



VAN HERCK & Co

AUDITORS, ACCOUNTANTS AND TAX CONSULTANTS



DOING BUSINESS IN BELGIUM

VAN HERCK & CO

AUDITORS, ACCOUNTANTS AND TAX CONSULTANTS

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1 INTRODUCTION

The purpose of this manual is to guide you through the business environment in Belgium. It offers practical information into the country and outlines the financial and legal implications of running, or working for, a Belgian business. The legislation is up to date until 31 October 2015. The most important issues are included, but this manual is not intended to be complete. If you would like to obtain more detailed information, please do not hesitate to contact your personal MGI consultant. While we have made every attempt to ensure the information contained in this manual is accurate, we are not responsible for any errors or omissions.

2 BELGIUM: GENERAL INFORMATION

2.1 SIZE – POPULATION – LANGUAGE – CURRENCY

The Kingdom of Belgium covers an area of approx. 30,528 km² and has a population of more than 11 million.

There are three official languages: Dutch, French and German but these languages are not official languages in the whole territory of Belgium. In the region of Flanders (northern region) the only official language is Dutch. In the region of Wallonia (southern region) the only official language is French. In the region of Brussels (capital city) both French and Dutch are official languages. In a small part in the East of Belgium, German is the official language.

The currency is the Euro (EUR) since 1 January 2002.

2.2 ECONOMY

The gross domestic product (GDP) of Belgium in 2015 amounted to 459 billion USD. Belgium is the 26th largest economy in the world. The GDP per inhabitant was 47,353 USD (18th position in the world). Partition of the GDP reveals that 78.1% is due to services, 21.1% industry, and 0,8% agriculture, forestry and fishery.

2.3 POLITICAL AND LEGAL SYSTEM

The Belgian constitution of 1831 founded a hereditary monarchy with a bicameral national parliament and a national government with strong central powers. The current monarch is His Majesty King Filip. Six state reforms have made Belgium evolve into a federal state, composed of communities (Flemish, French and German speaking community) and regions (Flemish, Walloon and Brussels region) with their own authority within their domain.

The Kingdom of Belgium is a democratic state and honors the principle of separation of powers: the legislative, executive and judiciary power are separated and monitor each other. This principle is followed at the federal level and also at the level of the communities and regions.

3 FORMS OF ENTREPRENEURSHIP

3.1 SOLE PROPRIETORSHIP

Anyone who meets certain conditions related to the person, the planned activity and the person's nationality can be a self-employed worker. These conditions are:

- *Related to the person:* be at least 18 years, enjoy civil rights and be legally competent;
- *Related to the activity:* have basic management skills (several exceptions), professional competence (for regulated professions) and specific authorization (certain professions);
- *Related to the nationality:* have a professional card if you're not a Belgian national, a national of one of the European Economic Area's Members States or a Swiss national.

Commercial, artisanal and non-commercial entrepreneurs under private law are obliged to register with the Crossroads Bank for Enterprises (hereafter abbreviated as 'CBE') before starting their activities.

A person acting as a sole proprietor has no independent legal status. This entails that no minimum capital, no bank certificate, financial plan or articles of association are needed. On the other hand, the company's assets and private assets are not separated. The entrepreneur engages all his assets, including his private assets, to cover the company's risks. His liability is unlimited.

3.2 COMPANIES (LEGAL PERSONS)

3.2.1 INTRODUCTION AND DIFFERENT TYPES OF COMPANIES

A company has an independent legal status. A minimum capital, bank certificate, financial plan and articles of association are needed. The most common types of companies (limited liability companies) provide less financial risks. The company's assets are separated from the assets of the associate(s) and the associate(s) are only liable up to the amount they have invested.

The Belgian Company Code distinguishes the following types of companies:

- The public limited liability company (naamloze vennootschap – NV; société anonyme – SA)
- The private limited liability company (besloten vennootschap met beperkte aansprakelijkheid – BVBA; société privée à responsabilité limitée – SPRL)
- The cooperative limited liability company (coöperatieve vennootschap met beperkte aansprakelijkheid – CVBA; société coopérative à responsabilité limitée – SCRL);
- The cooperative unlimited liability company (coöperatieve vennootschap met onbeperkte aansprakelijkheid – CVOA; société coopérative à responsabilité illimitée – SCRI)
- The partnership limited by shares (commanditaire vennootschap op aandelen – Comm. VA; société en commandite par actions – SCA)
- The limited partnership (gewone commanditaire vennootschap – Comm. V; société en commandite simple – SCS) ;
- The general partnership (vennootschap onder firma – VOF; société en nom collectif – SNC).

The first three types of companies guarantee limited liability for the partners or shareholders. The other types of companies do not.

The most common types of companies are the public limited liability company and the private limited liability company of which we will describe the main characteristics below.

