis surcharge). To be eligible for the special rates, an independent nonfinancial company must satisfy certain conditions, such as that no more than 50% of the company's shares may be held by other companies, the company must pay one of its executives at least EUR 36,000 annually (unless the remuneration of at least one director is at least equal to the company's taxable profits) and the company is prohibited from paying dividends of an amount in excess of 13% of the issued share capital at the beginning of the taxable period.

To level the playing field between companies that borrow and those that self-finance, a notional interest deduction (NID) is available, calculated on the amount of equity. The NID rate is set annually on the basis of the average 10-year government bond rate of the third quarter of the penultimate year before the tax year, with a maximum deviation from year to year of one percentage point. The rate for qualifying small and medium-sized enterprises (SMEs) is increased by 0.5%. The maximum NID rate has been capped at 3% for large enterprises (3.5% for SMEs). The NID rate is 1.63% (2.13% for SMEs) for tax year 2016 (i.e. for accounting years ending between 31 December 2015 and 30 December 2016) and 1.131% (1.631% for SMEs) for 2017 (i.e. for accounting years ending between 31 December 2016 and 30 December 2017). Most corporate taxpayers (both subsidiaries and branches) generally are entitled to benefit from the NID.

The ability to carry forward excess NID for seven taxable periods has been abolished for taxable periods ending after 30 December 2012. Although the "stock" of NID carryforwards remains available, use is restricted to 60% of the taxable base. This limit does not apply to the first EUR 1 million of the taxable base before the deduction of the NID stock. The NID stock that remains unused as a result of this limitation may be carried forward until the amount that would have been deductible in the absence of the 60% restriction has been fully utilized, even if the seven-year carryforward period has expired.

Taxable income defined

The taxable income of a resident company comprises its annual worldwide income, less allowable deductions. Income derived by a resident company from foreign real estate or branches located in countries with which Belgium has concluded a tax treaty is exempt. Although subsidies are, in principle, part of taxable income, certain job creation subsidies, capital grants and interest rate subsidies are exempt for corporate income tax purposes.

Dividends received deduction

Dividends received from a company subject to corporate income tax or a similar foreign tax may benefit from a participation exemption that aims at preventing the double taxation of profit distributions. Under the dividends received deduction, 95% of qualifying dividend income received by a Belgian company from domestic or foreign affiliates normally is excluded from the recipient's taxable profits, with the remaining 5% subject to tax at the normal corporate rate. To qualify for the dividends received deduction, the following conditions must be satisfied:

- The shareholder must have held at least 10% of the share capital of the payer company, or the acquisition value of the participation must be at least EUR 2.5 million;
- The shareholder must continuously have (or have had) full ownership of the qualifying shares for an uninterrupted period of at least one year; and
- The company distributing the dividends must be subject to tax on the profits out of which the distribution is made (detailed and complex rules exist on whether dividends are considered to meet this "subject to tax" requirement, which applies to directly held subsidiaries and, under a look-through rule, to indirectly held subsidiaries).

Deductions

Companies may deduct all business expenses when calculating taxable income, on the general condition that they are legitimate and arm's length.

Royalties and all fees are generally deductible without additional requirements.

Interest paid on loans granted by a Belgian or EEA financial institution is automatically deemed to be arm's length. When a company pays interest to a non-EEA beneficial owner that is a tax-exempt company or a company for which interest income is subject to a tax regime substantially more advantageous than in Belgium, the debt is regarded as "tainted." As a result, the interest payment is tax deductible only if the company demonstrates that the debt relates to "real and genuine" transactions and the conditions of the debt are not abnormal. An interest deduction also will be disallowed to the extent the total tainted debt and all intragroup loans exceed five times equity. The 5:1 thin capitalization rule provides for some limited exceptions, as well as for a netting mechanism for companies engaged in qualifying transactions under a framework agreement for intragroup centralized treasury management (cash pooling) (see below under 3.6).

Interest payments on debt issued to individual (not corporate) shareholders and to directors, executive managers and liquidators (individuals and corporations other than in EEA countries) will be recharacterized as dividends to the extent the total debt exceeds the company's equity or to the extent the normal market interest rate is exceeded; one or both of these criteria may be applied.

The NID also may be available as previously described.

As discussed in 1.5 above, Belgium offers a patent income deduction that amounts to 80% of the income, resulting in effective taxation of patent income at a rate of 6.8%.

Payments made directly or indirectly to tax havens (including low-tax jurisdictions and jurisdictions that have not substantially implemented the internationally agreed tax standard on the exchange of information, as determined by the OECD) are not deductible if they are not properly reported on the special form to be annexed to the annual corporate income tax return. Even if properly reported, they may not be deductible if the taxpayer fails to demonstrate that the payments are made within the framework of “real and genuine” transactions with persons and not artificial arrangements.

An investment deduction of 13.5% for tax years 2016 and 2017 is available for energy-saving investments, investment in R&D and patents. These investments, including investments made in newly developed high-tech products which require increased expenses for R&D at the initial production stage, also can give rise to a spread deduction equal to 20.5% of the annual depreciation expense. If there is insufficient profit to take the deduction in full, the deduction may be carried forward but its use in each of the following years will be restricted. Companies can opt for a tax credit for environment-friendly investments in R&D as an alternative to the increased investment deduction.

Some employee benefits are not deductible and some, such as company cars, are subject to special social security contributions. Employer-funded pension contributions generally are deductible for a pension designed to pay no more than 80% of final salary.

Depreciation

Depreciation usually is based on historic cost, although companies may revalue short-life assets at replacement cost. First-year depreciation is based on the number of days for which an asset has been held, although SMEs benefit from full first-year depreciation.

The straight-line method normally is used. Permission must be obtained from the tax authorities to use the double declining balance method. Where the double declining balance method is used, it is applied until the amount of annual depreciation equals that under the straight-line method, at which point the taxpayer must change to the straight-line method. Depreciation under the double declining balance method may not exceed 40% of the value of the asset and the method may not be used for intangibles, cars or goods leased to third parties.

Taxpayers are free to make a case with the tax authorities to use nonstandard depreciation rates, but most taxpayers opt for the standard rates. Examples are: 100% for small office purchases; 33% for computers, software, videos and mobile phones; 3% for office buildings; 5% for industrial buildings; 8%-10% for chemical plants; 10%-20% for office equipment other than information technology equipment; up to 20% for machinery and equipment; and 10%-20% for goodwill. Motor vehicles have no specific depreciation period but they usually are depreciated over their useful life, normally four to five years. If a leasing company is leasing a fleet to a company, the cars typically are depreciated over three years.

A specific depreciation regime applies to investments in energy-saving equipment (variable), scientific research equipment (straight-line depreciation over three years at 33.3% per year), intangible fixed assets (straight-line over five years at 20% per year) and assets held by industries particularly important to the Belgian economy (straight-line over three years at 33.3% per year).

Privileges apply to ships (depreciation over eight years, with a maximum rate of 20% in the first year) and for start-up costs of a company (100% depreciation in the company’s first tax year).

