Recent developments:

For the latest tax developments relating to Belgium, see Deloitte tax@hand.

Investment basics:

Currency – Euro (EUR)

Foreign exchange control – There are no foreign exchange controls. However, the national bank of Belgium (NBB, the central bank) 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.

Accounting principles/financial statements – Belgian GAAP for annual accounts. IFRS are mandatory for consolidated accounts of listed companies and optional for consolidated accounts of other companies but may not be used for the annual accounts. Financial statements must be submitted annually.

Large companies must publish full annual financial statements (balance sheet, income statement and notes to the financial statements) complying with accounting rules in the EU Fourth Directive or with IAS. Small companies may publish accounts in a simplified form. In principle and with an exception for certain types of company, the financial statements must be audited by a statutory auditor. Financial statements must be submitted annually to the NBB.

Listed companies must publish financial information quarterly and consolidated statements twice a year.

Foreign companies with a branch in Belgium must provide the NBB each year with a copy of the annual financial statements of the foreign company and consolidated financial statements (together with a social balance sheet of the Belgian permanent establishment (PE), if it has employees in Belgium). The information must be submitted within one month after the general meeting of shareholders and at the latest seven months following the end of the financial year. The copies of the financial statements submitted must be drafted in one of the three languages of Belgium (Flemish, French or German) depending on the registered address of the Belgian branch.

Principal business entities – These are the limited liability company (SA/NV), the private limited liability company (SPRL/BVBA), the cooperative limited liability company (SCRL/CVBA), partnership (SNC/VOF) or SCS/Comm.V. The SA/NV, and to a lesser extent the SPRL/BVBA, are the entities most commonly used by foreign businesses. Businesses also may be established as a branch of a foreign company.

Corporate taxation:

Residence – A corporation is resident if its principal establishment, registered office or place of management is in Belgium.

Basis – Residents are taxed on their worldwide income. Belgian-source income of nonresident companies is subject to the nonresident income tax. In specific cases, nonresident companies without a taxable PE may be taxed on certain Belgian-source income if Belgium is allocated taxation rights under a tax treaty concluded with the nonresident’s state of residence; or, if there is no treaty, if the nonresident cannot demonstrate that the income has been effectively taxed in its residence state. In such a case, the Belgian payer of the income must withhold professional withholding tax at a rate of 16.5% (unless the rate is reduced under a treaty).
**Taxable income** – A resident company is liable to corporate income tax on its worldwide income, including capital gains and less allowable deductions. Companies may deduct all business expenses when calculating taxable income, subject to the general condition that sufficient documentation is available and that the expenses are legitimate and at arm’s length. Royalties and all fees generally are deductible without additional requirements (except if made to tax havens, see below). Income from foreign real estate or branches located in countries with which Belgium has concluded a tax treaty is exempt (except for three countries, where, under the relevant treaty, only a proportional reduction of the Belgian tax is granted). Taxable income also includes income attributed to the Belgian company under the controlled foreign company (CFC) legislation (see under “Anti-avoidance rules,” below). 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.

A nonresident company is taxed only on Belgian-source income. A nonresident company without a PE 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 PE or a Belgian establishment (as defined under domestic legislation) may, under specific circumstances, be subject to a 16.5% withholding tax (unless the rate is reduced under a double tax treaty).

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 (see under “Incentives,” below).

Payments made directly or indirectly to tax havens (including low-tax and territorial tax jurisdictions as well as jurisdictions determined by the OECD not to have substantially implemented the internationally agreed tax standard on the exchange of information) are not deductible in calculating taxable income unless: (i) they are properly reported on an annex to the annual corporate income tax return and (ii) the taxpayer can demonstrate that the payments are made within the framework of “real and genuine” transactions with persons other than artificial arrangements.

**Taxation of dividends** – For taxable periods starting on or after 1 January 2018 and ending no earlier than 31 December 2018 (tax year 2019), a 100% dividends received deduction (DRD) is applicable for dividends received by a Belgian company from a domestic or foreign company. Dividends qualifying for the DRD may not be (fully) deductible if the recipient company is in a loss position or if its available profits are insufficient. Excess DRD may be carried forward indefinitely. For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the offset of the DRD carryforward and some other tax attributes (such as the current-year notional interest deduction and tax loss carryforwards) is limited to EUR 1 million plus 70% of the taxable base.

