

International Assignment Services

Taxation of International Assignees Country – Belgium

*Human
Resource Services*

*International
Assignment
Taxation Folio*



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Introduction – International assignees working in Belgium

International assignees taking up employment in Belgium are frequently uninformed about the Belgian tax and social security system to which, in most cases, they will become subject.

This memorandum is designed to assist both international assignees and their employers in identifying the tax and social security implications of assignments to Belgium. It is not intended to be complete. More-detailed advice should be sought before any specific decisions are made. Further information can be obtained from our offices as listed in Appendix E.

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This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

Menu

Step 1 – Understanding basic principles

The scope of taxation in Belgium

1. An international assignee taking up employment in Belgium will generally become liable to income tax under Belgian law. Other taxes that may be relevant are property tax, and gift and succession duty. There is no wealth tax, as such, in Belgium. Capital gains taxes for private individuals are levied only on sales to foreign companies (outside the EEA) of substantial holdings in Belgian companies and on sales of property in certain circumstances.
2. Residents of Belgium are subject to personal income tax on their total worldwide income from all sources where non-residents are only taxable in Belgium on their Belgian source income (see paragraphs 4 to 7 below for the residence criteria).
3. Certain expatriates who satisfy certain conditions as outlined in paragraphs 11 to 15 are fiscally considered 'non-resident' and benefit from special tax treatment. As non-residents, they are liable to pay Belgian tax only on income related to work carried out by them in Belgium.

Residence and domicile

4. Residence rather than domicile is the relevant factor in determining income tax liability. Under Belgian law, tax residence is governed by a number of criteria and is generally defined as the place where an individual has his/her permanent home (i.e. generally where the family lives) or where an individual has the centre of his/her economic interests (i.e. the place from where an individual manages his/her private affairs). The tax residence of married taxpayers is located at the place of the de facto family residence.
5. Domicile in civil law is essentially the same as residence in income tax law and is the term used when considering liability to inheritance tax. An international assignee domiciled in Belgium can become liable to Belgian inheritance tax on worldwide assets even when he/she is deemed to be non-resident in Belgium for income tax purposes.
6. Generally, an international assignee is considered to be a Belgian resident if:
 - As a married person (or legally cohabitant), his/her family accompanies him/her to Belgium; or
 - As a single person, he/she establishes his/her permanent home and the centre of his/her economic interests in Belgium.
7. A taxpayer may be considered to be tax-resident in more than one country. Where this happens, a tax treaty between the countries in question may provide a solution to avoiding double taxation. Most tax treaties consider the following issues to be relevant in determining the place of residence:
 - The permanent home;
 - The centre of economic activity;
 - Nationality.

Belgian non-residents

8. Belgian non-residents are taxed in Belgium on their Belgian source income only, i.e.
 - **Belgian-source income from employment:** In principle, only employment income borne in Belgium or relating to Belgian work days (>183 days) is taxable.
 - **Belgian-source property income:** Taxation on property income located in Belgium only;
 - **Belgian-source investment income:** In principle, no tax on any investment income except interest and dividends paid by a Belgian company, which are generally taxed at a flat rate of 15% or 25%, respectively, (or 15% if conditions are met). With respect to interest, exemptions from withholding tax may apply to non-resident taxpayers under local Belgian rules. In this respect, the EU Savings Directive introduced a mandatory exchange of information regarding interest paid to foreign EU nationals. This exchange of information system is applicable in Belgium since 1 January 2010.
9. Taxation is applied on a sliding scale to successive portions of net taxable income. For income year 2011, rates vary between nil and 50%, plus municipal taxes. Instead of municipal taxes, non-residents have to pay an additional tax at a rate of 7% of the total income tax payable.
10. A special tax regime is available to certain foreign executives and specialists working temporarily in Belgium. Under this regime, executives are considered as non-resident for Belgian tax purposes (see below).

The special expatriate tax regime

11. Under certain conditions, a foreign executive assigned temporarily to Belgium within an international group of companies may qualify for a special taxation regime. The executive will be treated as a non-resident for Belgian tax purposes, liable to Belgian personal income tax on his/her Belgian-source income only.
12. Expatriates who qualify as fiscally non-resident are mainly management personnel, research personnel and foreign personnel without managerial responsibilities who are so highly specialised that recruiting such workers in Belgium is very difficult, if not impossible. To qualify, certain criteria have to be met:
 - Employment must be in a qualifying entity. This includes scientific research centres or laboratories or businesses under foreign control or part of an international group. Employment can be in a control and coordination office of a multinational group of companies;
 - Employment in Belgium must be temporary in nature;
 - The centre of the expatriate's economic and personal interests must not be in Belgium;
 - The expatriate may not have Belgian nationality.
13. Various factors set out in a practice note dated 8 August 1983 apply in determining whether or not the centre of an expatriate's interests is abroad. These may be divided into two groups:

Those relating to the personal position of the expatriate, such as:

- Ownership of real estate, personal property or securities abroad;
- The existence of a life assurance policy taken out abroad;
- Continued membership of a group pension scheme or an equivalent savings or pension plan abroad;

- Inclusion of a 'diplomatic clause' in the Belgian rental agreement for accommodation;
- Renewal of credit cards issued by banks in the country of origin;

Those relating to the expatriate's work activity:

- Continued affiliation to a foreign social security scheme;
 - Possibly, the existence of a short-term employment contract;
 - The expatriate's presence in Belgium to set up or reorganise a business;
 - The executive's willingness to transfer his/her base of operations in the service of the group to another country if so requested;
 - Continuing to act as an officer of a foreign company.
14. The fact that an expatriate has purchased a house in Belgium does not, in itself, constitute proof that he/she has decided to reside permanently in Belgium. The expatriate is not therefore precluded from claiming to be temporarily resident.
15. An expatriate newly transferred to Belgium is presumed to be a Belgian tax 'resident' once he/she has registered at the Belgian municipality. An application must be submitted and approved by the tax authorities in order to benefit from the special tax regime. The expatriate must provide supporting evidence in his/her initial application for non-resident status, as described in paragraphs 113 to 115.

