New Tax Regime for Expatriates in Belgium

Webinar
23 November 2021
1. Setting the scene
2. New tax regime - what we know today
3. Transitional measures
4. Call to action
1
Setting the scene
Current expatriate tax regime

1. **Circular letter of 1983**
   - Not embedded in law
   - Limited changes over the years
   - Increased scrutiny

2. **Pain points stemming from deemed non-resident status**
   - Exchange of information (CRS / FATCA)
   - No treaty protection
   - Possible taxation abroad

3. **Other pain points**
   - Possible State Aid
   - Discrimination against free movement
   - Budgetary impact
New expatriate tax regime

1. Still draft legislation

2. Provide more legal certainty

3. Less complex and more transparent?

Belgian government to reform tax regime for expats

Budget also includes a tax on short flights.

La présente section instaure un régime spécial d'imposition, d'une part, pour les contribuables impatriés (le régime spécial d'imposition pour les impatriés, ci-après le "RSII"), et d'autre part, pour les chercheurs impatriés (le régime spécial d'imposition pour les chercheurs impatriés, ci-après le "RSIII").

Ces deux nouveaux régimes octroient des avantages identiques et visent, dans leur principe, à attirer en Belgique du personnel qualifié venant de l'étranger. Seuls leur champ d'application personnel et leurs conditions diffèrent légèrement.

L'introduction de ces nouveaux régimes dans le CIR 92 coïncide avec l'abolition du régime spécial des cadres et chercheurs étrangers qui était régi par la circulaire n° CI-RH 62/125,264 du 8 août 1983 (ci-après, respectivement, "l'ancien régime" et la "circulaire du 8 août 1983").

Fiscale vleugels expats worden bijgeknipt

Het aantal expats dat een fiscaal gunstregime geniet, stijgt jaar na jaar. Maar vanaf volgend jaar wordt het wel fiscaal iets minder aantrekkelijk om expat in België te zijn.

Christof Vanscheeuwbrok
Maandag 18 oktober 2021 om 3.25 uur

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New tax regime: what we know today
Introduction of 2 new tax regimes

01 Regime for Inbound Taxpayers
   BBIB/RSII

02 Regime for Inbound Researchers
   BBIO/RSICI
Conditions for the employer

**Old expatriate tax regime**

- A Belgian company part of an international group
- A subsidiary, branch office or permanent establishment of a foreign company part of an international group
- A scientific research center

**New expatriate tax regime**

- A Belgian company part of an international group (for inbound researchers: not required to be part of an international group)
- A Belgian establishment of a foreign company
- A non-profit association
Conditions for the individual

Old expatriate tax regime

• Employee (or self-employed Director)
• Directly recruited from abroad or assigned to Belgium
• Maintain personal and economic ties abroad
• Exclusively perform activities with special knowledge and/or responsibility
• Employment in Belgium should be temporary in nature
• Not hold the Belgian nationality

New expatriate tax regime

• Employee or self-employed Director (Inbound Researchers only employees)
• Directly recruited abroad or assigned to Belgium
• In **60 months** preceding start of employment in Belgium
  - Not have been considered a Belgian resident taxpayer
  - Not have resided less than 150 km from the Belgian border
  - No taxable employment income as a non-resident
• Minimum remuneration of **75,000 EUR** per annum (not applicable for Inbound Researchers)
• Limited in time up to 8 years per taxpayer (5 + 3)
• Belgian (or dual) nationals can qualify
Every employee that, alone or in group, exclusively or primarily, carries out research activities of a scientific, fundamental, industrial or technical character, in a laboratory or an enterprise carrying out one or more programs for research and development.
Zoom in: annual salary threshold of 75,000 EUR

1. **Gross remuneration**
   Before deduction of social security contributions, including holiday pay, 13th month, bonus, equity, benefit in kind

2. **Excluding**
   - Severance pay
   - Replacement income
   - 30% cost proper to the employer

3. **Annual assessment**
   If threshold is not met, tax regime will be lost permanently

4. **Pro rata**
   In case of partial year employment

5. **Only activities in Belgium**
   Income outside Belgium (e.g. salary split) will not be taken into account

6. **Indexation**
   Every three years, earliest for income year 2024

<table>
<thead>
<tr>
<th>Base salary</th>
<th>Bonus Company car</th>
<th>CPE (30%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>50,000 EUR</td>
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<tr>
<td>80,000 EUR</td>
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<td>104,000 EUR</td>
</tr>
</tbody>
</table>
Benefits

Old expatriate tax regime

• (Deemed) non-resident taxpayer
• Tax-free allowance limited to 11.250 EUR / 29.750 EUR
• Travel exclusion on non-Belgian workdays
• Tax-free payment or reimbursement by employer of certain non-recurring expenses (moving, installation)
• School fees paid or reimbursed by the company are not considered taxable income if certain conditions are met