The following requirements must be met to qualify for the DRD: (i) the shareholder must hold at least 10% of the share capital of the payer company or the participation must have an acquisition value of at least EUR 2.5 million; (ii) the payer company must be subject to corporate income tax on the profits out of which the distribution is made (“subject to tax” requirement); and (iii) the shareholder must continuously have (or have had) full ownership of the qualifying shares for an uninterrupted period of at least one year. Detailed and complex rules exist to determine whether dividends meet the subject to tax requirement that applies to directly held subsidiaries and, under a look-through rule, to indirectly held subsidiaries. In this respect, Belgium also has implemented the anti-hybrid rule and the general anti-avoidance provision in the amended parent-subsidiary directive.

**Capital gains** – Capital gains derived by a corporation on the disposal of tangible and intangible assets are subject to tax at the ordinary corporate tax rate. However, taxation of capital gains on such assets can be deferred if the assets are 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 is 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. Net gains derived from the disposal of shareholdings are exempt if: (i) the subject-to-tax requirement for application of the DRD is met; (ii) the shares have been held directly for an uninterrupted period of at least one year and (iii) for taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the same minimum holding requirement that applies for the DRD is fulfilled, i.e. a shareholding of at least 10% or an acquisition value of at least EUR 2.5 million. Shares sold within the one-year holding period are taxable at a rate of 25.5%, including surcharge (for taxable periods starting on or after 1 January 2018 and ending no earlier than 31 December 2018).
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.

**Losses** – Losses may be carried forward indefinitely for corporate tax purposes by the entity that incurred the losses, but may not be carried back. Restrictions apply in the case of a tax-neutral reorganization (e.g. merger, demerger or contribution) or a change in control that is not justified by legitimate financial and economic needs. The concept of control (i.e. legal control, factual control or joint control) is defined under Belgian company law. 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. 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. For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the offset of tax losses carried forward and some other tax attributes is limited to EUR 1 million plus 70% of the taxable base.

From tax year 2020, a limited transfer of losses between group members is permitted, by allowing the consolidation of tax losses within a group consisting of Belgian companies and Belgian establishments of European Economic Area (EEA) companies. The regime broadly allows a transfer of profits to a loss-making group company based on a “group contribution agreement.” A tax-neutral compensation is payable to avoid a transfer of equity. The deduction is called the “deduction for group contribution” and is subject to various conditions and formalities.

Capital losses generally 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 losses realized upon liquidation of a company of an amount equal to the loss of the paid-in capital represented by the shareholding.

**Rate** – For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the standard rate of corporate income tax is 29%. The rate will reduce to 25% for taxable periods starting on or after 1 January 2020 (and ending no earlier than 31 December 2020). Small and medium-sized companies (SMEs) are subject to tax at 20% on the first EUR 100,000 of income for taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018) provided certain conditions are satisfied. These include: (i) the company must qualify as an SME under company law; (ii) no more than 50% of the company’s shares may be held by other companies and (iii) the company must pay one of its executives at least EUR 45,000 annually (unless the remuneration of one or more directors is at least equal to the company’s taxable profits). The corporate tax rate applies to both subsidiaries and branches.

**Surtax** – For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), a 2% surcharge is imposed on the adjusted corporate income tax liability, giving an effective tax rate (the standard rate plus the surcharge) of 29.58%. For taxable periods starting on or after 1 January 2020 (and ending no earlier than 31 December 2020), the surcharge will be abolished, and the effective tax rate will equal the standard rate of 25%.

**Alternative minimum tax** – No. The fairness tax previously imposed at 5.15% on certain dividend distributions other than by SMEs is annulled from tax year 2019.

For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the offset of the tax loss carryforward, DRD carryforward and some other tax attributes (such as the current-year notional interest deduction) is limited to EUR 1 million plus 70% of the taxable base. This limitation creates a minimum taxable base for corporate taxpayers.

**Foreign tax credit** – A tax credit is available for foreign withholding tax levied on foreign-source interest and royalties. For foreign-source interest, the foreign tax credit may be reduced based on a debt-funding ratio.

**Participation exemption** – See under “Taxation of dividends.”

**Holding company regime** – All Belgian companies and Belgian branches of foreign companies can benefit from the participation exemption, without having to satisfy any additional conditions.
Incentives – Various investment deductions and R&D tax credits exist for R&D-related activities.

Under the notional interest deduction (NID), Belgian companies and Belgian branches of nonresident companies are entitled to deduct a deemed interest expense in connection with qualifying equity. For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the NID is granted only on the incremental increase in equity (determined by comparing the current year NID equity calculated in accordance with Belgian GAAP with the NID equity of the fifth preceding taxable period). 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 SMEs is increased by 0.5%. The maximum NID rate has been capped at 3% for large enterprises (3.5% for SMEs). For tax year 2019 (i.e. for accounting years ending between 31 December 2018 and 30 December 2019), the NID rate is 0.746% (1.246% for SMEs). For tax year 2020 (i.e. for accounting years ending between 31 December 2019 and 30 December 2020), the NID rate will be 0.726% for MNEs and 1.226% for SMEs. Most corporate taxpayers (both subsidiaries and branches) generally are entitled to benefit from the NID, but certain assets reduce the NID equity and anti-abuse rules exist.

