Guide for foreign employees working in Belgium

February 2017
PwC Belgium

Immigration Services
• Immigration
• Tax
• Social security
• Labour law
• Social law formalities
# PwC Belgium
## Immigration Services

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Immigration formalities</td>
<td>5</td>
</tr>
<tr>
<td>1.1 General</td>
<td>5</td>
</tr>
<tr>
<td>1.2 Work permit</td>
<td>7</td>
</tr>
<tr>
<td>1.3 Residence permit formalities - Local authority registration for non-EEA nationals</td>
<td>10</td>
</tr>
<tr>
<td>2. Tax formalities</td>
<td>13</td>
</tr>
<tr>
<td>2.1 Residence</td>
<td>13</td>
</tr>
<tr>
<td>2.2 Belgian taxation of residents</td>
<td>15</td>
</tr>
<tr>
<td>2.3 Belgian taxation of non-residents</td>
<td>18</td>
</tr>
<tr>
<td>2.4 Tax filing obligation</td>
<td>20</td>
</tr>
<tr>
<td>3. Social law obligations - “Social documents”</td>
<td>23</td>
</tr>
<tr>
<td>3.1 Limosa</td>
<td>23</td>
</tr>
<tr>
<td>3.2 “Social documents”</td>
<td>23</td>
</tr>
<tr>
<td>3.3 Applicable labour law during assignments</td>
<td>24</td>
</tr>
<tr>
<td>4. Social security</td>
<td>25</td>
</tr>
</tbody>
</table>
Global Immigration Services

Visa and immigration services have been integral to the business of PwC for many years and form part of the suite of services provided to corporations that have an international focus and move people throughout the world.

Global coverage

Providing the best immigration solutions globally depends on having experienced professionals on the ground locally. We have the largest immigration network in the world, covering over 100 countries.

In Belgium, we have an Employment Law team of 40 client facing professionals of which 18 persons are dealing with immigration questions on a daily basis and trying to find the best solution for each situation.

Immigration, social security, employment law and tax compliance combined

It is becoming increasingly common for a country’s immigration, social security, employment law and tax authorities to communicate with each other and share information. It is essential to make sure that there is total consistency in the presentation of the employee’s position from an immigration, social security, employment law and income tax compliance perspective.

Our immigration specialists work within our Employment Law team, and so this combined approach is guaranteed with certainty.

At the client’s request, we can guarantee a full compliance circle methodology in which everything starts with aligned assignment/employment contracts from the outset.

When we are informed of a new arriving expat, we also inform our tax colleagues (if involved) and, for some clients, we even instruct the relocation agency.

We also ensure a correct social security compliance file by e.g. also requesting a copy of the certificate of coverage in the country of origin (if applicable).

Finally, we also handle other legal formalities (such as the “first-day electronic notification” – Limosa).

By means of this multidisciplinary approach, we at any moment in time have a guarantee of a full compliance circle, also leading to efficiencies (shared information between the Employment Law & Tax teams, one questionnaire etc.).

Please note that we work in fairly intense conjunction with the immigration and social security authorities: we have given joint presentations and we also team up with Flanders Investment and Trade.
We also offer the following additional services:

- work permit renewals and residence permit extensions;
- services with regard to driving licences;
- applications for permanent residence;
- services with regard to health insurance;
- services with regard to Belgian nationality procedures;
- passport renewals;
- legalisation of official documents;
- and so forth.

Please visit also: http://www.pwc.be/en/services/legal/hr-law/immigration.html

**Business travellers**

Companies increasingly struggle to achieve and maintain full compliance while balancing the needs of the business, which demands the swift deployment of critically skilled employees overseas. The problem is much greater in relation to employees who frequently travel abroad on business, as few companies provide full compliance support to the business traveller population. At PwC, we help companies manage the immigration risks associated with business travel.

**Your Belgian key contact immigration persons:**

<table>
<thead>
<tr>
<th>Name</th>
<th>Role</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:bart.elias@be.pwc.com">bart.elias@be.pwc.com</a></td>
<td>Partner</td>
<td>+32 3 259 31 56</td>
</tr>
<tr>
<td><a href="mailto:peggy.smets@be.pwc.com">peggy.smets@be.pwc.com</a></td>
<td>Senior Manager</td>
<td>+32 3 259 31 76</td>
</tr>
<tr>
<td><a href="mailto:kris.haveneers@be.pwc.com">kris.haveneers@be.pwc.com</a></td>
<td>Principal Adviser</td>
<td>+32 2 710 44 21</td>
</tr>
</tbody>
</table>
1. Immigration formalities

1.1 General

Before having an employee relocate to Belgium, it is crucial to know whether they need to have a work permit and/or residence permit. Without the correct work and/or residence permit, the employee may neither stay nor work in Belgium.

The procedure that has to be followed in this respect depends on the employee’s nationality.

The employee is either:

• a national of one of the EEA countries plus Switzerland, or
• a non-EEA / Swiss national.

Important note:

While this brochure is being updated in February 2017 the different legislative authorities in Belgium – both at a federal as well as a regional level – are still in the process of modifying the legislation with regard to the economic migration rules.

