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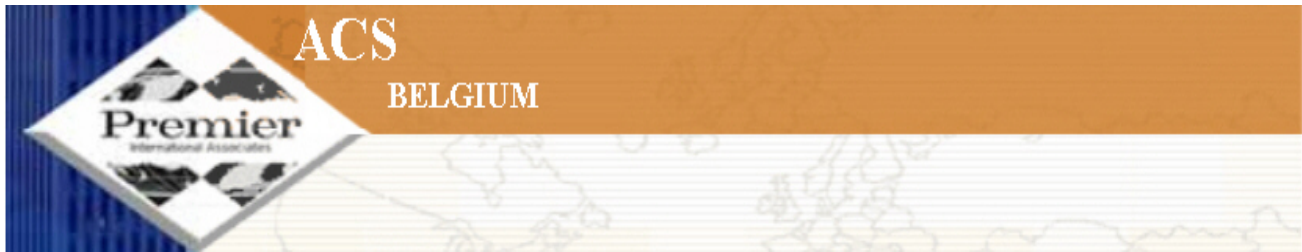
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## 1 Belgian taxes attractive for expats - The Belgian expat regime

### 1.1 The identification

In certain cases Belgium is not necessarily so expensive when it comes to personal income taxes even though international comparisons paint a different picture.

Foreign managers seconded to Belgium can profit from special tax conditions. Belgian tax authorities regard managers and specialized personnel who are seconded to Belgium on a temporary basis as non-residents even if they actually live in Belgium ("tax fiction") and that means they can even enjoy certain personal tax deductions equal to a Belgian resident.

In fact expats are resident but basically they are not. As a result they are not taxed in Belgium on income from capital held abroad nor on income earned from work done outside Belgium. They are only taxed on income paid for work carried out in Belgium at a same rate as regular Belgian residents. It is normally the case that everyone who resides in Belgium is taxed on their global income thereby taking into account the double tax treatments.

In addition Belgium offers the advantage compared with other countries that the term "temporary" is not further specified in the legislation. For instance in the Netherlands the temporary nature of the secondment is limited to five years.

This specific legislation not only applies to managers but also to personnel who cannot easily be hired in Belgium. In such cases the employer must provide evidence that this condition is fulfilled. Alongside managers and specialized personnel the legislation applies to directors and scientific researchers. Staff must be of a foreign nationality and either seconded to a Belgian branch or subsidiary from outside companies or directly hired abroad by a Belgian company related to a multinational group to work temporary in Belgium. Staff identified as lower function such as administrative or secretary staff is not considered.

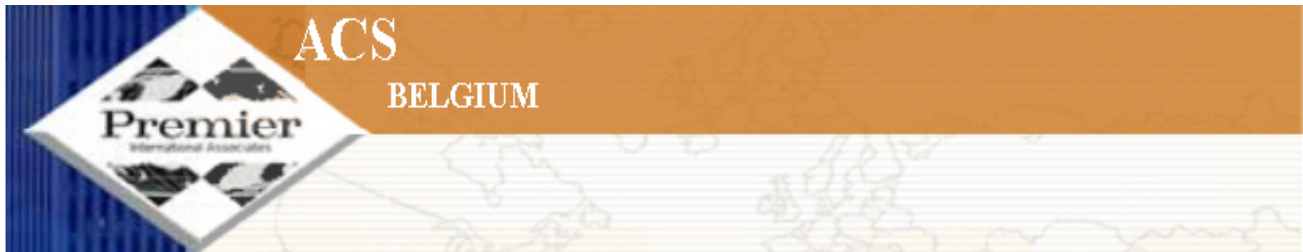
### 1.2 The tax benefit

#### 1.2.1 Tax free reimbursements

The regime also has another important benefit. It is assumed that working in Belgium entails certain extra costs. A part of these costs are paid back by the employer and are so called "costs inherent to the employer". This part of costs is considered tax-exempt. It includes such costs as education (costs for international schools), annual travel to the country of origin, the difference in housing costs between both countries ("housing allowance"), the difference in cost of living ("area cost allowance") and the difference in taxation rates ("tax equalization"). The latter is highly significant. If you come from a country where the tax rate on income is not as high as the tax rate on income in the employment country, employers may reimburse the employee this difference free of tax. Nevertheless the amount of costs inherent to the employer is not unlimited. The legislation makes a distinction between one-off costs such as relocation costs, furnishing costs, etc. where there is no limit. A cap is however placed on the tax-exempt reimbursement of costs such as housing and general living costs. The maximum amount is 11.250 € with the exemption of education costs which are unlimited. There is also a special rule for supervising employees of audit and headquarters and scientific research centres of laboratories; they have a maximum limit of 29.750 €.