For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the offset of some tax attributes, including the current-year NID, is limited to EUR 1 million plus 70% of the taxable base. The ability to carry forward excess NID for seven taxable periods is 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.

An innovation income deduction (IID) regime is available that reduces the effective rate of taxation on qualifying net income from patents, supplementary protection certificates, qualifying copyright protected software and various other intellectual property (IP) rights. Qualifying income, which is calculated using a nexus formula, also includes capital gains derived from the sale of qualifying IP, embedded royalties and infringement compensation. Unused IID may be carried forward. For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the offset of some tax attributes, including IID carryforwards, is limited to EUR 1 million plus 70% of the taxable base. The IID regime replaces the patent income deduction (PID) that amounted to 80% of the income, resulting in effective taxation of patent income at a rate of 6.8%.

Grandfathering of the old PID regime is possible until 30 June 2021.

An investment deduction of 13.5% for tax year 2019 is available for energy-saving investments, investment in R&D and patents. These investments, including investments made in newly developed high-tech products that 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. SMEs can claim an 8% investment deduction on certain qualifying assets; the rate is increased to 20% for fixed assets acquired or produced between 1 January 2018 and 31 December 2019.

A tonnage tax regime applies to shipping companies and has been approved by the European Commission until the end of 2022.

Withholding tax:

Dividends – The default withholding tax rate on dividends paid to both residents and nonresidents is 30%. Under Belgium’s implementation of the EU parent-subsidiary directive, no tax is withheld on dividends paid to a company established in Belgium or another EU member state that holds directly at least 10% of the company paying the dividends, provided the participation is held for an uninterrupted period of at least one year. The exemption applies also to qualifying shareholders established in an EEA member state or a country with which Belgium has concluded a tax treaty containing a qualifying information exchange clause, if the shareholder owns directly a shareholding in the Belgian payer company of less than 10% but with an acquisition value of at least EUR 2.5 million for an uninterrupted period of at least one year, to the extent that the Belgian withholding tax (if due) would not be creditable or refundable abroad.

If no exemption applies, a reduced withholding tax rate can apply under an available tax treaty. Where no exemption or reduced rate applies, the default rate is 30%.
The withholding tax on liquidation dividends also is 30%. 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. A specific liquidation reserve regime applies for SMEs, under which, subject to certain conditions, no additional withholding tax is due upon liquidation if a separate 10% tax is prepaid upon the creation of the reserve.

A reduced withholding tax rate applies to certain dividends relating to shares issued in exchange for cash contributions into SMEs as from 1 July 2013. The rate is 30% for dividends distributed before the second accounting year after the cash contribution, 20% for dividends distributed during the second accounting year after the contribution and 15% for dividends distributed in the third accounting year after the contribution and subsequent years.

Capital decreases and reimbursements of assimilated issue premiums and profit shares are partially treated as dividend distributions for income tax purposes, thus triggering the levy of withholding tax. The capital decrease is allocated to fiscal capital and to reserves according to a pro rata coefficient. The portion allocated to fiscal capital is excluded from the "taxable dividend" definition and exempt from tax. To the extent the capital decrease is allocated to reserves, a "taxable" dividend is distributed, triggering withholding tax. Corporate tax may be due to the extent that the capital decrease is allocated to tax-free reserves incorporated into capital.

**Interest** – Interest paid to a resident or nonresident generally is subject to a 30% withholding tax (15% for interest on certain specific government bonds and regulated savings deposits exceeding certain thresholds), unless the rate is reduced under a tax treaty or an exemption applies under the EU interest and royalties directive or domestic law.

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 member state or is a PE 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 have 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.

The exemptions under domestic law for interest paid to nonresidents include interest paid by certain listed holding companies or holding companies owned by a listed company, interest paid by a Belgian bank or other financial institution and interest paid to financial institutions in treaty countries. Specific conditions must be met.

**Royalties** – The withholding tax rate on royalties paid to both residents and nonresidents generally is 30%, 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 59,970 (for tax year 2019). Above this threshold, the tax rate depends on the nature of the activity generating the income. Where the income is derived from professional activities, progressive tax rates apply; otherwise, the rate is 15%. Expenses can be deducted but are limited as follows: 50% of the first bracket of EUR 10,000 and 25% of the bracket between EUR 10,000 and EUR 20,000. The rate may be reduced under a tax treaty or where the EU interest and royalties directive applies.

