By publishing the "Tax Survey", the Research and Information Department of the Ministry of Finance aims at providing an updated overview of the tax legislation in Belgium. The subject being particularly intricate, 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: personal income tax, corporate income tax, legal entities income tax, etc. The second part of the survey deals with indirect taxation: VAT, registration duties, import and export duties, excise duties, ecotaxes, etc. The third part deals with special tax regimes (Co-ordination centres, UCITs, etc.), the tax regimes applicable to capital gains and the main tax incentives (investment allowance, etc.).

Unless stated otherwise, the legislation described is the one which applies:

- to 1997 income (tax year 1998) in the matter of direct taxation, with the exception of withholding taxes (part 1, chapters 1 to 4 and part 3);

- on January 1st, 1998 as far as indirect taxation (part 2) and withholding taxes (part 1, chapter 5) are concerned.

The tax survey is available in Dutch, French and English. The authors of this publication are E. DELLODdere, M. FABECK, I. PITTEVILS, Ch. VALENDUC and D. VAN CAUWENBERGE. They would like to thank the Tax Administrations for the observations they made during the preparation of this survey.

Although the authors have taken particular care to ensure the reliability of the information given in this publication, the latter must not be considered as an administrative circular. The tax survey was written for purely documentary purposes at a general and global level. No rights can be founded on it. The Research and Information Department is not authorized to answer queries with regard to the application of tax legislation to individual cases.

March 1998

S. VANDENDRIESSCHE
Director General.
PART I
DIRECT TAXATION

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CHAPTER ONE
PERSONAL INCOME TAX (P.I.T.)

1.1. Chargeable persons

The personal income tax must be paid by the inhabitants of the Kingdom, i.e. persons whose domicile or whose seat of wealth is located in Belgium. Unless evidence can be provided to the contrary, all individuals whose name appears in the National Register of Individuals shall be considered as having their domicile or the seat of their wealth in Belgium.

The "domicile" refers to the actual residence or living quarters located in the country; "seat of wealth" refers to the place from where the assets concerned are managed. A temporary absence from the country does not imply a change of domicile.

The municipality where the taxpayer is domiciled as of January 1st of the tax year (1.1.98 for 1997 income) is the "tax municipality", which determines the rate of the additional local tax.

1.2. Determination 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.
1.2.1. Real estate income

A. TAXABLE AMOUNT

Taxable income is determined in most cases on the basis of an inflation adjusted "cadastral income", which is a notional income fixed by the "Cadaster" Department and 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. For tax year 1998 (1997 income), the adjustment coefficient is 1.2084 (1).

In the case of a dwelling, the indexed cadastral income constitutes, as a rule, a taxable income, but a deduction, which is also inflation adjusted, is generally granted (see below).

The taxable income is equal to the cadastral income plus 40%, as regards real estate property:

- which is not leased (e.g. second residence or premises provided to a third party rent-free and without any other consideration);
- which is leased to natural persons who don't use it for professional purposes;
- which is leased to a legal person who is not a company, for purposes of underlease to one or more natural persons in order to be used as a dwelling.

In all other cases of leasing to legal persons (2) (except for case 1 c) supra), and in the case of leasing to natural persons who use the premises for their professional duties, the taxable income is computed on base of the rent, as follows:

- for undeveloped land: 90% of the gross rent (3)
- for buildings: In principle, 60% of the gross rent, but shall not be less than 1.4 x cadastral income.

The 40% flat rate deduction may not exceed 2/3 of the revalued, not inflation-adjusted cadastral income. For assessment year 1998 (1997 income), the revaluation coefficient is 3.10.

1. The cadastral income thus adjusted is rounded to the nearest hundred.
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, where only the cadastral income is taxable.
When a natural person rents a building to a company in which he is a director, a manager, a liquidator or in which he performs a similar function, the amount of the rent and rental benefits received which exceeds five thirds of the revalued cadastral income is considered a director's remuneration.

**Example**

A natural person, who is a director in 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:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross rent</td>
<td>700,000 BEF</td>
</tr>
<tr>
<td>5/3 of revalued cadastral income</td>
<td>-620,000 BEF</td>
</tr>
<tr>
<td>Amount taxable as director's income</td>
<td>80,000 BEF</td>
</tr>
<tr>
<td>Taxable as real estate income</td>
<td>372,000 BEF</td>
</tr>
</tbody>
</table>

When real property is used in whole or in part by its owner for his professional activity, the corresponding cadastral income is not taxable as real estate income, but as professional 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 AND SUMS PAID FOR THE ACQUISITION OF A LONG LEASE RIGHT OR A BUILDING LEASE RIGHT.**

Interest paid on debts incurred for the sole purpose of acquiring (4) or maintaining real property is eligible for relief. The deductions for interest on loans and for the sums paid for the acquisition of long lease rights or of building rights are applied before the lump sum housing deduction (5).

The amounts thus deducted may not exceed the amount of the taxable income from real property.

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4. In the case of acquisition of property by inheritance, the interest accruing on a loan which was taken out with a view to paying inheritance tax is deductible in so far as it relates to this property.

5. When, in addition to the cadastral income of the dwelling-house, there are one or more other types of real estate income (Belgian or foreign), the deductible interest will first be credited against the latter, in proportion to each of them if there are several; only the remainder, if any, is deducted from the cadastral income of the dwelling-house.
Moreover, there is an additional deduction of mortgage interest (6).

C. LUMP SUM DEDUCTION

A fixed deduction is granted on the cadastral income of a dwelling house. This deduction is inflation adjusted according to the same arrangements as the cadastral income. For 1997 income, this deduction amounts to 145,000 BEF with the following increases:

- 12,100 BEF for the spouse;
- 12,100 BEF for each dependent person;
- 12,100 BEF for each child previously living in the same house and dependent 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.

Examples

<table>
<thead>
<tr>
<th>Cadastral income</th>
<th>Marital status</th>
<th>Other net income</th>
<th>Deduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>40,000</td>
<td>married, two children</td>
<td>600,000</td>
<td>40,000</td>
</tr>
<tr>
<td>180,000</td>
<td>married, one child</td>
<td>500,000</td>
<td>174,600</td>
</tr>
<tr>
<td>180,000</td>
<td>married, one child</td>
<td>1,800,000</td>
<td>169,200</td>
</tr>
</tbody>
</table>

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.

6. See below, point 1.2.5.E.
D. SPECIAL CASES

In the event of a 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 deemed to be income from movable assets (7).

When a non-furnished 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 time the building was occupied and/or produced income.

E. TAX CREDIT FOR REAL ESTATE INCOME

Only the real property withholding tax pertaining to the taxpayer's principal private dwelling is creditable against his final individual income tax liability. The withholding tax must be actually due and the tax credit is limited to 12.5% of the adjusted cadastral income included in the taxpayer's global taxable income. In addition the tax credit is limited to the final tax income.

7. See below, point 1.2.2.
1.2.2. Income from movable property

There are two broad categories of income from movable property:

- income in respect of which a tax return is optional because the exonerating withholding tax on income from movable property has been withheld at the collection of this income;
- income in respect of which a tax return is obligatory because no withholding tax on movable property has been withheld at the collection of this income.

A. INCOME FROM MOVABLE PROPERTY FOR WHICH A RETURN IS OBLIGATORY

Income referred to:

- 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 P.I.T. (8);
- other income on which no withholding tax is applied, such as income from life annuities or temporary annuities, and such as income from rent, from farming out or from the use or lease of any movable property, as well as income from mortgage debts other than mortgage bonds, on real estate situated in Belgium.

B. INCOME FROM MOVABLE PROPERTY FOR WHICH A RETURN IS OPTIONAL

As a general rule, dividends, deposit receipts, cash deposits, bonds and fixed interest securities are liable to withholding tax at their collection; for this income, no return has to be submitted.

C. NON-TAXABLE INCOME FROM MOVABLE PROPERTY

The most current cases are the following:

- the first bracket of 55,000 BEF of income from ordinary savings accounts, per household;
- the first bracket of 5,000 BEF of income from capital invested in cooperative companies recognised by the National Co-operation Council, per household.
- yields of so-called "capitalisation UCITs".

8. The exemption is awarded per person as for the withholding tax on income from movable property and per household as for the P.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 exempt from real and personal taxation or from all forms of taxation.

D. ASSESSING PROCEDURES

Income from movable property is taxable in respect of its gross amount, i.e. before withholding tax on income from movable property (9) and before deduction of recovery and maintenance costs.

Income from movable property can be separately taxed, in which case the following rates apply:

<table>
<thead>
<tr>
<th>DIVIDENDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>- from shares issued as from January 1st, 1994, by a public call for funds</td>
</tr>
<tr>
<td>- from shares issued as from January 1st, 1994, provided that the newly issued shares are attributed in consideration of cash contribution, that they are in registered form as of the date of their issue or that they are the object of an open deposit in Belgium</td>
</tr>
<tr>
<td>- distributed by investment companies, except in the case of total or partial repayment of a company's capital or in the case of acquisition of own shares;</td>
</tr>
<tr>
<td>- from so-called AFV-shares (fiscal advantages shares), but only where such shares are quoted on a stock exchange, and where the company which pays the income has waived the transfer of the benefit resulting from the exemption of corporate tax</td>
</tr>
<tr>
<td>- from other shares</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>INTEREST AND OTHER INCOME FROM CAPITAL AND MOVABLE INCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>- income pursuant to agreements concluded before March 1st, 1990</td>
</tr>
<tr>
<td>- other income from capital and movable property</td>
</tr>
</tbody>
</table>

9. The income is taxable on behalf of the successive holders of the securities in proportion to the periods of ownership.
Total aggregation is applied only where it is to the advantage of the taxpayer; only then recovery and maintenance costs are deductible.

Where the movable income is actually taxed separately, only the additional municipal taxes are to be added to the tax amount, and not the crisis surcharge.

1.2.3. Miscellaneous income

This third category of taxable income includes all income which can be characterized as not being earned in the performance 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 1997 and received that same year (10)</td>
<td>80% of the amount collected</td>
</tr>
</tbody>
</table>

B. MISCELLANEOUS INCOME WITH SEPERATE ASSESSMENT (11)

<table>
<thead>
<tr>
<th>Categories of income</th>
<th>Taxable amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occasional profits and proceeds (12)</td>
<td>Net amount minus actual expenses</td>
</tr>
</tbody>
</table>

10. Maintenance payments are always taxable in the hands of the claimant. Even where the claimant is a child, this income is considered as normal taxable income in his own name. As for arrears, see below in the section on separately taxed miscellaneous income: B

11. Rate: see below, point 1.3.7.

12. These relate to proceeds and profits obtained outside a professional activity. However, profits and proceeds obtained from the normal management of a private fortune are not taxable.
The part of prizes and of subsidies received for two subsequent years, in as far as it exceeds 110,000 BEF, as well as other subsidies, annuities or pensions allocated to scholars, authors or artists by Belgian or foreign public authorities or non-profit institutions (13)

Prizes attached to debenture bonds

Income from the subleasing or transfer of a lease

Income from the granting of permission to place advertising boards on immovable property

Income from sporting rights (fowling, fishing, shooting, bird-catching,...)

The amount actually received, increased by the withholding tax paid and diminished by the donations made in favour of Belgian universities and of recognised scientific institutions.

Net + (notional) withholding tax

Total income from subleasing after deduction of actual expenses

Amount received; actual expenses or a flat-rate 5% are deductible

The amount received

Capital gains on unbuilt real property situated in Belgium: when the transfer occurs less than eight years after the acquisition for consideration or when the transfer occurs less than three years after a gift and less than eight years after the acquisition by the grantor for consideration

Capital gains realised on built real property situated in Belgium, where the transfer occurs less than five years after the acquisition for a consideration, or when it occurs less than three years after a gift and less than five years after the acquisition by the grantor for a consideration (14)

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

From the transfer price may be deducted: the purchase price and acquisition costs, revalued, for each full year of outright ownership, by 5% of the purchase price and costs. Moreover, the remainder may be diminished by the costs of renovation work carried out by a registered contractor on behalf of the owner between the time of acquisition and the time of alienation.

13. Unless these organisations are recognised by a Royal Decree approved by the Council of Ministers.

14. Capital gains realised on a dwelling house for which a lump sum deduction is granted (see 1.2.1.C.) are not liable to tax.
Capital gains on buildings situated in Belgium, provided

1°) their construction was started by the taxpayer less than five years after the acquisition for a consideration by himself or by the grantor of the land on which is has been built;

2°) and provided the transfer takes place less than five years after the building was first brought into use or put up for rent (14).

Capital gains realised on the transfer of an important parcel of shares in a company, of which the transferer owns more than 25%, to a company which does not have its registered seat in Belgium, or to a legal person liable to N.R.I.T..

Arrears of maintenance payments made under a court order with retroactive effect

From the transfer price may be deducted: the purchase price and acquisition costs, revalued, for each full year of outright ownership, by 5% of the purchase price and costs. Moreover, the remainder may be diminished by the costs of renovation work carried out by a registered contractor on behalf of the owner between the time of first occupancy or letting and the time of alienation.

The transfer price, less the purchase price, revalued

80% of the amount received
1.2.4. Earned income

In the tax code earned income refers to (15):

1. employees’ salaries;
2. company directors’ remunerations;
3. profits from agricultural, industrial and commercial activities;
4. proceeds of a liberal profession;
5. gains and profits from former professional activities;
6. and replacement income: pensions, early retirement payments, unemployment benefits health insurance benefits, etc.

This net income is determined in six stages:

A. deduction of social security contributions;
B. deduction of actual or standard 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.

Remunerations paid to company directors 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.

15. Remunerations from services in the framework of local employment agencies are not taxed. The mileage allowance for cycling commuters is also exempt from tax up to 6 BEF a kilometre.
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.

The special social security contribution which is deducted, as from the second quarter of 1994, from the salaries of employees and people regarded as equivalent whose family income is at least 750,000 BEF a year, does not influence the calculation of the social security contributions, nor does it affect the calculation of the withholding tax on earned income. Unlike other social security contributions, it is not deductible as a professional expense. On the other hand, deductions on pensions applied as from January 1st, 1995 to pensions the monthly amount of which exceeds 40,000 BEF are considered, from a tax point of view, a deductible professional expense.

B. DEDUCTION OF EXPENSES

Actual expenses

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

May be deducted, those expenses which the taxpayer has incurred or borne during the assessment period with a view to acquiring or preserving taxable income, provided he can establish the reality of such expenditures and the amount thereof.

Are deductible:

- travel expenses from home to the place of work: the deduction of these travel expenses is limited however to a fixed amount of 6 BEF per km and can only be granted to one taxpayer in each family for the combined distance covered;
- expenses relating to real estate or parts thereof used for a commercial or professional activity: shop premises, offices of a notary, lawyer, doctor, insurance agent, etc...;
- 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 (16);

16. The way depreciation is taken into account by the tax law will receive ample treatment in chapter 2 (Corporate Income Tax).
levies and taxes which don't directly relate to taxable income: non-deductible withholding tax on real estate income, road tax, local taxes and indirect taxes, including increases and default interest.

- interest on loans contracted with third parties and engaged in the enterprise. Interest paid on loans entered into by directors or active partners with a view to the subscription of shares in a resident company from which they receive remunerations in the course of the taxable period, are not deductible.

Are not deductible:

- personal expenses;
- fines and penalties;
- expenses which exceed in 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 travel expenses other than those relating to commuting, 25% of the portion of car expenses which is used for professional purposes, excluding fuel (fuel used for professional purposes is totally deductible);
- the P.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;
- the special social security contribution.

**Standard expenses**

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

The basis of the calculation of standard expenses is the gross taxable amount less social security contributions and assimilated contributions (17).

For company directors the standard deduction is set at 5% of their professional income, with a maximum of 110,000 BEF (18).

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17. That is to say the deductible part of contributions to recognized mutual insurance companies, see above, point 1.2.4.A.

18. This maximum is reached at an income of 2,200,000 BEF.
Standard expenses which can be awarded to employees and members of a liberal profession are calculated according to the scales below and are also limited to 110,000 BEF (19).

<table>
<thead>
<tr>
<th>Calculation base expenses on lower limit</th>
<th>Standard</th>
<th>Above the limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 165,000</td>
<td>0</td>
<td>20%</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>

An additional deduction for standard expenses can be granted to employees who are domiciled far from their place of employment.

<table>
<thead>
<tr>
<th>Distance (20) domicile-place of employment</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 taxable separately (21), professional expenses are deducted as follows:

- proportionally, in the case of standard expenses;
- preferentially on aggregate taxable income, in the case of actual expenses.

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19. This maximum is reached at an income of 2,200,000 BEF.
20. One way trip.
21. For example, arrears, compensation for loss of employment and certain capital gains.
C. EXEMPTIONS

The following can then be deducted from profit after expenses (22) by virtue of tax provisions in favour of investment and/or employment:

- tax exemption for additional staff employed in the field of scientific research and exportation, for the development of the technological potential and for heads of the exportation department and of the total quality department.
- investment deductions.

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 course of the taxable period by a taxpayer in the context of a professional activity are deducted from profits of another activity of the same taxpayer. The losses are 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 portion of his/her net income.

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22. These measures are described in part 3.
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 professional 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.

*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.
1.2.5. Expenses deductible from total net income

The following can be deducted from total net income (23):

- maintenance allowances;
- gifts;
- remunerations of domestic personnel;
- expenses in respect of maintenance and restoration of classified monuments;
- certain types of mortgage interests;
- sums paid to the Treasury by certain civil servants who hold more than one office concurrently;
- child care expenses.

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. GIFTS

Donations made to recognised institutions are deductible, provided they exceed 1,000 BEF per beneficiary institution. The total amount which is thus deductible cannot exceed 10% of the net income nor 10,998,000 BEF. The deduction is made proportionally on the income of each spouse. Donations made in favour of Belgian universities and scientific institutions are not taken into consideration for the deduction within the above limits when they are actually deducted from prizes and subsidies taxed as miscellaneous income.

23. 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.
C. PAYMENT OF DOMESTIC SERVANTS

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 benefits for at least 6 months;
- the remunerations are 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 1,100,000 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 entered into for the purpose of acquiring or maintaining 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 satisfies 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 construct a house, to acquire a newly built house or to renovate a house that is to serve as the taxpayer’s only dwelling house (24).

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24. 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 if the loan was contract between May 1st, 1986 and October 31st, 1995, the house must be more than 20 years old. If the loan was entered into as from November 1st, 1995, the house must be more than 15 years old.
**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) (25). This sum is increased as follows according to the number of dependent 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>

**Limitation in function of time**

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 (26) 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%;
- for the eleventh year, 20%;
- for the twelfth year, 10%.

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

---

25. 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 million for renovation of the only dwelling or 2 million for a newly built house).

26. The first year is the one as from which the rentable value is taxable.
<table>
<thead>
<tr>
<th>Examples: Construction work carried out in 1997</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of loan</td>
</tr>
<tr>
<td>1,500,000</td>
</tr>
<tr>
<td>2,000,000</td>
</tr>
<tr>
<td>3,000,000</td>
</tr>
<tr>
<td>Number of children</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>Amount taken into account for additional deduction</td>
</tr>
<tr>
<td>1,500,000</td>
</tr>
<tr>
<td>2,000,000</td>
</tr>
<tr>
<td>2,420,000</td>
</tr>
<tr>
<td>Rate of interest</td>
</tr>
<tr>
<td>8%</td>
</tr>
<tr>
<td>8%</td>
</tr>
<tr>
<td>10%</td>
</tr>
<tr>
<td>Annual interest (*)</td>
</tr>
<tr>
<td>120,000</td>
</tr>
<tr>
<td>160,000</td>
</tr>
<tr>
<td>300,000</td>
</tr>
<tr>
<td>Cadastral income</td>
</tr>
<tr>
<td>30,000</td>
</tr>
<tr>
<td>40,000</td>
</tr>
<tr>
<td>60,000</td>
</tr>
<tr>
<td>Balance after deduction made on real estate income</td>
</tr>
<tr>
<td>90,000</td>
</tr>
<tr>
<td>120,000</td>
</tr>
<tr>
<td>240,000</td>
</tr>
<tr>
<td>Limit depending on the amount borrowed</td>
</tr>
<tr>
<td>90,000</td>
</tr>
<tr>
<td>120,000</td>
</tr>
<tr>
<td>193,600</td>
</tr>
<tr>
<td>Additional deductible interest on income in respect of:</td>
</tr>
<tr>
<td>1997 to 2001</td>
</tr>
<tr>
<td>72,000</td>
</tr>
<tr>
<td>96,000</td>
</tr>
<tr>
<td>154,880</td>
</tr>
<tr>
<td>2002</td>
</tr>
<tr>
<td>63,000</td>
</tr>
<tr>
<td>84,000</td>
</tr>
<tr>
<td>135,520</td>
</tr>
<tr>
<td>2003</td>
</tr>
<tr>
<td>54,000</td>
</tr>
<tr>
<td>72,000</td>
</tr>
<tr>
<td>116,160</td>
</tr>
<tr>
<td>2004</td>
</tr>
<tr>
<td>45,000</td>
</tr>
<tr>
<td>60,000</td>
</tr>
<tr>
<td>96,800</td>
</tr>
<tr>
<td>2005</td>
</tr>
<tr>
<td>36,000</td>
</tr>
<tr>
<td>48,000</td>
</tr>
<tr>
<td>77,440</td>
</tr>
<tr>
<td>2006</td>
</tr>
<tr>
<td>27,000</td>
</tr>
<tr>
<td>36,000</td>
</tr>
<tr>
<td>58,080</td>
</tr>
<tr>
<td>2007</td>
</tr>
<tr>
<td>18,000</td>
</tr>
<tr>
<td>24,000</td>
</tr>
<tr>
<td>38,720</td>
</tr>
<tr>
<td>2008</td>
</tr>
<tr>
<td>9,000</td>
</tr>
<tr>
<td>12,000</td>
</tr>
<tr>
<td>19,360</td>
</tr>
</tbody>
</table>

(*): Loan on endowment life insurance.
F. SUMS PAID BY CIVIL SERVANTS FOR PLURALITY OF OFFICES

In certain cases, civil servants who hold more than one office concurrently must return to the State sums received 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. EXPENSES FOR CHILD CARE

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

- the taxpayer must have received earned income: salaries, proceeds, profits, ... including pensions, unemployment benefits, etc.;
- the child must be a dependent of the taxpayer and must be less than 3 years old;
- the child care expenses must have been paid:
  - either to institutions which are recognised, subsidized or controlled by "Kind en Gezin", by the "Office de la Naissance et de l'Enfance" or by the executive authorities of the German Community;
  - or to independent host families or day nurseries, placed under the supervision of these institutions;
- the amount of these expenses must established by supporting documents enclosed with the tax return.