Qualifying expatriates moving to another employer in Belgium

16. A non-resident who changes his/her job in Belgium to go and work for a firm affiliated to a different international group will in principle lose his/her non-resident status.
17. However, **under certain exceptional circumstances** it might still be possible to continue to benefit from the expatriate tax status, but this will be examined in depth by the tax authorities on a case-by-case basis.

The tax year and yearly tax filing obligation

18. The Belgian tax year runs from 1 January to 31 December. Where an individual is resident in Belgium for only part of a calendar year, his/her income in that period is treated as if it related to a full calendar year. There is no prorated restriction of allowances or grossing-up of income to an annual basis.
19. Income must be reported the year following the income year (e.g. income year 2011 – tax year 2012). A tax return is sent by the tax authorities during the tax year to be filled in by the taxpayer. An assessment note is sent by the tax authorities the year following the tax year. Any balance of tax due must be paid to the tax authorities within two months after the assessment notice is sent out. Excess payments of tax are reimbursed by the tax authorities two months after the assessment notice is sent out.

The legal due date for the filing of the resident tax returns is June 30. The filing deadline of the non-resident tax returns is not fixed but usually falls during the third quarter.

Husband and wife

20. Tax on husbands' and wives' incomes is calculated separately. Legally cohabitants are considered fiscally as married.
21. As a special concession, where only one partner receives earned income, a notional transfer to the other partner of 30% of the earnings is allowed up to a ceiling of EUR 9,470, so that each is accorded a basic minimum deduction and benefits from a lower tax bracket. In case one partner receives professional income lower than EUR 9,470, this notional transfer is also applicable under the same limits.
22. Although couples are taxed separately, tax returns and assessments are issued in joint names.

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Menu

Step 2 – Understanding the Belgian tax system

Tax treatment of employment income

Basic principles

23. Employment income is defined broadly and includes all fringe benefits provided by an employer. In addition to salary, taxable employment income includes bonuses, commissions, cost-of-living allowances, foreign service allowances, housing allowances, tax equalisation reimbursements, private use of company car, etc. The award of stock options in connection with employment in Belgium is taxable. A lump-sum method has been laid down for valuing benefits arising in the framework of qualifying stock option plans. Detailed advice on the implementation of stock option plans should be sought from our local offices.

Methods of calculating tax

24. Personal income tax is calculated by determining the tax base and assessing the tax due on that base. Taxation is charged on a sliding scale to successive portions of net taxable income. For income year 2011, the tax rates range between nil and 50%.
25. Residents also pay municipal taxes at rates that range between nil and 9.5% of the total income tax payable. Non-residents have to pay a similar additional tax at a fixed rate of 7% of the total income tax payable.
26. In determining the tax base, compulsory social security contributions, whether paid in Belgium or abroad, are fully tax-deductible. Additionally, professional expenses can be deducted from the taxable basis either on an actual basis by producing the relevant vouchers or on a lump-sum basis. The maximum deductible lump sum amount for income year 2011 is EUR 3,670 on a gross taxable salary of EUR 60,060 (the maximum amount for directors equals to EUR 2,200).
27. Personal income tax is calculated on that tax base, after personal allowances are taken into account. Further details on the tax rates and personal tax exemptions are provided in Appendix A and Appendix B.
28. However, no personal allowance or notional transfer of earnings to the taxpayer's partner (see paragraph 21) will be granted to non-resident taxpayers if they do not retain an abode in Belgium during the entire taxable period. According to the authorities, a married person's abode is deemed to be where the taxpayer lives with his or her partner. Exceptions apply, however, depending on the country of origin of the non-resident.

Withholding taxes

29. You will in due course be required to file an annual tax return, either at a special regional tax office for non-residents (as beneficiaries of the special tax regime) or at the local tax office of the municipality of residence. Tax withholdings will be made by your employer at source on a monthly basis.
30. If, while working in Belgium, you are kept on the payroll of a foreign employer and the salary cost is not deducted from the Belgian-source profits of a Belgian permanent establishment of your employer, it is not in principle required to deduct withholding tax at source each month. However, the tax authorities could consider that tax must be deducted at source each month even if the foreign employer has no Belgian permanent establishment but the salary cost is cross-charged to a Belgian-incorporated company.

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31. If you benefit from the special taxation regime as described below in paragraphs 32 to 70 and if your employer is required to withhold income tax at source on your remuneration, it may, at its own risk, take into account excluded non-taxable expense allowances – albeit only to the extent that they do not exceed the limits of EUR 11,250 (or EUR 29,750 per annum in certain cases) – and any income that can be excluded for services rendered abroad.

Special expatriate tax regime

32. Expatriates who benefit from the special taxation regime are considered non-resident for Belgian tax purposes and are therefore taxable on their Belgian source income only, as explained in paragraphs 11 to 15.
33. The special tax regime recognises that payments made by an employer to an expatriate fall into two distinct categories:
- Base salary and foreign service premium, which are both taxable in Belgium to the extent that they relate to services performed in Belgium; and
 - Expenses reimbursed by the employer, some of which are not taxable in the expatriate's hands and are tax-deductible by the employer (i.e. so-called "tax free allowances").
34. The computation of tax-free allowances differs according to whether the employee receives a salary and a separate, identifiable reimbursement of expenses, or he/she is on a gross remuneration package, inclusive of expenses.
35. The first category includes expatriates paid on a net salary basis, such as those benefiting from tax equalisation (in receipt of a base salary after deduction of hypothetical home-country tax), or those benefiting from tax protection. In these cases, an employer can pay allowances computed on the basis of international comparative studies, up to the limits set out in paragraph 52, below.
36. The method of calculating tax-free allowances on a gross remuneration package is fixed by the Belgian tax authorities. The result is generally less favourable for the expatriates. This calculation also requires a good understanding of the terms 'base salary' and 'tax equalisation', and an appreciation of their limitations, including the fact that the amounts computed do not necessarily correspond to reality.
37. Paragraphs 38 to 53 below cover the rules for an expatriate receiving a salary and separate reimbursements of expenses. Paragraphs 54 to 62 cover the rules for an expatriate on a gross remuneration package.