This is due to the 6th State Reform, which has decentralised the decision-making power regarding labour market policy (including work permit procedures) from the Federal Government to the Regions. At the same time, Belgium still needs to make progress with the implementation, into Belgian legislation, of the Single Permit EU Directive 2011/98/EU, which provides for a single work and residence permit procedure. This means that, in the future, also in Belgium one combined work and residence permit will be issued by the immigration authorities.

The latest status is that the Council of State has concluded that the transposition still requires the adoption of a Cooperation Agreement between the several authorities concerned. The agreement has to be concluded between the Federal government (Secretary of State of Asylum and Migration, with the Foreigners Office being responsible for the ‘residence permits’) and the different regions (Flemish, Brussels, Walloon and German region). Following the adoption of said cooperation agreement, the Council of State will examine the preliminary legislative texts (not yet published and available) of the different governments. The elaboration process of said Cooperation Agreement is still ongoing and slow because of the asymmetrical political formations on the different levels and we were informed the implementation can still take several more months.

The act to implement the Intracorporate Transferee Directive (to facilitate entry to the European Union, and mobility within the European Union, for third-country managers, specialists and trainee employees in the context of a transfer within (multinational) companies) is also not yet published in Belgium. Moreover it is very difficult to know when exactly this will be done (it can still take several more months according to several responsible officials of the different authorities and administrations). The reason for this is
that it would still be the purpose to have the ICT Directive implemented together with the above Single Permit Directive. As long as the ICT Directive has not been implemented in Belgian legislation, individuals having an ICT permit from another EEA country, will still need a separate Belgian work permit. PwC is following up on the legislative updates in this respect and will consequently update this brochure as soon as new legislation is in place.

1.1.1 The employee is a national of one of the EEA countries plus Switzerland

Work permit

The following countries are members of the European Union:

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- the Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Great Britain* & Northern Ireland
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxemburg
- Malta
- The Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

* Due to the ‘brexit’ UK will no longer be part of the European Union. The immigration implications for UK nationals working and residing in Belgium are expected to be rather limited. When updating this brochure no changes are known yet with regard to the current rules applicable to them.
The EU treaty provides for the **free movement of persons** within the European Union. As a consequence, employees who are citizens of an EU Member State are in principle free to work in another Member State without a work permit.

This principle of free movement also extends to the following countries that are not part of the EU but are members of the EEA:

- Iceland
- Norway
- Liechtenstein.

Swiss nationals are also exempted from a work permit.

**Visa requirements**

Employees who are nationals of the above countries can enter Belgium on the basis of their national passport or national identity card, without being in possession of a visa.

**Residence in Belgium**

EEA nationals staying in Belgium for **less than 90 days** have to be in possession of a “notification of stay” (official document “Annexe 3ter”). This “notification of stay” is issued on the basis of their national passport or national identity card and is valid for 90 days. Where the place stayed in is a hotel, the “notification of stay” will be replaced by the hotel register.

In case of a stay in Belgium for **more than 90 days**, a ”declaration of registration” (official document “Annexe 8”) needs to be applied for. The application for this “declaration of registration” has to be filed with the municipality of the place of residence of the employee.

The EEA national is free to opt for an electronic version of the “Annexe 8”, which is the E-card. The validity of this card depends on how long the individual stays in Belgium.

1.1.2 The employee is a non-EEA national

**Work permit**

In principle, every non-EEA national working in Belgium has to be in possession of a work permit. The employer has to obtain authorisation to employ the employee. In the following we just refer to the **work permit**, as the two documents are linked.

Note that some categories of persons are exempted.

The work permit has to be applied for by the employer in Belgium (or an agent).

**Visa requirements**

In the case of a stay in Belgium for **less than 90 days** within any given period of 180 days, it depends on the individual's nationality whether a visa is required to enter Belgium: citizens of the USA, Australia, Canada, South Korea, Japan, etc. can enter Belgium on the basis of their national passports. For other nationalities, such as citizens of India, China, Turkey, ... a type C Schengen visa is required.

Any non-EEA national staying in Belgium for **more than 90 days** within any given period of 180 days has to be in possession of a type D visa (long stay) in order to enter Belgium and obtain a Belgian residence permit, which is a necessary formality (for an alternative route, see 1.3.3 - page 12).
Residence in Belgium

Non-EEA nationals staying in Belgium for **less than 90 days** within any given period of 180 days have to be in possession of a “declaration of arrival” (official document “Annexe 3”) to be obtained from the municipality of their place of residence. Where they stay in a hotel, the declaration of arrival will be replaced by the hotel register.

In the case of a stay in Belgium for **more than 90 days** within any given period of 180 days, a Belgian residence permit (electronic residence card “A”) has to be applied for. The application has to be filed with the municipality of the place of residence of the employee.

1.2 Work permit

The employer has to obtain an **authorisation to employ** the employee. The employee has to be in possession of a **work permit**. These two documents have to be obtained prior to the commencement of work in Belgium. In practice, both requests are filed at the same time by the employer or a person duly authorised in this respect. In the following, we just refer to the work permit for both documents, as they are linked.

In order to obtain a work permit, the employer or his attorney-in-fact (PwC can act in this capacity) must send an **official application form accompanied by a set of documents** to the regional work permit authorities.

Depending on the place of work, this may be the Flemish Region, the Walloon Region or the Brussels Capital Region. Note that the procedures for applying for a work permit differ slightly in each Region.