#### 1.2.2 Tax fiction

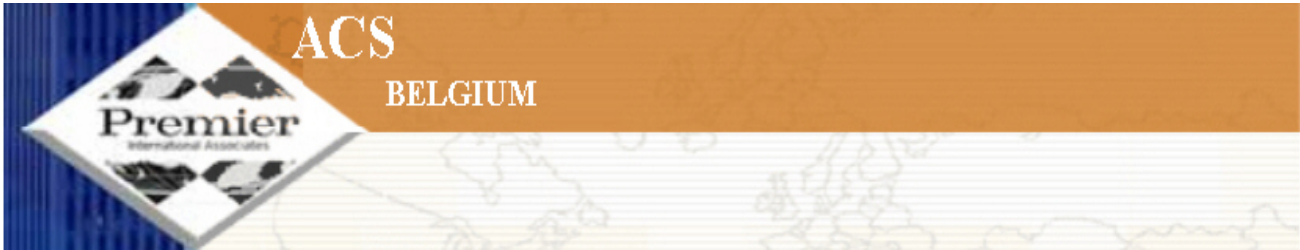
The tax fiction, in combination with double tax treatments, can result in tax exemption for the income part of temporary missions of staff outside Belgium because the Belgian tax levy is strictly limited to "in the country activities". As a result, the combination of partial tax free income with tax free reimbursements seems to be a dreamed destination for "ex-pats".



### 1.3 Conclusion

Belgian government is enthusiastic about an auspicious tax regime that has no legal base and reflects a violation of a constitutional equality principle. There is no talk about tax evasion but most probably about tax avoidance.

To conclude a remark about the administrative recognition of expats. The Foreign Federal Tax Department director takes autonomous decisions about permissions for the Expat regime and no legal appeal is possible. However, in practice there are not many disputations about adjudication.



## 2 The taxation of expatriates in Germany

When we discuss the taxation of expatriates in Germany we first of all have to understand some general rules concerning the taxable status of persons in Germany.

In Germany a person may be subject to unlimited taxation (based on global income) or to limited taxation based on income from German sources.

Unlimited taxation is given when a person is either resident in Germany or stays in Germany for more than 183 days in one calendar year. Unlimited tax liability extends over global income with the exemptions provided by double taxation treaties.

Further, citizens of the EU or the European Economic Area (EEA) not resident in Germany who perceive more than 90 % of their income from German sources may on demand register for unlimited taxation in Germany and thus be treated like a person resident in Germany.

Non-EU citizens not resident Germany may also apply for unlimited taxabel status in Germany (if they perceive more than 90% of their income from Germany) but find certain restriction with respect to family allowances.

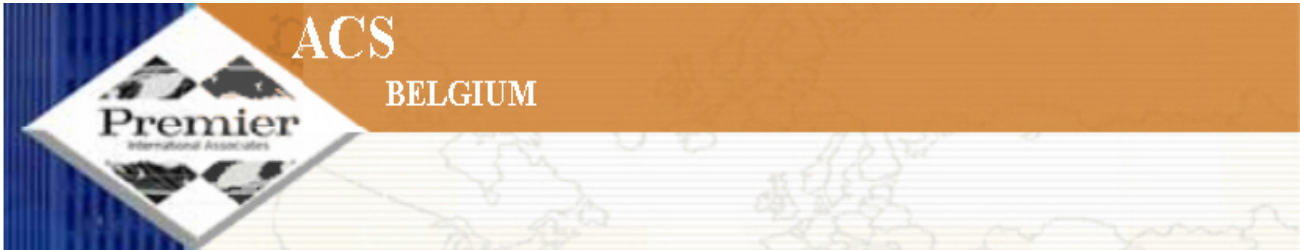
A person not resident in Germany is subject to taxation limited to certain income from German sources (mostly income from imovable properties and from permanent establishments, salaries, license fees, dividends). Here again double taxation treaties may overrule German tax law.