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

#### 1.3.0. General principles

- Tax according to scale (1.3.1.)
- deduction for dependent family members (1.3.2.)
- tax reduction for long-term savings and increased tax reduction for savings for house purchase (1.3.3.)
- tax deduction for expenses paid for work or services performed in the framework of local employment agencies (1.3.4.)
- tax to be allocated
- tax reduction for replacement income (1.3.5.)
- reduced basic tax
- tax reduction for foreign income (1.3.6.)
- principal of A.T.I. (aggregated taxable income)

+ tax on separately taxed income (1.3.7.)

= principal

- withholding taxes, advance payments and allowable items (1.3.8.)
+ increases for no or insufficient advance payment (1.3.9.)
- bonus for advance payment (1.3.9.)

= "National tax"

+ additional municipal taxes (1.3.10.)
+ additional crisis tax (1.3.11.)
+ tax increase (1.3.12.)

= amount payable by or to the taxpayer (*)

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(*) The algebraic sum of that tax amount, the balance of the special social security contribution and the balance obtained after applying the social exemption for the patient's contribution towards medical cost constitutes, through the notice of assessment in respect of personal income tax, the amount to be eventually demanded from, or refunded to, the taxpayer.
1.3.1. Tax rates

The rates applicable to 1997 income are 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>

1.3.2. Basic exempt income bracket and deduction for dependents

A portion of the net global taxable income, varying according to the composition of the household, is exempt from tax. The tax exempt income portion is in the first place composed of the exemption granted to each of the spouses. This amount is then increased with the exemption for dependents and for certain particular familial situations. The exemption can be transferred onto the income of the other spouse in as much as it exceeds the income of the first spouse. These exemptions are calculated "from the bottom up".

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

The basic exemption is 203,000 BEF for a single person and 160,000 BEF for each spouse.
B. EXEMPTIONS FOR DEPENDENT CHILDREN

A child is considered as "dependent" if on January 1st of the tax year (here on 1.1.1998) it is a member of the family (27), if it has not had personal means of subsistence exceeding a net amount of 74,000 BEF (28) and if it has not been in receipt of any remuneration which was a business expense for the taxpayer.

For the determination of the net amount of the means of subsistence, account must be taken of all regular or casual income, taxable or not, regardless of their designation:

1) the following, however, are not taken into consideration:
   a) family allowances, maternity allowances, adoption premiums, school maintenance allowances and premiums for pre-marital saving;
   b) allowances chargeable to the Treasury which are paid to disabled persons;
   c) remunerations obtained by disabled persons following their employment at a recognised protected workshop;
   d) maintenance or additional maintenance allowances which, pursuant to an order made by a court which determines or increases their amount with retroactive effect, are paid to the taxpayer after the tax period to which they relate.

2) in order to determine the net amount of the means of subsistence, their gross amount must be diminished by the expenses which the taxpayer proves to have made or borne in order to acquire or to maintain these means. Failing such evidentiary data, the deductible expenses are fixed at 20% of the gross amount of the means of subsistence (with a minimum of 12,000 BEF in the case of remunerations of employed persons or profits from a professional activity).

Finally, it must be observed that, when the income from real property and movable assets accruing to children are aggregated with the income of their parents because the latter have the legal usufruct of their children's income, the said children must always be considered as dependent irrespective of the amount of that income.

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27. A child which deceased during the taxable period is deemed to be a member of the taxpayer's family on January 1 of the tax year, provided it was already depending on him for the previous tax year or was born and deceased during the taxable period.

28. That amount is raised to 110,000 BEF for an isolated person's dependent children, and to 147,000 BEF for an isolated person's disabled dependent children.
Exemptions for dependent children are allocated by priority to the spouse with the higher tax base.

<table>
<thead>
<tr>
<th>Exemption for that child</th>
<th>Total exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st child</td>
<td>43,000</td>
</tr>
<tr>
<td>2nd child</td>
<td>67,000</td>
</tr>
<tr>
<td>3rd child</td>
<td>139,000</td>
</tr>
<tr>
<td>4th child</td>
<td>153,000</td>
</tr>
</tbody>
</table>

For any child after the fourth, the exemption is increased by 153,000 BEF per child.

An additional exemption of 12,000 BEF is awarded for each dependent child who is less than three years old and for whom the deduction for child care expenses has not been requested. A disabled child counts for two (it will be awarded the deduction according to its own rank plus the reduction granted to the child next in rank, and any child having deceased during the tax period remains dependent for that period.

**Example**

A couple with three children has 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 exemption of 409,000 BEF which is calculated as follows:

- exemption for the "spouse": 160,000 BEF,
- 3 dependent children: 249,000 BEF.

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

The other spouse is entitled to an exemption of 160,000 BEF.
C. SPECIAL FAMILIAL SITUATIONS

The other exemptions are as follows:

- other dependent persons 43,000 BEF
- disabled spouse 43,000 BEF
- disabled dependent persons (29) 43,000 BEF
- widow(er) with dependent children 43,000 BEF
- single parent family 43,000 BEF
- spouse whose income does not exceed 74,000 BEF
  - the year of marriage 43,000 BEF
  - the year of death 117,000 BEF

1.3.3. Tax reduction for long-term savings and increased tax reduction for savings for house purchase

A. EXPENDITURES TO BE TAKEN INTO ACCOUNT

- individual life insurance premiums;
- mortgage capital reimbursements;
- amounts assigned to the acquisition of employers' shares;
- payments for personal pension schemes;
- personal premiums for group insurance contracts or pension funds.

B. CONDITIONS AND LIMITS

The conditions and limits to be met by these expenses in order to qualify for the tax reduction can be summarized as follows:

29. With the exception of children.
Group insurance and pension funds

Personal premiums for group insurance contracts and those paid to pension funds give entitlement to tax reduction only if the following conditions are satisfied:

- the premiums must be paid to an insurance company or a pension fund established in Belgium;
- the benefits they procure, added to the statutory pension and extra-statutory pensions paid, may not exceed 80% of the last regular gross yearly salary.

Individual life insurance premiums

These premiums are deductible only if the contract was signed by the taxpayer before the age of 65 (man) or 60 (woman) and, where it includes life bonus, it 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 up 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 to 6% beyond;
- with a maximum of 66,000 BEF.

This limit applies both to life insurance premiums and to mortgage capital repayments combined.

An increased tax reduction for a pension savings scheme (see hereafter, paragraph C.2) can be granted for life insurance premiums only within the limits of the first bracket of 2,200,000 BEF (30) with an increase of 5, 10, 20 or 30%. These rates depend on whether the taxpayer has 1, 2, 3 or more than 3 dependent children as of January 1st of the year which follows the year in which the life insurance contract was signed.

30. Irrespective of the number of dependent children, we have the following amounts: 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 years 1992 to 1997.
The tax reduction for long-term savings can be granted for the remainder (see hereafter, paragraph C.1).

**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 disallowed 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 the other cases.

In all cases, deductibility only applies if the house is located in Belgium and if the loan is secured by a 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 (31). If the loan is entered into with a view to construct, to acquire or to renovate a house that is to serve as the taxpayer's sole dwelling house, the amount is increased with 5, 10, 20 or 30% depending on whether the number of dependent children is 1, 2, 3 or more as of January 1st of the year following the year in which the contract was signed.

The other conditions with regard to deductibility are maintained.

Purchase of employers' shares

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

- 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.I.T.;
- supporting documents establishing that the taxpayer has purchased these shares and kept them until the end of the tax period must be enclosed with the return.

The deductible amount is set at 22,000 BEF for each spouse who fulfils these conditions. This deduction is incompatible (32) 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.

31. 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 tax year 1991, 2,133,000 BEF for tax year 1992 and 2,200,000 BEF for tax years 1993 through 1997.

32. The incompatibility is evaluated for each spouse separately.
C. COMPUTATION OF TAX REDUCTIONS

Tax reductions are then computed for each of the spouses separately on the basis of the amounts calculated according to above conditions and limits.

1. Tax reduction for long-term savings:

The latter applies:

- to sums paid for the acquisition of employers' shares;
- to sums paid for pension savings schemes;
- to personal premiums for group insurance contracts or pension funds

and, insofar as they do not qualify for the increased tax reduction, to savings schemes for house purchase, (see 2. below)

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

The rate of that reduction is the "adjusted average rate", which is calculated, for each spouse separately,

(1) by subtracting from the tax calculated according to the scales (see section 1.3.1) the tax relating to the exempt portion which is granted to that spouse (see 1.3.2, section A),
(2) by dividing the results of 1) by the taxable income of that spouse.

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

2. Increased tax reduction for savings for house purchase:

The latter applies:

- to mortgage capital reimbursement,
- to individual life insurance premiums assigned to the amortisation or securing of mortgage loans,
provided these mortgage loans were contracted with a view to constructing, renovating or acquiring a house in Belgium, which, when the loan contract was signed, was the taxpayer's only house.

The increased tax reduction is granted at the marginal rate that applies to the taxpayer (see scale in section 1.3.1.). If the amounts to be taken into account for the increased tax reduction are spread over several tax rates, the rate corresponding to each bracket of those amounts shall be taken into consideration.

3. Both the reduction for long-term savings and the increased reduction for housing apply

When both reductions are applicable and the amounts paid exceed the limitation in respect of income i.e. 15% of the first bracket of 55,000 BEF and 6% above that amount with a maximum of 66,000 BEF, the portion to be excluded is set off against the tax reduction granted at the lowest rate.

1.3.4. Tax reduction for expenses paid for performances carried out in the framework of local employment agencies

A. CONDITIONS AND MAXIMUM AMOUNT

Sums paid in 1997, outside the context of any business activity, to a local employment agency (LEA) for performances carried out by a person who is in a situation of full and long-term unemployment and is entitled to unemployment benefit or by a fully unemployed person who is a registered applicant for employment and is in receipt of subsistence wages, are taken into consideration for a tax reduction:

1) up to the nominal value of the LEA cheques issued in the taxpayer's name and which he purchased from the issuer in 1997; that amount must, if appropriate, be diminished by the nominal value of the LEA cheques returned to the issuer during the year 1997; in any case, the amount taken into consideration for the rebate is limited to 80,000 BEF;

2) provided that the taxpayer, as documentary evidence, encloses with his income tax return the certificate referred to in the regulations concerning the LEAs and which is delivered by the issuer of the LEA cheques.
B. CALCULATION OF THE TAX REDUCTION.

When the assessment is made in the name of both spouses, the amount of the expenses is first divided in proportion to the income portion of each. Then, in all cases, the tax rebate is calculated by applying the "adjusted average tax rate" as described under point 1.3.3.C.1.

1.3.5. Tax reductions on replacement income

A. INCOME CONCERNED

Are concerned here: pensions, payments of interests and assimilated allocations, early retirement pensions, statutory and extra-statutory unemployment benefits, sickness or disablement benefits and all other relevant benefits allocated as a partial or total compensation for temporary losses of gains, profits or remunerations.

B. BASIC REDUCTIONS

For tax year 1998 (1997 income) the amounts of the basic reductions (BR) are:

<table>
<thead>
<tr>
<th>Categories of income</th>
<th>Reduction single person</th>
<th>Reduction spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sickness/invalidity</td>
<td>76,575</td>
<td>86,575</td>
</tr>
<tr>
<td>Early retirement (*)</td>
<td>108,016</td>
<td>118,016</td>
</tr>
<tr>
<td>Other</td>
<td>59,653</td>
<td>69,653</td>
</tr>
</tbody>
</table>

(*) These are the early retirement benefits which were granted pursuant to the collective labour agreements which were declared generally compulsory before January 1st, 1986, or were implemented before January 1st, 1987. Other early retirement benefits are assimilated to the other forms of replacement incomes.

C. FURTHER LIMITATION ON THE REDUCTIONS

The basic reduction is limited:

- according to the amount of the net aggregate taxable income (A.T.I.) (33);
- and according to the correlation between the income for which it is awarded and the total aggregate taxable income (34).

33. I.e. after applying the deductions mentioned in paragraph 1.2.5.
34. I.e. before applying the deductions mentioned in paragraph 1.2.5.
1. Limits relating to the A.T.I.

Unemployment benefits

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

The reduction 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  \[ R' = BR \times \frac{(825,000 - A.T.I.)}{165,000} \]
- A.T.I. > 825,000 BEF  \[ R' = 0 \]

Attention: As from assessment year 1997, the limitation of the reduction for unemployment benefits does not apply any more and is replaced with the method of calculation used hereafter for "Other cases".

- where the unemployed is 58 years of age or more on January 1st, of the assessment year;
- and his unemployment benefit includes a seniority benefit.

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 reduction 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  \[ R' = \frac{BR}{3} + \frac{2}{3} \times \frac{BR \times (1,320,000 - A.T.I.)}{660,000} \]
- A.T.I. > 1,320,000 BEF  \[ R' = \frac{BR}{3} \]
2. **Limits relating to other income**

Each reduction 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.

After these two limits have been applied, the remaining reduction shall in no case exceed the tax which relates proportionally to the income which gives entitlement to this rebate.

3. **Cases where tax is reduced to nil**

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

- for benefits paid to elderly unemployed persons: 456,846 BEF
- for other forms of unemployment benefits and other forms of replacement income: 413,728 BEF
- for sickness and invalidity insurance benefits: 459,698 BEF
- for early retirement payments under the old system: 532,029 BEF

**1.3.6. Tax reduction 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.
1.3.7. *Separate taxation and calculation of the principal*

**A. SEPARATE TAXATION**

The law has provided for separate taxation of income from movable property (35) 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 to the advantage of the taxpayer. The choice is made for separately taxable income as a whole.

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 (36) for the previous year</td>
</tr>
<tr>
<td>dismissal compensation (37) &gt; 27,000 BEF</td>
<td>average rate for the previous year</td>
</tr>
<tr>
<td>profits and gains obtained from a previous professional activity after it has been terminated, except for compensations for the full recovery of a temporary loss of profits or benefits</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>occasional profits and gains</td>
<td>33%</td>
</tr>
</tbody>
</table>

35. And miscellaneous income relating to movable property.

36. Average rate = reduced tax base / aggregated taxable income.

37. Dismissal compensations are aggregated for taxation when they are less than 27,000 F.
prizes 16.5%
capital gains from disposal of undeveloped land 33% or 16.5% (38)
capital gains from disposal of built real estate 16.5%
income from the sub-lease of real property, from the granting of the right to place advertisement signs and the proceeds of the granting of hunting, fishing and bird-catching rights 25 or 15% (39)
capital gains from the transfer of shares in a Belgian company of which the transferer owns more than 25%, to a foreign company or to a legal person liable to N.R.I.T. 16.5%
premiums 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% (40)
deposits on pension savings accounts; capital and surrender value from life insurance contracts and from pension savings schemes 33% or 16.5% or 10% (41)
income from movable assets and capital which are not dividends 15% or 25% (42)
dividends 15% or 20% or 25% (43)

38. 33% if the capital gains are realized within 5 years of the acquisition; 16.5% in other cases.
39. 25% if this income is granted pursuant to agreements concluded before March 1st, 1990; 15% in the other cases.
40. See Part III, Chapter 2.
41. See Part III, Chapter 3.
42. 25% if this income is granted pursuant to agreements concluded before March 1st, 1990; 15% in the other cases.
43. For the tax rate applicable: see point 1.2.2.D.
B. CALCULATION OF THE PRINCIPAL

The "principal", which is calculated by adding

- the tax payable on the A.T.I. (after reduction for income earned abroad);
- and the tax payable on the separately taxable income.

serves as a basis for the computation of the additional taxes and crisis surcharge.

1.3.8. Allowance for withholding taxes, tax credit, advance payments and other allowable items

The following items are credited against the "principal" (44):

- the fixed foreign tax credit (F.F.T.C), when it is related to securities invested in a professional activity;
- the withholding tax actually due on the cadastral income of the personal dwelling house, up to a maximum amount of 12.5% of the portion of the cadastral income that is actually included in the tax base.

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

Moreover, for a taxpayer having obtained profits and gains, a tax credit of 10% (with a maximum upper limit of 150,000 BEF) is available on whatever is the highest among the following:

- the positive difference existing, at the end of the taxable period, between the fiscal value of the fixed assets engaged for professional use and the total amount of debts related to the professional activities.
- and the same difference computed for the three assessment years preceding the taxable period.

44. 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.
The tax credit set-off is subject to the condition that the taxpayer joins to his return a certificate asserting that he has made all relevant social security contributions he is liable to as a self-employed; can not exceed the part of the personal income tax relating to the profits and gains in respect of which the tax credit is granted. If the amount of the “principal” does not allow a total deduction of the tax credit, the remainder can be carried over, for a period not exceeding three taxable periods, the method of calculation always being the same.

The following withholding taxes are allowable and refundable:

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

1.3.9. Increases and bonuses

Taxpayers declaring 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 1998 (1997 income), this rate is 4%**.

As stated below (45), 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.

45. See Chapter 5 of Part I.
Exemption from the increase for lack of or insufficient advance payments

Natural persons having begun their first self-employed activity in 1995 or 1996, not having reached at that time the age of 35, or having begun a self-employed activity in 1997, whatever their age, are exempt from the tax increase due on behalf of profits incurred during the first three years of their self-employed 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 bonuses is as follows:

<table>
<thead>
<tr>
<th>Increase</th>
<th>Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Base</strong></td>
<td></td>
</tr>
<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, tax credit and items allowed on the principal</td>
</tr>
<tr>
<td>- increased to 109%, less withholding taxes, tax credit and items which can be set off against the income thus increased.</td>
<td></td>
</tr>
</tbody>
</table>

**Rate of increase**

2.25 times the reference percentage, i.e. 9%
Amounts payable

AP1: 12 % (3.0 x the reference rate)  AP1: 6 % (1.5 x the reference %)

AP2: 10 % (2.5 x the reference rate)  AP2: 5 % (1.25 x the reference %)

AP3: 8 % (2.0 x the reference rate)  AP3: 4 % (1 x the reference %)

AP4: 6 % (1.5 x the reference rate)  AP4: 3 % (0.75 x the reference %)

A bonus is awarded for excess A.P.  No bonus is awarded for excess A.P.

Adjustments

- the increase is reduced by 10%  None

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

- contingent exemptions for (young) beginning self-employed

1.3.10. 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 separately taxable income before the allowing of withholding taxes and tax credit, and before the application of any tax increases or bonuses.
1.3.11. Crisis surcharge

The crisis surcharge is calculated at the rate of 3%, on the "principal" (cfr. 1.3.10), less the amount of taxes paid on movable income which have actually been taxed separately, and on miscellaneous income having the nature of movable income. It is levied for the sole benefit of the State.

1.3.12. Tax increases

PRINCIPLES

The following tax increases may be applied in the event of overdue return, failure to make return, or incorrect return:

- either on the total taxes payable after the allowance of withholding taxes, advance payments, tax increases and bonuses;
- or proportionally to 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 frequency of the infringements.

<table>
<thead>
<tr>
<th>Rates of increase</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Incorrect return or accounts or failure to make return owing to circumstances which are independent on the will of the taxpayer</td>
<td>NIHIL</td>
</tr>
<tr>
<td>B. Incorrect return or accounts or failure to make return without intending to evade taxation:</td>
<td></td>
</tr>
<tr>
<td>1st infringement (not counting failure to declare as sub. A)</td>
<td>10%</td>
</tr>
<tr>
<td>2nd infringement</td>
<td>20%</td>
</tr>
<tr>
<td>3rd infringement</td>
<td>30%</td>
</tr>
<tr>
<td>4th and subsequent infringements</td>
<td>(as for C.)</td>
</tr>
<tr>
<td>C. Incorrect return or account or failure to make return with the intention to evade taxation:</td>
<td></td>
</tr>
<tr>
<td>1st infringement</td>
<td>50%</td>
</tr>
<tr>
<td>2nd infringement</td>
<td>100%</td>
</tr>
<tr>
<td>3rd infringement</td>
<td>200%</td>
</tr>
<tr>
<td>D. Incorrect return or account or failure to make return with an inaccuracy, a deliberate omission or a fraudulent omission, or the making use of forged documents in the course of an inspection in respect of tax liability, or the corruption or attempted corruption of a civil servant:</td>
<td></td>
</tr>
<tr>
<td>in all these cases</td>
<td>200%</td>
</tr>
</tbody>
</table>

B. **LIMIT**

The total sum of the taxes payable on the income for which no return was made and the penalties applied thereto cannot exceed the income.
CHAPTER TWO
CORPORATE INCOME TAX (C.I.T.)