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 PE 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 have 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.

**Technical service fees** – 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.

**Branch remittance tax** – No

**Other taxes on corporations:**

**Capital duty** – No, except for a fixed fee of EUR 50. An exception may apply in the case of “mixed” contributions.
**Payroll tax** – A payroll tax is withheld on remuneration and pensions paid to resident or nonresident employees and directors for whom such payments constitute taxable professional income. Partial professional withholding tax exemptions are available for certain types of employee (e.g. researchers) or employment (e.g. overtime work, night work and shift work, work in aid zones).

As from 1 March 2019, Belgian employers are not only obliged to report and withhold wage taxes on all remuneration paid by a Belgian legal entity, but also on remuneration paid or granted by a foreign related company to an individual working for the benefit of a Belgian entity or Belgian establishment. The Belgian entity must comply with the new reporting and withholding rules regardless of whether they intervene in the payment process or whether the related cost is recharged to the Belgian entity. Transitional reporting measures apply for January and February 2019.

**Real property tax** – An annual tax is imposed at the regional level on the notional rental income of immovable property (land, buildings and industrial equipment) located in Belgium. The rate varies depending on the region in which the property is located: in Flanders the rate is 3.97% of the notional rental value; in Wallonia and Brussels the rate is 1.25%. Both provinces and municipalities are entitled to levy surcharges. The tax and surcharge are deductible for corporate income tax purposes.

**Social security** – Both employers and employees are liable for social security contributions. Under the 2015 “tax shift agreement” the base employer contribution is 30.57% of 1.08 times the gross salary for blue-collar employees and 25% of gross salary for white-collar employees. For blue-collar workers, an additional yearly contribution of 10.27% is due on 1.08 times the gross salary. 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 example, the average employer contribution for white-collar employees is approximately 28% owing in part to increases incorporated in collective labor agreements. These increases also exist for blue-collar employees. Special regimes may apply, e.g. SMEs benefit from reductions of employer contributions for first hires and companies with fewer than 20 employees pay slightly less.

Certain elements of the salary package are subject to a special social security contribution (e.g. a CO2 solidarity contribution for the private use of a company car, a contribution of 8.86% due on the employer’s contribution for group insurance and a 1.5% contribution, referred to as the “Wijninckx contribution,” on extra-legal pension premiums exceeding certain thresholds). Social security contributions are deductible business expenses for corporate income tax purposes.

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

**Transfer tax** – Transfer (or registration) taxes apply to the transfer and leasing of real estate located in Belgium, at rates ranging from 0.2% to 12.5% (depending on the type of transaction and the region in which the property is located).

**Other** – A “secret commissions” tax at a rate of 50% for payments to legal entities or 100% in all other cases (increased by a surcharge) applies to certain remuneration, fees, commissions, rebates and other benefits that (i) constitute professional income in the hands of the beneficiary; (ii) are not properly documented or reported on a timely basis and (iii) have not been taxed in the hands of the beneficiary, unless a legal exception or administrative tolerance applies. For taxable periods starting on or after 1 January 2018 (and ending no earlier than 31 December 2018), the surcharge is 2%, bringing the rate to 51% or 102%, respectively. The secret commissions 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% (102% and 51%, respectively, including the 2% surtax). This 50% rate will be abolished as from the taxable period starting on or after 1 January 2020 and ending no earlier than 31 December 2020.

The secret commissions tax does not apply if: (i) it can be demonstrated that the amount subject to the reporting obligation is included in the tax return filed on a timely basis by the beneficiary in Belgium or a foreign jurisdiction or (ii) the beneficiary is unambiguously identified at the latest within a period of two years and six months following 1 January of the tax year in which the payment is made.

The secret commissions tax, as well as the underlying payment, are in principle deductible expenses for corporate income tax purposes, provided the generally applicable tax deductibility criteria are fulfilled. The deduction will be abolished as from the taxable period starting on 1 January 2020 and ending no earlier than 31 December 2020.

Banks are subject to a bank levy and a subscription tax on savings deposits.
Anti-avoidance rules:

**Transfer pricing** – Transactions between a Belgian parent company and its subsidiaries, or between a parent company or other subsidiaries and a Belgian subsidiary, or between the head office or other branches of a foreign company and a Belgian branch, must be carried out at arm’s length. The Belgian tax authorities can impute a deemed profit for non-arm’s length transactions. If advances or loans are granted to companies within a 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 (see under “Taxable income,” above).

