

DOING BUSINESS

IN BELGIUM



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for doing
business

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1 – INTRODUCTION

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in over 80 countries throughout the world.

Business partners work together through the network to conduct transnational operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in Belgium has been provided by the office of UHY representatives:

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A detailed firm profile for UHY's representation in Belgium can be found in section 8.

Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at February 2018.

We look forward to helping you doing business in Belgium.

2 – BUSINESS ENVIRONMENT

OVERVIEW

COUNTRY AND NATION



Belgium is a small country (30,528 square kilometres) at the centre of the most significant industrial and urban area in Western Europe. Belgium lies at the heart of Europe, an incomparable geographical location.

London, Paris, Amsterdam and Frankfurt are only 200 miles away from Brussels, the capital of Belgium.

Since the end of the Second World War, Brussels has occupied a key position in the network of European cities thanks to its many assets (its central location in Europe, multilingual nature, pro-European policy and diverse population), all of which have served to attract the headquarters of major international institutions to the city. Belgium has been chosen as the headquarters of the European Community, the North Atlantic Treaty Organisation (NATO) and over 1,000 major international business firms.

Belgium is well served by all transport modes:

- Road – the Belgian motorway system is modern and well-developed. Every kilometre of highway is lit all night long and is toll-free. Seven international expressways connect the country to the French, German and Dutch motorways. The proximity of the Eurotunnel (linking the continent to the UK) is an additional asset
- Rail – Belgium's railway network is one of the most concentrated in the world

- Air – Brussels National Airport offers a range of intra-European and international flights. Thanks to permanent upgrading, the activities of the regional airports of Charleroi, Liege, Antwerp and Oostende are expanding, with growth both in freight and passenger traffic. Brussels airport is also well-connected with other European international airports such as Paris, Amsterdam, London and Frankfurt
- Water – Belgium offers world-class water transport facilities with the port of Antwerp (the second largest seaport in Europe). Rivers and canals extend across the country, establishing a highly developed inland waterway system with connections to the main rivers and canals of neighbouring countries. Moreover, ports are fully integrated with the road and rail networks and, as such, are a prime example of multimodality.

Belgium's workforce is multilingual, skilled (the Belgian education system is reputed for its quality), motivated (very low absenteeism) and highly productive. In addition, Brussels' rental costs are very attractive compared to neighbouring cities.

Belgium offers a variety of advantages to foreign investors, employees and managers residing in the country (e.g. language facilities, a pleasant living environment, the quality of food and beverages which is recognised worldwide, private international schools, international clubs etc).

REGIONS, COMMUNITIES AND LANGUAGES

There are 3 regions in Belgium:

- Flanders (which capital is Brussels)
- Brussels
- Wallonia (capital Namur)



The Belgian population is made up of more than 11,1 million people:

- 1,3 million live in the capital, Brussels
- 6,2 million live in Flanders
- 3,6 million live in Wallonia.

There are three main communities:

- The Flemish community
- The French community
- The German community.

The three official languages of Belgium are Dutch, French and German. Around six million Belgians are Dutch speaking and live in the northern Flemish provinces. Three million live in the southern Walloon provinces and are French speaking. German is also an official language, but spoken mostly in a small community bordering with Germany. The capital, Brussels, is officially bilingual.

Most Belgians are also more than capable of expressing themselves in English as well.

GOVERNMENT

Belgium is a constitutional kingdom (the current king is Philippe) and a federal state.

Each region of Belgium is responsible for the environment, regional development, town planning, conservation, housing, scientific research, energy, employment and regional economic policy within their borders. However, some areas are shared with the federal state.

BANKING SYSTEM

The Belgian banking system is controlled by the Belgian National Bank, which is responsible for all financial and monetary operations within the country. The Belgian Banking and Financial Commission closely supervise all activities within every sector.

The most widely represented banks are BNP Paribas Fortis (formerly 'Générale de Banque'), ING (formerly 'BBL') and KBC (or CBC) but all of the main foreign banks, such as Morgan Guaranty Trust Co, UBS etc. are also well-represented in Belgium.

The Brussels Stock Exchange is the most important financial institution. Certain qualifications are required for obtaining a quotation on the Brussels Stock Exchange. In the case of foreign companies, the approval of the Minister of Finance is required. A large number of funds have been set up to provide venture capital to young and high-tech companies.

Belgium's currency is the Euro (EUR).

ECONOMY

Belgium has a well-developed economy and all economic sectors are well-represented in Belgium.

Belgium imports nearly all of its raw materials and exports goods, mainly machinery and transportation equipment, chemicals, metals and food products.

Belgium has also developed an international reputation in biotechnology.

CULTURE

Belgium is the meeting point for Europe's two main cultures, the Germanic and the Latin. As a result, the country is known for its open-minded nature throughout the continent.

3 – FOREIGN INVESTMENT

Belgium guarantees all foreigners (companies or individuals) the freedom to set up a company or branch in the country.

Foreign capital may be brought into the country without restriction. Income and operation profits may be repatriated without limit.

STARTING A BUSINESS IN BELGIUM

Foreign investors can choose between two main kinds of organisations:

- Branch of a foreign company
- A domestic company.

A domestic company is a separated legal entity from its foreign mother company, whereas the branch of a foreign company has no legal form. Both types of company must meet a number of Belgian requirements (outlined in other sections of this report).

BUSINESS INCENTIVES AND TAX RELIEFS

GENERAL PRINCIPLE

Non-discriminatory treatment is the general rule in Belgium. Foreign companies, subsidiaries or branches have the same legal obligations and can apply for all the available incentives for which a national company can apply.

In order to achieve the best possible investment climate, Belgium's regions offer a comprehensive package of incentives, which can be mixed in such a way as to offer the optimal incentives combination. They range from direct aid as payment of a grant linked to an investment to favourable fiscal schemes, labor incentives and training measures.

TAX INCENTIVES

To favour investments in Belgium, the Belgian government has taken several measures in order to reduce the tax basis of companies under certain specific conditions, for example:

- Notional interest – a percentage of equity of the company (subscribed capital and retained earnings) is deducted from the tax basis
- Exoneration of certain kinds of revenues from tax:
 - 100% of the revenues coming from financial gains and **dividends**
 - 85% of **Belgian innovation** revenues
 - 80% of **Belgian patent** revenues and thus a 6,8% maximum taxation on those revenues
 - Assessment (and possible expansion) of the **Belgian patent income** deduction regime with regard to **software licenses**

Some measures have also been taken to favour investments in tangible or intangible fixed assets, for example:

- **Deduction for investments** – a percentage of investments in fixed assets can be deducted from the tax basis by innovative companies
- **Reserve for investment** – part of the profits can be exempted from taxes if a company invests in fixed assets within a certain period

- **Brought forward taxation** – tax on gains from the disposal of fixed assets can be brought forward within a certain period if the company invests in other fixed assets.

Other measures have also been taken to favour certain types of activities, for example:

- Reimbursement of **80%** of withheld taxes on salaries for staff working in **research and development** activities
- Tax shelter for corporate investments in the Belgian film industry – investments in the Belgian film industry can lead to a tax exemption of **90%** of the funds invested, to a maximum of **EUR 750,000**, in audio-visual production (for Belgian or European films produced in Belgium). The investment company will receive one part of the exploitation right. A master agreement should be signed between the investing company and the Belgian (or European) producer. Depending upon the conditions in the master agreement, the investment can be partially structured as a loan to the Belgian producer, but only provided that the loan does not exceed **50%** of the total investment.

FINANCIAL INCENTIVES

The regions are solely responsible for granting financial incentives and grants are paid by the region in which the company settles or invests. In general, an investment subsidy is granted either as an interest rebate or as a capital premium, or a combination of both, depending upon whether the project is financed by a loan, is self-financing or a combination of both.

The system differs slightly from one region to another depending upon the relative weight of the factors which are taken into account when granting aid, for example:

- The number of jobs created
- The increased added value per job
- The technology content of the project
- The project's attractiveness for the region etc.

LABOR INCENTIVES

In addition to high investment subsidies accorded to companies creating new employment, a number of grants have been issued for new employment. In principle, they are managed by the regional authorities and there are some differences in the application process (depending upon the region). Grants consist of a reduction in a company's social security costs.

