

A photograph of a Gothic building facade, likely the Brussels Town Hall, showing intricate stonework and a spire against a blue sky with light clouds.

# Doing Business in Belgium

This document describes some of the key commercial and taxation factors that are relevant on setting up a business in Belgium.



## Background

### Country overview

The Kingdom of Belgium is a country in northwest Europe bordered by the Netherlands, Germany, Luxembourg and France and is one of the founding and core members of the European Union.

Belgium has a population of over 11,4 million people, in an area of around 30.000 square kilometers (11.700 square miles). The country is divided into ten provinces and 589 communes.

Belgium has two main languages: 59% of its population speak Dutch (often referred to as Flemish); French is spoken by 40% in the southern region Wallonia and in the (officially bilingual) Brussels-Capital Region. Less than 1% of the Belgians live in the German-speaking Community in the east of Wallonia.

### Economic overview

Densely populated, Belgium is located at the heart of one of the world's most highly industrialized regions. Currently, Belgium's economy is heavily service-oriented and shows a dual nature: the dynamic Flemish part and Brussels which have a GNP/person which is one of the highest in the European union, and the Walloon economy which lags roughly one quarter behind (in GNP/person).

One of the founding members of the European Union, Belgium strongly supports the extension of the powers of EU institutions to integrate the member economies. In 1999, Belgium adopted the euro, the single European currency, which replaced the Belgian franc in 2002. The Belgian economy is strongly oriented towards foreign trade, particularly that of high value-added goods. The main imports are food products, machinery, rough diamonds, petroleum and petroleum products, chemicals, clothing and accessories, and textiles. The main exports are automobiles, food and food products, iron and steel, finished diamonds, textiles, plastics, petroleum products, and nonferrous metals.

### Transport infrastructure

Belgium has a particularly open economy. It has developed an excellent transportation infrastructure of ports, canals, railways and highways to integrate its industry with that of its neighbours.

Belgium has two important ports (Antwerp and Zeebrugge) and therefore has strongly developed maritime activities. The main international airport is located near Brussels (Zaventem).

## Choice of Legal Form



It is possible to set up a Belgian business through a variety of company forms and arrangements. The main types are set out below.

### Company

According to Belgian Company law, a company and its shareholders are separate legal persons. A Belgian Company therefore has rights and duties, independent of its shareholders and directors, and can take (or be the subject of) legal actions in its own name.

The two most widely used forms are:

The Public Limited Liability Company (in Dutch: Naamloze Vennootschap "NV", or in French: Société Anonyme "SA"):

An NV/SA is a company with share capital, in which shares can be bought and sold freely (subject to its articles of association and bylaws). This is generally the type of company dealt with on Euronext. The minimum initial capital is EUR 62.000,00 (fully paid up).

The Private Limited Liability Company (in Dutch: Besloten Vennootschap met Beperkte Aansprakelijkheid "BVBA", or in French: Société Privée à Responsabilité Limitée "SPRL"):

A BVBA/SPRL is an association of persons, frequently used by small businesses. The shares must be registered. The minimum initial capital is EUR 18.600,00 (with at least EUR 6.200 paid up) (or 12.400 EUR for a EBVBA).

Companies incorporated in Belgium must comply with the following legal requirements:

- Deed of establishment made up before a Belgian notary, to be published in the appendices of the Belgian Official Gazette;
- Registration in the Trade Register (in certain cases, after having obtained the necessary certificates of management and/or other skills);
- Where appropriate, activate a VAT number;
- Where appropriate, activate a social security number;
- Join a social Security Fund.

### Branch

A foreign company can also establish a branch the ability to deal directly with third parties.

The foundation of a branch involves much formal documentation, necessitating translation, legalisation or authentication (with an 'apostille stamp').

Belgian branches of foreign companies are subject to the same requirements as Belgian companies. Moreover, the annual accounts of the parent company are to be published, in their relevant format in Belgium.

### Partnership

The following types of partnerships may be established in Belgium:

- General partnerships;
- Temporary partnerships;
- Professional partnerships, which are used by members of specific professions, such as doctors or attorneys.

Depending on the type of company formed, the financial liability of the partners may be limited or unlimited.

### Joint venture

A joint venture generally involves a contract-based co-operation on a project between two or more parties, where they may agree to share expenses or income, or both, derived from the project. Its legal implications are to be determined in the joint venture contract by the parties concerned.

## Audit Requirements



A company is required to prepare full statutory accounts for the shareholders that show a true and fair view and comply with all necessary regulations.