An expatriate receiving salary and separate reimbursements of expenses

38. As long as an employer can show that expenditure is its responsibility, expense allowances and other benefits that it awards an expatriate will not be taxable in his/her hands, and will continue to be tax-deductible in the hands of the employer.
39. An expatriate will not be taxed on allowances paid by the employer to cover additional expenses that are incurred as a result of his/her being recruited or transferred to Belgium, whether paid as lump-sum allowances or as specific reimbursements of outgoings. The Belgian tax authorities tend to accept as non-taxable those costs that an expatriate would not have incurred if he/she had continued to work in his/her home country.
40. A distinction is drawn between recurring and non-recurring costs.
41. Non-recurring costs and expenses that are non-taxable include:

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- Costs and expenses incurred in moving to Belgium;
 - The costs of preparing accommodation for occupancy in Belgium;
 - Costs and expenses incurred in moving away from Belgium.
42. Recurring costs and expenses that are non-taxable include:
- The supplementary cost of accommodation and additional cost of living compared with costs in the home country;
 - School fees (primary and secondary education only);
 - One annual travel costs for an expatriate and his/her family to their home country (air travel, economy class);
 - Loss incurred by his/her inability to rent out, or to obtain a normal market rental for, accommodation retained in the home country;
 - Travelling expenses resulting from emergencies (death or serious illness of close members of his/her family or spouse);
 - Exchange-rate fluctuations;
 - Tax equalisation;
 - Travelling expenses of children at school abroad to visit their parents, not exceeding two trips per year.
43. Care should be taken to retain all supporting vouchers, which have to be produced to the Belgian tax authorities on request. The ways in which more-controversial tax-free allowances are determined are set out below in paragraphs 44 to 53.

Housing allowance

44. This allowance is intended to reflect the higher cost of accommodation in Belgium compared to the costs that the expatriate would have incurred on comparable accommodation in his/her home country.
45. Actual costs in the home country can be used as the basis for the evaluation, using receipts for rents paid, lease agreements, and the taxable or rateable value of property. Costs may alternatively be estimated using comparative tables or statistical publications such as Mica International Transfers or ORC International Compensation Tables, provided it is group policy to use these publications in determining allowances to be granted to employees sent abroad. Alternatively, the allowance can simply be fixed as the difference between actual rentals paid in Belgium and 12% of the foreign base salary.
46. If the cost of accommodation in Belgium is higher than the cost of comparable accommodation in the home country, the excess may be properly reimbursed by the employer.
47. The cost of heating, electricity, gas, water and similar normal living expenses may not be included in computing the above excess figure. Any reimbursement of this category of expense by the employer is added to the employee's taxable income. Therefore, only rent and rent-equivalent payments (or 200/60 of the indexed, registered cadastral income value for expatriate house-owners or those in receipt of free accommodation directly owned or rented by the employer) can be taken into account in computing this allowance.

Cost-of-living allowance

48. Any increase in the cost of living in Belgium compared with the cost of living in an expatriate's home country can be reimbursed as a non-taxable allowance. Such increases, if relevant, can be identified from figures provided by economic and statistical studies accepted by the Belgian tax authorities, provided they are used as a matter of group policy.

School fees

49. For children aged six or older in primary or secondary education in Belgium, school fees and the cost of local transport are treated as non-taxable expense allowances. Payments by an employer for board and lodging in boarding schools and for the cost of private lessons are taxable fringe benefits. When children are educated abroad, the additional costs arising due to the distance from home, such as the cost of full board and lodging in boarding schools, may be accepted as a tax-free allowance. However, each case is examined on its merits and supporting vouchers are essential.

Tax equalisation

50. An employer may grant expatriates non-taxable allowances equal to the additional tax burden resulting from their employment in Belgium. Precise, detailed supporting evidence is required.
51. Very frequently, Belgian tax is higher than tax at comparable salary levels in an expatriate's home country. In order to neutralise the unfavourable effect on his/her net remuneration, it is accepted that the employer may meet the additional tax burden.

Limits

52. In any case, apart from school fees and non-recurring costs and expenses, all other expenses are considered taxable to the extent that they exceed:
- EUR 11,250 for expatriates working in commercial and industrial operating units; or
 - EUR 29,750 for expatriates in recognised control and coordination offices or laboratories and scientific research centres.
53. Any excess therefore forms part of the employee's gross taxable pay.

Expatriates on a gross salary inclusive of expenses

54. When an expatriate's contract provides him/her with a salary inclusive of all expenses, the foreign base salary has to be calculated and expenses analysed in order to identify those that are non-taxable.
55. An expatriate's foreign base salary may be calculated from salary scales used by the group in the home country. Failing these, the Belgian gross salary is multiplied by an index provided by the Belgian tax authorities, after deduction of an expatriate premium of 10% (or 15% for non-European countries). The following rates apply for calendar year 2010:

Country	%	Country	%	Country	%
Austria	100	Ireland	100	Sweden	75
Canada	90	Italy	85	Switzerland	100
Denmark	100	Japan	60	Turkey	90

Country	%	Country	%	Country	%
Finland	85	Netherlands	100	United Kingdom	80
France	85	Norway	100	United States	90
Germany	100	Portugal	75		
Greece	70	Spain	85		

56. The same types of tax-free allowances are available (under the same limits) to an expatriate on a gross remuneration package as are available to an expatriate who is reimbursed separately for expenses, but the computation of the tax-free element is different, as shown in paragraphs 57 to 62, below.

Housing allowance

57. To determine the non-taxable allowance, priority is given to actual costs (for example, actual rentals paid in Belgium and in the home country). Failing this, the allowance can be fixed as the positive difference between actual rentals paid (or 200/60 of the indexed, registered cadastral income figure for expatriate house-owners or those in receipt of free accommodation directly owned or rented by the employer) and 12% of the foreign base salary.
58. International statistical publications cannot be used, unless they form part of the employer's international expatriation policy. This is not practicable, however, when people are paid on a gross basis, so that the non-taxable allowance is equal to the positive difference between the actual rentals paid in Belgium and 12% of the foreign base salary.

Cost-of-living allowance

59. Once the foreign base salary has been determined as explained in paragraph 55, above, the non-taxable allowance representing the increase in cost of living is fixed at 5% of the foreign base salary, subject to a ceiling of EUR 2,500.
60. The restriction on the use of international statistical publications, referred to in paragraph 45 above, also applies to cost-of-living allowances.