3.2.2 PUBLIC LIMITED LIABILITY COMPANY

3.2.2.1 SHAREHOLDERS

There must be at least two shareholders who may be individuals or companies, residents or non-residents. The shareholders are liable only for the capital that they contribute.

If the company has a sole shareholder, this shareholder will be held fully liable for the debts of the company from the moment he has become the sole shareholder until there is a second shareholder or the company is dissolved or transformed into a private limited liability company. The company has one year to rectify this situation.

3.2.2.2 SHARE CAPITAL

- The minimum share capital is 61,500 euro.
- The capital must be fully subscribed. If part of the capital has not been subscribed, liability will pass to the founders who are then considered subscribers of the unsubscribed capital.
- The capital is represented by equivalent shares with or without nominal value.
- Each issued share must be at least 25% paid up upon incorporation, amounting in aggregate to no less than 61,500 euro.
- The shares, either with or without voting rights, can either be registered in the share register of the company, or be issued under intangible form (“«dematerialized» shares”). From 1 January 2014, “registered” shares and “«dematerialized» shares” are the only two forms of shares. The transfer of registered shares is effected by entries made and signed in the share register. A “«dematerialized» share” is represented by an inscription on account of the owner by an approved institution responsible for keeping the records and can be transferred from one account to another.
- Shares are in principle freely transferrable. Although the transfer of shares can be restricted by the articles of association or in a shareholders’ agreement, these restrictions must be limited in time and always in the interest of the company.
- Contributions-in-cash require a statement of a Belgian bank that the amount was deposited in a (temporarily frozen) bank account.
- Contributions-in-kind are allowed but require a report of a registered auditor, describing the contribution and the methods of evaluation used.
- Increases in capital must be approved by the general meeting of shareholders, or in some cases, by the board of directors.

3.2.2.3 ESSENTIAL CHARACTERISTICS

- The shareholders’ liability is limited to their contribution.
- A shareholders’ meeting must be held at least once a year to approve the financial statements within six months after the closing of the financial year.
- The annual accounts must be deposited with the Central Balance Sheet Office of the Belgian National Bank of Belgium within 30 days following their approval by the shareholders’ general meeting and never later than 7 months after the closing of the financial year.
- The duration of its legal existence is unlimited, unless otherwise specified in the articles of association.

- In principle, all the powers of the company belong to the shareholders. The general meeting of shareholders appoints the members of the board of directors (at least 3 directors have to be appointed except when there are no more than 2 shareholders – in that case 2 directors are sufficient) and – if legally required – one or more statutory auditors. The board of directors has all the powers except those legally belonging to the general meeting of shareholders.
- The directors are appointed for a term not exceeding six years and can be renewed by the general meeting of shareholders. Daily management may be delegated to a committee or to one or more managing directors. Directors may be physical persons and/or moral persons. When a moral person is appointed as a director, it should be represented by a nominative indicated physical person (the “permanent representative”).
- Contributions-in-kind are allowed if they can be valued according to economic standards and a report from a registered auditor describing the contribution and the methods of valuation used, is required.

3.2.3 PRIVATE LIMITED LIABILITY COMPANY

3.2.3.1 SHAREHOLDERS

A private limited liability company must have one or more shareholders, who may be individuals or companies. If a company becomes the sole shareholder of a private limited liability company it will be held fully liable for the debts of the company from the moment it has become the sole shareholder until there is a second shareholder or the company is dissolved. The company has one year to rectify this situation.

3.2.3.2 SHARE CAPITAL

- The minimum amount of capital required is 18,550 euro.
- The capital must be fully subscribed. If part of the capital has not been subscribed, liability will pass to the founders who are then considered subscribers of the unsubscribed capital.
- The capital is represented by equivalent shares with or without nominal value.
- At least 6,200 euro must be paid up immediately, unless there is only one founding shareholder, in which case at least 12,400 euro must be paid up immediately. Shares representing contribution in-kind must always be fully paid up. Shares in cash must be paid up to at least 20%.
- All shares, whether with or without voting rights, are registered in the share register of the company. The shares can only be transferred by an entry in the company’s share register. This transfer is normally subject to the shareholders’ approval. An approval is not required when the shares are transferred to other shareholders, to their spouses or to their next of kin (unless otherwise stipulated in the articles of association of the company).
- Contributions-in-cash require a statement of a Belgian bank that the amount was deposited in a (temporarily frozen) bank account.
- Contributions-in-kind are allowed if they can be valued according to economic standards and a report from a registered auditor, describing the contribution and the methods of valuation used, is required.

3.2.3.3 ESSENTIAL CHARACTERISTICS

- The private limited liability company is a company in which the shareholders' liability is limited to their contribution.
- A shareholders' meeting must be held at least once a year to approve the financial statements within six months after the closing of the financial year. If there is only one shareholder, that shareholder's decisions are to be registered at the registered office of the company.