So Expatriates receiving salaries for employment exercised in Germany are, as a general rule, subject to German income taxes. This is provided by German tax law as well as by most of the double taxation treaties. If the expatriate resides in Germany then his or her tax liability covers global income.

The employer is obliged to withhold the tax on the salary (together with social security contributions) from the monthly pay. The withholding tax meets the full tax liability. A further (annual) tax declaration is not required, may however be filed on demand (which is recommended when the employee can expect a refund).

An Expatriate working for a group who exercises his employment in Germany as well as in other countries where the group has establishments may chose to split his salary between these countries. Thus he or she may take advantage of the lower end of the relevant tax bracket. In Germany up to an annual salary of 10 K€ no taxes are due. For a salary of 30 K€ the tax liability is approx 16%. An annual salary of 50 K€ would lead to a tax of approx. 22%.

Concerning social security contributions the following rules are proved for Expatriates. An employee being sent from one country of the EU/EEA to another country of the EU/EEA may be exempted from social security contributions in the host country for no more than three years if he continues to pay social security contribution in his home country. If the employee is employed in two or more countries of the EU/EEA he continues to pay social security contributions in his country of residency.



### **3 An attractive French tax system for inpatriates**

As of January 1, 2008, a new income tax exemption scheme has been instituted for people who have come to work in France.

#### **3.1 Beneficiaries**

The scheme is applicable to salaried employees or senior staff who are called in from other countries to occupy a post in a company established in France or who are directly recruited abroad by a company established in France.

The tax exemption also benefits non-salaried persons who set up residence in France no later than December 31, 2011 after obtaining the relevant authorization.

The exemption – both for salaried and non-salaried persons – is applicable to those who have not been tax domiciled in France for five calendar years prior to assuming their duties.

The exemption covers the period ending on 31 December of the fifth calendar year following the year of assumption of the post in terms of tax domiciliation years in France.

#### **3.2 Income exempted**

##### **3.2.1 Inpatriation bonus**

Salaried employees or senior management can choose between two types of exemption.

They may choose the exemption of the actual amount of components in their remuneration that are linked to their status as inpatriates. The exemption shall apply, in particular, to:

- The inpatriation bonus. These are additional amounts paid over and above the remuneration and are directly linked to the temporary practice by the concerned person of his or her professional activities in France.
- And the compensation paid for settling-in expenses in France.

They can also opt for a fixed lump sum exemption of 30% of their remuneration. This option enables people who are unable to submit proof of any basic remuneration in their country of origin to avail of the exemption.

For each individual person, exemption is granted up to the following limits:

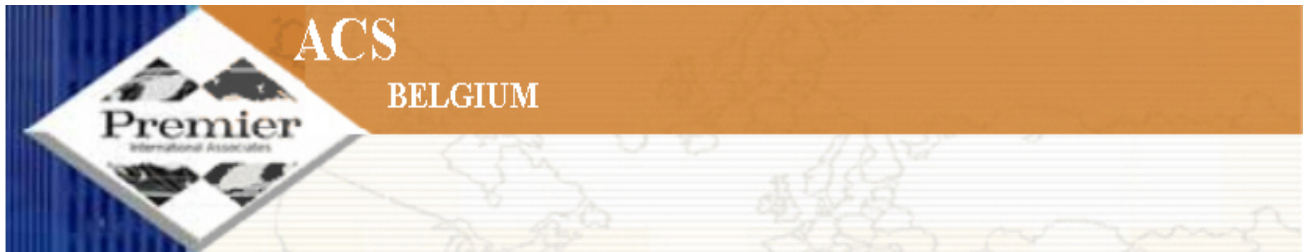
- Either the fraction of the remuneration exempted for the work undertaken in France and abroad is limited to 50% of the total remuneration;
- Or the fraction of the remuneration exempted for the work undertaken abroad is limited to 20% of the taxable remuneration resulting from work undertaken in France, assessed while excluding the inpatriation bonus.

##### **3.2.2 Exemption of passive income from foreign sources**

During the period in which they benefit from an exemption on their remuneration, salaried and non-salaried persons are also exempted from income tax up to 50% of the amount of the following incomes: income from transferable capital, royalties and income from industrial property and gains on disposal of securities and ownership rights.