Tax equalisation

61. The non-taxable allowance for tax equalisation is calculated as the difference between:
- The Belgian income tax on the base salary in the home country, before deducting the 10% or 15% expatriation premium, but after deducting Belgian personal social security contributions, the excluded proportion of salary relating to foreign travel, and progressive lump sum professional expense (up to a ceiling of EUR 3,670); and
 - The foreign income tax calculated on the base salary in the home country, after deducting applicable local social security contributions and standard tax allowances/deductions available in the home country.

Other deductions

62. In addition to the allowances discussed in paragraphs 57 to 61 above, other expense allowances such as home leave (normally not exceeding one trip per year to the country of origin), whether recurring or non-recurring, may be deducted from the gross salary to the extent that they can be justified. Note that school fees should be reimbursed by the employer separately in order to avoid their being taxable. An example of how allowances are determined for an expatriate on a gross remuneration package is set out in Appendix D.

Exclusion for services rendered abroad

63. In addition to the non-taxable allowances described above, services rendered to a company located outside Belgium and that can be identified as such are not subject to Belgian taxes although pay details must be reported. In the absence of identification, the proportion of overall pay relating to working days spent abroad will be taxed in Belgium.
64. It should be emphasised that an expatriate is under an obligation to report the total worldwide earned income received from group entities even if salary paid abroad does not relate directly to his/her assignment in Belgium, but relief for services rendered to the group outside Belgium is granted by the Belgian tax authorities. Please note that it is very important for each expatriate benefiting from the special tax regime to keep proof for each business travel day spend abroad of (1) his/her presence abroad and of (2) the professional character of the trip.
65. The following calculation is done to determine the exclusion for services rendered abroad:

Annual taxable income multiplied by travel exclusion

$$\text{Travel exclusion} = \frac{\text{Number of working days spent abroad}}{\text{Total working days in the period}}$$

66. The "total working days in the (tax) period" (in Belgium and abroad) may not normally include Saturdays, Sundays, Belgian public holidays, sick-days or annual vacation.
67. In calculating the number of working days abroad, the day of departure is considered as spent in Belgium with the exception that one-day trips abroad are accepted as qualifying days spent abroad. The day of return is deemed to be spent outside Belgium. In addition, weekends and public holidays must be excluded even if they are spent abroad on business trips.
68. In case of a tax audit, the expatriate must be able to provide evidence of the number of working days spent abroad (assignment instructions, hotel bills, air tickets with boarding pass, passport visas, etc.), and of the business nature of the trips. In case this double proof cannot be provided to the tax inspector, there is a risk that relief will not be granted for those days which cannot be justified.

Rates and deductions

69. The taxable income of a non-resident is subject to tax at the same rates as the taxable income of a resident and is likewise added to other Belgian-source income such as real estate income or directorship fees received from a Belgian company. Investment income sourced in Belgium or abroad is excluded from taxable income but it should be noted that, in certain circumstances, such income may be subject to Belgian withholding tax.
70. An expatriate will also be able to deduct lump-sum business expenses from his/her taxable income, calculated as a percentage of earned income, up to a ceiling of EUR 3,670, in the same way as a Belgian-resident taxpayer. An expatriate also has the option to deduct actual business expenses instead of the lump-sum amount.
71. The sections in the rest of this chapter essentially relate to resident taxpayers.

Social security contributions and benefits

72. The Belgian social security system provides for benefits to be paid to persons who work or have worked in Belgium. These benefits are substantially financed by compulsory contributions from both employers and employees. Social security covers old age pensions, unemployment benefit, sickness and disability payments, family allowance, industrial accident and health care costs. The last of these are not covered in full and additional private insurance may be advisable. There are also minimum regulations on holiday entitlement.
73. Employee social security contributions are withheld at source and paid by employers to the National Social Security Office, which is responsible for administering the social security system.
74. Contributions are made as a percentage of gross salary, with no upper limit. At present, the employee's contributions are 13.07% of gross salary, and employer's contributions (for white-collar workers) between 32.77% and 34.47%.

A special contribution based on car CO₂ emissions is due by the employer where a company car can be used for private purposes by an employee subject to Belgian social security. No employee CO₂ contribution is due.

In addition, a special monthly lump-sum social security contribution is withheld from the employee's net salary. It varies from nil to EUR 60.94 per month depending on the quarterly amount of wages subject to social security contributions. The final annual contribution varies from nil to EUR 731.28 and depends on the annual net taxable income reported in the employee's tax return. Settlement between the monthly contributions withheld and the final annual contribution due is calculated by the tax authorities via the income tax assessment.

75. Expatriate allowances that are exempt from Belgian income tax under the special tax regime granted to certain foreign executives (practice note of 8 August 1983) may, under certain conditions, be paid free of Belgian social security contributions. The Belgian social security authorities explicitly state that the exemption from social security contributions applies where these allowances are granted in connection with a transfer or secondment from a foreign group company or where the person was directly recruited abroad in order to be temporarily employed in Belgium. This exemption can be granted for a maximum period of 15 years.
76. EU Regulation 883/2004 replaces the former EU Regulation 1408/71 since 1 May 2010. Under this new EU Regulation, applicable in the European Economic Area (EEA), an employee may apply on a form A1 (old form E101) to remain subject to the social security scheme of his/her home country, provided that he/she remains linked with his/her employer in his home country, and that the duration of his/her secondment does not exceed 24 months. It is possible, for a temporary assignment, to extend this period for one year and, in certain cases, to obtain special agreement from the social security authorities of both countries to allow a period of up to five years from the outset (three years for a secondment from Denmark).
77. Under the new Regulation 883/2004, nationals of EU Member States who are performing employment duties for one employer in their home country and in Belgium normally remain subject to the social security system of their home country provided their work in that country is not less 25% of their time or turnover.

Employees who work in two or more Member States for two or more employers remain always affiliated in the Member State of their residence.

Individuals who are simultaneously employed in one Member State and self-employed in another Member State will no longer be insured in more than one Member State (they will only be subject to social security of the country in which they perform their employee activities).