After approval, the original work permit is sent to the municipality of the employer or his attorney-in-fact, which actually issues the work permit. The original authorisation to employ is sent to the employer or his attorney-in-fact.

Three types of work permit can be granted, i.e. types A, B and C. The most common work permit for employment within multinationals is the type B work permit, which has to be applied for by the employer. The other types have to be applied for by the employee (and exempt the employer from the obligation to apply for an authorisation to employ) and relate to very specific situations.

1.2.1 Granting conditions for a “type B work permit”

**General issue conditions**

In general, the legislation places restrictions on the grant of a work permit. More particularly, a work permit may only be granted if:

- the employer can prove that he cannot find an employee on the Belgian or European employment market within a reasonable timeframe with the same qualifications as the foreign employee he wants to hire (**labour market criteria**)  
  ➔ evidencing that no employee can be found on the EEA employment market with the same professional skills, even after some training, is a relatively complex matter. In fact, the employer has to demonstrate that he has searched extensively (by advertising in newspapers, etc.) to find an employee with the same qualifications on the employment market;
• the person concerned is a national of a country with which Belgium has an agreement on manpower (Algeria, Kosovo, Morocco, Serbia, Montenegro, Bosnia-Herzegovina, Macedonia, Tunisia, Turkey);
• an employment contract has been signed containing very specific provisions e.g. relating to the cost of repatriation and health care.

Obtaining a work permit for a common employee (i.e. one who is not exempt from the above conditions) is by no means automatic. It is a complex, time-consuming procedure. We would stress that the authorities take several months to reach a decision in this respect.

For a limited number of employee categories, these conditions do not have to be fulfilled.

The two most-common categories are highly qualified persons and managerial employees.

In our experience, for multinationals it is usually possible to obtain a work permit based on one of these two exceptions.

Highly qualified employees

Highly qualified employees who earn a gross taxable annual salary of at least EUR 40,124 (as from 01.01.17) (non-taxable expatriate allowances not included) do not have to comply with the employment market conditions, fall under a manpower agreement or have a special employment contract.

This means that a work permit will most likely be issued if all the formalities are complied with (see below). Qualifications, position and experience will be taken into account by the authorities in determining whether the employee is truly highly qualified.

According to the Royal Decree of 6 February 2003, highly qualified employees may be employed for a maximum period of 8 years.

Restrictions that would otherwise limit the validity of a work permit to eight years do not apply in cases where the highly qualified person has signed an employment contract with the Belgian company (i.e. has not been posted to Belgium) and earns a gross annual salary of at least EUR 66,942 (as from 01.01.17).

Managerial employees (persons in a top position)

For managerial employees who earn a gross annual salary of at least EUR 66,942 (as from 01.01.17), the restrictions relating to the employment market, the manpower agreements and special employment contracts also do not apply.

The employee receives a work permit to which no maximum specifications in terms of employment period apply.

Formalities to be fulfilled

To apply for a work permit, the following documents are generally needed:
• a medical certificate issued by a doctor recognised by the Belgian embassy or consulate in the home country or last country of residence;
• the employment contract between the employee and the (foreign) employer;
• a copy of the employee’s national passport;
• a career resume;
• a copy of the applicant’s degree(s);
• a set of passport-sized photographs of the employee;
• a service agreement between the company and the Belgian client (if possible).
In the case of assignment, we also require:
- an assignment letter and assignment agreement, to be typed on the employer’s headed notepaper;
- a certificate of coverage (if possible).

In the case of a transfer, we also need a social security declaration by the employer confirming that Belgian (employee and employer) social security contributions will be paid.

The work permit can be obtained for a (maximum) period of 12 months and is renewable for a new (maximum) period of 12 months until the maximum period of employment is reached (for posted highly qualified employees). Once the request is filed, it takes about 2 to 4 weeks for the work permit authorities to issue the work permit.

1.2.2 Exemptions from the obligation to obtain a work permit

Under the current legislation, some categories of persons are exempted from the obligation to obtain a work permit or an authorisation to employ. Some important categories are:
- spouses of Belgian or EEA nationals, under certain conditions;
- non-EEA nationals employed under a service agreement between employers established in two EEA Member States;
- foreign managerial or executive employees working in Belgium, provided that they are employed by a Belgian headquarters (i.e. under a local employment contract) and earn an annual gross salary exceeding EUR 66,942 (as from 01.01.17); the regional authorities should be informed before the start date;
- foreign employees assigned to Belgium by their foreign employer to attend scientific congresses or closed meetings (“business trips”), provided that the duration of their stay in Belgium does not exceed the length of the scientific congress, or (in case of business trips) 60 days per calendar year, with a maximum of 20 consecutive calendar days per meeting;
- foreign employees assigned to Belgium by their foreign employer to receive intra-group classroom training, provided that the duration of the training does not exceed three months. The exemption is limited to the actual duration of the training and a number of strict conditions have to be complied with. These mainly relate to the nationality of the persons concerned (there is a limited list of nationalities); the regional authorities should be informed before the start date;
- etc.

1.2.3 European Blue Card

Since September 2012 it is possible for highly qualified third-country employees to apply for the “Belgian version” of the European Blue Card (based on the EU “Blue Card Directive”).

It offers them the opportunity not only to reside in Belgium but also to work here based upon one single document, and it introduces a more flexible access to the European territory for them and their families.