2.1. Tax period

For the taxation of individuals, the tax period is always the calendar year.

This is not the case for the corporate income 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.


2.2. Liability to corporate income tax

All companies, associations, institutions or establishments are liable to corporate income tax if:

– they have a separate legal personality;
– they have their statutory seat, their principal establishment, their seat of management or their seat of administration in Belgium;
– they are engaged in a business or a profit-making activity.

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

Non-profit organisations are, in principle, not liable to corporate income 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 corporate income tax if the association is engaged in profit-making activities.
The law specifies, however, that the following are not considered 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 agricultural activities or which are not conducted using industrial or commercial methods.

2.3. Taxable base

The taxable base described in this section applies to the common tax regime of trading profits. There are other, more specific tax regimes, such as the one on co-ordination centres and distribution centres, but those are described in part three.

2.3.0. Financial profit and taxable profit

The notions of "taxable profit" and "financial profit" are quite different from each other; although the latter serves as a basis for the computation of the taxable income, it is subject to several adjustments:

- either because certain profits are exempted (see below: exempt reserves, dividends and income from exempt capital);
- because certain expenses which have lowered the financial results are not tax deductible (see below "disallowed expenses");
- because the tax depreciation does not correspond to the financial depreciation;
- or because assets have been undervalued and liabilities overvalued.
The Income Tax Code authorizes two depreciation methods (46): the straight-line method (linear depreciation). The declining balance method (degressive depreciation)

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

**Declining balance 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 useful economic life. 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 cost.

Degressive depreciation cannot be applied to:
- intangible fixed assets,
- motor vehicles, with the exception of taxis and vehicles used for self-drive hire,
- fixed assets the use of which has been granted 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 (47), 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 the 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, disallowed expenses and distributed profits (see 2.3.1.);
2° the breakdown of profits according to whether they are made in Belgium or abroad (see 2.3.2.);
3° the deduction of non-taxable items (see 2.3.3.);
4° the deduction for P.E. (Participation Exemption) and for exempted income from movable property (see 2.3.4.);
5° the deduction of carry-forward losses (see 2.3.5.);
6° the investment deduction (see 2.3.6.).

The taxable profit thus calculated is taxed globally.

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46. In certain special cases, linear depreciation can be doubled: see Part III, Chapter 2, Section 2.2.2.
47. For motor vehicles, the depreciation of additional costs must be made at the same rate as the depreciation of the principal.
2.3.1. "First operation": the components of taxable profit

A. RETAINED EARNINGS

As a general rule, any net increase in company assets is considered a taxable profit. Slush funds are to be added to disclosed reserves (accounting reserves): exempt reserves are then separated to ascertain the amount of taxable reserves.

Disclosed reserves

In principle, any retained earnings contribute to the accrual of taxable profits, whatever name they are given: legal reserves, available reserves, unavailable reserves, statutory reserves, provisions for risks and expenses, reserves carried over, etc.

Undisclosed reserves

Undervaluation of assets and overvaluation of liabilities constitute hidden reserves 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 notional debt is a case of overvaluation of liabilities.

Exempt reserves

- The exempt portion of capital gains (48) is considered an exempt reserve: if the intangibility condition is required, the exemption is only awarded if the capital gains appear in a separate account.
- Certain provisions can also be exempted: they must relate to specifically defined risks and expenses. The expenses they are to meet must be, by their very nature, professional expenses for the year in which they are to be borne and the formation of these provisions must be justified:
  - either by events having occurred in the course of the financial year;
  - or by a periodicity of expenses lasting beyond the year but not exceeding 10 years (provisions for overhaul or important repairs).

48. Part III, Chapter 2; Section 2.3.
— *The depreciation of debt-claims* is 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 debt-claim must result from the professional activity and be identified and justified case by case. This is the only condition that must be met as from tax year 1996. Previous conditions in respect of profit or total amount of debt-claims don't apply any more.

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

**B. DISALLOWED EXPENSES (D.E.)**

This grouping comprises the following expenditures which appear as charges in the corporate books but for which no deduction is granted in the calculation of taxable profits.

Are mainly concerned:

1° **non-deductible taxes**

Corporate income tax and the related additional crisis tax (49), advance payments, allowable withholding taxes (50) 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. Since withholding tax on real estate income is no longer creditable against corporate income tax, tax due by companies for real property they own is entirely deductible as a business expense.

2° **fines, penalties and confiscations of any kind**, including those incurred by managers and salaried staff of the company.

3° **in certain cases, interests on loans**

As mentioned below, interests on loans can be assimilated to dividends. There are two other cases where legislation considers interests disallowed expenses: exaggerated interests and undercapitalization.

49. The tax levied on secret commissions is deductible.

50. The F.F.T.C. is assimilated to a withholding tax and is therefore included in the taxable base as D.E. Only the chargeable amount is included in the D.E. and this may possibly be limited pro rata temporis (see below, paragraph 2.4.7.).
Are considered exaggerated interests: interests from bonds, loans, debt-claims and other certificates representing amounts borrowed, to the extent that they exceed an amount corresponding to the market rate of interest, taking into account data resulting from the appreciation of the risk involved in the operation, especially the debtor's financial situation and the term of the loan (51). These limits apply neither to interest on bonds nor to sums paid by or to financial institutions.

Undercapitalization: applies to interests which stay in principle deductible (52) and the beneficiaries of which are not liable to a common tax regime or benefit a tax regime which derogates from the common tax regime. Those interests are considered disallowed expenses to the extent that the balance of the interest-yielding loans exceeds seven times the total of the taxed reserves existing at the beginning of the assessment period and the paid-up share capital existing at the end of the taxable period. This provision does not apply to interests on loans issued by a public call for funds.

4° abnormal or benevolent advantages which are granted to companies 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 residence, to a tax system which is considerably more advantageous.

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

6° gifts
Certain types of gifts 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 1992 Income Tax Code. In such cases, the deduction is made at the third operation.

7° withdrawal of exemption for additional staff employed in R&D (Research and Development). The employment of additional staff can give entitlement to exemption from taxation at the third operation. However, the exemption awarded is, withdrawn when the personnel is reduced.

8° certain specific professional expenses
These involve:
- expenses and charges exceeding reasonable professional needs,
- 25% of the professional quota in respect of car expenses (53),
- expenses in respect of clothing with the exception of specific working clothes,
- and 50% of restaurant bills, entertainment expenses, catering expenses and business gifts.


52. That is to say, all interests except exaggerated interests and interests assimilated to dividends.

53. Fuel expenses remain fully deductible.
9° write-downs on share participations, except in the case of full distribution of company assets (54)

10° certain pensions and pension contributions.

<table>
<thead>
<tr>
<th>Tax regulations applicable to pension contributions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payments with a view to constituting an extra-statutory pension are deductible only to the extent that they relate to compensations paid with a regularity similar to that with which those compensations are paid to the personnel which are chargeable to the results of the taxable period. Payments which relate to compensations granted by the general meeting of shareholders, or which are placed on a current account, are therefore not deductible.</td>
</tr>
<tr>
<td>The payments must be made, outside any statutory obligation and definitively, to an insurance company or pension fund established in Belgium.</td>
</tr>
<tr>
<td>However, the deduction of these contributions is granted only to the extent that the statutory and extra-statutory allowances which are converted into an annuity upon the beneficiary's retirement (55) do not exceed 80% of the latest ordinary gross remuneration and taking into account the normal duration of the professional activity (as a rule 40 years).</td>
</tr>
</tbody>
</table>

11° Interest on loans up to the amount of the deduction for participation exemption granted in respect of shares the company hasn't held for an uninterrupted period of one year at the time of their disposal (56).

C. DISTRIBUTED PROFITS

Dividends

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

Interest assimilated to dividends

Any interest on loans granted to partnerships can be assimilated to dividends when the advance or loan is given:

- by a natural person detaining parts in the partnership;

54. If 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.

55. To the exclusion of allowances in respect of individual life insurance contracts.

56. This rule does not apply to shares of related companies or of companies carrying on a limited partnership, even where the shares have the nature of investments, nor does it apply to shares recorded on the fixed financial assets side.
by persons holding a managing function in the company, as well as by their spouses and underage children.

The interest received is then assimilated to a dividend if and to the extent that:

- the interest allocated exceeds the limit set in Article 55 of the 1992 Income Tax Code taking into account the market rate of interest (57);

- the total amount of interest-yielding advances exceeds the total amount represented, at the beginning of the tax period, by the paid-up capital and the taxed reserves.

This assimilation to dividends and income from invested capital implies that the amounts in question are not deductible in respect of corporate income tax and are subject to the withholding tax at the rate applicable to dividends (58).

Exemptions

There are certain cases where dividends are not taxable: the most frequent cases relate to the application of Royal Decrees 15 and 150 and to companies set up within reconversion zones (59).

Acquisition of own shares, total or partial distribution of company assets

Distributed profits also include payments made for the acquisition of own shares (60) and a total or partial distribution of company assets (61).

In the event of a distribution of company assets, the sums shared out are considered as distributed profit in respect of the quota exceeding the outstanding company assets effectively paid up, after re-evaluation, if any.

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

57. See above “disallowed expenses”.
58. The new provisions do not apply to interest allocated by the Co-operative societies recognized by the National Co-operation Council, nor to interest from bonds issued through a public call for funds.
59. See below, Part 3.
60. The conditions and rules of application in the event of an acquisition of own shares are described in Art. 186 of the 1992 Income Tax Code.
61. The provisions relating to the distribution of company assets are also applicable when the registered office or the principal seat of business is transferred abroad.
2.3.2. "Second operation": breakdown of profits according to their source

Taxable profits which are made up of the sum of reserves, disallowed expenses and dividends 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 a double taxation agreement: they consequently receive a tax reduction when the C.I.T. is calculated (62);
- abroad, in a country with which Belgium has concluded such an agreement: they are in this case exempt from C.I.T. and can no longer be taken into account in the calculation of the taxable base.

2.3.3. Tax reliefs at the "third operation"

The following are deductible:

- exemptions of 440,000 BEF (or 880,000 BEF dependent upon the case) awarded for each additional member of personnel involved in the field of scientific research in Belgium or to a managing function in the export department (63);
- gifts; the deduction of gifts cannot, however, exceed 5% of the result of the 1st operation, nor 20,000,000 BEF.

2.3.4. The "fourth operation": participation exemption and exempt income from movable assets

A. PARTICIPATION EXEMPTION

Participation exemption can be granted for:

a. dividends;

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 articles 186, 187 or 209 of the 1992 Income Tax Code or similar provisions in foreign law have been applied.

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62. See section 2.4.2 hereafter
63. See infra, Part 3, Chapter 2; 2.4.
B. EXCLUSIONS

The taxation requirements introduced by the laws of December 1989 and October 1991, have been replaced by a series of exclusions, the nature of which is essentially qualitative.

1° The first case of exclusion concerns income allocated or assigned by companies which are not liable to C.I.T. or to a similar foreign tax, or which are established in countries offering a legally established tax system which is markedly more advantageous than the Belgian system.

2° The second case of exclusion concerns income allocated or assigned by financing companies (64), money market funds (65) and investment companies (66) which, although they are liable to C.I.T., are subject to a tax regime which derogates from the common tax regime.

3° The third case of exclusion allows upstream control: the participation exemption is not granted to the extent of income, other than dividends, obtained by the distributing company itself from companies established abroad, if that income has benefited a tax regime derogating from the common tax regime.

4° The fourth case of exclusion also allows upstream control of the distributing company: the participation exemption is not granted insofar as the distributing company has obtained capital gains through one or more companies established abroad and benefiting a tax regime which is markedly more advantageous than the one the capital gains would have been subject to in Belgium (67).

5° The last case of exclusion concerns income obtained by companies, other than investment companies, distributing dividends to which the first four exclusions apply.

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64. A financing company is any one company whose activities consist exclusively or mainly in performing financial services for companies which, neither directly nor indirectly, form a group with the services providing company.

65. A money market fund is any company whose activities exclusively or mainly consist in investing cash funds.

66. An investment company is any one company whose activities exclusively consist in investing mutual funds.

67. Will not be considered to have benefited a “markedly more advantageous regime”, capital gains taxed at a rate of not less than 15% in countries with which Belgium has concluded a double taxation agreement.
However, the new law provides for limitations of the exclusions:

1° The first case does not apply to inter-municipal associations.

2° Case number two does not apply to investment companies whose statutes provide for an annual distribution of at least 90% of the income obtained or capital gains realised.

3° Neither the second nor the fifth case apply to resident finance companies having established their residence in one of the member states of the E.U., as regards legal business or profit-making activities and insofar as the company is not undercapitalized.

4° The fifth case does not apply where the distributing company is noted on a European stock exchange and is liable to C.I.T. in a country with which Belgium has concluded a double taxation agreement.

C. PARTICIPATION THRESHOLD

As from tax year 1994, the deduction for participation exemption has been subjected to a new condition. It is required that the shareholding company hold, at the time of the attribution or payment of the dividends, a participation in the capital of the company issuing which amounts either to 5% of the latter's capital, or to 50,000,000 BEF. This participation threshold does not apply to credit institutions, insurance companies or stock exchange companies, nor does it apply to income allocated or assigned by investment companies and to income allocated by inter-municipal associations.

D. THE PERMANENCY CONDITION AND DEDUCTION OF INTEREST

The minimum holding period has been repealed since tax year 1992. Tax year 1995 re-established it indirectly: where a company requests a dividend received deduction in respect of P.E. without having held those shares for an uninterrupted period of one year on the date of attribution or payment of the dividends, interest charges are to be included in the disallowed expenses up to the amount deducted as P.E. (68).

68. See supra, 2.3.1.B. 11°.
E. **DEDUCTIBLE AMOUNT**

The deductible amount is set at 95% of the income, before deduction of the withholding tax.

The deduction is applied to the amount of the proceeds remaining after the third operation, whereupon it is understood that the following disallowed expenses are to be taken out, which means they are to be considered deductible:

- non-deductible gifts (see sub 2.3.1.B.6°);
- fines and penalties (see sub 2.3.1.B.2°);
- certain specific professional expenses (see sub 2.3.1.B.8°);
- exaggerated interests (see sub 2.3.1.B.3°);
- abnormal or benevolent advantages (see sub 2.3.1.B.4°);
- social benefits (see sub 2.3.1.B.5°);
- certain contributions to pension schemes (see sub 2.3.1.B.10°).

F. **EXEMPT 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.
2.3.5. The "fifth operation": deduction of previous losses

Losses from previous tax periods are deductible without any time limitation.

A special disposition applies, however, where a company gets the contribution of a branch of trade of another company, or of the universality of its goods or when it absorbs another company (69).

2.3.6. "Sixth operation": The investment deduction

The arrangements for investment allowances are detailed in part three (70).

The investment allowance is, as a rule, no longer applicable since March 27, 1992.

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

- for "R-D" investments, "energy saving" investments and, as from assessment year 1997, for patents;
- for small and medium-sized companies, defined here as companies in which the majority of voting rights is in the hands of natural persons and which are not members of a group which owns a Co-ordination centre;
- in the "staggered deduction" form.

For investments made in the taxable period related to tax year 1998, the rates of the investment allowance are as follows:

- companies considered as small and medium-sized 3% (71)
- other companies 0.0%
- "R-D" investments, investments in rational use of energy, patents, "green" investments 10.5%
- "staggered deduction" 10.5%
- staggered deduction for "green" investments 20.5%

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70. See Part III, Chapter 2.
71. Only applies to the first 245,460,000 BEF bracket of the investment.
The deductions to which the company is thus entitled can be carried over without any limitation 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 has been 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 to 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. Computation of the tax

2.4.1. Common rate

C.I.T. is payable at a rate of 39%.

2.4.2. 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 their managers.
The nature of the company

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

- the company must not be a finance company;
- it must not have benefited from the services of a co-ordination centre.

The shareholding of the company

Entitlement to the reduced rates is not granted to companies of which at least 50% of the shares are held by one or more other companies.

The 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 managers

In order to qualify for the reduced rates, the company is also obliged to charge, on the results of the taxable period, a minimum remuneration to one manager at least:

- if the company's taxable profit exceeds 1,000,000 BEF, the company must pay to one manager at least a remuneration of no less than 1,000,000 BEF;
- if the taxable profit does not exceed 1,000,000 BEF, the company must pay to one manager at least a remuneration amounting to no less than its taxable income.

Case of the co-operative societies recognised 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 managers.

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

The other conditions remain applicable.

2.4.3. Tax credit

In order to stimulate the increase of the own means of small and medium-size enterprises, a tax credit is granted, as from tax year 1997, to companies subject to CIT at the reduced rate.

This tax credit amounts to 7.5% of the positive difference between:

- the capital fully paid up in cash at the end of the assessment period and,
- the highest amount the capital fully paid up in cash has come up to during the three preceding assessment years.

The tax credit can’t exceed 800,000 BEF.

It is entirely creditable against C.I.T. Although possible excesses are not refundable, they may be carried forward and set off against profits realised during the next three assessment years.

2.4.4. Foreign source income

C.I.T. which relates to the net foreign source income from countries with which Belgium has not signed a double taxation agreement is reduced to a quarter.

2.4.5. Crisis surcharge

Owing to the introduction of the crisis surcharge, an additional 3% crisis contribution is levied on corporate income tax, for the benefit of the State only.
2.4.6. Tax Increase for no 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 P.I.T. (72), except that:

- 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 crisis surcharge;
- the increase is not reduced to 90%.

2.4.7. Tax credit and withholding taxes

Withholding taxes are divided into repayable and non-repayable taxes.

With respect to dividends, the crediting of the withholding tax is made conditional upon the requirement that the recipient have the full ownership of the shares at the moment the income is granted or made payable. In addition, 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 attribution or payment of this income results in a write-down or a capital loss on the underlying shares.

For all other types of income from movable property, the crediting 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 during which the company has enjoyed full ownership of the securities.

A. REPAYABLE TAXES AND PAYMENTS

The following are set off against corporate income tax and repayable:

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

Withholding taxes related to loans made to co-ordination centres or related to dividends paid out for capital contributions to co-ordination centres are creditable and repayable.

The rate of the national withholding tax was first reduced from 25/75 to 10/90 and then abolished, but these modifications only applied to new investments. Investments made before those modifications still entitle to the crediting of the notional withholding tax (73).

72. See above 1.3.9.

73. See Part 3, Chapter I.
B. NON-REPAYABLE TAXES AND PAYMENTS

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

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

For royalties the F.F.T.C. is equal to 15/85 of the net income actually received in the country.

For interest 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 (74). This rate is obtained by dividing the tax actually paid abroad by the border income, and is limited to 15%;
- the amount thus obtained can be set off against C.I.T., but it cannot exceed the amount of C.I.T. relating proportionally to the net profit, which is the difference between the border income and the relating financial expenses (75).

2.4.8. Special tax regimes

A 300% tax imposition (76), to be increased by the additional crisis tax, is applied to sums or expenses which are not justified and to undisclosed reserves. This contribution constitutes a professional expense.

The transitory provisions related to exempted reserves do not apply any more as from assessment year 1998.

74. When international agreements, which supersede Belgian Law, award special F.F.T.C. conditions, these conditions continue to be applied as long as the said conventions have not been re-negotiated.

75. This new limitation of the F.F.T.C. was introduced by the law of July 22nd, 1993, and has been effective as of tax year 1994 onwards.

76. As from tax year 1995; previously the rate was 200%.
CHAPTER THREE
LEGAL ENTITIES INCOME TAX (L.E.I.T.)

3.1. Liability

The following are liable to taxation on legal entities:

- the State, the provinces, the Brussels conurbation, the municipalities and public clerical institutions (authorities managing church property);
- 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), TEC, De Lijn, ...

3.2. Taxable base and levy of the tax

3.2.1. Basic principle

Legal entities liable to L.E.I.T. 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

Where tax-payers subject to L.E.I.T. are in receipt of income from movable property or miscellaneous income from movable origin in respect of which no withholding tax on income from movable property was deducted, 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 situated in Belgium and leased, are subject to a tax of 20%. Public clerical institutions ("Fabriques d'église/Kerkfabrieken" authorities managing church property) are exempt from this contribution.

b) Capital gains made through the disposal for consideration of undeveloped real estate are taxable according to the same arrangements as the P.I.T.

c) The transfer of important participations is taxable according to the same arrangements as the P.I.T. (77).

d) Sums or expenses which are not justified are taxable according to the same arrangements as C.I.T. (Rate of 300%, 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.

As from tax year 1997 onwards, the total taxable base of this contribution is set at 14% of the difference between the income (excluding V.A.T.) from the sale of electricity to end-users and the cost of the fuel used to produce that supply.

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

For the sole tax year 1998, an exceptional contribution of 1,500 million BEF is also due collectively by the electricity producers (78).

For each of these contributions, the part due by each of the producers corresponds to his part in the total sales of electricity to end-users.

The increase for lack of advance payments or for insufficient advance payments as well as the crisis surcharge are applicable according to the same arrangements as for corporate income tax (79).

77. See 1.2.3.
79. See 2.4.6.
CHAPTER FOUR
NON-RESIDENT INCOME TAX (N.R.I.T.)

The general conditions with respect to NRIT (80) which are discussed hereafter apply to all non-resident individuals obtaining a Belgian-source income. Where there is a DTA (Double Taxation Agreement) between Belgium and the country where the non-resident individual is domiciled, these general conditions and the appropriate DTA shall be read concurrently.

4.1. Individual Income Tax, Non-Residents (N.R.I.T./ind.)


Non-resident individuals (81) are liable to N.R.I.T./ind. for their Belgian-source income only. Save the below-mentioned peculiarities, the income is subject to the tax according to the rules applying to Individual Income Tax.

