MINISTRY OF FINANCES

Research and Information Department

TAX SURVEY

Nr. 6/1994
The "Tax Survey" is published annually by the Research and Information Department of the Ministry of Finance (1). Its aim is to give an overview of the tax legislation in Belgium.

The subject is particularly complex, and this brochure cannot of course cover every specific rule: only essential details or the most frequently occurring cases will be described here.

The first part of the tax survey deals with direct taxation: individual income tax, corporation tax, tax on legal entities and tax on non-residents.

The second part of the survey deals with indirect taxation: VAT, excise duties, customs duties, registration duties, etc.

The third part deals with special tax arrangements (Co-ordination centres, UCITS, etc.), the tax arrangements applicable to capital gains and the main tax incentives (Royal Decrees 15 and 150, investment allowance, etc.).

The legislation described is that which is applicable:

- to 1993 income (1994 tax year) for direct taxation, with the exception of withholding taxes (part 1, chapters 1 to 5 and part 3).
- on January 1st 1994 for indirect taxation (part two) and for withholding taxes (part 1, chapter 6).

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They have taken particular care to ensure the reliability of the information given in this publication. The publication must nonetheless not be considered as an administrative circular letter.

They should like to thank the Tax Administrations for the observations which they made during the preparation of this survey and especially for their valuable help in the preparation of the second part.

March 1994

S. VANDENDRIESSCHE
Director General.

1) This brochure is intended purely as a documentary publication: the Research and Information Department is not authorized to answer queries with regard to the application of tax legislation to individual cases.
PART 1
DIRECT TAXATION

1. Individual income Tax (I.I.T.)
2. Corporation Tax (C.Tax)
3. Tax on Legal Entities (T.L.E.)
4. Tax on Non-Residents (T.N.R.)
5. Special levy on capital income
6. Withholding taxes and advance payments
CHAPTER ONE

INDIVIDUAL INCOME TAX (I.I.T.)

1.1. Liable persons

The individual income Tax must be paid by the inhabitants of the Kingdom, i.e. persons who have their domicile or their center of economic interests in Belgium. Unless proof can be provided to the contrary, all individuals whose name appears in the National Register shall be considered as having their domicile or their center of economic interests in Belgium.

The "domicile" refers to the actual residence or living in the country; "center of economic interests" refers to the place from where the assets concerned are managed.

A temporary leaving of the country does not represent a change of domicile.

The municipality where the taxpayer is domiciled as of January 1st of the tax year (1.1.94 for 1993 income) is the "tax municipality", which determines the rate of the additional tax.

1.2. Calculation of the net amount of taxable income

The taxable income consists of real estate income, income from movable property, miscellaneous income and earned income. For each of these categories, there are specific rules for the calculation of the net income: these rules are given in detail in this paragraph.

1.21. Real estate income

A. TAXABLE AMOUNT

Taxable income is determined in most cases on the basis of the cadastral income which is taken to represent the net annual income from the premises concerned at the prices of the year which was used as the reference for the most recent official valuation procedure.

The cadastral income is adjusted for consumer price inflation. For tax year 1994 (income in respect of 1993), the adjustment coefficient is 1.1093 (1).

In the case of a dwelling, the inflation adjusted cadastral income counts in principle as taxable income, but a deduction, which is also adjusted for inflation, is generally granted (see below).

1) The cadastral income thus adjusted is rounded up or down to the nearest hundred, depending on whether it reaches 50 or not.
The inflation adjusted cadastral income also constitutes the tax base:
- for real estate property which is not leased (for example, a second home or premises made available to a third party free of charge);
- for premises rented to individuals who do not use them for professional duties.

However, when a building is leased to a legal entity (2) or to an individual who uses the premises for his professional activity, the taxable income shall be determined as follows on the basis of the rent:

- For undeveloped land: 90% of the gross rent (3)
- For buildings: 60% of the gross rent (4)

When a physical person has leased a building to a company of which he is a director or a partner, the rent and benefits received are considered as a director's or partner's income, to the extent that it exceeds 5/3 if the revalued cadastral income.

<table>
<thead>
<tr>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>A natural person who is a director of a company leases to the latter, during the whole of the tax period, a building whose cadastral income amounts to 120,000 BEF. The rent received is 700,000 BEF. The tax base is determined as follows:</td>
</tr>
<tr>
<td>gross rent</td>
</tr>
<tr>
<td>5/3 of revalued cadastral income</td>
</tr>
<tr>
<td>5/3 x 2.95 x 120,000</td>
</tr>
<tr>
<td>Amount taxable as director's income</td>
</tr>
<tr>
<td>Amount taxable as real estate income</td>
</tr>
<tr>
<td>Rent surplus expenses 2/3 x 2.95 x 120,000</td>
</tr>
<tr>
<td>taxable real estate income</td>
</tr>
</tbody>
</table>

When the premises are used totally or partly by the owner for his professional activity, the corresponding cadastral income is not taxable as real estate income: it is counted as earned income.

Real estate income also includes sums which have been obtained through the constitution or the transfer of long lease rights, of building rights or of similar land rights.

B. **DEDUCTIBLE INTEREST**

2) That is to say either to a trade company, to a non profit-making association, to the State, to the provinces or local authorities, etc...
3) Except in the case of tenant farming: in such cases, only the cadastral income is taxable.
4) Nonetheless, the deductible costs (40% of the gross rent) cannot exceed two-thirds of the revalued cadastral income, i.e., for tax year 1994 (income 1993), it is multiplied by a coefficient of 2.95.
Interest on loans can only be deducted if they are related to debts which were contracted specifically with a view to purchasing (5) or keeping immovable assets.

Whereas the interest was formerly (6) deductible from total net income, it is now deducted directly from taxable real estate income before application of the fixed deduction for dwelling houses (7). The interest thus deducted must not exceed the amount of taxable income from real estate.

Mortgage interest (8) is also deductible.

C. FIXED DEDUCTION

A fixed deduction is awarded on the cadastral income of a dwelling house. This deduction is inflation adjusted according to the same arrangements as the cadastral income.

For 1993 income, this deduction amounts to 133,100 BEF with the following increases:

- 11,100 BEF for the spouse;
- 11,100 BEF for each dependant person;
- 11,100 BEF for each child previously living in the same house and dependant on the taxpayer at that time.

The ordinary deduction is made up of the basic deduction with any increases which apply thereto.

When the total net revenue does not exceed 1,045,000 BEF, an additional deduction is awarded which is equal to half of the difference between the cadastral income and the ordinary deduction.

The total deduction cannot exceed the cadastral income on which it is granted.

<table>
<thead>
<tr>
<th>EXAMPLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cadastral income</td>
</tr>
<tr>
<td>40,000</td>
</tr>
<tr>
<td>160,000</td>
</tr>
<tr>
<td>160,000</td>
</tr>
</tbody>
</table>

5) In the case of the acquisition of property by inheritance, the interest accruing on a loan which was taken out with a view to paying death duty is deductible in so far as these relate to this building.

6) For the tax years before and including 1989.

7) When, in addition to the cadastral income of the dwelling house, there are one or several other types of real estate income (Belgian, foreign), the deductible interest will first be charged, on a proportional basis, where appropriate, on this income; only the remainder, if any, is deducted from the cadastral income of the dwelling house.

8) See page 19.
The deduction can also apply to a building other than the dwelling house if the taxpayer is able to prove that the non-occupation of this house is justified on professional or social grounds.

It does not apply to the parts of the building which are allocated by the owner to any professional activity or which are occupied by persons who are not part of the household.

D. SPECIAL CASES

In the event of any change of ownership in the course of the year, the taxable income is calculated in twelfths, on the basis of the situation on the 16th day of the month.

The same rule applies when the cadastral income is modified in the course of the year.

When a rented building is partly used by the tenant for a professional activity, the tax base is determined on the basis of the rent for the whole building, except if the parts used for professional and private purposes are defined by a registered lease: if so, each part is examined according to the relevant arrangements.

When a furnished building is leased and the contract does not provide for separate rents for the building and for the furniture, the taxable real estate income is set at 60% of the total rent, and the remaining 40% is counted as income from movable assets (see below).

When a building has remained unoccupied or unproductive for at least 90 days, the cadastral income is only included in the taxable income in proportion to the whole months during which the building was occupied and/or produced income.

E. TAX CREDIT FOR REAL ESTATE INCOME

The withholding tax on real estate income can be credited against income tax; this credit equals 12.5% of the taxable cadastral income (9).

It is limited to the total payable income tax.

1.22. Income from movable property

There are two broad categories of income from movable property:

- income in respect of which the declaration is optional in view of the fact that the exonerating withholding tax on income from movable property has been withheld at the collection of this income;

9) As from the tax year 1994, tax credit is no longer granted for the fictitious withholding tax on real estate income when the cadastral income has not been subjected to the withholding tax on real estate income.
income in respect of which the declaration is obligatory in view of the fact that the withholding tax on movable property has not been withheld at the collection of this income.

A. INCOME FROM MOVABLE PROPERTY FOR WHICH DECLARATION IS OBLIGATORY

This includes the following:
- income earned abroad and collected directly abroad;
- income from ordinary savings accounts and income from capital invested in cooperative companies exempt from the withholding tax on income from movable property but liable to I.I.T. (10);
- other income on which no withholding tax is applied, such as income from a life annuity or temporary annuity and any income from rent, leasing of farm property, and the use or lease of any movable property.

B. INCOME FROM MOVABLE PROPERTY FOR WHICH DECLARATION IS OPTIONAL

As a general rule, dividends, income on invested capital, medium-term notes, cash deposits, bonds and other investments in fixed interest securities are liable to withholding tax at their collection: this income may be declared in the I.I.T. but, as explained below, the possibility of obtaining in this way a final taxation lower than the withholding tax has been greatly reduced with the implementation of the tax reform.

C. NON-TAXABLE INCOME FROM MOVABLE PROPERTY

The most current cases are the following:
- the first bracket of 55,000 BEF per household of income from ordinary savings accounts;
- the first bracket of 5,000 BEF per household of income on capital invested in cooperative companies approved by the National Cooperation Council.
- yields of so called "capitalisation UCITS".

10) The exemption is awarded per person for the withholding tax on income from movable property and per household for the I.I.T.
Non-taxable income also includes income from preferential shares in the Belgian National Railway Company and from public bonds issued (prior to 1962) which are exempted from real and personal taxation or from all forms of taxation.

D. TAXATION MODALITIES

Income from movable property is taxable in respect of its gross amount, i.e. before withholding tax on income from movable property (11) and deduction of collection and custody charges.

Since tax year 1990, interest on any debts contracted with a view to acquiring or keeping income from movable property (12) is no longer deductible.

Moreover, the tax credit and the fixed foreign tax credit are no longer chargeable and must therefore not be added to the taxable income.

Income from movable property can be separately taxed (13):

- at a rate of 10% for income from shares issued from March 1st 1990 and for which declaration is obligatory;
- at a rate of 25% for other income for which declaration is obligatory;
- for an amount equivalent to the withholding tax in the case of income for which declaration is optional.

The total aggregation is only applied when it is more favourable to the taxpayer; it is only in such cases that the collection and custody charges are deductible.

The additional municipal taxes and the additional crisis tax are to be added to the basic tax amount, whether this be calculated by aggregation or by separate taxation.

The abolition of the possibility to deduct interest up to the amount of taxable income on movable property and of the chargeability of the tax credit and of the fixed foreign tax credit has greatly reduced the possibility of recovering the withholding tax on income from movable property through income aggregation.

11) The income is taxable on behalf of the successive holders of the securities in proportion to the period of ownership.

12) Nonetheless, interest is deductible as professional expenses when it is effectively paid by active business associates or board members for loans taken out for the subscription or acquisition of stocks or shares representative of the capital of a Belgian Company from which they receive taxable income.

13) See page 31.
1.23. *Miscellaneous income*

This third category of taxable income includes all the income which can be characterized as having been earned outside the exercise of a professional activity.

The following table specifies this income and the extent to which it is taxable.

**A. MISCELLANEOUS INCOME WITH JOINT ASSESSMENT**

<table>
<thead>
<tr>
<th>Categories of income</th>
<th>Taxable amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance payments in respect of 1993 and received that same year (14)</td>
<td>80% of amount collected</td>
</tr>
</tbody>
</table>

**B. MISCELLANEOUS INCOME WITH SEPERATE ASSESSMENT (15)**

<table>
<thead>
<tr>
<th>Categories of income</th>
<th>Taxable amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occasional profit and proceeds (16)</td>
<td>Net amount minus real expenses</td>
</tr>
<tr>
<td>Prizes and subsidies awarded by public authorities and official non profit-making associations (17)</td>
<td>Amount actually received, with the addition of the withholding tax on earned income paid less a deduction of 110,000 BEF (18)</td>
</tr>
<tr>
<td>Prizes attached to debenture bonds</td>
<td>Net + (fictitious) withholding tax</td>
</tr>
<tr>
<td>Income from the subleasing or lease-back of buildings</td>
<td>Total income from subleasing after deduction of real expenses</td>
</tr>
</tbody>
</table>

14) Maintenance payments are always taxable in respect of the claimant. When the claimant is a child, this income is counted as normal taxable income in his own name. As for arrears, see below in the section on separately taxed miscellaneous income.

15) Rate : see page 31 and 32.

16) These relate to proceeds and profits obtained outside a professional activity. However, profits and proceeds obtained from the normal management of personal assets are not taxable.

17) Some of these organizations nonetheless enjoy exemptions.

18) For subsidies, this deduction is only granted in respect of the first two years.
Income from the granting of permission to place hoardings on a building

Income from hunting permits, fishing permits or bird-catching permits

Capital gains on undeveloped land in Belgium in the case of sale within 8 years of the acquisition for valuable consideration or within 3 years of a donation and this within 8 years of a purchase for valuable consideration by the donor

Capital gains earned from the transfer of a large stake in a foreign company or a legal person liable to TNR

Arrears of maintenance payments paid as a result of a legal decision with retroactive effect

Deduction of real expenses or 5% of fixed-rate costs

The amount received

The transfer price, less the total purchase price and acquisition costs, revalued by 5% for each year of outright ownership

The transfer price, less the purchase price, revalued or otherwise

80% of the amount received

1.24. *Earned income*

In the tax code earned income refers to the following:

1. salaries and wages;
2. remunerations of joint-stock company directors;
3. remunerations of active associates in partnerships;
4. profits from agricultural, industrial and commercial firms;
5. proceeds of a liberal profession;
6. gains and profits from previous activities;
7. and replacement income: pensions, early retirement payments, unemployment benefits, health insurance benefits, etc.

As from the tax year 1993 (1992 income) certain changes have been introduced in the way the net amount of earned income is calculated.
This net income, is since then, determined in six stages:

A. deduction of social security contributions;
B. deduction of real or fixed professional expenses;
C. exemptions, notably as a consequence of the tax measures in favour of investment and/or employment;
D. charging of losses;
E. awarding of the "assistant spouse" quota and the marital quotient;
F. compensation of losses between spouses.

**A. DEDUCTION OF SOCIAL SECURITY CONTRIBUTIONS**

The *salaries and wages* are taxable in respect of their gross amount less personal social security contributions (19).

**Remunerations paid to board members** and active associates are also taxable in respect of their gross amount less the contributions payable in respect of social legislation. Premiums paid to recognized mutual insurance companies for "minor risks" are also assimilated to social security contributions.

**Taxable gains and profits** are determined in a similar way.

**Replacement income** can, in certain cases, be liable to social security contributions: in this case, they are to be deducted to ascertain the gross taxable amount.

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19) Personal premiums for group insurance contracts and pension funds are no longer deductible from the taxable income, but give entitlement to tax reduction. See hereafter pages 24 and following.
B. DEDUCTION OF EXPENSES

Real expenses

The deductibility of professional expenses is a general principle applied to all categories of income, including replacement income.

Those professional expenses may be deducted, which the taxpayer has incurred or borne during the assessment period with a view to acquiring or keeping taxable income and of which he will prove the authenticity and justify the amount.

The following are included:

- traveling expenses from home to the place of work: the deduction of these traveling expenses is however limited to a fixed amount of 6 BEF per km;
- expenses relating to real estate or parts thereof allocated to a professional activity: shop premises, offices of a notary, lawyer, doctor, insurance agent, etc...;
- interest on loans;
- insurance premiums, commissions, brokerage expenses, publicity expenses, training costs, entertaining expenses, etc...;
- supplementary insurance contributions in respect of disablement resulting from sickness or invalidity;
- personnel costs;
- depreciation of property used for a professional activity (20);
- levies and taxes not directly payable on taxable income: non-deductible withholding tax on real estate income, road tax, local taxes and indirect taxes, including increases and default interest.

The following are not deductible:

- personal expenses;
- fines and penalties;
- expenses which exceed ... an unreasonable manner the professional requirements;
- expenses relating to clothing, with the exception of specific professional garments;
- 50% of expenses for restaurants, entertainment and business gifts;
- for travelling expenses other than those from home to the place of work, 25% of the share of car expenses which is used for professional purposes, excluding fuel (the proportion of fuel used for professional purposes is totally deductible);
- the I.I.T. payable to the State, to the municipalities and to the conurbation of Brussels district, as well as deductible withholding taxes and advance payments.

20) The tax arrangements concerning depreciation are described more fully in the chapter on corporation tax. See page 40.
**Fixed expenses**

For certain categories of earned income, the tax code provides fixed expenses which substitute for real expenses unless the latter are higher.

The basis of the calculation of fixed professional expenses is the gross taxable amount less social security contributions and assimilated contributions (21).

For board members of companies and associates in partnerships, fixed expenses are awarded at a rate of 5% of calculation basis with a maximum of 110,000 BEF (22).

Fixed basis expenses which can be awarded to employees and members of a liberal profession are calculated according to the scale below and are also limited to 110,000 BEF (23).

<table>
<thead>
<tr>
<th>Calculation base</th>
<th>Professional expenses on lower limit</th>
<th>Above the limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 165,000</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>165,001 to 330,000</td>
<td>33,000</td>
<td>10%</td>
</tr>
<tr>
<td>330,001 to 550,000</td>
<td>49,500</td>
<td>5%</td>
</tr>
<tr>
<td>550,001 and more</td>
<td>60,500</td>
<td>3%</td>
</tr>
</tbody>
</table>

Additional fixed professional expenses can be awarded to employees who are domiciled far from their place of work.

<table>
<thead>
<tr>
<th>Distance (24) domicile-place of work</th>
<th>Additional fixed amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>75 to 100 km</td>
<td>3,000</td>
</tr>
<tr>
<td>101 to 125 km</td>
<td>5,000</td>
</tr>
<tr>
<td>126 km and more</td>
<td>7,000</td>
</tr>
</tbody>
</table>

**Deduction of expenses**

If the taxable earned income includes income which is separately taxable (25), the professional expenses are deducted as follows:

- proportionally in the case of fixed expenses;
- preferentially on aggregate taxable income, in the case of real expenses.

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21) That is to say the deductible part of contributions to recognized mutual insurance societies, cf. page 13.
22) This maximum is reached starting from a calculation base of 2,200,000 BEF.
23) This maximum is reached starting from a calculation base of 2,200,000 BEF.
24) One way trip.
25) For example, arrears, dismissal compensation and certain capital gains.
C. **EXEMPTIONS**

The following can then be deducted from profit after expenses:

- reductions in value, provisions for risks and expenses (26);
- tax exemption for additional staff employed in scientific research;
- investment allowance (27);

Taxpayers declaring profits are only eligible for investment allowances.

D. **DEDUCTION OF LOSSES**

**Losses incurred in the current tax year**

The losses incurred in the context of a professional activity are deducted from profits of another activity of the same taxpayer. This is first deducted from aggregate income, the remainder proportionally from separately taxable income.

**Losses incurred in previous tax periods**

Losses incurred by the same taxpayer in the course of previous tax periods can be set off against profits from subsequent tax periods with no time limit.

E. **ALLOCATION OF THE ASSISTING SPOUSE QUOTA AND OF THE MARITAL QUOTIENT**

**Assisting spouse quota**

A self-employed person (trader, active associate in a partnership, member of a liberal profession) who effectively receives assistance from his/her spouse can allocate to the spouse a share of his/her net income.

This allocation is only allowed if the spouse who is to receive the quota has not received in his/her name earned income from a separate activity amounting to more than 385,000 BEF (after expenses and losses).

This quota constitutes for the recipient a source of earned income from independent activity from which can be deducted any recoverable losses which were not deductible from other own income.

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26) The modalities of these deductions are described in the chapter on corporation tax. See page 39 and following.

27) The latter two measures are described in part 3.
Marital quotient

The marital quotient is then calculated. This can be awarded when the earned income of one of the spouses does not exceed 30% of the couple's total earned income.
The amount allocated is 30% of total net earned income, less the own income of the spouse enjoying the quotient.
It cannot exceed 297,000 BEF.

The spouse who receives the marital quotient can charge on the amount received the recoverable losses which could not be deducted on his/her other own income.

F. COMPENSATIONS FOR LOSSES BETWEEN SPOUSES

When the income of one of the spouses is negative, the loss can be deducted from the income of the other spouse after taking into account all the deductions to which the latter is entitled.
The amount of transferable losses cannot exceed the income of the spouse on whose income the deduction is made.

1.25. Expenses deductible from total net income

The following can be deducted from total net income (28):
- maintenance allowances;
- gifts;
- remunerations of domestic personnel;
- expenses in respect of maintenance and restoration of classified monuments;
- long lease rights;
- certain types of mortgage interests;
- sums paid to the Treasury by certain civil servants by virtue of the cumulation of activities;
- the purchase of shares in innovation companies;
- child minding expenses.

And as mentioned above;

- the collection and custody charges are deducted directly from the income from movable property when this income is aggregated for tax purposes;
- the interest on loans to acquire real estate income is deducted directly from real estate income;
- the deduction for the purchase of shares from an employer is made on total earned income and no longer on total net income.

28) Since tax year 1990 the special social security contribution is no longer payable, but the amount outstanding in respect of previous years is still deductible from total net income.
A. **MAINTENANCE ALLOWANCES**

The conditions for deductibility are as follows:

- the beneficiary cannot be a member of the taxpayer's household;
- the maintenance allowance must be payable in pursuance of the civil code or judicial proceedings code;
- the payment must have been made during the tax period on a regular basis;
- in the case of maintenance allowances paid in pursuance of a retroactive judgment, the payments made in one instalment are deductible in the year of the payment, even if they relate to previous years.

The deduction is limited to 80% of the sums paid.

B. **DONATIONS**

Donations made to approved institutions are deductible provided they exceed 1,000 BEF per beneficiary institution. The total amount which is thus deductible cannot exceed 10% of net income nor 10,998,000 BEF. The deduction is made proportionally on the income of each spouse.

C. **PAYMENT OF DOMESTIC PERSONNEL**

This deduction is only awarded for one member of domestic personnel and according to the following conditions:

- the taxpayer must be registered as an employer by the national Social Security office;
- upon his engagement, the employee must have been receiving the national welfare income or have been receiving full unemployment benefit for at least 6 months;
- the salary is liable to social security payments and must exceed 110,000 BEF.

The deduction is limited to 50% of the salary, with an absolute maximum of 220,000 BEF. This deduction is made proportionally on the income of each spouse.

D. **EXPENSES RELATING TO THE MAINTENANCE AND RESTORATION OF CLASSIFIED MONUMENTS**

The expenses deductible under this section are those incurred by the owner for the maintenance and restoration of classified monuments or sites which are open to the public and not leased. The deduction is limited to 50% of the expenses not covered by subsidies with a maximum of 275,000 BEF. The deduction is made proportionally on the income of each spouse.
E. ADDITIONAL DEDUCTION OF MORTGAGE INTEREST

Calculation base and conditions with regard to additional deduction

The interest on loans for the acquisition of real estate can be deducted from taxable real estate income up to this amount.

For the remainder, a complementary deduction can be awarded when the loan fulfils the following conditions:

- it must be a mortgage loan contracted after 30.4.1986 for at least 10 years;
- it must have been concluded with a view to constructing, acquiring new or renovating (29) the taxpayer's sole dwelling house.

Limitation in relation to the sum borrowed

Firstly, the additional deduction is limited to the interest on the capital of loans not exceeding 1,100,000 BEF (renovation) or 2,200,000 BEF (other cases) (30). This sum is increased as follows according to the number of dependant children as of 1.1. of the year which follows the year in which the loan was taken out.

<table>
<thead>
<tr>
<th>Children</th>
<th>increase of</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5%</td>
</tr>
<tr>
<td>2</td>
<td>10%</td>
</tr>
<tr>
<td>3</td>
<td>20%</td>
</tr>
<tr>
<td>4 and +</td>
<td>30%</td>
</tr>
</tbody>
</table>

Second limitation

On the deduction based on the above limits, a quota is calculated which gives entitlement to a deduction on the total net income and which is determined as follows:

- for the first (31) to the fifth year, 80%;
- for the sixth year, 70%;
- for the seventh year, 60%;
- for the eighth year, 50%;
- for the ninth year, 40%;
- for the tenth year, 30%;

29) In this case, the renovation work must amount to 880,000 BEF inclusive of VAT, it must have been carried out by a registered contractor and the house must be more than 20 years old.

30) This limit is determined for the year of acquisition and remains the same for all the additional deductions of interest awarded in the course of subsequent tax periods. For loans taken out, for example, in 1989, the limit of deductions is calculated on the basis of the limits in force at that time (1 or 2 million as the case may be).

31) The first year is that from which the rentable value is taxable.
- for the eleventh year, 20%;
- for the twelfth year, 10%.

The deduction is made proportionally on the income of each spouse.

**Examples: Construction work carried out in 1993**

<table>
<thead>
<tr>
<th>Amount of loan</th>
<th>1,500,000</th>
<th>2,000,000</th>
<th>3,000,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of children</td>
<td>2</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Amount taken into account</td>
<td>1,500,000</td>
<td>2,000,000</td>
<td>2,420,000</td>
</tr>
<tr>
<td>Rate of interest</td>
<td>8%</td>
<td>8%</td>
<td>10%</td>
</tr>
<tr>
<td>Annual interest (*)</td>
<td>120,000</td>
<td>160,000</td>
<td>300,000</td>
</tr>
<tr>
<td>Rental value</td>
<td>30,000</td>
<td>40,000</td>
<td>60,000</td>
</tr>
<tr>
<td>Balance after deduction made on real estate income</td>
<td>90,000</td>
<td>120,000</td>
<td>240,000</td>
</tr>
<tr>
<td>Limit depending on the amount borrowed</td>
<td>90,000</td>
<td>120,000</td>
<td>193,600</td>
</tr>
<tr>
<td>Additional deductible interest on income in respect of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1993 to 1997</td>
<td>72,000</td>
<td>96,000</td>
<td>154,880</td>
</tr>
<tr>
<td>1998</td>
<td>63,000</td>
<td>84,000</td>
<td>135,520</td>
</tr>
<tr>
<td>1999</td>
<td>54,000</td>
<td>72,000</td>
<td>116,160</td>
</tr>
<tr>
<td>2000</td>
<td>45,000</td>
<td>60,000</td>
<td>96,800</td>
</tr>
<tr>
<td>2001</td>
<td>36,000</td>
<td>48,000</td>
<td>77,440</td>
</tr>
<tr>
<td>2002</td>
<td>27,000</td>
<td>36,000</td>
<td>58,080</td>
</tr>
<tr>
<td>2003</td>
<td>18,000</td>
<td>24,000</td>
<td>38,720</td>
</tr>
<tr>
<td>2004</td>
<td>9,000</td>
<td>12,000</td>
<td>19,360</td>
</tr>
</tbody>
</table>

(*) Loan on mixed life insurance.

**F. SUMS PAID BY CIVIL SERVANTS BY VIRTUE OF THE CUMULATION OF OFFICES**

In certain cases, civil servants must return to the State sums received by virtue of cumulated offices of which the total amount exceeds the authorized limit. These payments are totally deductible and the deduction is made proportionally on the income of each spouse.
G. **PURCHASE OF SHARES IN INNOVATION COMPANIES**

The sums paid towards the purchase of shares in innovation companies give entitlement to a deduction equivalent to half (32) the sums which are paid for this purpose spread in equal proportion over five successive tax periods starting from the period in which the shares were paid up. The deduction is made proportionally on the income of each spouse.

H. **EXPENSES FOR CHILD MINDING**

The deduction of child minding expenses is awarded if the following conditions are fulfilled:

- the taxpayer must have received earned income: salaries, proceeds, profits but also pensions, unemployment benefits, etc.;
- the child must be dependant on the taxpayer and must be less than 3 years old;
- the child minding expenses must have been paid:
  - either to institutions which are approved, subsidized or controlled by public bodies or by the competent agencies of the Communities;
  - or to independent host families or day-nurseries, placed under the supervision of these institutions.
- the amount of these expenses must be proved by documents enclosed with the declaration.

The amount deductible is set at 80% of the day's rate actually paid and is limited to 345 BEF for each day of care and per child. The deduction is made proportionally on the income of each spouse.

I. **LONG LEASE RIGHTS AND BUILDING RIGHTS**

Long lease rights or building rights are deductible from total net income, up to the amount of income from immovable and movable property less deductible interest and the fixed dwelling house deduction.