Companies can, under certain conditions, obtain a temporary reduction of social security costs by:

- The hiring of the first employee
- The hiring of an unemployed person
- The hiring of an additional employee
- The replacement of an employee
- The replacement of an employee with an interruption to his/her career.

Training incentives are offered by the regional authorities. They consist of organizational and financial assistance for the training of personnel. This training can be performed either within the company itself or at a recognised training centre.

EXPORT INCENTIVES

The Belgian Foreign Trade Office provides information on foreign markets and trade fairs, as well as legal information on foreign trade. The goal is to secure new markets and develop contacts between Belgian exporters and foreign purchasers.

Temporary financial assistance is given by regional authorities in cases where a company is exporting to non-European Economic Community (EEC) countries through an interest free loan. The repayment of the loan is required only when a certain level of turnover has been achieved. Eligible projects must be related to the development of new markets for products and services that originate in Belgium.

Support can amount to 50% of the costs of exploration and penetration of foreign markets.

For the export of equipment to non-EEC countries, an interest subsidy can be granted for a period of at least two years, so that the interest charged is comparable to that being offered by other competing industrial countries.

4 – SETTING UP A BUSINESS

Foreign investors who intend to conduct commercial activities in Belgium can choose from a wide range of legal entities, with the choice depending on the business priorities.

Foreign companies operating in Belgium have to decide whether they plan to operate through a branch (incorporated under the laws of a foreign country) or through a subsidiary (incorporated under Belgian law with the same legal structures as Belgian ones).

Companies can also be joined in a trading association (*'association momentanée'*) or in a limited partnership (*'association en participation'*).

All entities must be registered. The registration number must figure on all legal documents and invoices (incoming and outgoing). For a company liable for value added tax (VAT), the registration number is also the VAT number.

TYPES OF BUSINESS ENTITY

BRANCH OF A FOREIGN COMPANY

Any foreign company, which is a legal entity under the laws of its own country, is entitled to conduct business freely within Belgium through the constitution of a branch (*succursale - bijhuis*). However, a Belgian branch must fully comply with all the applicable Belgian law requirements.

Before setting up the branch, certain documents are needed:

- The company's articles of incorporation
- The extract of the foreign Registry of Commerce or similar document that certifies the existence of the company
- The resolution authorising the formation of the branch (including the name, Belgian address and description of activities, as well as a description of the branch official representative's powers).

These documents must either receive an apostil or be certified by the legal foreign entity's Belgian consul. They should also be published in the official language of the region where the branch has its statutory address.

The branch is considered as a permanent establishment and should be registered. This registration number must appear on all company documents (e.g. invoices, letterheads, orders, price lists etc).

A foreign company operating in Belgium through a branch must publish a consolidated financial statutory account (balance sheet, profit and loss statement and appendixes according to Belgian legal presentation, and the names and addresses of directors and auditors etc).

For tax return purposes, the published accounts should be joined by a more detailed balance sheet, profit and loss accounts and tax appendixes (as for a Belgian legal entity).

The branch has the same fiscal year as the foreign company.

Every law (labor, VAT, income tax, publicity, etc) should be respected by a branch in the same way as if it were a Belgian company.

Operating in the form of a Belgian branch is generally less popular than establishing a local subsidiary. The main reason for this is probably that the liability of a branch is not limited; therefore Belgian creditors' claims are extended to the assets of the foreign company.

Foreign entities which own real estate in Belgium are considered as a permanent establishment for every activity in relation to the real estate. Registration duties are applied and VAT and income tax reports should be filed.

TRADING ASSOCIATION (*ASSOCIATION MOMENTANÉE – TIJDELIJKEHANDELSVERENIGING*)

According to Belgian law, a trading association is a temporary association set up in order to achieve one or more fixed trading operations.

The trading association does not form its own legal entity and as a consequence partners are fully liable towards their creditors.

The advantage of a trading organisation is its uncomplicated form of organisation which maintains broad possibilities for contractual arrangements.

Trading organisations are often used in the building industry.

FIRMS AND THEIR LEGAL STRUCTURE

Profit-seeking can be further divided into commercial and non-commercial entities.

The following types of profit-seeking companies can be used, although of these, stock corporations and private limited companies are the most common:

- Private limited company – PLC (SPRL-BVBA)
- Stock corporation – SC (SA-NV)
- Share limited partnership – SLP (SCA -CVA)
- Cooperative company with limited responsibility – CCLR (SCRL)
- Cooperative company with unlimited responsibility – CCUL (SCRI)
- General partnership (SNC-VOF)
- Private limited partnership (SCS—GCV)

As answer to the recent global financial crisis, a new kind of private limited company has been created – the private limited company starter – to enable young contractors to set up in business. However, specific rules and conditions must be met.

The Companies' Law determines the specificities of each legal form. The following sections provide an overview of the general rules and differences between the major kinds of companies.

SETTING-UP

The number of associates in a company (two or three minimum) varies according to the type of company (see summary table on page 16). There is also a specific kind of private limited company which provides for only one associate.

The summary table on page 16 gives the minimum subscribed capital and the minimum paid-up capital for each legal form. Capital can be paid only for 25% of the subscribed value if the minimum requirements are met and if shares are nominative.

Capital can be paid by contributions in cash or in kind, for which an economic valuation is required. In both cases, the founders of the company must supply the notary with a financial plan showing that the subscribed and paid capital of the company is sufficient for its normal operating requirements over the next two years:

- In accordance with Belgian law, each person appearing in the statutes of the constitution is a founder (except in a stock corporation). The responsibility of the founders can be jointly questioned in cases of bankruptcy if the subscribed capital was clearly insufficient
- Shares are generally nominative. Bearer shares are only possible in case of a public entity.

In case a natural person wants to transfer his/her activities to a company, he/she can do this through a contribution in kind or a sale. For both cases, a special report of a chartered public auditor is requested.

BOARD

In a stock corporation, the board of directors is made up of at least three directors unless there are only two shareholders. In this case, the number of directors can be limited to two.

In a share limited partnership and cooperative company with limited responsibility, the company can be run by one or more managers. The statutes determine the number of managers, the terms and their responsibilities.

The term of office of a director is limited to six years for a stock corporation. In other cases, it can be limited or unlimited. When a manager of private limited company is named in the statutes, he/she can only be revoked of his mandate on serious grounds or with the unanimous agreement of the associates.

CONTROL

The control of the company can be entrusted to one or more auditors and must be entrusted to an auditor if two on the three of the following criteria are met or if the company is listed on the stock exchange:

- The annual turnover (excluding VAT) is **EUR 9,000,000**
- The total balance sheet is **EUR 4,500,000**
- The number of annual average workers is **50 or more**. If the number of workers exceeds **100**, the designation of an auditor is also compulsory, as it is for a listed company.

If no auditor is named, each associate is able to carry out investigations and checking. He/she can be represented or helped by a certified public accountant.

SHAREHOLDERS MEETING

An ordinary shareholders' meeting must be held once a year to approve the annual year accounts in the six months following the end of the accounting year.

Extraordinary shareholders' meetings could be held at the request of the board, of an auditor or of part of the shareholders.

Specific shareholder meetings must be held under certain conditions.

CAPITAL

Capital can be increased by a contribution in kind or in cash.

In cases of a contribution in kind to set up or to increase the capital of a private limited company, the capital must be totally liberated.

If the capital is liberated in cash, this money must be deposited in a Belgian financial institution account specially opened in the name of the company to be incorporated. The account and the funds must be reserved and remain frozen until the financial institution is advised by a notary that the company has been duly incorporated. An attestation is delivered to the notary. The founders sign the notary deed in person or by proxy.

The board must justify the necessity and the valuation of any contribution in kind. An auditor must give an opinion about the valuation.

Previous shareholders receive a preferential subscription right. The shares to subscribe in cash must be offered by preference to associates proportionally in line with the capital representing their shares.

The reduction of capital is submitted to rules of protection of the creditors in cases of repayment to associates.

LIFETIME OF THE CORPORATION

Unless notified otherwise in the articles of incorporation, the lifetime of a corporation is unlimited.

SPECIFICS RELATED TO A STOCK CORPORATION

There are two types of incorporation, by direct creation or by public subscription for stock companies.