Furthermore, “large” companies must adopt an independent auditor. Large companies those which exceed more than one of the following criteria:

- yearly average of staff: 50;
- yearly turnover (excl. VAT): EUR 10.000.000;
- total assets: EUR 3.650.000.

If the staff amounts to more than 100, a statutory auditor is always compulsory.

Members of groups that contain any of these types of company may also require an auditor.

Other recurrent legal requirements are:

- Accounts must be prepared in accordance with a standardized series of accounting principles and rules;
- A general meeting of shareholders must be held each year;
- The annual accounts must be published.

## Taxation



The Belgian tax system includes direct taxes, (individual income taxes and corporate income taxes), and indirect taxes (value-added tax, inheritance and gift taxes, registration fees and excise duties).

Regions and local authorities levy local taxes.

### Administration

The Federal tax office (Ministry of Finance), which is divided in different departments in accordance with the various taxes, administers the Belgian tax laws.

The assessment and collection of income taxes and VAT are controlled by the “administration of business and income taxes” (A.O.I.F.). In addition, there is a specialized department (BBI) with an

overall competence in all tax matters, which deals with the more substantive and difficult cases. Within the administration of direct taxes there are specific units which control, for instance, non-resident taxpayers, the financial and insurance industry and the real estate sector.

### Taxation of individuals

#### Belgian residents

An individual whose “place of living” or “seat of wealth” is located in Belgium is regarded as a Belgian resident. A Belgian resident is subject to Belgian income tax on their worldwide income. Exemptions with “progression - reserve” for certain types of income do exist, based on the Belgian double tax treaties.

The standard Belgian income tax rates are:

Rate	Tax Year 2016 (AJ) Income 2015	Tax Year 2017 (AJ) Income 2016
25%	Up to 8710 EUR	Up to 10.860 EUR
30%	from 8.710 EUR up to 12.400 EUR	from 10.860 EUR up to 12.470 EUR
40%	from 12.400 EUR up to 20.660 EUR	from 12.470 EUR up to 20.780 EUR
45%	from 20.660 EUR up to 37.870 EUR	from 20.780 EUR up to 38.080 EUR
50%	from 37.870 EUR	from 38.080 EUR

Each taxpayer is entitled to some personal deductions and allowances, for instance:

- Tax-free lump sum of 7090 EUR per person
- Additional tax-free lump sum for children (2016 = 1.520 EUR / 1 child – 3880 EUR / 2 children – 8700 EUR / 3 children)

The taxable basis consists mainly of immovable income, professional income, movable income, and miscellaneous income.

- Worldwide immovable income (rental income, leasing income, ...) is taxable in Belgium at the progressive tax rates mentioned above, as far as it is not exempted in virtue of a double tax treaty. The taxable amount is often determined on a (quite favourable) fixed basis.

- Worldwide professional income (wages, salaries, profits of an unincorporated business, ...) is taxable in Belgium at the progressive tax rates mentioned above, as far as it is not exempted by a double tax treaty. The taxable amount is determined as the gross income less social contributions and proven costs. For certain types of income, a fixed amount of costs can be deducted if the real amount cannot be proven.
- Worldwide movable income (interest, dividends, royalties) is taxable in Belgium in most cases at a rate of 25%, as far as there is no reduction in virtue of a double tax treaty. In general, costs cannot be deducted.
- Certain types of miscellaneous income (e.g. capital gains on certain types of immovable property) specifically mentioned in the Belgian Tax Code, are taxed at the progressive tax rates

mentioned above, or at special tax rates.

**Belgian non-residents**

Belgian non-residents are only taxed on their Belgian-sourced income. The tax rates are the same as those applicable for Belgian residents.

The taxable basis is determined in the same manner as for Belgian residents. Though, not all non-residents are entitled to all personal deductions. Only non-residents whose worldwide professional income is at least 75% taxed in Belgium, are entitled to almost all of them.

**Taxation of companies**

A resident company (one with its centre of activities or management in Belgium) is liable to corporation tax on its worldwide profits, including capital gains, and subject to exemptions in double tax treaties.

The 33% tax rate applies whether profits are retained or distributed, and is increased by a 3% crisis contribution (33,99%). Small companies meeting certain conditions are entitled to reduced rates.