EU Regulation provides for a ten-year transitional period during which the existing employment situation remains covered by the former EU Regulation 1408/71 unless the employee would explicitly request that the new Regulation apply. Given the recent changes introduced by this new Regulation, it is highly recommended to seek advice when planning an assignment to Belgium.

78. Non-EU nationals employed in Belgium by a Belgian employer or a Belgian place of business of a foreign employer are in principle subject to the Belgian social security system. However, workers assigned to Belgium from a non-EEA country can also remain under their home social security scheme and being exempt from social security in Belgium if a bilateral social security agreement concluded with Belgium can be invoked.

Please note that effective 1 January 2011 the Regulation 883/2004 also applies to third country nationals. This implies that a third country national posted in Belgium (or in another EU Member State) who also works in one or several other Member States for more than 5% of his working time will be subject to the social security of his place of residence (here: Belgium).

79. There is a social security treaty with the United States under which US nationals seconded to Belgium for periods of up to five years may elect to be excluded from the Belgian social security system provided they continue to participate in the US FICA system during that period. In certain circumstances, it may be possible to apply for an extension to the five-year period. One prerequisite is that US expatriates may not be on the payroll of the Belgian entity where they work, although the overall cost can be charged to the Belgian entity.
80. The US social security administration has to provide a certificate of coverage showing that the expatriate continues to be affiliated to the US social security scheme. It will therefore be helpful for a US employer intending to second an employee to Belgium to make a timely application to the relevant US authority so that a certificate of coverage can be issued. Please note that the rule on simultaneous employment as described above (point 78) remains applicable in this case.

Tax treatment of self-employment income

81. Resident individuals are liable to Belgian income tax on the worldwide profits generated from their business or independent profession. Profits from a business or profession also include capital gains on the sale of business assets, although a favourable tax treatment applies if these assets have been held for more than five years. Self-employed expatriates do not qualify for the special tax regime described earlier.

Tax treatment of investment income

82. Income from capital includes interest, dividends and income from real estate or other forms of investment. Interest and dividends received are, in principle, subject to a flat-rate tax of 15% for interest and 25% (or 15% if certain conditions are met) for dividends, usually withheld at source.
83. Foreign interest and dividends collected abroad must be declared in the annual tax return and the flat-rate tax is paid on assessment. Please note that pursuant to a recent arrest of the European Court of Justice, communal taxes should no more be applied on these foreign interest and dividends. The treatment of income from capital received by expatriates who benefit from the special taxation regime is explained in paragraph 8.
84. Interest paid to non-residents is usually exempt from withholding taxes in Belgium. Belgium applies in this respect, the system of exchange of information as provided by the EU Savings Directive since 1 January 2010. Further information can be obtained from our offices as listed in Appendix E.

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85. For each taxpayer, the first EUR 1,770 of authorised savings bank account interest is exempt from the 15% withholding tax and must not be reported in the tax return.
 86. Local property tax (précompte immobilier - onroerende voorheffing) is assessed on 'cadastral income', i.e. the deemed rental value attributed to the property by the authorities. Some reductions are provided for occupancy. Property tax is levied on the balance at a rate that varies according to the municipality and location of the property. Rates generally range between 20% and 50% of the 'cadastral income'.
 87. Owners occupying residential houses are taxed on the notional rental income ('revenu cadastral/kadastraal inkomen'). Properties rented out are taxed on the notional rental income or on the net rental income received (after deduction of lump-sum rental expenses). 'Non-resident' expatriates are liable to tax on Belgian real estate.

Various forms of income

88. This category includes casual earnings, awards, alimony receipts and those capital gains that are taxable. Income falling within this category is often taxed at fixed rates, mainly 16.5% and 33%, plus local tax.

Wealth taxes

89. There is no annual tax on net wealth in Belgium. However, a hidden wealth tax exists in the form of a transfer tax ("registration duties") on the sale or transfer of real property (buildings, land) other than newly-constructed houses and other buildings subject to VAT at 21%. Transfer taxes are levied by the Regions and the rates depend on each Region.
90. For properties located in the Walloon Region the rate amounts to 12.5%. Tax is computed on the sale price, or the assessed market value if higher, and is paid by the buyer. It should be noted that a resale or transfer of real property by notarial deed within two years from the date of the duly certified deed to purchase the property entitles the vendor to reclaim 3/5 of the transfer tax paid upon acquisition.
91. For properties located in the Flemish Region the tax rate amounts to 10%.

The first bracket of EUR 15,000 for the purchase of a main residence that is the taxpayer's sole property is exempt from transfer tax.

Furthermore a reimbursement or deduction, as the case may be, of the transfer tax paid on the taxpayer's previous home can be claimed (up to a maximum of EUR 12,500) provided the new home is also purchased in the Flemish Region and other conditions are met.

If the conditions for this reimbursement are not met, resale or transfer of the property by notarial deed within two years of the date of the duly certified deed to purchase the property entitles the seller to reclaim 3/5 of the transfer tax paid on acquisition.

92. A transfer tax of 12.5% is levied on sales or transfers of real property located in the Brussels-Capital Region.

Tax is computed on the higher of the agreed sale price and the fair market value of the property. However, an exemption of EUR 60,000 (or EUR 75,000 depending on the location of the property) is granted for the acquisition by one or more natural persons of a property intended to become a main residence, provided it is the buyer's sole property.

This exemption is not granted for the acquisition of undeveloped land.

Resale or a transfer of the real property by notarial deed within two years following the date of the duly certified deed to purchase the property entitles the seller to reclaim 36% of the transfer tax paid on the acquisition.