The specific formalities for incorporation by public subscription are as follows:

- The founders shall present themselves in person or by proxy to the notary who will draw up the legal memorandum of incorporation which must be published, as well as other relevant information as required by law, with a view to finding potential subscribers
- A meeting of subscribers must be held within three months
- Capital will then be released
- The report of the general meeting must be certified by the notary who shall ensure that the legal requirements have been met.

Formalities for direct creation follow the same rules as for the other legal form.

SPECIFICS RELATED TO THE PRIVATE LIMITED COMPANY 'STARTER'

The following requirements apply to a private limited company starter:

- Founders and partners – a private limited company starter must be constituted by one or more natural person
- Capital requirements – capital could amount to only EUR 1 but the company has a deadline of five years to reach the amount of EUR 18,550
- Financial plan – the financial plan of the company has to be written by a professional from an auditor company, as well as an accountant so as to avoid bankruptcy due to a lack of experience.

SPECIFICS RELATED TO COOPERATIVE COMPANIES WITH LIMITED RESPONSIBILITY (SC - CV) OR WITH UNLIMITED RESPONSIBILITY (SCRIS – CVOHA)

The following requirements apply to these types of company:

- A minimum three partners is required but the number of partners is unlimited. The amount of the contribution can differ for each partner
- The articles of association (notary deed) must state whether the responsibility of the co-operator is limited or unlimited. The capital is composed of both a fixed and variable amount
- It is characteristic of cooperative companies that the partners can freely resign after the first six months of the year and enter the company freely for the entire year without formalities
- Drawing up a certified act is not needed to establish whether the capital of the company goes down or up, as long as the minimum capital of EUR 18,550 is secured
- Shares cannot be nameless; each shareholder must be known by name and registered in the register of shareholders.

LIMITED PARTNERSHIP (CVA OR SCA)

The following apply to a limited partnership:

- The limited partnership resembles the public limited company (NV or SA). Most of the legal requirements concerning the public limited company consequently apply to the limited partnership
- The main characteristic of a limited partnership is that the liability risk is distributed differently among the (two kinds of) partners. The general partner is fully liable with all of his/her assets and as a rule manages the business. It is indeed a legal requirement that the director of a limited partnership must be a general partner. The 'silent' partner is liable only to the extent of his/her capital contribution. Consequently, this association is not subject to corporate income taxation, but to individual income tax.

TABLE 1
Requirements by company type

	PRIVATE LIMITED COMPANY	STOCK CORPORATION	SHARE LIMITED PARTNERSHIP	COOPERATIVE COMPANY WITH LIMITED RESPONSIBILITY	COOPERATIVE COMPANY WITH UNLIMITED RESPONSIBILITY
Responsibility of shareholders	Limited to contribution	Limited to contribution	General partners – jointly responsible. Silent partners – capital investment	Limited to contribution	Jointly responsible
Minimum Number of shareholders	1	2	2	3	3
Minimum subscribed capital	EUR 18,550	EUR 61,500	EUR 61,500	EUR 18,550 (fixed shares)	-
Minimum capital to pay	EUR 6,200 if minimum 2 shareholders EUR 12,400 if 1 shareholder (SPLRU). EUR 1 if SPRL starter	EUR 61,500	EUR 61,500	EUR 6,200	-
Founders	Founders	Founders +simple subscribers	Managing partner	Founders	NA

NOT-FOR-PROFIT ORGANIZATIONS

SOCIAL PURPOSE COMPANIES

The previous companies with a legal personality are called companies with a social purpose when they are not dedicated to the material gain of their associates under the conditions of the legal specifications in their notary's deed.

NOT-FOR-PROFIT ASSOCIATION (ASBL – IZW)

A not-for-profit association cannot be devoted to industrial or commercial operations and cannot seek to earn financial profit for its members.

A file for each not-for-profit Belgian or foreign association is held at the clerk's office of the commercial court.

In the event of many centres, the file is held at the clerk's office of the commercial court in the district where one of the centres of operation is established, at the choice of the association. In this case, the association should indicate in its acts and correspondence, the place where its file is held.

The creation of a foundation (association) is the result of a legal document from one or several persons or entities which assigns a heritage to the realisation of an objective or a disinterested goal.

The foundation cannot earn a material profit either for its founders or directors or any other person except where the realisation of the disinterested objective is involved.

An association can be recognised as a public utility when it tends to the realisation of work in philanthropic, philosophical, religious, scientific, artistic, teaching or cultural fields. Such recognised associations are called public utility associations. Other associations are called private associations.

A new piece of legislation has fundamentally changed associations' legal obligations, as well as their accounting and publicity requirements, among other things. Only 'small' not-for-profit organisations may now follow simplified rules, whereas others must be in compliance with the rules applicable for companies.

In broad summary, the distinctions between a 'very large', 'large' and 'small' association (with correspondingly different legal obligations) are summarised in the table below.

TABLE 2
Criteria for associations

CRITERIA	LARGE*	VERY LARGE**
Number of employees	5	50
Income	EUR 312,500	EUR 7,300,000
Total of balance-sheet	EUR 1,249,500	EUR 3,650,000

* Categorised as 'large' if two criteria apply

**If there are more than 100 employees, this category applies even if income and balance-sheet amounts are lower than the set criteria.

ORGANIZATION OF COMPANIES

SHAREHOLDERS

Once a year, at the date and time fixed in the articles of association, a shareholders' meeting must be held. The purpose of the ordinary shareholders meeting is the approval of the yearly financial statements, the allocation of results and the discharge of the board and auditors from their responsibilities for the closed accounting year and their re-election or dismissal. Resolutions are passed by simple majority.

Specific shareholder meetings must be called to approve specific operations such as an increase of capital, a change in the aim of the company, a change of the legal structure, a merger or a split, a change in the articles of association (incorporation) or for specific cases such as a loss of more than half the capital etc.

An extraordinary shareholder meeting could also be held at the request of the directors an auditor or shareholders representing at least 20% of the share capital.

The general meeting may assign the individual right of investigation and control to the shareholders accompanied by a chartered accountant when there is no auditor.

THE BOARD

The general shareholders meeting appoints the directors (in an SA-NV there are at least two if there are only two shareholders and three in other cases). The total number of directors (depending upon the legal form of the entity) shall constitute the board of directors. The directors do not have to be shareholders and there is no residence or nationality requirement. The daily management of the company's affairs may be delegated by the board to one or more managing directors or even to a person who is not a member of the board of directors.

The term of their nomination couldn't exceed **six years**. The directors may be re-elected. They bear responsibility to the shareholders and may be dismissed without cause by a decision of the shareholder meeting.

They must also prepare an annual inventory and annual accounts, which should include the balance sheet and profit and loss accounts.

Furthermore, the directors are responsible for compiling a management report. The content of this report is prescribed by the Company Law. All documents are submitted to the shareholders' annual meeting, which is held to discuss issues such as:

- Mergers
- Splits and other comparable operations
- Contributions of universality or branch of activities
- Transfers of universality and branch of activity.

Since 1st of October 1993, the management of mergers (and similar operations) has been reformed. The liquidation of the companies involved is no longer necessary and there is now the possibility to carry out a tax-free merger (no taxation of former reserves or capital gain arising from the merger) under the following conditions:

- The absorbing company is a Belgian company
- The merger is carried out in accordance with Belgian company law
- The merger or transfer of assets has a legitimate business purpose.

The absorbing company will take over the assets (and liabilities) of the target company at their original tax value and the assets transfer is effectively treated as if it had taken place. It will issue new shares in remuneration of the net assets taken over.

The above rules have been extended to situations where a company transfers all of the assets and liabilities of its Belgian operations to one or more branches located in another member state of the European Community. The transfer must have a legitimate business purpose and the transferred assets must remain in a Belgian permanent establishment.

A special treatment is applied to the deductibility of cumulated fiscal loss.

LIQUIDATION AND WINDING-UP OF COMPANIES

Following a decision of the shareholders, companies may be voluntarily liquidated. Unless liquidators are appointed by a general meeting of shareholders, the corporation directors will be considered as liquidators.

Liquidation is a two-step operation:

- Firstly, the winding up of a company requires an extraordinary shareholders' meeting to be held, specific reports and a published notarial deed
- Secondly, liquidation closure requires a published shareholder meeting

There is also the possibility to begin and close the liquidation of a company on the same notarial deed. In that case, the company must respect the following conditions:

- There is no appointed liquidator
- All the debts to third parties are paid or recorded
- The decisions of the present or represented shareholders are unanimously made

Liquidation taxation is similar to a profit allocation.