The annual accounts must be deposited with the Central Balance Sheet Office of the Belgian National Bank of Belgium within 30 days following their approval by the shareholders' general meeting and never later than 7 months after the closing of the financial year.

- The duration of the company's legal existence is unlimited, unless specified otherwise in the articles of association.
- In principle, all the powers of the company belong to the shareholders. The general meeting of shareholders appoints one or more managing directors and – if legally required – one or more statutory auditors. The managing director(s) have all the powers except those legally belonging to the general meeting of shareholders.
- There must be at least one managing director who is not subject to any residence or nationality requirements. The managing director(s) can be appointed for a definite or indefinite term. Managing directors may be physical persons and/or moral persons. When a moral person is appointed as managing director, the moral person should be represented by a nominative indicated physical person (the "permanent representative").

4 DOING BUSINESS AS A FOREIGN COMPANY

Foreign companies wishing to conduct activities in Belgium and wanting to set up a business, have several options.

4.1 EUROPEAN COMPANY

A European Company (also called Societas Europaea or SE) can be used to set up business in different EU-countries. The provisions that govern the SE are based on EU regulations. The features of a SE in Belgium are very similar to those of a public limited liability company. The SE must have a link to at least two member states of the European Union. The minimum capital is 120,000 euro. The principal place of management and the registered office must be located in the same country, but the SE is entitled to relocate its principal place of management and its registered office to another state in the European Union. Therefore the SE can easily transfer its registered office within the EU without dissolving the company in one Member State in order to form a new one in another Member State.

4.2 BRANCH

A branch has no separate legal entity status and, therefore, is regarded as an integral part of the foreign company. Three conditions must be fulfilled: the branch must be represented in Belgium by a representative with the power to incur liability to third parties; the representative's authority does allow an indefinite number of operations and the representative must deal regularly with third parties at a fixed address.

Companies with a branch in Belgium obtain a business number when they are registered with the CBE by the competent commercial court registry. Branches are governed by the same regulations as Belgian companies as regards management and operations in Belgium.

4.3 SUBSIDIARY

A subsidiary is a separate entity (different from a branch) of the foreign company and has its own legal status. The legal status chosen is a Belgian legal status (e.g. public or private limited liability company).

Companies with a subsidiary in Belgium obtain a business number when they are registered with the CBE (Crossroads Bank of Enterprises) by the competent commercial court registry.

5 ACCOUNTING AND AUDIT

Foreign companies wishing to conduct activities in Belgium and wanting to set up a business, are subject to Belgian audit and accounting laws.

5.1 ACCOUNTING REQUIREMENTS

All companies, branches and subsidiaries are required to keep books and records complying with accounting principles applicable in Belgium, and to prepare financial statements including a balance sheet and a profit and loss account. Books, records and financial statements must be drawn up in Dutch, French or German, depending on the region where the registered office is located. Financial statements must be prepared in Euros.

The financial year of a company is normally one year. This period may be shortened or extended up to a maximum of two years less one day. The closing date is determined by the articles of association.

5.2 STANDARD CHART OF ACCOUNTS

Every company can adopt an accounting system appropriate to its size and activity, but its chart of accounts must comply with the form and presentation laid down in the Minimum Standard Chart of Accounts (MSCA). The MSCA is relatively comprehensive and covers the majority of transaction types to be found in most businesses. Companies can always create new accounts if certain transactions are not covered by the MSCA or if more details of transactions are deemed necessary, but they cannot deviate from the structure of the MSCA.

5.3 CONTENTS AND FORM OF FINANCIAL STATEMENTS

Financial statements must be prepared in a predetermined format and contain the balance sheet after profit appropriation, the income statement and explanatory notes, including accounting policies used.

The annual general meeting approving the financial statements must be held within six months after the end of the financial year. Within one month following the date of the annual general meeting of shareholders, the approved financial statements must be filed with the Central Balance Sheet Office of the National Bank of Belgium. Financial statements filed with the Central Balance Sheet Office can be consulted online by all interested persons without cost.

5.4 ACCOUNTING POLICIES

The body responsible for the governance of the company determines the applicable accounting policies which must be in accordance with the legal provisions and must be applied consistently. Changes must be explained, calculated and justified in the explanatory notes to the financial statements.

The annual accounts of the companies form the basis for the calculation of the income taxes.