The following particularities are to be taken into account for the computation of the liability to N.R.I.T.:

1. The lump sum housing deduction (see supra 1.2.1.) will be granted only to taxpayers having maintained a permanent home in Belgium during the entire taxable period (see 4.1.3.1. below).

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80. Particularities of the special tax regime for foreign executives and researchers, for athletes and public performers, and the fixed minimum gains obtained by foreign entreprises active in Belgium are beyond the scope of this Tax Survey.

81. Criteria to determine whether a natural person is considered a resident or not are described in point 1.1.
2. The temporary tax exemption for discontinuation gains obtained through the transfer of one or more branches of activity or a universality of goods to a company's capital in exchange for shares representing the capital of the receiving company only applies where those shares are used in Belgium for professional activities.

3. Professional expenses are deductible only where they relate exclusively to income liable to N.R.I.T.

4. Expenses for long lease rights, building rights and other similar rights are deductible only where they relate to real property situated in Belgium.

4.1.2. Aggregation of income

For Individual Income Tax purposes, the global net income is calculated by the aggregation of all income obtained from real property, movable property, professional activities and miscellaneous sources. N.R.I.T./ind., on the other hand, is levied on the aggregate amount of income from real property situated in Belgium and/or professional income as well as on capital gains from a significant shareholding. N.R.I.T. is levied on:

- the aggregate amount of income from real property situated in Belgium, when the non-resident is obtaining an income from rented real property situated in Belgium or from the establishment or the transfer of long term rights on such property. Where the aggregate amount of the income does not exceed BEF 100,000, the real property withholding tax is a final tax.

- the aggregate amount of income from real property situated in Belgium, from professional income obtained in Belgium and from capital gains on significant shareholdings, when the non-resident is having one or more industrial, commercial or agricultural establishments in Belgium or obtains income from one or more of the following kinds:
  - income from the rental of real property situated in Belgium;
  - capital gains obtained through the disposal of real property situated in Belgium and used for professional activities (82);
  - profits realised as a partner or member of a fiscally transparent vehicle;
  - gains resulting from activities performed in Belgium;
  - profits and gains from a former self-employed activity carried out in Belgium;

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82. These capital gains have been subject to withholding tax on professional income since 01.01.1997.
- salaries, pensions, annuities or allowances borne by a Belgian debtor or by the Belgian establishment of a non-resident enterprise;
- salaries borne by a non-resident in respect of activities carried out in Belgium, provided that the beneficiary thereof has resided in Belgium for more than 183 days during the relevant taxable period;
- capital gains obtained through the transfer for a consideration, to a non-resident legal entity or association, of shares making part of a significant shareholding (at least 25%) in a Belgian company.

For the following categories of income, N.R.I.T. ind. corresponds to the prepayments withheld:

- income from real property other than rental and long term rights;
- morable property;
- profits realised in Belgium, without the intervention of a Belgian establishment, by foreign insurance companies whose usual scope of activities is the collection of insurance contracts other than reinsurance contracts;
- miscellaneous income other than capital gains from significant shareholdings;
- gains and profits realised by partners or members of a non-trading company or a company without separate legal personality, where they have no other aggregable income in Belgium.

Taxable capital gains realised on the transfer for a consideration of real unbuilt property situated in Belgium and not used for professional activities (see supra 1.2.3.) are in principle liable to a special assessment set by the Administration of V.A.T., Registration and State property.

4.1.3. Expenses deductible from the aggregate income

4.1.3.1. Categories of non-resident individuals

Both for the way of determining which expenses are deductible from the aggregate income and for the computation of the tax, we distinguish four categories of non-resident individuals:

1. Non-residents with a permanent home: are those whose household has been established in Belgium for the entire taxable period, but in circumstances implying that the establishment is not a durable one.
2. « Ordinary » non-residents without a permanent home: are those who have not maintained a permanent home in Belgium during the entire taxable period and who do not belong to category 3 or 4.

3. « Privileged » non-resident individuals without a permanent home: are those who have not maintained a permanent home in Belgium during the entire taxable period, but who are entitled to a non-discrimination clause because of a DTA concluded between Belgium and the Netherlands, Canada, Morocco, Greece and the former Soviet-Union.

4. Individuals « assimilated » to non-residents with a permanent home: are those who have not maintained a permanent home in Belgium during the entire taxable period, but whose net income liable to N.R.I.T./ind. is not less than 75% of their total earned income from Belgian and foreign source.

4.1.3.2. Entitlement to deduction of expenses, for each of the categories

« Ordinary » non-resident individuals without a permanent home and « privileged » non-resident individuals are only entitled to deduction of the following expenses:

- 80% of alimony payments, or capital in lieu, made to resident individuals;
- gifts to qualifying Belgian institutions.

Non-resident individuals with a permanent home and individuals « assimilated » to them are entitled to deduction of the following expenses:

- 80% of alimony payments, or capital in lieu, provided the beneficiary is a resident individual
- within the limits and under the conditions prevailing for Individual Income Tax (see supra, 1.2.5.) : expenses related to gifts, to domestic servants, to day nursery, to maintenance and restoration of classified real property and to interests of mortgage loans engaged in respect of a dwelling situated in Belgium which is the taxpayer’s only house.
4.1.4. Computation of tax liability

For non-resident individuals with a permanent home, for «assimilated» and «privileged» individuals, N.R.I.T./ind. is computed in conformity with the rules applying in the field of Individual Income Tax, including the rules applying to the allocation of a portion of the professional income to the helping spouse, the allocation of the marital quotient and the reduction for pensions and replacement income (see supra 1.3.5.). Particular is the fact that in respect to the allocation of the assisting spouse quota and the marital quotient, as well as to the tax reductions for pensions and replacement income, computations start from the aggregate Belgian and foreign income of both spouses.

For «ordinary» non-resident individuals without a permanent home, N.R.I.T./ind. is computed according to the same tariffs as apply in the field of Individual Income Tax, but the assisting spouse quota and the marital quotient are not allocated, there are no tax free amounts for spouses nor any additional exemption for dependent persons. Tax reductions for pensions and replacement income are different from those which apply in the field of Individual Income Tax, and payments for pension savings are not entitled to a tax reduction for long term savings.

Apart from that, all the rules relating to tax reductions for long term savings, to savings for housing, to expenses incurred in the framework of local employment agencies, to prepayments, to separate taxation of certain kinds of income, to indexation and to the crisis surcharge, apply as for Individual Income Tax.

Local surcharges are replaced with a 6% surcharge to the benefit of the State.

An important particularity of N.R.I.T./ind. is that married non-resident individuals are considered to be single, where

- only one of the spouses obtains an income liable to N.R.I.T./ind. in Belgium
- and the other spouse gets an income exceeding 297,000 BEF from Belgian-source professional income that is tax-exempt in respect of a DTA or from foreign-source income

The additional exemption for dependent persons is only granted to a married non-resident individual who is considered a single, when his own total net professional income exceeds his spouse's.
4.2. Corporate Income Tax, Non-Residents (N.R.I.T./corp.)

4.2.1. Categories of persons and income liable to N.R.I.T./corp.

Are liable to N.R.I.T./corp.: foreign companies, associations, institutions or bodies which have been established in a legal form similar to that of a company under the Belgian law and which have not established in Belgium their statutory seat, their principal establishment or their seat of management or administration.

Only Belgian-source income is liable to N.R.I.T./corp., and for the computation of the tax liability, the same rules apply as for Corporate Income Tax, with the exception of the departures described below.

4.2.2. Aggregation of income

Tax liability to N.R.I.T./corp. is computed on the total net amount of

1) profits realised through the intervention of a Belgian establishment. Is deemed to be a « Belgian establishment », each fixed place of business through the intervention of which the professional activity of a foreign company is wholly or partly carried out in Belgium. As was the case for Corporate Income Tax, no distinction is made between income from real property, movable property, professional activities and miscellaneous sources. All income derived by a company is deemed to be business income, since all of its activities have necessarily a professional character. However are not deductible from the taxable profit:

- part of the general administrative expenses borne by the foreign seat (except where a DTA applies);
- interests paid to the head office as a remuneration of loans (this exception does not apply to banks)
- salaries paid to managing directors (unless these payments refer to activities actually carried out in a Belgian establishment)

2) profits derived, without the intervention of a Belgian establishment, from the disposal or the rental of real property situated in Belgium or from the granting of long-term rights on such property. The net profit will be the gross profit minus the deductible expenses.
3) profits derived, without the intervention of a Belgian establishment, from the partnership in (European) Economic Interest Groups, which are deemed not to have a separate legal personality.

All other income derived, without the intervention of a Belgian establishment, by the taxpayers defined in 4.2.1., is not subject to N.R.I.T./corp.; any prepayments are deemed to be a final tax. Subject to reciprocity, the following profits will be exempt from N.R.I.T./corp. however:

- profits realised in Belgium by a representative whose activity is confined to the collection of orders and the passing on thereof to the (foreign) enterprise

- profits of shipping and air transport companies, where the taxpayer is the owner or freighter and the ships or planes call in at Belgian (air)ports.

### 4.2.3. Deduction of exempted and non-taxable elements

As is the case under Corporate Income Tax, the following exempted and non-taxable elements are deducted from the profits obtained during the taxable period: tax-deductible gifts, exemptions for additional personnel involved in scientific research, P.E.’s and E.I.M.A.’s, previous losses, investment deductions (see point 2.3.3. through 2.3.6.). The deduction for investment only applies where it relates to R-D investments or rational use of energy.

### 4.2.4. Computation of N.R.I.T./corp.

The general principle is that liability to N.R.I.T./corp. is computed on the aggregate income, in accordance with the rules applying to Corporate Income Tax. Where the N.R.I.T./corp. has not been levied by way of a withholding tax, it will be increased (see point 2.4.5) if no or insufficient advance tax payments are made.

As to expenses the reality of which is not established by supporting documents (individual files and recap), as prescribed to revenues subject to withholding tax, a « special » assessment of 300% applies (to be increased by the 3% crisis surcharge).

Taxable capital gains on the transfer for a consideration of real property situated in Belgium are liable to withholding tax on professional income. This withholding tax is deductible from N.R.I.T. and is refundable.
4.3. Legal Entities Income Tax, Non-Residents (N.R.I.T./ent.)

Are subject to N.R.I.T./ent.: foreign states or subdivisions thereof; all legal persons having their statutory seat, their principal establishment, their seat of management or administration outside Belgium and which neither exploit an enterprise nor engage in profit-seeking activities.

Only Belgian-source income can be liable to N.R.I.T./ent. Withholding tax related to that income will in most cases be a final tax. Some kinds of income are subject to a distinctive assessment however:

1. income from rented real property situated in Belgium and used by the tenant for a professional activity, and income from the granting of long lease rights are liable to a distinctive 20% assessment (to be increased by the 3% crisis surcharge)

2. employers’ contributions for additional insurance against old age and premature death, pensions, annuities, allowances and other similar remunerations, insofar as they do not qualify for the conditions set up in Individual Income Tax or Corporate Income Tax, are liable to a distinctive 39% assessment (to be increased by the 3% crisis surcharge)

3. as to expenses the reality of which is not established (see point 4.2.4), a distinctive 300% assessment applies (to be increased by the 3% crisis surcharge).

Taxable capital gains on the transfer for a consideration of real property situated in Belgium are liable to a special assessment set by the Administration of V.A.T., Registration and State property.
CHAPTER FIVE
WITHHOLDING TAXES AND ADVANCE PAYMENTS

5.1. 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 1998, the inflation adjustment coefficient was set at 1.2281.

The Regions are competent to determine the tax rate and the exemptions in respect of that withholding tax.

For real estate located in the Walloon region and in the region of Brussels-Capital, the withholding tax on real property is levied at the rate of 1.25% (0.8% for subsidized housing) and at a rate of 2.5% (1.6% for subsidized housing) in the Flemish region. Provincial and municipal surtaxes are to be added.

The following are awarded on request:

- a reduction of 25%, if the rental value of the taxpayer’s global real estate property does not exceed 30,000 BEF (not index-linked sum); this reduction is of 50% for new dwelling houses during the first 5 years in which the withholding tax on real estate is due, in so far as the taxpayer did not receive a premium for the construction or acquisition of that dwelling house;
- a reduction of 20% for war invalids and 10% for disabled persons (83);
- a reduction of 10% per dependent child, provided the head of the family who claims the rebate has still at least two living children;
- a reduction proportional to the period of non-occupation or unproductiveness of the property (84).

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83. People suffering from a handicap of at least 66%, due to one or several complaints.

84. In the Flemish region, this exemption is not granted where the real property has been inoccupied for more than twelve months. the previous assessment year being taken into account. In the region of Brussels-Capital, the reduction is only granted on specific conditions, set in the Ordonnance of April 13th, 1995 amending the Ordonnance of June 23th, 1992 concerning withholding taxes on real income (B.O.J. June 13th, 1995).
5.2. **Withholding tax on income from movable property (T.Mov.)**

5.2.1. **On dividends**

Dividends are subject to a withholding tax of 25%.

*Interest on loans assimilated to dividends.*

Interest on loans granted to their company by company managers (previously directors and active partners) or by natural persons who are shareholders, are assimilated to dividends if and to the extent that:

- either the interests result from an interest rate exceeding the normal market rate applicable to the case in point;
- or the total amount of interest-bearing loans exceeds the total represented by the paid up capital at the end of the tax period, increased by the taxed reserves existing at the beginning of the tax period.

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 or associates who are themselves liable to corporate income tax.
"New" shares to which the 15% rate applies:

Provided the company paying the income does not irrevocably waive the benefit of that reduction, the 25% tax rate is also reduced to 15% for the following dividends:

a) dividends from shares issued by a public call for funds as from January 1, 1994;

b) dividends from shares issued as from January 1, 1994, for cash contributions and which, since their issue:
   - have been registered with the issuer;
   - have been placed in an open deposit in Belgium with a bank, a stock exchange company or a savings bank subject to the control of the Banking and Finance Commission;

c) dividends distributed by investment companies.

d) 15% for dividends from F.A.-shares noted on a stock exchange, when the company paying the dividends has irrevocably waived the transfer to the income paid on the relevant shares of the tax saving or of the additional income, if any, from the said exemption from corporate income tax.

"Parent-subsidiary"-dividends

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.
5.2.2. **On interests**

**A. GENERAL RULE**

The rate of withholding tax on movable property is 15%. With respect to income paid or attributed pursuant to agreements concluded before March 1st, 1990, a 25% rate applies however.

There are several exceptions to this general rule, based either on the very nature of the financial product or on the nature of the investor. The most important of these exceptions are described hereafter.

**B. SPECIAL TREATMENT OF CERTAIN FINANCIAL PRODUCTS OR FINANCIAL OPERATIONS**

**Savings deposits**

The first 55,000 BEF bracket of a yearly income from ordinary savings deposits is exempt from withholding tax on movable property if the beneficiary is a natural person.

**Capitalization shares**

With respect to financial products with compulsory or elective capitalization, any amount attributed by the issuer, at any moment, in excess of the capital, is a taxable income from movable property.

Furthermore, the collection of withholding taxes on movable property shall on no account be waived. This withholding tax on movable property is due upon the surrender or the repurchase of the shares by the issuer, on the difference between the transaction price and the issue price.

**Collective investment funds**

No withholding tax on movable property is due on income paid in Belgium by collective investment funds. Indeed, these funds are charged to tax at source.
C. CATEGORIES OF INVESTORS

- “financial institutions” shall be construed as being banks, financial enterprises, and more broadly, public and private institutions having a legal personality, the activity of which consists solely in attributing credits and loans;

- “social institutions” shall be construed as: health insurance funds and institutions created in the framework of social legislation;

- “professional investors” shall be construed as: companies liable to C.I.T. and Belgian institutions of foreign companies liable to N.R.I.T.

- “private savers” shall be construed as being all taxpayers who have not used their interest bearing movable property for their professional activity;

- “non-resident savers” shall be construed as being taxpayers liable to N.R.I.T./ind. who have not used their movable property in the performance of their professional activity. In order to be eligible for exemption from withholding tax on movable property, a certificate must be submitted which ascertains that the taxpayer is the owner or usufructuary of interest bearing capital.
D. EXEMPTIONS IN RESPECT OF THE NATURE OF THE INVESTORS

The table hereafter summarizes the most important exemptions (V), some of which are conditionnel (V*), per category of investors and per category of income.

Investors are classified according to the above categories, i.e. financial institutions (FI), social institutions (SI), professional investors (PI), private savers (PS) and non-residents (NR).

<table>
<thead>
<tr>
<th>Category</th>
<th>FI</th>
<th>SI</th>
<th>PI</th>
<th>PS</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>- public funds, bonds, deposit certificates and similar securities</td>
<td>V</td>
<td>V</td>
<td></td>
<td></td>
<td>V(*)(a)</td>
</tr>
<tr>
<td>- income from debentures and loans</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- mortgage loans</td>
<td>V</td>
<td>V</td>
<td>V</td>
<td>V</td>
<td>V(*)(b)</td>
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<tr>
<td>- other loans</td>
<td>V</td>
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<td>V</td>
<td></td>
<td></td>
</tr>
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<td>- common savings deposits</td>
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<td></td>
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<td>- other deposits</td>
<td>V</td>
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<td>(V*)(d)</td>
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</tbody>
</table>

(a) The tax exemption is granted with regard to income which has been registered nominately by the issuer
(b) The tax exemption is not granted in respect of income credits and loans embodied by bearer securities
(c) For the first 55,000 BEF only (see supra)
(d) For deposits with financial institutions only

Moreover, a special tax regulation is provided for dematerialized securities.
5.3. **Withholding tax on earned income**

The application of the withholding tax on earned income granted or made payable as from January 1st, 1998, is governed by the Royal Decree of December 5th, 1997 (Belgian Official Journal of December 31, 1997 and Erratum in B.O.J. of February 4th, 1998). We are concerned hereafter only with the most frequent forms of income in respect of residents and non-residents who have maintained a place of residence in Belgium during the whole year (85).

5.3.1. **Salaries**

As regards the payment of employees, the earned income tax deducted at source is withheld by the debtor of the taxable income according to a scale corresponding to the P.I.T-scale, taking account of dependents and standard 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 standard expenses.

For 1998 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>32,600</td>
<td>20%</td>
</tr>
<tr>
<td>163,001 - 325,000</td>
<td>48,800</td>
<td>10%</td>
</tr>
<tr>
<td>325,001 - 542,000</td>
<td>59,650</td>
<td>5%</td>
</tr>
<tr>
<td>542,001 - 2,153,667</td>
<td>108,000</td>
<td>3%</td>
</tr>
<tr>
<td>2,153,667 and more</td>
<td></td>
<td>3%</td>
</tr>
</tbody>
</table>

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

---

85. Attention is drawn to the fact that the calculation of the withholding tax on earned income mentioned hereafter already includes an increase of:

- 6% for the municipal and conurbation tax, and
- 3% for the crisis surcharge.
Base scale applicable:

- when the beneficiary of the income is single;

- when the spouse of the beneficiary of the income has his/her own earned income. However, where this own earned income consists exclusively of pensions, annuities or assimilated benefits not exceeding a monthly net amount (i.e. after deduction of the social security contributions plus 20% of the remainder) of 3,600 BEF, the same basis scale shall apply as where the other spouse does not have an own earned income.

<table>
<thead>
<tr>
<th>Net annual taxable income</th>
<th>on lower limit</th>
<th>Basic tax</th>
<th>% above</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 156,000</td>
<td>0</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>156,001 - 249,000</td>
<td>0</td>
<td>27.25%</td>
<td></td>
</tr>
<tr>
<td>249,001 - 330,000</td>
<td>25,343</td>
<td>32.70%</td>
<td></td>
</tr>
<tr>
<td>330,001 - 471,000</td>
<td>51,830</td>
<td>43.60%</td>
<td></td>
</tr>
<tr>
<td>471,001 - 1,084,000</td>
<td>113,306</td>
<td>49.05%</td>
<td></td>
</tr>
<tr>
<td>1,084,001 - 1,625,000</td>
<td>413,983</td>
<td>54.50%</td>
<td></td>
</tr>
<tr>
<td>1,625,001 - 2,384,000</td>
<td>708,828</td>
<td>57.23%</td>
<td></td>
</tr>
<tr>
<td>2,384,001 and more</td>
<td>1,443,204</td>
<td>59.95%</td>
<td></td>
</tr>
</tbody>
</table>

Basic scale applicable when the spouse of the beneficiary of the income does not have his/her own earned income and therefore, for the calculation of the withholding tax, is granted a part of 30%, with an absolute maximum of 204,900 BEF, of the latter's earned income:

<table>
<thead>
<tr>
<th>Net annual taxable income</th>
<th>on lower limit</th>
<th>Basic tax</th>
<th>% above</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 249,000</td>
<td>0</td>
<td>27.25%</td>
<td></td>
</tr>
<tr>
<td>249,001 - 330,000</td>
<td>67,853</td>
<td>32.70%</td>
<td></td>
</tr>
<tr>
<td>330,001 - 471,000</td>
<td>94,340</td>
<td>43.60%</td>
<td></td>
</tr>
<tr>
<td>471,001 - 1,084,000</td>
<td>155,816</td>
<td>49.05%</td>
<td></td>
</tr>
<tr>
<td>1,084,001 - 1,625,000</td>
<td>456,493</td>
<td>54.50%</td>
<td></td>
</tr>
<tr>
<td>1,625,001 - 2,384,000</td>
<td>751,338</td>
<td>57.23%</td>
<td></td>
</tr>
<tr>
<td>2,384,001 and more</td>
<td>1,185,714</td>
<td>59.95%</td>
<td></td>
</tr>
</tbody>
</table>

In this case and after having determined the sum of the amounts to be paid by both spouses, by applying the above scale, the result has to be reduced by an amount of 78,480 BEF (amount corresponding to twice the tax exempt bracket for the spouse).
Fourthly, the following tax reductions are taken into account.