The winding-up of a company can be decided by the court after request of an interested third party or by the Public Ministry if the company has not published its financial statements in the course of the last three years.

RESTRUCTURING IN BELGIUM

The Belgian Act on the Companies' Continuity came into force in 2009. Some precisions were added in May 2013. This law contains restructuring legislation designed to facilitate the reorganisation of Belgian companies by providing them with a greater number of options.

Previously, a company had to choose between a judicial composition and a bankruptcy, whereas companies can now call upon a large number of measures in order to return to profitability, as an alternative to bankruptcy.

Under the previous Act, strict conditions had to be met in order for a voluntary bankruptcy to take place. A business had to be persistently unable to make debt payments or unable to obtain funding, and the obligation to petition for bankruptcy had to be made within a month. This process was not suitable for businesses experiencing temporary financial difficulties, as it meant that activities had to be stopped, contracts cancelled and employees dismissed. As a result, this was highly prejudicial.

NEW ALTERNATIVES

The instruments alluded to above include the possibility for a company to choose between pre-procedural arrangements and three court-supervised reorganisation processes.

Pre-procedural arrangements provide several opportunities, including out-of-court agreements, which must be registered with the court, and the possibility to turn to mediators and judicial representatives, appointed by the court. If negotiations with the mediator or the judicial representative are successful, the procedural phase can be avoided. Conversely, if their actions are unsuccessful, those mediators and judicial representatives can be maintained during the procedural phase. The three new court-supervised reorganisation processes include:

- A settlement with a handful of key creditors under the supervision of a court, thereby allowing for quicker and confidential negotiations
- A full reorganisation plan with all creditors who have the right to vote on the plan
- A sale of all or part of the business under court supervision.

In this 'judicial reorganisation', the Act allows companies to recover by suspending payments for a maximum duration of six months, albeit with the potential to be extended by 12 months. Other tools provided by this new Act include the possibility to nominate a 'mediator', whose role and remit can be defined by the company, in order to help with the reorganisation. The mediator is assigned by the court and must be totally independent.

Overall, procedures have been simplified and terms have been more clearly defined, and can be used as soon as the viability of the company is threatened, when problems can be reversible. Further, with simplified restructuring procedures, the new Act aims to encourage business continuity, with or without court supervision.

5 – LABOR

LABOR LEGISLATION IN BELGIUM

EMPLOYMENT CONTRACTS

A contracted person working with a firm commits himself/herself to work and to follow the orders of the employer. The employer commits himself/herself to employ the employee and pay them a salary.

This 'subordination' relationship determines the nature of the employee's status without consideration for the type of work i.e. manual or intellectual. The status of being 'independent' is generally prohibited when there is a subordination relation.

Different types of employment contracts are required for manual workers, representatives, domestic servants and so on. These contracts can be subscribed for a determined limited time, or for the realisation of specified work, but the most common are contracts for an unlimited period.

Any contracts for a limited period are tightly overviewed. It is forbidden to draw up a contract with an employee for a limited period more than twice. If the work proceeds well and goes forward, the contract automatically becomes unlimited.

Since the 1st of January 2014, there are new regulations which harmonize the employment rights of intellectual or manual workers. The main changes concerns the trial period which is now cancelled and also the terms of notice and the first day of sick leave.

Employees are represented in parity committees that serve particular branches of industry. There are currently more than **150 parity committees and subcommittees**. They determine the minimum salary levels and the general conditions of employment within the various sectors (branches of industry).

WORKING HOURS

On average, employment legislation lays down a maximum of either 7.5 working hours per day or 38 working hours per week.

Women and young people are in principle prohibited from working nights. Overtime results in compensation or in additional payment. Flexible working hours can occur.

Full employment throughout the whole year gives a minimal right for employees to take 21 holiday days (if the employee works five days per week) during the following year. Some sectors give employees the right to take more days' holiday.

Double holiday pay represents **85%** of one month's gross salary.

Some sectors give right to a special allowance or bonus at the end of the year, which can reach one month's gross salary or more.

The normal retirement age is set at **65 years** (66 years in 2025 and 67 years in 2030).

RESIGNATION OR TERMINATION

Since the 1st of January 2014, there is an ‘[unique status for intellectual workers and manual workers](#)’. Some former rules were amended (e.g. contracts resignations or termination) or cancelled (e.g. termination or resignation for manual workers).

The notice period for an employee formerly depends upon his/her wage, the number of year's service with the firm and his/her age. Since the 1st of January, it depends on the number of year's service within the company.

For manual workers, this notice period is now similar to intellectual workers.

Regarding the calculation of the notice period for a contrat concluded before the 1st of January 2014 and ended after the 1st of January 2014, the former and the new resignation/termination rules applies at the same time. The calculation is made in two parts: one notice period calculation for the working period until the 31st of December 2013 and the second notice period for the working period after the 1st of January 2014. These two parts are cumulated to obtain the final notice period to be taken in account.

Specific rules apply in case of dismissal during a trial period for a contract concluded before the 1st of January 2014.

When the contract has been concluded for an indefinite period, each party could end it by giving notice in writing. It's also possible to terminate these contracts with immediate effects and payment of an indemnity.

Specific rules apply for protected workers (pregnant women, union activists...).

WAGES

The parity committees determine minimum salary levels per sector. Employers then follow the employees' market salaries (which take account of education levels, age, specialities, experience etc).

Some benefits can be offered, such as extra legal pension, a car, etc. If the employee contributes in accordance with the tax rules, these benefits are taxed and are not submitted for social security costs.

Overtime is compensated with a supplement payment of at least 50% of the normal rate and 100% if the overtime hours are worked during Sundays and public holidays.

Wages are linked to the movement of the cost-of-living index.

GUARANTEED WAGES

In cases of illness or accident, an employee has the right to a guaranteed wage for one month; in the case of a worker, one week's non-participation in work precedes the guaranteed wage period. After the month has expired, social security intervenes.

SOCIAL INSURANCE IN BELGIUM

Social insurance is a statutory insurance, which is compulsory for Belgian residents.

Social insurance secures income in cases of:

- Unemployment
- Pension
- Disease
- Accident
- Annual holidays.

The contributions are composed of a company's contribution plus a salary deduction. For employees, the company's cost is +/- 35% of the monthly gross salary and the employee's deduction is 13.07%. For workers, the calculation is based on 108% of the monthly gross salary. The company's cost is +/- 41%; the salary's deduction is 13.07%.

Companies have the responsibility of retaining a share of salaries and paying the total amount of social insurance due. In addition, a withholding tax should be retained on salaries by the employer and paid to tax authorities.

Many companies award their employees an additional private (i.e. non-statutory) pension on retirement (through a group insurance plan or pension fund).

Independent self-employed workers are active in most industries and contribute to social security themselves.

EMPLOYER AND EMPLOYEES ORGANIZATIONS

Employers are organised into industry-wide federations (e.g. Fabrimetal, Febelchim etc), which in turn combine to form the National Confederation of Belgian Industries (FEB-VBO).

There are three regional employers' organisations:

- The Flemish Economic Federation (VEV)
- The Walloon Industrial Union (UWE)
- The Brussels Federation of Companies (UEB/VOB).

Some employees are affiliated to trade unions. There is a trade union representing each political party.

COUNCILS

The National Labor Council is a body composed of an equal number of representatives from both employee and employer confederations. It is a consultative council, reporting to Belgian Parliament and the government on general social issues. It also advises on questions of competence arising in the parity committees. It must be consulted in all legislative matters.

Both commercial and non-commercial companies employing on average at least 100 people must set up workers' councils; the council is elected once every four years.

In general, the council has decision-making powers in three spheres:

- Fixing the dates of annual holidays
- The running of the company's social activities
- The framing and modification of regulations governing work.

Information must be given to the workers council by a company quarterly and yearly. The law lays down the kind of the information required (e.g. competition information, planned social evolution, financial statements etc.)

Companies employing on average at least 50 people must set up a health and safety committee.

6 – TAXATION

Taxation in Belgium can be classified into four main groups:

- Direct taxes (income taxes)
- Value added tax
- Registration tax
- Inheritance tax.