5.5 CONSOLIDATION REQUIREMENTS

All companies in Belgium are obliged to draw up consolidated financial statements if they have one or more subsidiaries except if one of the following two conditions apply:

- The company is itself a subsidiary of a parent company that prepares and publishes consolidated financial statements and a consolidated directors' report

- The enterprise and its subsidiaries do not, on a consolidated basis, exceed more than one of the following limits:
 - o Turnover, VAT excluded, of 29.200.000 EUR (34.000.000 EUR for annual accounts closed after December, 31st of 2015)
 - o Balance sheet total of 14.600.000 EUR (17.000.000 EUR for annual accounts closed after December, 31st of 2015)
 - o Average number of 250 employees during the year

5.6 AUDIT REQUIREMENTS

Companies meeting more than one of the following criteria must appoint one or more statutory auditors for a renewable period of three years (criteria valid for financial year closed on or later than December 31st of 2015):

- o Turnover, VAT excluded, of 9.000.000 euro
- o Balance sheet total of 4.500.000 euro
- o Average number of 50 employees during the year

Companies that are part of a group of companies that is obliged to issue consolidated financial statements, companies whose shares are quoted on a stock exchange and companies having a works council must also appoint one or more statutory auditors.

5.7 MICRO COMPANIES

Some small companies can be qualified as a micro company. A micro company can file its annual accounts in a shorter form with the National Bank of Belgium (only a few explanatory notes must be included in the annual accounts). A small company can be qualified as a micro company if it is not a daughter or a holding company of another company and if it is meeting no more than one of the following criteria :

- o Turnover, VAT excluded, of 700.000 euro
- o Balance sheet total of 350.000 euro
- o Average number of 10 employees during the year

6 TAXATION OF INCOME

Taxes are levied by the federal government, the three regions, the provinces and the communes. Federal taxes of income are codified in the Income Tax Code (Wetboek van de inkomstenbelastingen / Code des impôts sur les revenus).

6.1 INDIVIDUALS

6.1.1 RESIDENT INDIVIDUALS

Resident individuals are subject to individual income tax on their worldwide net income.

Resident individuals are those who have their abode or center of economic interest (zetel van fortuin / siège de la fortune) in Belgium. An individual is presumed to be a resident of Belgium when he is registered in the civil register, but this presumption is rebuttable. Married persons are deemed to be Belgian resident, if their household is established in Belgium. This presumption is not rebuttable.

The income of an individual taxpayer is the sum of the taxpayer’s income from each of the following four different categories of income:

- Income from immovable property
- Income from movable property, including dividends, interest and royalties
- Professional income, including business profits, benefits, salaries and pension income
- Miscellaneous income.

The gross income of each category of income is decreased by expenses incurred in acquiring or preserving the income, and is computed according to rules specific to that category, resulting in the total net income of the taxpayer.

The total net income is reduced by certain deductions (s.a. personal allowances, alimony and maintenance, childcare expenses, life insurance premiums, deduction for private owned real estate or living bonus) to come to the taxable net income, on which the progressive income tax rates are applied.

The progressive income tax rates for income year 2015 are:

Band of taxable income (EUR)	Tax rate
0 – 8,710	25%
8,710 – 12,400	30%
12,400 – 20,660	40%
20,660 – 37,870	45%
Balance over 37,870	50%

Income from movable property and miscellaneous income will be taxed at different (lower) rates unless global taxation is more favorable to the tax payer.

There is also a local income tax, levied as a surcharge on income tax. Rates are set by the local authority and the tax is payable by all taxpayers registered in that local authority's territory. Rates vary between 0% and 10%, but amount to 7%, on average.

6.1.2 NON-RESIDENT INDIVIDUALS

Nonresident individuals are subject to Belgian tax on the income derived from Belgian sources. Belgian double tax treaties generally provide that the foreign entity subject to tax in Belgium benefits from a tax credit or tax exemption in its country of residence, thus avoiding double taxation. Up to now, Belgium has concluded double tax treaties with more than 90 countries.

6.2 COMPANIES

Entities with legal personality that are engaged in profit-making activities or in the operation of a business are subject to corporate income tax.

6.2.1 RESIDENT COMPANIES

6.2.1.1 PRINCIPLES (ENTITIES, BASE, RATES)

Belgian resident companies are taxable on their worldwide income and gains. A legal entity is a resident of Belgium if it has its registered office, main establishment or place of management in Belgium.

For companies no distinction is made according to the nature of the income. All kinds of income earned are considered as business income and taxed accordingly.

The company's profits are determined in accordance with Belgian generally accepted accounting principles (Belgian GAAP). The accounting result is, however, adjusted for tax purposes. Non-allowable expenses or excess depreciation are added back, while some other items are deducted.

To be deductible, business expenses must meet the following conditions:

- They must be incurred or borne by the taxpayer during the financial year
- The expenses must be made with the intent of obtaining business income
- Their amount and authenticity must be proved.

Some expenses, however, are not deductible (e.g. penalties, interests and gifts exceeding certain limits) and some expenses are only partly deductible (e.g. costs of cars, restaurants)

The standard corporate income tax rate is 33.99%.