The deduction is made proportionally on the income of each spouse.

---

32) For taxpayers who are employed by the innovation company at the time of their purchase of the shares, the full amount can be deducted.
1.3. Calculation of taxes

1.30. General principles

Tax according to scale (1.31)
- rebate for dependant family members (1.32)
- tax rebate for long-term savings and tax rebate for savings for house purchase (1.33)
= tax to be allocated
- tax reduction for replacement income (1.34)
= reduced basic tax
- tax rebate for foreign income (1.35)
= principal of A.T.I. (aggregated taxable income)
+ tax on separately taxed income (1.36)
= principal
- withholding taxes, advance payments and allowable items (1.37)
+ increases for non-payment or insufficient advance payment (1.38)
- bonus for advance payment (1.38)
= "National tax"
+ additional municipal taxes (1.39)
+ additional crisis tax (1.40)
+ tax increase (1.41)
= amount payable by or to the taxpayer

1.31. Scale

The scale applicable to 1993 income is as follows:

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Marginal rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 253,000</td>
<td>25%</td>
</tr>
<tr>
<td>253,001 - 335,000</td>
<td>30%</td>
</tr>
<tr>
<td>335,001 - 478,000</td>
<td>40%</td>
</tr>
<tr>
<td>478,001 - 1,100,000</td>
<td>45%</td>
</tr>
<tr>
<td>1,100,001 - 1,650,000</td>
<td>50%</td>
</tr>
<tr>
<td>1,650,001 - 2,420,000</td>
<td>52.5%</td>
</tr>
<tr>
<td>2,420,001 and more</td>
<td>55%</td>
</tr>
</tbody>
</table>
1.32. **Basic exempted income bracket and dependants**

The first income bracket, which varies according to the composition of the household, is tax exempted. This bracket consists in the first place of the basic exempted bracket of the taxpayer and his/her spouse. These amounts are then increased by the income exempted in respect of dependants and certain special family situations. In all the cases mentioned below, the exempted bracket can be transferred onto the income of the other spouse in as much as it exceeds the income of the first spouse.

These rebates are calculated "from the bottom up".

**A. EXEMPTED INCOME OF THE TAXPAYER AND HIS/HER SPOUSE**

The basic exemption is 186,000 BEF for a single person and 146,000 BEF for each spouse.

**B. EXEMPTIONS FOR DEPENDANT CHILDREN**

Exemptions for dependant children are awarded by priority on the income of the spouse who has the highest income.

<table>
<thead>
<tr>
<th>1st child</th>
<th>2nd child</th>
<th>3rd child</th>
<th>4th child</th>
<th>Total exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>39,000</td>
<td>62,000</td>
<td>127,000</td>
<td>141,000</td>
<td>39,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>101,000</td>
<td>228,000</td>
<td>101,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>228,000</td>
<td>369,000</td>
<td>228,000</td>
</tr>
</tbody>
</table>

For any child after the fourth, the exemption is 141,000 BEF per child.

An additional exemption of 11,000 BEF is awarded for each dependant child who is less than three years old and for whom the deduction for child care expenses has not been requested.

Handicapped children count as two (the rebate is awarded according to whether the child is the first, second,... in the row as well as the rebate applicable for the next child) and any child who has deceased during the tax period remains dependant for that period.
Example

A couple with three children on a taxable net income of 900,000 BEF, which after all deductions, breaks down as follows:

- taxpayer: 600,000 BEF,
- spouse: 300,000 BEF.

The taxpayer is awarded an exempted bracket of 374,000 BEF which is calculated as follows:

- exempted bracket for the "spouse": 146,000 BEF,
- 3 dependant children: 228,000 BEF.

The remaining income is taxed at 40%, and at 45% from 478,000 BEF.

The other spouse is entitled to an exempted bracket of 146,000 BEF.

C. SPECIAL FAMILY SITUATIONS

The other exemptions are as follows:

- other dependant persons 39,000 BEF
- handicapped spouse 39,000 BEF
- handicapped dependant persons (31) 39,000 BEF
- widow(er) with dependant children 39,000 BEF
- single parent family 39,000 BEF
- spouse whose income does not exceed 68,000 BEF
  - the year of marriage 39,000 BEF
  - the year of death 107,000 BEF

1.33. Tax rebate for long-term savings and increased tax rebate for savings for house purchase

A. REPLACEMENT OF THE DEDUCTION ON INCOME WITH A TAX REBATE

Up to tax year 1992 (1991 income) individual life insurance premiums, mortgage capital repayments and sums assigned to the purchase of shares from an employer were deductible from aggregate earned income, whereas payments for a pensions savings scheme were deductible from aggregate taxable income. As from tax year 1993 (1992 income) the deduction on income is replaced with a tax rebate.

31) With the exception of children.
As from tax year 1994 (1993 income) this is the case also with personal premiums for group insurance contracts or pensions funds: the deduction on the gross amount of earned income is replaced with a tax reduction.

B. CONDITIONS AND LIMITATIONS

The conditions and limitations to be fulfilled by these expenses in order to qualify for the tax rebate are the same as the previously, except for adjustment of the amounts in BEF to the consumer price index.

Group insurance and pension fund

Personal premiums for group insurance contracts and those paid to pension funds give entitlement to tax reduction if the following conditions are satisfied:
- the premiums must be paid to an insurance company or a pension fund established in Belgium;
- the benefits which they procure, added to the statutory pension and the other extra-statutory pensions, cannot exceed 80% of the last regular gross yearly salary.

Individual life insurance premiums

For the premiums to be deductible, the contract must have been signed by the taxpayer before the age of 65 (man) or 60 (woman) and, if including life bonus, must have a minimum duration of ten years.

The bonuses must be stipulated:
- in the event of live, in favour of the taxpayer;
- in the event of death, in favour of the spouse or relatives to the second degree.

The deductible amount is limited, for each spouse:
- to 15% of the first bracket of 55,000 BEF of earned income and 6% beyond;
- with a maximum of 66,000 BEF.

However, this limit applies both to life insurance premiums and to mortgage capital repayments combined.

An increased tax rebate for a pension savings scheme (see hereafter, paragraph C2) can be granted for life insurance premiums only within the limits of the
first bracket of 2,200,000 BEF (34) with an increase of 5, 10, 20 or 30%. These rates depend on whether the taxpayer has 1, 2, 3 or more than 3 dependant children as of January 1st of the year which follows that of signing of the life insurance contract. The tax rebate for long-term savings can be granted for the remainder (see hereafter, paragraph C1).

Mortgage capital repayments

The situation regarding loan contracts concluded before 1.1.1989 has not been modified. The amount of the loan for which deduction may be granted therefore remains different according to whether it concerns a social, a medium sized or a large house.

- in the case of "a social house", the total capital borrowed gives entitlement to a deduction;
- deductibility is, however, refused in the case of "large" homes;
- in the case of "medium sized" homes, the capital for which this deduction can be granted is limited to:
  - the first bracket of 2,000,000 BEF of the loan amount for construction or purchase contracts concluded after 30.04.86;
  - the first bracket of 400,000 BEF in other cases.

In all cases, deductibility is only accepted if the house is located in Belgium and if the loan is guaranteed by life insurance of the outstanding balance type.

The type of house is no longer taken into consideration for loan contracts concluded after 1.1.1989 if they do not roll over existing contracts. The deduction is awarded for the first bracket of 2,200,000 BEF (35) with an increase (36) of 5, 10, 20 or 30%. These rates depend on whether the taxpayer has 1, 2, 3 or more than three dependant children as of January 1st of the year which follows that of the signing of the contract.

The other conditions with regard to deductibility are maintained.

Purchase of shares from an emplo...er

The purchase of shares is deductible according to the following conditions:

34) The ceiling is adjusted each year to the consumer price index; irrespective of the increases for dependant children, it was set at 2,000,000 BEF for 1989, 2,062,000 BEF for 1990, 2,133,000 BEF for 1991 and 2,200,000 BEF for the year 1992.
35) The ceiling is determined on the basis of the year of purchase and remains the same for all subsequent years during which payments are deductible. For example, when a house was purchased in 1989, the amounts deductible for 1990 and subsequent years are still calculated on the basis of the ceiling applicable for the tax year 1990 (1989 income), i.e. 2,000,000 BEF. The ceiling is 2,062,000 BEF for purchases made in 1990, 2,133,000 BEF for purchases made in 1991 and 2,200,000 BEF for the purchases of 1992.
36) This increase only applies to houses for which the fixed dwelling house deduction mentioned on page 7 is payable.
the taxpayer must be an employee or wage-earner of the company, of a subsidiary or of a sub-subsidiary;
- the shares must be subscribed when the company is constituted or when there is an increase in the company's capital;
- the company which issues the shares must be liable to C.Tax;
- documents proving that the taxpayer has purchased these shares and kept them until the end of the tax period must be enclosed with the declaration.

The deductible amount is set at 22,000 BEF for each spouse who fulfils these conditions.
It is incompatible (37) with the deduction for pension savings schemes.

**Pension savings schemes**

Sums which are assigned to a pension savings scheme are deductible up to a limit of 22,000 BEF for each spouse.

**C. CALCULATION OF TAX REBATES**

Tax rebates are calculated for each spouse separately.

**C.1 Tax rebates for long-term savings**

The latter is applicable:
- to sums paid toward the purchase of shares from the employer,
- to sums paid for pensions saving schemes,
- to personal premiums for group insurance contracts or pension funds
and, insofar as they do not qualify for the increased tax rebate on savings schemes for house purchase,

- to individual life insurance premiums,
- to mortgage capital repayments.

The rate of that rebate is the "average increased rate" which is calculated, for each spouse separately, by dividing:

- the tax calculated according to the scales (see section 1.31) less the tax relating to the exempted portion which is granted to that spouse (see 1.32, section A),
- by the taxable income for that spouse.

That rate cannot be less than 30 %, nor can it exceed 40 %.

---

37) The incompatibility is evaluated for each spouse separately.
C.2 Increased tax rebate for savings for house purchase

The latter applies:

- to mortgage capital repayments,
- to individual life insurance premiums assigned to the reconstitution or guarantee of mortgage loans,

provided these mortgage loans were contracted with a view to constructing, renovating or acquiring a house which, when the loan contract is signed, is the sole owned by the taxpayer.

The tax rebate is granted at the marginal rate (see scale in section 1.31). However if, when subtracting from the taxable income the amount for which the tax rebate is granted, a lower bracket of the scale would be applicable, the tax rebate is calculated by applying to each bracket the suitable marginal rate.

C.3 Combination of both rebates

When both rebates are applicable and the amounts paid exceed the limitation in respect of income (38) the portion to be excluded is set off against the tax rebate granted at the lowest rate.

1.34. Tax rebates on replacement income

A. GENERAL PRINCIPLES

There are five distinct categories of replacement income:

(1) unemployment benefit other than those received by elderly unemployed persons;
(2) sickness-in-invalidity insurance allowances;
(3) early retirement payments awarded under the old system (39);
(4) unemployment benefit awarded to elderly unemployed persons;
(5) other replacement income.

In each case, the tax rebate is based on a certain type of social security benefit payment, as follows:

(1), (4) and (5) the maximum amount of unemployment benefit less 11,000 BEF

38) I.e. 15% of the first bracket of 55,000 BEF and 6% above that amount with a maximum of 66,000 BEF.

39) That is to say those awarded by virtue of collective agreements concluded before 1.1.86 or which came into force before 1.1.87. Any other early retirement payments are assimilated to the other forms of other replacement income.
ten ninths of the unemployment benefit referred to in (1) less 11,000 BEF

the amount of the early retirement provided for in Collective Labour Agreement No. 17, less 11,000 BEF.

The basic rebate corresponds to the sum that would be paid as tax by the benefit recipient, who has no other taxable income and no other dependant person, but taking into account the fact that he is single or married.

This basic amount is then limited:

- by the amount of aggregated taxable net income (40): this is the "vertical" limit;
- according to the correlation between the income for which it is awarded and total net income (41): this is the "horizontal" limit.

The reduction which remains after these two limits can in no circumstances exceed the tax which relates proportionally to the income which gives entitlement to this reduction.

After the awarding of tax reductions for replacement income, the remaining tax is reduced to zero when the taxable income is made up exclusively of replacement income which does not exceed:

- for benefits paid to elderly unemployed persons: 432,608 BEF;
- for other forms of unemployment benefits and other forms of replacement income: 391,757 BEF;
- for sickness and invalidity insurance benefits: 435,286 BEF;
- for early retirement payments under the old system: 510,036 BEF.

B. BASIC REBATES

<table>
<thead>
<tr>
<th>Categories of income</th>
<th>Amount of typical benefit</th>
<th>Rebate (single person)</th>
<th>Rebate (spouse)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sickness/invalidity</td>
<td>423,063</td>
<td>76,575</td>
<td>86,575</td>
</tr>
<tr>
<td>Early retirement</td>
<td>499,036</td>
<td>108,016</td>
<td>118,016</td>
</tr>
<tr>
<td>Other</td>
<td>380,757</td>
<td>59,653</td>
<td>69,653</td>
</tr>
</tbody>
</table>

C. LIMITS BASED ON A.T.I.

The basic rebate (BR) is subsequently limited according to the amount of aggregate taxable income (A.T.I.).

40) I.e. after taking account of the deductions mentioned in paragraph 1.25.
41) I.e. after taking account of the deductions mentioned in paragraph 1.25.
Unemployment benefit

The total rebate is maintained up to 660,000 BEF of A.T.I. but is then reduced progressively to zero when the A.T.I. reaches 825,000 BEF.

The rebate thus limited (R') is therefore calculated as follows:

- A.T.I. < 660,000 BEF  \[ R' = BR \]
- A.T.I. between 660,000 and 825,000 BEF  \[ R' = BR \times \frac{(825,000 - \text{A.T.I.})}{165,000} \]
- A.T.I. > 825,000 BEF  \[ R' = 0 \]

Other cases

For all other types of replacement income, the basic rebate is also maintained up to 660,000 BEF of A.T.I. but it is then progressively reduced to one third of its original amount when the A.T.I. reaches 1,320,000 BEF.

The rebate thus limited (R') is therefore calculated as follows:

- A.T.I. < 660,000 BEF  \[ R' = BR \]
- A.T.I. between 660,000 and 1,320,000 BEF  \[ R' = \left[ BR \times \frac{1}{3} \right] + \left[ BR \times \frac{2}{3} \times \frac{(1,320,000 - \text{A.T.I.})}{660,000} \right] \]
- A.T.I. > 1,320,000 BEF  \[ R' = BR \times \frac{1}{3} \]

D. LIMITS RELATING TO OTHER INCOME

Each rebate is only awarded according to a quota which takes into account the ratio between:

- the net income for which it is awarded,
- and the total net income.

This is the "horizontal" limit.

1.35. Tax rebate for foreign income

- in the case of income exempted by international agreements, the tax which relates proportionally to this income is totally deducted;
- in the case of other foreign income, the tax which relates to this income is halved.
1.36. **Separate taxation and calculation of the principal**

A. **SEPARATE TAXATION**

The law has provided for separate taxation of income from movable property (42) and for certain types of non-periodical income: capital gains, arrears, dismissal compensation, etc.

This income is therefore not aggregated and is taxed after expenses at a special rate shown below.

The total aggregation (inclusion of this income in the A.T.I. subject to the progressive scale) is nonetheless applied if this is more advantageous for the taxpayer.

The choice is made including or excluding total separately taxable income.

The tax on separately taxable income is calculated as follows:

<table>
<thead>
<tr>
<th>Separately taxable income</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>salary arrears, replacement income arrears</td>
<td>average rate (43) for the previous year</td>
</tr>
<tr>
<td>dismissal compensation (44) &gt; 27,000 BEF</td>
<td>average rate for the previous year</td>
</tr>
<tr>
<td>prepaid holiday pay, fee arrears, arrears of maintenance allowances in pursuance of a retroactive judgment</td>
<td>average rate for the year</td>
</tr>
<tr>
<td>income from movable property for which declaration is obligatory</td>
<td>25% or 10% (45)</td>
</tr>
<tr>
<td>income from movable property for which the declaration is optional</td>
<td>tax = withholding tax</td>
</tr>
<tr>
<td>occasional profits and gains</td>
<td>33%</td>
</tr>
</tbody>
</table>

42) And miscellaneous income relating to movable property.
43) Average rate = reduced tax base / aggregated taxable income.
44) Dismissal compensations are aggregated for taxation when they are less than 27,000 F.
45) 25% in the case of:
- income from foreign shares,
- income from approved cooperatives received advance tax being deducted
- other income from movable assets for which the declaration is obligatory which were paid or assigned by virtue of agreements concluded before 1.3.1990.
10% in other cases.
prizes 16.5%
capital gains from disposal of undeveloped land 33% or 16.5% (46)
capital gains from transfer of considerable shareholdings 16.5%
premiers paid to farmers pursuant to EEC Regulations nos 1765/92, 2066/92, 2069/92 and 2070/92 16.5%
capital gains from professional activities 33% or 16.5% (47)
capital and surrender value of life insurance or group insurance contracts 16.5% or 10% (48)
capital and surrender value of pensions savings accounts or pension insurance schemes 16.5% or 10% (49)

CALCULATION OF THE PRINCIPAL

The "principal" is calculated by adding:
- the tax payable on the A.T.I. (after reduction for income earned abroad);
- the tax payable on the separately taxable income.

46) 33% if the capital gains are realized within 5 years of the acquisition; 16.5% in other cases.
47) Capital gains on intangible real property resulting from the cessation of professional activity and compensations obtained from a reduction in professional activity are taxable at the rate of 33% in so far as they do not exceed net taxable gains or profits in respect of the abandoned professional activity which were realized during the other years preceding those in which the activity was stopped or reduced.
This rule only applies if the cessation of, or reduction in, the activity occurred as from April 6, 1992.
However, the rate of 16.5% is applicable when the cessation of, or reduction in, the activity occurs as from the age of 60 or upon a decease or a compulsory action.

48) Capital and surrender values which qualify for separate taxation shall be taxed at the rate of 16.5% inasmuch as they result from premiums which have been deducted from the taxable income. That part of the capital and surrender values which results from premiums for which a tax reduction has been granted shall be taxed at the rate of 10%.

49) Capital and surrender values which qualify for separate taxation shall be taxed at the rate of 16.5% inasmuch as they result from payments made before December 31, 1992, and at the rate of 10% inasmuch as they result from payments made as from January 1, 1993.
This serves as the calculation base for additional taxes and the additional crisis tax.

1.37. Allowance of withholding taxes, advance payments and other allowable items

The following items are credited against the "principal" (50):

- the withholding tax on real estate income at 12.5% of the cadastral income which is included in the taxable base and is not exempted from that withholding tax;
- the withholding tax on real estate income at 12.5% of the cadastral income of property used by the owner for his professional activity.

These withholding taxes are not repayable: any quota exceeding the tax is not repaid to the taxpayer.

However, the following withholding taxes are allowable and repayable:

- the withholding tax on income from movable property;
- the withholding tax on earned income;
- the advance payments.

1.38. Increases and bonuses

Taxpayers who declare income from a self-employed activity must make advance payments and a tax increase is applied when these payments are not made or when they are insufficient.

Moreover, any taxpayer can make advance payments to discharge the tax which is not covered by payments at source: these payments entitle the taxpayer to a tax bonus.

Increases and bonuses are calculated on the basis of a reference rate. For tax year 1994 (1993 income), this rate is 9%.

As stated below (51), advance payments must be made:

- for the first quarter (AP1), no later than April 10th;
- for the second quarter (AP2) no later than July 10th;
- for the third quarter (AP3), no later than October 10th;
- for the fourth quarter (AP4), no later than December 20th.

50) The application of T.Cr., the F.F.T.C. and the tax on income from movable property is limited according to the time during which the securities are held.

51) See chapter 6, page 70.
**Exemption from the increase for lack of or insufficient advance payments (52)**

Exemption from the tax increase for lack of or insufficient advance payments can be awarded to any individual who, before the age of 35 and by 1.1.1982 at the earliest, began for the first time a self-employed activity as his/her main activity. The exemption is awarded for the first three years of the professional activity. Any advance payment made by the taxpayer who is thus exempted entitles the taxpayer to a tax bonus in so far as the other conditions relating to the awarding of these rebates are fulfilled.

---

The method of calculating increases and rebates is as follows:

<table>
<thead>
<tr>
<th>Increase</th>
<th>Rebate</th>
</tr>
</thead>
<tbody>
<tr>
<td>- the tax calculated in respect of income from a self-employed activity considered separately or the tax which relates proportionally to this income, if it is lower;</td>
<td>the principal, increased to 109% less advance payments made to compensate the A.P. increase and less withholding taxes and items allowed on the principal</td>
</tr>
<tr>
<td>- increased to 109% and less the withholding taxes and allowable items against income eligible for an increase.</td>
<td></td>
</tr>
</tbody>
</table>

**Rate of increase**

2.25 times the reference percentage, i.e. 20.25%

**Amounts payable**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>AP1:</td>
<td>27% (3.0 x reference rate)</td>
<td>AP1:</td>
</tr>
<tr>
<td>AP2:</td>
<td>22.5 (2.5 x reference rate)</td>
<td>AP2:</td>
</tr>
<tr>
<td>AP3:</td>
<td>18% (2.0 x reference rate)</td>
<td>AP3:</td>
</tr>
<tr>
<td>AP4:</td>
<td>13.5% (1.5 x reference rate)</td>
<td>AP4:</td>
</tr>
</tbody>
</table>

A bonus is awarded for excess A.P.

**Adjustments**

- the increase is reduced by 10%
- the increase is reduced to zero if it does not reach 1,000 BEF or 1% of its base

A bonus is not awarded for excess A.P.

None
1.39. Additional municipal and conurbation taxes

These are calculated at the appropriate rate which is specific to each municipality, on the basis of the "principal", i.e. the tax payable on aggregate and separate taxable income before the allowing of withholding taxes, tax increases or bonuses.

1.40. Additional crisis tax

The additional crisis tax is calculated at the rate of 3% on the "principal" (cfr. 1.39). It is levied for the benefit of the State only.

1.41. Tax increases

PRINCIPLES

The following tax increases may be applied in the event of late declaration, failure to declare or incomplete or inexact declaration:

- either on the total taxes payable after the allowance of withholding taxes, advance payments, tax increases and bonuses;
- or on a proportion of these taxes when the infringement relates to only part of the tax base.

A. RATES OF INCREASE

The rate of increase ranges from 10 to 200% depending on the seriousness and repetitive nature of the infringement.

1) Incomplete or inexact declaration or failure to declare owing to circumstances which are independent of the will of the taxpayer.

NIHIL

2) Incomplete or inexact declaration or failure to declare without intending to evade taxation:

1st infringement
(not counting failure to declare as under sub. A) 10%
2nd infringement 20%
3rd infringement 30%
4th and subsequent infringements see 3)

3) Incomplete or inexact declaration or failure to declare with the intention to evade taxation:
1) **1st infringement**  
2) **2nd infringement**  
3) **3rd infringement**

<table>
<thead>
<tr>
<th>Infringement</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>50%</td>
</tr>
<tr>
<td>2nd</td>
<td>100%</td>
</tr>
<tr>
<td>3rd</td>
<td>200%</td>
</tr>
</tbody>
</table>

4) Incomplete or inexact declaration or failure to declare combined with an inaccuracy, a deliberate omission or a fraudulent omission, or the making use of forged documents in the course of the inspection of the situation in respect of tax liability, or the corruption or attempted corruption of a civil servant:

In all these cases: 200%

**B. LIMIT**

The total sum of the taxes payable on non-declared income and the increases applied thereto cannot exceed the income.
CHAPTER TWO
CORPORATION TAX (C.TAX)

2.1. **Tax period**

For the taxation of individuals, the tax period is always the calendar year. This is not the case for the corporation tax: the tax period is the *financial year* and the link between the taxable period and the tax year is based on the date the accounts are closed. Legislation relating to tax period 1994 therefore applies to profits from financial years closed between 31.12.1993 and 30.12.1994.

2.2. **Liability to corporation tax**

All companies, associations, institutions or organizations are liable to corporation tax if:

- they are a legal entity,
- they have their registered offices, their main offices, their headquarters or administrative offices in Belgium,
- they undertake profit-making activities or operations.

Nonetheless, the law points out that certain special exceptions may be made, the most important of which is for inter-municipal associations.

Non profit-making associations are, in principle, not liable to corporation tax, provided their activity is in keeping with their legal status; the status of non-profit company does not automatically bind the tax office, which *can require* a non profit-making company to pay corporation tax if the association pursues a profit-making activity.

The law specifies, however, that the following are **not considered as profit-making activities**;

- isolated or exceptional transactions,
- transactions relating to the investment of funds collected by the non profit-making association in the course of its statutory mission,
- transactions which only incidentally involve industrial, commercial or agriculture activities or which are not conducted using industrial or commercial methods.
2.3. **Taxable base**

2.30. **Financial profit and taxable profit**

The taxable profit is a very different notion from that of financial profit: the latter is certainly the basis for the process of calculating the taxable income but it must undergo several adjustments:

- either because certain profits are exempted (see below: exempted reserves, dividends and income from exempted capital),
- because certain expenses which have burdened the financial results are not tax deductible (see below "not-allowed expenses")
- or because the tax depreciation does not correspond to financial depreciation.

### Tax regime of depreciation

The Income Tax Code authorizes two depreciation methods (1):

- Linear depreciation,
- Degressive depreciation.

**Linear depreciation** is calculated by applying each year of the depreciation period a constant rate to the acquisition or investment value.

**Degressive depreciation** is calculated on the residual value of the property and its maximum rate is equal to twice the linear depreciation which corresponds to the normal duration of use. The taxpayer must apply a depreciation equal to the linear depreciation annuity starting from the tax period in which this annuity exceeds the degressive depreciation annuity. A degressive depreciation annuity can, in no case, exceed 40% of the acquisition or investment value.

Degressive depreciation cannot be applied to:

- intangible real estate,
- motor vehicles, with the exception of taxis and vehicles used for self-drive hire,
- real estate the use of which has been transferred to a third party by the taxpayer who writes them off.

The taxpayer opting for degressive depreciation must mention the related assets in an appropriate list.

The depreciation of additional costs is authorized provided these costs relate to assets for which depreciation of the principal is acceptable to the tax administration. Two different depreciation systems are accepted:

- inclusion in the depreciation value of the property with simultaneous depreciation;
- separate depreciation according to a specific scheme (2), which may be 100% in the course of the tax year or the financial year in which the investment was made.

In addition to these differences, we may add those relating to specific tax deductions. The adjustments and deductions which allow the calculation of net taxable profit on the basis of financial profit are usually grouped into "six operations" as follows:

1° the addition of the three elements which make up taxable profit: reserves, not allowed expenses and distributed profits;

---

1) In certain special cases, linear amortization can be doubled: see part 3, page 156.
2) For motor vehicles, the depreciation of additional costs must be made at the same rate as the depreciation of the principal.
2° the breakdown of profits according to whether they are made in Belgium or abroad;
3° the deduction of non-taxable items;
4° the deduction for "definitively taxed income" (D.T.I.);
5° the deduction of previous losses;
6° the investment allowances.

The profit thus calculated is taxed globally (3).

2.31. First operation: the components of taxable profit

A. RESERVES

As a general rule, any net increase in company assets is counted as taxable profit. Slush funds are to be added to visible reserves: exempted reserves are then separated to ascertain the amount of taxable reserves.

Visible reserves

In principle, all reserved profits go towards the accumulation of taxable profits, irrespective of the title given to these: legal reserves, available reserves, unavailable reserves, statutory reserves, provisions for risks and expenses, reserves carried over, etc.

Slush funds

Underestimations of assets and overestimations of liabilities constitute slush funds which also make up part of the taxable profit. Depreciations which appeared in addition to those which are allowed by the tax code or an underestimation of inventory constitute an underestimation of assets. A fictitious debt is a case of overestimation of liabilities.

Exempted reserves

- The exempted portion of capital gains (4) is considered as an exempted reserve: if the intangibility condition is required, the exemption is only awarded if the liabilities appear in a separate account.

---

3) Certain capital gains were formerly taxed separately at a rate equal to half the normal rate of corporation tax. Capital gains are now exempted or taxed at the full rate. Depending on the dates at which the amendments came into force, certain special cases (companies in liquidation, financial periods which do not end on December 31st) which relate to separately taxable capital gains may nonetheless still be accepted.

4) See part 3, chapter 2; 2.3.
- Certain provisions are also exempted: these must relate to specifically defined risks and expenses.

The expenses which they are to meet must be by their very nature professional expenses for the year in which they are to be borne and the accumulation of this provision must be justified:
- either by events which occurred in the course of the financial year;
- or by a periodicity of expenses lasting beyond the year but not exceeding 10 years.

- Written off debt-claims are deductible in total as professional expenses when the loss is actually incurred in cash.

In the case of a loss which is only a probable loss, the amount written off is taken into account by the creation of an exempted reserve.