Church taxes

93. There is no church tax in Belgium.

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Step 3 – What to do before you arrive in Belgium

Work permits, residence formalities and "Limosa"

94. If you are a European Union (EU) national, you do not need a work permit to work in Belgium (except for EU nationals from Bulgaria and Romania who still need a work permit until 31 December 2011). For Romanian and Bulgarian nationals, a short, simplified procedure applies to certain functions for which there is a shortage on the Belgian labour market. If you are a national of a non-EU country, you need a work permit or a professional card (as a self-employed person) unless you are employed (as an executive or researcher with a Belgian contract) in a recognised coordination centre, which exempts you from the requirement to obtain a work permit. Other work-permit exemptions also exist (in the form of a limitative list), such as for business trips (exemption limited to five days per calendar month) and for certain managerial employees employed by Belgian headquarters. If you do not qualify for an exemption, a work permit has to be applied for. Highly qualified employees and managerial employees need to earn a certain minimum gross annual salary in order to be granted a work permit.
95. Depending on the duration of your stay in Belgium and your nationality, you need to carefully check the required residence formalities before you arrive in Belgium. Non-EU nationals who stay in Belgium for a period exceeding three months require applying for a type D visa from the Belgian embassy/consulate in their country of origin. In the Belgian municipality where they will live, they need to be registered and obtain a Belgian residence permit. EU nationals do not require a visa but need to obtain a 'declaration of registration' from their local authority in Belgium. Special rules apply to family members (for purposes of 'family reunification').
96. A duty of prior electronic notification is imposed for all foreigners working (even temporarily) in Belgium, including seconded employees and the self-employed. This duty of notification is referred to as the "Limosa" obligation. Notification is required for any employee who is employed in Belgium temporarily or partially and normally works in one or more countries other than Belgium or is hired in a country other than Belgium. It also applies to any self-employed person, who either sets up temporarily in Belgium in order to carry on one or more self-employed activities here, or temporarily or partially carries on self-employed activities in Belgium but normally works in one or more countries other than Belgium and does not permanently reside in Belgium.

Employment contracts

97. It is strongly advisable for all the terms and conditions of your assignment to Belgium be set out in a written agreement before you are actually transferred to Belgium.
98. The authority of your employer to transfer you to a group entity in your home country, or elsewhere, will normally be included in your employment contract.
99. Consideration needs to be given to whether you should apply for the special tax regime on a net or gross remuneration package.
100. If you are an (international) assignee, resident and employed in Belgium, and you do not qualify for the special expatriate tax treatment but carry out a significant amount of work outside Belgium, you may find it advantageous to have separate employment contracts with your Belgian employer and an associated group company located abroad (i.e. a split payroll).

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101. Where your non-Belgian employer is located in a 'treaty country', the 'exemption with progression' principle applies in Belgium to your overseas earned income provided the tax treaty allows for such exemption. Please note that the tax authorities are now looking more carefully at the conditions to be exempted in Belgium based on the wording the Tax Treaty, and are not granting this exemption automatically anymore. Due to the application of progressive tax rates in most countries, a payroll split between 'treaty countries', which accurately reflects services and responsibilities rendered in or for the two countries, will produce tax savings. Where your non-Belgian employer is located in a non-treaty country, your foreign income is subject to tax in Belgium at half the normal rate, provided it has been subject to foreign tax.

Remuneration packages

102. We outlined above the tax consequences of receiving a salary and separate reimbursement of expenses, or of being on a gross remuneration package inclusive of expenses. Employers will need to examine the overall cost to both the company and the employee before deciding which method is appropriate. Generally speaking, the 'net' remuneration package is more tax-effective, as the recurring costs and expenses package for which the employer is responsible will most likely reach the tax-free ceilings of EUR 11,250 or EUR 29,750 for control and coordination offices, laboratories and scientific research centres. In the case of gross remuneration packages, this is frequently not the case.
103. As far as coordination offices are concerned, it is unlikely that the tax-free ceiling for allowances of EUR 29,750 will be reached without tax equalisation being built into the 'net' remuneration package.
104. The timing of payment of a bonus connected with an assignment to Belgium should be considered from the outset. If a bonus is paid after the assignment has terminated, it may be more beneficial from a Belgian tax point of view.
105. Belgium sources stock-option income. For options whose vesting is subject to an employment condition, taxable income will be sourced based on the territories where the duties were carried out during the vesting period.

Importing personal possessions

106. A full exemption from value added tax (VAT) and customs duties is generally granted when personal possessions, including a car, are imported by a private individual transferring his/her normal place of residence from another country to Belgium.
107. To be eligible for the exemption, the goods must be owned by the importer and have been used at least six months before the residence is transferred to Belgium.
108. An application must be filed with the local customs office before or when goods are imported. Five copies of the list of possessions being imported are required.
109. The imported goods cannot be sold or let within the 12-month period following their duty-free importation.

Important points to remember

110. Employers and expatriates are advised to consult a home country tax adviser and a Belgian tax adviser before the assignment takes place, so that the following means of minimising the tax burden can be considered:
- Timing the arrival in Belgium;
 - Avoidance of dual residence and double taxation;
 - Deriving full benefit from the tax exemption on investment income, in cases where the special tax treatment applies.

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Step 4 – What to do when you arrive in Belgium

Establishing residence/domicile

111. As an international assignee intending to reside and work in Belgium, you must go through certain formalities with the local authority where you are to reside. Depending on your nationality (EU or non-EU) the set of documents you need to submit for registration will be different. Non-EU nationals need to be able to present their work permit, for instance (unless they qualify for a work-permit exemption). The duration of your residence in Belgium (more or less than three months) is also important in determining the type of registration or 'declaration'. In the case of registration for more than three months, you will receive an electronic residence permit once the registration procedure is finalised.
112. Registration with the social security authorities should be done by your employer. You must select and register with a 'Mutuelle/Mutualiteit'. The local authority where you live will inform the local tax inspector of your arrival.

Application for non-residence status

113. The administrative formalities associated with the special tax regime are mainly the responsibility of the employer. Provided you meet the various conditions, the employer is required to file a formal application with the Director for Foreigners (Directeur Etranger – Directeur Buitenland) at the Ministry of Finance (Federal Public Service Finance) within six months of your arrival (the six-month deadline runs as from the first day of the month following that in which employment in Belgium begins).
114. The application file must include a formal request by the employee, and sufficient information to enable the tax officers to verify whether expatriate and the company meet all the qualifying conditions for non-resident status and that the non-taxable expense allowances being claimed are justified.
115. The Belgian offices of PricewaterhouseCoopers will be pleased to provide clients with further advice on the application procedures and the documents and information needed to support a successful application. See Appendix E for further information.