DIRECT TAXES (INCOME TAXES)

Under the terms of its tax sovereignty, the Belgian state has the right to subject to tax all elements which have a link with its territory.

This principle, called ‘territoriality of tax’, has two aspects:

- Territoriality of people – persons or entities domiciled in the country are taxable on the whole of their income, including income which comes from abroad
- Territoriality of income – income produced or collected in Belgium is subject to tax, even when it is obtained by persons or entities domiciled abroad.

Treaties which prevent double taxation (through territoriality of tax) have been signed with main countries.

The Belgian Code of income tax makes a distinction between four categories of taxation:

- Individual/personal income tax (IPP)
- Corporation tax (ISOC)
- Tax on not-for-profit organisations (IPM)
- Tax of non-residents (INR).

The IPP and the ISOC are based on the total income of the taxpayer. The IPM only focuses on the income of real goods, the income of capital and movable goods, and certain other incomes. The INR applies to income collected in Belgium by non-residents of the Kingdom – foreign individuals, companies, partnerships, joint stock companies and foreigners who are not part of any profit-making activity.

INDIVIDUAL INCOME TAX (IPP)

TAXPAYERS

Persons having their fiscal residence in Belgium can be taxed in Belgium according to Belgian taxation rules on their worldwide income.

Belgian tax authorities consider a ‘fiscal residence’ as any place in Belgium where the administration of a familial fortune is situated, regardless of nationality. Exceptions are made for expatriates.

Individuals have to fill in an annual tax return based on the calendar year for their net income (with some adjustments for former years).

TAXABLE INCOME

Taxable income is the worldwide net income that the taxpayer has realised or received during the preceding calendar year.

The taxable amount is determined by the nature of the income (contrary to corporate income tax, except for associations such as ASBL):

- Real estate income
- Income from financial investment and movable properties
- Professional income (remunerations, pensions, profits from commercial activity, profits from intellectual activity)
- Other income
- Profits from commercial or intellectual activities exercised during preceding years.

From the aggregate total net income, special deductions are allowed such as alimony payments, donations and charitable contributions and day nursery costs etc. All of these deductions must follow specific rules and conditions.

Individual income tax may also be reduced within limits fixed by the Belgian tax law by amounts paid for life insurance, pension funds and mortgage capital.

RATE OF INDIVIDUAL INCOME TAX

Taxable income is subject to a progressive income tax schedule. For the fiscal year 2016 (accounting year 2017), the rates are as follows:

- EUR 0.01–11,070 25%
- EUR 11,071–12,720 30%
- EUR 12,721–21,190 40%
- EUR 21,191–38,830 45%
- More than EUR 38,830 50%

The provinces or municipalities are entitled to levy an additional tax (the average rate is 6–10% of the income tax).

The first EUR 7,270 net income of each taxpayer is tax-free. This amount can be increased in cases of low income.

The incomes of both men and women are taxed separately according to the progressive tax rate.

TAX PAYMENT

A tax is withheld each month on employees and corporate executive manager's incomes by employers and paid to the administration.

Independent workers have to pay quarterly tax advances 3 years after the first establishment as independent worker.

Interests and dividends are subject to a withholding tax at a rate from 15% to 30%, which is retained directly (by a bank or distributing companies) before distribution. This withholding tax is final and income should not be indicated on the tax return.

CAPITAL GAINS

Capital gains are untaxed if they are realised on private assets by individuals acting in a private capacity.

Exceptions to this are:

- Gains realised on un-built land owned for the following periods after acquisition:
 - 0–5 years 33%
 - 5–8 years 16.5%
 - More than 8 years 0%
- Capital gains (realised 0–5 years) on built upon real estate other than for a dwelling home – 16.5 %
- Capital gains on important participation (more than 25% ownership) of Belgian companies sold to a non-Belgian legal entity are taxed at 16.5% (not applied in an EU context)
- Capital gains realised on shares when sold to a Belgian company if not taxed
- Capital gains are taxed as earned income when realised by an individual within his/her business.

CORPORATION TAX (ISOC)

TAXPAYERS

All companies resident in Belgium are subject to corporate income tax on their worldwide income. To avoid double taxation, Belgium has signed tax treaties with many different countries throughout the world. These treaties describe how the foreign income included in the total Belgian taxable income should be treated.

Branches of foreign companies having their fiscal residence in Belgium are also subject to Belgian income tax.

Foreign companies owning real estate in Belgium are applicable for Belgian income tax as a result of any dealings with real estate.

Belgian tax law considers each corporate entity as a separate taxpayer and does not provide for a consolidation of income and losses for a group of affiliated companies.

TAXABLE INCOME

Taxable income is the worldwide gross income that a company has realised regardless the nature of this income

DEDUCTIONS

All business expenses for earning or safeguarding income are deductible, unless a deduction is limited or there are other specific legal provisions.

Interest on capital borrowed for business purposes is deductible. However, this deduction is subject to conditions. For example, interest rates cannot exceed the normal market rate; a part of the interest on loans granted by shareholders could qualify and be taxed as dividends etc. This restriction does not apply to interest paid to Belgian banks or to recognised financial institutions.

Depreciation of business assets is calculated on a historical cost price basis. The law provides for two methods of depreciation – the straight-line method and the declining-balance method.

Intangible fixed assets, except for investments in audio-visual materials, must be depreciated on a straight-line basis over a minimum period of three years for research and development (R&D) investments, and over five years for others.

Accelerated depreciation is available under law or administrative rulings for certain assets.

TAX LOSSES CARRIED FORWARD

Losses can be carried forward without a time limit. (Previously, incurred losses may not have been carried forward if there was a change in ownership which could not be justified by financial or economic reasons.)

Carry-back of losses is not allowed.

‘NOTIONAL INTEREST’ ON ‘RISKED CAPITAL’

This tax incentive tries to correct the difference in the fiscal treatment between invested capital and borrowed capital in order to attract investors.

A company has two possibilities to finance its activities:

- To borrow capital on which the interest is deductible
- To obtain equity without the benefit of a tax deductible interest.

From 2006, a deduction can be applied to net taxable income, called the ‘notional interest deduction’ (NID) on ‘risked capital’.

The rate of this interest is based on changes in average equity over the last five years and is adjusted every year.

For the accounting year 2017, the rate is 0.737% for SMEs and 0.237% for larger companies.

The ‘risked capital’ equals to the equity as at the end of the previous year adjusted by:

- The net book value of certain assets at the end of the previous period (proper shares, financial fixed assets, shares of investment companies. (Please also see the section on ‘Dividends’)
- Investments not taxed in Belgium (the net book value of buildings and foreign establishments are exempted from income tax in Belgium according to treaties signed with certain foreign countries)
- Unreasonable investment – avoiding overindulgence (assets not completely linked to professional activity, unproductive professional income etc)
- Some elements included in equity (according to Belgian legislation) such as grants in capital or any untaxed reserves covering unrealised gains on investments
- The movement of these exclusions during the accounting year, as well as the movement of capital (increase, decrease) by pro rata temporis.

Any profit as a result of carry forward is not taken into consideration as its appropriation is taken during the following year by the shareholders meeting.

Since the accounting year 2012, a deduction for risked capital ('notional interest deduction') calculated couldn't be carried forward if not deducted during the fiscal year of its calculation.

For new companies, the constitution date is taken into consideration.

REALISED CAPITAL GAINS

Capital gains realised on shares are immune of tax (the loss realised is not deductible). The previous distinct tax of 0.412% on capital gains on shares for other companies than SMEs is cancelled since the 1st of January 2018.

Capital gains realised on tangible and intangible fixed assets are generally considered as taxable profits and are taxed at the normal tax rate in the year of alienation.

However, capital gains realised on those assets where they were acquired for business activity purposes, fall under depreciations allowed by fiscal rules and were held for more than 5 years before alienation, are subject to a deferred taxation regime which takes into consideration the intention of the company to reinvest in other fixed assets.

This reinvestment should be made on depreciable (over at least three years), tangible or intangible fixed assets (not necessarily new) within three years from the first day of the taxable period in which the gain is realised. If the reinvestment concerns buildings, ships or aircraft, this period is five years.

After the period of three years (or five), if the reinvestment has not been carried out, this capital gain is taxed at the normal rate with interest calculated from the tax year of alienation (for three or five years).

INVESTMENT DEDUCTION

If the previous rule is not applied, investment deduction can be chosen.