For some small companies, profits below 322,500 euro can be subject to the following (lower) rates:

Band of taxable profits (EUR)	Tax rate
0 – 25.000	24,98%
25.000 – 90.000	31,93%
90.000 – 322.500	34,54%

These reduced rates apply to companies that fulfill all the following requirements:

- They do not own participations exceeding certain limits
- Their shares are owned in majority by natural persons
- Their dividend distribution does not exceed 13% of the paid-up capital at the beginning of the financial year
- They pay a minimum salary of 36.000 euro to at least one of the directors- natural persons (if the taxable income of the company is less than 36.000 euro, a salary equal to the taxable income is required)
- They are not collective investment companies

6.2.1.2 CAPITAL GAINS (LOSSES)

Capital gains realized on the disposal of business assets are regarded as business income and, therefore, subject to taxation at the ordinary rates. Non-realized capital gains are exempt. Capital gains on shares or participations are subject to different regimes:

- Capital gains realized on shares held for a continuous period of at least 1 year in a company subject to a normal tax regime (so called taxation requirement) are exempt when realized by small and medium sized enterprises.
- Capital gains satisfying the above-mentioned conditions realized by other companies are subject to a separate tax rate of 0,412% (against which no tax losses or other tax credits can be offset).
- Capital gains satisfying the taxation requirement, but held less than 1 year are subject to a separate assessment rate of 25,75%.
- Capital gains not satisfying the taxation requirement are subject to tax at the regular corporate income tax rates.

Tax on some other capital gains can be deferred. Capital gains realized on fixed assets held for business purposes for more than five years prior to the disposal and gains realized in respect of damages, expropriations or similar events, can be subject to corporate income tax over the period of depreciation of the reinvested assets if the sales price is reinvested in depreciable non-financial fixed assets within a period of three years (or five years for reinvestments in buildings, ships and aircrafts).

6.2.1.3 NOTIONAL INTEREST DEDUCTION

All companies and branches of foreign companies subject to (non-resident) corporate income tax in Belgium, regardless of their size and activities, are able to apply the so-called notional interest deduction.

The deduction is calculated by multiplying the qualifying equity (= capital and reserves of the preceding financial year adjusted with several amounts to avoid abuses) by a fixed percentage yearly determined by the government but with a maximum of 3% (3,5% for SME's). For financial years closing at December 31st of 2016 or in 2017 the rate of the notional interest deduction is 1,131% (1,631% for SME's). For financial years closing at December 31st of 2015 or in 2016, the rate of the notional interest deduction is 1,63% (2,13% for SME's).

6.2.1.4 PATENT INCOME DEDUCTION

Resident companies and Belgian permanent establishments of non-resident companies may deduct 80% of the income derived from patents licensed to a related or unrelated party insofar as the payments are at arm's length.

As a consequence, only 20% of such patent income is taxable, resulting in an effective tax rate of no more than 6,8%. The deduction only applies to new patents that have not led to the sale of patented goods or services by the company or a license-holder before January 2007.

6.2.1.5 LOSSES FROM PREVIOUS YEARS

Losses incurred in previous years can be carried forward and deducted from future profits for an indefinite period of time. Losses cannot be deducted from profits of previous financial years (no carry back).

6.2.1.6 THIN CAPITALISATION

Two rules on thin capitalization apply.

A 1 to 1 debt/equity ratio applies to loans granted by individual directors, shareholders and non-resident corporate directors to their company. Excess interest is requalified into a nondeductible dividend.

A 5 to 1 debt/equity ratio applies if the interest is paid to a related company, or is exempt or taxed at a reduced rate in the hands of the beneficiary. The excess interest is considered to be a non-deductible business expense (an exception applies for centralized treasury management).

6.2.1.7 TRANSFER PRICING RULES

Three forms of transfer pricing rules apply: recapture of profits, disallowance of deductions and disregarding of the transfer of certain assets.

Affiliated companies are required to follow the arm's length principle in their intra-group transactions. Indeed, profits may be recaptured where conditions are imposed between two companies in their commercial or financial relations which differ from those that would be made between independent companies. There are no specific rules on how to determine the market price. The guidelines of the OECD Transfer Pricing Report are followed, in principle.

In addition, any abnormal or gratuitous advantage granted by a Belgian resident company to non-resident related persons (companies or individuals) or to persons situated in a tax haven must be added to the Belgian company's taxable income. Moreover, tax losses (both of the current year and losses brought forward) and other tax credits cannot be offset against that part of the taxable profits resulting from abnormal or gratuitous advantages received from a Belgian or a foreign related company.

Secondly, interest, royalties and fees paid to a non-resident holding company or any other recipient in a tax haven may be disallowed as deductible expenses for income tax purposes unless the taxpayer proves that the transaction is real and genuine and that the payments are not excessive.

Finally, the transfer of certain assets (bonds, claims, money etc.) to a holding company or any other person in a tax haven may be disregarded by the tax authorities, except if the taxpayer shows that the transaction corresponds to legitimate business needs or that he received an actual consideration producing an amount of income subject in Belgium to a normal tax charge.

6.2.1.8 CFC LEGISLATION

There is no CFC legislation in Belgium.