Conditions for being granted a European Blue Card:
- The employee must hold a higher education degree for which the course of study extended over at least three years.
- The employee must have signed an employment contract with a Belgian employer for an open-ended period or a term equal to or greater than one year.
The employee’s gross annual salary must amount to at least EUR 51,882 (2017).

The employee must be able to produce valid travel documents and must have health insurance for the periods where he is not covered by rights provided for under his employment contract.

The employee may not pose any danger to public order or national security.

An important category of persons who have no right to the European Blue Card are nationals of third countries who are on a secondment.

What about the current type B work permit?

The current type B work permit for highly qualified employees continues to exist alongside the European Blue Card. Hence, in practice, the European Blue Card adds little to the already existing flexible arrangements in Belgium for highly qualified or managerial employees.

The exemption from a type B work permit only applies to foreign nationals who hold a European Blue Card issued by Belgium. This concretely means that e.g. a non-EEA national in possession of a Dutch European Blue Card who has a job offer from a Belgian employer still needs to apply for a new Belgian European Blue Card before he can start working.

The employee also has to comply with all the above conditions for being recognised as a highly qualified employee within the meaning of the Directive.

1.3 Residence permit formalities

- Local authority registration

1.3.1 Obtaining a visa to enter Belgium

In principle, non-EEA nationals always need a visa to enter Belgium.

However, different types of visa exist. The type that has to be applied for depends on the purpose and length of the stay in Belgium.

In the case of a stay in Belgium for less than 90 days within any given 180 days period, the non-EEA national might need a short-term type C visa in order to enter Belgium. However, this depends on the nationality of the individual concerned, as citizens of e.g. the USA, Japan, Australia and Canada can enter Belgium on the basis of their national passport in the case of a short stay.

Any non-EEA national staying in Belgium for more than 90 days within any given 180 days period (can be interrupted) has to be in possession of a type D visa (work visa, family reunification, etc.) in order to enter Belgium and to obtain a Belgian residence permit, which is a necessary formality (see further).

The application has to be filed with the Belgian embassy or consulate in the home country or last country of residence and can only be filed after issuance of the work permit (for the D type visa) and prior to arrival in Belgium.

The most important documents needed are:

- a certificate of good conduct covering the last year, duly legalised;
- visa application forms;
- a valid national passport;
- a work permit;
- some recent passport-sized photographs;
- the consular fee.
Work permit holders are no longer required to provide the Belgian diplomatic authorities with a medical certificate issued by a recognised doctor as they will already have required to obtain one for their work permit application. The accompanying spouse / children still need a medical certificate, together with other required documents.

Each embassy / consulate has its own requirements and may ask for additional documents.

Depending on the Embassy or Consulate concerned and on the nationality of the employee concerned (e.g. some Embassies or Consulates are not authorised to issue automatically such a visa and must apply first for approval from the relevant Belgian Ministry), the visa D can mostly be obtained within one working week.

The visa D that will be delivered is also recognised as a Schengen visa and gives the holder the right to travel through the Schengen area during the period of validity of the visa D.

Note: Newcomers statement

In February 2017 Belgium published the law establishing the legal ground for introducing the so-called “newcomers’ statement” for (non-EEA) foreigners who wish to stay in Belgium for more than three months. It concerns a statement whereby the signer pledges to respect and comply with the values and standards of our society. Also work permit holders and their family will be asked to sign such a statement when submitting their application for residence in Belgium. By doing so, they indicate that, on the one hand, they understand and undertake to act in accordance with our rights, duties, values and freedoms and, on the other hand, they commit themselves to making efforts to integrate in our society. Absence of such a signed statement causes an application for residence to become inadmissible.

Please note however that the obligation to sign the declaration will only be effective as from the day on which a Royal Decree will lay down its layout, translation and procedures governing its signature. The Council of State made the remark that still a Cooperation Agreement needs to be concluded with the different regions as they have the competency on the integration policy.

The actual implementation process is slow because of asymmetrical political formations on the different levels and it can thus still take several more months for the actual application hereof.

1.3.2 Administrative costs residence applications

As from 2 March 2015 an additional fee from certain categories of foreigners, such as work permit holders (and their family members), has to be paid as administrative costs to the Foreigners Office. Please note that this (new) fee comes on top of the consular fee / municipality fee.

For work permit holders this means an additional cost of EUR 215 (as from 01.03.2017: EUR 350). For their spouse this means an additional cost of EUR 160 (as from 01.03.2017: EUR 200). For the child(ren) up to 18 years no additional fee is required.

At the moment of submitting the visa D application / residence permit application proof will need to be given of the payment (by means of a copy of excerpt bank account). Please note this proof is of extreme importance because in case of no payment (or to late payment) the residence application will not be accepted.

The payment has to be made per applicant separately, directly into the bank account of the Foreigners’ Service and mentioning a specific reference.
The amounts can only be paid in EUR. The payment can be done by the applicant personally or by a third party.

1.3.3 Registration with the relevant Belgian municipality

Declaration of arrival - Short stay

Non-EEA nationals staying in Belgium for **less than 90 days** within any given 180 days period have to be in possession of a declaration of arrival issued by their local municipality.

