



Belgium

Introduction

A person's liability to Belgian tax is determined by residence status for taxation purposes and the source of income derived by the individual. Income tax is levied at progressive rates on an individual's taxable income for the year. In certain cases, separate flat tax income tax rates apply (e.g., for termination payments and lump-sum pensions).

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Belgian workdays.

Income tax

Liability for income tax

A person's liability to Belgian tax is determined by residence status. A person can be a resident or a nonresident.

A resident of Belgium generally refers to an individual who enters Belgium, as a single person or with family, with the intention of remaining for more than 18 to 24 months (depending on circumstances and other factors).

Under certain circumstances a person may qualify for expatriate tax concessions. A taxpayer qualifying for the expatriate tax concessions is always deemed to be a nonresident taxpayer. A nonresident of Belgium is generally any individual who is not a resident or who is benefiting from expatriate tax concessions.

The general rule is that a person who is a resident of Belgium is assessable on worldwide income. Nonresidents are generally assessable on income derived directly or indirectly from sources in Belgium.

Extended business travelers are likely to be considered nonresidents of Belgium for tax purposes unless they enter Belgium with the intention to remain in Belgium for more than 18 to 24 months (depending on circumstances and other factors). Many individuals who move their tax residence to Belgium may qualify, however, for the expatriate tax concessions.

Employment income is generally treated as Belgian-sourced compensation where the individual performs the services while physically located in Belgium.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Belgium. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Belgian entity is the individual's economic employer or if the individual is working for a direct branch in Belgium of a foreign employer. Similar rules apply if the individual cannot rely on a tax treaty.

Types of taxable income

For extended business travelers, the type of income that is generally taxed is employment income, including noncash benefits in kind (such as housing, company car, etc.).

Depending on the actual facts and circumstances, some payments/allowances may be tax exempt.

Tax rates

Net taxable income is taxed at graduated rates ranging from 25 percent to 50 percent. Tax rates are the same for both resident and nonresident taxpayers. In addition, local tax is due. Local tax is calculated as a percentage of income tax due. The actual percentage depends on the commune where the taxpayer is living and may vary from 0 percent to 10 percent. For nonresident taxpayers, local tax is always 7 percent.

Resident taxpayers are entitled to personal exemptions, including exemptions for dependents. Nonresident taxpayers are not entitled to any personal exemptions unless either (1) the taxpayer's family is living in Belgium or (2) at least 75 percent of the individual's earned income is subject to income tax in Belgium. Some taxpayers may be able to claim partial or full personal exemptions based on the tax treaty signed between Belgium and their home countries.

Social security

Liability for social security

Extended business travelers employed by an entity located in an EEA member state or Switzerland can, in most cases, remain subject to their home country social security scheme. They can obtain an exemption from paying social security in Belgium, regardless of their citizenship. This exemption is based on the EEA/Swiss rules with respect to posting and/or simultaneous employment.

Other extended business travelers, in some cases, may stay in their home country social security system and obtain an exemption from paying Belgian social security. This arrangement is based on the provisions of a social security treaty signed between their home countries and Belgium.

If no continued home country social security coverage and no subsequent exemption from social security contributions are available, an extended business traveler will be subject to Belgian employee social security.

Compliance obligations

Employee compliance obligations

Tax returns are due in the year following the tax year-end, which is December 31. The actual filing due date is determined annually by the tax authorities but is typically the end of June for residents' tax returns and the end of September for nonresidents' tax returns.

Resident taxpayers always have to file a tax return. For nonresidents who have received Belgian-sourced employment income, there is also a tax return filing obligation in all instances. Belgium does not have a system of final wage withholding taxes for employment income.

Employer reporting and withholding requirements

Withholdings from employment income apply if the employee is paid via a Belgian payroll or is working for a direct branch in Belgium of a foreign employer. If wage withholding tax is applicable or if the employer deducts the remuneration for Belgian corporate tax purposes, the employer has to establish a wage tax reporting card (fiche 281.10). This fiche 281.10 must be filed with the tax authorities generally in the month of March of the year following the year of payment.

Other

Work permit/visa requirements

A work permit and a visa must be applied for before the individual enters Belgium. The type of work permit required will depend on the purpose of the individual's entry into Belgium.

EEA and Swiss nationals do not require work permits and/or visas, except for nationals of Bulgaria and Romania, who still may require a work permit.

LIMOSA registration

Any employee who is working in Belgium and who is not subject to Belgian social security has to be registered with the LIMOSA system. This registration has to be made by the employer sending the employee. In certain cases, an exemption may be available.

Double taxation treaties

In addition to Belgium's domestic arrangements that provide relief from international double taxation, Belgium has entered into double taxation treaties with more than 80 countries to prevent double taxation and allow cooperation between Belgium and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment in Belgium could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Value-added tax (VAT) is applicable to taxable supplies of goods and services. The standard VAT rate is 21 percent, but certain supplies are subject to reduced 6 percent or 12 percent rates or, in some cases, a zero rate. VAT registration, in some circumstances, is required. The EU reversed charge rules may be applicable.

Transfer pricing

Belgium has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Belgium has data privacy laws.

Exchange control

Belgium does not restrict the flow of euros or foreign currency into or out of the country, although Belgium has money-laundering legislation. This legislation provides for a series of preventive measures carrying administrative sanctions and imposing a duty on certain specified institutions and individuals to cooperate to detect suspicious transactions and report them to the Financial Intelligence Processing Unit, an authority created for this purpose. The provisions of the law are applicable to a broad range of mostly financial institutions and professions (including lawyers, tax advisors, certified accountants, company auditors, notaries, bailiffs, etc.). The law contains, among other things, specific provisions concerning client identification and due diligence, transfer of funds, due diligence with regard to unusual transactions, restriction of cash payments for real estate transactions and for transactions by a merchant (namely the prohibition of cash payments over EUR15,000), and disclosure of suspicious transactions.

Nondeductible costs for assignees

Nondeductible costs for assignees include contributions to nonqualifying company pension schemes. Most non-Belgian company pension schemes are considered as nonqualifying schemes.

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