<table>
<thead>
<tr>
<th>Dependent Children</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 dependent child (86)</td>
<td>12,000</td>
</tr>
<tr>
<td>2 dependent children</td>
<td>30,300</td>
</tr>
<tr>
<td>3 dependent children</td>
<td>82,200</td>
</tr>
<tr>
<td>4 dependent children</td>
<td>151,200</td>
</tr>
<tr>
<td>5 dependent children</td>
<td>224,700</td>
</tr>
<tr>
<td>6 dependent children</td>
<td>298,500</td>
</tr>
<tr>
<td>7 dependent children</td>
<td>372,000</td>
</tr>
<tr>
<td>8 dependent children</td>
<td>449,100</td>
</tr>
<tr>
<td>More than 8 dependent children</td>
<td>449,100 to be increased by 81,900 for each additional child beyond the eighth</td>
</tr>
</tbody>
</table>

Additional reductions for:
- Single person: 12,000
- Widow(er) who has not remarried: 12,000
- Single parent family: 12,000
- Handicapped taxpayer (87): 12,000
- Other dependent persons (88): 12,000

When the spouse has his/her own earned income other than pensions, annuities or assimilated benefits of which the net amount (89) does not exceed 6,000 BEF per month, a further reduction of 36,000 BEF is awarded.
Where the spouse has her own professional income consisting exclusively of pensions, annuities or assimilated benefits the net amount (88) of which does not exceed 12,000 BEF per month, an additional reduction of 72,000 BEF is granted.

From that basic tax are eventually deducted 30% of the mandatory withholding for group insurance and of the precautionary provision for old age and premature death.

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

---

86. Disabled children count for two.
87. This reduction applies to each of the spouses.
88. This reduction is doubled for disabled dependent persons.
89. That is to say income less social security contributions, this balance being itself reduced by 20%.
5.3.2. *Holiday pay and other exceptional allowances*

For holiday pay and 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.

a. **Scale of withholding tax on earned income applicable to the holiday pay paid by the employer and other exceptional allowances:**

<table>
<thead>
<tr>
<th>Gross annual compensation income</th>
<th>Withholding tax rate on earned income</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Annual leave allowance · Other cases</td>
</tr>
<tr>
<td>0 - 198,000</td>
<td>0</td>
</tr>
<tr>
<td>198,001 - 248,000</td>
<td>19.57</td>
</tr>
<tr>
<td>248,001 - 310,000</td>
<td>21.63</td>
</tr>
<tr>
<td>310,001 - 370,000</td>
<td>26.78</td>
</tr>
<tr>
<td>370,001 - 432,000</td>
<td>31.93</td>
</tr>
<tr>
<td>432,001 - 495,000</td>
<td>35.02</td>
</tr>
<tr>
<td>495,001 - 618,000</td>
<td>37.08</td>
</tr>
<tr>
<td>618,001 - 681,000</td>
<td>40.17</td>
</tr>
<tr>
<td>681,001 - 930,000</td>
<td>43.26</td>
</tr>
<tr>
<td>930,001 - 1,242,000</td>
<td>48.41</td>
</tr>
<tr>
<td>1,242,001 - 1,865,000</td>
<td>54.59</td>
</tr>
<tr>
<td>1,865,001 - 2,855,000</td>
<td>57.68</td>
</tr>
<tr>
<td>2,855,001 and more</td>
<td>59.74</td>
</tr>
</tbody>
</table>

Exemptions for dependent children are subsequently taken into account.

In particular, when the annual amount of the normal gross salary does not exceed the maximum amount which is mentioned in the table under *b* according to the number of dependent children, the exceptional allowance is exempted up to the difference between the said maximum amount and the annual amount of the normal gross salary.

When the recipient of an exceptional allowance has no more than five dependent children and the annual amount of his normal gross salary does not exceed the amount which - according to the number of dependent children - is mentioned in column 3 of the table mentioned under *c*, a reduction is granted on the withholding tax; that reduction is calculated according to the number of dependent children on the basis of the percentage mentioned in column 2 of the table under *c*.
b. Maximum amounts for the exemption of exceptional allowances on account of dependent children.

<table>
<thead>
<tr>
<th>Number of dependent children (1)</th>
<th>Maximum amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2</td>
</tr>
<tr>
<td>1</td>
<td>248,000 BEF</td>
</tr>
<tr>
<td>2</td>
<td>323,000 BEF</td>
</tr>
<tr>
<td>3</td>
<td>472,000 BEF</td>
</tr>
<tr>
<td>4</td>
<td>635,000 BEF</td>
</tr>
<tr>
<td>5</td>
<td>795,000 BEF</td>
</tr>
<tr>
<td>6</td>
<td>956,000 BEF</td>
</tr>
<tr>
<td>7</td>
<td>1,117,000 BEF</td>
</tr>
<tr>
<td>8</td>
<td>1,278,000 BEF</td>
</tr>
<tr>
<td>9</td>
<td>1,439,000 BEF</td>
</tr>
<tr>
<td>10</td>
<td>1,599,000 BEF</td>
</tr>
</tbody>
</table>

(1) a disabled dependent child counts for two.

c. Reduction of the withholding tax on exceptional allowances on account of dependent children.

<table>
<thead>
<tr>
<th>Number of dependent children (1)</th>
<th>Percentage of the reduction</th>
<th>Annual amount of the normal gross salary beyond which no reduction is granted</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>1</td>
<td>7.5</td>
<td>624,000 BEF</td>
</tr>
<tr>
<td>2</td>
<td>20</td>
<td>624,000 BEF</td>
</tr>
<tr>
<td>3</td>
<td>35</td>
<td>686,000 BEF</td>
</tr>
<tr>
<td>4</td>
<td>55</td>
<td>811,000 BEF</td>
</tr>
<tr>
<td>5</td>
<td>75</td>
<td>873,000 BEF</td>
</tr>
</tbody>
</table>

(1) a disabled dependent child counts for two.

When the holiday pay is paid or allocated by annual leave funds without the intervention of the employer the withholding tax rate on earned income is:

- 17.51% if the amount of the holiday pay does not exceed 37,000 BEF;
- 23.69% if the amount of holiday pay exceeds 37,000 BEF.
5.3.3. **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.

<table>
<thead>
<tr>
<th>Reference salary</th>
<th>Rate of withholding tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 214,000</td>
<td>0</td>
</tr>
<tr>
<td>214,001 - 300,000</td>
<td>6.18</td>
</tr>
<tr>
<td>300,001 - 388,000</td>
<td>12.36</td>
</tr>
<tr>
<td>388,001 - 538,000</td>
<td>18.54</td>
</tr>
<tr>
<td>538,001 - 626,000</td>
<td>19.57</td>
</tr>
<tr>
<td>626,001 - 1,180,000</td>
<td>31.93</td>
</tr>
<tr>
<td>1,180,001 - 1,747,000</td>
<td>39.14</td>
</tr>
<tr>
<td>1,747,001 - 2,530,000</td>
<td>43.26</td>
</tr>
<tr>
<td>2,530,001 and more</td>
<td>51.50</td>
</tr>
</tbody>
</table>

There are specific arrangements to take account of dependents.

In particular, where the reference salary does not exceed the maximum amount which, according to the number of dependent children, is mentioned in the table under 5.3.2.b., the salary arrears are exempted up to the difference between the said maximum amount and the reference salary.

5.3.4. **Compensations for termination**

They are subjected to a withholding tax on earned income as follows:

- when their gross amount does not exceed 27,000 BEF, they are treated as an ordinary monthly salary;
when they do exceed the gross amount of 27,000 BEF, the withholding tax is determined according to the rules set forth above in respect of arrears, with the understanding that the reference salary to be taken into account in order to determine the rate of the withholding tax is that upon which the calculation of the compensation was based, or, failing that, the salary which was paid to the recipient during the last period of normal activity at the service of the employer who pays the compensation.

5.3.5. 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</th>
<th>Withholding tax rate on earned income</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 20,000</td>
<td>27.81</td>
</tr>
<tr>
<td>20,001 - 25,000</td>
<td>32.96</td>
</tr>
<tr>
<td>25,001 and more</td>
<td>38.11</td>
</tr>
</tbody>
</table>

5.3.6. Students

In derogation from all the provisions under 5.3., no withholding tax is due on the remuneration paid or granted to students whose employment, performed in connection with a written labour contract during the months of July, August and September, does not exceed one month and provided no contributions pursuant the social security legislation are due on these remunerations, except for the solidarity contribution.
5.3.7. Company managers

Remunerations paid or allocated to company managers are liable to withholding tax on earned income.

A. PERIODICAL REMUNERATIONS

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.

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>34,000 BEF and less</td>
<td>11,500 BEF</td>
</tr>
<tr>
<td>34,001 to 163,000 BEF</td>
<td>11,500 BEF + 17.5% of the part over 34,000 BEF</td>
</tr>
<tr>
<td>163,001 to 236,000 BEF</td>
<td>34,075 BEF + 13% of the part over 163,000 BEF</td>
</tr>
<tr>
<td>236,001 BEF and more</td>
<td>43,565 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.
5.4. Advance payments (A.P.)

Traders, company managers, members of liberal professions and companies are obliged to make advance payments of taxes in four instalments (quarterly instalments 10/4, 10/7, 10/10 and 20/12) (90).

By the payment of these instalments, tax increases are avoided (91).

A dispensation of tax increase may be given on certain conditions, when a self-employed person sets up in business for the first time (92).

Moreover, all taxpayers liable to P.I.T. can make advance payments to pay off in advance those taxes which are not covered by withholding tax. Inasmuch as these payments cover the positive difference between the tax put on the tax roll and the amounts of withholding taxes, they are awarded for advance payments made (93).

For the income of the year 1998, the reference rate is 4%.
The taxation rates which apply in respect of the avoidance of tax increases and in respect of bonuses are the following:

<table>
<thead>
<tr>
<th>Increase</th>
<th>Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>VA1 : 12%</td>
<td>VA1 : 6%</td>
</tr>
<tr>
<td>VA2 : 10%</td>
<td>VA2 : 5%</td>
</tr>
<tr>
<td>VA3 : 8%</td>
<td>VA3 : 4%</td>
</tr>
<tr>
<td>VA4 : 6%</td>
<td>VA4 : 3%</td>
</tr>
</tbody>
</table>

90. 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.

91. See 1.3.9.

92. See 1.3.9.

93. See 1.3.9.
PART 2
INDIRECT TAXATION

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CHAPTER ONE
VALUE ADDED TAX (VAT)

This tax is governed by the Code of Value Added Tax (VAT Code) and the decrees taken for its implementation. Owing to the complexity of certain arrangements (for example, listing of taxable and exempted transactions, place of supply, 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 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-cascading 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 main categories of taxable transactions are the following:

- the supply of goods and the supply of services carried out for a consideration by a person liable to VAT, when they occur within the country (Art. 2 VAT Code);
- 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 EU;
- the intra-Community acquisition of goods, where it occurs in Belgium and is made for a consideration. These are goods coming from any of the other Member States of the EU (Art. 3 bis VAT Code).
1.2. Persons liable to VAT and legal persons that are not liable

The persons liable to VAT - or taxable persons - are of crucial importance in the process of levying the VAT. They have to 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, including investments. They therefore only pay to the Treasury the difference (= the tax on the value which they have added themselves.).

The concept of VAT liability is dealt with by the Articles 4 to 8bis of the VAT Code.

A taxable person is anyone who, in the performance of an economic activity, carries out, in a regular and independent manner, whether on a principal or accessory basis, with or without profit motive, the supply of goods or 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 where treatment as non-taxable persons would lead to significant 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 occasionally supply 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 motorized land 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":

- in the case of land vehicles: if their supply occurs within six months after the date of their first entry into service or if their mileage does not exceed 6,000 km;
- for ships: if their delivery occurs within three months after the date of their first entry into service or if they have not sailed for more than 100 hours;
for aircraft: if their delivery occurs within three months after the date of their first entry into service or if they have not flown for more than 40 hours.

Special categories also include:

- **exempt taxable persons**: physical or legal persons who carry on activities which are exempted from the tax pursuant to Article 44 of the VAT Code (see point 1.4.2.) (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 major categories:

- supplies of goods (Art. 10 to 17);
- supplies of services (Art. 18 to 22);
- importations (Art. 23 to 25);
- intra-Community acquisitions of goods (Art. 25 bis to 25 septies)

#### 1.3.1. Supply of goods

A *supply of goods* is the transfer or assignment of the power to dispose of the goods as the owner thereof. Certain other transactions are also considered as supplies (Art. 10).

The term *goods* shall be understood to mean any tangible property including gas, electric current, heat, refrigeration and any rights in rem (other than the right of ownership) giving the holder thereof a right of user over *immovable property*, with the exception of certain long lease rights (Art. 9).

The *place of supply* 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 lot 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 supply 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 EU and that are imported by the supplier into another Member State than the one where the consignment or transport arrives, the place of supply shall be, as a rule, in the Member State where the goods were imported into the European Union.

The place of supply, however, shall always be 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 EU to Belgium (system of remote sales - Art.15, § 4) and if the supply of the goods is carried out for:

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

For the supply 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 supply 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 EU).

The time of supply 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 tax becomes due ("taxable event") 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 liability arising upon invoicing, upon cashing or on a binding due date).
1.3.2. The supply of services

A service is defined as any operation other than the supply of goods within the meaning of the VAT Code (Art. 18). Some of the services mentioned explicitly are: any physical or intellectual work, among which supplies under a contract to make up work from customer's materials, (that is to say delivery by a contractor to his customer of movable property made or assembled by the contractor from materials and objects entrusted to him by the customer for his purpose, whether or not the contractor has provided any part of the materials used), the supply of staff, the granting of the right to enjoy the possession of goods (except certain immovable goods mentioned in Art. 9), the supply of parking space for vehicles or of storage room, the supply of furnished rooms or a campground, the supply of food and beverages, the granting of a right of access to cultural, sporting or entertainment activities, services related to radiodistribution, cable TV, telecommunications, a.s.o.

A service for a consideration shall be deemed to include also 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 where a service is supplied is deemed to be the place where the person providing the service has established his principal seat of business or a fixed establishment (Art. 21). There are, however, a lot of exceptions to that rule, for example: for services connected with immovable property: the place where the latter is situated; for services relating to work on movable property: the place where the latter is located at the time the services are physically carried out (there are exceptions); for services relating to transport: the place where the transport occurs (in certain cases it can be the place of departure or any other place); for services relating to cultural, sporting and scientific activities or to food and beverages: the place where effective use and enjoyment of the services take place; for services related to advertising, to putting personnel at people's disposal, for services related to telecommunications, a.s.o.: the place where the purchaser of the services has established the seat of his economic activity or a permanent establishment, in as far as he is established either outside the EU or in as far as he is a taxable person established inside the Union but not in the country where the supplier of the services is established, a.s.o.

The taxable event occurs, as a rule, at the time the service is completed. The tax is then also due. In certain cases, another arrangement may apply (for example invoicing, cashing or binding due date).
1.3.3. **Importation**

The term *importation* is used for goods that are introduced into a Member State of the EU from outside the EU. The importation *takes place* in the Member State of the EU within the territory of which the goods are located at the time of entry into the Community (Art. 23). There are a number of exceptions to this rule, especially in relation with special customs procedures pursuant to Customs legislation.

The *taxable 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).

1.3.4. **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 EU* than the one from which the goods are dispatched or transported (Art. 25 bis).

The tax shall be levied on intra-Community acquisitions of goods in Belgium 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 the VAT in the following cases (Art. 25 ter):

1° in a number of cases where their delivery in Belgium would also be exempted (for example acquisitions of sea-going vessels; acquisitions of aircraft mainly for the purpose of international transport; acquisitions of goods for diplomatic or consular establishments, ... ) (Art. 25 ter, §1,1°);

2° if the acquisition is made (Art. 25 ter, § 1, 2°) by:

- taxable person to whom the exemption arrangements are applicable (certain small enterprises, see point 1.9.1.);
- certain agricultural enterprises which are subject to a flat-rate system (see point 1.9.2.);
2nd part: indirect taxation

- a taxable person who effects exclusively the delivery of goods and the provision of services for which he is not entitled to deduction of the VAT (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). The above-mentioned taxable and non-taxable legal persons can choose, however, to have all their intra-Community acquisitions of goods subjected to the tax in Belgium; this choice applies for a period of two calendar years at least;

3° if the acquisition is made by a taxable person not established in Belgium, but identified in another Member State of the EU for VAT purposes, with a view to subsequent delivery in Belgium by the latter taxable person to a taxable or non-taxable legal person identified in this country for VAT purposes and if, in addition, these goods, coming from another Member State of the EU than the one in which the purchaser is identified for VAT purposes and if, in addition the latter is designated as the one who has to pay the VAT of the delivery made in Belgium (the so-called simplified system for triangular transactions) (Art. 25 ter, § 1, 3°);

4° if we are concerned with used goods, works of art, collectors’ pieces or antiques, which are sold by a taxable person who resells and is acting as such, and if, in addition, the goods have been subjected, in the EU Member State of departure, to the special system of taxation on the margin (see Art. 58, § 4), as well as in a number of other cases (Art. 25 ter, § 1, 4°).

Intra-Community acquisitions, made 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 location of an 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 location of intra-Community delivery shall be deemed to be within the Member State of the EU which has granted the VAT identification number under which the purchaser made that acquisition. Unless there is 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 taxable 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 1.4.1).

On the other hand, there are exempt 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 1.4.2).
1.4.1. 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 i.a. the following:

- exportation (i.e. to a place outside the EU);
- deliveries and intra-Community acquisitions of goods bound to be placed under certain procedures pursuant to customs legislation;
- deliveries of goods to a taxable person or to a non-taxable legal person in another Member State of the EU, who are required to subject their intra-Community acquisitions of goods to VAT (this does not apply to goods which are subject to the special system of taxation on the margin, see Art 58, § 4);
- intra-Community deliveries of new means of transport;
- importations, intra-Community acquisitions or supplies of goods placed under a warehousing regime other than customs warehousing and a certain number of related activities.
- goods supplied at specific points of sales to travellers who travel by air or sea through the Union, within the limits fixed by the EU, for the movement of travellers between third countries and the EU (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 procedures pursuant to Customs regulations);
- international transportation of passengers by sea or air;
- international transportation of goods to and from non-EU 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 specified international organizations;
- the deliveries of gold to central banks.
1.4.2. 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 hospitals and similar establishments;
- services provided by certain institutions for the aged and by nurseries;
- services provided by certain sports establishments;
- services provided by 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 of a building by certain taxable persons and occurring not later than December 31st of the year following the one in which the building was first 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 storing goods, hotels and campings and the leasing, on certain conditions, 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 tax basis

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

As a rule, the tax 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 tax 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 the tax basis - Art. 32) and to the services of travel agencies, etc.

There is a minimum tax 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 tax 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 taxable 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 20th, 1970, as last amended by the Royal Decree of September 27th, 1996 and by the Law of January 20th, 1998, establishing the rates of the VAT and the classification of goods and services under these rates.

We are mainly concerned here with:

- live animals;
- vegetal produces;
- 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 (only for importation of certain works of art further specified, collectors' pieces and antiques, as well as for certain supplies and intra-Community acquisitions of works of art further specified, on certain conditions);
- motor cars for invalids;
- coffins;
- certain medical appliances and instruments;
- agricultural services;
- transport of persons;
- maintenance and repair of certain goods in table A above;

as also

- performances;
- copyrights;
- hotels;
- campings;
- services rendered by undertakers;
- certain transactions relating to private dwellings which are at least 15 years old;
- certain transactions relating to private dwellings for handicapped persons and institutions for such persons;
- and a few other services;

Temporarily, from January 1st 1996, to December 31st, 1997:

Certain real estate transactions relating to subsidized housing (see art. 1er of Royal Decree 20). This regulation is extended, under certain conditions, until June 30th, 1998 (see art. 1er of Royal Decree 20, as modified by the Law of January 20th, 1998).
12%: the goods and services listed in table B of the Annex of the above mentioned Royal Decree no 20, last amended by the Royal Decree of September 27th, 1996 and by the Law of January 20th, 1998. 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) and pay television;

Temporarily, from January 1st, 1996, to December 31st, 1997:

Work on real estate and certain transactions relating to immovable property in view to the construction of a private dwelling and supplies of private dwellings which are not exempt from VAT, up to a total cumulative taxable base of 2,000,000 BEF (excl. VAT). In all these cases, the surface of the dwellings may not exceed 100 m² (for a flat) or 190 m² (for a house) (see art. 1quater of Royal Decree 20). This regulation is extended, under certain conditions, until June 30th, 1998 (see art. 1quater of Royal Decree 20, as modified by the Law of January 20th, 1998).

21%: 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 Union, insofar as he uses these goods and services in economic activities subject to VAT or in economic activities which are exempted from VAT on account of exportation, intra-Community deliveries, international transportation (exemptions referred to under point 1.4.1. above) or certain other grounds (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 car related supplies (for example fuel, oil,...) and services (for example maintenance, repairs,...). 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).

There is, as a rule, no deduction of VAT either for goods acquired in connection with the special system of taxation on the margin (Art. 45, § 5).