It is issued on the basis of the applicant’s type C visa or national passport (depending on his nationality) and has to be applied for within three days of arrival in Belgium.

In the case of a stay in a hotel, the declaration of arrival is replaced by the hotel register.

Obtaining a Belgian residence permit - Long stay

In the case of a long stay in Belgium (i.e. **more than 90 days** within any given 180 days period), a Belgian residence permit, or so-called type “A” electronic card, has to be applied for. Within eight days of arriving in Belgium, the employee (and his family) has to register with the municipality of the place where he intends to reside.

As each municipality may have its own specific requirements, it is advisable to check what these are before going to the town hall.

The following documents should normally be produced, and a fee is payable:

- the employee’s original work permit;
- a copy of his rental agreement;
- the national passport bearing the relevant type D visa;
- several passport-sized photographs;
- the birth certificate and marriage certificate, legalised according to the internal procedures of the country that issued the document. If the certificate is not written in Dutch, French, English or German, it should be translated into one of these languages by a sworn translator;
- a registration fee.

A certificate of registration in the register of foreigners (electronic card “A”) will be issued to the employee once the above procedures have been gone through and a positive police check has been done. In principle, the card is valid for the duration (depending on the validity of the work permit + 30 days). It is renewable for a maximum of one year, e.g. where the work permit is extended.

**Note**

Under an exceptional procedure (section 25(2) of the Royal Decree 8 October 1981), a salaried worker in possession of a work permit can also directly apply for a Belgian residence permit at his local council in Belgium without his having to first have a type D visa. Please note that, in such cases, it is very important to be able to produce a certificate of good conduct covering the last year when registering without having a type D visa. Further, the procedure has to be initiated within 90 days of arrival.

That said, if it also intended that the individual’s family will come to Belgium, we suggest not following this exceptional procedure as, in that case, the family members will only acquire a limited right of residence in Belgium, on the basis of which will not be allowed to travel.
2. Tax formalities

The below is based on legislation applicable per January 2017.

2.1 Residence

In order to determine the Belgian income tax consequences of the secondment or transfer of an employee to Belgium, it is essential to establish whether the employee will be treated as a tax resident of Belgium or as a tax non-resident of Belgium.

The Belgian Income Tax Code (BITC) defines Belgian tax residence.

According to Belgian tax law, an individual qualifies as a Belgian tax resident if he has established his **domicile** or the **seat of his wealth** in Belgium (section 2(1°)(a) and section 3 BITC).

The **domicile** is defined as the place where the taxpayer effectively, enduringly resides, where the family lives and where personal contacts are maintained (clause 3/7 of the commentary on the BITC).

The **seat of wealth** is the place where the taxpayer manages his estate or where the centre of his business activities is located (not necessarily the place where the property and assets are situated).

Belgian tax law provides for a **refutable** legal presumption that an individual has his domicile or the seat of his wealth in Belgium when he is registered in the Belgian population register at the municipality where he resides.

With respect to the tax residence of a married couple (section 2(1°) BITC), a special rule applies. The tax residence of a married couple is **irrefutably** deemed to be Belgium if the family resides there. However, Belgian tax law does not include a converse provision (i.e. when the family residence is outside Belgium).

A definition of the term “family residence” often comes down to a factual analysis. For the purposes of Belgian tax law, a family residence can be defined as the centre of day-to-day family life or as the centre of household interests.

2.2 Belgian taxation of residents

Residents of Belgium are taxed on their worldwide income. Taxable income comprises real estate income, income from movable property, miscellaneous income and earned income.

For each of these categories, there are specific rules for calculating net income: these rules are described on the following pages.
2.2.1 Real estate income

The taxable amount of real estate income is determined either on the basis of the *cadastral income* relating to the property (deemed rental income) or on the basis of actual rentals.

The taxable amount is then obtained by deducting interest payments on loans. The dwelling owned and occupied by the taxpayer represents a special case: tax relief is generally granted in the taxpayer’s resident income tax return on the taxable income therefrom (cadastral income).

Generally speaking, interest on loans is eligible for relief if it relates to debts incurred for the sole purpose of acquiring or maintaining immovable property. The deductible amount may not exceed the amount of the taxable income from real property.

On top of the income tax due as referred to above, property tax (real estate tax) is due on all properties in Belgium (some rare exceptions exist).

2.2.2 Income from movable property

**Interest**

If an interest is paid out and collected via a Belgian financial institution, in principle 30% withholding taxes are deducted by the bank at source.

No (withholding) taxes are due on the first EUR 1,880.00 of interest on savings accounts (figure for income year 2017). The amount exceeding this threshold will be taxed at a rate of 15% and will be withheld by the bank automatically.

**Dividends**

If dividends are paid out and collected via a Belgian financial institution, in principle 30% withholding taxes are deducted by the bank.

---

### Schematic overview

<table>
<thead>
<tr>
<th>Type</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest bank account</td>
<td>30%</td>
</tr>
<tr>
<td>Interest ordinary savings account</td>
<td>15% ¹</td>
</tr>
<tr>
<td>Interest savings certificate</td>
<td>30%</td>
</tr>
<tr>
<td>Dividends (stock without strips)</td>
<td>30%</td>
</tr>
<tr>
<td>Dividends (stok with strips)</td>
<td>30%</td>
</tr>
<tr>
<td>Dividend BEVEK-SICAV</td>
<td>30%</td>
</tr>
</tbody>
</table>

¹ Excluding the exempt part of EUR 1,880.00.