New expatriate tax regime

• Normal residency rules apply
• Tax-free allowance for costs related to employment in Belgium
  ▪ Cost proper to the employer
  ▪ Limited to 30% of remuneration
  ▪ Capped at 90,000 EUR per year
• Tax-free payment or reimbursement by employer of certain non-recurring expenses
  ▪ Moving costs to Belgium
  ▪ First installation costs, limited to one month’s rent
  ▪ School fees if certain conditions are met
Normal residency rules

Normally considered as tax resident of Belgium, unless it can be proven that individual should be considered as non-resident based on the income tax treaty

**Resident**
- Worldwide
- Including foreign income (real estate, investment income, …)
- In-scope for stock exchange tax, Cayman tax, reporting of foreign bank accounts, foreign life insurances, …

**Non-resident**
- Resident certificate of home country should be provided annually

Normal residency rules will apply.
### Zoom in: allowance for costs related to employment in Belgium

#### On top of the remuneration

- Limited to 30% of the remuneration, excl CPE
- Deemed to cover recurring costs related to employment in Belgium (housing in Belgium, cost of living, home leave, emergency leave)
- Can be combined with for example rep allowance, home work allowance

#### Capped at 90,000 EUR per year

- Impact on higher salaries
- Not pro-rated

#### Exempt from tax, also from social security?

- Still to be confirmed by social security authorities

<table>
<thead>
<tr>
<th>Remuneration (EUR)</th>
<th>No CPE unless researcher</th>
<th>CPE 23,077 EUR</th>
<th>Gross remuneration 76,923 EUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>75,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>100,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>450,000</td>
<td>CPE 90,000 EUR</td>
<td>Gross remuneration 360,000 EUR</td>
<td></td>
</tr>
</tbody>
</table>
## Case 1

### Role:
Procurement director

### Benefiting from current regime:
3 years

### Details

<table>
<thead>
<tr>
<th>Description</th>
<th>Current regime 25%</th>
<th>Current regime 10%</th>
<th>New regime</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Travel</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gross remuneration</strong></td>
<td>100.000</td>
<td>100.000</td>
<td>100.000</td>
</tr>
<tr>
<td><strong>Costs proper to the employer (CPE)</strong></td>
<td>-11.250</td>
<td>-11.250</td>
<td>-23.077</td>
</tr>
<tr>
<td><strong>Gross remuneration (excluding CPE)</strong></td>
<td>88.750</td>
<td>88.750</td>
<td>76.923</td>
</tr>
<tr>
<td><strong>Belgian EE social security</strong></td>
<td>-11.600</td>
<td>-11.600</td>
<td>-10.054</td>
</tr>
<tr>
<td><strong>Taxable income before travel exclusion</strong></td>
<td>77.150</td>
<td>77.150</td>
<td>66.869</td>
</tr>
<tr>
<td><strong>Travel exclusion</strong></td>
<td>-19.288</td>
<td>-7.715</td>
<td></td>
</tr>
<tr>
<td><strong>Taxable remuneration</strong></td>
<td>57.863</td>
<td>69.435</td>
<td>66.869</td>
</tr>
<tr>
<td><strong>Belgian income taxes</strong></td>
<td>-20.775</td>
<td>-27.029</td>
<td>-25.663</td>
</tr>
<tr>
<td><strong>Costs proper to the employer (CPE)</strong></td>
<td>11.250</td>
<td>11.250</td>
<td>23.077</td>
</tr>
<tr>
<td><strong>Travel exclusion</strong></td>
<td>19.288</td>
<td>7.715</td>
<td></td>
</tr>
<tr>
<td><strong>Net remuneration</strong></td>
<td>67.625</td>
<td>61.371</td>
<td>64.283</td>
</tr>
<tr>
<td><strong>Cost to company</strong></td>
<td>122.188</td>
<td>122.188</td>
<td>119.231</td>
</tr>
</tbody>
</table>

- Based on draft legislation and current positions
- Assuming the CPE are exempt from Belgian social security contributions
- Excluding personal income
### Case 2

**Role:** Managing Director

**Benefiting from current regime:** 3 years

**Details**
- **Travel:** 25% / 10%
- **Gross remuneration:** 400,000 EUR
- **Location (home):** UK
- **Family situation:** Single