<table>
<thead>
<tr>
<th>Tax regime of written off debt-claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>When the amounts written off relate to a probable loss, the debts involved must result from the professional activity and be identified and justified case by case. Moreover, the exemption can only be made within the following limits:</td>
</tr>
<tr>
<td>- either 5% of financial profit, whereby the total amount written off thus exempted cannot exceed 7.5% of the highest annual profit for the 5 previous tax periods;</td>
</tr>
<tr>
<td>- or 2 per thousand of debts, whereby the total amount written off thus exempted cannot exceed 3 per thousand of the highest total amount of debt in the 5 previous tax statements.</td>
</tr>
</tbody>
</table>

Share premiums and capital subscription reserves are exempted if they are incorporated in the capital or appear in an unavailable reserve account.

**B. NOT-ALLOWED EXPENSES (N.A.E.)**

This grouping is made up of expenses which appear as charges in the financial accounts but for which a deduction is not authorized in the calculation of taxable profits.

This concerns mainly:

1° non-deductible taxes

Corporation Tax (5), advance payments, allowable withholding taxes (6) which are levied or determined on income included in the taxable base are not deductible. This is also the case for the interest on late payments, fines and prosecution expenses relating thereto.

<table>
<thead>
<tr>
<th>Withholding tax on real estate income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulations in respect of the withholding tax or real estate income are altered as from the tax year 1994. The withholding tax is no longer allowed as a credit offset, but the entirety of the tax due by companies for buildings which they own shall be a deductible charge.</td>
</tr>
</tbody>
</table>

5) The contribution which is payable on slush commission is deductible.
6) The F.F.T.C. is assimilated to a withholding tax and is therefore included in the taxable base as N.A.E. Only the chargeable amount is included in the N.A.E. and this may possibly be limited pro rata temporis (see below, paragraph 2.44).
1st part: direct taxation

2° fines, penalties and confiscations of any kind (7).

3° exaggerated interest
Interest from bonds, loans, debt-claims and other certificates representing amounts borrowed is deductible only to the extent that it does not exceed an amount corresponding to the market rate of interest, taking into account the particular data resulting from the appreciation of the risk involved in the operation, especially the debtor's financial situation and the term of the loan (8). The balance is a non-allowed expense. These limits apply neither to interest on shares nor to sums paid by or to financial institutions.

4° abnormal or gratuitous advantages which are granted to companies which are established abroad and with which the company has direct or indirect links involving interdependence, or to a company which is subject in the country of its registered offices to a tax system which is considerably more advantageous.

5° social benefits in respect of which the beneficiary is exempted from taxation.

6° donations
Certain types of donations can nonetheless be deducted from the taxable profit provided they fulfil the conditions for exemption specified in article 104 3°, 4° and 5°, 107 and 108 of the Income Tax Code (1992). In such cases, the deduction is made at the third operation.

7° withdrawal of exemption for additional staff employed in scientific research
The employment of additional staff can give entitlement to exemption from taxation at the third operation. The exemption awarded is, however, withdrawn when the personnel is reduced.

8° certain specific professional expenses
These involve:
- expenses and charges which exceed in an unreasonable fashion the professional needs,
- 25% of the professional quota in respect of car expenses (9),
- expenses in respect of clothing with the exception of specific working clothes,
- and 50% of restaurant bills, entertainment expenses, catering expenses and business gifts.

7) The non-deductibility of fines also includes fines which are incurred by active associates, board members and company employees.


9) Fuel expenses remain fully deductible.
9° capital losses and reductions in value on share participations, except in case of full distribution of company assets (10)

Tax regime of payments made to active associates and board members.
The remunerations of active associates and board members are totally deductible from corporation tax since the 1991 tax year.
As a consequence, the tax on directors fees ("tantièmes") is no longer applicable in the calculation of the taxable base and the "board member tax credit" is no longer applicable to the I.I.T.

C. DISTRIBUTED PROFITS

Dividends and revenue from invested capital

Dividends distributed by share companies and revenue from capital invested in partnerships are included in the taxable base.

Interest assimilated to dividends or income from invested capital

Since the tax year 1993, any interest on loans paid to partnerships by associates, their spouses or under age children is no longer systematically assimilated to income from invested capital. The law of July 28, 1992, amended these provisions which were extended to companies with share capital.

In the new law is a distinction is made according as to whether the recipient of the income is a natural person or a company.

- If the director or associate concerned is a natural person, the interest received (11) is assimilated to a dividend if and to the extent that one of the following limits is exceeded:
  - the interest allocated cannot exceed the limit which is set in Article 55 of the 1992 Income Tax Code and depends on the market rate of interest (12);
  - the total amount of interest-yielding advances cannot exceed the total amount represented, at the beginning of the tax period, by the paid up capital and the taxed reserves.

Assimilation to dividends and income from invested capital signifies that the amounts in question are not deductible in respect of

10) If the capital loss or the reduction in value results from the full distribution of the assets of the company which issued the shares, the deductibility is maintained up to the share capital actually paid up which is represented by the shares in that company.

11) These provisions are extended, as previously, to interest received by his spouse and children under age if he has the legal enjoyment of this income.

12) See above "Non-allowed expenses".
company tax and are subject to the withholding tax on income from movable assets at the rate of 25% (13).

- If the director or associate is a legal person subject to company tax, the interest allocated is never assimilated to dividends, even if the above-mentioned limits are exceeded. This means that the interest is always deductible in respect of the allocating company and always taxable without restriction in respect of the receiving company.

Exemptions

There are certain cases where dividends and revenue from invested capital are not taxable: the most frequent cases relate to the application of Royal Decrees 15 and 150 (14) and to companies set up within reconversion zones (15). The exemption is however suspended for the tax year 1994.

Repurchase of shares, total or partial distribution of company assets

Distributed profits also include payments made for the repurchase of shares and a total or partial distribution of company assets.

This rule is applicable, in respect of the repurchase of shares:

a) when the purchase is made outside the conditions prescribed by the coordinated laws on trade companies;

b) when the stocks or shares which are acquired in pursuance of the coordinated laws on trade companies but are reduced in value, are alienated, destroyed or declared void ipso jure.

c) at the latest when the company goes into liquidation.

The sums assigned are subsequently taxable as distributed profit in respect of the proportion which exceeds the effectively paid quota of company assets which remains outstanding, with any revaluation, which is represented by the purchased stocks or shares (16).

Specific rules are provided for the cases mentioned in b).

In the event of distribution of company assets, the sums shared out are considered as distributed profit in respect of the quota which exceeds the effectively paid company assets which remain outstanding with any re-evaluation.

Although these sums are considered as distributed profits, no withholding tax on income from movable property is deducted when they are assigned.

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13) The new provisions do not apply to interest allocated by the Cooperative societies recognized by the National Co-operation Council, nor to the interest from bonds issued through a public call for funds.
14) See part 3 below.
16) See article 103 new Income Tax Code, §1, section 3, 4 and 5.
2.32. **Second operation: breakdown of profits**

Taxable profits which are made up of the sum of reserves, not-allowed expenses, dividends and revenue from invested capital are subsequently broken down into three categories according to whether they are earned:

- *in Belgium:* they are in this case taxable at the full rate;
- *abroad in a country with which Belgium has not concluded an international convention preventing double taxation:* they consequently receive a tax rebate when the C.Tax is calculated (17);
- *abroad in a country with which Belgium has concluded a convention:* they are in this case exempted from C.Tax and can no longer be taken into account in the calculation of the taxable base.

2.33. **Sums deductible at the "third operation"**

The following are deductible:

- exemptions of 110,000 BEF awarded for each additional member of personnel involved in scientific research in Belgium (18);
- tax exemption awarded to companies which have signed a collective labour agreement which provides for a reduction in working hours (19);
- gifts;
  
  The deduction of gifts cannot, however, exceed 5% of the result of the 1st operation or 20,000,000 BEF.

2.34. **The "fourth operation": deduction of definitively taxed income (D.T.I.)**

**A. INCOME DEDUCTIBLE AS D.T.I.**

"Definitively taxed income" includes:

a. dividends and income from invested capital;
b. sums obtained through the distribution of assets of a company or the repurchase by a company of its own shares, provided the provisions of article 103 and 118 of the Income Tax Code or similar provisions in foreign law have been applied.

**B. THE "TAXATION CONDITION"**

Since the passing of the law of December 22nd 1989, Belgian legislation has instituted measures designed to remove the deductibility in respect of D.T.I. of dividends which had clearly not previously been submitted to normal taxation.

17) See section 2.42 below.
18) See part 3, chapter 2; 2.4.
19) See part 3, chapter 2; 2.6.
It has therefore been required that the company which allocates its revenue be liable to corporation tax (20) or, if it is a foreign company, to a tax similar to corporation tax.

The deduction made for D.T.I. referred to in (a) or (b) is therefore not permitted if the revenue is allocated or assigned by companies which are not liable to corporation tax or which are established in countries which offer a legally established tax system which is considerably more advantageous: the tax office has published a list of the cases to which this refers (21).

If the revenue is assigned:

- by holding companies or finance companies which, in the countries where they are established, operate under a fiscal system different from ordinary law,
- by investment firms (open-end UCITS - closed-end UCITS),

the deduction referred to in (a) or (b) is only awarded in so far as it has been established that the income allocated or assigned by these companies comes from income received by companies which themselves fulfil the conditions for deduction (transparency rule).

From tax year 1992 onwards, this taxation condition is reinforced; the income allocated or assigned by a company established abroad does not constitute D.T.I. if the company distributes revenue which does not itself fulfil the condition of taxation.

This condition must therefore be verified upstream of all the stages of distribution of the revenue for which the deduction in respect of D.T.I. is requested; each time, it must involve dividends or other forms of revenue mentioned in sub A) which fulfil the taxation criteria.

C. PARTICIPATION THRESHOLD

As from tax year 1994, the deduction for "definitely taxed income" is subject to a new condition.

It is required that the shareholding company hold, at the time of the distribution or payment of the dividends, a participation in the capital of the company issuing the shares which amounts either to 5% of the latter's capital, or to 50,000,000 BEF. This participation threshold does not apply to banks, insurance companies or stock exchange companies.

D. DEDUCTIBLE AMOUNT

The deductible amount is set at 95% of income before deduction of the withholding tax on capital income (22).

20) This condition is not required for income assigned by inter-municipal associations involved in the production or distribution of gas or electricity.
22) The former distinction between financial companies and non-financial companies is no longer applicable.
The deduction of the D.T.I. is no longer permitted on non-allowed expenses other than:
- taxes,
- capital losses and value reductions in share participations,
- formerly granted exemptions which are taken back.

E. EXEMPTED INCOME FROM MOVABLE PROPERTY

Income from preference shares of the Belgian National Railway Company (S.N.C.B./N.M.B.S.) and income from tax exempted bonds (prior to 1962) are also deductible.

2.35. The "fifth operation": deduction of previous losses

A. GENERAL RULE

The losses from previous tax periods are deductible with no time limit: the five-year rule and its exceptions have been abolished.

B. TAX-EXEMPTED MERGERS AND TAKE-OVERS

A special disposition is, however, provided if a company gets the contribution of a branch of trade from another company, or the entirety of an estate or when it absorbs another company: the professional losses which the absorbing company has incurred before the contribution are only deductible in respect of the proportion of the stake which is represented by its net fiscal assets before the operation within the total net fiscal assets after the said operation (23).

C. LIMITATION OF THE DEDUCTIBLE AMOUNT

From tax year 1992 onwards, the deductibility of previous losses is limited as follows, depending on the result remaining after the fourth operation.

<table>
<thead>
<tr>
<th>Result after the 4th operation</th>
<th>Limit on the deductibility of carry-over</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 20 million</td>
<td>none</td>
</tr>
<tr>
<td>20 to 40 million</td>
<td>maximum 20 million</td>
</tr>
<tr>
<td>40 million and more</td>
<td>50% of carry-over</td>
</tr>
</tbody>
</table>

23) In order to determine the net assets of the absorbing company, any stake it held in the companies being absorbed is disregarded.
2.36. **Sixth operation: The investment allowance**

The arrangements for investment allowances are described in greater detail in part three (24).

For investments relating to 1992, the deduction rates are as follows:

- normal rate: 4%
- "R & D" investments and "energy saving" investments: 14.5%
- staggered deduction: 11.5%

The investment allowance is, as a rule, no longer applicable since March 27, 1992, i.e. for real estate acquired or constituted from that date on.

The allowance is maintained, however, at the above-mentioned rates:

- for "R-D" investments and "energy saving" investments;
- for small and medium-sized companies, defined here as companies in which the majority of voting rights is in the hands of natural persons who are not members of a group which owns a Co-ordination centre;
- in the "staggered deduction" form.

The deductions to which the company is thus entitled can be **carried over with no limit** if the taxable profit remaining after the fifth operation does not allow total deduction.

Investment allowances to which the company is entitled for investments made in **previous tax periods** but which it was unable to make due to lack of taxable profits are deductible with the following limits:

<table>
<thead>
<tr>
<th>Result after the 5th operation</th>
<th>Limit on deductibility of carry-over</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 27,495,000</td>
<td>none</td>
</tr>
<tr>
<td>27,495,000 - 109,980,000</td>
<td>27,495,000 maximum</td>
</tr>
<tr>
<td>109,980,000 or more</td>
<td>25% of carry-over</td>
</tr>
</tbody>
</table>

2.4. **Calculation of the tax**

2.41. **Normal rate**

C. Tax is payable at a rate of 39%.

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24) See part 3, pages 145 and following.
2.42. Reduced rates

Reduced rates can be applied when the taxable profit does not exceed 13,000,000 BEF.

<table>
<thead>
<tr>
<th>Taxable net profit</th>
<th>Rate applicable to this bracket</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 1,000,000 BEF</td>
<td>28%</td>
</tr>
<tr>
<td>1,000,000 - 3,600,000 BEF</td>
<td>36%</td>
</tr>
<tr>
<td>3,600,000 - 13,000,000 BEF</td>
<td>41%</td>
</tr>
<tr>
<td>13,000,000 BEF and more</td>
<td>39%</td>
</tr>
</tbody>
</table>

In order to qualify for these reduced rates, a company must however fulfil a number of additional conditions relating to:

- the nature of the company,
- the shareholding of the company,
- the rate of return on the capital,
- the remuneration of the directors and active partners.

The nature of the company

In order to qualify for the reduced rates, the company must, by law, fulfil three conditions in respect of its activity:

- the company must not be a finance company (a holding);
- it must not have benefited from the services of a co-ordination centre;
- at least 50% of the income, before any deduction of professional expenses, must be derived from commercial, industrial or agricultural activities.

The shareholding of the company

Entitlement to the reduced rates is denied to those companies of which at least 50% of the shares representative of corporate rights are held by one or more other companies.

The rate of return on the registered capital

Entitlement to the reduced rates is also denied if the rate of return on the registered capital effectively paid up which remains to be reimbursed at the beginning of the tax period exceeds 13%.
The remuneration of directors and active partners

In order to qualify for the reduced rates, the company must have paid remunerations amounting to at least one million BEF to one director or active partner at least.

A graduated taxation is provided for when the taxable profit does not exceed 1,000,000 BEF. Entitlement to the reduced rates is then maintained if the following conditions are fulfilled:

- the aggregate amount of the taxable profit and the highest remuneration paid to directors exceeds 1,000,000 BEF,
- and the highest of the remunerations paid to one of the directors amounts at least to 50% of the aggregate amount of that remuneration and the taxable profit.

Case of the co-operative societies approved by the National Co-operation Council

A co-operative society approved by the National Co-operation Council can be entitled to the reduced rates even if it does not fulfil:

- the condition relating to the shareholding of the company,
- or the condition relating to the remuneration of the directors and active partners.

Similarly, being considered as a finance company does not prevent the application of the reduced rates.

The other conditions remain applicable.

2.43. Foreign income

C. Tax which relates to the net foreign income from countries with which Belgium has not signed an agreement preventing double taxation is reduced to a quarter.

2.44. Additional crisis tax

Owing to the introduction of the additional crisis tax, the corporation tax is increased by three surtaxes levied for the benefit of the State only.

2.45. Increase for non-payment or insufficient advance payments

The increase for non-payment or insufficient advance payments is, as a rule, calculated in the same way as for the I.T.T. (25), except that:

25) See above 1.38.
the dates are calculated from the first day of the financial year and not on the basis of the calendar year;
- the base must not be raised to 109%, but is raised to 103% owing to the introduction of the additional crisis tax;
- the increase is not reduced to 90%.

2.46. Allowance of withholding taxes as a credit offset

Withholding taxes allowable as a credit offset are divided into repayable and non-repayable taxes.

Irrespective of the special rules detailed hereafter, the allowance of the withholding tax on income from movable assets and of the F.F.T.C. as a credit offset is subject to two common provisions:

- a company cannot set off the withholding tax on income from movable assets and the F.F.T.C. relating to dividends or revenue from invested capital when the assignation of this income results in a depreciation or a drop in value of the stocks or shares.
- for all other types of income from movable property, the allowance of the withholding tax on income from movable assets and of the F.F.T.C. is only awarded, pro rata temporis, for the period in the course of which the company has enjoyed full ownership of the securities.

A. REPAYABLE WITHHOLDING TAXES

The following are set off against corporation tax and repayable:
- advance payments,
- the withholding tax on income from movable assets.

B. NON-REPAYABLE WITHHOLDING TAXES

As from the tax year 1994, the withholding tax on real estate income can no longer be set off against C. Tax, but shall be considered as an allowable expense.

The following remains allowable as a credit offset but are not repayable:
- the fixed foreign tax credit,
- the fictitious withholding tax on income from movable assets "coordination centres".

The fixed foreign tax credit (F.F.T.C.)

The fixed foreign tax credit (F.F.T.C.) can be set off against C. Tax but is not repayable. It relates only to fixed interest securities.

It is determined as follows:
the rate of the F.F.T.C. is no longer uniform, but depends on the tax actually levied abroad (26). This rate is obtained by dividing the tax actually paid abroad by the "frontier income".

the amount thus obtained can be set off against C. Tax, but cannot exceed the amount of C. Tax relating proportionally to the intermediary's margin.

That intermediary's margin corresponds to the difference between the "frontier income" and the relating financial expenses (27).

Fictitious withholding tax on income from movable assets "Co-ordination centres" (F.W.T.)

The fictitious withholding tax relating either to interest on loans granted to co-ordination centres or to dividends for the remuneration of capital brought in to co-ordination centres can be set off but is not repayable. The rate of the fictitious withholding tax on income from movable assets has been reduced from 25/75 to 10/90 and then canceled, but those alterations affect only new investments, so that investments in progress at the time of the legislative changes still give entitlement to setting off the F.W.T. (28).

2.47. Special tax conditions

A. NOT ALLOWED SUMS OR EXPENSES

A 200% tax imposition is applied to sums or expenses which are not justified and to slush funds. This contribution constitutes a professional expense.

B. WITHDRAWAL FROM EXEMPTED RESERVES

Formerly exempted capital gains must, in order to keep that quality, be entered in a separate account on the liability side (condition of intangibility).

As a rule, any withdrawal from these exempted reserves causes them to be liable to the normal rate of corporation tax.

An exception is allowed to that rule: withdrawals from exempted reserves are granted a special rate (17% for tax year 1994) provided they do not exceed 30% of the total exempted capital gains mentioned on the balance sheet at the end of the tax period linked up with tax year 1992.

26) When international agreements, which supersede Belgium Law, award special F.F.T.C. conditions, these conditions continue to be applied until the said conventions have been negotiated.

27) This new limitation of the F.F.T.C. has been introduced by the law of July 28, 1993, and enters into force for the tax year 1994.

28) See part 3, "Co-ordination centres", pages 147 and following.
CHAPTER THREE

TAX ON LEGAL ENTITIES (T.L.E.)

3.1. Liability

The following are liable to taxation on legal entities:

- the State, the provinces, the Brussels conurbation, the municipalities and public religious institutions;
- companies and associations, particularly non profit-making companies which are not involved in profit-making concerns or operations;
- inter-municipal associations, interurban transport companies, as well as certain institutions designated by name: National Delcredere Office (= national export credit insurance office), Belgian National Company for Local Transport, etc.

3.2. Taxable base and levy of the tax

3.2.1. Basic principle

Legal entities liable to T.L.E. are not taxed on their total annual net income but only:

- on their real estate income,
- on their income from capital and movable property,
- on certain miscellaneous forms of income,

and the taxes are collected in the form of withholding taxes.

3.2.2. Taxation of income from movable property

When taxpayers subject to T.L.E. are in receipt, without the withholding tax on income from movable assets being deducted, of income from movable property or miscellaneous income from movable origin, the withholding tax is due by the recipient of the income himself.

3.2.3. Five cases of putting items on the tax roll

However, in five special cases specific items are put on the tax roll:

a) Certain types of real estate income, notably net income from land and buildings in Belgium and leased, are subject to a tax of 20%. Public religious institutions ("Fabriques d'église/Kerkfabrieken" = authorities managing church property) are exempted from this contribution.

b) Capital gains made through the disposal for value of undeveloped real estate are taxable according to the same arrangements as the I.I.T.
c) The transfer of important participations is taxable according to the same arrangements as the I.I.T. (1).

d) Sums or expenses which are not justified are taxable according to the same arrangements as C.Tax (Rate of 200%, deductible).

e) Inter-municipal associations involved in the production and distribution of gas and electricity are also liable to the payment of a special contribution.

The base for this contribution is set at 8.5% of the difference between the income excluding of VAT from the sale of electricity to end-users and the cost of the fuel used to produce this supply.

The tax is subsequently calculated at the normal rate, i.e. 39%.

The increase for lack of or insufficient advance payments is applicable according to the same arrangements as corporation tax (2).

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1) See page 11.
2) See page 49.
CHAPTER FOUR

TAX ON NON-RESIDENTS (T.N.R.)

4.1. Individuals

Individuals who are considered as non-residents of the Kingdom (1) are liable to taxation only in respect of income earned or collected in Belgium.

Real estate income and/or earned income are, in certain cases which are mentioned below, aggregated and taxed at progressive rates. Separately taxed income is liable to withholding tax; in this case the T.N.R. is equal to the withholding tax; in this case, therefore, the withholding tax constitutes a non recurring tax.

The aggregation concerns either the total real estate income, or the aggregate real estate and earned income.

- the aggregation concerns the total real estate income.
  This is the case when non-inhabitants of the Kingdom receive in Belgium income from leased property or income from the establishment or the transfer of long lease rights or building rights.
  There is, however, no aggregation when the total real estate income does not amount to 100,000 BEF per taxpayer.

- the aggregation concerns the aggregate real estate and earned income from Belgian origin.
  This is the case when, in the context of their professional activity, non-inhabitants of the Kingdom possess one or several Belgian establishments from which they receive (2):
    - capital gains or real estate income;
    - profits, gains or profits from previous activities;
    - payments, pensions, annuities or allowances paid by a Belgian resident or the Belgian establishment of a non-resident;
    - payments made by a non-resident in respect of an activity carried out in Belgium for more than 183 days;
    - capital gains earned through the transfer to a non-resident company of a considerable significant participation (25% at least) in a Belgian company.

The assessment of the amount of aggregated taxable income is made according to the rules of the individual income tax, with the exception of the following peculiarities:

1) The criteria according to which an individual is or is not considered as an inhabitant of the Kingdom are explained at the beginning of Chapter 1, page 5.

2) The income (gains, profits or remunerations) which artists or sportsmen draw from their personal activities in Belgium are never aggregated.
Interest is only deductible (3) if there is taxable income from real estate and if the interest relates to buildings located in Belgium.

The non-inhabitant of the Kingdom is entitled to all the deductions with the exception of those relating to maintenance allowances paid to a non-inhabitant of the Kingdom and the taxes in respect of long lease rights or building rights relating to buildings abroad, provided:

- that he had a home in Belgium for the total tax period;
- if this is not the case, that he carried on, during the three-fourths of the tax period, a professional activity in Belgium or that he was in receipt of pensions amounting to not less than 75% of the total earned income from Belgian and foreign origin: this is the so-called "three-fourths rule".

If these conditions are not fulfilled, only the following are deductible:

- maintenance allowances paid to an inhabitant of the Kingdom;
- certain donations;
- compensation paid for long lease rights or building rights relating to buildings situated in Belgium;

The following deductions are not therefore taken into account:

- payments made to domestic personnel;
- expenses relating to maintenance and restoration work on classified monuments;
- additional deduction of mortgage interest;
- sums paid by civil servants by virtue of a cumulation of offices;
- sums paid for the purchase of shares in innovation companies.

The tax is subsequently calculated:

- according to the usual rules regarding individual income tax, if the taxpayer has possessed a dwelling house in Belgium for the total tax period;
- on the basis of a single scale, with no exemption at the base in other cases (4).

In all cases, additional municipal taxes are replaced by a 6% additional tax payable to the State.

3) With the exception of special conditions for the deduction of mortgage interests.
4) The reduction of taxes on replacement income is nonetheless awarded according to particular arrangements: the base reduction is the tax reduction to which the exempted income would have given entitlement.
4.2. **Companies**

As is the case with individuals, taxation is limited to income received in Belgium, regardless of the nature of this income: all income received by a company is earned income. The following are also applied in T.N.R./C.Tax:

The rate of T.N.R./C.Tax is 43% except in the case of a specific rate set by international agreements.

- taxation at the reduced rate for increases of assets;
- increases for absence or insufficiency of advance payments;
- the special levy on not-allowed sums or expenses.
CHAPTER FIVE

SPECIAL LEVY ON CAPITAL INCOME

5.1. Base

The special levy on capital income is applied to income from all debts, loans and cash deposits:
- which have been declared as I.I.T. and have been separately taxed;
- or which have not been declared by the taxpayer by virtue of the non recurring withholding tax on income from movable property;

provided the net amount exceeds 539,000 BEF.

The net amount of this income is calculated on the basis of the amount encashed or collected:
- before deduction of collection and custody charges;
- after deduction of withholding tax on income from movable property or a sum equal to 10% of this income when no withholding tax on income from movable property was levied.

5.2. Rates

The levy is set at a rate of 25.75% (1) on the net income exceeding 539,000 BEF.

5.3. Exemptions

The special contribution is not paid by taxpayers who undertake and observe the commitment:
- that, before the end of the second year following that during which the income subject to the contribution has been received, a sum which is at least equal to the basis of calculation of the levy will be affected by them to paying up securities (shares or bonds) (2) issued by companies liable to corporation tax or public securities issued as from January 1, 1991;
- and that they will keep the securities thus paid up for at least five years or, in the event of a transfer, reinvest them in securities which meet the same specifications.

1) Including the additional crisis tax.
2) With the exception of bonds issued by credit institutions, mortgage lending companies, insurance companies, portfolio companies, real estate investment companies and transport companies.
CHAPTER SIX

WITHHOLDING TAXES AND ADVANCE PAYMENTS

6.1. Withholding tax on real estate income (T. Imm.)

The withholding tax on real estate income is based on the inflation adjusted cadastral income.
For income earned in 1994, the inflation adjustment coefficient is set at 1.1398.
It is the Regions which are competent to determine the tax rate and the exemptions in respect of that withholding tax.

It is levied:

- at the rate of 1.25% (0.8% for subsidized housing) with an increase for the proportional additional provincial and municipal taxes on real estate located in the Walloon region;
- at the rate of 2.5% (1.6% for subsidized housing) with an increase for the proportional additional provincial and municipal taxes on real estate located in the Flemish region;
- for real estate located in the Brussels region:
  - 0.8 % for subsidized housing,
  - 1.25 % for other real estate, or parts of it, used as dwelling house,
  - 2.25 % in all other cases.

The following are awarded on request:

- a rebate of 25%, if the rental value of all the property of the taxpayer does not exceed 30,000 BEF (1);
- a rebate of 20% for war invalids and 10% for handicapped persons (2);
- a rebate of 10% per dependant child, provided the head of the family who claims the rebate has still at least two living children;
- a rebate proportional with the period of non-occupation or unproductiveness of the property.

6.2. Withholding tax on income from movable property (T. Mov.) (3)

6.21. On dividends

Dividends are subject to a withholding tax of 25.75%.

Interest on loans paid to their company by directors of joint stock companies and associates in partnerships (4) is assimilated to dividends.

1) This sum is not index-linked.
2) Suffering from a handicap of at least 66%, due to one or several complaints.
3) The rates of the withholding tax mentioned hereafter include the 3% additional crisis tax.
4) As well as by their spouses and under age children.
Such interest on advances is assimilated to dividends provided and to the extent that one of both limits hereafter is exceeded:

- the rate of interest cannot exceed the market rate applicable to the case in point;
- the total amount of interest-yielding loans cannot exceed the total represented, at the beginning of the tax period, by the paid up capital increased by the taxed reserves.

Interest is not assimilated to dividends when it relates to:

- bonds issued through a public call for funds;
- advances paid to Co-operative societies which are recognized by the National Co-operation Council;
- advances paid by directors who, being legal entities, are themselves liable to corporation tax.

The rate of the withholding tax is reduced to 20.6% for dividends from "AFV" securities (5).

Dividends allocated by a Belgian subsidiary to the parent company are exempt from withholding tax provided the parent company is located in a Member State of the European Community and has maintained, during an uninterrupted period of at least one year, a minimum share of 25% in the capital of the subsidiary.