6.2.2 NON-RESIDENT COMPANIES

Non-resident companies are subject to Belgian tax on the income derived from Belgian sources. Belgian double tax treaties generally provide that the foreign entity subject to tax in Belgium benefits from a tax credit or tax exemption in its country of residence, thus avoiding double taxation. Up to now, Belgium has concluded double tax treaties with more than 90 countries.

6.3 WITHHOLDING TAXES

Income from capital and movable property (dividends, interest, royalties, copyrights, ...) and some miscellaneous income of movable nature constitute taxable income in Belgium.

The withholding tax deducted on that income is a prepayment of taxes on that income.

In most cases, the withholding tax is "liberating", thus constitutes the definitive tax.

The rate of withholding tax is 10%, 15% or 27% (general rate) of gross income, depending on the type of income. Many exemptions exist (e.g. payments of interests between two companies are often exempted from withholding tax).

6.4 RULINGS

Taxpayers can request the Ruling Commission for an advance decision on the application of both direct or indirect tax laws to a particular situation or transaction. This will give an additional comfort to taxpayers as the Belgian tax authorities are bound by such a ruling.

7 OTHER FORMS OF TAXATION

7.1 VALUE ADDED TAX

A taxable person is any person (individual or legal entity) who supplies, within the framework of an economic activity, regularly and independently, goods and services listed in the VAT Code. It is irrelevant whether the transactions are carried out on a principal or on an accessory basis, with or without a profit motive.

Under certain conditions, a VAT group or VAT unity can be set up unifying the VAT obligations of different companies belonging to the same group of companies.

VAT applies to:

- The supply of goods and services made by a taxable person;
- Intra-Community acquisitions by a taxable person;
- The importation of goods by anyone.

The taxable base is the consideration for the supply of goods and services, or the value of the imported goods. In computing the final tax liability, the tax paid on the purchases of goods and services (incoming transactions) may be deducted so that, in fact, only the value added is taxed.

There are special regimes for small enterprises and agricultural enterprises.

Goods sold within Belgium are subject to Belgian VAT. Goods imported into Belgium or transported from within the European Union to Belgium are also subject to Belgian VAT. Goods exported outside the European Union or transported from Belgium to other EU Member States are normally not subject to VAT in Belgium.

Services are in general subject to Belgian VAT when the supplier is established in Belgium. Businesses to business supplies of services (B2B) are in general taxed in the country where the customer is located. However, there are some exceptions to this rule (e.g. services relating to real estate).

The VAT tax rates are the following:

Description	Tax rate
Standard rate	21%
Intermediate rate for a number of listed products, social housing and restaurant and catering services	12%
Reduced rate for certain basic goods and services, including food, water, pharmaceutical products and medical aids, books and periodicals, agricultural services, passenger transport, hotel accommodation, renovation or maintenance work on buildings used for housing that are at least 5 years old	6%
Daily and weekly publications and recycled goods	0%

7.2 REAL ESTATE TAX

Owners of real estate pay a real estate tax, calculated on the deemed rental value, at a rate depending on the local authority area where the property is located.

7.3 INHERITANCE AND GIFT TAX

Belgium levies tax on both lifetime gifts and transfers of property upon death.

If the deceased was not resident in Belgium for tax purposes at the moment of death, Belgian transfer tax (droit de mutation par décès; recht van overgang bij overlijden) upon death is only applicable on transfers of real estate located in Belgium. If the deceased was a resident of Belgium at the date of death, inheritance tax is due on the entire legacy (droit de succession; successierecht), no matter where the beneficiary (transferee) is resident.

Gift tax (droit de donation; schenkingsrecht) applies to all gifts inter vivos of real estate and movable property certified by notarial deed or certified act established or registered in Belgium. Such registration is necessary to make most gifts valid under Belgian law. A major exemption exists for so-called 'gifts by hand' (handgiften; dons manuels) of movable property, which do not have to be acted in a notarial deed. Except for real estate situated in Belgium, gifts by non-residents are not subject to Belgian civil law and hence do not have to be registered.

A non-registered gift made less than three years before the date of death of a resident is deemed to be made on death and is thus subject to inheritance tax.

In Flanders, the period of three years is extended to seven years in case of gift of the family business or the family company.

Both inheritance taxes and gift taxes are generally due by the transferee and not by the transferor.

The same progressive rates apply to transfers by non-residents as apply to residents. It is important to note that, although liability to tax is determined by the residence status of the transferor, it is the transferee who bears the burden of the tax. The rates depend not only on the amount of property transferred but also on proximity of relationship between transferor and transferee.

In most situations different gift and inheritance tax rates apply in the three Belgian regions (Flanders, Brussels and Wallonia).