Declaration duty if > EUR 1,880.00 (per tax payer, verify existence of several bank accounts).
2.2.3 Earned income

Earned income is divided in six subcategories:

- salaries and wages from employment;
- company director’s remuneration;
- profit from agricultural, industrial and commercial activities;
- proceeds from a liberal profession;
- profits and proceeds from former occupational activities;
- replacement income: pensions, early retirement payments, unemployment benefits, health insurance benefits, etc.

In principle, earned income comprises wages, salaries and other remuneration (including benefits in kind) received on account of an occupational activity. Reimbursement of expenditure made by an employee on behalf of his employer are not considered as earned income.

Benefits in kind are in principle taxed at the actual value to the beneficiary. In some cases, the benefit in kind is taxed on a lump-sum basis fixed by law (car or housing provided by the company, etc.).

Stock options granted by the employer are considered as earned income and are in principle taxable upon grant (i.e. the 60th day following the day of the offer) if the options are accepted in writing within this 60-day period. If the options are taxable upon grant, the benefit in kind resulting from the option grant is determined on a lump-sum basis. The resulting amount is taxed at the marginal Belgian income tax rate.

Net income is determined in six stages:

1. deduction of obligatory social security contributions;
2. deduction of actual or lump-sum professional expenses;
3. economic exemptions, notably tax measures in favour of investment and / or employment;
4. clearance of losses;
5. award of the “assistant spouse” quota and marital quotient;
6. compensation of losses between spouses.
2.2.4 Belgian income tax rates

Earned income (together with real estate income, “current” alimony payments (see below) and – in very exceptional cases – movable income) is taxed at the following progressive tax rates:

**Belgian tax brackets in EUR (Income year 2017 - Assessment year 2018)**

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Tax bracket</th>
<th>%</th>
<th>Tax due</th>
<th>Tax on the bracket</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>11,070.00</td>
<td>25%</td>
<td>-</td>
<td>2,767.50</td>
<td>2,767.50</td>
</tr>
<tr>
<td>11,070.00</td>
<td>12,720.00</td>
<td>30%</td>
<td>2,767.50</td>
<td>495.00</td>
<td>3,262.50</td>
</tr>
<tr>
<td>12,720.00</td>
<td>21,190.00</td>
<td>40%</td>
<td>3,262.50</td>
<td>3,388.00</td>
<td>6,650.50</td>
</tr>
<tr>
<td>21,190.00</td>
<td>38,830.00</td>
<td>45%</td>
<td>6,650.50</td>
<td>7,938.00</td>
<td>14,588.50</td>
</tr>
<tr>
<td>&gt; 38,830.00</td>
<td></td>
<td>50%</td>
<td>14,588.50</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Lump sum professional expenses (EUR) * **

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>%</th>
<th>Expense on bracket</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8,620.00</td>
<td>30.0%</td>
<td>2,586.00</td>
</tr>
<tr>
<td>8,620.00</td>
<td>20,360.00</td>
<td>11.0%</td>
<td>1,291.40</td>
</tr>
<tr>
<td>20,360.00</td>
<td>3,060.00</td>
<td>3.0%</td>
<td>442.60</td>
</tr>
</tbody>
</table>

In addition to the above, municipal taxes are due varying from 0% to 10% on the principal amount of income taxes due, calculated on the basis of the above brackets.

Each taxpayer is also entitled to one or more standard tax allowances (depending on the individual’s personal situation) as below (amounts for income year 2017 – amounts still to be multiplied by the applicable tax rate in order to determine the exact benefit).

Additional deductions may be granted depending on the taxpayer’s personal situation.

* for employees, the maximum professional expenses for self-employed persons equals EUR 2,440.00 for income year 2017
2.2.5 Miscellaneous income

The final category of taxable income includes all income with the common characteristics of not being earned by performing an occupational activity. The following income (nonlimitative list) is considered as miscellaneous income (under certain conditions): alimony payments, occasional profits and proceeds, prizes and subsidies, capital gains from (un)developed property, capital gains from shares, except if realised within the normal management of one’s private investment folio and income from a sublease or the transfer of a lease.

Except for the “current” (i.e. not “arrears” of) alimony payments, these types of miscellaneous income are taxed at separate tax rates (varying between 10% and 33%). Communal taxes are also to be paid, varying between 0% and 10% on the principle amount of income tax due. “Current” alimony payments are included in aggregated taxable income (cf. above) to the extent of 80%.
2.3 Belgian taxation of non-residents

2.3.1 General principles

A Belgian non-resident, i.e. a person who has not established his domicile or seat of wealth in Belgium, is only taxable on income received by him from a Belgian source. Depending on the type of income received from a Belgian source, the individual may require to file a Belgian non-resident income tax return. In some cases, the withholding tax or real estate tax paid will be final.

Employees who work in Belgium without establishing tax residence will in principle only be taxable in Belgium if the salary cost is paid / borne by a Belgian tax resident or if they spend more than 183 days in Belgium during the calendar year / a period of 12 months. Profits from self-employment will in principle only be taxable in Belgium if derived by means of a Belgian establishment or result from activities performed in Belgium.