<table>
<thead>
<tr>
<th>Changes in the withholding tax on dividends</th>
</tr>
</thead>
<tbody>
<tr>
<td>When this tax survey was being prepared, the &quot;draft law implementing the global plan&quot; was still being discussed in the Senate house. That bill includes, among its tax provisions, a partial change in the rate at which dividends are assessed at the withholding tax on income from movable assets. According to the latest information (Doc. 1002/1 of the Senate, 1993-94 session, March 3, 1994), the essential changes appear to be the following.</td>
</tr>
</tbody>
</table>

- The withholding tax on "A.F.V. dividends" is reduced to 13.39% provided by the company issuing the shares irrevocably waives the possibility of transferring to the shareholding the tax savings resulting from the exemption in respect of C. tax.
- The withholding tax is also reduced to 13.39% in the following cases, but provided the company issuing the shares does not irrevocably waive the benefit of that reduction:
  - dividends of shares issued by a public call for funds as from January 1, 1994,
  - dividends of shares issued as from January 1, 1994, for the remuneration of assets in money brought in, provided the shares are nominally registered with the issuer or placed in an unsealed deposit in Belgium with a financial intermediary subject to the control of the Banking and Finance Commission,
  - dividends distributed by investment companies (open-end and closed-end investment trusts), provided they be not exempted.

6.22. On interest

The withholding tax on income from movable property is levied at a rate of 13.39% on interest from the new, fixed revenue assets, i.e.:

5) See part 3, chapter 2, 2.21.
demand deposit accounts, savings accounts and term deposits;
for other securities, on interest from securities issued from 1.3.90 onwards.

The withholding tax on income from movable property is non-recurring tax with the proviso that a special levy may be imposed on capital income exceeding a certain threshold (6).

6.3. **Withholding tax on earned income**

The present paragraph concerns only the application of the withholding tax on earned income received by residents or by non-residents who have had their home in Belgium for the whole tax period (7):

Only the most frequently occurring cases are described below.

6.31. **Salaries**

As regards the payment of salaried workers, the earned income tax deducted at source is withheld by the debtor of the taxable income according to a scale corresponding to the I.I.T.-scale, taking account of dependants and fixed professional expenses.

The gross annual income is first determined by deducting the levies made in pursuance of social legislation or of an assimilated legal or administrative regulation.

The gross annual income is then transformed into net annual taxable income by subtracting fixed professional expenses.

For 1994 salaries, these charges are calculated according to the following scale:

<table>
<thead>
<tr>
<th>Gross annual income</th>
<th>Professional expenses on lower limit</th>
<th>above this</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 163,000</td>
<td></td>
<td>20%</td>
</tr>
<tr>
<td>63,000 - 325,000</td>
<td>32,600</td>
<td>10%</td>
</tr>
<tr>
<td>325,000 - 542,000</td>
<td>48,800</td>
<td>5%</td>
</tr>
<tr>
<td>542,000 - 2,153,667</td>
<td>59,650</td>
<td>3%</td>
</tr>
<tr>
<td>2,153,667 and more</td>
<td>108,000</td>
<td></td>
</tr>
</tbody>
</table>

At the third stage, the basic tax is determined according to the following scales.

---

6) See chapter 5.
7) The rules for the calculation of the withholding tax on earned income mentioned hereafter take into account the 6% additional local taxes and the 3% additional crisis tax.
Applicable base scale:

- when the beneficiary of the income is single;
- when the spouse of the beneficiary of the income has also his/her own earned income.

<table>
<thead>
<tr>
<th>Net annual taxable income</th>
<th>Basic tax on lower limit</th>
<th>% above</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 145,000</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>145,000 - 249,000</td>
<td>28,340</td>
<td>32.70%</td>
</tr>
<tr>
<td>249,000 - 330,000</td>
<td>54,827</td>
<td>43.60%</td>
</tr>
<tr>
<td>330,000 - 471,000</td>
<td>116,303</td>
<td>49.05%</td>
</tr>
<tr>
<td>471,000 - 1,084,000</td>
<td>416,980</td>
<td>54.50%</td>
</tr>
<tr>
<td>1,084,000 - 1,625,000</td>
<td>711,825</td>
<td>57.23%</td>
</tr>
<tr>
<td>1,625,000 - 2,384,000</td>
<td>1,146,201</td>
<td>59.95%</td>
</tr>
</tbody>
</table>

Basic scale applicable when the spouse of the beneficiary of the income does not have his/her own earned income:

<table>
<thead>
<tr>
<th>Net annual taxable income</th>
<th>Basic tax on lower limit</th>
<th>% above</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 249,000</td>
<td>0</td>
<td>27.25%</td>
</tr>
<tr>
<td>249,000 - 330,000</td>
<td>67,853</td>
<td>32.70%</td>
</tr>
<tr>
<td>330,000 - 471,000</td>
<td>94,340</td>
<td>43.60%</td>
</tr>
<tr>
<td>471,000 - 1,084,000</td>
<td>155,816</td>
<td>49.05%</td>
</tr>
<tr>
<td>1,084,000 - 1,625,000</td>
<td>456,493</td>
<td>54.50%</td>
</tr>
<tr>
<td>1,625,000 - 2,384,000</td>
<td>751,338</td>
<td>57.23%</td>
</tr>
<tr>
<td>2,384,000 and more</td>
<td>1,185,714</td>
<td>59.95%</td>
</tr>
</tbody>
</table>

The withholding tax calculated by applying that scale must be reduced by an amount of 73,030 BEF (amount corresponding to the tax on the exempted bracket of each of the spouses).

Fourthly, the following tax reductions are taken into account.

1 dependant child (8) : 10,800
2 dependant children : 27,300
3 dependant children : 72,300
4 dependant children : 135,600
5 dependant children : 203,700
6 dependant children : 271,800
7 dependant children : 340,200
8 dependant children : 408,300
single person : 10,800

8) Handicapped children count as two.
1st part: direct taxation

widow(er) who has not remarried
with dependant child : 10,800
single parent family : 10,800
handicapped taxpayer (9) : 10,800
other dependant persons (10) : 10,800

When the spouse has his/her own earned income of which the net amount (11) does not exceed 5,600 BEF per month, a further reduction of 33,600 BEF is awarded.

The amount of tax thus obtained is then divided by twelve to determine the amount of withholding tax on monthly earned income.

6.32. Salary arrears

On salary arrears the withholding tax on earned income is calculated according to a "reference salary". This corresponds to the annual amount of the normal gross salary allocated to the beneficiaries of income first before the revision which led to the payment of arrears.

Scale applicable to arrears:

<table>
<thead>
<tr>
<th>Reference salary (in thousands of BEF)</th>
<th>Rate of withholding tax on earned income</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 214</td>
<td>0</td>
</tr>
<tr>
<td>214 - 300</td>
<td>6.18</td>
</tr>
<tr>
<td>300 - 388</td>
<td>12.36</td>
</tr>
<tr>
<td>388 - 538</td>
<td>18.54</td>
</tr>
<tr>
<td>538 - 626</td>
<td>19.57</td>
</tr>
<tr>
<td>626 - 1,180</td>
<td>31.93</td>
</tr>
<tr>
<td>1,180 - 1,747</td>
<td>39.14</td>
</tr>
<tr>
<td>1,747 - 2,530</td>
<td>43.26</td>
</tr>
<tr>
<td>2,530 and more</td>
<td>51.50</td>
</tr>
</tbody>
</table>

There are specific arrangements to take account of dependents.

6.33. Holiday allowance and other exceptional allowances

For holiday allowances and the other exceptional allowances paid by the usual employer, the withholding tax on earned income to be deducted is calculated according to a special scale, whereby the rate does not vary according to actually received income but according to the annual gross amount of compensation.

9) Each of the spouses.
10) This reduction is doubled for handicapped dependant persons.
11) That is to say income less social security contributions, with this balance itself reduced by 20%.
Scale of withholding tax on earned income applicable to the holiday allowance paid by the employer and other exceptional allowances:

<table>
<thead>
<tr>
<th>Gross annual compensation (x 1,000 BEF)</th>
<th>Withholding tax rate on earned income</th>
<th>Holiday allowance</th>
<th>Other cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 184</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>184 - 231</td>
<td>19.57</td>
<td>23.69</td>
<td></td>
</tr>
<tr>
<td>231 - 289</td>
<td>21.63</td>
<td>25.75</td>
<td></td>
</tr>
<tr>
<td>289 - 346</td>
<td>26.78</td>
<td>30.90</td>
<td></td>
</tr>
<tr>
<td>346 - 404</td>
<td>31.93</td>
<td>36.05</td>
<td></td>
</tr>
<tr>
<td>404 - 462</td>
<td>35.02</td>
<td>39.14</td>
<td></td>
</tr>
<tr>
<td>462 - 577</td>
<td>37.08</td>
<td>41.20</td>
<td></td>
</tr>
<tr>
<td>577 - 635</td>
<td>40.17</td>
<td>44.29</td>
<td></td>
</tr>
<tr>
<td>635 - 866</td>
<td>43.26</td>
<td>47.38</td>
<td></td>
</tr>
<tr>
<td>866 - 1,155</td>
<td>48.41</td>
<td>52.53</td>
<td></td>
</tr>
<tr>
<td>1,155 - 1,735</td>
<td>54.59</td>
<td>54.59</td>
<td></td>
</tr>
<tr>
<td>1,735 - 2,656</td>
<td>57.68</td>
<td>57.68</td>
<td></td>
</tr>
<tr>
<td>2,656 and more</td>
<td>59.74</td>
<td>59.74</td>
<td></td>
</tr>
</tbody>
</table>

Exemptions for dependant children are subsequently taken into account. When the holiday allowance is paid or allocated by annual holiday funds without the intervention of the employer the withholding tax rate on earned income is:

- 17.51% if the amount of the holiday allowance does not exceed 35,000 BEF;
- 23.69% if the amount of holiday allowance exceeds 35,000 BEF.

6.34. Unemployment benefit

Unemployment benefit and waiting allowances are liable to a 10.3% withholding tax rate on earned income except when they are awarded to a fully unemployed person who is the "head of the family" according to unemployment insurance legislation. The exemption is also awarded for additional allowances paid by local employment agencies and, in certain cases, for allowances paid to cohabitants.

6.35. Attendance fees, commissions

Attendance fees as well as compensation and allowances awarded occasionally are liable to withholding tax on earned income calculated as follows:
Withholding tax on earned income payable on attendance fees, commissions and other occasional allowances:

<table>
<thead>
<tr>
<th>Amount of compensation (in thousands of BEF)</th>
<th>Withholding tax rate on earned income</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 20</td>
<td>27.81</td>
</tr>
<tr>
<td>20 - 25</td>
<td>32.96</td>
</tr>
<tr>
<td>25 and more</td>
<td>38.11</td>
</tr>
</tbody>
</table>

6.36. Board members and active associates

Remunerations paid or allocated to directors of joint stock companies and active associates in partnerships are liable to withholding tax on earned income.

The withholding tax is calculated on the basis of the scale applicable to the employees except that the deduction of social contributions and professional charges is made according to specific rules.

A. PERIODICAL REMUNERATIONS

To allow these taxpayers to take account of the social contributions for the self-employed and "minor risk" sickness insurance contributions, a reduction is applied on their gross income which is calculated as follows:

<table>
<thead>
<tr>
<th>Gross amount of monthly remuneration</th>
<th>Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>31,000 BEF and less</td>
<td>11,000 BEF</td>
</tr>
<tr>
<td>31,001 to 148,000 BEF</td>
<td>11,000 BEF + 17% of the part over 31,000 BEF</td>
</tr>
<tr>
<td>148,001 to 215,000 BEF</td>
<td>30,890 BEF + 12.5% of the part over 148,000 BEF</td>
</tr>
<tr>
<td>215,001 BEF and more</td>
<td>39,265 BEF</td>
</tr>
</tbody>
</table>

Deductible professional expenses are calculated at the single rate of 5% with a maximum of 108,000 BEF.

B. NON-PERIODICAL REMUNERATIONS

The withholding tax on earned income applicable on non-periodical remunerations is equal to 12 times the difference between:

- on the one hand, the withholding tax due on the sum of the periodical remunerations of the month during which the non-periodical remunerations are allocated,
- and one twelfth of the non-periodical remuneration, and
- on the other hand, the withholding tax on earned income applicable on the periodical remunerations for the month during which the non-periodical remunerations are allocated.
6.4. Advance payments (A.P.)

Traders, board members, active associates and members of professions, as well as companies, are obliged to make advance payments of taxes in four instalments (quarterly instalments 10/4, 10/7, 10/10 and 20/12) (12).

These instalments allow them to avoid tax increases (13).

A dispensation may be given on certain conditions when a self-employed person sets up in business for the first time (14).

Moreover, all taxpayers liable to I.I.T. can make advance payments to pay off in advance those taxes which are not covered by withholding tax. Bonuses are awarded for advance payments made (15).

For the income of the year 1994, the reference rate is 8%.

The rates of tax increases and bonuses are therefore the following.

<table>
<thead>
<tr>
<th>Increase</th>
<th>Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>VA1 : 24%</td>
<td>VA1 : 12%</td>
</tr>
<tr>
<td>VA2 : 20%</td>
<td>VA2 : 10%</td>
</tr>
<tr>
<td>VA3 : 16%</td>
<td>VA3 : 8%</td>
</tr>
<tr>
<td>VA4 : 12%</td>
<td>VA4 : 6%</td>
</tr>
</tbody>
</table>

12) These dates are valid for natural persons and for companies whose accounting year coincides with the calendar year. For other companies, the dates for A.P. are calculated from the 1st day of the accounting year.

13) See 1.38.

14) See part three, chapter 1, 1.28.

15) See 1.38.
PART 2

INDIRECT TAXATION

1. Value added tax (VAT)
2. Registration duties, mortgage duties and court fees
3. Death duties
4. Stamp duties
5. Taxes assimilated to stamp duties
6. Duties upon importation and exportation
7. Excise duties
8. The levy on energy
9. Ecotaxes
10. Taxes on drinking establishments
11. Taxes assimilated to income tax
CHAPTER ONE

VALUE ADDED TAX (VAT)

PRELIMINARY REMARK

This tax is governed by the Code of Value Added Tax (VAT Code) and the decrees taken for its implementation. The article numbers hereafter refer, unless otherwise stated, to the VAT Code. Owing to the complexity of certain arrangements (for example, listing of taxable and exempted transactions, place of delivery, intra-Community acquisition of goods, VAT-rates, etc.), only the most frequently occurring cases are dealt with hereafter. The descriptions of the arrangements do not claim to be exhaustive.

1.1. Definition

VAT is a tax on the goods and services which is borne 'eventually' by the final consumer and which is levied in successive stages, namely at each transaction in the process of production and distribution. In view of the fact that at each stage of this process the tax paid on the inputs can be deducted, only the added value is taxed at that stage. VAT is therefore a non-recurrent tax on consumption, which is paid off in instalments.

VAT is a proportional tax on the sales price excluding VAT. The rates applied may, however, vary according to the nature of the goods or services to be taxed.

The three great categories of taxable transactions are the following:

- the supply of goods and the provision of services effected for a consideration by a person liable to VAT, when they occur within the country (Art. 2);
- the importation of goods into Belgium by any person whatsoever. Importation shall only refer to goods coming from a country which is not a Member State of the EC;
- the intra-Community acquisition of goods, which occurs in Belgium and is made for a consideration. These are goods coming from the other Member States of the EC (Art. 3 bis).

1.2. Persons liable to VAT and legal persons that are not liable

The persons liable to VAT - or taxable persons - form a crucial link in the process of levying the VAT. They charge VAT on the sales to their customers and can, on the other hand, deduct from the VAT levied on their sales the VAT that is levied on their own purchases and investments. They therefore only pay to the Treasury the difference (= the tax on the value which they themselves have added.)
The concept of VAT liability is dealt with by Articles 4 to 8 bis of the VAT Code.

A taxable person is anyone who, in the performance of an economic activity, effects, in a regular and independent manner, either on a principal or accessory basis, with or without profit motive, the supply of goods or the provision of services referred to in the VAT Code (see point 1.3), irrespective of the place where that activity is carried on (Art. 4).

Public authorities and public bodies are not taxable persons for the activities which they carry on as public authorities (to this effect they are described as non-taxable legal persons, see below). They are, however liable to tax for the activities for which an identification as non-taxable person could result in serious distortions of competition (Art. 6).

The following persons shall also be liable to tax:

a. those who, without performing an economic activity, carry on, within a given period and under certain conditions, certain transactions in respect of buildings (for example, the construction or acquisition of a building, the establishment or transfer of rights in rem - Article 8);

b. those who supply occasionally a new means of transport, for a consideration and under certain conditions (Art. 8 bis).

"Means of transport" shall be taken to include: certain ships and aircraft, as well as terrestrial motor vehicles with an engine of more than 48 cm³ cylinder capacity or of a power of more than 7.2 kW. Those means of transport are considered to be "new" if the delivery occurs within three months after the first entry into service or if the services they performed did not exceed:

- for terrestrial vehicles: a mileage of 3,000 km;
- for ships: 100 hours of sea travel;
- for aircraft: 40 hours of flight.

Special categories include also:

- taxable persons exempted: physical or legal persons who carry on activities which are exempted from the tax pursuant to Article 44 of the VAT Code (see point 1.42) (for example, teaching establishments, hospitals, certain cultural institutions, etc.);

- non-taxable legal persons: public authorities defined as non-taxable persons (see above: State, municipalities, public institutions, ...) and certain holding companies.
1.3. **Taxable transactions**

Taxable activities include the following four big categories:

- the supply of goods (Art. 10 to 17);
- the provision of services (Art. 18 to 22);
- importation (Art. 23 to 25);
- intra-Community acquisition of goods (Art. 25 bis to 25 septies)

1.31. **The supply of goods**

The *supply of goods* is the transfer or assignment of the power to dispose of the goods as the owner thereof. Certain other transactions, such as the delivery, by the contractor, of goods of movable nature which he has manufactured from materials and objects supplied by the customer (commission work), are also considered as a supply (Art. 10).

The term *goods* shall be understood to mean any tangible property including gas, electricity, heating and cooling, and any rights in rem (other than the right of ownership) which entitle the person concerned to use *immovable property*, with the exception of certain long lease rights (Art. 9).

The place of delivery of the goods is, as a rule, the place where the goods are put at the disposal of the acquiring party or assignee (Art. 15).

There are, however, a whole series of exceptions to that rule. Where, for example, the goods are dispatched or transported by the supplier, the acquiring party or a third party (on their behalf), the place of delivery shall be the place from which the consignment or transport is made to the acquiring party. Where the goods are installed or assembled by, or on behalf of, the supplier, the place of supply shall be the place of such an installation or assembly. For goods supplied from a country which is not a Member State of the EC and that are imported by the supplier into another Member State than the one where the consignment or transport arrives, the place of delivery shall be, as a rule, in the Member State where the goods were imported into the Community.

The place of delivery, however, shall always in Belgium when the goods, which are *not* new means of transport or are not assembled or installed by, or on behalf of, the supplier, are dispatched or transported by the latter from another Member State of the EC to Belgium (system of remote sales - Art.15, § 4) and if the delivery of the goods is effected for:

- a taxable person exempted or a non-taxable legal person (up to the exempted amount of 450,000 BEF, excluding VAT, see below);
- any other non-taxable person.

For the delivery of goods, *other than excise goods* (viz. mineral oils, alcohol and alcoholic beverages, as well as manufactured tobacco) for a total amount per calendar-year not exceeding 1,500,000 BEF (excluding VAT), the place of delivery shall be in this case Belgium only if this is so chosen by the supplier (for
example, a mail-order selling firm established in another Member State of the EC).

The time of delivery is, as a rule, the time at which the goods are placed at the disposal of the acquiring party or assignee (Art. 16), for example the time of arrival of the transport or consignment by, or on behalf of, the supplier, or the time at which the installation or assembly is finished. Sometimes special arrangements are applicable.

As a rule, the chargeable event occurs and the tax is due at the time of delivery of the goods (Art. 17). In certain cases, however, another arrangement may apply (deferred payment till the 15th day of the following month - for intra-Community traffic - or payability upon invoicing or cashing).

1.32. The provision of services

A service is defined as any operation other than the supply of goods within the meaning of the VAT Code (Art. 18). A number of services mentioned explicitly are: any physical or intellectual work, the lending of personnel, the granting of the right to enjoy the possession of goods (except certain immovable goods mentioned in Art. 9), the supplying of parking space for vehicles or of a space for the storing of goods, the supplying of furnished rooms or a campground, the supplying of food and beverages, the granting of a right of access to cultural, sport or amusement establishments, etc.

A service for a consideration shall be deemed also to include the performance by a taxable person of work on real property for the purpose of his economic activity (save a few exceptions) as also for his private needs or those of his personnel, and, more generally, free of charge or for purposes unrelated to his economic activity (Art. 19).

The place of a service is, as a rule, the place where the person providing services has established his principal place of business or a permanent establishment (Art. 21). There are, however, a whole series of exceptions to that rule, for example the location of the immovable property with respect to which the service is provided; the location of immovable property on which physical work is performed; the place where the transport occurs (in certain cases also the place of departure or another place); the place where the service is actually provided (for example, cultural, sport or scientific activities, the
of entry into the Community (Art. 23). There are a number of exceptions to this rule, especially in relation with special customs arrangements.

The chargeable event takes place, as a rule, in Belgium and the tax is due in this country upon importation of the goods into Belgium (Art. 24).

1.34. Intra-Community acquisition of goods

An intra-Community acquisition of goods is the acquisition of the right to enjoy the power of ownership with respect to tangible movable property which is dispatched or transported, by or on account of the seller or the purchaser, to the purchaser in another Member State of the EC than the one from which the goods are dispatched or transported (Art. 25 bis).

The intra-Community acquisition of goods includes also custom work which is performed on behalf of a client in another Member State of the EC.

The tax shall be levied on intra-Community acquisitions in Belgium of goods for a consideration, which are made by :

- a taxable person acting in that capacity;
- a non-taxable person who is not entitled to exemption (see below), where the seller is a taxable person acting in that capacity (Art. 25 ter).

Intra-Community acquisitions of goods are not, however, subject to tax if they are made by :

- a taxable person to whom the exemption arrangements are applicable (certain small enterprises, see point 1.91);
- certain agricultural enterprises which are subject to a flat-rate system (see point 1.92);
- a taxable person who effects exclusively the delivery of goods and the provision of services for which he is not entitled to deduction (i.e. the taxable persons exempted, for example physicians, schools, hospitals, etc., see point 1.2 above);
- a non-taxable legal person;

within the limits of a total amount per calendar-year of 450,000 BEF (excluding VAT). This arrangement is not applicable to new means of transport, nor to excise goods (which are anyway, under these circumstances, subject to VAT in Belgium, see below). Taxable persons and non-taxable legal persons can choose, however, to have all their intra-Community acquisitions of goods subjected to the tax in Belgium.

Intra-Community acquisitions in Belgium of new means of transport are always subject to tax, irrespective of the person who makes them (a taxable person acting in that capacity, for example a car trader, a taxable person exempted, a non-taxable legal person and all private individuals).
The place of intra-Community acquisition of goods is, as a rule, the place where the goods were located at the time of arrival of the consignment or transport to the purchaser (Art. 25 quinquies). However, if the purchaser is unable to prove that the tax was levied in that manner, the place of intra-Community delivery shall be deemed to be within the Member State of the EC which has granted the VAT identification number under which the purchaser made that acquisition. Saving proof to the contrary, the intra-Community acquisition shall be deemed to have taken place in Belgium if the purchaser has a Belgian VAT identification number.

The time of intra-Community acquisition of goods is determined according to the same rules as govern the delivery of goods within the country (Art. 26 sexies and Art. 16).

The chargeable event takes place at the time of the intra-Community acquisition of goods and the tax is due on the 15th of the following month, unless the invoice for the delivery/acquisition was issued to the purchaser before that date (Art. 25 septies).

1.4. Exemptions

These exemptions can be divided into two groups. On the one hand, there are the activities which are exempted from VAT, but which do not take away from those who carry on these activities the right to deduct the VAT levied on the goods and services supplied to them (see point 1.41).

Furthermore, there are exempted activities for which the exemption is based mainly on cultural and social considerations and which do take away from those who carry on these activities the right to deduct VAT levied on the goods and services supplied to them (see point 1.42).

1.41. Exportation, importation, intra-Community deliveries and acquisitions and international transport

Exemptions that fall within this section are listed in Art. 39 to 42.

These are mainly the following:

- exportation (i.e. to a place outside the EC);
- deliveries and intra-Community acquisitions of goods destined to be placed under certain customs arrangements;
- deliveries of goods to a taxable person or a non-taxable legal person in another Member State of the EC, who are obliged to subject their intra-Community acquisitions of goods to VAT;
- intra-Community deliveries of new means of transport;
- goods supplied by points of sales to travellers who travel by air or sea through the Community, within the limits fixed by the EC, for the movement of travellers between third countries and the EC (for example purchases in tax-free shops);
- certain importations, intra-Community acquisitions, reimportations and temporary importations and related services (for example, goods placed under certain customs arrangements);
- transportation of passengers by sea and international transportation of passengers by air;
- international transportation of goods from non-EC countries and certain related activities (for example loading and unloading);
- certain deliveries of ships and boats, aircraft, seaplanes, helicopters and similar craft, as well as certain related activities;
- certain deliveries and importations of goods and services for diplomatic and consular missions and for international organizations;
- the deliveries of gold to central banks.

1.42. **Other exemptions**

The description of these exempted services is given in Art. 44.

These are mainly:

- services provided by notaries, public attorneys and bailiffs;
- services provided by the medical and certain paramedical professions;
- services provided by hospital and related establishments;
- services provided by certain institutions for the aged and by nurseries;
- services provided by certain sport establishments;
- services provided by the recognized educational institutions;
- services provided by certain other social and cultural institutions, such as libraries, theaters, cinemas (under certain conditions);
- services provided by authors, artists and interpreters of works of art;
- the delivery of real property which is immovable by nature, except, the delivery by certain taxable persons of a building which occurs not later than December 31 of the year following that in which the building was, for the first time, listed in the assessment book for the withholding tax on income from immovable assets. Similar rules apply for the establishment and transfer of rights in rem;
- lease-farming and renting of real property (except, for example, parking space and space for the storing of goods, hotels and campings and the leasing with VAT by real estate leasing companies of buildings for the performance of economic activities);
- insurance operations, except for services rendered by damage experts;
- most deposit and credit transactions, payment and collection transactions, and transactions relating to securities;
- the delivery of poststamps for the payment of postage, of revenue stamps and the like;
- betting, lotteries and other chance and money games (under certain conditions).
1.5. **The assessment basis**

The assessment basis of the VAT is defined in Art. 26 to 36.

As a rule, the assessment basis of the VAT is the amount which the contracting partner of the supplier of goods or of the provider of services must pay to his supplier or provider.

This amount includes also the commission, insurance and transportation costs as well as the taxes (except the VAT itself), duties and levies (Art. 26).

The assessment basis does not include, however, certain price reductions and similar discounts, deposits on packages, etc. (Art. 28).

Special arrangements apply notably to imports (where the basis is, as a rule, the customs value - Art. 34), to transactions for which the price is not expressed in cash only (the *normal value* as assessment basis - Art. 32) and to the services of travel agencies, etc.

There is a minimum assessment basis for certain goods and services, such as for new buildings (Art. 35 and 36).

1.6. **The VAT rates**

The VAT is calculated on the assessment basis at rates which depend on the nature of the transaction. Normally the rate to be applied is that which is applicable at the time at which the chargeable event takes place. In many cases, however, the rate to be applied is that which is applicable at the time at which the tax is payable (for example, invoicing or cashing - Art. 38).

Besides a whole series of exceptions and special cases, the VAT rates are as follows:

- **0%**: newspapers and certain weeklies;
- **1%**: gold for investment purposes;
- **6%**: the goods and services listed in table A of the Annex of Royal Decree no 20, of July 20, 1970, establishing the rates of the VAT and the classification of goods and services under these rates, as last amended by the Royal Decrees of June 24, 1993, and December 21, 1993.

We are mainly concerned here with live animals, foodstuffs (except i.a. margarine, caviar, and certain crustaceans, or molluscs) water supply, pharmaceutical products, books and certain periodicals, original works of art, collectors' pieces and antiques, motor cars for invalids, coffins, certain orthopaedic appliances, agricultural services, transport of persons, maintenance and repair of certain goods in table A above, as also performances, copyrights, hotels and campings, services rendered by undertakers, certain transactions relating to private dwellings which are
at least 20 years old, certain transactions relating to private dwellings for handicapped persons and institutions for such persons, and a few other services;

12% : the goods and services listed in table B of the Annex of the above mentioned Royal Decree no 20, last modified by the Royal Decrees of June 24, 1993, and December 21, 1993. We are concerned here mainly with plant-protection products, margarine, tyres and tubes for wheels of agricultural machines and tractors, certain solid fuels (i.a. coal, brown coal and coke), pay television and real estate transactions relating to subsidized housing;

20.5% : all goods and services subjected to VAT and not listed elsewhere.