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

Country-by-country (CbC) reporting requirements apply to Belgian-resident ultimate parent companies or other Belgian-resident reporting entities of groups whose consolidated group revenues exceed EUR 750 million. The CbC report must be filed within 12 months after the last day of the reporting period. The Belgian tax authorities should, in principle, be notified of which group entity will file the CbC report prior to the last day of the financial year.

A Belgian company that is part of a multinational group also is required to file master and local files if it exceeds any of the following thresholds based on its standalone statutory accounts: (i) combined operating and financial income of EUR 50 million; (ii) a total balance sheet of EUR 1 billion; or (iii) an annual average number of 100 full time equivalent employees.

The master file provides an overview of the multinational group including the organizational structure, activities, intangibles, intercompany financial transactions, consolidated financial and tax position of the group, transfer pricing policy and worldwide allocation of income and economic activities. It must be submitted within 12 months after the last day of the reporting period.

The local file consists of two forms. Part 1 provides information on the types of activity performed by the Belgian group entity and an overview of the relevant intercompany transactions. Part 2 provides information per business unit of the Belgian group entity, including a detailed transfer pricing analysis for intragroup transactions of that business unit exceeding EUR 1 million. The local file must be filed with the corporate income tax return of the Belgian entity.

**Interest deduction limitations** – Belgium has two 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. Where total debt exceeds the company’s equity, the interest paid is recharacterized as a dividend.
- A 5:1 debt-to-equity ratio applies for financing where the beneficial owner of the interest is: (i) not subject to tax or is subject to tax on the income under a tax regime that is significantly more advantageous than the Belgian tax regime (“tax haven loans”) or (ii) 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.

For taxable periods starting on or after 1 January 2019 (and ending no earlier than 31 December 2019), Belgium also applies the interest deduction limitation rule in the EU Anti-Tax Avoidance Directive (ATAD), according to which any arm’s length “exceeding borrowing costs” generally will be deductible only up to the higher of 30% of the taxpayer’s EBITDA or EUR 3 million. The rule does not apply to financial and non-group companies. Unused excess interest deduction may be carried forward and any excess interest deduction capacity may be transferred to another qualifying group member. The EBITDA rule does not apply to: (i) loans concluded before 17 June 2016 and not substantially modified after that date and (ii) “tainted” loans with tax haven entities, that remain subject to the 5:1 thin capitalization rule.

**Controlled foreign companies** – CFC rules apply for taxable periods starting on or after 1 January 2019 and ending no earlier than 31 December 2019. Prior to 2019, Belgium had only a specific anti-abuse measure with limited scope, achieving a similar result. A Belgian company is taxed on the “non-distributed profits” of a foreign company that is considered a CFC where such profits arise from “non-genuine arrangements” that have
been put in place for the essential purpose of obtaining a tax advantage. A foreign company must meet a “control” and “low taxation” test to qualify as a CFC. A foreign establishment of a Belgian company also can be regarded as a CFC where it meets the low taxation test, in which case the foreign establishment’s profits are not exempt under an applicable tax treaty but added to the Belgian head office’s taxable base.

Disclosure requirements – Payments related to transactions with entities resident in tax haven countries, to establishments located in tax haven countries or to bank accounts managed by residents or establishments located or domiciled in such countries, must be disclosed in an annex to the corporate tax return (see under “Taxable income,” above). Payments by employers in relation to non-statutory pension schemes, pensions and allowances must be disclosed.

Companies reporting CFC income also must disclose this in an annex to the tax return.

Anti-hybrid rules – For taxable periods starting on or after 1 January 2019 and ending no earlier than 31 December 2019, the treatment of “hybrid mismatches,” “hybrid entities” and “hybrid transfers” is aligned with the ATAD, either by creating a taxable event, by disallowing an expense or refusing a foreign tax credit.

General anti-avoidance rule – Under the general anti-avoidance rule (GAAR), the tax authorities are required to show that tax abuse exists, based on objective circumstances. Tax abuse arises 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 avert the application of the GAAR by demonstrating that the transaction can be justified by motives other than tax avoidance, i.e. that the taxpayer’s choice “essentially” is 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.

Other – In limited circumstances, certain purely tax-driven transactions may be recharacterized under specific anti-abuse provisions.

Consolidated returns – Consolidated returns are not permitted. Each company must file its own return.

Filing requirements – Companies must file a tax return 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. The tax authorities may extend the filing date at the taxpayer’s request. Electronic filing via the Biztax portal is mandatory for all for taxpayers subject to corporate tax and legal entities tax.