Losses

Losses may be carried forward indefinitely for tax purposes by the entity that incurred the losses. However, to prevent the sale of loss companies, losses may not be carried forward if control of a company changes, unless the change of control can be justified by legitimate financial and economic needs. Belgian company law defines the concept of control—both legal control (including joint control) and factual control. Losses may not be carried back.

In the case of a tax-neutral reorganization (merger, split, etc.), losses may be transferred from one entity to another. However, when a company with tax losses is involved in a tax-neutral reorganization, its losses will be reduced according to a formula based on the net fiscal value of all companies involved.

Capital losses that are tax deductible need not be offset against capital gains and may be deducted from ordinary income, regardless of the period for which the asset was held. Unrealized capital losses may be deducted from taxable income immediately; gains need not be recognized until realized. Capital losses on shareholdings are not deductible, except for losses realized by "trading companies" on shareholdings recorded as part of their trading portfolio and for realized losses upon liquidation of a company for an amount equal to the loss of the paid-in capital represented by the shareholding.

Tax losses carried forward may not be offset against profits derived from "abnormal or benevolent advantages" received directly or indirectly from related companies, nor against a limited number of other taxable items, including capital gains on shares realized by large enterprises that are taxable at the rate of 0.412% (including the surcharge).

Separate tax assessments

There are a number of separate tax assessments against which no tax attributes can be offset, the most important of which are the fairness tax and the secret commissions tax. The fairness tax is nondeductible, whereas the secret commissions tax constitutes a deductible expense (see below under 3.8).

3.4 Capital gains taxation

Capital gains derived by companies from the sale of tangible and intangible fixed assets generally are fully taxable at the normal corporate tax rate. However, taxation of capital gains on such assets can be deferred if the assets were held for more than five years before the disposal and the entire sale proceeds are reinvested in qualifying assets within three years. In the case of a qualifying reinvestment, the tax due will be spread over the life of the asset in which the sale proceeds have been reinvested.

Capital gains from fixed income securities are taxed as profits. However, gains derived from shareholdings in other companies are exempt if: (i) the shares meet the "subject to tax" requirement for application of the dividends received deduction; and (ii) the shares have been held in full ownership for an uninterrupted period of at least one year. If the one-year holding period is not met, the capital gains will be subject to a separate tax at a rate of 25% (25.75% including the 3% crisis surcharge).

A separate tax of 0.4% (0.412% including the 3% crisis surcharge) is levied on the net amount of fully tax-exempt capital gains derived by large enterprises from shareholdings in other companies.

A 27% withholding tax is imposed on distributed surplus over paid-up capital when a company is wound up. An exemption may apply if the parent company is headquartered in the EU (because the distribution is classified as a dividend and is covered by the EU parent-subsidiary directive as implemented in Belgium), or in a non-EU country that has a qualifying applicable tax treaty with Belgium.

Special rules apply to capital gains and losses on shares incurred by "trading companies" governed by the accounting decree of 23 September 1992.

Special rules also apply to restructurings such as mergers, splits and contributions. The hidden capital gains on a merger/split remain tax-free if the entities involved have their principal place of business in Belgium or the EU, the company law provisions have been followed and the merger or split meets a business purpose test.

3.5 Double taxation relief

Unilateral relief

Belgium provides relief from double taxation of foreign-source income either by exemption, credit or tax reduction, depending on the type of income.

A tax credit may be available under domestic law for certain foreign-source interest and royalty payments that have suffered withholding tax at source and for certain non-exempt foreign-source dividends (such as dividends distributed by investment companies). On qualifying dividends and royalties, the credit is always 15/85ths of the net amount. For foreign-source interest, the percentage of the tax credit is determined on the basis of the actual withholding tax suffered in the source state and the tax credit may be reduced based on a debt-funding ratio.

Tax treaties

Belgium has a broad tax treaty network, with most treaties following the OECD model treaty. Treaties generally provide for relief from double taxation on all types of income; limit the taxation by one country of companies resident in the other; and protect companies resident in one country from discriminatory taxation in the other. Belgium is implementing the OECD initiative on exchange of information, either through the conclusion of new tax treaties or protocols to existing tax treaties or through separate tax information exchange agreements.

To obtain benefits under Belgium's tax treaties, a nonresident must demonstrate that it is resident in the treaty partner country, generally by providing an attestation of the competent tax authorities of the state of residence. If the competent authority does not issue such a document, proof of residence may be established with another document.

The Belgian tax authorities have issued specific forms for requesting the application of a reduced treaty rate at source and the refund of withholding taxes that have been unduly levied. In principle, the payer of income applies the domestic withholding tax, after which the nonresident can request the repayment of the excess withholding tax from the Belgian tax authorities. In certain cases, the tax authorities allow the application of the reduced withholding tax rate or an exemption at source.

Belgium Tax Treaty Network			
Albania	Estonia	Lithuania	Senegal
Algeria	Finland	Luxembourg	Serbia
Argentina	France	Macedonia	Singapore
Armenia	Gabon	Malaysia	Slovakia
Australia	Georgia	Malta	Slovenia
Austria	Germany	Mauritius	South Africa
Azerbaijan	Ghana	Mexico	Spain
Bahrain	Greece	Moldova	Sri Lanka
Bangladesh	Hong Kong	Mongolia	Sweden
Belarus	Hungary	Montenegro	Switzerland
Bosnia & Herzegovina	Iceland	Morocco	Taiwan
Brazil	India	Netherlands	Tajikistan
Bulgaria	Indonesia	New Zealand	Thailand
Canada	Ireland	Nigeria	Tunisia
Chile	Israel	Norway	Turkey
China	Italy	Pakistan	Turkmenistan
Congo (Dem. Rep.)	Ivory Coast	Philippines	Ukraine
Croatia	Japan	Poland	United Arab Emirates
Cyprus	Kazakhstan	Portugal	United Kingdom
Czech Republic	Korea (ROK)	Romania	United States
Denmark	Kuwait	Russia	Uzbekistan
Ecuador	Kyrgyzstan	Rwanda	Venezuela
Egypt	Latvia	San Marino	Vietnam

3.6 Anti-avoidance rules

Transfer pricing

Belgium’s transfer pricing legislation incorporates OECD definitions for cross-border transactions with associated companies when both are part of a multinational group, and between parent companies and their subsidiaries.

Transactions between a Belgian parent company and its subsidiaries, or between a parent company or other subsidiaries and the Belgian subsidiary, or between the head office or other branches of a foreign company and the Belgian branch, must be carried out at arm’s length. Otherwise, the tax authorities can argue that profits are being transferred to the foreign associate or parent and they can add such profits back to the income of the Belgian enterprise for tax purposes. If advances or loans are granted to companies within a particular group, the tax authorities require that the lending company charge the borrowing company an appropriate interest rate. Loans received from related persons or enterprises established abroad also must be concluded at arm’s length.