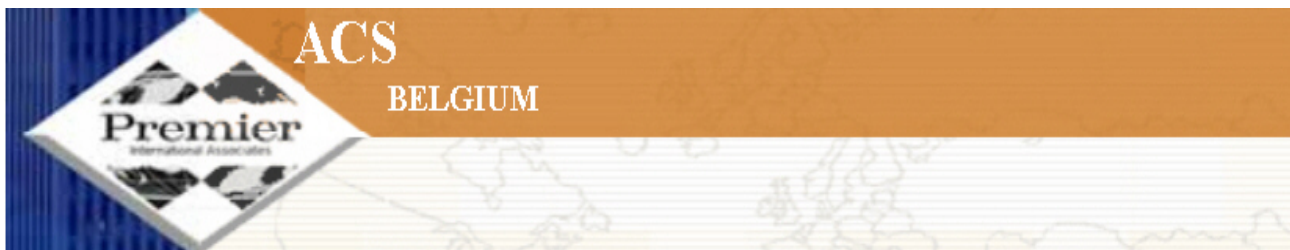
#### **3.3 Social welfare: Exemption from affiliation to old age insurance**

In France, all those practicing an activity must be affiliated to a compulsory social security scheme. Henceforth, inpatriates are exempted from making their pension contributions, if they submit an application to this effect. To be able to claim an exemption from affiliation, foreign salaried employees must, in addition, submit proof of an old age insurance scheme and should not have been affiliated to a compulsory French old age insurance scheme in the five years preceding the application. Furthermore, salaried employees whose employer is located within the territory of a country in the Economic Area or of a signatory country to a bilateral convention can avail of an exemption from affiliation to French social security systems.



### 3.4 Conclusion

As a further step towards improving competitiveness and appeal at the European Union level, the French government has established a highly attractive exemption scheme for inpatriates. In fact, this mechanism allows them to avail of an exemption on a part of their remuneration for professional activities and of their financial investments.



## 4 The Netherlands' 30% arrangement for foreign extraterritorial employees

### 4.1 Globally

The Netherlands has a tax facility for employees who are employed outside the Netherlands or are sent abroad by someone who is subject to deduction outside the Netherlands. This facility was created because these extraterritorial employees are considered as incurring extra costs, in connection with the fact that they go to work outside their country of origin. In addition to their salary for the work they do, under certain conditions, these employees may receive a tax-free payment.

With the introduction of the Income Tax Act 2001, it was decided in the Wages and Salaries Tax Act 1964 that the reasonably incurred extra costs of temporary residence outside their country of origin, so-called extraterritorial costs, should be tax-free payments. In this way, the 30% arrangement has replaced the cost deduction system with a tax-free payments system.

### 4.2 Scope of tax-free payment

When an employee qualifies as an extraterritorial employee his employer can pay his extraterritorial costs (tax-)free by providing a lump sum payment (of extraterritorial costs) up to a maximum sum of 30% of the salary. In deciding whether costs can be considered for tax-free payment, it must be established whether these are the business costs, other costs (of a more private nature) or extraterritorial costs.

In the case of extraterritorial costs, these must be costs that can largely be attributed to the fact that employee is in another country. Any costs the employee might have incurred in his country of origin are not extraterritorial costs. In order to support this in practice, in a Decree the Secretary of State for Finance has formulated the most frequent payments that, in his view, qualify as extraterritorial costs. Amongst others, the following are mentioned:

- Extra costs as a result of the fact that the cost of living in the country where employees are working is higher than in their country of origin.
- Costs of applying for a residence permits, visas, driving licences, for example.
- Costs of travel to the country of origin to visit family or to rejoin family.
- Costs of language courses in the language of the country where employees are working.
- Extra telephone costs for calls abroad.

The payment is 30% of the basis, by which the basis is (in principle) the sum of the salary from the current employment related to the residence outside the country of origin and the payment for extraterritorial costs. In addition, tuition fees can be paid untaxed.