Corporate tax is prepaid on a quarterly basis. 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. The tax authorities will issue a final assessment notice following submission of the return. 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.

Penalties – Penalties apply for failure to comply with the tax provisions or to make advance payments based on estimated annual income. 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 failure to file or late filing of returns and forms).

A 6.75% surcharge applies to underpayments of corporate income tax for tax year 2019. Criminal sanctions (including imprisonment and fines) may apply in cases of tax fraud.

The penalty for noncompliance with the TP documentation requirements ranges from EUR 1,250 to EUR 25,000 for a second violation.

Rulings – A taxpayer may submit a written request to the Federal Ruling Commission for an advance ruling on the tax consequences of a proposed transaction. The request must concern an actual transaction or situation, rather than a hypothetical situation and may relate to any federal tax. 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 if: (i) the conditions for application of the ruling are not satisfied; (ii) the facts on which the ruling are based are not accurately described or (iii) there is a change in the law or conflict with a legal provision of domestic law, tax treaty law or EU law.

Compliance for corporations:

Tax year – The tax year is the accounting year, which may be the calendar year or any other 12-month period. Shorter and longer accounting years may occur in specific circumstances, such as a first extended accounting year.
Personal taxation:

**Basis** – Individuals whose domicile is in Belgium are considered residents. They are subject to Belgian resident income taxation and are taxed on their worldwide income. This taxation occurs at the federal (national) and regional (Flanders, the Walloon region or Brussels) levels.

Nonresidents pay tax only on Belgian-source income. Executives on temporary assignment to Belgium may apply for the special expatriate regime.

**Residence** – For federal income tax purposes, an individual is resident in Belgium if his/her domicile is in Belgium during the income year. This is determined based on the relevant factual circumstances and generally coincides with the taxpayer’s center of vital interests. The domicile of a married taxpayer is irrefutably deemed to be the place where the taxpayer’s family is established. Furthermore, an individual who is listed in the national register (i.e. an individual with a work permit or, for an EEA national, a residence permit) is deemed to have his/her domicile in Belgium, unless otherwise demonstrated.

If the domicile is not located in Belgium, an individual can be considered a Belgian tax resident if his/her seat of wealth (i.e. the place where the taxpayer manages his/her estate) is located in Belgium.

If subject to the special expatriate regime, certain foreign nationals living in Belgium before working for a foreign firm may retain nonresident status.

For regional income tax purposes, the individual’s tax domicile on 1 January of the assessment year is decisive when determining to which regional system a Belgian resident is subject.

**Filing status** – A married couple (or legally cohabiting partners) living together must file a joint statement, but their income is not aggregated.

**Taxable income** – Residents are taxed on their worldwide income from movable and immovable property, as well as their worldwide professional and miscellaneous income. Foreign-source income may be exempt based on a tax treaty. The exemption is applied “with reserve of progression” so that the net exempted income is considered when determining the applicable tax rates on the total income. There also is a notional rental value for property held in Belgium.

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 is 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 is entitled to a tax-free allowance of up to EUR 11,250 (increased to EUR 29,750 for certain foreign executives). The taxpayer may exclude actual allowances received from the taxable income (e.g. cost-of-living allowances, housing allowances, tax equalization and home leave). School fees relating to primary or secondary education for dependent children attending an international school in Belgium and moving expenses reimbursed upon receipt may be excluded without limitation; and
- The taxpayer may exclude the proportion of 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 must 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).

Income from regulated saving deposits is tax exempt up to EUR 960 (income year 2018, tax year 2019). As from 1 January 2018 (income year 2018, tax year 2019) the first EUR 640 of dividend income is exempt from personal income tax.

**Capital gains** – Capital gains on assets derived by individuals engaged in business activities generally are taxed in a similar manner to gains derived by corporations.

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. If the individual has effectively been trading, the capital gains may be deemed to constitute professional income, subject to tax at the generally applicable individual income tax rates (increased by relevant local surcharges) and social security contributions.

Capital gains on other assets may be treated as miscellaneous income and taxed at a separate tax rate of 33% (increased by relevant local surcharges) where the activities giving rise to the gains go beyond the normal management of the individual’s private estate (i.e. they are “abnormal” or “speculative.” The criteria to determine whether an operation should be considered as abnormal
or speculative are defined by case law and include a short time frame between acquisition and disposal, a disproportionate difference between the purchase and sales price, etc.

Capital gains derived by an individual from the transfer of shares in a Belgian company to a legal entity established outside the EEA may be taxable if, at any time in the five years preceding the transfer, the person disposing of the shares held a substantial participation in the resident company (at least 25% of the shares, either alone or together with a related person). The tax is payable at a flat rate of 16.5% (increased by relevant local surcharges).