Charges relating to management services or technical fees should be substantiated by evidence of actual services obtained by the Belgian enterprise. Payments of interest, royalties and other fees (whether directly or indirectly) to a non-EEA beneficiary located in a tax haven or to a company benefiting from a special tax regime are not tax deductible unless the payment is at arm’s length and relates to a genuine transaction. Moreover, payments to tax havens and jurisdictions that have not substantially implemented the internationally agreed OECD tax standard on exchange of information must be reported on a special form to be annexed to the annual corporate income tax return. Such payments will be deductible only if they relate to “real and genuine” transactions with other persons and are not artificial arrangements.

Bilateral and multilateral advance pricing agreements (APAs) may be obtained under tax treaties.

Country-by-country (CbC) reporting

Legislation has been proposed but is not yet in force that would require CbC reporting for reporting periods commencing on or after 1 January 2016 by Belgian-resident ultimate parent companies or other Belgian-resident reporting entities of groups whose consolidated group revenues exceed EUR 750 million. The precise details of the legislation are not yet available, but it is expected to closely follow the OECD guidance on BEPS action 13.

Thin capitalization

Belgium does not have general thin capitalization rules, but there is specific legislation establishing debt-to-equity requirements, including a thin capitalization rule for intragroup loans:

- A 1:1 debt-to-equity ratio applies for financing obtained from certain direct shareholders/individuals or from directors, executive managers and liquidators (individuals or legal entities) of the company (including loans from spouses and children), unless the director is a company resident in an EEA member state. If this ratio is exceeded, the interest is recharacterized as a dividend.
- A 5:1 debt-to-equity ratio applies for financing where the beneficial owner of the interest: (i) is not subject to tax or the income is subject to a tax regime that is significantly more advantageous than the Belgian tax regime; or (ii) is part of the same group of affiliated companies. Exceptions apply to, among others, bonds and other debt issued by public offering, loans granted by certain banks and other financial institutions, loans contracted by certain leasing companies and to certain forms of centralized treasury management.

Controlled foreign companies

Belgium does not have CFC rules, although there is an anti-abuse measure achieving a similar result. This measure allows the tax authorities to disregard the sale, transfer or contribution of certain assets (e.g. shares, loans, patents, etc.) by a taxpayer to a nonresident that is not subject to an income tax in its country of residence or is subject to a considerably more advantageous tax regime than in Belgium on the income derived from the asset.

If this measure applies, the assets are deemed to be still owned by the Belgian taxpayer and the income produced by the assets remains taxable at the level of the taxpayer. The taxpayer can avoid the application of this anti-abuse measure by proving that the transaction meets legitimate financial or economic needs or that the consideration received produced income that is subject to a similar level of taxation in Belgium.

General anti-avoidance rule

Under the general anti-avoidance rule, the tax authorities are required to show, based on objective circumstances, that tax abuse exists. Tax abuse will arise where a taxpayer carries out a transaction that allows it to avoid tax or claim a tax benefit that is contrary to the legislative intent of the law. A taxpayer can avoid the application of the anti-abuse provision by demonstrating that the transaction can be justified by motives other than tax avoidance, i.e. that the taxpayer's choice is "essentially" motivated by nontax reasons. If the taxpayer fails to demonstrate one or more sufficient nontax-based motives, the tax authorities can "restore" the taxable base and tax computation in such a way that taxation in accordance with the legislative objectives is possible, as if there was no abuse.

3.7 Administration

Tax year

The taxable period coincides with the accounting year, which may be the calendar year or another period of 12 months. Shorter and longer accounting years may occur in specific circumstances, such as a first extended accounting year.

Filing and payment

In principle, the tax return must be submitted at least one month after the date the financial statements are approved by the annual general meeting of the shareholders but no later than six months after the end of the financial year. Upon request, the tax authorities can grant an extension to the filing date.

As noted above, payments related to transactions with entities resident in tax havens (including low-tax jurisdictions and jurisdictions that have not substantially implemented the internationally agreed tax standard on exchange of information, as determined by the OECD) must be disclosed in an annex to the corporate tax return.

Corporate tax is prepaid on a quarterly basis. Penalties are imposed if advance payments based on estimates of the current year’s income are not made or if they are insufficient. Tax prepayments are due 10 days (or the first business day thereafter) after the first, second and third quarters of a company’s financial year and within 20 days of the beginning of the last month of the financial year. Underpayment is penalized by a surcharge of 1.125% for tax year 2017 (the same percentage applies for tax year 2016). If the prepayments result in an overpayment once the final tax liability is calculated, the difference may be carried forward or may be refunded upon request.

Administrative penalties for noncompliance with the tax provisions include fixed monetary penalties ranging from EUR 25 to EUR 1,250 (for every violation of the income tax code) and penalties ranging from 10% to 200% of the tax due (for omission or late filing of returns and forms); criminal sanctions may apply in cases of tax fraud.

Consolidated returns

Belgian law does not contain provisions allowing for the filing of a consolidated return, nor is provision made for the transfer of losses between members of a group. Each company must file a separate return.

Statute of limitations

A corporate tax file remains open for audit, assessment and collection for three years (seven years in the case of tax evasion), starting from the day following the closing of the accounting year. In certain specific instances, a file may be open for between five and six years in the absence of fraud (e.g. in cases involving withholding tax or information obtained from a tax treaty country).

Tax authorities

The federal, regional and local governments have their own tax authorities. In principle, the tax authorities are competent only for the taxation and collection of the taxes of their own government level. In some cases, however, the federal tax authorities collect taxes for other levels (e.g. the additional communal taxes for the municipalities and the motor vehicle tax for some regions).

As a result of the sixth state reform in 2014, certain federal tax competencies have been transferred to the three Belgian regions (Brussels, Flanders and Wallonia). The regions now have the power to legislate in tax matters, to the extent they are entitled to decide on additional tax deductions and credits and to levy surcharges on the (federal) personal income tax liability.

At the federal level, which is competent for the most broadly applicable taxes (e.g. income taxes, VAT and customs duties), the tax authorities consist of six sections: the Taxation Department, the Collection and Recovery Department, Customs and Excises, the Anti-fraud Squad, the Patrimony Documentation Department and the Treasury Department.

Rulings

A taxpayer may file a written request for a binding advance ruling on the tax consequences of a proposed transaction with the Tax Rulings Office. The request must concern an actual transaction or situation, rather than a hypothetical situation and may relate to any federal tax, i.e. income tax, VAT, etc. In principle, rulings are granted for a maximum period of five years, unless a longer period is justified. A ruling is binding on the Belgian tax authorities but not on the taxpayer and the taxpayer is not required to carry out the transaction. Rulings are not binding in the following cases:

- If the conditions for application of the ruling are not satisfied;
- If the facts on which the ruling are based are not described accurately; and
- If there is a change in the law or conflict with a legal provision of domestic law, tax treaty law or EU law.

3.8 Other taxes

Fairness tax

Fairness tax at a rate of 5% (5.15% including the 3% crisis surcharge) is payable by both resident and nonresident companies if, for the same taxable period, a company distributes dividends and the taxable base is reduced by previous year tax losses or current year notional interest deduction.