1.7. The deduction of VAT (or deduction of the input tax)

The deduction of VAT is governed by Art. 45 to 49.

The taxable person may deduct from the amount of the VAT which he owes, the VAT which has been levied on the goods which were delivered to him or on the services which were provided to him, or on the goods imported by him or acquired within the Community, insofar as he uses these goods and services in economic activities on which VAT is charged or in economic activities which are exempted from VAT on account of exportation and intra-Community deliveries, international transport (exemptions referred to under point 1.41 above) and certain other cases (Art. 45 §1).

For the acquisition of new means of transport an arrangement has been developed to avoid that certain purchasers (for example, private individuals) should suffer a double taxation on these vehicles (Art. 45, §1 bis). In all cases the VAT on these new means of transport must be paid at the rate applicable in Belgium.

Sometimes, however the deduction of VAT is limited. In most cases, the deduction is limited, for example, to a maximum of 50% for the purchase of cars and supplies (for example, fuel, oil,...) and services (for example maintenance, repairs,...) relating to these vehicles. No deduction of VAT is allowed notably for the supply and intra-Community acquisition of manufactured tobaccos, spirits for end consumption and certain expenses relating to accommodation, food and drinks (Art. 45, §2 to 4).

For "persons partially liable to VAT", i.e. taxable persons who are liable to VAT and who are involved both in professional activities which are liable to VAT and activities which are not liable, the deduction of the VAT charged on inputs is also limited, namely to the ratio of the turnover of operations which give entitlement to the deduction and the total turnover (under certain conditions, on the basis of the actual use of the inputs - Art. 46).
Periodical VAT declarations must mention the VAT which is payable and the VAT which is deductible. Only the difference is paid to the Treasury. If the VAT to be deducted is greater than the VAT due, the difference is carried over to the following declaration (Art. 47). On express request and subject to certain conditions being fulfilled, the balance referred to above is effectively refunded (Refund - Art. 75 to 80).

In the case of a partial deduction, a provisional amount to be deducted is fixed. That amount is adjusted after the expiration of the year in which the right to deduction arose. For the tax on capital goods, the period for adjustment is spread over five years and, for certain immovable property, over ten years.

1.8. Submission

The correct functioning of a VAT system requires that the taxable persons must fulfil a number of obligations. These concern accounting, the issuing of invoices, the drawing up of client lists, the submission of VAT declarations and the payment of VAT. For certain companies, special (simplified) prescriptions apply.

The basis for these obligations is laid down in Art. 50 to 55.

A VAT identification number, which includes the letters BE, is assigned by the VAT Administration to the taxable persons (except those who are not entitled to deduction, the small enterprises and those who, regardless of the performance of an economic activity, transfer buildings under certain conditions or who occasionally deliver a new means of transport) (Art. 50).

In addition to the declaration of starting, modification or cessation of an activity, most taxable persons must, in principle, draw up a VAT declaration for that month (giving the VAT to be paid and deducted) and pay every month the amount due. The submission and the payment must be made by the 20th of the following month at the latest. On December 20th at the latest, a deposit must be paid in respect of the VAT which will be payable for that month.

They must also draw up, each year, a listing of the Belgian taxable persons to whom they made supplies (Art. 53 quinquies). In respect of intra-Community supplies, a listing must be drawn up per quarter (Art. 53 sexies).

Taxable persons whose turnover does not exceed 20,000,000 BEF per year must submit quarterly declarations. They must pay, in the 2nd of 3rd months of each calendar quarter, a deposit equal to one third of the tax due for the preceding quarter. They can nonetheless opt for monthly declaration.

1.9. Special systems

In view of the fact that the normal VAT system entails considerable obligations which, for certain small enterprises, are difficult to fulfil, special systems apply to certain enterprises. There is also a special system notably for non-taxable legal persons.
1.91. The special system for small enterprises

The first group of arrangements is governed by Art. 56.

There is first the flat-rate system for small enterprises. This system applies only to enterprises which deal mainly with private individuals, which have a turnover which does not exceed 20,000,000 BEF per year and which are active in certain sectors (e.g., bakers, butchers, hairdressers, ...). For each rate of VAT, their turnover is set according to a fixed rate. The deduction of the VAT charged on inputs is applied according to the normal rules. These companies can, however, opt for the normal VAT system.

In addition there is also the tax exemption for the supplies of goods and the provision of services effected by enterprises whose annual turnover does not exceed 225,000 BEF. They are not entitled, however, to deduct the VAT on their purchases. This exemption system does not apply to certain immovable transactions, nor to certain transactions with new means of transport. If these enterprises so wish, they can, under certain conditions, be subjected to the normal VAT system or the flat-rate system referred to above.

1.92. The special system for certain agricultural enterprises

This special system is governed by Art. 57.

Agricultural enterprises are not liable to the obligations relating to invoicing, declaration and the payment of VAT, except in respect of their intra-Community purchases exceeding the threshold of 450,000 BEF. If the contracting partner is a taxable person who submits declarations, the latter pays the agricultural enterprise a sum which is calculated at a fixed rate for the recovery of the VAT charged on inputs. This amount is equal to 2 % of the purchase price for the supply of wood and 6 % for other supplies. The contracting partner is entitled, on certain conditions, to deduct this fixed compensation from the VAT which he owes the Treasury. Agricultural enterprises can opt for the normal VAT system. The normal system is compulsory, however, for certain agricultural enterprises (for example those which are in the form of a commercial company).

1.93. Other special systems

The basis for these systems is given in Art. 58.

They govern the levy of VAT on manufactured tobacco (together with the excise duty), on fish, crustaceans and molluscs which are brought directly to the fish market (levy at the moment of sale on the fish market), on the importation of goods which are sent in small consignments or carried in the luggage of travellers (flat-rate calculation), on second-hand goods purchased from non-taxable persons (on certain conditions, and upon the granting of an authorization, the tax is levied on the difference between the purchase price and the selling price. This system is not applicable for original works of art, antiques, collectors' pieces, postage stamps or ancient coins).
In addition, certain enterprises in certain sectors can, on certain conditions, be exempted from the obligations concerning the levy of VAT: accounting, submission of declarations and payment of VAT to the Treasury. They must then, however, waive their entitlement to the deduction of VAT paid to their suppliers. This is notably the case for certain inland navigation firms, owners of laundries, dyeing and dry cleaning establishments and certain other small firms.

Finally, an exemption from VAT registration is granted for a very limited number of activities, notably for certain independent press correspondents.

1.94. The special VAT declaration

The special VAT declaration must be submitted by those taxable persons who do not submit periodic VAT declarations and who:

- make certain intra-Community acquisitions (for example new means of transport, acquisitions of other goods for more than 450,000 BEF per year or they may, if they so choose, subject all acquisitions of the said goods to the VAT in Belgium);
- receive certain services which are deemed to take place in Belgium and are provided by persons providing services who are not established in Belgium, for example advertisement, the intellectual work of certain consultants, the lending of personnel, the renting of certain tangible movable property (except means of transport), etc.

The special declaration must also be submitted by non-taxable legal persons (for example the State, municipalities, public institutions, see above sub point 1.2.) for a number of transactions referred to above (notably the intra-Community acquisition of goods).

The persons concerned must, before they effect these transactions, inform the VAT Administration according to certain rules. They are assigned a VAT identification number and must, insofar as they have performed the said transactions (purchases), submit per quarter the special VAT declaration referred to above, not later than the 20th day of the month in which the VAT became due.
CHAPTER TWO

REGISTRATION DUTIES, MORTGAGE DUTIES AND COURT FEES

These taxes are laid down and regulated by the Code of registration duties, mortgage duties and court fees and by the decrees issued for its implementation.

2.1. Registration duties

Registration duties are levied, as a rule, when a deed or written document is registered, i.e. at any formality which consists in copying, analyzing or mentioning this deed or this written document by the receiver of registry fees and stamp duties in a register made for this purpose.

The following must be registered:

- deeds drawn up by Belgian notaries;
- writs and summonses by Belgian bailiffs;
- decisions and judgments issued by Belgian courts and tribunals which contain dispositions subject to proportional duty;
- private deeds or notarial deeds signed abroad, relating to the transfer or declaration of property or usufruct of property situated in Belgium or relating to the lease, sub-lease or transfer of lease of such property;
- records of the public sale of tangible movable assets drawn up in Belgium;
- private contracts and notarial deeds drawn up in Belgium relating to the contribution of movable or immovable assets to Belgian companies which are legal persons.

The King can rule that certain kinds of deeds drawn up by notaries and bailiffs shall be exempt from the registration formality, but this exemption shall not entail the relief from duties applicable to these deeds.

It is also obligatory to present for formal registration a certain number of agreements for which there is no written document, including agreements relating to the transfer or declaration of property or the usufruct from property located in Belgium and for agreements relating to the transfer of goods to a Belgian company which is a legal person.

There are three types of registration duties:

- proportional duties,
- specific fixed duties,
- the general fixed duty.
2.11. *Proportional registration duties*

These duties amount in each case to a percentage of the base of the levy.

A. **SALE OF REAL ESTATE**

The duty is set at **12.5%** for sales, exchanges and all conveyancing agreements for valuable consideration, other than transfers to companies, of property or profit from real estate located in Belgium. The 12.5% duty is levied in principle on the contractual value of the real estate. This value cannot, however, be lower than the market value of the property as of the day of the agreement. For the sale of small rural properties and modest lodgings, this duty is reduced to 6%. There are other reduced duties which are applicable to other operations.

B. **LEASE OF REAL ESTATE**

In principle, the duty is set at **0.2%** for leases, sub-leases and transfers of leases of property (or parts of buildings) located in Belgium and certain other similar operations. This duty is levied on the basis of the cumulated amount of rent and charges.

Nonetheless, in the case of lease, sub-lease and transfer of lease in respect of real estate (or parts of buildings) used exclusively for the accommodation of a family or a single person, the contracts are exempted from proportional registration duty and are liable to the fixed general duty (see 2.13).

C. **CONTRIBUTION OF ASSETS TO BELGIAN COMPANIES**

The contribution of assets (immovable, movable, cash, credit, etc.) to Belgian companies is liable to **0.5%** duty. The duty is calculated on the total value of the assets. The taxable base cannot be lower than the market value of the assets transferred. There are exemptions in certain cases.

D. **CAPITAL INCREASE OF BELGIAN COMPANIES**

The increase in statutory capital, without contribution of new assets, of a Belgian company is liable to a **0.5%** duty. There are exemptions in certain cases.

E. **CREATION OF MORTGAGE**

The creation of mortgage on real estate located in Belgium is liable to a **1%** duty calculated on the amount guaranteed by the mortgage. A reduced duty of **0.5%** is applicable for the creation of certain mortgages (e.g. on ships or boats) and for similar operations.
F. PUBLIC SALE OF TANGIBLE MOVABLE PROPERTY

The public sale of tangible movable property is liable to a 5% duty calculated on the price and the expenses.

G. DUTY ON DONATIONS

Duties on donations apply to all donations of movable and immovable assets, regardless of their form, their purpose or their arrangements and regardless of the manner in which they are carried out. This duty is calculated on the market value of the donated goods, without the deduction of expenses. The tariff of this duty is the same as the tariff for the death duty (see Chapter 3: Death duty). The reductions applicable for the death duty do not apply here, except regarding the reduction awarded to beneficiaries who have at least three children who have not reached the age of 21 years (see also chapter 3: Death duty). For certain securities ("AFV" shares), there is a possible exemption in certain conditions.

H. OTHER OPERATIONS

Other operations, which are not mentioned here, are also liable to proportional registration duty (example: sharing out of immovable assets, certain judgments and rulings). The amount of proportional duties can in no case be lower than the general fixed duty (see 2.13.). For a certain number of operations, there is an exemption from the proportional registration duty (for example: for operations liable to VAT).

2.12. Specific fixed duties

These duties are those of which the amount is a fixed sum which can nonetheless vary according to the nature of the deed.

These deeds are:
- protest actions and actions relating to refusal of acceptance or payment in replacement of protests: 200 BEF;
- naturalization: 6,000 BEF, save reduction;
- the permission to change one's first name (20,000 BEF, with possible reduction to 2,000 BEF), the permission to change one's family name (2,000 BEF) or the permission to add another name or a particle to a name or to substitute a small letter for a capital letter (30,000 BEF).

2.13. General fixed duty

The general fixed duty is levied on all deeds not explicitly included in the Code of registration duties, mortgage duties and court fees, as having been made
subject to proportional duty or specific fixed duty, for example, marriage contracts, wills, most appendices to certified deeds, certain leases,...

The general fixed duty is 1,000 BEF.

2.2. Mortgage duty

Mortgage duty is levied on the registration of mortgage and privileges. It is 0.3% of the amount in principle and accessories of sums for which the registration is contracted or renewed (with a minimum of 200 BEF).

Certain types of registration (notably those payable by the State) are exempted from mortgage duty.

2.3. Court fees

These duties are levied on certain operations carried out in the law-clerk's office of courts and tribunals. These are fixed duties which vary according to case and which are levied either by operation or by the page of the document concerned. A distinction is made between enrolment duty (registration of lawsuits in the role), drawing-up duty (levied on the deeds of the clerk of the court), expedition duties (on expeditions, copies or extracts which are delivered in clerk's offices), and enrolment duty in the registry of commerce, the registry of handicrafts and the registers of economic interest groups. There are a whole series of exemptions.
CHAPTER THREE

DEATH DUTY

These taxes are laid down and regulated by the Code of death duties and the decrees issued for its implementation.

3.1. The death duty and the transfer duty by death

Death duty (estate duty) is a tax which is levied on the net value of all goods (movable and immovable, located in the country and abroad) collected through the succession of an inhabitant of the kingdom, less deductions of debts and funeral expenses.

The transfer duty by death is a tax which is levied on the value without deduction of charges relating to immovable property situated in Belgium, collected through the succession of a non-inhabitant of the kingdom. The tariff is the same as that for death duty (see below).

The property which the administration recognizes that the deceased disposed of as a gift in the three years preceding his death are considered as part of his inheritance if the donation has not been liable to the registration duty imposed on donations (see 2.11.G).

The tax base is in principle the market value of the goods as of the day of the death. The tariffs vary according to the degree of blood-relationship between the beneficiary and the deceased and according to the net share received by each beneficiary. The calculation is made according to the brackets shown in the following table.

<table>
<thead>
<tr>
<th>Bracket of the net share (in BEF)</th>
<th>Tariff in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>From (including)</td>
<td>In direct line and between spouses</td>
</tr>
<tr>
<td>1 500,000</td>
<td>3</td>
</tr>
<tr>
<td>500,000 1,000,000</td>
<td>4</td>
</tr>
<tr>
<td>1,000,000 2,000,000</td>
<td>5</td>
</tr>
<tr>
<td>2,000,000 4,000,000</td>
<td>7</td>
</tr>
<tr>
<td>4,000,000 6,000,000</td>
<td>10</td>
</tr>
<tr>
<td>6,000,000 8,000,000</td>
<td>14</td>
</tr>
<tr>
<td>8,000,000 10,000,000</td>
<td>18</td>
</tr>
<tr>
<td>10,000,000 20,000,000</td>
<td>24</td>
</tr>
<tr>
<td>more than 20,000,000</td>
<td>30</td>
</tr>
</tbody>
</table>
Table 2.
Death duty

<table>
<thead>
<tr>
<th>Bracket of the net share (in BEF)</th>
<th>Tariff in %</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Between brothers and sisters</td>
</tr>
<tr>
<td>From 1 to 500,000</td>
<td>20</td>
</tr>
<tr>
<td>500,000 to 1,000,000</td>
<td>25</td>
</tr>
<tr>
<td>1,000,000 to 3,000,000</td>
<td>35</td>
</tr>
<tr>
<td>3,000,000 to 7,000,000</td>
<td>50</td>
</tr>
<tr>
<td>more than 7,000,000</td>
<td>65</td>
</tr>
</tbody>
</table>

Remarks:

1. No duty is payable on any inheritance of which the net assets do not exceed 25,000 BEF.
2. There is an exemption from death duty for goods received by an heir who is called legally to inherit or by the surviving spouse in respect of the first bracket of 500,000 BEF. This exemption is increased, in favour of the children of the deceased, by 100,000 BEF for each whole year which remains until the age of 21 years and, in favour of the surviving spouse, for half the additional rebates to which the common children are entitled.

These exemptions are not awarded for donations.

3. A reduction in death duty and transfer duty through death is awarded to each heir who has at least three living children who have not reached the age of 21 years as of the day of the opening of the inheritance. Reductions are also provided if, within a year of the death of the deceased, the goods which are received through inheritance are transferred anew through death and in certain other cases.
Example

A person who is the father of three children dies. Taking account of the applicable dispositions (marriage contract, will, liabilities, funeral expenses, ...), the sum which the deceased leaves to his spouse (47 years old) and his three children comes to 9,000,000 BEF. The children are aged 22 years, 21 years and 19 years nine months respectively. The inheritance includes all the goods which are owned outright.

The inheritance is divided as follows: the surviving spouse receives the beneficial ownership of the total amount. The children receive the bare property rights, each having one third. The beneficial ownership of the spouse is set at a standard rate by multiplying the annual turnover from the goods, evaluated at 4% of the value of full property rights, by a coefficient which varies according to the age of the beneficial owner (47 years: coefficient 14).

1. Partition of the inheritance

Spouse: 9,000,000 BEF \times 4\% \times 14 = 5,040,000 BEF
Children: 9,000,000 BEF - 5,040,000 BEF = 3,960,000 BEF
For each child: 3,960,000 BEF/3 = 1,320,000 BEF

2. Calculation of exemptions

1st child, (the eldest): 500,000 BEF
2nd child: 500,000 BEF
3rd child, (youngest): 500,000 BEF + 1 \times 100,000 BEF = 600,000 BEF
Surviving spouse: 500,000 BEF + 100,000 BEF X 1/2 = 550,000 BEF

3. Calculation of death duties

a/ Surviving spouse
- Taxable amount : 5,040,000 BEF
- Tax on the 1 - 500,000 BEF bracket: 500,000 \times 3\% = 15,000 BEF
- Tax on the 500,000 - 1,000,000 BEF bracket: 500,000 \times 4\% = 20,000 BEF
- Tax on the 1,000,000 - 2,000,000 BEF bracket: 1,000,000 \times 5\% = 50,000 BEF
- Tax on the 2,000,000 - 4,000,000 BEF bracket: 2,000,000 \times 7\% = 140,000 BEF
- Tax on the 4,000,000 - 5,040,000 BEF bracket: 1,040,000 \times 10\% = 104,000 BEF
Total : 329,000 BEF

CALCULATION OF EXEMPTIONS:
- 1 - 500,000 BEF bracket : 15,000 BEF (= 500,000 BEF \times 3\%)
- 500,000 - 550,000 BEF bracket : 2,000 BEF (= 50,000 \times 4\%)
Total tax to be deducted : 17,000 BEF
Final amount : 329,000 BEF - 17,000 BEF = 312,000 BEF

b/ Children

<table>
<thead>
<tr>
<th></th>
<th>1st child</th>
<th>2nd child</th>
<th>3rd child</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable amount</td>
<td>1,320,000 BEF</td>
<td>1,320,000 BEF</td>
<td>1,320,000 BEF</td>
</tr>
<tr>
<td>Tax (on brackets:)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 - 500,000 BEF</td>
<td>15,000 BEF</td>
<td>15,000 BEF</td>
<td>15,000 BEF</td>
</tr>
<tr>
<td>500,000 - 1,000,000 BEF</td>
<td>20,000 BEF</td>
<td>20,000 BEF</td>
<td>20,000 BEF</td>
</tr>
<tr>
<td>1,000,000 - 1,320,000 BEF</td>
<td>16,000 BEF</td>
<td>16,000 BEF</td>
<td>16,000 BEF</td>
</tr>
<tr>
<td>Total</td>
<td>51,000 BEF</td>
<td>51,000 BEF</td>
<td>51,000 BEF</td>
</tr>
</tbody>
</table>

CALCULATION OF EXEMPTIONS
(on the brackets respectively)

<table>
<thead>
<tr>
<th></th>
<th>1 - 500,000 BEF</th>
<th>500,000 - 600,000 BEF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax</td>
<td>15,000 BEF</td>
<td>15,000 BEF</td>
</tr>
<tr>
<td>Total tax to be deducted</td>
<td>15,000 BEF</td>
<td>15,000 BEF</td>
</tr>
<tr>
<td>Final Amount</td>
<td>36,000 BEF</td>
<td>36,000 BEF</td>
</tr>
</tbody>
</table>
3.2. The compensatory tax for death duty

The compensatory tax for death duty is levied annually on the total assets which non-profit making companies own in Belgium.

The rate of the tax is 0.17%.

The tax is not payable if the value of the taxable assets does not exceed 1,000,000 BEF.

3.3. The annual tax on unit trusts

Belgian unit trusts (open-end investment trusts and closed-end investment trusts, except the companies specializing in debt investment) which are in the legal form of a commercial company are subject to this annual tax as from the 1st of July following their registration with the Banking and Finance Commission.

The tax is due as a rule on the inventory value of these unit trusts on July 1 of each tax year.

The rate of the tax is 0.06%.

3.4. The annual tax on Co-ordination centres

Co-ordination centres are liable to this tax on the 1st of January of each year. The tax amounts to 400,000 BEF per fulltime worker who is employed there on the 1st of January of each year. The total amount of the tax chargeable to one and the same Co-ordination centre shall not exceed 4,000,000 BEF.
CHAPTER FOUR

STAMP DUTIES

These taxes are laid down and regulated by the Code of stamp duties and by the decrees issued for its implementation.

A stamp duty is a tax levied on certain deeds and written documents which are defined in the Code of Stamp Duties.

The tariffs vary according to the type of deed or written document:

* 300 BEF per sheet of limited surface (twice this amount if the surface is exceeded), for notarial deeds and documents relating to public sales of tangible movable assets drawn up by bailiffs as well as repertories of which the drawing-up by notaries and bailiffs is mandatory (art. 4 and 5 of the Code);

* 300 BEF per indivisible group of four pages of limited surface (twice this amount if this surface is exceeded), for authentic copies, copies or extracts of the aforementioned documents as well as the duplicates of registers drawn up by notaries (art. 4 and 5 of the Code);

* 120 BEF per sheet for documents drawn up by the recorders of mortgages (art. 7 of the Code);

* 200 BEF, notably for extracts from the registry of births, marriages and deaths, deeds concerning nationality, certificates of identity, nationality, domicile or residence, registration of motor vehicles, private contracts relating to the transfer or declaration of immovable property, or relating to lease, sub-lease or transfer of lease in respect of immovable assets, as well as a whole series of other documents (art. 8 of the Code);

* 75 BEF for certificates, copies or extracts, delivered by the recorders of mortgages as well as certain other documents (art. 9 of the Code);

* 9 BEF notably for protests (art. 10 of the Code);

* 6 BEF notably for certain documents (including loan deeds, account closures and statements) drawn up by bankers for private citizens (art. 11 of the Code);

* 200 BEF for all deeds and documents, other than those which are priced by articles 4 to 12 (art. 21 of the Code).

The deeds and written documents priced by articles 4 and 8 to 12 are liable to stamp duty as and when they are drawn up (art. 22 of the Code). The stamp duty of repertories and registers priced by articles 5 and 7 is payable when they are implemented (art. 23 of the Code).
All other deeds and written documents are liable to stamp duty by virtue of:

1. their presentation for formal registration;
2. their depositing in the minutes of a notary;
3. their appending to a deed or register which is liable to stamp duty under the terms of articles 4 to 12 (art. 25 of the Code).

A whole series of exemptions are provided, notably for deeds concerning electoral matters, military service, the execution of tax laws, certain banking operations, town and country planning, etc.
CHAPTER FIVE

TAXES ASSIMILATED TO STAMP DUTY

These taxes are laid down and regulated by the Code of taxes assimilated to stamp duty (CTASD) and the decrees issued for its implementation.

The registration tax was cancelled on June 1, 1993.

Note: at the same time, amendments were made to the tax on the entry into service (see 11.2 below).

5.1. Special tax on the retained profits of certain credit institutions

The retained profits, at the end of the tax period linked up with the tax year 1993, of the associations, credit funds and similar institutions of the National Fund For Credit to Trade and Industry and the National Institute for Agricultural Credit (cfr Art. 56, § 2, 2°, f and g, Income Tax Code 1992) are subject to a special tax if their approval is withdrawn or if the latter is waived by them (Art. 1 to 11 CTASD).

The rate of the tax is set at 34% (Art. 2 CTASD)

5.2. Tax on stock-exchange and carry-over transactions

5.21. Tax on stock-exchange transactions

The following are liable to the tax (Art. 120 of the CTASD):

1°) any purchase and any sale of public securities carried out or concluded in Belgium (including any conversions, in respect of the same person, of participating interests in a given department of an investment company into participating interests in another department of the same investment company);

2°) any delivery of these securities to the subscriber, carried out subsequent to an appeal to the public through public issue, exhibition, offer or sale;

3°) any repurchase by an open-end investment company of its own shares, if this transaction relates to capitalization shares;

4°) any conversion, in respect of the same person, of participating interests within a given department of an investment company, when this results in a change in the way in which the net revenue from these interests is allocated.

There are various exemptions (Art. 1261 CTASD), notably for transactions in which no professional intermediary intervenes or contracts either on behalf of one of the parties or on his own behalf, for the sales or purchases by certain
intermediaries on their own behalf and in a professional capacity, for the delivery of securities representative of the Belgian public debt and of loans issued by the Regions or the Communities, for transactions concerning treasury bonds or linear bonds issued by the State, for the conversions, in respect of the same person, of distribution shares of a given investment company into distribution shares of the same investment company, for the conversions of shares which an investment trust holds in an investment company and for a number of other transactions.

The applicable tax base (Art. 123 CTASD):

- for purchases, acquisitions or subscriptions: is the amount to be paid by the purchaser or the subscriber, excluding the brokerage of the intermediary;

- for sales or transfers: is the amount to be received by the seller or the transferor, including the brokerage of the intermediary;

- for repurchases by an investment company of its own capitalization shares: is the net inventory value of the shares, without deduction of the flat-rate compensation;

- for conversions, in respect of a given person, of participating interests in a given department into participating interests in another department of a given investment company, and conversions within a given department as described under item 4° above: is the net inventory value - on the basis of which the conversion is made - of the new shares issued as a replacement for the converted shares, increased by the flat-rate placing provision and the flat-rate compensation to cover the cost of the acquisition of the assets in the relevant department of the investment company.

The tax is levied both on the sale and on the purchase. In the case of subscription, the tax is payable only in respect of the delivery of the securities. In the case of a repurchase by an investment company of its own capitalization shares, the tax is due solely in respect of the transfer of the shares to the investment company. In the case of a 'conversion', the tax is due solely in respect of the delivery to the subscriber of the new shares, issued as a replacement for the converted shares (Art. 122 CTASD).

The rates are as follows (Art. 121 CTASD):

1. Upon a sale or a purchase for valuable consideration (secondary market):
   a. 1.70 per thousand: normal rate;
   b. 0.70 per thousand: notably for securities of the public debt of the Belgian State or foreign States; loans issued by the Communities, the Regions, the provinces and the communes (both of the country and abroad); company bonds; participating interests in undertakings for collective investments; shares issued by investment companies, etc.
However,

- the transfers and acquisitions for valuable consideration of capitalization shares of an investment company are subject to a rate of 0.50 %;
- the repurchase by an investment company of its own capitalization shares is subject to a rate of 0.50 %;
- the conversions, from one department to another, of capitalization or distribution shares into capitalization shares, are subject to a rate of 1 %;
- the conversions, from one department to another, of capitalization shares into distribution shares, are subject to a rate of 0.5 %;
- the conversions, within a given department, of distribution shares into capitalization shares, are subject to a rate of 1 %;
- the conversions, within a given department, of capitalization shares into distribution shares are subject to a rate of 0.50 %;

2. Upon the delivery of securities to the subscriber, carried out subsequent to an appeal to the public (primary market):

a. 3.50 per thousand : normal rate;

b. 1.40 per thousand : public debt securities of foreign States; loans issued by the provinces and the communes (both of the country and abroad); company bonds; participating interests in undertakings for collective investments; distribution shares of investment companies, etc.

Subscriptions to capitalization shares of an investment company are however subject to a rate of 1 %.

The amount of the tax must not exceed 10,000 BEF per transaction (15,000 BEF in the case of a repurchase by an investment company of its own capitalization shares, in the case of conversions subject to the rates of 0.50 % and 1 %, and in the case of subscriptions to capitalizations shares - Art. 124 CT ASD).

5.22. Taxes on carry-over

This tax is levied on carry-over transactions on public securities, in which a professional intermediary for stock market transactions intervenes on behalf of a third party or on his own behalf (Art. 138 CT ASD).

The rate amounts to 0.85 per thousand (Art. 138 CT ASD).

The tax is payable by both parties. It is not due, however by certain professional intermediaries (Art. 139 CT ASD).
Exemptions are provided for transactions which centre on treasury bonds or linear bonds issued by the State, treasury bills or deposit certificates issued pursuant to the law of July 22, 1991, or also on bonds representative of loans issued by certain international organizations, if these transactions are carried out by non-residents (Art. 193 bis CTASD).