Investment deduction allows corporations and independent persons (with incomes from commercial or intellectual activity) to deduct from their taxable income a certain amount (expressed as a percentage) of their investments acquired during the tax period.

As a rule, investment deduction is granted for all investments in new tangible and intangible fixed assets bought in Belgium and used for a Belgian professional activity. However, when the investor rents the investment to a third party, no investment deduction is granted.

The following investments are also excluded from investment deduction:

- Investments that are not exclusively used for professional activities
- Investments that are financed by a co-ordination centre
- Investments in real estate that are acquired for the purpose of selling
- Investments which are non-depreciable or whose depreciation period is less than three years
- Investments in cars.

Generally, the investment deduction is applied at one time. However, taxpayers (individuals as well as corporations) who employ fewer than **20 employees** can choose a delayed investment deduction, in which case the investment deduction is not applied on the invested amount, but on the depreciation of the investment.

The deduction amount calculated (as below) and not yet used (losses) can be carried forward without a time limit (except in the case of a change in company ownership or control).

RESERVE FOR INVESTMENTS

Since the tax year 2007 (accounting year 2006), this incentive couldn't be cumulated with the 'notional interest deduction' over the three years mentioned above.

To stimulate investments, **SME companies** can deduct a tax-exempted reserve from their taxable income under certain conditions.

SMEs should be subject to a reduced progressive tax rate.

This investment reserve is tax-free up to **50%** of the increase in taxable retained earnings in a taxable period, limited to **EUR 37,500** (so with the reserve amount of **50%**, the maximum contribution is **EUR 18,750**).

This reserve should be invested within three years from the first day of the taxable period in tangible or intangible fixed assets subject to allowed fiscal depreciation.

Over the three years, without reinvestment, the reserved amount reintegrates into the taxable income and is taxed at the normal rate.

This investment stimulation will be cancelled after the 30th of December 2018.

DIVIDENDS

Dividends received by a Belgian company are **100% exempt** from corporate income tax (in order to avoid double taxation) if the participation of the Belgian company in the dividend-paying company qualifies as a permanent participation (the shareholder's company must hold a minimum of **10% in the capital** or the participation should be (acquisition price) at least **EUR 2,500,000**).

Only shares that have the nature of 'financial fixed assets' could be taken into consideration for 'dividends-received deduction'

The following dividends are excluded from the exemption:

- Dividends from a company that is not subject to Belgian income tax or a similar foreign tax
- Dividends from a foreign company resident in a country where the tax regime is substantially more favourable than in Belgium
- A treasury, investment or financial company with a registered office in a country where such companies are subject to a tax regime other than the normal corporate income tax regimes in that country

- Dividends from a company, as far as it realises profits through a foreign branch, subject to a tax regime that is considerably more favourable than in Belgium
- Dividends from a company, as far as it realises an income other than dividends, which has its origin outside the country of fiscal residence, and which is subject in the country of fiscal residence to a tax regime differing from the normal tax regime
- A company, other than an investment company, that repays dividends which themselves cannot be taken into consideration for the dividend received income for at least 90%.

PRICE OF TRANSFER

Price transfers can apply between a Belgian resident company or establishment and a foreign company belonging to the same multinational group in their trade or financial relation.

Under the principle of fair competition, the prices charged for transactions between dependent companies must be established by reference to the prices charged by independent companies. According to this principle, prices can be adjusted.

TAX RATE

The ordinary corporate income tax rate for the tax year 2018 (income 2017) is 33% (33.99% crisis tax included). Regarding the income 2018 and 2019, this tax will be 29,58% crisis tax included. Starting from 2020, the crisis tax is cancelled and the tax will be 25%

A reduced progressive tax rate is applied to SMEs under certain conditions (see below). The rates are as shown in Table 3.

TABLE 3

Corporate income tax rates for SMEs (applicable until the 31st of December 2017)

TAXABLE INCOME	% WITH CRISIS TAX
EUR 0–25,000	24.98%
EUR 25,000–90,000	31.93%
EUR 90,000–322,500	35.54%
More than EUR 322,500	33.99%

Corporate income tax rates for SMEs (applicable for the income 2018 and 2019)

TAXABLE INCOME	% WITH CRISIS TAX
EUR 0–100,000	20.30%
More than EUR 100,000	29.58%

Corporate income tax rates for SMEs (applicable for the income 2020)

TAXABLE INCOME	%
EUR 0–100,000	20%
More than EUR 100,000	25%

For a reduced progressive tax rate to be applicable:

- Any participation in other companies cannot exceed **50% of the capital** raised with the reserved profits in the company and the booked capital gains
- **Proper capital** of more than **50%** cannot be held by one or more companies
- The dividends distributed cannot exceed **13%** of the **fully paid-up** capital
- A **salary** of at least **EUR 45,000** should be granted to one of the **directors** or if the tax basis is lower than EUR 45,000, the minimum salary must be at least equal to the company tax basis. More conditions are applicable if the director is remunerated by more than one company.
- The company cannot have **any participation** in a **co-ordination centre**.

ADVANCE PAYMENT AND ASSESSMENT

Corporate taxpayers and self-employed individuals can make quarterly prepayments to avoid a **2.25%** annual tax addition in 2017. At the same time, depending upon the date of the advance payment, a 'bonus' is granted for a:

- First quarter's advance payment **3%**
- Second quarter's advance payment **2.5%**
- Third quarter's advance payment **2%**
- Fourth quarter's advance payment **1.5%**

TAX ON NOT-FOR-PROFIT ORGANISATIONS (IPM)

TAXPAYERS

Not-for-profit making/'moral' entities include:

- The state, European Communities, Belgian areas, provinces, agglomerations, federations of communes, communes, the public social welfare centre (*Centres Publics d'Action Sociale* – CPAS) and the inter-community CPAS, as well as any public body which pertains to worship
- Organisations not subject to corporate tax (ISOC)
- Not-for-profit associations and other entities not working towards a financial gain.

TAXABLE INCOME

Tax on not-for-profit organisations (IPM) is not imposed on annual net income. In general, such organisations must pay tax only on income subject to withholding tax (real estate, financial or movable incomes).

Under the IPM, certain taxpayers can however also be subject to distinct contributions on other incomes or even on certain expenditure (such as capital gains on real estate or financial investments, disbursements which cannot be justified, some pension expenses etc).

TAX OF NON-RESIDENTS (INR)

TAXPAYERS

The following are applicable under INR:

- Non-residents of the Kingdom (physical people)
- Certain other individuals who are comparable with non-residents of the Kingdom
- Foreign companies
- Associations, establishments or organisations without legal personality, which have a legal form similar to that of a Belgian company and which do not have their registered office, principal establishment or office of direction or administration in Belgium

- Foreign states, their political subdivisions and local communities
- People/entities not having their registered office, principal establishment or office of direction or administration in Belgium who are not part of any profit-making activity (such as international organisations established abroad and of whom Belgium is member NATO, SHAPE, EEC, etc).

TAXABLE INCOME

These taxpayers are not taxable as '*ratione personae*', since for tax purposes they have their domicile abroad. Consequently, tax in Belgium can only be imposed (in theory) on income produced or collected in the country.

Such income falls into the following main categories:

- Income from real goods
- Income from capital and movable goods
- Benefits from industrial, commercial or agricultural activities
- Profits of services or professions
- Benefits or profits of a former occupation
- Remunerations, pensions, revenues and allowances from a holding place
- Income, regardless of qualification, from an activity carried out personally by an artist or a sportsman, or certain other various individual incomes.

Subject to certain exemptions, these incomes are taxed accordingly with IPP, IPM or ISOC.

EXPATRIATES

A special regulation for expatriates applies to foreign executives and researchers employed on a temporary basis in a Belgian permanent establishment of a foreign company, a subsidiary of a foreign company or in a Belgian company which is part of an international group.

Expatriates qualifying for this special tax regime are taxable only on their income from Belgian sources.

Refunds of expenses incurred by expatriates on behalf of the employer, as well as income from foreign sources, are not subject to Belgian tax.

Refunds for house-moving expenses, reasonable expenses incurred to decorate a Belgian home, reasonable and duly justified school fees and losses incurred on the sale of a car or house as a result of moving to Belgium are not taxable for their full amount.