For "persons partially liable to VAT", i.e. taxable persons who are liable to VAT and who are involved both in activities subject to VAT and activities not subject, 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 returns 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 next return (Art. 47). On specific request and subject to certain conditions, 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 fifteen years.
1.8. Submission of returns and payment of the tax

The correct operation of the VAT system requires that taxable persons fulfil a number of obligations. These concern accounting, the issuing of invoices, the filing of client lists, the submission of VAT returns and the payment of VAT. For certain companies, special (simplified) rules 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 taxable persons (except to those who are not entitled to deduction, to small enterprises and to 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 application for identification and the notifications of modification or cessation of an activity, most taxable persons must, in principle, file a VAT return showing the VAT to be paid and deducted and pay every month the amount due. The return and the payment must be submitted by the 20th of the following month at the latest. On December 24th at the latest, a deposit must be paid in respect of the VAT which will be payable for that month.

They must also file, each year, a list 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 a year may, if they comply with certain rules, submit quarterly returns. They must pay, in the course of the 2nd and 3rd month of each calendar quarter, a deposit equal to one third of the tax due for the preceding quarter. They can nonetheless opt for monthly returns.
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.

1.9.1. 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 not exceeding 20,000,000 BEF a 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.

1.9.2. 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, returns 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 returns, the latter pays the agricultural enterprise a sum which is calculated at a fixed rate, as a compensation for 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).
1.9.3. 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 - Art. 58, § 1 and 1 bis), on fish, crustaceans and molluscs which are brought directly from the sea to the fish market (levy at the moment of sale at the fish market -Art. 58, § 2), on the importation of goods which are sent in small consignments or carried in the luggage of travellers (flat-rate calculation - Art. 58, § 3), on second-hand goods, works of art, collectors' pieces and antiques (on certain conditions there is a levy of VAT on the difference between the selling price and the purchase price (the so-called tax levy on the margin); however, the normal system can be chosen - Art. 58, § 4).

In addition, certain enterprises in certain sectors can, on certain conditions, be exempted from the obligations concerning the levy of VAT: accounting, submission of returns 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.

1.9.4. The special VAT return

The special VAT return must be submitted by those taxable persons who do not submit periodic VAT returns 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 such as advertisement, the intellectual work of certain consultants, the supply of staff, the renting of certain tangible movable property (except means of transport), etc. which are deemed to take place in Belgium and which are supplied by services providing persons who are not established in Belgium.
The special return 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, in so far as they have performed the said transactions (purchases), submit *per quarter* the special VAT return 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, analysing 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.
- deeds establishing the transfer of a universality of goods or of a branch of activity to a person liable to VAT, where the VAT chargeable on behalf of the transfer would partially or totally be deductible.

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 of property located in Belgium;
- the transfer of goods to a Belgian company which is a legal person;
- the transfer of a universality of goods or of a branch of activity to a person liable to VAT, where the VAT chargeable on behalf of the transfer would partially or totally be deductible.

There are three types of registration duties: proportional duties, specific fixed duties, the general fixed duty.

2.1.1. Proportional registration duties

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

A. SALE OF REAL ESTATE

The duty is set at 12.5% for sales, exchanges and all conveyancing agreements for valuable consideration, in respect of property or usufruct 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 2.1.3.).
C. CONTRIBUTION OF ASSETS TO BELGIAN COMPANIES

The contribution of assets (immovable, movable, cash, credit, etc.) to Belgian companies is liable to a 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.

However, the contribution of real estate located in Belgium, which is, in whole or in part, used or intended for housing purposes, is liable to the 12.5% duty when the contribution is made by natural persons.

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. DONATION DUTIES

Donation duties apply to all donations of movable and immovable assets, regardless of their form, their object 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 rates are given in the tables below. Unlike the rates relating to inheritance tax (see chapter 3) they are the same all over the country.
RATES OF DONATION DUTIES

**TABLE I - Donations between lineal relatives and between spouses**

<table>
<thead>
<tr>
<th>Portion of value of the gift (in BEF)</th>
<th>tax rates in %</th>
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</thead>
<tbody>
<tr>
<td>lower limit</td>
<td>upper limit (included)</td>
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<td>above</td>
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</table>

**TABLE II - Donations to collaterals and non-relatives**

<table>
<thead>
<tr>
<th>Portion of value of the gift (in BEF)</th>
<th>tax rates in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>lower limit</td>
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<td>7,000,000</td>
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</table>

The duty is calculated per donee and per portion of the gift.

**Example**: By the same deed, a parent donates 1,200,000 BEF to child A and 2,200,000 BEF to child B. The duty to be levied is:

a) on the donation in favour of child A:
   - on the first bracket (1 to 500,000): 500,000 BEF x 3% = 15,000 BEF
   - on the second bracket (500,000 to 1,000,000): 500,000 BEF x 4% = 20,000 BEF
   - on the remaining 200,000 BEF (1,000,000 to 2,000,000 bracket): 200,000 BEF x 5% = 10,000 BEF
   - Total: 15,000 BEF + 20,000 BEF + 10,000 BEF = 45,000 BEF

b) on the donation in favour of child B:
   - on the first bracket (1 to 500,000): 500,000 BEF x 3% = 15,000 BEF
   - on the second bracket (500,000 to 1,000,000): 500,000 BEF x 4% = 20,000 BEF
   - on the third bracket (1,000,000 to 2,000,000): 1,000,000 BEF x 5% = 50,000 BEF
   - on the remaining 200,000 BEF (2,000,000 to 4,000,000 bracket): 200,000 BEF x 7% = 14,000 BEF
   - Total: 15,000 BEF + 20,000 BEF + 50,000 BEF + 14,000 BEF = 99,000 BEF

Total donation duty due on the donation deed: 45,000 BEF + 99,000 BEF = 144,000 BEF (leaving out of account possible deductions for dependents).
The amount of the donation duty thus depends a) on the degree of kinship between the donor and the donee; b) on the value of the portion of the donation received by each donee.

Donees having at least three children under 21 at the time of the donation are entitled to a tax reduction. For certain securities ("AFV" shares), an exemption is possible under 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 2.1.3.).

For a certain number of operations, there is an exemption from the proportional registration duty (for example: for operations liable to VAT).

2.1.2. 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 : 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).
2.1.3. 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,...; moreover, the general fixed duty is levied on deeds which are in principle subject to proportional duties, but which have been exempted by some provision of the Code, in as far as the Code does not explicitly relieve them from the registration duties.

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 exempt 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
ESTATE DUTIES

3.1. Inheritance tax and transfer duty upon death

Estate duties distinguish between inheritance tax and transfer duty upon death.

**Inheritance tax** is charged on the net value of the estate of a deceased inhabitant of the Kingdom, i.e. on the value of the aggregate of all the property belonging to the deceased (movable or immovable, located in the country or outside the country), after deduction of the latter’s duly established liabilities and the funeral costs.

**The transfer duty** upon 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 inheritance tax (see below).

The inheritance tax and the transfer duty by death are calculated by means of a declaration which must be filed by the legal successors within 5, 6 or 7 months after the decease, according as to whether the testator is deceased in Belgium, in Europe or elsewhere.

The property which, according to the evidence supplied by the administration, 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 donation duty (see 2.1.1.G).
The gross tax base is in principle the market value of the goods as of the day of the death. Tax rates vary 1) according to the degree of kinship between the beneficiary and the deceased, 2) according to the net share inherited (94) by each of the heirs and 3) according to the Region where the inheritance is opened (a inheritance is opened in the Region where the deceased, if he was a resident, was domiciled upon the time of his death, or else in the Region where the estate is located if the deceased was a non-resident). Taxes are computed according to the tax brackets to be found in the tables hereunder. Table I and II apply where the testator’s domicile was located in the Walloon Region or in the Region of Brussels Capital. Table III, IV and V apply where the testator’s domicile was located in the Flemish Region (95).

RATES OF ESTATE DUTIES

I. INHERITANCES OPENED IN THE WALLOON REGION AND IN THE REGION OF BRUSSELS-CAPITAL

TABLE I - Inheritances between lineal relatives and between spouses

<table>
<thead>
<tr>
<th>Bracket of the net share (in BEF)</th>
<th>Tax rates in % Upon lineal relatives and between spouses</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1 to 500,000</td>
<td>3</td>
</tr>
<tr>
<td>500,000</td>
<td>4</td>
</tr>
<tr>
<td>1,000,000</td>
<td>5</td>
</tr>
<tr>
<td>2,000,000</td>
<td>7</td>
</tr>
<tr>
<td>4,000,000</td>
<td>10</td>
</tr>
<tr>
<td>6,000,000</td>
<td>14</td>
</tr>
<tr>
<td>8,000,000</td>
<td>18</td>
</tr>
<tr>
<td>10,000,000</td>
<td>24</td>
</tr>
<tr>
<td>more than 20,000,000</td>
<td>30</td>
</tr>
</tbody>
</table>

94. Exception: As regards inheritances opened in the Flemish Region: where one or more heirs belong to the group of "other persons", the tax rates vary according to the sum of the net shares devolving to these persons (see also "Rates of estate duties - II - Inheritances opened in the Flemish Region - table V - meaning of "taxable amount"; see also: "remarks" to point 2, para 2, fourth dash).

95. Table I and II correspond to the tables of tax rates relating to donation duties (see Ch. 2, Registration duties, point 2.1.1.6). In the Walloon Region and in the Region of Brussels Capital, the inheritance tax rates and the tax rates of transfer duties upon death are thus the same as the rates of the donation duties which apply to the whole country. This is not the case in the Flemish Region, which has created its own rates for inheritance tax and for transfer duties upon death (see tables III, IV and V), rates whereof both the structure and the taxation rates are different from those being in force as regards the national uniform rates for donation duties.
TABLE II - Inheritances between collateral relatives and between non-relatives

<table>
<thead>
<tr>
<th>Bracket of the net share (in BEF)</th>
<th>Tax rates in %</th>
<th>Between brothers and sisters</th>
<th>Between uncles or aunts and nephews or nieces</th>
<th>Between all other persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1 to 500,000</td>
<td>20</td>
<td>25</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>500,000 to 1,000,000</td>
<td>25</td>
<td>30</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>1,000,000 to 3,000,000</td>
<td>35</td>
<td>40</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>3,000,000 to 7,000,000</td>
<td>50</td>
<td>55</td>
<td>65</td>
<td></td>
</tr>
<tr>
<td>above 7,000,000</td>
<td>65</td>
<td>70</td>
<td>80</td>
<td></td>
</tr>
</tbody>
</table>

II. INHERITANCES OPENED IN THE FLEMISH REGION

TABLE III - Inheritances between lineal relatives and between spouses

<table>
<thead>
<tr>
<th>Bracket of the net share (in BEF)</th>
<th>Tax rates in %</th>
<th>Upon lineal relatives and between spouses</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1 to 2,000,000</td>
<td>2,000,000</td>
<td>3</td>
</tr>
<tr>
<td>2,000,000 to 10,000,000</td>
<td>10,000,000</td>
<td>9</td>
</tr>
<tr>
<td>above 10,000,000</td>
<td>10,000,000</td>
<td>27</td>
</tr>
</tbody>
</table>

TABLE IV - Inheritances between cohabitants (96)

<table>
<thead>
<tr>
<th>Bracket of the net share (in BEF)</th>
<th>Tax rates in %</th>
<th>Between cohabitants</th>
</tr>
</thead>
<tbody>
<tr>
<td>from 1 to 3,000,000</td>
<td>3,000,000</td>
<td>10</td>
</tr>
<tr>
<td>3,000,000 to 5,000,000</td>
<td>5,000,000</td>
<td>35</td>
</tr>
<tr>
<td>above 5,000,000</td>
<td>5,000,000</td>
<td>50</td>
</tr>
</tbody>
</table>

"Cohabitant" and "cohabitants" shall be construed as being one or more persons having lived together with the deceased for at least three years at the time of his death, and having shared his household.

96. The distinct rate for "cohabitants" only applies to estate duties charged on inheritances opened in the Flemish Region. There is no such distinct rate for inheritances opened in the other Regions, nor for donations.
TABLE V - Inheritances between brothers and sisters or between “others” (97)

<table>
<thead>
<tr>
<th>Taxable amount (in BEF)</th>
<th>Tax rates in %</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>from</td>
<td>to</td>
<td>Between brothers and</td>
</tr>
<tr>
<td>1</td>
<td>3,000,000</td>
<td>30</td>
</tr>
<tr>
<td>3,000,000</td>
<td>5,000,000</td>
<td>55</td>
</tr>
<tr>
<td>above</td>
<td>5,000,000</td>
<td>65</td>
</tr>
</tbody>
</table>

“Taxable amount” shall be construed as follows:

- as far as brothers and sisters are concerned: the net share of each of the brothers and sisters upon whom the estate devolves;

- as far as “others” are concerned: the sum of the net shares devolving upon these persons.

Remarks:

1. In the Walloon Region and in the Region of Brussels Capital, no inheritance tax is due on any inheritance of which the net assets do not exceed 25,000 BEF.

2. Where the testator’s last domicile was located in the Walloon Region or in the Region of Brussels Capital, tables I and II apply to the global net share of each of the heirs. Where the testator’s last domicile was located in the Flemish Region, the following distinction must be made:

- if the inheritance devolves upon lineal relatives or on the surviving spouse, table III applies twice for each of them: once on the portion representing the net immovable property and once on the portion representing the net movable property;

- if the inheritance devolves upon cohabitants, table IV applies to the global net share of each of them;

- if the inheritance devolves upon brothers or sisters, table V applies to the global net share of each of them;

- if the inheritance devolves upon other persons, table V applies to the aggregate of the global net shares of the assignees of the group (98).

97. Theses rates also apply where the inheritance devolves on brothers and/or sisters of the deceased or on “other persons” (this category also includes collateral heirs of the third degree, who in the other Regions belong to the category of “uncles or aunts and nephews or nieces”) who are not entitled to the rates applying to cohabitants.
3. Where the testator's last domicile was located in the Walloon Region or in the Region of Brussels Capital, both lineal heirs and the surviving spouse are entitled to an exemption of 500,000 BEF, which means there is no liability to inheritance tax for this bracket of 500,000 BEF. This abatement is increased, in favour of each of the children under 21, by 100,000 BEF for each whole year remaining until they reach the age of 21 (additional abatement) and also, in favour of the surviving spouse, by half the total amount of the additional abatements to which the common children are entitled.

4. Where the testator's last domicile was located in the Flemish Region, the lineal heirs and the surviving spouse are not entitled to an exemption. They are granted a tax reduction, which is degressive and shall not exceed 20,000 BEF. No reduction shall be allowed for inheritances of more than 2,000,000 BEF. For shares up to 2,000,000 BEF, the reduction amounts to 20,000 BEF x (1 - share/2,000,000). Furthermore, the Flemish Region allows for a 3,000 BEF tax reduction for children under 21 for each whole year remaining until they reach the age of 21, as well as for a reduction, in favour of the surviving spouse, which amounts to half the total amount of the additional reductions to which the common children are entitled.

5. Where the testator's last domicile was located in the Flemish Region, his brothers and sisters are also entitled to a tax reduction on their share, insofar as it does not exceed 3,000,000 BEF. If the share does not exceed 750,000 BEF, the reduction amounts to 75,000 BEF x share/750,000. If the share exceeds 750,000 BEF but does not exceed 3,000,000 BEF, the reduction amounts to 100,000 BEF x (1 - share/3,000,000).

All other heirs who are neither lineal heirs nor spouses, brothers, sisters or cohabitants, are entitled to a tax reduction, provided their share does not exceed 3,000,000 BEF. That reduction is apportioned between the heirs in proportion to their share of the inheritance. Where the aggregate of the shares does not exceed 500,000 BEF, the reduction amounts to 75,000 BEF x (aggregate of the shares)/500,000. Where the aggregate exceeds 500,000 BEF but does not exceed 3,000,000 BEF, the reduction amounts to 90,000 BEF x (1 - [aggregate of the shares]/3,000,000).

There is no tax reduction as regards inheritances between cohabitants.

98. The individual liabilities of each of the assignees are then computed by apportioning the global tax due among the heirs concerned, in proportion to the share of the inheritance that devolves to each of them.
6. Where the deceased was domiciled in the Walloon Region or in the Region of Brussels Capital, a reduction of the inheritance tax and of the transfer duty upon death is granted to each heir, legatee or donee of whom, at the opening of the succession, at least three children were alive and under 21.

7. As regards inheritances opened in the Flemish Region, social rights in real property UCITs recognized by the Flemish government in the framework of the financing and constructing of services providing apartment buildings or residential complexes are exempt from inheritance tax. To be entitled to this exemption, several conditions must be met, which are enumerated in art. 55bis of the Estate Duty Code, applicable in the Flemish Region, and in the relevant implementing orders by the Flemish government (99) (Decree of December 21st, 1994, providing regulations for the execution of the 1995 budget, modified by the Decree of December 20th, 1996, providing regulations for the implementation of the 1997 budget, and the Order of May 3rd, 1995, providing exemptions in respect to inheritance tax in connexion with social rights in companies established in the framework of the realisation and/or financing of investment programs in respect of service flats, amended by the Order of October 10th, 1995 and by the Order of December 3rd, 1996).

8. As to successions opened in the Flemish Region, assets and shares of family businesses or family companies are charged separately at a 3% rate, provided certain conditions are met. Numerous stipulations must be met in order to obtain or maintain this advantage. We therefore refer to art. 60bis of the Estate Duty Code, applicable in the Flemish Region.

9. Assets and shares of family businesses or family companies which are part of inheritances opened in the Walloon Region, are charged at a 3% rate, provided certain conditions are met. In order to obtain and to maintain this advantage, several conditions must be met, which are enumerated in art. 60bis of the Estate Duty Code, applicable in the Walloon Region. The tax base of the inheritance to be taken into consideration for this reduction is added to the rest of the share received in order to determine the progressive inheritance tax for the estate (see Estate Duty Code, art. 66ter, applicable in the Walloon Region).

10. If, within a year of the death of the deceased, the goods which are received through inheritance are transferred anew through death, the inheritance tax on this second transfer is reduced.

99. Considering the conditions of application and considering the fact that no subscription for shares was possible before November 14th, 1995, exemption from estate duties will only be possible with regard to deaths occured as from November 14th, 2000.
2nd part: indirect taxation

A person who is the father of three children dies. Upon the time of his death, he was domiciled in the Region of Brussels Capital. 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: \[9,000,000 \times 4\% \times 14 = 5,040,000\] BEF

   Children: \[9,000,000 - 5,040,000 = 3,960,000\] BEF

   For each child: \[3,960,000 / 3 = 1,320,000\] BEF

2. **Calculation of exemptions**

   1st child, (the eldest): 500,000 BEF

   2nd child: 500,000 BEF

   3rd child, (youngest): 500,000 BEF + 1/2 \times 100,000 BEF = 600,000 BEF

   Surviving spouse: 500,000 BEF + 100,000 BEF \times 1/2 = 550,000 BEF

3. **Calculation of inheritance taxes**

   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

   1st child 2nd child 3rd child

   Taxable amount 1,320,000 BEF 1,320,000 BEF 1,320,000 BEF

   Tax (on brackets):

   1 - 500,000 BEF 15,000 BEF 15,000 BEF 15,000 BEF

   500,000 - 1,000,000 BEF 20,000 BEF 20,000 BEF 20,000 BEF

   1,000,000 - 1,320,000 BEF 16,000 BEF 16,000 BEF 16,000 BEF

   Total 51,000 BEF 51,000 BEF 51,000 BEF

   CALCULATION OF EXEMPTIONS (on the brackets respectively)

   1 - 500,000 BEF 15,000 BEF 15,000 BEF 15,000 BEF

   500,000 - 600,000 BEF - - 4,000 BEF

   Total tax to be deducted 15,000 BEF 15,000 BEF 19,000 BEF

   Final Amount 36,000 BEF 36,000 BEF 32,000 BEF
3.2. **The compensatory tax for inheritance tax**

The compensatory tax for inheritance tax 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, credit companies and insurance companies**

Belgian unit trusts, credit companies and insurance companies, as defined in art. 161 of the Inheritance Tax Code, are subject to this tax.

1. Where **unit trusts** are concerned: the tax is due, as a rule, on the unit trusts' inventory value on January 1st of each tax year;
2. Where **credit companies** are concerned: the tax is due on a part of the amount of the savings deposits on January 1st of each tax year. This part is computed by means of the ratio between the income that is not to be brought into charge under income tax regulations and the total amount of the income granted for the year immediately preceding the year of assessment;
3. Where **insurance companies** are concerned: the tax is due on the total amount of the mathematical and technical reserves related to life policies the income of which is not taxable under income tax regulations;
4. As far as **credit companies and insurance companies** are concerned that have the form of **cooperative companies** recognized by the National Council of Cooperation: the tax also applies to part of the statutory capital on January 1st of the assessment year. That part is computed by means of the ratio between the total amount of the dividends that are not taxable under income tax regulations and the total amount of the dividends distributed in the business year preceding the year of assessment.

The tax rate is 0.06%.

The tax is due on January 1st of each year and the payment shall be made not later than March 31st of that year (save a few exceptions).
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 (hereinafter referred to as Code).