The taxable base of the fairness tax is determined as follows:

- The taxable base is, in principle, equal to the positive difference between the gross amount of dividends declared for the taxable period and the final taxable base effectively subject to corporate tax. For nonresidents, the amount of gross dividends is limited based on the ratio of the positive share in the Belgian accounting result to the global accounting result of the nonresident entity to which the Belgian establishment belongs.
- Under certain circumstances, this taxable base is reduced by the portion of the dividends originating from certain grandfathered previously-taxed reserves.
- The balance is limited, according to a percentage expressing the proportion between: (i) the previous year tax losses and current year NID that effectively have been deducted for the taxable period; and (ii) the taxable result of the taxable period, exclusive of any tax-exempt write-offs, provisions and capital gains (i.e. the taxable base before any deductions, such as the dividend received deduction, the NID or the patent income deduction).

Secret commissions tax

A secret commissions tax at a rate of either 50% (51.5% including 3% crisis surcharge) for payments to legal entities or 100% (103% including 3% crisis surcharge) in all other cases, is due if taxpayers fail to report on a timely basis, wages, fees, commissions, rebates and other benefits or gratifications that constitute professional income in the hands of the beneficiary, unless a legal exception or administrative tolerance applies. The secret commission's tax assessment is applied on the amount of the costs or the fringe benefits.

The secret commission's tax also applies to "hidden gains," i.e. turnover not reported as such. The tax rate amounts to 100%, unless the hidden gains are reincorporated in the company's accounts in which case the rate is 50% (103% and 51.5%, respectively, including the 3% crisis surcharge).

The secret commissions tax does not apply if the beneficiaries are able to demonstrate that they have duly reported the relevant items of income in their (Belgian or foreign equivalent) tax return, or if the beneficiaries are duly identified at the latest within two years and six months from 1 January of the relevant tax year.

Tonnage tax

A tonnage tax regime applies to shipping companies.

Qualifying companies can opt to report a lump sum taxable income for corporate income tax purposes provided the business profits are derived from sea vessels sailing under the flag of Belgium or any other EU member state for the transport of goods or persons on international sea routes or on routes from and to installations at sea used for the exploration or exploitation of natural resources. Under the tonnage tax regime, taxable income is determined as a function of the tonnage of the sea vessels and that income is then subject to the standard corporate income tax rates.

4.0 Withholding taxes

4.1 Dividends

Dividends distributed by a Belgian resident company to a nonresident are, in principle, subject to a 27% withholding tax (increased from 25% from 1 January 2016), unless the rate is reduced under one of Belgium's tax treaties. This rate also applies to the portion of liquidation surpluses and share buybacks that are considered as deemed dividends for tax purposes.

Reduced rates apply in certain specific circumstances to dividends related to shares issued in exchange for private (non-public) cash contributions made into small and medium-sized enterprises from 1 July 2013. The rate is 20% for dividends distributed in the second accounting year after the cash contribution and 15% for dividends distributed in the third and subsequent years. Prior to 1 January 2016, a reduced 15% rate applied to dividends to both resident and nonresident shareholders from certain residential real estate companies. This rate was abolished from 1 January 2016 and the standard 27% withholding tax rate now applies.

To comply with the decision of the Court of Justice of the European Union in the *Tate & Lyle Investments* case, a 1.6995% withholding tax rate applies to dividends distributed to certain parent companies established in the EEA and tax treaty countries if the treaty provides for exchange of information, provided that the participation: i) represents less than 10% of the share capital of the Belgian payer company; ii) has a purchase price of at least EUR 2.5 million; and iii) is held for an uninterrupted period of at least one year, provided certain other conditions and formalities are satisfied.

According to Belgium's implementation of the EU parent-subsidiary directive, no tax is withheld on dividends paid to a company established in Belgium or in another EU member state that holds at least 10% of the company paying the dividends, provided the participation is held for an uninterrupted period of at least one year and certain other conditions and formalities are satisfied. Belgium has unilaterally extended the benefit of the directive to parent companies located in non-EU countries, provided the country where the parent company is resident has concluded a tax treaty with Belgium that contains an exchange of information provision.

According to the agreement between the EU and Switzerland, no withholding tax is levied on dividends paid to a company established in Switzerland that holds at least 25% of the company paying the dividends for an uninterrupted period of at least two years and certain other conditions are satisfied.

4.2 Interest

Interest paid to a resident or nonresident generally is subject to a 27% withholding tax (increased from 25% from 1 January 2016), unless the rate is reduced under a tax treaty or the EU interest and royalties directive applies. A 15% rate applies to interest paid to both residents and nonresidents from certain government bonds and interest on regulated savings deposits exceeding certain thresholds. Domestic law provides for several withholding tax exemptions on interest paid to nonresidents, e.g. interest paid by certain listed holding companies or holding companies owned by a listed company, and interest paid by a Belgian bank or other financial institution.

Under Belgium's implementation of the EU interest and royalties directive, provided certain formalities are fulfilled, interest paid is exempt from withholding tax if the recipient is an associated company of the payer company and is resident in another EU member state or is a permanent establishment of such a company situated in another member state. Two companies are associated for these purposes if one company holds directly or indirectly at least 25% of the capital of the other company, or a third EU company holds directly or indirectly at least 25% of the capital of each of the two companies. The companies must all be in a legal form listed in the annex to the interest and royalties directive and be subject to corporate income tax. The participation in the associated company must be held for a continuous period of at least one year.

According to the agreement between the EU and Switzerland, no withholding tax is levied on interest paid to a company established in Switzerland where a minimum 25% shareholding exists between both companies or where a third company owns directly at least 25% of both companies, provided the participation is held for an uninterrupted period of at least two years and certain other conditions are satisfied.

4.3 Royalties

The withholding tax on royalties is 27% (increased from 25% from 1 January 2016) of the gross amount as reduced by a standard expense deduction of 15%. The rate is 15% for certain income from literary and associated rights and from legal and compulsory licenses not exceeding EUR 57,590 (for tax year 2017).

Under Belgium's implementation of the EU interest and royalties directive, royalty payments are exempt from withholding tax provided the recipient is an associated company of the payer company and is resident in another EU member state or is a permanent establishment of such a company situated in another member state. Two companies are associated for these purposes if one company holds directly or indirectly at least 25% of the capital of the other company, or a third EU company holds directly or indirectly at least 25% of the capital of each of the two companies. The companies all must be in a legal form listed in the annex to the interest and royalties directive and be subject to corporate income tax. The participation in the associated company must be held for a continuous period of at least one year.

According to the agreement between the EU and Switzerland, no withholding tax is levied on royalty payments made to a company established in Switzerland where a minimum 25% shareholding exists between both companies or where a third company owns directly at least 25% of both companies, provided the participation is held for an uninterrupted period of at least two years and certain other conditions are satisfied.

4.4 Branch remittance tax

Belgium does not levy a branch remittance tax.