The taxable income of a non-resident is subject to tax at the same rates as that of a resident. If a non-resident also receives other Belgian-source income such as real estate income or director’s fees from a Belgian company, they will be added up to determine the income taxable in Belgium. Investment income sourced in Belgium or abroad is excluded from such aggregated taxable income but it should be noted that in certain circumstances such income may be subject to Belgian tax.

Due to the 6th state reform, non-residents are entitled to federal tax reductions depending on the fact if they acquire at least 75% of their professional income in Belgium. In case a non-resident is a resident of an European Economic Area country and he/she earns at least 75% of his/her worldwide income in Belgium, he/she will also be entitled to regional tax reductions.

2.3.2 Belgian special tax regime - General

Under certain conditions, a foreign executive assigned temporarily to Belgium within an international group of companies may qualify for the special taxation regime. The executive will be treated for Belgian tax purposes as a non-resident, liable to Belgian personal income tax on his Belgian-source income only.

Expatriates who may qualify for the application of the special tax regime are mainly management personnel, research personnel, and foreign personnel without managerial responsibilities who are so highly specialised that recruiting them in Belgium is very difficult, if not impossible. To qualify, certain criteria have to be met:

- employment must be in a qualifying entity or branch. This includes a scientific research centre or laboratory or a business under foreign control or part of an international group. Employment could be in a control and coordination office of a multinational group of companies;
- employment in Belgium must be of a temporary nature;
- the centre of the expatriate’s economic and personal interests must not be Belgium.
An expatriate newly transferred to Belgium is presumed to be a “non-resident” and not yet established as a Belgian inhabitant. He must, however, provide supporting evidence in a special application for non-resident status.

2.3.3 Belgian special tax regime - Benefits

The special tax regime recognises that payments made to an expatriate by an employer fall into one of two distinct categories:

• base salary and foreign service premium, both of which are taxable in Belgium to the extent that they relate to services performed in Belgium;
• expenses reimbursed by an employer, some of which are not taxable (up to certain limits) for the expatriate and are tax-deductible for the employer. These expenses are also not subject to social security contributions (neither for the employer nor the employee).

Non-taxable allowances

An expatriate will not be taxed on supplementary expenses that are incurred as a result of his recruitment or transfer / secondment to Belgium, whether paid as lump-sum allowances or as special reimbursements of outgoings. The Belgian tax administration will tend to accept as non-taxable those costs that an expatriate would not have incurred had he continued to work in his home country. These non-taxable allowances are divided into two parts: non-recurring costs (no limitation) and recurring costs (tax-free up to a limit of EUR 11,250 or EUR 29,750 for expats working in a control or coordination office). 

Non-recurring costs and expenses that are non-taxable include:

• costs and expenses incurred in moving to Belgium;
• the costs of preparing accommodation in Belgium for occupancy;
• costs and expenses incurred in moving out of Belgium.

Recurring costs and expenses that are non-taxable (within certain limits, except for school fees) include:

• the supplementary cost of accommodation and cost of living compared with costs in the home country;
• school fees (primary and secondary education);
• annual travel costs for an expatriate and his family to his home country (air travel, economy class);
• losses incurred by his inability to rent out, or to obtain a normal market rent for, accommodation retained in his home country;
• travelling expenses resulting from emergencies (death or serious illness of close members of his family or of the spouse);
• exchange rate fluctuations;
• tax equalisation;
• travelling expenses of children at school abroad, incurred for them to visit their parents, not exceeding two trips per year.
Travel exclusion

In addition to the non-taxable allowances described above, the part of salary relating to services that are rendered outside Belgium (and that can be identified as such) is not subject to Belgian taxes. In the absence of any other specific identification, the proportion of overall remuneration relating to work days spent abroad is excluded from taxable income.

The following calculation is done to determine the “default” exclusion for services rendered abroad.

\[
\text{Travel exclusion} = \frac{\text{number of working days spent abroad}}{\text{total number of working days during the period}}
\]

Total working days in the (tax) period (in Belgium and abroad) may normally not include Saturdays, Sundays and Belgian public holidays, or days of sickness or annual vacation.

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. A day of return is deemed to be spent outside Belgium.

The expatriate must provide evidence of the number of working days spent abroad and that these days are dedicated to performing business activities (assignment instructions, hotel bills, air tickets with boarding pass, passport visas, proof of attendance at meetings, etc.).

2.4 Tax filing obligation

In general, employees working in Belgium who are taxed in Belgium will need to file a Belgian income tax return each year. The Belgian fiscal year equals the calendar year.

The tax return is, in general, issued to the employee individually by the Belgian tax authorities after the calendar year has ended. For Belgian tax residents, the tax return should in principle be filed before 30 June of the year following the income year (possibility for a later deadline by filing electronically). For non-residents of Belgium, the due date is usually postponed until September (or later) of the year following the income year.

Please bear in mind that a tax filing obligation may also exist in the home country.
3. Social law obligations - “Social documents”

On 1 April 2002, a Belgian Act (of 5 March 2002) came into force. This Act implements EU Directive 96/71 on the posting of employees and states that employers with personnel hired abroad or normally working abroad, while working in Belgium, have to draw up certain “social documents” and observe a number of obligations imposed on them by Belgian employment law (generally referred to as “social law”). These provisions will apply regardless of the location of the employer or the nationality of the posted employee. The applicable social security system or income tax treatment is not relevant, either.