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 records 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 repertories 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, duplicates 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 DUTIES

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

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

5.2.1. 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. 126\textsuperscript{1} 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 transactions made on their own behalf by financial intermediaries, insurance companies, pension funds, undertakings for collective investment and non-residents, for the delivery of securities representative of the Belgian public debt (save State Notes) 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 transactions concerning short term treasury bonds issued by the National Bank of Belgium, for loans on stock 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 of an investment company into participating interests in another department of the same company, and conversions within a given department as described under item 4\textsuperscript{o} 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 supply 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 national and foreign); company bonds; participating interests in investment funds; 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 subsequently to an appeal to the public (primary market):
   a. **3.50 per thousand**: normal rate;
   b. **1.40 per thousand**: State Notes, public debt securities on foreign States; loans issued by the provinces and the communes (both national and foreign); 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 CTASD).

5.2.2. 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 CTASD).

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

The tax is payable by both parties. It is not due, however, by financial intermediaries, insurance companies, pension funds, undertakings for collective investments or non-residents (Art. 139 CTASD).

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, on short term treasury bonds issued by the National Bank of Belgium and on cession-retrocession of securities (Art. 193 bis CTASD).

5.3. Tax on delivery of bearer securities

This tax is levied on all deliveries of bearer securities, whether they relate to Belgian or to foreign public funds (Art. 159 CTASD).

Deliveries to financial intermediaries established in Belgium are not liable to the tax, however (Art. 159 CTASD).

The tax rate is set at 0.20% (Art. 160 CTASD).
The tax is calculated (Art. 161 CTASD):

1. in the case of an acquisition for valuable consideration or of a subscription: on the amounts to be paid by the purchaser or the subscriber (excluding the brokerage of the intermediary and the tax on stock exchange transactions);

2. in the case of the conversion of registered securities into bearer securities or in the case of the withdrawal of securities which were in open custody: on the market value of the securities (excluding interest) on the day of the conversion or the withdrawal. This value shall be estimated by the person realizing the conversion or by the depositor. As to the securities mentioned hereafter, the basis of assessment is computed as follows:

   2.1. for securities officially quoted on a Belgian stock exchange: the last quotation published before the date of the conversion or withdrawal;
   2.2. for instruments of debt not officially quoted: the nominal value of the capital represented by the debenture;
   2.3. for participation rights in open-end UCITs: the last stocktaking value before the date of the conversion or withdrawal.

Exemptions exist (Art. 163 CTASD) for:

1° deliveries of securities for valuable consideration, where no professional intermediary intervenes or enters into an agreement on behalf of one of the parties;

2° deliveries to non-residents of foreign public securities or certificates representing foreign public funds, which were in open custody with certain institutions.

3° deliveries of securities issued by the State, the Regions or the Communities in foreign currencies, where those deliveries take place abroad or where the receiver is a non-resident.

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. 176² 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. 176¹ 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 as well as for compulsory motor third party insurance and for property damage insurance for vehicles whose gross mass is not less than 12 tons and which are used exclusively for transport of goods by road.

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 distributed on 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 exempt 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 tax regime, 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 tax regime, 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 or accounts opened before the age of 55: 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 placards posted in the view of the public, as well as on 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
CUSTOMS PROCEDURES UPON IMPORTATION, EXPORTATION AND TRANSIT

These procedures are laid down and regulated by a series of EU regulations.

6.1. Duties upon importation

Upon the importation of goods from countries outside the EU, duties upon importation are levied according to a scale which has been harmonised on Community level.

These duties are levied for the sole benefit of the European Union.

6.1.1. Tax basis of customs duties upon importation = generally the customs value, sometimes the quantity

The value to be declared when goods are released for free circulation, 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 EU, 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.
Note:

The tax basis for the VAT upon importation is the value calculated according to the applicable Community rules for the determination of the customs value, increased by additional charges up to the place of destination.

6.1.2. Tariff of import duties

The rate of customs duty upon importation 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 EU 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 "Applied Customs Tariff" issued by the administration.

6.2. Customs approved treatment

6.2.1. General

A. TEMPORARY STORAGE

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

In places approved of 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 APPROVED TREATMENTS

The goods must be declared for a customs-approved treatment, namely:

- the placing of the goods under a customs procedure (see point C below);
- their re-exportation from the customs territory of the European Union;
- their destruction;
- their abandonment to the Public Treasury;
- their entry into a free zone or a free warehouse.
C. CUSTOMS PROCEDURES

The term "customs procedure" is understood to mean:

1. the release for free circulation;
2. the transit;
3. the customs warehousing;
4. the inward processing;
5. the processing under customs control;
6. the temporary admission;
7. the outward processing;
8. the exportation.

The procedures referred to under items 3 to 7 are customs procedures with economic impact. The various procedures will be enlarged upon later on.

6.2.2. The Single Administrative 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 or B for the Customs Data Processing centre (C.T.I.), copy C for the placing in a customs warehouse, copy R for the granting of agricultural refunds).

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

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

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

The declaration is made at an office at frontier of the EU, in a seaport, at 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 EU, are taken to this 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 from the Customs and Excise Administration and paying a deposit, the declarant can be granted a deferred payment for the said duties (not to be confused with the deferred payment of the VAT for which an authorization is granted by the Administration of the VAT, Registry and Public Property, and for which a prior payment must be made by the applicant).

6.2.4. Release for free circulation and for consumption

A. PRINCIPLES

Goods are released for free circulation in the EU when they have fulfilled the conditions relating to importation into the EU: 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 EU 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 6.2.5.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. FINAL 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, to equipment imported into the European Union on the occasion of a transfer of activities, 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-EU 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>

<table>
<thead>
<tr>
<th>Alcohol and alcoholic beverages (2):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>non-sparkling wines:</td>
<td>2 litres</td>
</tr>
<tr>
<td>AND</td>
<td></td>
</tr>
<tr>
<td><em>either</em>: distilled beverages ans spirits of an alcoholic strenght exceeding 22% vol; not denatured ethyl alcohol of 80% vol and over</td>
<td>1 litre</td>
</tr>
<tr>
<td><em>or</em>: distilled and alcoholic beverages, aperitifs with a wine or alcohol base, tafia, saké or similar beverages of an alcoholic strength not exceeding 22% vol; sparkling wines, fortified wines and still wines</td>
<td>2 litres</td>
</tr>
</tbody>
</table>

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

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

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

<table>
<thead>
<tr>
<th>Other goods than those mentioned above</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum total value:</td>
<td>7,300 BEF (4)</td>
</tr>
</tbody>
</table>

---

(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 years of age.

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

(4) This amount can be modified.
2) TRAVELLERS FROM A EU-MEMBER STATE

For goods purchased in tax-free shops at airports and seaports, the exemptions are limited to those granted to travellers from non-EU Member States. However, the aggregate maximum value for the "other goods" cannot exceed 3,800 BEF.

For goods for which all due taxes were paid at their acquisition on the domestic market of a EU-Member State, there are no 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, exempt from the payment of excise duty in Belgium. This exemption is granted only to private citizens from the age of 17 on.

<table>
<thead>
<tr>
<th>Tobacco products:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>cigarettes</td>
<td>800 pieces</td>
</tr>
<tr>
<td>cigarillos (cigars with a maximum weight of 3 g a piece)</td>
<td>400 pieces</td>
</tr>
<tr>
<td>cigars</td>
<td>200 pieces</td>
</tr>
<tr>
<td>smoking tobacco</td>
<td>1 kg</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Alcoholic beverages:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>distilled beverages</td>
<td>10 litres</td>
</tr>
<tr>
<td>intermediate products (e.g. Port, Pineau des Charentes)</td>
<td>20 litres</td>
</tr>
<tr>
<td>wine (of which maximum 60 litres sparkling wine)</td>
<td>90 litres</td>
</tr>
<tr>
<td>beer</td>
<td>110 litres</td>
</tr>
</tbody>
</table>

If these products are introduced into Belgium for commercial purposes or exceed the above-mentioned levels (except if the declarant 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.
C. **FINAL EXEMPTION UPON RE-IMPORTATION OF GOODS PREVIOUSLY EXPORTED**

Under certain conditions (e.g. the unaltered state of the goods), final exemption can be granted upon re-importation of goods.

6.2.5. *Customs procedures involving suspension of payment or exemption*

A. **TRANSIT**

a. **The T.I.R. carnet**

With the T.I.R. carnet it is possible to cross several frontiers without customs formalities. 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 the organizations acting as guarantors.

This system cannot be applied in the case of transports which begin and end in the EU.

b. **Community/common transit**

The Community transit system is used for the transport of goods in the case of transport between two places situated in the EU, whereas the common transit system is used in relation with the countries of EFTA (Norway, Iceland, Switzerland) and Viségrad (Poland, Slovakia, the Czech Republic and Hungary). To cover this transport, 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 must be presented at the office of departure, together with the declaration, and taken to the office of destination. A deposit covering the whole itinerary shall be paid.

Depending on the customs status of the goods, a distinction is made between:

- non-Community goods : T1 (external transit procedure)
- Community goods : T2 (internal transit procedure)
c. **Simplified procedures**

A simplified procedure for rail transport makes it possible to use rail documents instead of the T documents drawn up on the "single administrative 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, on-site clearance procedures also exist for the transport from and to the premises of duly authorized operators, so that the goods must not be presented at a customs office.

**B. CUSTOMS WAREHOUSE**

A **customs warehouse** is a facility where mainly non-Community goods can be stored without having to be subjected to the duties referred to in section 6.1, the VAT, the contingent excise duties and the trade policy measures.

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

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. Control is based on the occupier's stock records.

Among the public bonded warehouses, a distinction is made between bonded warehouses of type A, 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 A, control is based on the warehouse keeper's stock records. 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.

Non-Community goods can also be stored in a **VAT warehouse** after release for consumption. This makes it possible to release the goods for free circulation and to make a VAT declaration with temporary relief.
C. INWARD PROCESSING PROCEDURE

This is a customs procedure which makes it possible to procure the following goods in the EU, in order to subject them to one or several processing operations:

a) non-Community goods which are destined to be re-exported, in the form of compensating products, out of the customs territory of the EU, without being subjected to import duties or to trade policy measures (suspension system);

b) goods released for free circulation, whereby the duties applicable to these goods are refunded or remitted if they are exported, in the form of compensating products, out of the customs territory of the Union (refund system).

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 exempt 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

Provided they are subsequently re-exported without having undergone any transformation, certain goods used in the EU can be granted partial or total exemption from duties. 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 PROCEDURE AND STANDARD EXCHANGES

The "outward processing procedure" makes 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 procedure" is a special regime within the system of outward processing and can be applied in the case of repair of 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.
6.2.6. Exportation of goods

The exportation procedure regulates the exportation of Community goods out of the customs territory of the EU.

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 final exemption can be granted upon reimportation.

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

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

6.2.7. 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 inevitable accident 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.
These taxes are laid down and regulated by various EU directives and national legislation. A number of important provisions are included i.a. in:

- The Law of June 10th, 1997, bearing general regulations for excise products, the holding, the movement, and the control thereof;
- The Law of October 22nd, 1997, relating to the structure and tariffs of mineral oils;
- The Law of January 7, 1998, relating to the structure and tariffs on alcohol and alcoholic beverages (in force since February 14th, 1998);
- The Law of April 3rd, 1997, relating to the fiscal regime of manufactured tobacco;
- The Law of February 13th, 1995 relating to the excise system for non-alcoholic beverages and the Royal Decree of October, 28th, 1996, relating to excise duties on non-alcoholic beverages;
- The Law of February 13th, 1995, relating to the excise system of 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, wine, other fermented beverages than wine or 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 these excise products, the possession, circulation and control thereof (the so-called horizontal directive). On the other hand, there are directives relating to the structures and rates of excise duties which apply 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 "rates" in 7.7.

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

The levy of the tax on excise goods is regulated at EU level by Directive 92/12/EEC of February 25th, 1992, which is translated in the Belgian legislation by the Law of June 10th, 1997, *bearing general regulations for excise products, the holding, the movement, and the control thereof.*

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 Law and the decrees issued to its implementation.

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

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. Excise duty is also due where the absence or deficiency of goods on which excise duties are chargeable comes to the notice of the excise administration. 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.

Excise duty is in principle also due on excise products released for consumption in another Member State and supplied or intended for supply or for domestic retail transactions in Belgium. In order to avoid double taxation, a refund procedure has been provided for.
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.

7.4.1. 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).

7.4.2. 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 EU 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 will give the necessary guarantees for the payment of the excise duty in lieu of the consignee.
The movement of excise goods between the territories of various Member States of the EU 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 EU), this arrangement is discharged by an attestation drawn up by the customs office of departure from the EU, confirming that the products have indeed left the EU.

As regards excise goods acquired by private individuals for their own use and transported by them, 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 6.2.4.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 30th, 1999, and within certain limits (see Chapter 6, point 6.2.4.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 EU directives.
7.6. Inspection

The inspection is made in the fiscal warehouses on the basis of the various registers and declarations; it 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.

Excise goods released for consumption in Belgium and which, while being taken to another place in Belgium, cross the territory of another Member State, can only be transported under cover of a simplified transfer document. The same transfer document is needed for intra-Community transportation of goods released for consumption in another Member State and which, while being taken to another place in that Member State, cross the Belgian territory.
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) (1)

<table>
<thead>
<tr>
<th></th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lead petrol</td>
<td>11,900 BEF</td>
<td>10,360 BEF</td>
<td>22,260 BEF</td>
</tr>
<tr>
<td>Unlead petrol</td>
<td>9,900 BEF</td>
<td>10,010 BEF</td>
<td>19,910 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>10,360 BEF</td>
<td>22,260 BEF</td>
</tr>
<tr>
<td>- for industrial and commercial applications (2)</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 oil</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- used as motor fuel (3)</td>
<td>8,000 BEF</td>
<td>3,700 BEF</td>
<td>11,700 BEF</td>
</tr>
<tr>
<td>- for industrial and commercial applications (2)</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>Heavy fuel oil</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- with less than 1% sulphur (5)</td>
<td>250 BEF</td>
<td>0 BEF</td>
<td>250 BEF</td>
</tr>
<tr>
<td>- with more than 1% sulphur</td>
<td>750 BEF</td>
<td>0 BEF</td>
<td>750 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 (2)</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) Certain mineral oils are also liable to the levy on energy (see Chapter 8 hereafter) and to the inspection fee (see 7.7.6.).

(2) 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.

(3) An exemption of the special excise duty of 2,000 BEF per 1,000 litres is provided for gas oil used as motor fuel and intended for the needs of the regional public transport companies.

(4) Heating oil for domestic use is, however, liable to an inspection fee of 210 BEF per 1,000 litres at 15 degrees C (see 7.7.6.).

(5) Exempted from excise duty and special excise duty till December 31, 1999, provided it is used under customs control and exclusively for agricultural, horticultural or forestal activities, or for fresh water fish-breeding.
Mineral oils (for a definition, see art. 3, Law of October 22nd, 1997 relating to the structure and tariffs of mineral oils) for which no specific rate is mentioned in the above table, are subject to excise duty when they are intended for consumption, put up for sale or used as heating fuel or motor fuel. The applicable rate will be determined, in function of the intended use, by the equivalent heating fuel or motor fuel.

Furthermore, each product, with the exception of natural gas, will be taxed as motor fuel when it is intended for consumption, put up for sale or used either as motor fuel or as an additive or as a filler in motor fuel. Likewise, all other hydrocarbons, with the exception of coal, brown coal, peat and other similar solid hydrocarbons as well as natural gas, intended for consumption, put up for sale of used for heating purposes, are taxed according to the tariff applicable for the equivalent mineral oil.

There are exemptions (unless otherwise stipulated) for:

a. mineral oils which are used for other purposes than 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 gas oil).
d. mineral oils injected in blast furnaces in addition to coke used as the main fuel, with a view to chemical reduction.

There are also exemptions for mineral oils used under fiscal control (unless otherwise stipulated) for:

a. pilot projects for the technological development of environment-friendly products (inter alia those relating to fuels from renewable sources);
b. the construction, development, testing and maintenance of aircraft and ships;
c. inland shipping, including pleasure craft;
d. the carriage of passengers and goods by rail;
e. exclusively agricultural, horticultural and forestal activities, and fresh water fish-breeding;
f. dredging in navigable watercourses and in harbours.

For points c through f, the exemption is restricted to supplies of gas oil and kerosene.
Furthermore, under certain conditions, exemptions are granted for mineral oils released for consumption in another Member State when they are contained in standard tanks of commercial motor vehicles in view to be used as fuel thereof, or in containers for special purposes intended for the functioning, during the transport, of specific systems making part of these containers.

In order to prevent the use of exempt 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 exempt gas oil a red colorant is added.

### 7.7.2. 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></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>37 BEF</td>
<td>69 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.

**Example:**

The total excise duty on 1 litre of pilsner beer, with a density of 12.5 Plato degrees (in this case rounded to 12 degrees Plato) amounts to:

\[
12 \times 69 \text{ BEF/100} = 8.28 \text{ BEF}
\]
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>44 BEF</td>
<td>60 BEF</td>
</tr>
<tr>
<td>not exceeding 25,000 hl</td>
<td>16 BEF</td>
<td>46 BEF</td>
<td>62 BEF</td>
</tr>
<tr>
<td>not exceeding 50,000 hl</td>
<td>16 BEF</td>
<td>48 BEF</td>
<td>64 BEF</td>
</tr>
<tr>
<td>not exceeding 75,000 hl</td>
<td>18 BEF</td>
<td>48 BEF</td>
<td>66 BEF</td>
</tr>
<tr>
<td>not exceeding 200,000 hl</td>
<td>18 BEF</td>
<td>50 BEF</td>
<td>68 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>1,900 BEF</td>
<td>1,900 BEF</td>
</tr>
<tr>
<td>sparkling wines</td>
<td>0 BEF</td>
<td>6,500 BEF</td>
<td>6,500 BEF</td>
</tr>
</tbody>
</table>

(1) 0 BEF excise duty and 600 BEF special excise duty for any kind of non-sparkling or sparkling wines of an actual alcoholic strength by volume of more than 1.2% and not more than 8.5% vol.
Examples:
- the total excise duty for a 0.7 liter bottle of grapes wine of an alcoholic strength of 12\% vol is 0.7 \times 1,900 \text{ BEF/100} = 13.30 \text{ BEF}
- the total excise duty for a 0.7 liter bottle of champagne of an alcoholic strength of 11\% vol is 0.7 \times 6,500 \text{ BEF/100} = 45.50 \text{ BEF}

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 31 and 2206 00 39 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>1,900 BEF</td>
<td>1,900 BEF</td>
</tr>
<tr>
<td>sparkling beverages</td>
<td>0 BEF</td>
<td>6,500 BEF</td>
<td>6,500 BEF</td>
</tr>
</tbody>
</table>

(1) 0 BEF excise duty and 600 BEF special excise duty for any kind of other (non-sparkling or sparkling) fermented beverages of an actual alcoholic strength by volume of more than 1.2\% and not more than 8.5\% vol.

Examples
- the total excise duty for a 0.7 liter bottle of non-sparkling perry of an alcoholic strength of 9\% vol is 0.7 \times 1,900 \text{ BEF/100} = 13.30 \text{ BEF}
- the total excise duty for a 0.7 liter bottle of sparkling cider of an alcoholic strength of 9\% vol is 0.7 \times 6,500 \text{ BEF/100} = 45.50 \text{ BEF}
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>1,300 BEF</td>
<td>4,000 BEF</td>
</tr>
<tr>
<td>if alcoholic strength does not exceed 15 % by volume</td>
<td>1,900 BEF</td>
<td>1,100 BEF</td>
<td>3,000 BEF</td>
</tr>
<tr>
<td>&quot;sparkling&quot; intermediate products (I) :</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) alcoholic strength exceeding 15 % by volume</td>
<td>2,700 BEF</td>
<td>3,800 BEF</td>
<td>6,500 BEF</td>
</tr>
<tr>
<td>b) alcoholic strength not exceeding 15 % by volume</td>
<td>1,900 BEF</td>
<td>4,600 BEF</td>
<td>6,500 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.

Example:

the total excise duty for a 0.75 liter bottle of vermouth of an alcoholic strength of 17% vol = 0.75 x 4,000 BEF/100 = 30.00 BEF.

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 exceeding 1.2 % by volume. They are also taxed if they are part of another product listed in another chapter of the CN codes;

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 at a temperature of 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>58,000 BEF</td>
<td>67,000 BEF</td>
</tr>
</tbody>
</table>
Example:

The total excise duty on a 70 cl bottle of whisky of an actual alcoholic strength of 40% by volume amounts to:

\[
67,000 \text{ BEF} \times 0.4 \times 0.007 = 187.6 \text{ BEF.}
\]

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 production of vinegar (CN Code 2209, see annex to this chapter) or medicinal products, or as flavouring for the preparation of certain foodstuffs and non-alcoholic beverages (on certain conditions).

7.7.3. Manufactured tobacco

For manufactured products of 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); cigarettes are furthermore compulsorily subjected to a specific excise duty and to a specific special excise duty per piece.

<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 268 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 for which there is the greatest demand (e.g. for the pack of cigarettes for which there is the greatest demand, sold at the price of 132 BEF, the total amount of taxes is 98,159 BEF, which means that a pack of cigarettes of 25 pieces cannot be taxed less than 88,343 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 for which there is the greatest demand (e.g. for the pack of smoking tobacco of 50 g for which there is the greatest demand, sold at the price of 108 BEF, the total amount of taxes is 59,297 BEF, which means that a pack of tobacco cannot be taxed less than 50,402 BEF per 50 g. That amount applies to packs of 50 g and must be adjusted for other quantities).
For smoking tobacco assigned by tobacco planters to their own consumption, limited to 150 plants per year, the excise duty shall be computed as being 20% of the retail price of smoking tobacco in the best-selling price class category.

In certain cases (for example denaturation for use in industrial or horticultural applications, for scientific experimentations, retreatment or reprocessing by the producer), there is under certain circumstances an exemption from excise duty and special excise duty.