4.5 Wage tax/social security contributions

A payroll tax must be withheld on remuneration and pensions paid to resident and nonresident employees and directors if certain requirements are met. Partial payroll tax exemptions are available for certain types of employee (e.g. researchers and sportsmen) or types of employment (e.g. overtime work, night work and shift work).

Employer social security contributions are about 37.58% of 1.08 times the gross salary for blue collar employees and approximately 32% of the gross salary of white collar employees. However, the level of employer contributions varies depending on the size and industry of the company, as well as the wages of the employee. For instance, SMEs benefit from reductions of employer contributions for first hires.

Under the 2015 "tax shift agreement," the maximum effective contribution rate of the employer part of the contributions was reduced to ±30% on 1 April 2016 and will be further reduced to 28% on 1 January 2018. However, because additional reductions and contributions apply to the base rate, the expected impact of these measures is limited (approximately 5%-6% for low wages and 1%-2.5% for medium and high wages).

The social contributions are due on the gross salary, with certain elements of the salary subject to a special contribution (e.g. the CO_2 solidarity contribution for the private use of a company car or a contribution of 8.86% due on the employer's contribution for group insurance). Social security contributions are deductible business expenses for corporate income tax purposes.

A special 1.5% social security contribution (also referred to as the "*Wijninckx* contribution") was introduced in 2012, due when the supplementary pension payments of the employer for any of its employees exceeds EUR 31,212.00/year (income year 2016). The *Wijninckx* contribution was intended to apply only until the end of 2015, but it has been extended to the end of 2016.

Withholding tax also must be withheld on certain other payments to nonresidents (both companies and individuals) at a rate of 33%. The effective withholding tax rate is reduced to 16.5% as the result of a 50% lump-sum cost deduction. Further reductions may be available under an applicable tax treaty.

5.0 Indirect taxes

5.1 Value added tax

VAT is levied on the provision of most goods and services. The standard VAT rate is 21%, with reduced rates of 0%, 6% and 12% applicable in certain cases. The zero rate applies to daily and weekly publications and certain recycled goods; the 6% rate applies to most basic goods, such as food, water and pharmaceuticals; the 12% rate applies to items including social housing and restaurant services. Imports for consumption in Belgium are subject to the same VAT rates as domestic products. VAT is not levied on exports.

Under a VAT grouping regime, separate VAT taxable persons may be treated as a single VAT taxable person to the extent the taxpayers are established in Belgium and "closely bound together" in accordance with the Belgian definition. Companies in a VAT group may invoice other Belgian companies in the group without charging VAT.

There is no de minimis registration threshold, other than for distance sales by a non-Belgian foreign mail order company to Belgian individuals, in which case a threshold of EUR 35,000 applies.

A VAT return must be filed monthly or quarterly and any tax due must be paid at that time. Advance payments may be required.

5.2 Capital tax

Belgium does not levy capital duty on the contribution of or increase in capital, other than a fixed fee of EUR 50.

5.3 Real estate tax

An annual tax applies to the annual notional rental income of owned land, buildings and industrial equipment. The tax is, in principle, equal to a percentage of the notional rental value of the property and may vary by region. In the Flemish region, the tax is 2.5% of the cadastral income (i.e. annual deemed rental income). For buildings in the Walloon and Brussels regions, the tax is 1.25% of the assessed value. Provinces and municipalities are entitled to levy local surcharges. Reduced rates may apply.

Registration duties apply to the transfer and leasing of real estate located in Belgium, at rates ranging from 0.2% to 12.5% (depending on the nature of the transfer and/or the region in which the property is located).

5.4 Transfer tax

Belgium does not levy transfer tax.

5.5 Stamp duty

Stamp duty is levied in only a limited cases, e.g. stock exchange tax on transactions in public securities (at rates ranging from 0.09% to 1.32%) and the duty on insurance premiums (at rates ranging from 1.1% to 9.25%).

5.6 Customs and excise duties

Customs duties are levied on goods imported from outside the EU. Excise duties are levied on energy products (such as petrol, gasoil, natural gas, etc.) and electricity, as well as tobacco products, alcohol and alcoholic beverages, in accordance with common EU rules. Belgium levies national excise taxes on some non-alcoholic beverages and coffee.

5.7 Environmental taxes

There are levies on energy usage to fund climate change commitments and nuclear decommissioning.

5.8 Other taxes

Banks are subject to a bank levy and a subscription tax on savings deposits. Subject to some exceptions, municipalities are free to impose other types of taxes (e.g. tax on business surfaces, portable computers, etc.). As a result, the tax regime differs from municipality to municipality.

6.0 Taxes on individuals

Individuals residing in Belgium are subject to personal income tax, as well as withholding tax, social security, inheritance and gift tax, and municipal taxes.

Belgium Quick Tax Facts for Individuals	
Income tax rates	Progressive to 50% (plus local surcharges of 0%-9%)
Capital gains tax rates	0%/16.5%/33% (plus local surcharges)
Basis	Worldwide
Double taxation relief	Yes, a total or partial exemption
Tax year	Calendar year
Return due date	30 June (for resident tax return) 13 July 2016 (for electronic filing via Tax-on-Web for tax year 2016 returns)
Withholding tax	
− Dividends	5%/15%/17%/20%/27%
− Interest	15%/27%
− Royalties	15%/27%
Net wealth tax	No
Employee social security	13.07%
Inheritance tax	Varies per region
Real property tax	Varies by region, province and commune, based on notional rental value or rent
VAT	21% (standard rate)/0%/6%/12% (reduced rates)

6.1 Residence

An individual is resident in Belgium if his/her domicile is in Belgium. The domicile of a married taxpayer is irrefutably presumed to correspond to the place where the taxpayer’s family is located. Furthermore, an individual who is listed on the national register—i.e. an individual who has a work permit or, for an EEA national, a residence permit—is deemed to have his domicile in Belgium, unless the individual can prove otherwise.

An individual also may be considered a Belgian tax resident if his/her “seat of fortune” (i.e. the place where the taxpayer manages his/her estate) is located in Belgium.

Certain foreign nationals who temporarily work and live in Belgium can, under certain conditions, be granted a beneficial tax status that leads to a fictitious nonresident status in Belgium.

6.2 Taxable income and rates

The regional surcharges amount to 35.117% on the “reduced federal tax.” To determine the reduced federal tax, an “‘autonomy factor” of 25.99% is applied to the federal tax liability (after federal tax deductions, but before federal tax credits). The regional surcharges of 35.117% and the autonomy factor of 25.99% have been determined in such a way that currently, the sixth state reform does not result in a higher total tax burden on Belgian taxpayers. Going forward, the regions can adjust the surcharge levy.

Taxable income

Residents are taxable on their worldwide income, including professional income, income from real estate, securities and other capital investments. Foreign-source income can—in certain cases—be fully or partially exempt from Belgian taxes, based on a tax treaty or Belgian domestic legislation.