Capital gains derived from fixed tangible assets that have been used for business activities for more than five years are taxed at 16.5% (increased by the relevant local surcharge) in certain specific circumstances.

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 principal private residence) or eight years (land) after purchase. In such cases, capital gains tax of 16.5% (buildings) or 16.5%/33% (land) is due (increased by relevant local surcharges). Capital gains realized on the sale of a private residence are tax exempt to the extent the building has been occupied by the owner for 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).

All other private capital gains are, in principle, tax exempt.

**Deductions and allowances** – Resident taxpayers and nonresident taxpayers receiving more than 75% of their income from a Belgian source are permitted to make several deductions from their total income, including business expenses (lump sum or actual expenses), social security contributions and 80% of alimony payments. Where the taxpayer’s spouse does not work, a deduction also is available for the marital quotient that allocates 30% of the main earner’s income to the spouse, up to a maximum of EUR 10,720 (income year 2018, tax year 2019).

Taxpayers are granted a tax-free personal allowance based on their personal situation (single, dependent children, etc.). The basic lump sum amounts to EUR 7,430 (income year 2018, tax year 2019) and is increased in case of dependent children.

**Rates** – Rates are progressive up to 50% (increased by communal surcharges ranging from 0% to 9% of the tax bill), raising the average marginal tax rate to 53.5%.

Regional surcharges on the “reduced federal tax” amount to 33.257% in the Flemish and Walloon regions and 32.591% in the Brussels region. To determine the reduced federal tax, an "autonomy factor" of 24.957% is applied to the federal tax liability (after federal tax deductions, but before federal tax credits), so that the reduced federal tax is 75.043% of the federal tax liability. Interest generally is subject to 30% withholding tax at source, although a reduced rate of 15% applies in certain limited situations.

Dividends generally are subject to 30% withholding tax at source, although the rate is reduced to 15% or 20% for dividends paid by SMEs on certain categories of share. Liquidation distributions also are subject to 30% withholding tax, although a reduced rate of 20%, 17% or 5% is possible. Dividends from certain real estate investment companies benefit from a 15% withholding tax rate.

Nonresidents pay local tax at 7%, irrespective of the rate applied by the commune in which they reside.

**Other** – Resident taxpayers and nonresident taxpayers receiving more than 75% of their income from a Belgian source also are entitled to tax credits at the federal level for various expenses, including premiums for endowment-type life insurance policies, pension contributions, charitable donations, childcare costs (for children up to age 12), service vouchers, and reimbursement for mortgage loans to acquire/maintain a dwelling other than the taxpayer’s main residence.

Regional tax credits also are available and vary from region to region.

The tax benefits are pro-rated where the taxable period for an individual (resident or nonresident) does not correspond to an entire calendar year (e.g. where there is a change in residential status).

Belgium does not apply the system of tax relief for foreign taxes, instead Belgium exempts the income with reserve of progression. For dividend and interest income, Belgium applies the relevant tax treaty and limits the tax rate only where Belgium is the source state. Foreign dividend and interest income may be subject to double taxation unless Belgian domestic legislation provides a tax exemption.

**Rulings** – A taxpayer may submit a written request to the Federal Ruling Commission for an advance ruling on the tax consequences of a proposed transaction (see under “Compliance for corporations,” above). A taxpayer also may submit a written request to the Flemish Taxation Service for an advance ruling on regional tax matters governed by the Flemish Taxation Code (e.g. inheritance taxes). The legislation governing these
Regional rulings is very similar to that governing the federal tax rulings. No regional ruling framework exists in Wallonia or the Brussels region.

**Other taxes on individuals:**

**Capital duty** – No, except for a fixed fee of EUR 50.

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

**Capital acquisitions tax** – A 12.5% tax is levied on the acquisition of real estate in Wallonia and Brussels; the rate is 10% in Flanders. Reduced rates of 6% (Wallonia) and 5% (Flanders) may apply if certain conditions are satisfied.

**Real property tax** – An annual tax is imposed at the regional level on the notional rental income of immovable property (land, buildings and industrial equipment) located in Belgium. The rate varies depending on the region in which the property is located: in Flanders the rate is 1.25%. Both provinces and municipalities are entitled to levy surcharges. The tax and surcharge are nondeductible for personal income tax purposes, unless the building is used for business purposes.

Individuals are subject to a capital acquisition tax of 12.5% in Wallonia and Brussels on the acquisition of real estate. In Flanders, an acquisition tax of 10% applies.