24,98%	< 25.000 EURO
31,93%	25.000 - 90.000 EURO
33,54%	90.000 - 322.500 EURO
33,99%	> 322.500 EURO

Taxable income is based on the results as reported in the companies’ annual financial statements, including all profits and losses, capital gains and losses, dividends, interests, and royalties. Taxable profits are profits disclosed in the financial statements, but adjusted for disallowable expenditures, exempt profits, special deductions and losses carried forward. The most important adjustments are:

- 1) A deduction from gross income of 95% of inter-corporate dividends paid by resident and non-resident subsidiary companies to a qualifying Belgian company or branch may be applied, provided that:
  - the subsidiary has been subject to a corporate income tax similar to Belgian corporation tax;
  - the parent company owns a participation of at least 10% of the subsidiary’s capital or a participation whose acquisition value is at least EUR 2.500.000;
  - there is a minimum holding period condition of 1 year (to be extended to 2 years).
- 2) Capital gains on shares are exempted if:
  - the income of the gains is entitled to the deduction of 95% of inter-corporate dividends (the condition of the minimum participation and the minimum holding period need not be fulfilled);
  - the gains are realized (exception: shares sold within one year are taxed at 25% of the capital gain)



## Losses

Losses can be carried forward indefinitely. Losses cannot be carried back.

## Notional interest deduction

Every company is entitled to decrease its taxable profits with a percentage of its equity capital. This percentage amounts are:

- for tax year 2016 (income year 2015) to 1,63% and for some companies 2,13%.
- for tax year 2017 (income year 2016) to 1,131% and for some companies 1,631%.

As of income year 2012, any notional interest deduction built up in 2012 can be used until tax year 2019.

Belgian 'equity capital' includes capital, share premiums, reserves and carry-forward of profits. To discourage any abuse, the company's equity will be adjusted by eliminating, among others, the following items:

- The net fiscal value of the shares the company holds in its own share capital;
- The net fiscal value of shareholding recorded as financial fixed assets.

## Patent income deduction

Since the tax year 2008, there has been a tax deduction for new patent income. The tax deduction amounts to 80% resulting in an effective taxation of the income at the rate of 6,798%.



### Investment deduction

For certain investments in patents, environmentally friendly investments in research and development, energy-saving investments, and security equipment, a deduction from the taxable profits is allowed.

### Tax exemptions personnel

Certain tax exemptions can be applied for under certain conditions for engaging additional personnel, for example for the “head of the export”, head of the department “Quality Care”, trainees and low wage employees for small and medium enterprises.

### Capital gains tax

#### Individuals

For individual’s capital gains not related to self-employment activities are only taxed if they are derived from sales of land and buildings (other than one’s primary home) and from sales of a Belgian corporation’s shares to non-EER companies, if the taxpayer owns more than a 25% participation in the corporation (“miscellaneous income”). However, there are many exceptions.

Capital gains realized from fixed assets invested in an individual’s occupation or business are taxed at the normal progressive income tax rates (“professional income”). If these assets are held for more than 5 years before disposal, the

capital gains are separately taxed at the favourable rate of 16,5%, and tax may be waived when re-invested, subject to certain conditions.

### Companies

For companies, capital gains are normally regarded as ordinary business income, which is taxable at the normal corporation tax rates (33,99% or the reduced corporation tax rate where applicable). Nevertheless, there are exceptions:

- Realized gains on shares are exempted (see above);
- Deferred taxation for capital gains on certain fixed assets under certain conditions.

### Value-added tax, customs and excise duties

Value-added tax (VAT) is a sales tax, charged on the supply of goods and services provided in the course of business. A person who makes taxable supplies or delivers goods is liable to register for VAT if their yearly taxable turnover exceeds EUR 25.000 (as from April 1, 2016). Taxable persons must file a monthly or quarterly tax return reporting all taxable transactions made.

VAT is also charged on the importation of goods from non-EU countries into Belgium, the acquisition of goods from other EU member states, and the receipt of some international services in Belgium.

In general, the rate is 21%. For certain supplies, the rate is 6% (goods classified as necessities such as food) or 12% (services of a social nature).

### Inheritance tax and gift duties

The inheritance tax system in Belgium differs for individuals resident in Brussels, Flanders and Wallonia. For deceased Belgian residents, worldwide assets are brought into account. The rates will depend on the region and the relation to the deceased.

A gift tax is imposed on gifts of:

- immovable property located in Belgium;
- immovable property located outside of Belgium if the deed is registered in Belgium; and
- movable property if the gift is conveyed through a legal registered document.

### Registration fees

Registration fees are due in, amongst others, the following circumstances:

- Transfer of immovable property located in Belgium: 12,5% (Brussels and Wallonia) or 10% (Flanders). Actual changes are announced for the near future;
- Registration of renting and leasing contracts: 0,2%;
- No registration fees are due on the formation or increase of a company's share capital.



## Allowances



There are many grant schemes and incentives available to companies establishing factories, offices or distribution units in Belgium, that can help reduce the cost of investments. For example: There are a lot of investment incentives for small, medium-sized and big companies. They all refer to the expansion of a company in Belgium.