Executives posted in Belgium may apply to benefit temporarily from a special expatriate regime. The application must be made within six months following the month in which the assignment starts. To qualify for the beneficial regime, the personal and economic interests of the individual must be located outside Belgium and he/she must be hired abroad or be transferred to a Belgian entity. The benefits of the special expatriate status are as follows:

- The taxpayer will be considered a nonresident, meaning that only Belgian-source professional income, real estate income and passive investment income (dividends, interest, etc.) is taxable in Belgium.
- The taxpayer will be entitled to a tax-free allowance up to the limit of EUR 11,250 (or increased limit of EUR 29,750). The taxpayer may exclude actual payments in accordance with the employer's policy, such as cost-of-living allowances, housing allowances, tax equalization and home leave. If the employer does not have a company policy, the taxpayer still may exclude allowances, calculated according to regulations issued by the tax authorities. In addition, school fees relating to primary or secondary education for dependent children attending an international school in Belgium and moving expenses that are reimbursed upon receipt may be excluded without limitation.
- The taxpayer will be able to exclude the part of the salary relating to the days during which he/she worked outside Belgium, on a pro rata basis. Supporting documents are required for every working day spent abroad and should be retained for presentation to the tax authorities in the event of an audit. The tax authorities have three years from 1 January of the relevant tax year to audit the tax return (seven years in cases of fraud).

Deductions and reliefs

Individual taxpayers are permitted to make a number of deductions from their total income, including the following:

- Business expenses (lump-sum or real costs);
- Social security contributions;
- Where the taxpayer's spouse does not work, the marital quotient that allocates 30% of the main earner's income to the spouse, which is taxed in the hands of the spouse, up to a maximum of EUR 10,290 (income year 2016, tax year 2017); and
- Alimony payments.

The basic tax amount is lowered by the application of the personal tax-free allowance. The basic lump sum amounts to EUR 7,130 (income year 2016, tax year 2017) and is increased in case of dependent children.

Federal tax credits are available for (inter alia) the following expenses:

- Premiums for endowment-type life insurance policies and contributions for pension saving;
- Expenses related to charitable donations;
- Childcare costs (for children up to age 12); and
- Capital and interest reimbursement for mortgage loans concluded to acquire/maintain a dwelling other than the proper dwelling.

Regional tax credits are available for (among others) the following expenses:

- Capital and interest reimbursement for mortgage loans concluded to acquire/maintain the proper dwelling;
- Costs for prevention against burglary;
- Costs for certain government schemes (ALE/PWA) and other service vouchers; and
- Costs related to roof insulation.

The regional tax credits vary from region to region.

Rates

Income tax

The following rates apply on the taxable income (income year 2016, tax year 2017):

- 25% on EUR 0–EUR 10,860;
- 30% on EUR 10,860.01–EUR 12,470;
- 40% on EUR 12,470.01–EUR 20,780;
- 45% on EUR 20,780.01–EUR 38,080; and
- 50% on taxable income above EUR 38,080.

Local surcharges of between 0% and 9% are payable in addition to federal and regional taxes, raising the marginal tax rate to a maximum of 54.5%. Nonresidents pay local tax at 7%, irrespective of the rate applied by the commune in which the nonresident lives.

Capital gains

In principle, capital gains derived from the sale of shares are tax-exempt to the extent the sale can be considered as "nonspeculative" and normal management of an individual's private wealth.

Capital gains are taxable where they are considered as professional or miscellaneous income:

- If the individual has been trading to such an extent that the gains effectively constitute professional income, the capital gains could be deemed to generate taxable professional income and could be taxed at the generally applicable rates (increased by relevant local surcharges) and be subject to social security contributions;
- If the activities go beyond the normal management of the individual's private estate, the gains could be taxed at a separate tax rate of 33% (increased by relevant local surcharges). Any abnormal or speculative operations should be regarded as falling outside of the notion of normal management of the private estate. Case law has defined several criteria to determine whether an operation should be considered as abnormal or speculative (e.g. a short time frame between acquisition and disposal, a disproportionate difference between the purchase and sales price, etc.); or
- Capital gains derived from the transfer of shares from a resident company to a legal entity established outside the EEA could be taxable if, in the five years preceding the transfer, the person disposing of the shares had a substantial participation in the resident company (i.e. if at any time during the five-year period the individual held, either alone or together with a related person, 25% or more of the shares). If so, the capital gains could be taxed at a flat rate of 16.5% (increased by relevant local surcharges).

Capital gains realized on the sale of immovable property are tax exempt, unless the gains originate from a sale of immovable property within five years (buildings, other than the proper dwelling) or eight years (land) after purchase, In such cases, a capital gain tax of 16.5% (buildings) or 16.5%/33% (land) is due (increased by relevant surcharges). Capital gains realized on the sale of the proper dwelling are tax exempt to the extent the building has been personally occupied by the owner during a continuous period of 12 months preceding the sale (and the notional rental value of the immovable property has been tax exempt during this period).

Capital gains derived from fixed tangible assets that have been used for business activities for more than five years are taxable at 16.5% (increased by relevant local surcharges).

From 1 January 2016, capital gains derived from the sale of quoted shares, options and warrants within six months of acquisition by individuals who are not engaged in a business activity are subject to a speculation tax at a rate of 33%.

Investment income

The general withholding tax rate on dividends is 27% (increased from 25% as from 1 January 2016), although the rate is reduced to 15% or 20% for certain categories shares of SMEs. Liquidation distributions also are subject to 27% withholding tax, although a reduced rate of 17% or 5% is possible. Dividends from certain real estate investment companies benefit from a 15% withholding tax rate.

The general withholding tax rate for interest is 27% (increased from 25% as from 1 January 2016), although a reduced rate of 15% can be applied in certain limited situations.

Income from regulated saving deposits is tax exempt up to EUR 1,880 (income year 2016, tax year 2017).

6.3 Inheritance and gift tax

Inheritance taxes range, in principle, from 3% to 30% for spouses and direct descendants in Wallonia and Brussels; and 3% to 27% in Flanders. If certain conditions are satisfied, lower rates and deductions may apply. In Flanders, no inheritance taxes are due where the family home is inherited by the spouse or the legal cohabitant partner of the deceased. Higher rates (up to 80% in Wallonia and Brussels and 65% in Flanders) apply to more distant relations and unrelated beneficiaries.

Similar rates apply to gifts of real estate. A beneficial gift tax regime is applicable if the gift concerns land on which property will be constructed.

Gifts of movable property are subject to a flat gift tax rate, ranging from 3% to 7% in Flanders and Brussels; and 3.3% to 7.7% in Wallonia.

6.4 Net wealth tax

Belgium does not levy a net wealth tax.

6.5 Real property tax

An annual tax applies to the presumed notional rental income of owned land (i.e. the annual deemed rental income), buildings and industrial equipment. The tax is, in principle, equal to a percentage of the notional rental value of the property and varies between the Belgian regions.