<table>
<thead>
<tr>
<th></th>
<th>Current regime 25%</th>
<th>Current regime 10%</th>
<th>New regime</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>All figures in EUR</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross remuneration (including CPE)</td>
<td>400,000</td>
<td>400,000</td>
<td>400,000</td>
</tr>
<tr>
<td>Costs proper to the employer (CPE)</td>
<td>-11,250</td>
<td>-11,250</td>
<td>-90,000</td>
</tr>
<tr>
<td>Gross remuneration (excluding CPE)</td>
<td>388,750</td>
<td>388,750</td>
<td>310,000</td>
</tr>
<tr>
<td>Belgian EE social security</td>
<td>-50,810</td>
<td>-50,810</td>
<td>-40,517</td>
</tr>
<tr>
<td>Taxable income before travel exclusion</td>
<td>337,940</td>
<td>337,940</td>
<td>269,483</td>
</tr>
<tr>
<td>Travel exclusion</td>
<td>-84,485</td>
<td>-33,794</td>
<td>-</td>
</tr>
<tr>
<td>Taxable remuneration</td>
<td>253,455</td>
<td>304,146</td>
<td>269,483</td>
</tr>
<tr>
<td>Belgian income taxes</td>
<td>-124,988</td>
<td>-151,972</td>
<td>-133,520</td>
</tr>
<tr>
<td>Costs proper to the employer (CPE)</td>
<td>11,250</td>
<td>11,250</td>
<td>90,000</td>
</tr>
<tr>
<td>Travel exclusion</td>
<td>84,485</td>
<td>33,794</td>
<td>-</td>
</tr>
<tr>
<td><strong>Net remuneration</strong></td>
<td>224,202</td>
<td>197,218</td>
<td>225,963</td>
</tr>
<tr>
<td><strong>Cost to company</strong></td>
<td>497,188</td>
<td>497,188</td>
<td>500,000</td>
</tr>
</tbody>
</table>

- Based on draft legislation and current positions
- Assuming the CPE are exempt from Belgian social security contributions
- Excluding personal income
Formalities

1. Application to be filed by employer
   Details still to be determined by Royal Decree

2. Within 3 months
   Following start of activities in Belgium

3. Decision
   Within 3 months following receipt of application

4. Extension after 5 years
   New application in case of extension after 5 years

5. New employer
   New application in case of new employer

6. Annual listing by employer
   By 31 January of the year following the calendar year
3 Transitional measures
## Transitional measures

<table>
<thead>
<tr>
<th>Timeline</th>
<th>1/01/2022</th>
<th>30/06/2022</th>
<th>2023</th>
<th>2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>New expatriates meeting the conditions</td>
<td>Individuals arriving as from 1/01/2022 can only benefit from the new regime</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Current expatriates meeting the conditions for new regime</td>
<td>New regime for remaining period up to maximum 8 years following the start of the employment in Belgium</td>
<td></td>
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</tr>
<tr>
<td>Current expatriates not meeting the conditions for new regime</td>
<td>Fade-out – continue current expat regime – maximum 2 years*</td>
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<tr>
<td><strong>Option to switch to new regime</strong></td>
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<td></td>
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</tr>
<tr>
<td>• If less than 5 years under the current concessions</td>
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<td></td>
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</tr>
<tr>
<td>• Opt-in is final, even if application would be denied</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>• File application before 31/07/2022</td>
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<tr>
<td><strong>Fade-out still to be confirmed in addendum to the Circular Letter of 8 August 1983</strong></td>
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</tbody>
</table>
4

Call to action
**Action points**

- **Impact review**
  - Review current population
  - Budget impact - include personal income in assessment?
  - Impact on contractual arrangements and policy

- **Communication**
  - To employees who are no longer eligible
  - To employees who need to switch
  - To new joiners
  - To stakeholders

- **Prepare**
  - Contractual arrangements
  - Instructions for payroll
  - Tax equalization policy
5 most important changes (draft legislation)

1. **30% exemption**: 30% of the salary will be considered as cost proper to the employer and exempt from taxes and social security *(to be confirmed)* with a maximum cap of 90,000 EUR.

2. **New conditions**: although several conditions are similar, there will be a few new conditions including a 150 km border limit.

3. **Residency**: expatriates will no longer be considered as ‘deemed non-residents’ and will be subject to normal residence rules.

4. **Minimum salary requirement**: there will be a minimum salary requirement of 75,000 EUR. This minimum is excluding the cost proper to the employer of 30%. This does not apply for researchers.

5. **Limitation in time**: the new regime will be applicable for a period of 5 years, to be extended with 3 years.

Call to action

- **Prepare** for the new requirements of the new expatriate tax regime.
- **File application for the existing tax regime** by the end of 2021 at the latest.
- **Review** the current expat population to determine who needs to switch to the new expatriate regime.
- In case current expatriates would like to switch to the new regime, an application request should be filed by **31/07/2022** at the latest.

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**Headlines**

- As a transition measure, the existing expatriate tax regime will remain applicable for 2 years (2022 & 2023), but only for application requests filed by 31/12/2021.

- **Possibility to opt-in.** Expatriates who are currently benefiting from the expatriate tax regime, might opt for the new regime if the conditions are fulfilled. They need to file a application by 30/06/2022.

- **The new regime will in certain cases be more beneficial** as a lump sum exemption of 30% will apply.

- Under the new regime, expatriates will become Belgian tax residents, unless they can provide a residence tax certificate from their home country. This means that they will need to report worldwide income, including their investment income.
Thank you
Q&A