There are R&D grants available for the development of innovative products, especially for energy-saving investments or other environmentally friendly investments.

When a company contributes exports out of Belgium, it may be entitled to export grants. These grants can be attributed by the different Regions or by the Federal Government. When a company contributes to the European export, it may receive grants from the European Union. In Belgium some authorities, at the level of the Regions, grant incentives or cheap loans in addition to venture capital funding.

## Employment



An employer will need to ensure that a proper payroll is maintained and that the different taxes are paid, including national social security contributions. These arrangements are closely related to legal and tax issues, so it is important to look for professional advice on this issue.

### Social security

Belgian law requires Belgian individuals earning professional income, to make social security contributions.

- For individuals receiving wages or salaries, the rates for social security contributions are approximately 35%

(due by the employer) plus another 13,07% (due by the employee). The total amount (48,07%) is withheld by the employer and paid to the social security office.

- Self-employed persons pay their social security contribution to the social insurance fund they are affiliated to. The contribution consists of a percentage of the professional income of the self-employed, and is limited to approximately 16.473,60 EUR per year.

Please note that for Belgian tax purposes, directors are generally regarded as self-employed persons (and not as individuals receiving wages or salaries).

### Employee pensions

Many Belgian employers currently operate a company pension scheme. Contributions made under a contractual obligation to an approved employee pension fund are tax deductible up to certain limits. In the hands of the employee, under certain conditions the pension will only be taxed at a separate rate of 10% or 16,5% or 25%.

### Employee share schemes

There are several ways of providing attractive remuneration packages, including the use of the following employee share schemes:

- stock options;
- employers' participations;
- profit share.



## Withholding Taxes

Depending on double tax treaties, the withholding taxes mentioned below can be reduced or exempted.

### Interest

Interest from Belgium companies is paid after deduction of a withholding tax of 27% standard rate (reduction possible under certain conditions).

Savings is the exception:

- First interest tranche of 1880 Euro/ person (in 2016): exempt from withholding tax (natural persons only)
- Above 1880 euro: bank keeps a withholding tax of 15%

Based on the EU Savings and Royalties Directive, which has been converted into Belgian Tax Law, interest payments to qualifying related parties within the EU are exempted from withholding taxes.

### Royalties

All royalties and copyrights are paid under deduction of tax at 27%.

Based on the EU Savings and Royalties Directive, which has been converted into Belgian Tax Law, royalty payments to qualifying related parties within the EU are exempted from withholding taxes.

### Dividends

Dividends from Belgian companies are paid after deduction of a withholding tax of 27%.

According to the EU parent-subsidiary directive, no withholding tax on dividends is due if:

- at the time the dividends are distributed, the parent company holds a minimum participation of 10% in the capital of the subsidiary;
- this participation was or will be held uninterruptedly for a minimum period of 1 year; (to be extended to 2 years).
- both the parent company and the subsidiary are companies with legal form explicitly described in the EU parent subsidiary directive.

Under these conditions, no withholding tax is due if the parent company is established in a country outside the EU either, as long as Belgium has a double tax treaty and exchanges information with the country of the parent company.

## Miscellaneous



For tax purposes, investing in Belgium can be beneficial.

### Holding regime

Belgium has a very favourable holding regime. The holding is a normal Belgian company, taxed under the normal Belgian corporate tax regime. The main advantages of using a Belgian holding are the following:

- Incorporation of a new Belgian company in less than a week;
- No registration fees on capital contributions;
- No annual wealth or capital taxes;
- No taxation of realized capital gains on shares in most cases;
- 95% of qualifying dividends received can be deducted from the taxable basis;
- Interest expenses as well as any other costs relating to the acquisition and/or management of participations can be offset against any other income of the holding company;
- A very favourable double tax treaty network (e.g. Hong Kong);
- The exemption of withholding tax on dividends is not only applicable within the EU, but also for all countries with which Belgium has concluded a double tax treaty. Only a 10% participation is required and there are no limitations on benefits.



### Financing vehicles

The newly introduced “notional interest deduction” (see above) made Belgian intragroup financing vehicles popular.

The following optimisation can be envisaged:

- A foreign parent company contributes intra-group advances to the Belgian financing vehicle;
- The Belgian financing vehicle gives loans to the other group companies;
- The interest received by the Belgian financing vehicle can be offset against the notional interest deduction. As such the effective tax rate of the financing vehicle will be less than 10%.