In Flanders, the tax amounts to 2.5% of the notional rental value. In Wallonia and Brussels, the tax rate amounts to 1.25%. Both provinces and municipalities are entitled to levy surcharges. This separately levied tax cannot be deducted for personal income tax purposes.

In Wallonia and Brussels, a capital acquisition tax of 12.5% is levied on the acquisition of real estate. In Flanders, an acquisition tax of 10% applies. A reduced rate of 6% (Wallonia) and 5% (Flanders) may apply if certain conditions are satisfied.

6.6 Social security contributions

Employee social security contributions amount to 13.07% of gross salary. Employer social security contributions amount to approximately 30% of gross salary. As a consequence of the 2015 "tax shift agreement", the employer social security contributions are expected to amount to approximately 28% from 2018. Contributions are uncapped for both employees and employers.

Social security contributions for self-employed individuals are capped at approximately EUR 16,000 on income of EUR 82,795.16 (income year 2016). As a consequence of the tax shift measures, in 2016, the contribution rate on the first income bracket, i.e. up to EUR 56,182.45 (income year 2016) was reduced from 22% to 21.5%. The contribution rate will be reduced by a further 0.5% in each of 2016 and 2017, to 20.5% in 2018. The contribution rate of 14.16% on the second income bracket, i.e. from EUR 56,182.45 to EUR 82,795.16 (income year 2016) remains unchanged.

6.7 Other taxes

The municipalities may, under certain conditions, impose other types of tax (e.g. taxes on second homes, abandoned buildings, burials, etc.).

6.8 Compliance

The taxable period corresponds to the calendar year. A married couple (or legal cohabitant partners) living together must file a joint return, although the tax liability is computed on an individual basis (income is not aggregated).

For resident individuals, the annual tax return must be filed by 30 June of the year following the calendar year in which the income is earned (an extended deadline is generally fixed around 15 July for taxpayers filing their income tax return electronically, via Tax-on-Web). Employed individuals and directors are subject to payroll tax withholding. Self-employed persons should prepay their estimated taxes according to specific rules, similar to those applied to businesses. Different requirements apply to nonresidents.

Administrative penalties for noncompliance with the tax provisions range from 10% to 200% of the tax due. Criminal sanctions (including imprisonment and fines) may apply in cases of tax fraud.

7.0 Labor environment

7.1 Employees’ rights and remuneration

Belgian labor law encompasses laws on the terms of employment and rules on health and safety. Many of these derive from EU legislation and many of the employment conditions have their roots in collective bargaining agreements that are binding by royal decree.

Written employment contracts generally are not mandatory, except in certain cases (contracts for a fixed term/task, part-time contracts, trial periods, non-competition clauses, etc.). If no contract has been concluded, the employee is deemed to have been employed on an open-ended basis. The circumstances under which an employee may be employed for a fixed term are prescribed (i.e. a statutory limitation applies on the length of and number of consecutive fixed-term contracts), since the presumption in law (also contained in EU law) is that employment always should be for an indefinite period.

Companies with more than 100 employees must appoint a works council. The council meets monthly and must, among other things, be provided with information on the company’s productivity, financial results and workforce. Companies with more than 50 employees must appoint and consult on the same basis with their Committee for Prevention and Labor Protection at the workplace, an elected body that mainly consults with the employer on health and safety issues. Companies with more than 1,000 employees in the EU and more than 150 employees in more than one EU country must have a European works council or an equivalent system of consultation for their employees. All major Belgian companies have European works council agreements. Similar rules to the European works council rules apply to any companies availing themselves of the European Company Statute.

Working hours

The statutory maximum average working week on standard pay is 38 hours, although shorter weeks are possible (e.g. through an individual or collective agreement). Overtime is strictly regulated. In general, an equivalent amount of time off is given for every hour of overtime worked. Overtime premiums on top of the normal wage are 50%, increasing to 100% on Sundays and holidays, although special rules apply to, e.g. shift workers or part-time workers.

Significant amendments to working time regulations are expected during 2016 to allow more flexibility for both employees and employers.

7.2 Wages and benefits

Compulsory collective bargaining agreements, concluded at both the national and the industry level, govern wages in many sectors, ensuring that employees are paid at least a minimum wage. Where an employer is not covered by a collective agreement at the industry level, the minimum wage is EUR 1,559.38 per month for employees aged 21 and over.

Blue collar employees usually are paid at an hourly rate and receive their wages twice a month. White collar employees are paid once a month and their salary is calculated on a monthly basis. Employees also may receive additional bonuses through an applicable collective bargaining agreement. Most employees receive fringe benefits in addition to the normal salary. A common fringe benefit is an end-of-year bonus, typically equivalent to one month’s salary). Wages, including those for management, can vary considerably by sector.

There are 10 public holidays. Blue and white collar employees are entitled to four weeks of annual holiday with pay, as well as a holiday bonus, in addition to normal pay (the double holiday allowance). All holiday pay for blue collar employees is financed by social security contributions and paid from social security funds. Holiday pay for white collar employees is paid by the employer directly to the employee.

Maternity leave entitlement is 15 weeks. Special leave entitlements apply to provide palliative care or when a family member is seriously ill. Parents are entitled to four months of parental leave for children of up to 12 years. Finally, in certain cases, all employees can take a time credit, i.e. they generally can suspend their employment agreement for one year during their professional career, regardless of the reason. During that period, the employee receives a special social security benefit. Employees aged 50 and older may be able to take more time credit. However, for businesses with fewer than 10 employees, the right to a time credit must be agreed to by the employer.

Pensions

Employees are eligible for a full state pension at age 65, the normal retirement age. However, employees can claim a state pension at age 62 if they have 40 years of service. The thresholds will be further increased from 2017. Special measures apply to specific employees with a long employment history. There are schemes to provide incentives for early retirement, especially for companies with financial problems that have to lay off many employees (the usefulness of the schemes to companies has lessened, however, since an employer's financial burden has been increased by changes to the law).

Large and medium-sized enterprises usually provide extra pension insurance through an occupational pension plan. The employment law aspects of occupational pensions in Belgium are covered by statutes that generally act as umbrellas for sectoral negotiation through collective agreements. The law regulates the establishment, modification and termination of pension schemes; membership conditions and calculations for vested rights (including equal treatment for men and women); portability of reserves; and the consultation of salaried employees.

Social insurance

Any individual employed in Belgium by an employer with a business establishment in Belgium is entitled to benefits from the Belgian social insurance system, whether or not he/she is a Belgian national and even in the absence of a written employment contract. The level of employer and employee contributions varies depending on the size and industry of the company, as well as the wages of the employee. These contributions fund statutory pensions, healthcare, sick pay, unemployment pay, family allowances and compensation for work-related accidents and illness.

The EU social security regulations and bilateral social security treaties must be considered to ascertain whether foreign employees are subject to Belgian social security law. If the EU social security regulations are not applicable and there is no social security treaty between the country of origin and Belgium, Belgian social security law will apply to a foreign employee working in Belgium who is affiliated with a Belgian company or a business establishment of a foreign company in Belgium.