5.3. **Annual tax on securities quoted on the stock market**

This tax is levied annually on securities which, as of January 1st of the tax year, are admitted to dealings on a Belgian stock exchange (Art. 159 CTASD).

There are various exemptions, notably for securities on the Belgian public debt and on the debt of certain public institutions, as well as for bonds (Art. 160 CTASD).

The tax base is the total value of the securities quoted on the stock exchange, calculated in a specific manner (Art. 161 CTASD).

The rate amounts to 0.42 per thousand (per 1,000 BEF or fraction of 1,000 BEF - Art. 161 CTASD).

5.4. **Annual tax on insurance contracts**

This tax is levied on insurance contracts which fulfil one of the following three conditions (Art. 173 CTASD):

- the insurer is established in Belgium;
- the insured party has his permanent residence in Belgium;
- the contract relates to movable or immovable property situated in Belgium.

Various contracts are exempt from this tax, notably contracts for reinsurance, certain insurances in the context of social security, insurances against risks incurred abroad, life insurance contracts taken out individually, etc (Art. 176 CTASD).

The tax base is the amount of the premiums, contributions and charges to be paid by the insured party in the course of the tax year (Art. 176 CTASD).

There are three rates (Art. 175¹ and 175² CTASD):

* 9.25% : normal rate;
* 4.40% : rate notably for life insurances (not taken out individually), liabilities contracted by pension funds and life annuity contracts;
* 1.40% : rate for insurance relating to goods handled by international transport.
5.5. Annual tax on profit-sharing schemes

Sums which are divided up for profit sharing, which relate to insurance contracts undertaken with an insurer operating in Belgium, are liable to this tax (Art. 183 bis CTASD).

The rate of the tax is 9.25% (Art. 183 ter CTASD).

The tax is calculated on the total amount of the sums divided for profit sharing for the tax year (Art. 183 quater CTASD).

Profit sharing schemes relating to savings insurances in connection with the pension savings scheme and concerning insurance contracts for which the insured party has not been entitled to a tax rebate (or, in the former system, to a credit, an abatement or a deduction in respect of income taxes) are exempted from the tax under certain conditions (Art. 183 quinquies CTASD).

5.6. Tax on long-term savings

The tax on long-term savings is levied on (Art. 184 CTASD):

- individual life insurances (ordinary insurances and savings insurances) for which the insured party has been entitled to a tax rebate (or, in the former system, to a credit, an abatement or a deduction in respect of income taxes);

- collective and individual savings accounts for which the holder has been entitled to a tax rebate (or, in the former system, to a credit, an abatement or a deduction in respect of income taxes).

No tax is levied on whole-life insurance contracts and life insurances whose aim is to secure the repayment or the replenishment of a mortgaged loan (Art. 187 CTASD).

The tax is levied (Art. 184 and 186 CTASD), as the case may be, on the theoretical surrender value, the pensions, annuities, capital amounts or surrender value (life insurances) or the savings balance (savings accounts) as they have been determined on the following anniversary dates:

1) for contracts concluded before the age of 55 years or accounts opened before the same age: the 60th anniversary of the insured party or of the account holder;

2) for contracts concluded as from the age of 55 years or accounts opened as from the same age: the 10th anniversary of the conclusion of the contract or the opening of the account, unless a surrender value or a savings balance is paid or granted before that date. In this latter case the tax is levied on the day of the payment or the granting.
There are three rates (Art. 185 CTASD):

* 10% (tax base formed from payments made as from January 1, 1993);
* 16.5% (tax base formed from payments made before January 1, 1993);
* 33% (on certain conditions for early payments or the early granting of savings balances or surrender values).

5.7. Bill-posting tax

This tax is levied on all signs posted in the view of the public, as well as illuminated signs, etc (Art. 188 and following CTASD).

A whole series of exemptions are provided, notably relating to signs and certain bills in pursuance of the law or a judicial ruling, notices put up by public authorities and certain public establishments, certain notices relating to worship, notices relating to elections, etc (Art. 194 and 198 CTASD).

The tax base is the surface area. This sometimes concerns a single right, sometimes annual rights. They vary case by case.
CHAPTER SIX

DUTIES UPON IMPORTATION AND EXPORTATION

These duties are laid down and regulated by a whole series of EC regulations and a number of national laws and decrees.

6.1. Definition of duties upon importation

a) customs duties and charges having equivalent effect levied upon the importation of goods;

b) agricultural levies and other taxes upon importation laid down in connection with the common agricultural policy or with specific customs procedures applicable to certain goods resulting from the processing of agricultural products.


a) Customs duties are levied according to a common EC tariff on goods (other than those listed under item c) imported from countries which are not members of the EC.

b) Variable levies are specific duties levied in addition to the customs duties upon the importation of certain processed agricultural products from countries which are not members of the EC.

c) Agricultural levies and other amounts are levied upon the importation of certain agricultural products from countries which are not members of the EC. They are designed to compensate the difference between the agricultural prices, as set by the EC, and the prices on the world market. Since December 15, 1993, the importer must pay the levies and other amounts to the Customs and Excise Administration.

All these duties and charges are levied on behalf of the EC: 90% of these is transferred to the EC, while the remaining 10% is used to cover administrative costs.

For Portugal a transitory system is applied in certain sectors until the end of 1995.

6.12. Assessment basis of customs duties: the customs value

The value to be declared when goods are released for free circulation and which forms the basis for levying the import duties, must comply with the requirements of Articles 28 to 36 of the Community Customs Code (Council Regulation (EEC) no 2913/92 of October 12, 1992).

These articles implement, for the Member States of the EC, the agreement on customs valuation resulting from the 1973-1979 multilateral trade negotiations in
connection with the GATT. The said articles rest on the principle that the basis for the determination of the customs value of the goods must be, as much as possible, the transaction value, i.e. the price actually paid or payable for these goods, provided this price complies with certain conditions.

Failing such a transaction value or if the latter does not satisfy all the conditions required to be taken into consideration, other valuation methods must be applied, following a well-defined order of succession.

Note:

The assessment basis for the VAT upon importation is the customs value increased by additional charges up to the place of destination.

6.13. Tariff of import duties

The rate of customs duty is based on the nature of the goods and on the country from which they have been imported. Based on the nomenclature of the Harmonized System, the EC tariff determines the rate applicable for each category of goods. Moreover, within the framework of international agreements or for economic reasons, a series of exemptions, suspensions, reduced tariffs (which may or may not be linked to quotas) etc. are applied. All these possibilities are listed, with the various legal and accessory provisions, in the "Working tariff of import duties" issued by the administration.

The rates of the Working Tariff are correspondingly listed in the data base for the automated declaration (SADBEL: Automated clearing system in Belgium and the Grand Duchy of Luxemburg).

6.2. Customs destinations

The term "importation" is used only to refer to goods which come from countries which are not members of the EC.

6.21. General

A. TEMPORARY STORAGE

Goods which are introduced into the customs territory of the Community are, from that moment on, subject to customs supervision and must be taken to a customs office or in a place approved by customs in order to be submitted to the latter.

In places approved by customs the goods can be kept in temporary storage either for 45 days if the goods were transported by sea or for 20 days if the goods were forwarded by another way.
B. CUSTOMS DESTINATIONS

The goods must be declared for an authorized customs destination, namely:

- placing of the goods under a customs procedure (see point C below);
- onward transportation outside the customs territory of the Community;
- destruction;
- abandonment to the Public Treasury.

C. CUSTOMS PROCEDURES

The term "customs procedure" is understood to mean:

a) the release for free circulation;
b) the transit;
c) the customs warehousing;
d) the inward processing;
e) the processing under customs control;
f) the temporary admission;
g) the outward processing;
h) the exportation.

The procedures referred to under items c) to g) are customs procedures with economic impact. The various procedures will be enlarged upon later on.

6.22. The single document

The placing of the goods under a customs procedure is effected, as a rule, under cover of the single document form. The single document has been designed to cover all movements of goods (importation, exportation and transit). According to the kind of movement, different copies of a full set are used (eight copies + copies A and B for the Customs Data Processing Centre (C.T.I.) + if appropriate copy C for the placing in a customs warehouse and copy R for the granting of agricultural compensatory amounts).

The single document is not used if certain documents are employed especially:

- the TIR carnets (transit);
- the ATA carnets (temporary admission);
- the declaration 136 F (diplomatic exemptions).

Upon customs authorization simplified procedures may be granted.
6.23. Clearance office

The declaration is made at a frontier office in a seaport or an airport, or at an office within the country, during the opening hours of this office and provided it is competent for this purpose. Customs offices within the country include also the offices which are maintained at the internal frontiers. Upon declaration at an office within the country, the goods, as soon as they enter the EC, are taken to a customs office under cover of a document.

The duties upon importation, the excise duty, the special excise duty and the VAT are, as a rule, paid at the office of importation when the declaration is validated.

After obtaining authorization and paying a deposit, the declarant can be granted a differed payment. The arrangements vary according to the tax.

6.24. Release for free circulation and for consumption

A. PRINCIPLES

Goods are in free circulation in the EC when they have fulfilled the conditions relating to importation into the EC: payment of any duties upon importation and the application of trade policy measures other than tariff measures.

Goods are released for consumption when they have fulfilled the conditions for consumption in the country: payment of national taxes, such as VAT and excise duties, and the application of other national provisions.

As a rule, the goods are released for free circulation and for consumption simultaneously. Exemption of VAT is granted if the goods are immediately supplied to another EC country according to the rules of intra-Community trade.

However, the goods can be released only for free circulation if they are, in respect of VAT, placed under a warehousing procedure other than a customs warehouse, also called VAT warehouse (see 6.25.B).

With respect to excise duties there are also procedures by which the goods can be released for free circulation without the excise duties being payable.

B. DEFINITIVE EXEMPTION

In about thirty cases, no import duty and possibly no other taxes are to be paid upon importation. For private citizens, this system applies to certain personal goods (in the case of removals, marriage, death,...), to the personal luggage of travellers (within certain limits), etc. For the goods traffic this relates, for example, to educational, scientific or cultural goods or to goods which are intended for charitable institutions, etc.

The following goods, which are not of a commercial nature and are carried in the personal luggage of travellers, may be imported free of charge.
1) TRAVELLERS FROM NON-EC MEMBER STATES (1)

<table>
<thead>
<tr>
<th>Tobacco products (2):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cigarettes</td>
<td>200 pieces</td>
</tr>
<tr>
<td>or Cigarillos</td>
<td>100 pieces</td>
</tr>
<tr>
<td>or Cigars</td>
<td>50 pieces</td>
</tr>
<tr>
<td>or Smoking tobacco</td>
<td>250 grammes</td>
</tr>
</tbody>
</table>

| Alcohol and alcoholic beverages (2):               |            |
| non-sparkling wines:                              | 2 litres   |
| **AND**                                           |            |
| either: distilled and alcoholic beverages with an alcohol content of more than 22% by volume; undenatured ethyl alcohol of 80% by volume and higher | 1 litre |
| or: distilled and alcoholic beverages, aperitifs with a wine or alcoholic basis, tafia, sake or similar beverages with an alcohol content of not more than 22% by volume; sparkling wines, liqueur wines | 2 litres |

<table>
<thead>
<tr>
<th>Perfumes:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Perfume</td>
<td>50 grammes</td>
</tr>
<tr>
<td>Toilet water</td>
<td>0.250 litres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Coffee (3):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Coffee or Coffee extracts and Coffee essences</td>
<td>500 grammes</td>
</tr>
<tr>
<td>or Coffee extracts and Coffee essences</td>
<td>200 grammes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tea:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tea or Tea extracts and Tea essences</td>
<td>100 grammes</td>
</tr>
<tr>
<td>or Tea extracts and Tea essences</td>
<td>40 grammes</td>
</tr>
</tbody>
</table>

| Other goods than those mentioned above             | Maximum total value: 2,000 BEF (4) |

(1) The exemptions are granted irrespective of whether the goods were purchased in these countries under the conditions of the domestic market or with refund or relief of taxes on account of their exportation (e.g.: purchases in a tax-free shop in an airport)

(2) The exemptions for "tobacco products" and "alcohol and alcoholic beverages" are not granted to travellers under 17 of age.

(3) The exemptions for "coffee" or "coffee extracts" and "coffee essences" are not granted to travellers under the age of 15.

(4) This amount can be modified.

2) TRAVELLERS FROM AN EC-MEMBER STATE

For goods purchased in tax-free shops at airports and seaports the exemptions are limited to those granted to travellers from non-EC Member States.

For goods for which all taxes were already paid in the EC-Member State concerned, under the conditions of the domestic market there, there are not, as a rule, any restrictions as to the quantities and values which may be imported into Belgium.

However, restrictions are maintained for certain goods subject to excise duty in Belgium. These products are mentioned hereafter, as well as the guideline levels up to which the said goods are, as a rule, exempted from the payment of excise duty in Belgium. This exemption is granted only to the private citizen from the age of 17 on.
Tobacco products:
- cigarettes
- cigarillos (cigars with a maximum weight of 3 g a piece)
- cigars
- smoking tobacco

Beverages:
- alcoholic beverages or distilled beverages
- intermediate products (e.g. Port, Pineau des Charentes)
- wine (of which maximum 60 litres sparkling wine)
- beer

If these products are introduced into Belgium for commercial purposes or exceed the above-mentioned levels (except if the person satisfies the administration that the products are intended for his own needs), the excise duties must be paid in Belgium. It must be observed that transfers for a valuable consideration between private citizens, without any profit, of goods subject to excise duty, shall be deemed to be effected for commercial purposes.

For more details and for special cases, the reader is referred to the brochure prepared by the Customs and Excise Administration. This brochure includes also the phone numbers of the information services organized by the regional directorates.

6.25. **Special procedures involving suspension of payment or exemption**

A. **TRANSIT OF GOODS**

The T.I.R. system

Within the T.I.R. system (International Transport of Goods by Road), an international customs document, the T.I.R. carnet, is used for the clearance at the various borders. The vehicle is sealed by the customs of the country of departure. The vehicles and containers must previously have been approved and a deposit must have been paid by approved organizations.

This system can be applied in the case of transports which begin and end in the EC.

**Community transit**

We refer to Community transit in the case of transport between two places situated in the EC and of common transit in relation with the E.F.T.A. countries. To cover this operation, a document is drawn up, namely a community transit declaration or T document (in general, specific copies of the "single document" are used).

The goods are presented at an office of departure and taken to an office of destination. One single deposit covers the whole itinerary.
Depending on the customs status of the goods, a distinction is made between:

- T1: non-Community goods;
- T2: Community goods;
- T2PT: Portuguese goods;
- T2ES: Spanish goods.

**Simplified systems**

A simplified system for rail transport makes it possible to use rail documents instead of the T documents drawn up on the "single document" forms.

Similarly, a simplified (administrative and commercial) document can be used instead of the above-mentioned T document for certain types of regular transport in connection with bilateral agreements, regardless of the type of transport.

Finally, simplified systems also exist for the transport from and to the premises of duly authorized operators, so that the goods must not be submitted at a customs office.

**B. IMPORTATION FOR WAREHOUSING**

A bonded warehouse is a facility where non-Community goods can be stored without having to pay duties, taxes and VAT and without having to apply the trade policy measures other than tariff measures.

A distinction must be made between, on the one hand, private bonded warehouses which are granted exclusively for the storage of goods by the warehouse keeper and, on the other, public bonded warehouses which can be used by any person for the storage of goods.

Among the private bonded warehouses, a distinction is made between bonded warehouses of type C, D and E, depending on the arrangements relating to the entry and clearance of goods.

Among the public bonded warehouses, a distinction is made between bonded warehouses of type A (not applied in Belgium), bonded warehouses of type B (especially in harbours) and bonded warehouses of type F (mainly made available by the commune). In bonded warehouses of type B, the control is based on the entry and clearance documents; bonded warehouses of type F are managed by the customs.

Since January 1, 1993, non-Community goods can also be stored in a VAT warehouse. This makes it possible to release the goods for free circulation in respect of duties and levies, but not to "import" them in respect of VAT.
C. INWARD PROCESSING ARRANGEMENTS

This is a customs arrangement which makes it possible to import non-Community goods which will be re-exported after undergoing transformation, processing or repair, without the payment of import duties, levies and VAT. This system is applied on certain conditions (not to affect the essential interests of producers operating in the EC; payment of a deposit; control).

D. PROCESSING UNDER CUSTOMS CONTROL

This system applies to specific goods and processing activities and requires the payment of a deposit. Through this system it is possible to import duty exempted goods, to process them and to put the processed products in free circulation with the application of the rate applicable to the processed product.

E. TEMPORARY ADMISSION OF DUTY-FREE GOODS

Provided they are subsequently re-exported, certain goods can enjoy a partial or total exemption. For each case, a maximum duration and, possibly, a deposit are set. An "ATA carnet" can replace the single document for the temporary admission.

F. OUTWARD PROCESSING ARRANGEMENTS AND STANDARD EXCHANGES

The "outward processing arrangements" make it possible to export goods to be finished and to reimport them as compensating products with a partial or total exemption from import duties.

The system of "standard exchange arrangements" is a special regime within the system of outward processing and can be applied in the case of repair to goods. An equivalent article which has already been repaired is imported in replacement for the article to be repaired which is exported. In this case also, a total or partial exemption from entry tax is awarded.

6.26. Exportation of goods

The term "exportation" is only used if the goods are transported towards a country which is not a member of the EC.

Pursuant to Community provisions, an export declaration must, as a rule, be submitted at the customs office which is responsible for the control at the place where the exporter is established or where the goods are packed or loaded on the outward-bound vehicle. The exporter is the person on whose behalf the declaration is made and who is the owner of the goods or has an equivalent power or disposal. The formalities are generally completed by means of a "single document" form, accompanied by appendices such as a copy of the invoice, possibly an export licence or an export certificate, etc.
The exportation can give entitlement to various advantages, for example exemption from excise duty and special excise duty, exemption from VAT, refund for certain agricultural products, etc.

Goods can also be temporarily exported, for example in order to be exhibited or delivered abroad on a trial basis. Providing certain conditions are met, a definitive exemption can be granted upon reimportation.

The "ATA carnet" can replace the "single document" for the temporary exportation.

The refunds are not granted by the Customs and Excise Administration, but are effected by the Belgian Office for Intervention and Refund on the basis of documents which are controlled by the said Administration.

On the other hand, the exportation of goods can also give rise to the levying of duties upon exportation.

The duties upon exportation are:

a) the customs duties and charges of equivalent effect levied upon the exportation of goods;

b) the agricultural levies and other taxes upon exportation laid down in connection with the common agricultural policy or with specific customs procedures applicable to certain goods resulting from the processing of agricultural products.

6.27. Refund or remission of the duties upon importation, excise duty, special excise duty and VAT

This system applies, for example, to goods which are destroyed by an act of God before they have been released to the importer, to goods refused because they are not in conformity with the purchase contract, or in all cases of regularization, etc.

The same provisions are applicable for duties upon exportation.
CHAPTER SEVEN

EXCISE DUTIES

These taxes are laid down and regulated by various EC directives and national legislation. A number of important provisions are included i.a. in the Royal Decree of December 29, 1992, concerning the general regulations for excise products, the holding, movement and monitoring of such products, amended by the Royal Decree of December 29, 1992, relating to excise duties, in the Royal Decree of December 29, 1992, relating to the structure and the rates of excise duties on mineral oils, amended by the Royal Decree of December 29, 1992, relating to excise duties, by the Royal Decree of August 27, 1993, altering the Royal Decree of December 29, 1992, relating to the structure and the rates of excise duties on mineral oils and by the Royal Decree of November 26, 1993, amending the Royal Decree of December 29, 1992, relating to the structure and the rates of excise duties on mineral oils, in the Royal Decree of December 29, 1992, relating to the structure and the rates of excise duties on alcohol and alcoholic beverages, in the Royal Decree of December 29, 1992, relating to the tax arrangements applying to manufactured tobacco, amended by the Royal Decree of December 21, 1993, amending the Royal Decree of December 29, 1992, relating to the tax arrangements applying to manufactured tobacco, and in the Royal Decree of December 29, 1992, relating to the excise system for non-alcoholic beverages and coffee.

7.1. Definition

Excise duties are indirect taxes which are payable for the consumption or use of certain products, whether they are manufactured within the country, introduced into a Member State of the Union or imported from a country outside the Union.

A distinction is made between (ordinary) excise duties and special excise duties. The total excise duty is the sum of these two categories.

7.2. Classification of excise duties

A distinction is made between:

a. excise duties under the Belgian-Luxembourg Economic Union (identical rate in Belgium and in Luxembourg), which are the (ordinary) excise duties levied on alcohol, beer, intermediate products, mineral oils and manufactured tobacco;

b. Belgian excise duties (autonomous excise duties), which are the (ordinary) excise duties on non-alcoholic beverages and coffee, as well as all special excise duties on the products referred to under item a) above.

For mineral oils, alcohol and alcoholic beverages, as well as manufactured tobacco, a European directive is in force concerning the general regulations for
theses excise products, the possession, circulation and control of them (the so-called horizontal directive). On the other hand, there are directives relating to the structures and rates of excise duties which apply also to these products.

For **non-alcoholic beverages and coffee** special arrangements apply which take into account the provisions contained in the said horizontal directive.

### 7.3. Tax base

Depending on the product, quantity and/or value. See also the section on "rates" below.

### 7.4. General rules governing the production, processing, holding and movement of excise goods


It is impossible to give here a precise description of this complex regulation. Only the broad lines are set forth; for details and exceptions the reader is referred to the above-mentioned Royal Decree and the decrees issued to supplement or implement it.

The products **mineral oils, alcohol and alcoholic beverages, as well as manufactured tobacco** are subjected to excise duty upon their production (wherever in the EC) or upon importation (from countries which are not Members of the EC).

The excise duty is **payable** upon release for consumption, i.e. upon removal from a suspension arrangement, upon manufacture without a suspension arrangement or upon importation which does not involve a suspension arrangement. With respect to manufactured tobacco, the excise duty is payable upon the purchase of tax bands.

A **suspension arrangement** is a tax arrangement applied to the production, processing, holding and movement of products, and which involves a suspension of excise duties.

As a rule, a cash payment is required at the time the tax debt arises. Provided certain conditions are met and a security is given, terms of payment may be granted which vary according to the product.
7.41. **The production, processing and holding of excise goods**

The excise duty is *not* due where the production, processing and holding of excise goods occur in a fiscal warehouse. A *fiscal warehouse* is any place where goods subject to excise duty are produced, processed, held, received or dispatched under *duty-suspension* arrangements by an *authorized warehousekeeper* (a natural or legal person) in the course of his business, subject to the conditions laid down by the Minister of Finance (authorization, securities, administrative obligations, consenting to checks,...).

The excise duty is payable upon release for consumption (see above).

7.42. **Movement of excise goods**

As a rule the movement of excise goods taking place under the suspension arrangement must occur between fiscal warehouses.

Under certain conditions, however, the consignee may also be a firm which is not an authorized warehousekeeper. That firm can be a *registered* or a *non-registered* trader. Both categories are not authorized warehousekeepers, but they may receive – though not hold or dispatch – products subject to excise duty from another Member State of the EC under duty-suspension arrangements.

A *registered firm* is authorized to receive *permanently*, in the course of its business, excise goods under duty-suspension arrangements. A *non-registered firm* is authorized to receive *occasionally*, in the course of its business, excise goods under excise duty-suspension arrangements.

A *registered firm* must guarantee the payment of the excise duty to the collector (civil servant), keep accounts of the deliveries, submit the goods upon request, and consent to the necessary checks. For this firm the excise duty is payable when the goods are entered for consumption, i.e. not later than the Thursday of the week following the reception of the goods.

A *non-registered firm* must make a declaration *before the dispatch* of the goods and guarantee the payment of the excise duty, which is to be paid upon *receipt*. It must also consent to any check with respect to the actual receipt of the goods and the payment of the excise duty.

If appropriate, an authorized warehousekeeper of dispatch may also appoint a tax representative who gives, in the place of the consignee, the necessary guarantees for the payment of the excise duty.

The movement of excise goods between the territories of various Member States of the EC must be made under cover of an accompanying document, the form and content of which are established by an EC Directive and whose aim is i.a. to keep the administration informed.
Where excise goods which are placed under the duty-suspension arrangement are exported (i.e. to a country which is not a Member State of the EC), this arrangement is discharged by an attestation drawn up by the customs office of departure from the EC, confirming that the products have indeed left the EC.

As regards excise goods acquired by private individuals for their own use and transported by themselves, no excise duty is charged provided the latter was levied in the Member State in which they were acquired. There are, however, certain rules (i.a. concerning the quantity of excise goods transported by the person concerned himself - see Chapter 6, point 6.24.B: exemptions for private individuals) to establish whether or not the goods are used for commercial purposes. Concerning mineral oils, the excise duty is due if these products are transported using atypical modes of transport (for example fuels other than in the tanks of vehicles or in appropriate reserve fuel canisters, liquid heating products other than by means of tankers used on behalf of professional traders).

Till June 30, 1999, and within certain limits (see Chapter 6, point 6.24.B: exemptions for private individuals) products purchased in tax-free shops are exempted from the payment of excise duty.

For small wine producers (average production less than 1,000 hl per year) there is a special arrangement by which they are to a large extent exempted from the above-mentioned obligations.

For the products non-alcoholic beverages and coffee a national arrangement is applicable which, whenever possible, is parallel to the Community arrangement. For example, the manufacture, processing and storing of these goods under excise-duty suspension arrangements must take place in a tax warehouse. The dispatch between fiscal warehouses within the country occurs with an accompanying document. The dispatch of non-alcoholic beverages and coffee to and from a Member State is effected with the usual commercial documents.

7.5. Exemptions

As a general rule, an exemption from excise duties and special excise duties can be awarded if the goods are exported. An exemption can also be awarded for certain industrial uses and in certain other cases laid down by EC directives.

7.6. Inspection

The inspection is made in the fiscal warehouses on the basis of the various registers and declarations; this may, if required, be supplemented by physical inspections. In certain cases, a permanent inspection of production is made by excise agents.

In the movement of excise goods, the inspection in connection with the arrangement referred to under 7.4 is carried out on the basis of the transport document or the tax labels (tobacco); this may be supplemented by physical inspections.
7.7. Rates

7.7.1. Mineral oils

per 1,000 litres at 15 degrees C (per 1,000 kg for heavy fuel oils and liquid petroleum gas)

<table>
<thead>
<tr>
<th></th>
<th>excise duty</th>
<th>special excise duty</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leaded petrol</td>
<td>11,900 BEF</td>
<td>7,050 BEF</td>
<td>18,950 BEF</td>
</tr>
<tr>
<td>Unleaded petrol</td>
<td>9,900 BEF</td>
<td>6,300 BEF</td>
<td>16,200 BEF</td>
</tr>
<tr>
<td>Kerosene</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- used as motor fuel</td>
<td>11,900 BEF</td>
<td>7,050 BEF</td>
<td>18,950 BEF</td>
</tr>
<tr>
<td>- for industrial and commercial applications (1)</td>
<td>750 BEF</td>
<td>0 BEF</td>
<td>750 BEF</td>
</tr>
<tr>
<td>- for heating purposes</td>
<td>0 BEF</td>
<td>0 BEF</td>
<td>0 BEF</td>
</tr>
<tr>
<td>Gas-oils</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- used as motor fuel (2)</td>
<td>8,000 BEF</td>
<td>3,700 BEF</td>
<td>11,700 BEF</td>
</tr>
<tr>
<td>- for industrial and commercial applications (1)</td>
<td>750 BEF</td>
<td>0 BEF</td>
<td>750 BEF</td>
</tr>
<tr>
<td>- heating oil for domestic use (3)</td>
<td>0 BEF</td>
<td>0 BEF</td>
<td>0 BEF</td>
</tr>
<tr>
<td>- special applications (shipping trade, railways, ...)</td>
<td>0 BEF</td>
<td>0 BEF</td>
<td>0 BEF</td>
</tr>
<tr>
<td>Heavy fuel oil</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- with less than 1% sulphur</td>
<td>250 BEF</td>
<td>0 BEF</td>
<td>250 BEF</td>
</tr>
<tr>
<td>- with more than 1% sulphur</td>
<td>550 BEF</td>
<td>200 BEF</td>
<td>750 BEF</td>
</tr>
<tr>
<td>- for agricultural and horticultural activities in forestry and fresh water fish-breeding (till May 31, 1994)</td>
<td>0 BEF</td>
<td>0 BEF</td>
<td>0 BEF</td>
</tr>
<tr>
<td>Liquid petroleum gas and methane</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- used as motor fuel</td>
<td>0 BEF</td>
<td>0 BEF</td>
<td>0 BEF</td>
</tr>
<tr>
<td>- for industrial and commercial applications (1)</td>
<td>1,500 BEF</td>
<td>0 BEF</td>
<td>1,500 BEF</td>
</tr>
<tr>
<td>- for heating purposes</td>
<td>0 BEF</td>
<td>0 BEF</td>
<td>0 BEF</td>
</tr>
</tbody>
</table>

(1) We are concerned here with the following products used under fiscal control: kerosene, gas-oil, liquid propane gas and methane for the feeding of stationary engines, of engines fitted on equipment and machines used in construction, road construction, hydraulic engineering and public works, and of engines fitted on vehicles which, on account of their intended use, are not driven on the public highway or for which no authorization has been granted to be used mainly on the public highway.