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Step 5 – What to do at the end of the year

General

116. No specific formalities are required from you as an employee at the end of the tax year. It is nonetheless advisable for you, if you are appointed as a remunerated director of a Belgian company or performing self-employed activities, to adjust your level of withholding tax or tax prepayments during the year to avoid a tax surcharge for insufficient prepayments.
117. Similarly, if you work within the framework of the special tax regime, it is advisable to adjust the level of your withholding tax to meet your actual circumstances.

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Step 6 – What to do when you leave Belgium

Reporting your departure

118. You must report your departure from Belgium and the departure of your family at the population register at the town hall in the municipality where you reside.
119. Where applicable, your employer must report your departure and the cessation of contributions to the social security authorities and you must also advise your 'Mutuelle/Mutualiteit' accordingly.
120. The tax office dealing with your tax returns should also be advised of any change of address so that tax return forms covering the final tax period in Belgium can be sent out for completion. Tax returns for the period 1 January to the date of departure should in principle be filed within three months of the date of departure. For those who benefit from the special tax regime, the tax return for the period 1 January to the date of departure from Belgium need only be filed the following year.
121. A certificate of departure should be obtained from the local authority to enable household possessions to be removed to EU (and other) countries without VAT or import duty being charged. No tax authority certificate is required to permit household chattels to be taken out of Belgium.

Other issues

122. To minimise your tax burden, we advise you to seek advice on the timing of your departure. Care should be taken to avoid double taxation arising from dual residence status if you leave Belgium to work elsewhere but leave your family in residence for a period of time (e.g. to complete the children's education).
123. Any payments or bonuses received after departure in respect of Belgian employment will be subject to tax in Belgium. Planning for any such payments should be undertaken with care.

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Step 7 – Other matters requiring consideration

First and last year in Belgium

124. If your earnings in your first or last year in Belgium cover a period of less than 12 months, total income for the period is not grossed up to the 12-month equivalent in calculating progressive rates of tax. This factor can be used to plan appropriate commencement and cessation dates for an assignment.

Timing of bonuses

125. The timing of bonuses to expatriates merits careful examination, as indicated in paragraphs 104 and 123.

Inheritance and gift taxes

126. In principle, a gift has to be made in Belgium by way of a notarial deed. All Belgian notarial deeds must be registered, which means that Belgian gift taxes become due.
127. There are, however, exceptions to this principle: manual gifts and indirect gifts can be made without a Belgian notarial deed, so that they are exempt from Belgian gift taxes. This is not possible for immovable property, however.
128. Article 7 of the inheritance taxation codes (IHTC) of each region nevertheless provide that gifts made no more than three years prior to the death of the donor and that were not subject to Belgian gift taxes are deemed added to the estate of the donor and therefore are subject to inheritance taxes. Such gifts must be reported in the inheritance tax return at the value that the donated assets have at the time of death.
129. Inheritance tax is paid by heirs or legatees on the net amount inherited by each recipient from the estate of any deceased person who is considered to be a resident of Belgium.
130. Expatriates who benefit from the special tax regime are considered to be non-residents. However, this status applies only to direct taxes and not to inheritance taxes. Therefore, the question as to whether an expatriate who dies in Belgium is subject to inheritance tax depends on the facts of the individual case.
131. Tax rates vary according to the region where the gift is registered.
132. In the Flemish and Brussels-Capital Regions, registered gifts of movables are taxed at a reduced flat registration rate of 3% (for gifts between spouses, children, grandchildren, parents, grandparents and cohabiters) or 7% (for gifts between other individuals).
133. Inheritance tax rules differ according to the Region where the deceased had his/her fiscal residence (see point 118 for the definition of the applicable region).
134. In some cases, the family home is not subject to tax when inherited by a direct-line heir, spouse or cohabitee.
135. A special form of inheritance tax arises on the death of a Belgian non-resident who leaves property in Belgium. Tax is chargeable on the gross value of the property instead of on the net amount inherited by each recipient, at standard rates of inheritance tax.

136. Article 38 IHTC specifies the Region where the inheritance tax return has to be filed and, at the same time, the rules applicable for calculating the inheritance taxes.

According to art. 38(1°) IHTC, the inheritance tax return has to be filed with the inheritance tax office where the deceased had his/her last tax domicile.

Article 38(1°) IHTC also provides that, where the deceased had his/her tax domicile in more than one Region during the five years preceding his/her death, the tax return has to be filed in the Region where he/she had his/her tax domicile for the longer period during those 5 years.

137. If the deceased was a non-resident, the mortis causa transfer tax return ('droits de mutation lors du décès/rechten van overgang bij overlijden') has to be filed with the office in whose district the portion of property representing the highest federal rateable value is located ("kadastraal inkomen" or "revenu cadastral"). The so-called "mortis causa transfer tax" is calculated according to the rates and rules applicable in the Region in which the tax return has to be filed.
138. This means that a mortis causa transfer tax return requiring to be filed in, say, the Walloon Region according to article 38(2°) IHTC will be taxed according to the rules in force in that Region, whether or not the tax return mentions property located in any other Region.
139. Foreign inheritance taxes paid on property situated abroad owned by a deceased Belgian resident can be deducted from Belgian tax payable on that property under certain conditions. In such situations, estate planning is essential.
140. The inheritance tax rates on the net amount received where a business is transferred by inheritance have been reduced to 3% in the Brussels Capital Region. Under certain conditions, the net amount received upon the transfer by inheritance of a family business can be exempted from inheritance tax in the Flemish Region and the Walloon Region.
141. The conditions under which the favourable rates of 0% (in the Flemish Region and the Walloon Region) or 3% (in the Brussels-Capital Region) apply differ from region to region.

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Appendix A – Overview of income tax rates

Tax year 2012 – Year of income 2011

Personal income tax rates

Tax brackets in 2011 applicable to net taxable income after deduction of business expenses (disregarding possible additional tax exemptions):

Taxable income (EUR)	Not over	Rate (%)	Tax on bracket	Cumulative tax
0	8,070	25%	2,017.50	2,017.50
8,070	11,480	30%	1,023.00	3,040.50
11,480	19,130	40%	3,060.00	6,100.50
19,130	35,060	45%	7,168.50	13,269.00
35,060	and above	50%		

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Appendix B – Overview of personal allowances

Tax year 2012 - Year of income 2011

Basic tax-free allowances for each taxpayer (in EUR)

If taxable income not over 24,410	6,830
If taxable income between 24,410 and 24,670	6,830 less difference between taxable income and 24,410
If taxable income above 24,670	6,570

Any balance not used up by the income of one spouse can be transferred and applied against the income of the other spouse.