If the EU social security regulations are not applicable and there is no social security treaty between the country of origin and Belgium, nonresident directors of a Belgian company must generally make social security contributions as self-employed persons, even if they do not take fees or salary from the company.

7.3 Termination of employment

There are many prohibitions on termination. The list of protected positions ranges from environment coordinators to trade union representatives. However, the main practical effect of these prohibitions is that they can increase the cost of dismissal considerably (with special protection indemnities) if a certain procedure is not followed and/or the employer cannot prove that the reason for dismissal does not relate to the reason for the protection. Where a company makes an employee redundant who has worked for the company for at least one year and is aged over 45 or who is entitled to a notice period of at least 30 weeks, it must provide or fund an outplacement program to help the employee find new employment (except if the employee is dismissed for serious cause).

In collective redundancies and business closures, the works council must be informed and consulted on a timely basis, i.e. there must be time to negotiate redundancy terms. The employer must: (i) inform the employee representatives in writing and advise them in advance that it plans a collective redundancy; (ii) be able to prove that it met with employee representatives before proceeding with collective redundancy procedures; (iii) allow employee representatives to ask questions and make their case and/or counterproposals; and (iv) review the arguments of the labor force and provide specific responses. Employee representatives must be informed and consulted before any announcement and decision, and a special indemnity will be due in cases of collective redundancy. Employees dismissed in the context of a collective redundancy are entitled to a specific outplacement program within an “employment cell” that must enable them to find a new job more quickly.

Either party to an employment relationship of an indefinite duration can terminate it at any time, but strict rules apply for individual and collective redundancies. The basic premise is that notice must be given to allow the employee to find a new job or the employer to find a replacement. The notice must be in writing and must include the date on which the notice commences and the notice period. Failure of an employer to provide notice or insufficient notice will entitle the employee to additional compensation, i.e. the indemnity in lieu of notice.

Post 1 January 2014 rules: The distinction between blue and white collar workers was abolished from 1 January 2014, so that all employees benefit from the same termination rules, which can be summarized as follows:

Seniority (Months)	Notice (Weeks)	Seniority (Years)	Notice (Weeks)	Seniority (Years)	Notice (Weeks)	Seniority (Years)	Notice (Weeks)
0-3	2	2	12	13	42	24	66
3-6	4	3	13	14	45	25	67
6-9	6	4	15	15	48	26	68
9-12	7	5	18	16	51	27	69
12-15	8	6	21	17	54	28	70
15-18	9	7	24	18	57	29	71
18-21	10	8	27	19	60	30	72
21-24	11	9	30	20	62	31	73
		10	33	21	63	32	74
		11	36	22	64	33	75
		12	39	23	65	34	76

Seniority earned before 1 January 2014 will be calculated in accordance with different rules (see below). Different (lower) notice periods apply to blue collar workers employed in specific industries (such as catering, construction, the Port of Antwerp, retail, ground handling at airports, diamond industry, etc.), also referred to as “exception industries.” For most blue collar workers, these deviating notice periods are applied on a temporary basis only, until 31 December 2017. As from 1 January 2018, the standard notice periods set out in the table above should be applied. For some blue collar workers, especially those in the catering industry, the deviating notice periods will continue to apply after 31 December 2017 (structural exception).

Rules for employees who entered into service before 1 January 2014: Transitional rules apply to employees who entered into service before 1 January 2014. The notice period consists of two separate parts: (i) seniority acquired as at 31 December 2013; and (ii) seniority acquired from 1 January 2014 until the dismissal date. For the first part, the calculation of the notice period differs between “higher” and “lower” employees:

- For “higher” employees (those with a gross annual salary exceeding EUR 32,254 on 31 December 2013), the notice period corresponds to one month for each year of seniority (including the current year), with a minimum of three months, if notice is given by the employer.

  If notice is given by the employee, he/she will have to observe a notice period of 1.5 months per five-year period of seniority started with a maximum of 4.5 months if his/her gross salary did not exceed EUR 64,508 on 31 December 2013 or six months if his/her annual salary exceeded EUR 64,508 on 31 December 2013.

- For “lower” employees (those with a gross annual salary not exceeding EUR 32,254 on 31 December 2013), the notice period corresponds to three months per five-year period of seniority started, if notice is given by the employer.

If notice is given by the employee, he/she will have to observe a notice period of 1.5 months if he/she has less than five years of seniority. At five years, the notice period amounts to three months.

For the second part, the notice period is determined on the basis of the seniority acquired as of 1 January 2014 and applying the new legal provisions (see table above).

The total notice period that should be observed corresponds to the sum of the two parts.

7.4 Labor-management relations

Trade union membership is not compulsory in Belgium, but the country has one of the highest membership rates in Europe. One of the reasons for this is that trade unions pay out unemployment benefits. Trade union affiliation crosses industry and company lines. A worker normally chooses to join a union on the basis of political or religious orientation.

The right to take industrial action is not directly recognized or regulated in Belgian legislation, but is generally accepted as a principle. However, the precise limits of the right to industrial action in practice (especially in case of a strike) are disputed in legal doctrine and jurisprudence.

Some collective agreements contain procedures to be followed before industrial action is taken, but generally no prior notice needs to be given before a strike. When trade unions conclude a collective bargaining agreement, they generally are not allowed to take industrial action that conflicts with the terms of the agreement. The Belgian government has no legal instrument to deter or postpone strikes, but it does have a highly developed mediation service. Individual conflicts between employer and employee are presented to special labor courts.

7.5 Employment of foreigners

Before they are entitled to start working and residing in Belgium, foreign nationals must fulfill some "immigration" formalities. The number and nature of these formalities depend upon the nationality and the employment situation of the foreign national. According to the current regulations, any employer wishing to employ a foreign national in Belgium must first apply for and obtain a work permit for that employee. Swiss and other EEA citizens are exempt from the obligation to obtain a work permit to perform work activities in Belgium.

In general, work permits are issued only if it is absolutely impossible to find a suitable local employee in the labor market within a reasonable time. In addition, such permits are issued only to nationals of countries that have signed international treaties regarding the employment of employees. However, special provisions exist for highly qualified employees and executives: if these employees' gross salary exceeds EUR 39,824 or EUR 66,422 respectively for 2016, and such an employee is in possession of at least a bachelor's degree, a work permit can be obtained relatively quickly. The processing time for such a work permit application is approximately three to four weeks, depending on the region of employment and the time of year (e.g. holidays).

Once in possession of the work permit, a foreign employee who intends to take up residence in Belgium for more than three months (and his/her family members) generally will need to obtain a visa D at the Belgian consular authorities of his/her place of residence before travelling to Belgium. Even those foreign nationals who are not required to obtain a visa for travel to Belgium may be recommended to apply for one.

Upon arrival in Belgium, all foreign nationals (including Swiss and EEA citizens) must register with the Belgian communal authorities if they will reside in Belgium for a period of more than three months. Once the registration process has been finalized (in principle within three months), they will be provided with a residence card, the Belgian electronic ID card.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

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