- The rates, which are applicable in the Brussels region, vary between 3 and 30% for close relatives (class 1), between 20 and 65% for brothers and sisters (class 2), between 35 and 70% for other relatives (class 3) and between 40 and 80% in all other cases (class 4).
- The rates, which are applicable in the Walloon region, vary between 3 and 30% (class 1), between 20 and 65% (class 2), between 25 and 70% (class 3) and between 30 and 80% in all other cases (class 4).

- The rates which are applicable in the Flemish region vary :
 - o for gift tax, from 3 to 30% (class 1), from 20 to 65 % (class 2), from 25 to 70% (class 3) and from 30 to 80% (class 4);
 - o for inheritance tax, from 3 to 27% (class 1), from 30 to 65% (class 2) and from 45 to 65% in all other cases (class 3 and class 4); the inheritance is, if the heirs are of class 1, split up into an immovable and a movable part which are taxed separately.

8 INTELLECTUAL PROPERTY PROTECTION

The protection of intellectual property rights is ensured by Book XI “Intellectual Property” of the Code of Economic Law.

In the framework of the Benelux Organization for Intellectual Property, the National Offices of Intellectual Property of Belgium, The Netherlands and Luxembourg have developed a common IT system, the Benelux Patent Platform (BPP) to modernize and support all patent related business processes for the three National Offices.

Intellectual property law mainly consists of copyright, patents, trademarks and design rights.

8.1 COPYRIGHT

A work is only protected by copyright provided that:

- the work is the result of a creative activity
- the work is expressed in a tangible form
- the work is original.

In principle is the physical person who created the work holder of the copyright. Copyright protection begins automatically upon creation of the work as an individual original creation. Administrative formalities are not necessary. Copyright consists of two types of rights: economic rights and moral rights. The economic rights are transferrable, the moral rights not except by inheritance. Copyright protection ends 70 years after the death of the author.

8.2 PATENTS

Other than the copyrights, patents must be registered with the Belgian patent and trademark office (Belgische Dienst voor de Intellectuele Eigendom). For a technical invention to be granted a patent, Belgian patent law requires that the invention is new in the respective technical field, inventive, disclosed in the application and commercially viable. The application process that usually is carried out and overlooked by specialized patent lawyers can take two to three years.

The granted patent gives the holder an exclusivity of use for 20 years (without novelty report 6 years). The patent can be transferred and licenses of any extent can be granted.

8.3 TRADEMARKS

The Belgian trademark no longer exists. To protect your brand you can choose between a Benelux trademark (protection in Belgium, the Netherlands and Luxembourg), a Community trademark or an international trademark that indicates the Benelux or the European Union. In order to be registered, the trademark must meet the requirements of distinctiveness, availability and eligibility. A Benelux trademark is valid for 10 years from the filing date. This period may be renewed, if it's requested in time and the necessary fees are paid. The trademark protection may be lost if the mark is not used for five years, the mark is used in a misleading way or the mark has become a commercially customary name.

8.4 DESIGN RIGHTS

The protection of design rights is regulated by the Benelux Treaty of February 25, 2005 on Intellectual Property. The protection of designs and models extends to the appearance of a product or of a part thereof. When the appearance of a product is two-dimensional, we speak of a drawing. If it is three-dimensional, then one speaks of a model. The appearance of a product can also combine these two dimensions. To enjoy protection, the drawing or design must be new and have an individual character. The protection period is five years and can be renewed four times, so the maximum period of protection is 25 years.

9 LABOUR RELATIONS

9.1 GENERAL

The working conditions of employees are not only determined by collective bargaining agreements but also in employment contracts concluded between the employer and employee as well as in the work regulations of the company and/or company policies.

The difference between white collar workers (employees mainly performing intellectual activities) and blue collar workers (employees mainly performing manual work) still exists at certain levels but from 1 January 2014 new legislation applies to harmonize the employment rights of white and blue collar workers regarding the terms of notice, the first day of sick leave and a number of additional measures.

9.2 EMPLOYMENT CONTRACTS

An employment contract is a contract under which a person, the employee, undertakes to work, in exchange for a salary, for another person, the employer, and to do so under his authority. The four essential elements in an employment contract are therefore: the contract, the nature of the work, the remuneration and the employer's authority (a relationship of subordination).

9.3 REMUNERATION

In Belgium, the level of gross salaries is not fixed by law. They are, in principle, determined by collective bargaining agreements, which are concluded between trade union representatives and employers, either at industrial or company level, except for the monthly guaranteed minimum wage, which is determined at national level by the National Labour Council.

Some employers grant their employees additional or non-statutory fringe benefits. These vary widely and can be laid down in the provision of collective bargaining agreements. Some examples are luncheon vouchers, payment of a thirteenth month, premiums for group insurance, lump sum expense allowances, etc.

9.4 WORKING TIME

Working hours may not exceed 9 hours per day or 38 hours per week. It is, in general, not allowed to work more than these legal working hours, outside the applicable working schedules, but exemptions are possible under certain conditions.