(2) Partial exemption of the special excise duty of 2,000 BEF per 1,000 litres is provided for the regional public transport companies.

(3) Heating oil for domestic use is, however, liable to an inspection fee of 210 BEF per 1,000 litres at 15 degrees C.
There are exemptions (unless otherwise stipulated) for:

a. mineral oils which are not used as engine fuel or as heating fuel;
b. mineral oils to be used as fuel for aircraft, including private pleasure aircraft (restricted to jet fuel);
c. mineral oils to be used as fuel for navigation in Community water, including fishing (for private craft: only for gasoil).

There are also exemptions for mineral oils used under fiscal control (unless otherwise stipulated) for:

a. inland shipping, including private pleasure craft;
b. the carriage of passengers and goods by rail;
c. exclusively for agricultural and horticultural activities, and in forestry and fresh water fish-breeding;
d. a few other applications.

For points a, b, c, and certain applications under d above, the exemption is restricted to gas-oil and kerosene.

In order to prevent the use of exempted oils as engine fuel, they are denatured or an amount of 10 grammes furfurol is added per 1,000 litres of mineral oils. Moreover, in order to identify exempted gas-oil a red colorant is added.

7.72. Alcoholic beverages

A. BEER

Beer shall be taken to include any product listed under code 2203 of the combined nomenclature of the common customs tariff of the European Communities (abbreviated as CN Code, see annex to this chapter), as well as mixtures of beer and non-alcoholic beverages of CN Code 2206. The alcoholic strength by volume must exceed 0.5%.

Per hectoliter-degree Plato of the end product:

<table>
<thead>
<tr>
<th>hectoliter-degree Plato of end product</th>
<th>excise duty</th>
<th>special excise duty</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beer</td>
<td>32 BEF</td>
<td>27 BEF</td>
<td>59 BEF</td>
</tr>
</tbody>
</table>

The degree Plato means the percentage in weight of the original extract per 100 grammes of beer, this value being calculated from the actual extract and the alcohol contained in the finished product.
The excise duty on 1 litre of pilsner beer, with a density of 12.5 Plato degrees (in this case rounded up to 12 degrees Plato) amounts then for example to:

\[ 12 \times 59 \text{ BEF/100} = 7.08 \text{ BEF} \]

For beer produced by small breweries there is a reduced rate, the application of which depends on the production of the brewery concerned during the previous year. These reduced rates are as follows:

Per hectolitre-degree Plato of the end product:

<table>
<thead>
<tr>
<th>Yearly production</th>
<th>excise duty</th>
<th>special excise duty</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>not exceeding 12,500 hl</td>
<td>16 BEF</td>
<td>34 BEF</td>
<td>50 BEF</td>
</tr>
<tr>
<td>not exceeding 25,000 hl</td>
<td>16 BEF</td>
<td>36 BEF</td>
<td>52 BEF</td>
</tr>
<tr>
<td>not exceeding 50,000 hl</td>
<td>16 BEF</td>
<td>38 BEF</td>
<td>54 BEF</td>
</tr>
<tr>
<td>not exceeding 75,000 hl</td>
<td>18 BEF</td>
<td>38 BEF</td>
<td>56 BEF</td>
</tr>
<tr>
<td>not exceeding 200,000 hl</td>
<td>18 BEF</td>
<td>40 BEF</td>
<td>58 BEF</td>
</tr>
</tbody>
</table>

**B. WINE**

A distinction is made between non-sparkling and sparkling wines.

*Non-sparkling wines* (so-called still wines) shall be taken to include all products of CN Codes 2204 and 2205 (see annex to this chapter) except sparkling wines mentioned hereafter. They must have either an actual alcoholic strength by volume of more than 1.2 % but not exceeding 15 %, provided the alcohol in the end product is obtained entirely through fermentation, or an alcoholic strength by volume of more than 15 % but not exceeding 18 %, provided the alcohol in the end product is obtained entirely through fermentation and in addition that they are produced without any enrichment.

*Sparkling wines* (or semi-sparkling wines) shall be taken to include all products of CN Codes 2204 10, 2204 21 10, 2204 29 10 and 2205 (see annex to this chapter). They are presented in bottles with a mushroom-shaped cork which is confined by threads, strips or otherwise, or have an excess pressure of not less than 3 bars produced by carbon dioxide in solution. They must have an alcoholic strength by volume of more than 1.2 % but not exceeding 15 %, and the alcohol in the end product must be obtained entirely through fermentation.
Per hectolitre of the end product:

<table>
<thead>
<tr>
<th></th>
<th>Excise Duty (1)</th>
<th>Special Excise Duty (1)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-sparkling Wines</td>
<td>0 BEF</td>
<td>1,471 BEF</td>
<td>1,471 BEF</td>
</tr>
<tr>
<td>Sparkling Wines</td>
<td>0 BEF</td>
<td>5,149 BEF</td>
<td>5,149 BEF</td>
</tr>
</tbody>
</table>

(1) 0 BEF excise duty and 0 BEF special excise duty for any kind of non-sparkling or sparkling wines of an actual alcoholic strength by volume not exceeding 8.5%.

C. FERMENTED BEVERAGES OTHER THAN WINE OR BEER

A distinction is made between "other non-sparkling fermented beverages" and "other sparkling fermented beverages".

Other non-sparkling fermented beverages shall be taken to include all the products, not listed under A or B above, of CN Codes 2204, 2205 and 2206 (see annex to this chapter) which are not classified under "other sparkling fermented beverages". They must have an actual alcoholic strength by volume of more than 1.2 % but not exceeding 10 %, or they must have an alcoholic strength by volume of more than 10 % but not exceeding 15 %, and in addition the alcohol in the end product must be obtained entirely through fermentation.

Other sparkling fermented beverages shall be taken to include all products of CN Codes 2206 00 91 as well as the products of CN Codes 2204 10, 2204 21 10, 2204 29 10 and 2205 which are not listed under B (see annex to this chapter). They are presented in bottles with a mushroom-shaped cork which is confined by threads, strips or otherwise, or have an excess pressure of not less than 3 bars produced by carbon dioxide in solution. They must have either an alcoholic strength by volume of more than 1.2 % but not exceeding 13 %, or an alcoholic strength by volume of more than 13 % but not exceeding 15 %, and in that case the alcohol in the end product must be obtained entirely through fermentation.

Per hectolitre of the end product:

<table>
<thead>
<tr>
<th></th>
<th>Excise Duty (1)</th>
<th>Special Excise Duty (1)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-sparkling beverages</td>
<td>0 BEF</td>
<td>1,471 BEF</td>
<td>1,471 BEF</td>
</tr>
<tr>
<td>Sparkling beverages</td>
<td>0 BEF</td>
<td>5,149 BEF</td>
<td>5,149 BEF</td>
</tr>
</tbody>
</table>

(1) 0 BEF excise duty and 0 BEF special excise duty for any kind of other (non-sparkling or sparkling) fermented beverages of an actual alcoholic strength by volume not exceeding 8.5%.
D. **INTERMEDIATE PRODUCTS**

*Intermediate products* shall be taken to include all products of CN Codes 2204, 2205 and 2206 (see annex to this chapter) which do not come under A, B, or C above and have an alcoholic strength by volume of more than 1.2 % but not exceeding 22 %.

Per hectolitre of end product:

<table>
<thead>
<tr>
<th></th>
<th>excise duty</th>
<th>special excise duty</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>normal rate</td>
<td>2,700 BEF</td>
<td>0 BEF</td>
<td>2,700 BEF</td>
</tr>
<tr>
<td>if alcoholic strength does not exceed 15 % by volume</td>
<td>1,900 BEF</td>
<td>0 BEF</td>
<td>1,900 BEF</td>
</tr>
<tr>
<td>&quot;sparkling&quot; (1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) alcoholic strength exceeding 15 % by volume</td>
<td>2,700 BEF</td>
<td>2,449 BEF</td>
<td>5,149 BEF</td>
</tr>
<tr>
<td>b) alcoholic strength not exceeding 15 % by volume</td>
<td>1,900 BEF</td>
<td>3,249 BEF</td>
<td>5,149 BEF</td>
</tr>
</tbody>
</table>

(1) in particular : if contained in bottles with a mushroom-shaped cork which is confined by threads, strips or otherwise, or have an excess pressure of not less than 3 bars produced by carbon dioxide in solution.

E. **ETHYL ALCOHOL**

*Ethyl alcohol* shall be taken to include:

a. all products of the CN Codes 2207 and 2208 (see annex to this chapter). They must have an alcoholic strength of more than 1.2 % by volume. They are also taxed if they are part of another product;
b. products of the CN Codes 2204, 2205 and 2206 of an alcoholic strength of more than 22 % by volume;
c. drinkable distilled beverages with or without products in solution.

Per hectolitre of absolute alcohol by 20 °C:

<table>
<thead>
<tr>
<th></th>
<th>excise duty</th>
<th>special excise duty</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethyl alcohol</td>
<td>9,000 BEF</td>
<td>54,500 BEF</td>
<td>63,500 BEF</td>
</tr>
</tbody>
</table>
Example:

The excise duty on a 70 cl bottle of whisky of an actual alcoholic strength of 40% by volume amounts to:

\[ 63,500 \text{ BEF} \times 0.4 \times 0.007 = 177.8 \text{ BEF}. \]

F. EXEMPTIONS

In certain cases the products listed above are exempt from the excise duty and special excise duty: i.a. if they are entirely denatured or if they are used for the preparation of vinegar (CN Code 2209, see annex to this chapter) or medicinal products, or as flavouring for the preparation of certain foodstuffs and beverages (on certain conditions).

7.73. Manufactured tobacco

For manufactured tobacco, the excise duty and special excise duty are expressed as a percentage of the retail price (i.e. inclusive all taxes - *ad valorem* excise duty and *ad valorem* special excise duty), except for cigarettes which must necessarily be subjected to a specific excise duty.

<table>
<thead>
<tr>
<th></th>
<th>excise duty</th>
<th>special excise duty</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>cigars and cigarillos</td>
<td>10,00 %</td>
<td>0,00 %</td>
<td>10,00 %</td>
</tr>
<tr>
<td>cigarettes (1) (2)</td>
<td>50,00 %</td>
<td>0,00 %</td>
<td>50,00 %</td>
</tr>
<tr>
<td>smoking tobacco (2)</td>
<td>31,50 %</td>
<td>6,05 %</td>
<td>37,55 %</td>
</tr>
</tbody>
</table>

(1) Cigarettes are, in addition, subjected to a specific excise duty of 102 BEF per 1,000 pieces and a specific special excise duty of 255 BEF per 1,000 pieces.

(2) For cigarettes, the aggregate amount of excise duty, special excise duty and VAT shall in no case be less than 90 % of the aggregate amount of the same taxes applicable to the pack of cigarettes which is most sold (e.g. for the pack of cigarettes which is most sold now at the price of 112 BEF, a price authorized by the Council of Ministers, the total amount of taxes is 83,978 BEF, which means that a pack of cigarettes of 25 pieces cannot be taxed less than 75,575 BEF). That amount applies to packs of 25 cigarettes and must be adjusted for other quantities.

For smoking tobacco finely cut for rolling cigarettes and other kinds of smoking tobacco, the aggregate amount of excise duty, special excise duty and VAT shall in no case be less than 85 % of the aggregate amount of the same taxes applicable to the pack of tobacco which is most sold (e.g. for the pack of smoking tobacco of 50 gr which is sold now at the price of 94 BEF, the total amount of taxes is 51,288 BEF, which means that a pack of tobacco cannot be taxed less than 43,550 BEF per 50 gr). That amount applies to packs of 50 gr and must be adjusted for other quantities.

In certain cases (for example denaturation for use in industrial or horticultural applications, for scientific experimentations) there is an exemption from excise duty and special excise duty.
Example

On January 1, 1994, a pack of 25 pieces of the most sold cigarettes cost 115 BEF (the price at which the pack of cigarettes of 25 pieces is sold following the rise in prices applied by tobacco manufacturers). The VAT amounts to 20.5/1.205 = 17.01 % of the retail price (VAT rates are expressed as a percentage of the price exclusive VAT). This corresponds to an amount of 19.564 BEF. The ad valorem excise duty amounts to 50 % of the retail price, corresponding to an amount of 57.500 BEF. The total specific excise duty amounts to 357 BEF per 1,000 pieces, corresponding to an amount of 357 x 25/1000 = 8.925 BEF per 25 pieces (2.550 BEF of specific excise duty and 6.375 BEF of specific special excise duty).

7.74. Non-alcoholic beverages

Per hectoliter:

<table>
<thead>
<tr>
<th></th>
<th>excise duty</th>
<th>special excise duty</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>- mineral water and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>assimilated products</td>
<td>200 BEF</td>
<td>-</td>
<td>200 BEF</td>
</tr>
<tr>
<td>(1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- lemonade and other</td>
<td>300 BEF</td>
<td>-</td>
<td>300 BEF</td>
</tr>
<tr>
<td>non-alcoholic beverages</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) In particular: natural or artificial mineral water, carbonated or sterilized water and any water tapped in bottles or otherwise packed in order to be sold or supplied as drinking-water.

The storing in a fiscal warehouse and the dispatching to a fiscal warehouse occur with suspension of excise duty. In certain cases an exemption from excise duty is granted, for example when the products are sent to another EC country or exported.

7.75. Coffee

Per kilogram (for coffee extracts: per kilogram of dry matter):

<table>
<thead>
<tr>
<th></th>
<th>excise duty</th>
<th>special excise duty</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>non-roasted coffee</td>
<td>8 BEF</td>
<td>-</td>
<td>8 BEF</td>
</tr>
<tr>
<td>roasted coffee</td>
<td>10 BEF</td>
<td>-</td>
<td>10 BEF</td>
</tr>
<tr>
<td>coffee extracts</td>
<td>28 BEF</td>
<td>-</td>
<td>28 BEF</td>
</tr>
</tbody>
</table>
The storing in a fiscal warehouse and the dispatching to a fiscal warehouse occur with suspension of excise duty. In certain cases an exemption from excise duty is granted, for example when the products are sent to another EC country or exported, and when they serve for other industrial uses than the roasting of coffee or the production of coffee extracts.

7.76. Monitoring fee on domestic fuel oil

Article 5, 3°, of EC Directive 92/82 sets the minimum rate of excise duty on domestic fuel oil at 18 Ecus per 1,000 litres. Since Belgium did not apply any excise duty on domestic fuel oil on January 1, 1991, it was authorized to apply a zero rate, provided a monitoring fee of 5 Ecus per 1,000 litres be levied as of January 1, 1993.

Art. 56 of the law of December 28, 1992, enacting fiscal, financial and various provisions thus prescribes the levying of a monitoring fee of 21 BEF per hectolitre at 15° C on domestic fuel oil.

The conditions for the levying and control of that fee are identical to those laid down for mineral oils.
## ANNEX TO CHAPTER SEVEN

**Codes of the combined nomenclature (CN) of the commun customs tariff of the European Communities for alcoholic beverages**

<table>
<thead>
<tr>
<th>CN Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2203</td>
<td>beer made from malt</td>
</tr>
<tr>
<td>2204</td>
<td>wines from fresh grapes, including wines with added alcohol; grape must, other than referred to in heading 2009 (unfermented fruit juices)</td>
</tr>
<tr>
<td>2204 10</td>
<td>sparkling wines which, at a temperature of 20° C, have an excess pressure of at least 3 bar (for example champagne)</td>
</tr>
<tr>
<td>2204 21 10</td>
<td>wines, other than referred to in subheading 2204 10, packed in bottles closed by means of a mushroom-shaped cork which is confined by threads, strips or otherwise; otherwise packed wines having, at 20° C, an excess pressure of at least 1 but not more than 3 bars, produced by carbon dioxide in solution - in packages containing not more than 2 litres</td>
</tr>
<tr>
<td>2204 29 10</td>
<td>as 2204 21 10, but in larger packaging</td>
</tr>
<tr>
<td>2205</td>
<td>vermouths, and other wines of fresh grapes, prepared with aromatic plants or flavoured with aromatic extracts</td>
</tr>
<tr>
<td>2206</td>
<td>other fermented beverages (for example, cider, perry, mead), mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, neither named elsewhere or included elsewhere.</td>
</tr>
<tr>
<td>2206 00 91</td>
<td>sparkling beverages (fermented beverages, packed in bottles closed by means of a mushroom-shaped cork which is confined by threads, strips or otherwise, as well as fermented beverages, otherwise presented, with an excess pressure of at least 1.5 bars at 20° C)</td>
</tr>
<tr>
<td>2207</td>
<td>ethyl alcohol, undenatured, of a strength of 80% by volume or higher; ethyl alcohol and distilled beverages, undenatured, whatever the alcoholic strength</td>
</tr>
</tbody>
</table>
2208 ethyl alcohol, undenatured, of an alcoholic strength by volume of less than 80%; distilled beverages, liqueurs and other beverages containing distilled alcohol; compound alcoholic preparations of the kind used for the manufacturing of beverages (for example, Cognac, Armagnac, whisky, rum, tafia, gin, brandy, vodka, tequila, liqueurs)

2209 vinegar, natural or obtained from acetic acid
CHAPTER EIGHT

THE LEVY ON ENERGY

This levy is laid down and regulated by the Act of July 22, 1993, instituting a levy on the energy in order to safeguard the competitive power and employment, as well as by the decrees issued for its implementation.

8.1. Definition

The levy on energy is an indirect tax levied on the release for consumption or the use in this country of motor fuels, fossil fuels for heating and energy, irrespective of their origin (Art. 1).

The revenue from this levy (increased by the related VAT) will be affected to the Fund for the Financial Equilibrium of the Social Security System (Art. 16).

8.2. Products subject to the levy and rates to be applied

The philosophy of this levy is the preservation of a neutral treatment between the various energy sectors, at least with respect to fuels. The rate of the levy is calculated according to the principle of equal taxation per energy unit in proportion to the calorific value in relation to the taxation level for heating oil.

The products subject to the levy and the rates to be applied are as follows (Art. 2):

8.21. Motor fuels

<table>
<thead>
<tr>
<th>Product</th>
<th>Unit</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leaded and unleaded petrol</td>
<td>1,000 l (1)</td>
<td>550 BEF</td>
</tr>
<tr>
<td>Kerosene used as motor fuel</td>
<td>1,000 l (1)</td>
<td>550 BEF</td>
</tr>
<tr>
<td>Gas-oil used as motor fuel</td>
<td></td>
<td>0 BEF</td>
</tr>
<tr>
<td>Liquid petroleum gas used as motor fuel</td>
<td></td>
<td>0 BEF</td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td>0 BEF</td>
</tr>
</tbody>
</table>

(1) at 15 °C.
8.22. **Fuels for heating purposes**

<table>
<thead>
<tr>
<th>Product</th>
<th>Unit</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heating gas-oil for domestic use</td>
<td>1,000 l (2)</td>
<td>340 BEF</td>
</tr>
<tr>
<td>Paraffin oil used for heating purposes</td>
<td>1,000 l (2)</td>
<td>520 BEF</td>
</tr>
<tr>
<td>Heavy fuel oil</td>
<td></td>
<td>0 BEF</td>
</tr>
<tr>
<td>Natural gas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- for domestic use and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>non-domestic uses NH1 and NH2 (1)</td>
<td>1 megajoule</td>
<td>0.01367 BEF</td>
</tr>
<tr>
<td>- for non-domestic use NH3</td>
<td></td>
<td>0 BEF</td>
</tr>
<tr>
<td>Liquid petroleum gas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- butane</td>
<td>1.000 kg</td>
<td>690 BEF</td>
</tr>
<tr>
<td>- propane</td>
<td>1.000 kg</td>
<td>700 BEF</td>
</tr>
<tr>
<td>Coal</td>
<td></td>
<td>0 BEF</td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td>0 BEF</td>
</tr>
</tbody>
</table>

(1) tariff classes of the Committee for the Supervision of Electricity and Gas.  
(2) at 15 °C.

8.23. **Electricity**

<table>
<thead>
<tr>
<th>Product</th>
<th>Unit</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low voltage tariff</td>
<td>1 MWh</td>
<td>55 BEF</td>
</tr>
<tr>
<td>High voltage tariff</td>
<td></td>
<td>0 BEF</td>
</tr>
</tbody>
</table>

8.3. **Liability for payment**

The payment of the levy is due (Art. 4):

- upon the release for consumption in this country according to the rules in respect of excise duties: motor fuels and fuels for heating purposes, except natural gas, coal and the "other" (see above 7.22) fuels for heating purposes;

- normally upon the delivery to the user (sometimes when accounts are rendered or upon payment): the other products subject to the levy.
8.4. Exemptions

The following are exempted from the levy on energy:

- paraffin oil, heating oil and liquid petroleum gas destined for certain industrial and commercial applications in the cases provided for by the legislation relating to the excise duty on mineral oils;

- all the products subject to the levy on energy pursuant to Article 2 of the law and which are used for the purposes and under the conditions for which the exemption of excise duty is granted pursuant to the legislation relating to the excise duty on mineral oils;

- the specific social tariffs applied in the sector for the distribution of natural gas and electricity.

8.5. Inspection

The inspection is carried out on the basis of the general customs and excise law and the specific legislation concerning excise duties (Art. 9).
CHAPTER NINE

ECOTAXES

These taxes are laid down and governed by book III of the ordinary law of July 16, 1993, aiming at finalizing the federal structures of the State and by the relevant decrees issued for its implementation.

9.1. General

The above-mentioned law has instituted an ecotax on certain products considered as harmful.

The implementation of these ecotaxes has been spread over a period of time, according to the product concerned.

9.2. Rates

- Containers with beer, carbonated water, cola drinks and other lemonades: 15 BEF per litre, with a minimum of 7 BEF per container;
- Disposable razors: 10 BEF apiece;
- Disposable cameras: 300 BEF apiece (100 BEF for the reduced rate);
- Batteries: 20 BEF apiece;
- Containers with certain industrial products: 25 BEF per litre, with a minimum of 500 BEF per container;
- Paper subject to ecotaxes: 10 BEF per kg (5 BEF per kg if the paper was not manufactured with the use of gaseous chlorine).

The tax on disposable razors is the first ecotax that entered into force. It is levied since January 31, 1994.

As the discussion on the dates for the introduction of certain ecotaxes is not finished, these dates will be mentioned in the Tax Survey of next year.

9.3. Notes

The ecotax concept has made use of several new concepts such as the deposit system, the rate of reuse, the recycling and the rate of recycling, the disposable objects, the pesticides for agricultural use and those for non-agricultural use and also the ecological stocktaking.

All these new concepts make it possible to control and levy the ecotaxes on the various products subject to them.
CHAPTER TEN
TAXES ON DRINKING ESTABLISHMENTS

These taxes are laid down and governed by the Statutory Order of November 14, 1939, the Royal Decrees of April 3, 1953, and April 4, 1953, the Act of July 6, 1967, the Act of December 28, 1983, the Royal Decree of December 29, 1983, and the Ministerial Decree of December 29, 1983.

10.1. Opening tax, annual tax and five-year tax on the sale of fermented drinks

These taxes are calculated on the annual effective rentable value or assumed rentable value of the premises used for business purposes. However, there is a minimum rate according to the size of the municipality (number of inhabitants).

Rates:
- for new establishments: three times the annual rentable value; (for itinerant drinking establishments: 5,000 BEF, for occasional establishments: 200 BEF per day);
- after 15 years and then every 5 years: certain establishments must pay a five-year tax of one half of the annual rentable value;
- for small retail outlets dealing in spirits: annual tax of 1/5 of the annual rentable value.

10.2. Licence tax on establishments for the sale of spirits

This tax also varies according to the annual rentable value, i.e. 25% of the same. The minimum amount is 12,000 BEF, and maximum is 40,000 BEF.

For itinerant drinking establishments, the base is increased to 12,000 BEF per year and, for occasional drinking establishments, the tax amounts to 500 BEF per day.
CHAPTER ELEVEN
TAXES ASSIMILATED TO INCOME TAX

These taxes are laid down and regulated by the Code of taxes assimilated to income taxes and by the decrees issued for its implementation.

11.1. Road tax

11.11. Taxable vehicles

The tax is levied on steam vehicles or motor vehicles, as well as on their trailers and semi-trailers, which are used for the carriage of passengers or goods on public roads (Art. 3 and 4 of the Code of taxes assimilated to income taxes - CTA).

11.12. Exemptions

The exempted vehicles are listed in Art. 5 CTA. These are i.a. vehicles exclusively used for a public service of the various authorities, vehicles exclusively used for public transport, ambulances and vehicles used by badly disabled war invalids or other disabled people, certain agricultural and similar vehicles, vehicles exclusively used as taxi, motorcycles not exceeding 250 cm³ and certain other vehicles.

11.13. Tax base

The tax base is determined, as the case may be, according to the engine power (expressed in HP, see hereafter) or the weight of the vehicle. For motor cars, twin-purpose cars and minibuses which are not fitted with electromotors and which must be declared for road tax purposes as from January 1, 1972, the tax is determined by the HP, which is calculated from a formula in which all the data are related to the cylinder capacity in litres.
Example

A car has a four-cylinder engine with an internal diameter of 80 mm. Its piston stroke is also 80 mm. The cylinder capacity is therefore 1.6 litres. The fiscal power, expressed in HP, is:

$$HP = 4 \times \text{cylinder capacity} + \frac{\text{Weight (in 100 kg)}}{4}$$

For that car, the second term in the formula is replaced by a coefficient which varies according to the cylinder capacity. For a cylinder capacity of 1.6 litres, the coefficient is equal to 2.25. The fiscal rating in HP amounts therefore for that car to:

$$4 \times 1.6 + 2.25 = 8.65$$, rounded up to 9 HP.


A number of rates are adjusted on July 1 of each year to the fluctuations of the general consumer price index. These are the tax rates for the following vehicles:

a. motor cars, twin-purpose cars and minibuses;
b. motorcycles;
c. coaches and buses (the minimum rate only);
d. motor cars and twin-purpose cars which are more than 25 years old, camping trailers and trailers for the transportation of one boat, collector's military vehicles which are more than 30 years old, as well as the minimum rate generally applicable.
11.15. Rates

A. MOTOR CARS, TWIN-PURPOSE VEHICLES AND MINIBUSES

<table>
<thead>
<tr>
<th>HP</th>
<th>Tax (in BEF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 or less</td>
<td>1,884</td>
</tr>
<tr>
<td>5</td>
<td>2,364</td>
</tr>
<tr>
<td>6</td>
<td>3,408</td>
</tr>
<tr>
<td>7</td>
<td>4,452</td>
</tr>
<tr>
<td>8</td>
<td>5,496</td>
</tr>
<tr>
<td>9</td>
<td>6,540</td>
</tr>
<tr>
<td>10</td>
<td>7,584</td>
</tr>
<tr>
<td>11</td>
<td>9,540</td>
</tr>
<tr>
<td>12</td>
<td>12,096</td>
</tr>
<tr>
<td>13</td>
<td>14,352</td>
</tr>
<tr>
<td>14</td>
<td>16,608</td>
</tr>
<tr>
<td>15</td>
<td>18,864</td>
</tr>
<tr>
<td>16</td>
<td>24,708</td>
</tr>
<tr>
<td>17</td>
<td>30,552</td>
</tr>
<tr>
<td>18</td>
<td>36,396</td>
</tr>
<tr>
<td>19</td>
<td>42,240</td>
</tr>
<tr>
<td>20</td>
<td>48,072</td>
</tr>
<tr>
<td>For each additional HP</td>
<td>2,628</td>
</tr>
</tbody>
</table>

B. TRUCKS, LIGHT TRUCKS, TRACTORS, TRAILERS AND SEMI-TRAILERS

- if ≤ 1,000 kg: per 100 kg: 150 BEF
- if > 1,000 kg: per 100 kg: 150 BEF + 7 BEF per bracket of 100 kg above 1,000 kg, with a maximum of 346 BEF
C. **MOTORCYCLES**

Fixed rate charge of 1,332 BEF. If the cylinder capacity does not exceed 250 cm\(^3\), there is an exemption of the road tax, but a small tax is levied by local authorities.

D. **OTHER VEHICLES FOR THE TRANSPORT BY ROAD (EXCEPT THOSE MENTIONED UNDER POINT E), FOR EXAMPLE COACHES AND BUSES**

- if \( \leq 10 \) HP : 180 BEF per HP with a minimum of 1,886 BEF
- if \( > 10 \) HP : 180 BEF per HP + 13 BEF per HP above 10 HP, with a maximum rate of 505 BEF per HP

E. **VEHICLES LIABLE TO A FIXED-RATE CHARGE**

This tax amounts to 854 BEF and is levied on:

- motor cars and twin-purpose cars older than 25 years;
- camping trailers and trailers for the transportation of one boat;
- collector's military vehicles older than 30 years.

The minimum rate on all vehicles liable to road tax amounts to 854 BEF.