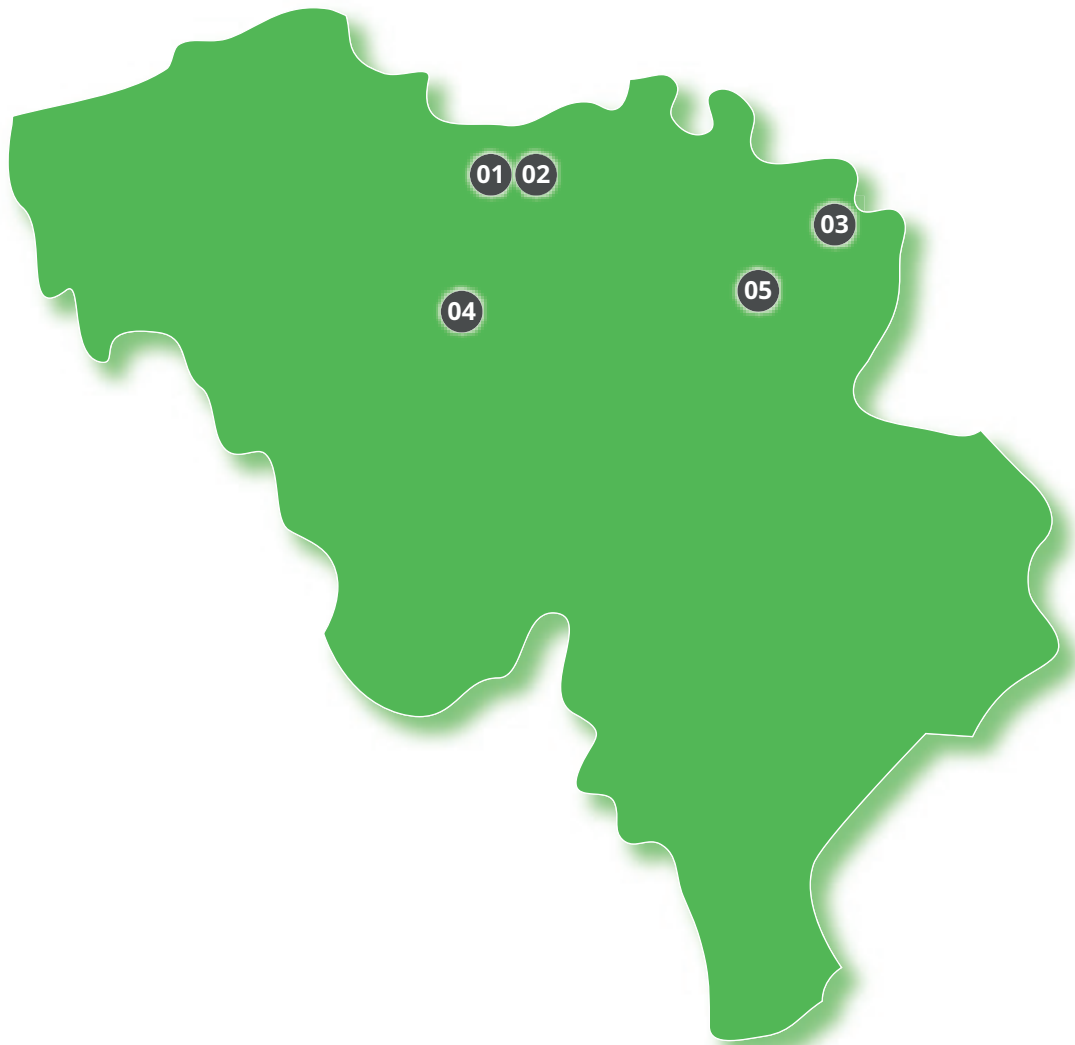
If these conditions are met, the employee will have the following benefits:

- Income for work performed outside Belgium is not subject to Belgian tax, even if it is paid by a Belgian company or permanent establishment (“travel exclusion”);
- Additional tax-free allowances for international school costs, and one-time costs.

### Expat regime

The Belgian tax authorities have set up a system for taxing foreign employees who work for employers which are part of an international group. The conditions are:

- Employee has a function which requires special knowledge or responsibility;
- They are detached by a foreign company to work in a Belgian subsidiary or permanent establishment;
- They stay only temporarily in Belgium, and their “centre of economic interests” stays outside Belgium;
- The application is filed within 6 months after arrival in Belgium.



**This document is provided by Juribel BVBA as a general overview of matters to be considered when setting up an overseas business in Belgium. It is essential to take advice on specific issues. No liability can be accepted for any action taken or not taken arising from the information provided in this publication.**

If you are setting up a business in Belgium, the members of DFK International can help you to achieve this efficiently. You will receive practical advice on business issues, tailored to meet your objectives, from experienced business advisers.

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