3.1 Limosa

Every foreign employer that employs an individual in Belgium has to prepare and keep up to date a separate personnel register with certain items regarding the identity each employee working in Belgium, including the period during which he was employed in Belgium.

For employees coming to work in Belgium temporarily or partially and who, in principle, are not subject to the Belgian social security scheme, a Limosa declaration has to be filed before the commencement of work in Belgium.

A dispensation exists for limited categories of individuals from the obligation of filing a Limosa declaration, such as employees attending scientific congresses (not limited in time) or attending closed meetings provided their stay does not exceed 60 calendar days a year and attendance per meeting lasts no longer than 20 consecutive calendar days.

For employees subject to the Belgian social security scheme, a Dimona declaration has to be filed before the commencement of work under the Belgian social security scheme.

Exemption from the obligation to keep “social documents”

As a result of filing a Limosa declaration (see above), employers are exempt from having to draw up the below mentioned (foreign) social documents for a period of 12 months.

After the initial 12-month period, the employer still needs to draw up the below mentioned foreign documents and appoint a “social representative” (see 3.2.1).

3.2 “Social documents”

When employing personnel in Belgium, each company is required to prepare, keep up to date and retain certain employment-related documents in order to allow the Social Inspectorate in Belgium to verify whether it is in compliance with the law. These “social” documents mainly include the personnel register, the work regulations and individual payroll accounts.

3.2.1 “Social representative”

The social documents have to be kept by an individual residing in Belgium who has been given proper authorisation for that purpose (i.e. the sociaal mandataris / mandataire social or authorised representative for employment matters).

The authorised representative is in charge of keeping the work regulations, personnel register and individual accounts for the foreign employer. Someone at PwC, for instance, can assume this task at the client’s request.
3.2.2 Work regulations

Each company is obliged to draw up work regulations according to Belgian law. The work regulations contain certain clauses regarding the salary and working conditions applicable within the company. When drawing up the work regulations, a special legal procedure must be adhered to.

3.2.3 Separate personnel register

All employers employing staff that are not covered by the Dimona must keep a register of personnel employed in Belgium.

3.2.4 Individual payroll accounts

This document must be drawn up for each employee who works in Belgium and must be delivered to the employees within legally specified time limits. The individual account gives an overview of the salary paid during the past calendar year for work performed in Belgium.

It also mentions the (foreign) social security contributions withheld from the employee’s gross salary and income tax deductions at source, if any. In the case of a new hiree, an individual payroll account containing certain limited data already has to be delivered within two months.

Moreover, at the time of each monthly salary payment, a Belgian pay slip must be issued and handed over to each employee working in Belgium, even if the salary is paid abroad.

3.3 Applicable labour law during assignments

When employing personnel in Belgium, a foreign employer has to observe at least the labour, salary and employment conditions laid down in Belgian legal or administrative provisions or in applicable collective labour agreements that have been declared generally binding and breach of which is a criminal offence.
4. Social security

Employees working in Belgium are in principle subject to the Belgian social security system.

However, depending on the nationality of the employee, an exception under which the employee remains covered by his home social security system might apply if the employee is seconded to Belgium.

In general, the exception applies to employees employed in the EU / EEA member states and Switzerland or to employees from countries that have a social security treaty with Belgium.

If an employee working in the EEA for an EEA-based employer (or place of business – exploitatiezetel / siège d’exploitation) continues to be covered by the social security system of his home country (as an exception to the main rule that an employee is covered by the social security system of the work country), a so-called A1 statement needs to applied for from the social security authorities of the home country to serve as proof of the situation to the Belgian social security authorities (please note that, within the EEA, an exception to the rule of being covered by Belgian social security when working in Belgium may also arise from a multi-state employment structure).

On the basis of such a social security treaty, a certificate of coverage can be applied for from the social security authorities of the home country to serve as proof to the Belgian social security authorities that the employee continues to be covered in the home country.

Where no such social security treaty exists, an exemption might still be possible with respect to Belgian social security contributions if and to the extent that there is no link of subordination towards a Belgian or European employer or place of business of the foreign company.

Belgium has social security treaties with the following countries / provinces:

• Albania
• Algeria
• Argentina
• Australia
• Bosnia-Herzegovina
• Brazil
• Canada
• Chile
• Democratic Republic of Congo
• India
• Israel
• Japan
• Kosovo
• Macedonia
• Moldavia
• Montenegro
• Morocco
• Quebec
• San Marino
• Serbia
• South Korea
• Tunisia
• Turkey
• Uruguay
• the Philippines
• the USA

This means that, for assignments from a non-EEA country to Belgium, the employees can continue to be subject to their home social security regime.

Please note that a secondment is usually subject to certain conditions and time limits.

PwC has extensive experience in setting up appropriate international employment structures. The PwC global social security network enables us to apply for the right certificates in all countries Belgium has a (bilateral or multilateral) treaty with.

Belgium, February 2017.

www.pwc.com/socialsecurity
About PwC

At PwC, our purpose is to build trust in society and solve important problems. We’re a network of firms in 157 countries with more than 223,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com.

PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details.

© February 2017, PwC Belgium. All rights reserved.