All other refunded expenses duly justified (for instance tax equalisation, foreign exchange losses, home leave etc) are also not taxable in Belgium, but they are limited to (*Cl.RH.624-325.294 dated 8th August 1983*):

- An annual amount of **EUR 11,250** for executives working in commercial companies
- An annual amount of **EUR 29,750** for executives working in co-ordination or scientific research centres.

FOREIGN TAX

Foreign tax is credited against Belgian tax liabilities or deducted from taxable income.

TAX TREATIES

Belgium has an extensive network of signed tax treaties.

OTHER TAXES

VALUE ADDED TAX

Value Added Tax (VAT) is due from taxpayers in the exercise of their business activities on the delivery of goods and services in Belgium or export/import from a non-EU country and intra-community transactions between EU countries.

Normally, the VAT paid on the acquisition of goods and services is fully deductible from the VAT applied on the sale. However, there are several limits on deductions (for example, 50% only deductible on car expenses, 0% deductible on representation costs or donations etc).

Regarding exportation to a non-EU country or EU country, the nature of the transaction (the influencing place of transaction) and the client VAT situation should be taken into consideration when deciding whether to apply Belgian VAT or not. However, due to the new directive 'VAT package', it must be noted that there is a difference between the export of goods and services.

With regards to the transaction of goods, rules have not changed. There are three rules (with some dispensations for transportation, installation and assembling, gas, imports and home shopping sales):

- A transaction on goods is subject to Belgian VAT when the transaction is located in Belgium
- A transaction of goods is located at the place where the goods are provided to the user
- A transaction of goods is generally located at the place where the goods are situated before delivery.

In contrast, where services are concerned, the rule is to locate the service in the user's country.

Exempt activities include the sale of real estate, some financial transactions such as the deposit and acceptance of funds, insurance brokerage and Belgian lawyers' and notaries' fees.

Foreign companies with real estate in Belgium always fall under Belgian VAT rules.

The most common VAT rates are:

- 0% (e.g. on daily publications, rents, recycled goods, etc)
- 6% on goods classified as basic requirements such as food, travel, medicines, hotel accommodation, books, periodicals, etc.
- 21%

Special VAT rates are:

- 1% on gold as an investment
- 12% on social lodging & for some restaurant and catering products.

For construction:

- 6% is the rate for the refurbishment of private real estate under certain conditions e.g. for refurbishment 15 years after the first occupation, of schools, old people's homes etc
- 12% on the construction or acquisition of new buildings for a social purpose.
- 21% is the normal rate

REGISTRATION TAX

As a rule, registration tax is due on all of the deeds which are drawn up by public officers, including the notary public and the bailiff. Nevertheless, each person can also register any deed which is not drawn up by a public officer, in order to give to that deed a fixed date or to preserve his/her rights (e.g. for rental cases).

The most common registration tax rates are:

- Real estate transfers (purchase, exchange, usufruct) on a Belgian site – 12.5% in Brussels and Wallonia, 10% in Flanders
- Mortgage – 1%
- Rental contracts – 0.2% is applied to rent which has to be paid for real estate during the duration of a contract
- Donations – from 3% to 70% (depending on the relationship and the amount).

INHERITANCE TAX

In the case of the death of a Belgian resident, inheritance tax is payable by the beneficiaries on the value of the properties of the deceased.

In the case of the death of a non-resident, inheritance tax is levied only on the real estate property located in Belgium.

An inheritance tax return must be filed within five to seven months after the death date (for a death in Belgium five months, in Europe six months and outside of Europe seven months).

Donations made in a **three-year period** preceding the death are subject to inheritance tax if the donations were not included in the donation tax base.

Donation taxes are due on donations of real estate located in Belgium and on donations of movable property if the donation is expressed by means of legal instruments.

Donations of movable property, such as money, bearer shares, works of art or those donated 'hand to hand' are not subject to donation tax.

The rate of the inheritance and donation tax fluctuates between 0% and 80%, depending upon the taxable amount, the region and the proximity of the relationship between the deceased and the beneficiary.

STAMP DUTY

There is a 'registration tax' on vehicles (of fixed amounts depending on horsepower and the age of the vehicle).

There is a tax on premiums paid into insurance contracts (1.40%–9.25%).

RULINGS

A ruling could be requested in theory on every tax-related topic, although the law foresees circumstances in which no ruling can be introduced. Besides traditional exclusions, such as a pending dispute or problems regarding recovery and prosecutions, no rulings will be granted with respect to direct taxes if the essential elements of the described transaction or situation involve a tax haven on the OECD blacklist, or if there is no economic substance in Belgium.

Tax authorities are bound by their reply for the future.

This new ruling practice could be used as an alternative to the former advantageous tax incentives for co-ordination centres, distribution centres and service centres.

7 – ACCOUNTING & REPORTING

The Book III of the Belgian Economic Law Code governs the content and presentation of annual financial statements.

The Law and its decrees prescribe the principles to be followed in preparing the annual financial statements, the format to be adopted, the publication requirements and the standard table of accounts that must be used. These follow the Fourth European Community Directive.

Belgian commercial law requires each corporation to keep books, accounting records and all documents for at least ten years.

STATUTORY ACCOUNTS

Published financial statements (statutory accounts) are standardised.

Statutory accounts include:

- A balance sheet
- An income statement
- Appendices.

The prescribed appendices include:

- The results allocation
- The detail of certain accounts
- The applied evaluation rules
- If applicable, information about the published consolidated financial statements
- The social balance
- The yearly report of the board
- The report of the chartered (registered) auditor.

The standard presentation can be shortened in the case of small/medium-sized companies (SMEs) if the SME doesn't belong to a larger group.

According to the Company Law, financial reporting must be issued in the six months (at the latest) following the accounting closing date. All Belgian companies or Belgian branch offices of foreign companies must publish their annual accounts (in standard format) with the Commercial Court Office of the area in which the company or the branch is established in the month following the shareholders meeting which approves them. Local Court of Commerce offices subsequently send copies of these accounts to the Central Registrar Office (*Balanscentrale*), where they are made publicly available.

The annual report, which consists of the official balance sheet, profit and loss statement, notes to the financial statement, a directors' report and other prescribed information, must be drawn up at least one month before the shareholders' meeting date fixed in the articles of association. Reports should be published (publication is centralised by the National Bank of Belgium) in the month after the shareholders meeting approving the accounts. The shareholders meeting should be held in the six months following the closing accounting date.

The Belgian accounting system includes the following accounting principles:

- Fair statement of accounts
- A going concern
- Consistency of accounting principles and presentation
- Prudence
- Matching of income and expenses
- Separate valuation of assets and liabilities.

RESULTS ALLOCATION

Profits may, in principle, be freely distributed. However, 5% must be deducted from the profits and transferred to a legal reserve fund. This deduction ceases to be applicable when the legal reserve amounts to 10% of the share capital. Furthermore, no distribution of profits can be made if, after this deduction, the company's assets are reduced to less than the total share capital issued, plus all unavailable reserves.

ANNUAL REPORT OF THE BOARD

The annual board report must include certain information such as that prescribed in article 96.6 of the Companies Law:

- Comments about the financial statements and uncertainties
- Significant events which may have happened after the closing of the accounts
- Disclosures about the perspective of the company
- Information about the financial derivatives etc.

Specific information must also be given in case of special operations such as an advance on dividend, interest conflict etc.

Detailed information must also be given about the financial situation if losses become too significant.

If the company presents losses for two consecutive years or there is a carried forward loss in the balance sheet, the board must justify in their annual report the reason for keeping the valuation rules for a going concern.

If, as a consequence of losses, the net equity becomes lower than half of the authorised capital, a general assembly must (except in cases of more rigorous statutes), be called together within a time not exceeding two months from the moment when the losses were noted or should have been noted under the terms of the legal or statutory obligations, in order for the assembly to deliberate (if necessary) in the ways prescribed for the modification of the statutes, the possible dissolution of the company or other measurements announced in the agenda.

The board justifies any proposals in a special report put at the disposal of shareholders fifteen days before the general assembly. If the board proposes the continuation of the business activities, it must detail in the report any measures which may be adopted in order to rectify the financial standing of the company. This report is announced in the agenda. A copy of the report can be obtained.

A copy is also transmitted without delay to the people who carried out the formalities required by the statutes to be approved at the assembly.