Child allowances

The basic tax-free allowance is increased by a progressive scale of child allowances which are also tax-free (in EUR):

	Per child	Cumulative
First child	1,400	1,400
Second child	2,190	3,590
Third child	4,460	8,050
Fourth child	4,970	13,020
Fifth and additional children	4,970	

Handicapped children count as two children in the above scale.

For each child less than three years old on January 1 of the tax year, the above amounts are increased by EUR 520, provided no children's custody expenses are deducted.

Allowances for other dependent relatives who form part of the household and do not have resources exceeding certain limits:

EUR 1,400 per dependent (double for handicapped dependant).

As mentioned above, the above allowances are set against the low tax brackets.

Net taxable income is determined after deduction of allowable expenses:

Standard expense deduction

This deduction is calculated on gross earnings on a sliding scale (in EUR):

Taxable income (EUR)		%	Expense on bracket	Total
0	5,300.00	28.7%	1,521.10	-
5,300.00	10,530.00	10%	523.00	2,044.10
10,530.00	17,530.00	5%	350.00	2,394.10
17,530.00	60,060.00	3%	1,275.90	3,670.00

For employees, the standard expense deduction may not exceed a ceiling of EUR 3,670.

For remunerated directors, the deduction is a flat 3% and it may not exceed the ceiling of EUR 2,200.

In some circumstances, it may be possible for a salaried taxpayer to claim business expenses actually incurred instead of a standard allowance.

100% (limited to maximum EUR 11.20 per day) of duly evidenced payments to an approved kindergarten, independently registered child nurses, or schools (in respect of children under the age of 12) are deductible from taxable income on condition that it includes earned income.

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Appendix C – Typical tax computation

Tax year 2012 – Year of income 2011

Married person with two dependent children (aged 3 or over); wife has no taxable income; municipal tax of 7%.

Tax computation	EUR	EUR
Salary after deduction of social security contributions		50,000.00
Computation of tax base		
1. Gross taxable salary	50,000.00	
2. Less: standard business deductions		
EUR 0 to EUR 5,300.00: 28.7%	(1,521.10)	
EUR 5,300.01 to EUR 10,530.00: 10%	(523.00)	
EUR 10,530.01 to EUR 17,530.00: 5%	(350.00)	
EUR 17,530.01 to EUR 50,000.00: 3%	(974.10)	
Total standard business deductions:		(3,368.20)
3. Difference = Tax base		46,631.80
Portion attributed to the spouse	9,470.00	
Portion left to the taxpayer	37,161.80	
4. Computation of tax on spouse's portion		
0% tax on 0 to 6,830.00 (exemption) *	0	
25% tax on 6,830.01 to 8,070.00	310.00	
30% tax on 8,070.01 to 9,470.00	420.00	
Total (I)		730.00
5. Computation of tax on taxpayer's portion		
0% on 0 to 6,570.00 (exemption) *	0	
0% on 6,570.01 to 10,160.00 (exemption for 2 children) *	0	
30% on 10,160.01 to 11,480.00	396.00	
40% on 11,480.01 to 19,130.00	3,060.00	
45% on 19,130.01 to 35,060.00	7,168.50	
50% on 35,060.01 to 37,161.80	1,050.90	
Total (II)		11,675.40
Total (I) + Total (II)		12,405.40
Plus: Municipal tax: 12,405.40 x 7%		868.38

Tax computation	EUR	EUR
Plus a special social security contribution		555.39
Final tax		13,829.17

* See Appendix B: Overview of personal allowances

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Appendix D – Tax-free allowances on a gross remuneration package

Tax year 2012 – Year of income 2011

The expatriate is paid on a gross basis; tax-free allowances are deemed to be included in his/her gross salary and have to be determined. The expatriate is a UK national, married, spouse has no earned income, two children (older than 3). He/she is entitled to travel exclusion outside Belgium of 12.9% in 2011.

	EUR
1. Professional earnings	
Salary and foreign service premium	94,000.00
2. Foreign base salary	
$(94,000 \times 80\% (1) \times 100)/110$	68,363.64
3. Determination of allowances	
A. Cost of living $(68,363.64 \times 5\% = 3,418.18)$ – limited to	2,500.00
B. Housing allowance	
Rent paid in Belgium	9,000.00
Less: $68,363.64 \times 12\%$	(8,203.64)
Total housing allowance	796.36
C. Tax equalisation (2);	
Foreign base salary before deduction of 10% premium: $(94,000 \times 80\%)$	75,200.00
Less: Belgian social security contributions: $(75,200 \times 13.07\%)$	(9,828.64)
Sub-total	65,371.36
Less: Exclusion for travel outside Belgium: $(65,371.36 \times 12.9\%)$	(8,432.91)
Tax base	56,938.45
Belgian taxes	
I. Thereon	16,874.49
II. UK taxes on foreign base salary: 68,363.64 (cf. point 2 above) (3)	(15,603.47)
Difference (I) - (II)	1,271.02
Total tax-free allowances: $(2,500.00 + 796.36 + 1,271.02)$	4,567.38

- Country index applicable for the UK for income year 2011
- Based on 2011 tax brackets
- Average exchange rate GBP 1 = EUR 1.1661

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Appendix E – Belgian contacts and offices

Websites

HR Services web site: <http://www.hrservices.be>

International Assignees Services Belgium web site: <http://be.pwcexpat.com>

PricewaterhouseCoopers Belgium web site: <http://www.pwc.be>

Contacts

Our specialists are pleased to help you; do not hesitate to contact them.

With over 100 specialised professionals in three cities around Belgium, PricewaterhouseCoopers International Assignment Services offers the perspective and resources of a global organisation combined with detailed knowledge of local issues.

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