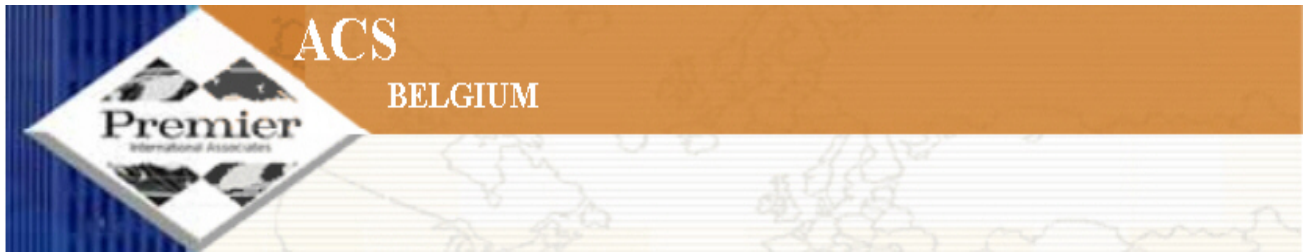
### 4.3 Conditions of the arrangement

The 30% arrangement is in principle intended for foreign employees who come from a country other than the Netherlands to work here temporarily, which does not mention anything about their nationality. People with Dutch nationality who have been away for a long time also qualify under the arrangement. There is no precise explanation of the term "temporary", either.

This must apply to an employee who is employed in the sense of the Wages and Salaries Tax Act 1964. A (statutory) director of a Netherlands company can also use the 30% arrangement. A written employment agreement does also have to be drawn up. Sportsmen or artists may also qualify under this arrangement.

The incoming employee must have specific expertise that cannot be found or that is difficult to find in the Netherlands. There are three important factors here:

- The level of the employee's training.
- The work experience relevant to the post. If experience is required for the post and the employee has worked for more than 2.5 years in a comparable post, it can be assumed that the condition is fulfilled.
- The salary level of the post in the Netherlands should be in proportionate to the salary level in the country of origin.



The employer and employee must submit a joint application to the foreign tax authority in Heerlen. This can be done using the appropriate form. The application must be made within four months of the extraterritorial employment. By this, the tax authority also means within four months of the applicant for the 30% arrangement having become an employee in the sense of the Tax and Salaries Act 1964. If the application is not made within four months, the 30% arrangement cannot start earlier than the month following the month in which the application is made. It must be established between the parties in writing under employment law that the 30% arrangement will be applied, so that in addition to the salary a 30% payment will be made for extraterritorial costs. The employer may reduce the gross salary he will give the employee because of this.

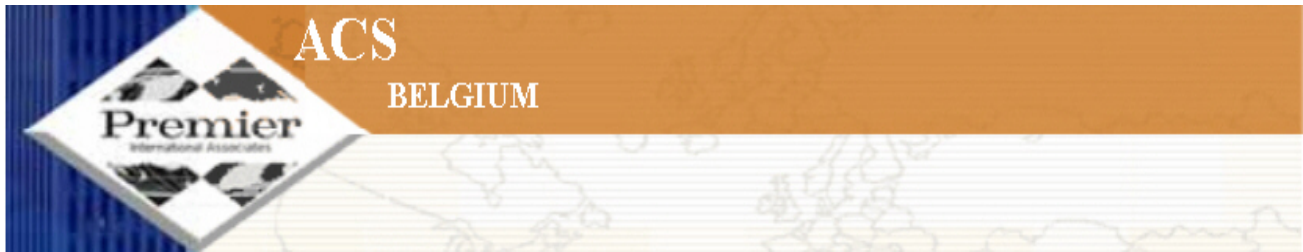
#### **4.4 Duration of the 30% arrangement**

The 30% arrangement can in principle be applied for a maximum of ten years. The period starts on the first working day on the work permit, regardless of whether this is in the Netherlands or elsewhere. On the basis of the reduction arrangement, all earlier periods of residence or employment in the Netherlands are deducted from the maximum period of ten years.

After five years, testing takes place. The tax inspector can ask the employer to prove that the employee still fulfils the conditions of the 30% arrangement. If the employee leaves to go to another employer, the employee can apply for the 30% arrangement again together with his new employer, provided that there is an interval of no more than three months between the two periods of employment.

#### **4.5 Conclusion**

The 30% arrangement not only concerns employees coming into the country but also employees sent abroad. This possible extra tax-free payment, combined with provisionally opting for partial liability for tax abroad, which means that more allowable tax deductions can be enjoyed, makes the Netherlands more attractive as a country of residence.



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