The same rules are observed if, in consequence of the losses, the net equity is lower than a quarter of the authorised capital. In this case, dissolution will take place if it is approved by a quarter of the assembly.

When the general assembly is not convened in accordance with the statutes, the injury sustained by the third-parties is supposed to result from this absence of convocation except with contrary proof.

CONSOLIDATED FINANCIAL STATEMENTS

Firms are required to file consolidated financial statements in addition to their normal financial statements, where two or more of the following criteria are met:

- Annual turnover is **EUR 34 million**
- The balance sheet total is **EUR 17 million**
- **250** employees.

Where a parent company with its subsidiaries exceeds these criteria, it must publish consolidated financial statements, unless the parent company is also a subsidiary which publishes consolidated financial statements.

Decisions about giving out consolidated financial statements must be taken by a shareholder meeting, in which case consolidated statements of higher level organisations (Belgian or not) must be available at the registered office of the Belgian company. However, if there is a workers council, non-published consolidated statements must be issued unless the workers council accept the decision of a shareholders meeting not to do so. Financial statements consist of similar information to that of the statutory accounts.

Financial statements must be issued in accordance with Belgian generally accepted accounting principles (GAAP) or international financial reporting standards (IFRS) and should be issued by companies which have:

- An annual turnover (excluding VAT) > EUR 9,000,000
- A balance sheet total > EUR 4,500,000
- Employees >or = 50.

Each company which satisfies two or three of these three criteria must assign a chartered auditor.

The requirement to include all group companies in considering these criteria is applicable whether the company is the member of a group which has the legal obligation to establish and publish consolidated accounts or not and whether the shares are registered at the stock exchange or not.

Furthermore, an entity with an average number of employees exceeding 100 will always be regarded as a large company.

An auditor has to be member of the Belgian Institute of Company Auditors.

NOMINATION AND DURATION

The general meeting of shareholders appoints the auditor, usually upon a proposal of the board of directors and determines the auditor's fee. The general meeting of shareholders has to decide on the number of auditors required. If more than one auditor is appointed, a 'college' of auditors is formed.

Auditors are appointed for a renewable period of three years and may be released from their duties before the expiry of this three-year period only for substantive reasons.

The nomination must be published.

The workers council has a consultancy right and must agree to the auditor(s) suggested by the board before the shareholders can appoint the auditor. If the workers council and the management cannot agree on an auditor, the court must assign one. These auditors are appointed for a renewable three-year term.

MISSION

The auditor audits the financial situation of the company, the annual accounts and verifies the sincerity of the transactions underlying the annual accounts. He/she has to give their opinion on these matters in a report addressed to the shareholders, which must be provided at least 15 days before the annual general meeting.

The issued report is a standard report in accordance with the EU directives.

In addition, for corporations with more than 100 employees, which are obliged to have a workers council, auditors must report on financial information derived from the books and records of the organisation and on information supplied by the management of the workers' council.

FEES

Fees must be fixed for the three-year period.

Auditors may not receive significant additional fees for additional tasks other than for those mentioned by law. Fees for the audit or for other matters should be mentioned in the appendix of the annual accounts.

SMES

Small/medium-sized companies do not have a legal obligation to appoint an auditor. However, they have the possibility to request an auditor's services eg for implementing the right internal control procedures or to receive outside approval of accounts etc. (Some transactions necessitate an audit report according to Belgian legislation regardless of company size.)

In companies where no auditor is required, the shareholders may ask for assistance by an accountant registered with the Belgian Institute of Accountants.

VERY SMALL ENTITIES

A new category (very small companies) will be created for companies whose accounting year begins after 1st January 2016. Those entities cannot be neither mother company neither subsidiary. Criteria are as follows (only one criteria can be exceeded):

- Employees : 50
- Annual turnover (excluding VAT) : EUR 700,000
- Total balance sheet : EUR 350,000

INTERNATIONAL ACCOUNTING STANDARDS/IFRS

Since the 1st January 2005, only large companies consolidating their accounts and whose shares are quoted on the stock exchange have the obligation to adopt international accounting standards (IAS)/IFRS norms into the valuation and presentation of their statutory accounts.

Other consolidating companies have the choice between Belgian GAAP and IAS/IFRS norms for their consolidated accounts.

However, in the medium term, the obligation to follow IAS/IFRS norms will be extended even to statutory accounts.

8 – UHY REPRESENTATION IN BELGIUM

CONTACT DETAILS

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 Brussels
 Belgium
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 Fax: +32 2 663 11 21
www.cdp-partners.be

CONTACTS

Liaison contact: Chantal Bollen
 Position: Managing Partner
 Email: c.bollen@cdp-partners.be

SOCIAL MEDIA CONNECTIONS

- LinkedIn: yes

Year established: 2008
 Number of partners: 10
 Total staff: 32

OTHER IN-COUNTRY OFFICE LOCATIONS AND CONTACTS

Parc Industriel des Hauts-Sarts
 Troisième Avenue 19
 Herstal
 B-4040
 Belgium
 Tel: +32 4 264 26 44
 Fax: +32 4 264 64 31
www.cdp-partners.be

BRIEF DESCRIPTION OF FIRM

The firm is located in Brussels and Liège.
 Our staff is around 25. We provide a wide range of services to start-up's, SME's, local or international companies and not profit organizations, working in the most important sectors in Belgium.

SERVICE AREAS

- Audit : Legal and contractual assignments (statutory audits, consolidated accounts, package of consolidation in Belgian GAAP and IFRS, financial statements for specific purposes, system audit, audit of the procedures, etc.)
- Accounting and bookkeeping services
- International business services
- Corporate finance
- Business solutions
- Tax and VAT services

SPECIALIST SERVICE AREAS

Due diligence
 EU subsidy projects
 Legal services
 International business services
 Judiciary surveys

Assessment of damages
 Companies' evaluation
 Governance
 ISA reports

PRINCIPAL OPERATING SECTORS

Accounting
 Arts
 Biotechnology
 Building Products
 Computers & Peripherals
 Electrical Components & Equipment
 Industrial Products
 Information Technology (IT) & services
 Pharmaceuticals
 Transportation (road/rail/water) & infrastructure

LANGUAGES

English, Dutch, French, Spanish.

CURRENT PRINCIPAL CLIENTS

Confidentiality precludes disclosure in this document.

OTHER COUNTRIES IN UHY CURRENTLY WORKING WITH, OR HAVE WORKED WITH IN THE PAST

France, Germany, Spain, Australia and US.

BRIEF HISTORY OF FIRM

Chantal BOLLEN became chartered auditor in 1985 and worked in a first time with her father until his death in 1993. She created her own company in 1995 "Chantal BOLLEN & C° Réviseurs d'entreprises". In 1998, her activity has been transferred in the Company BOLLEN, MATHAY & C° which was an independent member of the network UHY. The company Bollen, Mathay & C° has been split in 2008 and her activity has been transferred in the company CDP CB & C° (For the audit activities-registered auditor's company) and CDP CB Consulting (for the accountancy activities-registered accountant's company) which join the association CDP Partners.

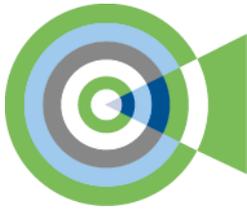
Vincent DE WULF became chartered auditor in 1990 and worked from 1986 to 1990 in the company KPMG. From 1990 to 2007, he worked in the company TOELEN, CATS, MORLIE & C° as partner. In 2007, he left this company to found the CDP Partner association with Damien PETIT and Alain CARDON. His own company is the CDP Vincent De Wulf & C° (Registered auditor's company).

Damien PETIT became chartered auditor in 1993 and worked from 1989 to 1996 in the company Deloitte. He created his own company in 1996 (chartered auditor's company) and more recently the company CDP Conseils (chartered accountant's company) both members of the CDP Partners association.

Alain CARDON is chartered accountant and Tax adviser since 1987. His company is CDP Alain Cardon (chartered accountant's company) which is member of the CDP partners association.

Jean NICOLET is chartered auditor. His company is CDP Nicolet, Bertrand & C° which joins CDP Partners since the 01/01/2013.

Pierre LERUSSE is chartered auditor. His company is Lerusse & C° which joins CDP Partners since the 15/07/2013.



LET US HELP YOU ACHIEVE FURTHER BUSINESS SUCCESS

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