



GMS Flash Alert

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Belgium - Expatriate Tax Regime Bill Closer to Passage, More Changes Announced

In our 24 November 2021 [report](#), we provided details of the new legislation (currently in draft form) on the Belgian expatriate tax regime. Further changes were announced on 1 December 2021.¹

The draft law still has to be voted on in Parliament before it becomes law; this is expected to happen at the end of December 2021.

WHY THIS MATTERS

The planned changes may dramatically impact the tax treatment of expatriates in Belgium and could affect international assignment policies, the costs of sending expatriate employees to Belgium, and the planning of assignments to Belgium.

It is important to note that taxpayers who qualify for the expatriate tax regime under the new rules will be subject to normal residence rules, unless they can prove they are resident in another country (e.g., their home country). This will have an impact on, among other things, the taxpayers' obligation to report worldwide income – including investment income – in their annual income tax returns.

Qualifying Employee/Director

The scope of the definition of “qualifying individuals” has been broadened. In addition to employees and company directors of “category 1” (director mandate and similar functions), also certain company directors of “category” 2 (individuals who are assigned to perform a leading function/activity of daily management of a commercial, financial, or technical nature) can qualify for the expatriate tax regime. The company director should in any case be involved in the

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daily management of the company. (As a reminder, company directors are not eligible for the expatriate tax regime for inbound researchers.)

Benefits of New Expatriate Tax Regime

As explained in our previous [GMS Flash Alert](#) on the topic, the costs proper to the employer which are considered tax-free are equal to 30 percent of the gross remuneration with a cap of EUR 90,000. It has now been clarified that the 30 percent is a maximum lump-sum tax-free amount and that no further details/supporting documents of the covered costs should be provided to the Belgian tax authorities.

The maximum cap of EUR 90,000 for tax-free allowances is to be prorated in incomplete tax years.

The reimbursement of tax-free costs proper to the employer up to 30 percent under the new regime should be contractually agreed in writing between employer and employee (and if applicable, a revision of the contractual agreement following indexation of the minimum salary of EUR 75,000 and the cap of EUR 90,000 of the tax-free allowances will be required). Absent such contractual agreement, a 30-percent lump-sum tax-free reimbursement of cost proper to the employer will not be accepted by the Belgian tax authorities.

The costs relating to the furnishing of the home in Belgium will be limited to a maximum amount of EUR 1,500.

Duration of New Expatriate Tax Regime and Transitional Measures

Expatriates who are benefiting from the current expatriate tax regime can opt in for the new expatriate tax regime if certain conditions are fulfilled. The application for an opt-in should be filed by 31 July 2022, i.e., one month extra compared to the earlier announced due date.

The conditions to qualify for the new expatriate tax regime should be respected as of the start of the employment in Belgium.

Expatriates who do not opt in to the new regime or who are denied the opt-in by the Belgian tax authorities would still be eligible for the current expatriate tax regime for two years (income years 2022 and 2023).

Next Steps

It is expected that the law on the new expatriate tax regime will be published in the Belgian official gazette by the end of December 2021. We will inform you on any further changes at that time.

FOOTNOTE:

1 See “Accord sur le budget, les réformes et les investissements” on the Belgian prime minister’s website at: <https://www.premier.be/fr/accord-sur-le-budget-les-r%C3%A9formes-et-les-investissements> .

For documents and texts related to the budget, see the webpage of the *Chambre des représentants* (the legislature), by clicking [here](#).

For the status of the draft budget law, see the weekly newsletter (*semaine du 29 novembre au 3 décembre 2021*) of the *Chambre des représentants* (section on the *Commission des Finances et du Budget* (in French)) by clicking [here](#).

Also, see the report (DOC 55 2291/003) (in French) from the *Chambre des représentants* dated 26 November 2021 (page 52) containing the fiscal analysis by the *Cour des Comptes* on the revisions to the expatriate tax regime by clicking [here](#).

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Belgium:



Ferdy Foubert

Tel. + 32 2708 3817

ferdyfoubert@kpmg.com



Ilse De Mesmaeker

Tel. + 32 2708 3737

idemesmaeker@kpmg.com

The information contained in this newsletter was submitted by the KPMG International member firm in Belgium.

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