In most cases where working beyond the statutory working hours is authorized, either in the context of regular work arrangements or in the context of overtime (except in case of flexible working hours), compensation leave and/or extra salary must, in principle, be granted.

Working on Sundays or on public holidays is forbidden by law, but exemptions exist, for example work in certain undertakings (hotels, catering establishments, and health care establishments and services) or in specific situations such as if the activity of the company disallows to carry out the activities on another weekday.

Night work is prohibited between 8 p.m. and 6 a.m. but exemptions may be obtained under certain conditions, for instance due to the nature of the work (hotels, entertainment, newspapers, health care, factories, etc.) or in specific situations such as to cope with an occurred or threatening accident, for urgent work on machinery and equipment and labor required by unforeseen circumstances, to perform work in successive shifts, to perform work for which a permanent presence on the work place is deemed to be necessary and companies where the substances which are processed can degenerate very quickly.

9.5 TERMINATION OF THE EMPLOYMENT

When the contract has been concluded for an indefinite period of time, each party can terminate the contract by giving notice in writing, mentioning the starting date of notice and the duration of the notice period.

Termination of a contract concluded for an indefinite period of time is also possible without term of notice but with payment of a termination fee.

For employees (blue and white collar workers) in service of the company as from 1 January 2014, new notice periods apply. The notice periods depend solely on the length of service. Salary levels and the employee's position no longer affect the notice period. Notices are now expressed in weeks (not months or days) and start on the Monday that follows the notification date.

For on-going employment agreements, the current notice periods as built-up with the present employer will be fixed on 31 December 2013. From 1 January 2014, additional notice is acquired in accordance with the new rules.

An employment contract also comes to an end in the following situations:

- Upon expiry of the term, for fixed-term contracts, or upon the completion of the work, if the contract was concluded for a specific task or project.
- By mutual (written) agreement between the employee and employer.
- In case of "force majeure" having a long term impact for instance a permanent incapacity of the employee to exercise his/her function.
- Dismissal for serious cause. Termination of the contract without notice or termination fee because of a serious cause following a strict procedure.

In some cases and with respect to certain categories of employees, the law determines limitations on the right to dismiss an employee. For instance, the employee is protected against dismissal once the employer has been informed of her pregnancy. However she can be dismissed for reasons that are not related to her pregnancy.

10 SOCIAL SECURITY SYSTEM

10.1 GENERAL

Belgium's social security system is based on the insurance principle. All persons contributing into the social security system are covered and can benefit from it.

The Belgian system has three schemes: one for employees, one for self-employed and one for civil servants (which will not be discussed).

The system covers the following risks:

- Retirement and survivor's pensions
- Unemployment
- Work accidents
- Occupational diseases
- Family benefits
- Sickness and invalidity insurance
- Annual holidays (for blue collar workers).

The self-employed scheme does not cover unemployment (although a specific bankruptcy insurance exists) and work accidents and occupational diseases.

10.2 SOCIAL SECURITY SCHEME FOR EMPLOYEES

All Belgian employees working in Belgium receiving a salary are in general subject to social security. Foreign employees working in Belgium are in general also liable for social security contributions and entitled to the benefits of the scheme.

Citizens of an EU country, and of some non-EU countries with which Belgium has concluded a social security treaty, who are temporarily assigned to Belgium, or who are working both in Belgium and in their home country, will still be liable for social security contributions in their home country. In case of non-EEA (European Economic Area) nationals, certain formalities must be completed e.g. Limosa declaration.

Contributions are borne partly by the employer and partly by the employee. The basis for calculating contributions is the gross remuneration (multiplied by 1.08 in respect of blue collar workers). The employer's contributions amount to 32,4% (facial tariff) but a variety of different deductions exist. The employees' contributions amount to 13.07%. The employer's contributions will gradually decrease in the future from April 1st of 2016 till 2020.

For white collar workers the above mentioned percentages are in principle all-encompassing. For blue collar workers however, these percentages will differ depending on the sector to which the employer belongs.

There is also a difference regarding annual leave. Annual leave of white collar workers is paid directly by the employer, while for blue collar workers this is paid by a vacation fund. This means that the annual leave of blue collar workers is financed by specific social contributions paid by the employer. A quarterly fee of 6% calculated on 1.08 of the gross salary, and an annual contribution of 10.27% calculated on 1.08 of the gross salary of the previous year.

10.3 SOCIAL SECURITY SCHEME FOR SELF-EMPLOYED PERSONS

From 2015, the self-employed contributions are calculated on the professional income of the same calendar year. At the start, provisional contributions are paid. As soon as the final professional income is known, the contributions are regularized.

The self-employed scheme is funded by the self-employed themselves and characterized by a lower total level of quarterly contributions. As indicated above it results in a lower insurability compared with employees (resulting in a lower range of benefits), but the difference in amounts of coverage is gradually being overcome.



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