**Transfer tax** – Transfer (or registration) taxes apply to the transfer and leasing of real estate located in Belgium, at rates ranging from 0.2% to 12.5% (depending on the type of transaction and the region in which the property is located).

**Inheritance/estate tax** – Individual taxpayers may be subject to inheritance tax. For spouses, legal cohabitants and direct descendants, the inheritance tax rate ranges from 3% to 30% in Wallonia and the Brussels region, and from 3% to 27% in Flanders. Lower rates may apply and/or deductions may be available in some cases. In all three regions, no inheritance taxes are due where the family home is inherited by the spouse or the legal cohabiting partner of the deceased. Higher inheritance tax rates (up to 80% in Wallonia and Brussels and 55% in Flanders) apply to more distant relations and unrelated beneficiaries. Similar rates apply for gifts of real estate (the maximum rate for distant relations and beneficiaries in all three regions is limited to 40%).

Gifts of movable property are subject to gift tax at rates ranging from 3% to 7% in Flanders and Brussels, and 3.3% to 5.5% in Wallonia.

**Net wealth/net worth tax** – No

**Social security** – The general employee contribution rate is 13.07% of gross salary for white-collar employees (1.08 times the gross salary for blue-collar employees). Social security contributions for self-employed individuals are capped at approximately EUR 16,000 on income of EUR 86,230.52 (income year 2018). The contribution rate is 20.5% on the first income bracket (up to EUR 58,513.59) and 14.16% on the second income bracket (from EUR 58,513.59 to EUR 86,230.52). For income year 2019, the rates remain unchanged, but the brackets are indexed so that the first income bracket is up to EUR 59,795.61 and the second income bracket is from EUR 59,795.61 to EUR 88,119.80.

**Compliance for individuals:**

**Tax year** – Calendar year

**Filing and payment** – Resident individuals must file an annual tax return by 30 June after the end of the tax year (an extended deadline generally is fixed around 15 July for taxpayers filing their income tax return electronically, via Tax-on-Web). The tax authorities will issue an assessment notice after submission of the return. Employees and directors are subject to payroll tax withholding at source, although individuals on a split payroll may need to pay additional taxes. Self-employed individuals are required to prepay estimated tax under principles similar to those applied to businesses. A married couple (or legally cohabiting partners) living together must file a joint return, but their incomes are not aggregated and the tax liability is computed on an individual basis.

Different requirements apply to nonresidents.

**Penalties** – Administrative penalties for noncompliance with the tax provisions range from 10% to 200% of the tax due. The penalty for noncompliance with the reporting requirements regarding “tainted legal arrangements” amounts to EUR 6,250. Criminal sanctions (including imprisonment and fines) may apply in cases of tax fraud.

**Value added tax:**

**Taxable transactions** – VAT is levied on the provision of most goods and services including digital services. VAT is not levied on exports.

A taxpayer is obliged to issue invoices for all supplies to taxable persons or non-taxable legal persons. E-invoicing
is permitted in certain circumstances but is not mandatory.

Input VAT is deductible provided it relates to the provision of taxable supplies.

Rates – The standard VAT rate is 21%; reduced rates of 12%, 6% and 0% apply 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.

Registration – There is no de minimis threshold other than for distance sales by a foreign mail order company to Belgian individuals, in which case a threshold of EUR 35,000 applies. A specific threshold has been introduced for persons active in the sharing economy. Companies must register for VAT purposes with the competent VAT office, before commencing their VATable activities. Upon confirmation of the registration, the enterprise number assigned to the company on registration with the Crossroad Bank for Enterprises is activated as the VAT ID.

Filing and payment – The VAT return must be filed monthly or quarterly, and any tax due must be paid at that time. A penalty of EUR 100 per return/per month delay (max EUR 1,000) is imposed for late filing of the VAT return. Interest is charged for late payment of VAT at 0.8% per month of the VAT due. An additional penalty of 15% of the VAT due is imposed from the time a special account is opened by the tax authorities due to late payment or late filing.

Source of tax law: Income Tax Code; VAT Code; other specific regulations and royal decrees. The three Belgian regions (Brussels, Flanders and Wallonia) 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.

Tax treaties: Belgium has a broad tax treaty network with more than 90 tax treaties in force. Most treaties following the OECD model treaty.

Belgium signed the OECD multilateral instrument on 7 June 2017.

For further information on Belgium’s tax treaty network, visit Deloitte International Tax Source.

Tax authorities: FOD Financiën/SPF Finances (federal tax administration). 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.

Contact:
Geert Lowagie (glowagie@deloitte.com)