11.16. **Additional road tax**

This tax is levied on all cars, twin-purpose cars and minibuses equipped with an LPG installation. The amounts depend on the fiscal power of the vehicle (HP):

- max. 7 HP : 3,600 BEF
- from 8 to 13 HP : 6,000 BEF
- more than 13 HP : 8,400 BEF

11.17. **Surcharge in favour of the municipalities**

A 10 percent municipal surcharge is levied on most vehicles which are liable to the road tax. The road tax which is levied on the car described in the example in point 11.13, amounts after addition of the surcharge to:

\[ 6,540 \text{ BEF} \times 1.1 = 7,194 \text{ BEF} \]

The surcharge in favour of the municipalities is not levied on the additional road tax (see 11.16).
11.2. The tax on the entry into service

11.21. Taxable vehicles

The tax on the entry into service is levied on:

a. motor cars, twin-purpose vehicles, minibuses and motorcycles;
b. airplanes, seaplanes, helicopters, gliders, balloons and certain other aircraft;
c. yachts and pleasure seacraft of a length exceeding 7.5 metres, when these craft must have a certificate of registry;

when these vehicles or boats are entered into service on public roads or when they are used in Belgium (Art. 94 of the Code of taxes assimilated to stamp duties). The fiscal debt arises at the moment of the entry into service, which is determined in a different way in the case of a road vehicle, a boat or an aircraft (respectively registration in the directory of the Office of Traffic, registration by the Aviation Board and delivery of the certificate of registry by the Navy and Inland Navigation Administration).

The tax is due both upon the first entry into service and upon a subsequent entry into service of the same vehicle in another person's name.

11.22. Exemptions

The exemptions are listed in Art. 96 of the above-mentioned Code.

They apply i.a. to:

a. aircraft and boats used exclusively by a public service of the State;
b. vehicles used exclusively for the transportation of ill or wounded persons;
c. vehicles used by very disabled war invalids and certain handicapped persons.

11.23. Tax base

For road vehicles the tax is due on the basis of their engine power, expressed either in fiscal HP or in kilowatt (kW).

For aircraft and boats the tax is a fixed-rate charge.

For all these means of transport the tax depends also, however, on the period elapsed since the first entry into service.
11.24. Rates

A. **MOTOR CARS, TWIN-PURPOSE VEHICLES, MINIBUSES AND MOTOR CYCLES**

The *basic amounts* of the tax are given hereafter.

<table>
<thead>
<tr>
<th>HP</th>
<th>kW</th>
<th>Tax (in BEF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 8</td>
<td>0 to 70</td>
<td>2,500</td>
</tr>
<tr>
<td>9 and 10</td>
<td>71 to 85</td>
<td>5,000</td>
</tr>
<tr>
<td>11</td>
<td>86 to 100</td>
<td>20,000</td>
</tr>
<tr>
<td>12 to 14</td>
<td>101 to 110</td>
<td>35,000</td>
</tr>
<tr>
<td>15</td>
<td>111 to 120</td>
<td>50,000</td>
</tr>
<tr>
<td>16 and 17</td>
<td>121 to 155</td>
<td>100,000</td>
</tr>
<tr>
<td>More than 17</td>
<td>More than 155</td>
<td>200,000</td>
</tr>
</tbody>
</table>

If the power of a given engine expressed in fiscal HP and in kW causes a different amount of tax to be levied, the tax is due for the larger amount.

If these vehicles have already been registered previously during at least one year either in this country or abroad before their final importation, the tax is reduced to a percentage of the said basic amounts, according to the period elapsed between the first registration and the new registration.

<table>
<thead>
<tr>
<th>Period elapsed since first registration</th>
<th>The tax is reduced to the following percentage of the basic amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year to &lt; 2 years</td>
<td>90%</td>
</tr>
<tr>
<td>2 years to &lt; 3 years</td>
<td>80%</td>
</tr>
<tr>
<td>3 years to &lt; 4 years</td>
<td>70%</td>
</tr>
<tr>
<td>4 years to &lt; 5 years</td>
<td>60%</td>
</tr>
<tr>
<td>5 years to &lt; 6 years</td>
<td>50%</td>
</tr>
<tr>
<td>6 years to &lt; 7 years</td>
<td>40%</td>
</tr>
<tr>
<td>7 years to &lt; 8 years</td>
<td>30%</td>
</tr>
<tr>
<td>8 years to &lt; 9 years</td>
<td>20%</td>
</tr>
<tr>
<td>9 years to &lt; 10 years</td>
<td>10%</td>
</tr>
<tr>
<td>at least 10 years</td>
<td>2,500 BEF (flat rate)</td>
</tr>
</tbody>
</table>

After the reduction has been applied the tax cannot, however, be less than 2,500 BEF.
The basic amounts are applicable to vehicles which have been registered for a period of six months and less than one year. For vehicles which have been registered for less than six months a tax is levied in addition to the basic amounts at the following rates:

- 10,000 BEF for vehicles with an engine power of less than 9 HP or less than 71 kW;
- 20,000 BEF for vehicles with an engine power of 9 to 15 HP or of 71 to 120 kW;
- 30,000 BEF for vehicles with an engine power of 16 HP and more or of 121 kW and more.

In this case also the higher amount is due if the engine power, expressed in fiscal HP or in kW, results in the levying of a different tax amount.

The final amount of tax for all possible cases is mentioned in the following table:

<table>
<thead>
<tr>
<th>Cylinder capacity in litres</th>
<th>Fiscal HP</th>
<th>kW</th>
<th>From 5 to &lt; 6 years</th>
<th>From 6 up to &lt; 7 years</th>
<th>From 7 up to &lt; 8 years</th>
<th>From 8 up to &lt; 9 years</th>
<th>From 9 up to &lt; 10 years</th>
<th>10 years and more</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.1 - 1.5</td>
<td>0 to 8</td>
<td>0 to 70</td>
<td>2,500</td>
<td>2,500</td>
<td>2,500</td>
<td>2,500</td>
<td>2,500</td>
<td>2,500</td>
</tr>
<tr>
<td>1.6 - 1.9</td>
<td>9 and 10</td>
<td>71 to 85</td>
<td>5,000</td>
<td>12,500</td>
<td>2,500</td>
<td>2,500</td>
<td>2,500</td>
<td>2,500</td>
</tr>
<tr>
<td>2.0 - 2.1</td>
<td>11</td>
<td>86 to 100</td>
<td>10,000</td>
<td>25,000</td>
<td>4,500</td>
<td>4,000</td>
<td>3,500</td>
<td>3,500</td>
</tr>
<tr>
<td>2.2 - 2.7</td>
<td>12 to 14</td>
<td>101 to 110</td>
<td>35,000</td>
<td>55,000</td>
<td>3,500</td>
<td>3,1,500</td>
<td>2,500</td>
<td>2,500</td>
</tr>
<tr>
<td>2.8 - 3.0</td>
<td>15</td>
<td>111 to 120</td>
<td>70,000</td>
<td>90,000</td>
<td>40,000</td>
<td>35,000</td>
<td>30,000</td>
<td>30,000</td>
</tr>
<tr>
<td>3.1 - 3.4 16 and 17</td>
<td>121 to 155</td>
<td>100,000</td>
<td>130,000</td>
<td>180,000</td>
<td>160,000</td>
<td>140,000</td>
<td>120,000</td>
<td>120,000</td>
</tr>
<tr>
<td>3.5 and + 18 and +</td>
<td>156 and +</td>
<td>200,000</td>
<td>230,000</td>
<td>180,000</td>
<td>160,000</td>
<td>140,000</td>
<td>120,000</td>
<td>120,000</td>
</tr>
</tbody>
</table>

**Example**

A car has an engine with a fiscal horse-power of 11 HP and a power of 110 kW. Upon the first entry into service, the tax amounts to 35,000 BEF on this car (the power in kW results in a higher amount than the power in fiscal HP). Upon registration five months after the first registration, the tax amounts to 55,000 BEF. Upon registration 15 months after the first registration (i.e. between 1 year and less than two years) the tax amount to 31,500 BEF. Upon registration at least 10 years after the first registration, the tax amounts to 2,500 BEF.
B. AIRCRAFT

A fixed-rate basic amount of 25,000 BEF for ultralight motorized aircraft and 100,000 BEF for the others.

If these aircraft have been registered previously either in this country or abroad before their final importation, the basic amounts are reduced according to the same scheme as for road vehicles (see A above). No tax increase is due, however, for aircraft which have been registered for less than six months.

Example

An ultralight motorized aircraft is registered for the first time. The tax amounts to 25,000 BEF. If a subsequent registration occurs 7.5 years after the first, the tax amounts to 25,000 BEF x 30% = 7,500 BEF. Upon a subsequent registration at least 10 years after the first, the tax amounts to 2,500 BEF (flat rate).

C. BOATS

A fixed-rate basic amount of 100,000 BEF.

If these boats have been previously provided with a certificate of registry either in this country or abroad before their final importation, the basic amount is reduced according to the same scheme as for road vehicles (see A above). No tax increase is due, however, for boats which have been registered for less than six months.

Example

A boat receives a certificate for the first time. The tax amounts to 100,000 BEF. If a subsequent delivery of a certificate occurs 9.5 years after the first, the tax amounts to 100,000 BEF x 10% = 10,000 BEF. Upon delivery of a certificate at least 10 years after the first, the tax amounts to 2,500 BEF (flat rate).

11.3. Tax on betting and gambling

The tax on betting and gambling is levied on the gross amount of the sums involved.

The general rate is 11% (15% in the Flemish region) but there are special cases (horse-racing, casino gambling, pigeons) and there are exemptions (exempted lotteries such as "lotto", "baraka", etc.).
11.4. Tax on automatic amusement machines

The tax on automatic amusement machines is levied on machines which are placed on the public highway, in places accessible to the public and in private clubs.

The amount of the tax varies according to the category of the device and the Region where it is placed.

There are five categories, from A to E. The amounts of the tax are as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Flemish Region</th>
<th>Walloon Region and Bilingual Region of Brussels-Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>144,000 BEF</td>
<td>36,000 BEF</td>
</tr>
<tr>
<td>B</td>
<td>52,000 BEF</td>
<td>26,000 BEF</td>
</tr>
<tr>
<td>C</td>
<td>14,000 BEF</td>
<td>7,000 BEF</td>
</tr>
<tr>
<td>D</td>
<td>10,000 BEF</td>
<td>5,000 BEF</td>
</tr>
<tr>
<td>E</td>
<td>6,000 BEF</td>
<td>3,000 BEF</td>
</tr>
</tbody>
</table>
PART 3

SPECIAL TAX ARRANGEMENTS

TAX MEASURES IN FAVOUR OF INVESTMENT AND EMPLOYMENT
CHAPTER ONE

SPECIAL TAX ARRANGEMENTS

1.1. Co-ordination centres (1)

Any registered Belgian company or any Belgian subsidiary of a registered foreign company can enjoy the tax arrangements relating to Co-ordination centres if they fulfil the following conditions:

- they must be part of a group whose consolidated capital and reserves reach 1 billion francs and the consolidated turnover reaches 10 billion francs;
- they must have as their exclusive purpose the development and centralization of one or more coordination activities on behalf of all or part of the companies in the group.

The Co-ordination centre enjoys the following tax advantages:

- exemption from the proportional registration duties on capital subscription;
- calculation of the taxable profit by a standard fixed-rate method depending on the activity exercised and on the basis of the expenses and operating costs with the exclusion of personnel costs and financial charges;
- exemption from the withholding tax on income from real estate, equipment and tools used by the centre within the context of its professional activity;
- exemption from the withholding tax on income from movable property on distributed profits and revenue from credit or loans.

The provider of capital can profit from a fictitious withholding tax on income from movable property (F.T.Mov.) if the following conditions are met:

- the financing is the result of an agreement concluded before July 24th 1991: the fictitious withholding tax on income from movable property has been suppressed for agreements concluded from that date;
- the capital borrowed must be assigned in Belgium for fixed assets or for research and development expenses.

1) Royal Decree n°187 of 30.12.1982. Various modifications have been made to the laws of 11.4.83, 28.12.83, 31.7.84 and 27.12.84, as well as to the Royal Decree of 20.12.84. The rate of fictitious withholding tax on income from movable property was modified by the laws of February 22nd 1990 and of December 26th 1990.
The fictitious withholding tax on income from movable property is awarded at a rate of 10/90 (2):

- in the case of financing by credit, if this relates to agreements concluded from January 22nd 1990 onwards,
- in the case of financing by the issue of shares, to those which relate to investments recorded from July 23rd 1990 onwards.

Financing undertaken before this date continues to enjoy a fictitious withholding tax on income from movable property of 25/75.

This fictitious withholding tax is added to the taxable amount of corporation tax, as N.A.E. and can be set off against the corporation tax but is not repayable.

From the first of January 1993 the Co-ordination centres are liable to a tax on the personnel employed. This tax is due each year, as from the year following that in which the centre was established. It amounts to 400,000 BEF per full-time worker on January 1 of the tax period and is limited to 4,000,000 BEF.

1.2. Reconversion companies (3)

These special tax arrangements apply to companies which are constituted specially for the execution of a reconversion project within the framework of a "reconversion contract" and set up in one of the zones delimited for this purpose by the Royal Decree.

The company which meets these conditions would enjoy at the outset:

- an exemption from the proportional registration duties on capital subscription,
- an exemption from corporation tax, for 10 consecutive financial years, limited to the part of the dividends which does not exceed 13% of the paid-up capital.

This system was modified as follows:

- for companies which were set up before 1.1.1990, the maximum exemption rate is reduced from 13 to 8% and the exemption period is extended by 5 trading years,

2) For these investments, the allowance of the fictitious withholding tax on income from movable property to the provider of capital cannot be cumulated with the awarding of the deduction for investments in the company in which these investments were made.

for companies which were set up between the 1.1. and 22.7.1990, the exemption rate is reduced from 13 to 8% but the exemption period is not extended.

The tax advantages described above are not awarded to companies set up in a reconversion zone after 22.7.1990. Existing companies enjoy transitory arrangements: the tax advantages are still awarded for capital subscribed and paid up between July 23rd 1990 and December 31st 1992.

The exemption is suspended for the tax year 1994.

1.3. Employment zones

Companies set up within employment zones (4), of which the territory has been delimited in the three regions of the country, enjoy the following tax advantages:

- total exemption for 10 years from the corporation tax on reserved or distributed profits;
- total exemption from the withholding tax on income from movable property on dividends distributed to shareholders;
- for investments of which the financing is the result of an agreement concluded before 24th July 1991, awarding of the fictitious withholding tax on capital income from movable property to the provider of capital (5);
- exemption from the withholding tax on income from movable property;
- exemption from the proportional registration duty on capital subscriptions.

1.4. Innovation companies

Innovation companies are companies which exercise their activity in the sectors of high technology, and which were set up from 1984 onwards and explicitly recognized as such.

At the outset, they enjoyed the following tax advantages (6):

- exemptions from profits in respect of 13% of the innovation capital which is effectively paid up and which is outstanding at the beginning of the financial year. During the first three financial years, the company can choose between exemption from revenue distributed to innovation securities and exemption from reserved profits.
- increase in the rate of investment allowances (7);
- exemption for ten years from advance tax on income from immovable assets;
- exemption from proportional registration fees on capital subscriptions.

5) According to the same arrangements as for Co-ordination centres.
6) Cf. law of 31.7.1984, article 68 to 76.
7) See 2.13 below.
exemption, in the name of the finance company, from the tax on the capital gains made from returns on the equity invested in the innovation company;
- deduction of contribution of capital to an innovation company on taxable income:
  - for half the amount and spread over 5 years for private citizens,
  - for the whole amount and spread over 5 years for any employee of the innovation company.

The law of December 28th 1990 ended this system:
- only companies whose request for approval was submitted before July 22nd 1990 can still enjoy tax advantages;
- the capital which can be subject to the corporation tax exemption must have been subscribed by December 31st 1990;
- the exemption from capital duty is only awarded on contribution of capital which were made by December 31st 1990 at the latest;
- the deduction of capital investment on taxable income is still authorized for shares which were subscribed and paid up in 1990.

1.5. Closed-end investment trusts and open-end investment trusts

Since the law of 4th December 1990 on financial operations and markets, Belgian investment houses can adopt three legal forms:
- Trusts investment;
- Closed-end UCITS (SICAF/BEVAK);
- Open-end UCITS (SICAV/BEVEK).

In contrast to common investment funds which are undistributed, the two new legal forms (SICAF/BEVAK and SICAV/BEVEK) are legal entities which are in principle liable to corporation tax.

1.51. Taxation of UCITS

The investment company is only liable to corporation tax on a base limited to not-allowed expenses (8) and any abnormal or benevolent advantages received.

As the company is not taxed on distributed and reserved profits, no deduction is awarded to the investment company for D.T.I.

This tax base is subject to the normal rate of C.Tax.

The investment company is, moreover, exempt from the proportional registration duties on capital subscription.

8) Including the withholding taxes on the income which it collects.
1.52. Allocation of revenue

- The revenue from a capitalization open-end UCIT is not liable to withholding tax on income from movable property;

- The revenue from a distribution open-end UCIT and from closed-end UCITS is liable to a 25% withholding tax on income from movable property.

1.53. Revenue allocated to resident individuals

Revenue from a capitalization open-end UCIT constitutes non-taxable revenue for private savers (9).

The withholding tax on the revenue from a distribution open-end UCIT and a closed-end UCIT is definitive.

1.54. Revenue allocated to resident companies

Revenue from a capitalization open-end UCIT, revenue from a distribution open-end UCIT and from a closed-end UCIT are treated similarly: they are taxable and the deduction for D.T.I. is only awarded for that proportion of revenue which, at the time of the collection by the investment company, is made up of dividends which themselves meet the requirements for the awarding of the deduction for D.T.I.

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9) A private saver is defined here as any person for whom the withholding tax on income from movable property represents the final tax; either natural persons who have not assigned the securities to their professional activity or legal persons which are not liable to corporation tax.
CHAPTER TWO

SPECIAL TAX MEASURES

2.1. Investment allowance

The investment allowance (1) makes it possible to deduct from the tax base a quota of the amount of investments made in the course of the tax period.

It can be awarded to companies and, for individuals, to those who declare profits or proceeds.

2.11. Investments taken into account

General rule

The investment allowance may apply to investments in tangible or intangible fixed assets, newly acquired or constituted during the tax period and which are assigned in Belgium for the exercise of a professional activity.

Investments transferred to third parties

When the investment concerns assets transferred to a third party and which can be written off in respect of the transferee, the investment allowance is not granted to the lessor: this is notably the case of contracts for leasing and agreements for long lease rights or building rights.

When the investment concerns assets transferred to a third party and which can be written off in respect of the lessor, the investment allowance is only permitted in respect of the transferee if the third party is an individual who declares profits or proceeds, who assigns his fixed assets for the exercise of his professional activity in Belgium and does not himself transfer the use of it to a third party.

Other exclusions

The following are excluded from the investment allowance:

- fixed assets which are not exclusively assigned for the exercise of a professional activity;
- investments financed through a Co-ordination centre, whereby the fictitious withholding tax on income from movable property is awarded to the provider of capital (2);
- real estate acquired with a view to resale;

1) Articles 28 to 77 of the Income Tax Code.
2) For fixed assets acquired or constituted before March 27, 1992. As from that date the investment allowance is no longer granted for investments financed through a Co-ordination centre. See below.
- assets which cannot be depreciated or which can be depreciated in less than three years;
- accessory expenses, when they are not written off together with the fixed assets to which they relate;
- cars and twin-purpose cars (3).

2.12. Calculation base

It is the amount that can be depreciated which determines the basis for calculation of the investment allowance.

2.13. Applicable rates

General rule

The base rate is linked to the inflation rate: it is equal to the difference between the average consumer price index for the year which precedes the year in which the investments were made and the average index for the previous year, increased by 1.5 points (companies) and by 2 points (individuals).

This rate cannot exceed 10.5% and cannot be less than 3.5% (4).

Increased rates are applicable:

- to research & development investments, investments of innovation companies (5) and investment in energy saving: for companies, the base rate is increased by 10.5 points (individuals: 10 points);
- in the case of staggered deduction (see below): for companies, the base rate is increased by 7.5 points (natural persons: 7 points).

Deactivation of the investment allowance

The investment allowance is "deactivated" for investments made as of March 27, 1992: this means that the rate is reduced to zero, except for:

- research & development investments and "energy saving" investments;
- investments in small and medium-sized companies, the latter being defined as those in which the majority of voting rights is held by natural persons who do not belong to a group which controls a Co-ordination centre.

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3) Except for cars which are used exclusively for taxi services, for vehicles leased with a driver or for practical training in approved driving schools.
4) For individuals, the minimum and maximum rates are 4 and 11% respectively.
5) See above under 1.4.
The rates applicable for tax year 1994

The applicable rates are therefore as follows:

<table>
<thead>
<tr>
<th>Date of investment</th>
<th>year</th>
<th>year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1993</td>
<td>1994</td>
</tr>
<tr>
<td>Individuals</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Base rate</td>
<td>3.5%</td>
<td>4.5%</td>
</tr>
<tr>
<td>Investments in &quot;R&amp;D&quot; or energy saving</td>
<td>13.5%</td>
<td>14.5%</td>
</tr>
<tr>
<td>Staggered deduction (see 2.14)</td>
<td>10.5%</td>
<td>11.5%</td>
</tr>
<tr>
<td>Companies (normal arrangements)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small and medium-sized companies</td>
<td>3.0%</td>
<td>4.0%</td>
</tr>
<tr>
<td>Other companies</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Investments in &quot;R&amp;D&quot; or energy saving</td>
<td>13.5%</td>
<td>14.5%</td>
</tr>
<tr>
<td>Staggered deduction (see 2.14)</td>
<td>10.5%</td>
<td>11.5%</td>
</tr>
<tr>
<td>Innovation companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Base rate</td>
<td>8.0%</td>
<td>9.0%</td>
</tr>
<tr>
<td>Investments in &quot;R&amp;D&quot; or energy saving</td>
<td>18.5%</td>
<td>19.5%</td>
</tr>
<tr>
<td>Staggered deduction (see 2.14)</td>
<td>15.5%</td>
<td>16.5%</td>
</tr>
</tbody>
</table>

2.14. Arrangements

The deduction is made in principle at one go.

Companies employing less than 20 workers as of the first day of the tax period can opt for a system of staggered deduction. In this case, the allowance is made in accordance with the accepted fiscal depreciation.

In the event of insufficient profits (or earnings), the investment allowances which cannot be awarded are carried over to the following tax periods.

The investment allowances to which the taxpayer is entitled by virtue of investments in previous tax periods, are deductible, for the tax year 1993, within the following limits:

<table>
<thead>
<tr>
<th>Net result</th>
<th>Limit of deductibility of carry-over</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 27,495,000 BEF</td>
<td>none</td>
</tr>
<tr>
<td>between 27,495,000 and 109,980,000</td>
<td>27,495,000 maximum</td>
</tr>
<tr>
<td>109,980,000 and more</td>
<td>25% of carry-over</td>
</tr>
</tbody>
</table>
2.2. Fiscal impact of regional aid

2.21. Inclusion of aid in the taxable base

Employment subsidies constitute taxable revenue for the beneficiary companies.

Regional investment aid generally consists of either interest subsidies or capital subsidies.

Interest subsidies are always taxable, as they reduce the amount of interest paid and therefore deductible.

Capital subsidies are not taxable at their collection but are considered as profits for this tax period and for subsequent tax periods proportionally to the depreciation which have been approved as professional expenses respectively at the end of this tax period and in the course of any subsequent period and, where appropriate, for the amount remaining when the fixed assets are transferred or put out of circulation.

2.22. Doubling of linear depreciation

The doubling of depreciation (6) applies to certain investments in buildings, tools and equipment which enjoy regional aid (or, formerly, the laws of economic expansion).

The authorized annual depreciation is equal to double the normal linear depreciation for a period of maximum 3 successive taxable periods, as agreed in the aid contract.

2.23. Exemption from withholding tax on real estate income

The exemption from withholding tax on real estate income (7) is awarded to real estate investments for which the company enjoys regional aid (interest subsidies or capital subsidies).

This exemption is awarded for a maximum of 5 years dating from January 1st following the occupation and relates to the buildings and the land which form part of the same cadastral plot as well as equipment and tools which are immovable by their nature or their purpose.

This is accompanied by the imposition of the fictitious withholding tax on real estate income.

6) See Art. 64 bis of the Income Tax Code.
2.3. Tax arrangements for capital gains made during exploitation

2.3.1. Fully realized capital gains on tangible and intangible assets

The tax regime is based on the principle of carried over taxation.

This carry-over of taxation applies, on condition that there is a reutilization, to capital gains made on tangible and intangible assets allocated for more than 5 years to the exercise of the professional activity.

If the duration of the allocation is less than 5 years, the capital gains constitute a taxable profit at the full rate.

When the tax can be carried over, the capital gains in question are considered as profits for the taxable period of reutilization and for subsequent taxable periods in proportion to the depreciation and the non-depreciated balance for the tax period during which the property ceases to be allocated to the exercise of the professional activity.

The carry over taxation is made at the full rate.

The reutilization must be made in respect of tangible or intangible assets that can be depreciated. The depreciation must be made within a period of 3 years (8) starting from the first day of the tax period during which the capital gains were acquired.

If there is no reutilization within this period, the capital gains are considered as a profit for the tax period during which the reutilization period expired.

The tax is payable at the full rate.

The exemption of the monetary adjustment portion is maintained (9).

2.3.2. Fully realized capital gains on financial assets

Capital gains made on fixed income securities are taxable at the full rate.

From tax year 1992 onwards, capital gains made on stocks and shares are totally exempted, without the condition of reutilization or the condition of intangibility. Nonetheless, the revenue produced by the stocks or shares on which the capital gains are made must comply with the "taxation condition" applicable to Definitively Taxed Income (10). On the other hand, the condition relating to the participation threshold is without effect on the exemption of capital gains.

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8) Five years for buildings, ships and aircraft.
9) The exemption of the monetary adjustment portion only concerns capital gains made on assets acquired or constituted in 1949 at the latest.
10) See part 1, corporation tax, section 2.34.
2.4. Additional personnel employed in scientific research (11)

An exemption (deduction from taxable profit) of 107,000 BEF is awarded for each additional member of personnel employed in scientific research in Belgium. The additional personnel is determined according to the average number of workers employed by the company for the same purpose in the course of the previous tax period. The exemption awarded is withdrawn in the event of a reduction in personnel.

2.5. Encouragement to subscribe or purchase stocks or shares representing company assets in Belgian companies

The effects of this measure (12) concern legal persons (C.Tax) and natural persons (I.I.T. and death duties)

2.51. Corporation tax

Companies which were set up in 1982 or 1983 and existing companies which increased their capital in cash in 1982 or in 1983 can exclude from the tax base of the companies for a period of 5 years the dividends distributed in respect of 8% of the capital which is effectively paid in cash.

In principle, to benefit from this exemption, at least 60% of the amount of capital or the increase in capital paid in cash must be assigned to the acquisition or the constitution of tangible or intangible assets, or to the subscription and payment of shares in legally registered Belgian companies.

The 8% exemption for 5 years is increased to 13% for 10 years when the company undertakes to allow its new shareholders to enjoy the tax savings resulting from the aforementioned exemption.

This rate of 13% is reduced to 8% from tax year 1991 and the period of exemption is extended by two financial years (13).

2.52. Individual income tax

The withholding tax on income from movable property on "AFV" securities is 20%, not 25%.

The taxpayer has, moreover, the choice between two formulas:

13) In certain particular cases, by 3 or 4 business years.
dividends which remunerate new shares issued in 1982 and 1983 are exempt from the individual income tax for 5 or 10 years (14) according to whether the company itself is exempt from tax;

- individuals could deduct from their taxable income, from 1982 to 1985, the sum devoted to the acquisition of stocks and shares in Belgian companies or investment trusts. The securities or certificates must in this case be held for a period of 5 years. If they are transferred within this period, the proceeds must be reinvested in similar securities within 3 months.

2.53. **Death duty**

If the taxpayer has opted for the first formula, the amount subscribed also gives entitlement for 13 years to an exemption from death duty or registration duties on gifts.

2.6. **Additional personnel and C.L.A. "5-3-3"** (15)

An exemption from individual income tax, of corporation tax or of income tax on non-residents of 2,000,000 BEF is awarded for each additional member of personnel employed in Belgium by companies which have concluded a collective labour agreement (C.L.A.):

- which provides for a reduction in working hours;
- which came into force between 1.1.1985 and 31.12.1987;
- and which is approved by the Minister of Employment and Labour.

The exemption is spread over 6 consecutive tax periods starting from the tax period which follows the period in which the C.L.A. came into force, with the following amounts:

- 500,000 BEF for each of the first 2 periods;
- 400,000 BEF for the 3rd period;
- 300,000 BEF for the 4th period;
- 200,000 BEF for the 5th period;
- 100,000 BEF for the 6th of these periods.

The net increase in manpower is the average increase made in the course of a tax period and converted into full-time jobs in comparison with the average manpower in the previous tax period.

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14) Since 1.1.84, the withholding tax on income from movable property has become a non-recurring tax.
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