Example

On January 1st, 1998, a pack of 25 pieces of cigarettes for which there is the greatest demand costs 132 BEF. The VAT amounts to 21%/1.21 = 17.355 % of the retail price inclusive VAT. (VAT rates are expressed as a percentage of the price exclusive VAT). This corresponds to an amount of 22,909 BEF. The total ad valorem excise duty amounts to 50 % of the retail price, corresponding to an amount of 66,000 BEF. The total specific excise duty and specific special excise duty amount to 370 BEF per 1,000 pieces, corresponding to an amount of 370 x 25/1,000 = 9.250 BEF per 25 pieces (2.550 BEF of specific excise duty and 6.700 BEF of specific special excise duty).

7.7.4. 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 assimilated products (1)</td>
<td>200 BEF</td>
<td>-</td>
<td>200 BEF</td>
</tr>
<tr>
<td>- soft drinks or lemonade and other non-alcoholic beverages</td>
<td>300 BEF</td>
<td>-</td>
<td>300 BEF</td>
</tr>
</tbody>
</table>

(1) in particular: natural mineral water, spring water, water for consumption whether carbonated or not and any water tapped in bottles or otherwise packed in order to be sold or supplied as drinking-water.

The above-mentioned rate of 300 BEF per hectolitre for lemonade also applies to the following beverages:

1. beers such as defined sub 7.7.2.A, where the alcoholic strength by volume does not exceed 0.5% vol;

2. non-sparkling wines such as defined sub 7.7.2.B, where the alcoholic strength by volume does not exceed 1.2% vol, provided the alcohol is obtained entirely through fermentation;
3. sparkling wines such as defined sub 7.7.2.B, where the alcoholic strength by volume does not exceed 1.2% vol, and where
   - they are put up for sale in bottles having a mushroom-shaped cork confined by threads or strips, or having an excess pressure of not less than 3 bars, produced by carbon dioxide in solution;
   - the alcohol is obtained entirely through fermentation;
4. other non-sparkling fermented beverages such as defined sub 7.7.2.C, where the actual alcoholic strength by volume does not exceed 1.2% vol and where the alcohol is obtained entirely through fermentation;
5. other sparkling fermented beverages such as defined sub 7.7.2.C, where the actual alcoholic strength by volume does not exceed 1.2% vol and where
   - they are put up for sale in bottles having a mushroom-shaped cork confined by threads or strips, or having an excess pressure of not less than 3 bars, produced by carbon dioxide in solution;
   - the alcohol is obtained entirely through fermentation.

The storing in a fiscal warehouse and the dispatching to another 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 EU country or exported to third countries.

7.7.5. Coffee

Per kilogram of net weight (for coffee extracts : per kilogram of dry extract):

<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 and essences</td>
<td>28 BEF</td>
<td>-</td>
<td>28 BEF</td>
</tr>
</tbody>
</table>

The storing in a fiscal warehouse and the dispatching to another 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 EU country or exported to third countries, and also when they serve for other industrial uses than the roasting of coffee or the production of coffee extracts.
7.7.6. Inspection fee on domestic fuel oil

Article 5, 3°, of Council Directive 92/82 of October 19th, 1992 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 1st, 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 1st, 1993.

Art. 56 of the law of December 28th, 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 excise duty on 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</td>
</tr>
<tr>
<td></td>
<td>including:</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 those 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>CN-Code</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</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 nor included elsewhere.</td>
</tr>
<tr>
<td></td>
<td>including</td>
</tr>
<tr>
<td>2206 00 31 and 2206 00 39</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>
<tr>
<td>2208</td>
<td>ethyl alcohol, undenatured, of an alcoholic strength by volume of less than 80%; distilled beverages, liqueurs and other beverages containing distilled alcohol</td>
</tr>
<tr>
<td>2209</td>
<td>vinegar, natural or obtained from acetic acid</td>
</tr>
</tbody>
</table>
CHAPTER EIGHT
THE LEVY ON ENERGY

The levy on energy is laid down and regulated by the Act of July 22nd, 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 electric energy, irrespective of their origin (Art. 1).

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):

8.2.1. 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.
8.2.2. 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>- tariffs for domestic and thereto assimilated use</td>
<td>1 megajoule</td>
<td>0.01367 BEF</td>
</tr>
<tr>
<td>- tariffs for non-domestic uses ND1 and ND2 and</td>
<td>1 megajoule</td>
<td>0.01367 BEF</td>
</tr>
<tr>
<td>tariffs for Associated Authorities (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- tariffs for non-domestic use ND3 (1)</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 recommended by the Committee for the Supervision of Electricity and Gas.

(2) at 15 °C.

8.2.3. 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: for motor fuels and fuels for heating purposes, except natural gas, coal and the "other" (see above 8.2.2.) fuels for heating purposes;

- as a rule, upon the delivery to the user (sometimes when accounts are rendered or upon payment): for the other products subject to the levy, on account of the distributor or retailer.

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


9.1. Generalities

Ecotaxes are assimilated to excise duties and are levied on certain products upon their release for consumption because these products are considered environmentally hazardous.

"Release for consumption" shall be construed as : supply to retailers of products subject to ecotaxes by companies liable to registration according to stipulations laid down by the Minister of Finance, except where the manufacturer, the importer, the intra-Community acquirer or his fiscal representative have already satisfied, at a previous level of the distribution chain, the liabilities laid down on those companies.

Is considered a "retailer", any natural or legal person who supplies products liable to ecotaxes to natural or legal persons who consume them, whether it be a final or an intermediate consumption.

The groups of products which are, as a rule, liable to ecotaxes are (100) : drink containers (including those containing liquid milk, but excluding those containing dairy products); disposable cameras; batteries; packagings of a certain number of inks, glues, solvents and pesticides for professional use (industrial products); some pesticides and a certain number of products made of paper and/or cardboard.

9.2. Rates and exemptions

9.2.1. Drink containers

Rate: As a rule, all drink containers are liable to an ecotax of 15 BEF per container, regardless of their contents, their capacity and the material they are made of.

Exemptions:

1° containers which are mainly made of wood, earthenware, chinaware or flint glass are exempt from the ecotax;

2° re-usable containers are exempt where evidence is provided as to the fulfilment of the following conditions:
   - they must be re-usable;
   - they must be collected by means of a deposit refund system (minimum of 7 BEF for containers of 50 centilitres and more, 3.5 BEF for containers up to 50 centilitres);
   - they must actually be re-used;
   - they must bear a distinguishing mark indicating that they are returnable and refillable.

3° re-cyclable containers will be exempt during a transitional period running till the year 2,000, provided the following re-cycling rates are met:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Glas</td>
<td>55</td>
<td>62</td>
<td>67</td>
<td>73</td>
<td>80</td>
</tr>
<tr>
<td>Metals</td>
<td>40</td>
<td>47.5</td>
<td>58</td>
<td>64</td>
<td>80</td>
</tr>
<tr>
<td>Synthetic materials</td>
<td>20</td>
<td>30</td>
<td>43</td>
<td>56</td>
<td>70</td>
</tr>
<tr>
<td>Drink containers</td>
<td>20</td>
<td>30</td>
<td>43</td>
<td>56</td>
<td>70</td>
</tr>
</tbody>
</table>
9.2.2. Disposable cameras

Rate: 300 BEF apiece

Exemption: on the condition that 80% of the weight of the cameras collected through photographic labs is re-used or re-cycled.

9.2.3. Batteries

Rate: unless they are used in appliances mentioned in annex 1 to this chapter, batteries are liable to an ecotax of 20 BEF apiece.

Exemptions: - where the batteries are subject to a deposit-refund system of at least 10 BEF apiece and a written proof is delivered to the purchaser that the batteries were supplied in Belgium;

- or where an organised collection and recycling system is set up allowing the collection of the following quantities (proportionally to the total weight of the batteries put on the Belgian market in that year):

  1996: 40%
  1997: 50%
  1998: 60%
  1999: 67.5%
  2000: 75%

and provided the collected batteries are processed in a way that is both ecologically justified and economically feasible.

These exemptions do not apply to batteries containing mercury oxide.
9.2.4. Packagings of certain types of ink and glue, solvents and pesticides for professional use.

These packagings are taxable where:

- the products they contain are listed in annex 2 to this chapter;
- AND their capacity exceeds:

  - for industrial solvents: 5 litres
  - for industrial glues: 10 litres
  - for industrial inks: 2.5 litres
  - for Class B pesticides for non-agricultural use and Class C pesticides:
    - 0.5 litre, when concentrated
    - 5 litres, when dilute (101)

Rates: for the packagings of the products concerned:

- solvents: 5 BEF for every commenced quantity of 5 litres;
- glues: 25 BEF for every commenced quantity of 10 litres;
- inks: 25 BEF for every commenced quantity of 2.5 litres;
- pesticides: 25 BEF for every commenced quantity of 5 litres.

The tax will by all means be limited to 500 BEF per package.

Exemptions: where the containers are collected through a product-linked deposit-refund system, return premium system, packaging-credit system or collection system, provided specific collection rates are obtained per group of products within determined time periods.

101 Class A: very toxic, toxic and corrosive products
Class B: noxious, sensitizing and irritating products
Class C: products not belonging to Class A or B, as well as corrosive, noxious, sensitizing or irritating products which, although they meet the criteria to be classified under A or B, would be allowed for non-professional use by virtue of existing regulations with respect to the marketing, the selling and the use of these products.
9.2.5. Pesticides

Rate: as from July 1st, 1996, atrazine, diuron, isoproturon, pentachlorophenol and simazine are subject to an ecotax of 10 BEF per gram when used as active matter in a pesticide.

Exemptions:

1°) pesticides allowed exclusively for applications for which there is no allowed or approved alternative that is not liable to ecotax and the cost of which is bearable from a social and economic point of view;
2°) pesticides for agricultural use where they are sold to agricultural and horticultural firms, to recognised users (except to marked-gardeners), to stockbreeders and to companies involved in seeds disinfecting;
3°) pesticides for non-agricultural use, where they are allowed and used as disinfectants;
4°) pesticides for non-agricultural use, where they are allowed and used to fight true dry rot;
5°) the active matters enumerated in a list established annually, on the proposal of the Follow-up Commission, by Royal Decree approved by the Council of Ministers and passed by Parliament.

9.2.6. Paper

Rate: as a rule, the ecotax on a certain number of products made of paper and/or cardboard amounts to 10 BEF per kilo. This rate is lowered to 5 BEF per kilo when the basic paste used for the production of the paper or cardboard has not been chlorine bleached.

Exemptions (102): Complete exemption is granted till December 31st, 1997. After that date, exemption can still be obtained, under certain circumstances, provided a big enough part of the taxable paper and/or cardboard products released for consumption are collected and re-cycled.

102 The ecotax on paper does not apply to books, sanitary paper, household paper and packagings made of paper and/or cardboard
The collection rates and re-cycling rates to be met in the 1997-2000 period were initially laid down in the royal decree of November 10th, 1997 with regard to paper and cardboard products released for consumption and liable to ecotax (B.O.J. of November 22nd, 1997). This royal decree had not yet been confirmed by a law on December 31st, 1997. At the time the present Tax Survey was going to press, this matter was still the object of preparatory discussions to a government bill.

9.3. Taxation of existing stocks

As regards products liable to ecotax which retailers still have in stock at the time the ecotax on those products is brought into force, the tax shall be due, in as far as the products have not been sold, at the end of a period taking into account the normal stock turnover, increased by a safety margin.
After the date limits indicated in the table hereafter, the different groups of products facing the dates in the opposite column shall in no circumstances be found in the retailer's sales space or store rooms, unless the retailer can provide evidence that the ecotax was paid in respect of those goods.

<table>
<thead>
<tr>
<th>Date limit for retail sale without ecotax in respect of products liable to ecotax but acquired before the ecotax was brought into force</th>
<th>groups of products</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1st, 1996</td>
<td>disposable cameras; batteries</td>
</tr>
<tr>
<td>October 1st, 1996</td>
<td>drink containers; packagings of certain industrial products, pesticides</td>
</tr>
</tbody>
</table>
ANNEX 1 TO CHAPTER 9

List of the categories of appliances which do use batteries but to which ecotaxes do not apply.

1. Appliances the batteries of which are soldered or fastened by other means to contact points with a view to permanent current lead for intensive industrial use and/or for the permanent storage of memory and data in computer and office automation devices, provided the use of the batteries and/or accumulators is vital from a technical point of view.

2. Reference cells in scientific and professional devices as well as batteries and accumulators installed in medical devices aimed at maintaining vital functions and in pacemakers when their functioning has to be continuous and when the batteries and accumulators can only be removed by qualified personnel.

3. Portable devices, where the replacement of the batteries by unqualified persons might be hazardous for the user or might endanger the functioning of the device. Professional devices intended for use in a critical environment, as would be for instance the presence of volatile substances.

4. Devices the batteries or accumulators of which are not intended to be easily removed by their user, as it is the case for the engines of motor vehicles and of certain industrial machines.
ANNEX 2 TO CHAPTER 9

List of industrial products the packaging of which is liable to ecotax

The products referred to in 9.4 are:

- printing inks referred to by NACE-Rev 1 Code 24.30;
- glues referred to by NACE-Rev 1 Code 24.62;
- pesticides for agricultural use and for non-agricultural use as construed in the Law of July 11th, 1969;
- the solvents enumerated hereafter.

a. Acyclic hydrocarbons
   - n-pentane
   - n-hexane
   - petroleum ether
   - solvent naphta
   - white spirit

b. Cyclic hydrocarbons
   - cyclohexane
   - benzene
   - toluene
   - xylenes
   - ethylbenzene
c. Acyclic alcohols
- methanol (methyl alcohol)
- denatured ethyl alcohol
- propane-1-ol (propyl alcohol)
- propane-2-ol (isopropyl alcohol)
- butane-1-ol
- 2 methyl 1 propanol (isobutyl alcohol)

d. Acyclic ethers
- diethyl ether

e. Acyclic ketones
- acetone
- butanone (methyl ethyl ketone)
- 4-methyl pentane-2-on (methyl isobutyl ketone)

f. Esters
- methyl acetate
- ethyl acetate
- isopropyl acetate
- n-butyl acetate

g. Chlorinated hydrocarbons
- chloromethane
- chloroethane
- dichloromethane
- chloroform
- carbon tetrachloride
- 1,2-dichloroethane
- 1,2-dichloropropane & -butane
- 1,1,1-trichloroethane
- hexachloroethane
- trichloroethylene
- tetrachloroethylene (perchloroethylene)

h. Chlorinated aromatic hydrocarbons
- dichlorobenzenes.
CHAPTER TEN
TAXES ON DRINKING ESTABLISHMENTS

These taxes are laid down and governed by the Statutory Order of November 14th, 1939, the Royal Decrees of April 3rd, 1953, and April 4th, 1953, the Act of July 6th, 1967, the Act of December 28th, 1983, the Royal Decree of December 29th, 1983, and the Ministerial Decree of December 29th, 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 or of the conurbation (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 running 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 (there is a minimum amount to be paid);
- for small retail outlets dealing in spirits: annual tax of 1/5 of the annual rentable value (there is a minimum amount); for itinerant drinking establishments: 300 BEF; for occasional establishments: 15 BEF per running day.

10.2. Licence tax on establishments for the sale of spirits

This tax also varies according to the annual effective rentable value or assumed rentable value, i.e. 10% of the same.

For itinerant drinking establishments, the base is increased to 12,000 BEF per civil year and, for occasional drinking establishments, the tax amounts to 500 BEF per running day.
CHAPTER ELEVEN
TAXES ASSIMILATED TO INCOME TAXES

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

11.1.1. 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).

11.1.2. Exemptions

The exempt 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.
11.1.3. 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 are liable to road tax, 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 (art. 7 and 8 of CTA).

<table>
<thead>
<tr>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>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:</td>
</tr>
<tr>
<td>$\text{HP} = 4 \times \text{cylinder capacity} + \text{Weight (in 100 kg)} \frac{}{4}$</td>
</tr>
<tr>
<td>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:</td>
</tr>
<tr>
<td>$4 \times 1.6 + 2.25 = 8.65$, rounded up to 9 HP.</td>
</tr>
</tbody>
</table>

11.1.4. Indexation of the rates

A number of rates are adjusted on July 1 of each year to the fluctuations of the general consumer price index (Art. 11 of CTA). 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.
11.1.5. **Rates**

Art. 9 and 10 of CTA provide for road tax tariffs.

Where the rates are indexed, the amounts mentioned hereafter, irrespective of any changes in the law which may occur meanwhile, are applicable from July 1st, 1997 till June 30th, 1998.

A. **MOTOR CARS, TWIN-PURPOSE VEHICLES AND MINIBUSES**

<table>
<thead>
<tr>
<th>HP</th>
<th>TAX (in BEF - without surcharges, see 11.1.8)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 or less</td>
<td>2,028</td>
</tr>
<tr>
<td>5</td>
<td>2,532</td>
</tr>
<tr>
<td>6</td>
<td>3,660</td>
</tr>
<tr>
<td>7</td>
<td>4,788</td>
</tr>
<tr>
<td>8</td>
<td>5,916</td>
</tr>
<tr>
<td>9</td>
<td>7,044</td>
</tr>
<tr>
<td>10</td>
<td>8,160</td>
</tr>
<tr>
<td>11</td>
<td>10,596</td>
</tr>
<tr>
<td>12</td>
<td>13,020</td>
</tr>
<tr>
<td>13</td>
<td>15,444</td>
</tr>
<tr>
<td>14</td>
<td>17,868</td>
</tr>
<tr>
<td>15</td>
<td>20,304</td>
</tr>
<tr>
<td>16</td>
<td>26,592</td>
</tr>
<tr>
<td>17</td>
<td>32,880</td>
</tr>
<tr>
<td>18</td>
<td>39,168</td>
</tr>
<tr>
<td>19</td>
<td>45,456</td>
</tr>
<tr>
<td>20</td>
<td>51,744</td>
</tr>
<tr>
<td>For each additional HP above 20 HP</td>
<td>2,820</td>
</tr>
</tbody>
</table>

B. **TRUCKS, LIGHT TRUCKS, TRACTORS, TRAILERS AND SEMI-TRAILERS**

- if \(\leq 1,000\) 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 1,428 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 2,030 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 919 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 919 BEF.

11.1.6. Tax abatements

In certain cases (Art. 14-20 of CTA) and where certain well defined conditions are met, the following abatements can be granted:

- abatement for old vehicles;
- abatement for exclusive use within the confines of a port;
- abatement for car fleets;
- abatement for restricted use.

These abatements usually apply only for certain company cars. They never apply for motor cycles, motor cars and twin-purpose cars which are more than 25 years of age, camping trailers and trailers for the transportation of one boat.
11.1.7. **Additional road tax**

Art. 12 and 13 of the CTA provide for the additional road tax (ART).

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: \[3,600 \text{ BEF}\]
- from 8 to 13 HP: \[6,000 \text{ BEF}\]
- more than 13 HP: \[8,400 \text{ BEF}\]

Where the vehicle is exempt from road tax, it is also exempt from the additional road tax, except in certain cases (i.a. ambulances, cars used for private purpose by badly disabled war veterans or by handicapped persons, vehicles used exclusively as taxis,...). The yearly indexation (see 11.1.4) does not apply to the ART and no municipal surcharge is levied (see 11.1.8).

11.1.8. **Surcharge in favour of the municipalities**

This surcharge applies to all vehicles liable to the road tax (art. 42 of CTA), except:

- to vehicles which transport goods by road and for a consideration, and for which a general license for national transportation was issued;
- to vehicles which exclusively transport people for a consideration by virtue of a license to supply not regularly scheduled transportation;
- to vehicles for which an abatement of the road tax was granted for exclusive use within the confines of a port;
- to vehicles liable to the daily tax (vehicles used in Belgium with a foreign number plate).

After addition of the surcharge, the road tax for the vehicle described in the example in 11.1.3 amounts to:

\[7,044 \times 1.1 = 7,748 \text{ BEF}\]
Where necessary, the additional road tax (see 11.1.7) or the excise compensating tax (see 11.2) must be added.

11.1.9. **Summary table of the taxes on motor cars, twin-purpose cars and minibuses**

The table hereafter summarizes the final tax (road tax + additional road tax or excise compensating tax - see 11.2) on motor cars, twin-purpose cars and minibuses with petrol engine, diesel engine or LPG-equipment and with a cylinder capacity of up to 6 liters. Municipal surcharge is deemed to apply here.

Save changes of legal provisions having occurred in the meantime, the following tariffs are applicable from July 1st, 1997 till June 30th, 1998.

<table>
<thead>
<tr>
<th>Cylinder capacity in liters</th>
<th>HP</th>
<th>Total Petrol</th>
<th>Total diesel &lt; 5 years</th>
<th>Total diesel ≥ 5 years</th>
<th>Total LPG</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.7 and less</td>
<td>4</td>
<td>2,231</td>
<td>3,209</td>
<td>3,209</td>
<td>5,831</td>
</tr>
<tr>
<td>0.8 - 0.9</td>
<td>5</td>
<td>2,785</td>
<td>4,009</td>
<td>4,009</td>
<td>6,385</td>
</tr>
<tr>
<td>1.0 - 1.1</td>
<td>6</td>
<td>4,026</td>
<td>5,796</td>
<td>5,796</td>
<td>7,626</td>
</tr>
<tr>
<td>1.2 - 1.3</td>
<td>7</td>
<td>5,267</td>
<td>7,577</td>
<td>7,577</td>
<td>8,867</td>
</tr>
<tr>
<td>1.4 - 1.5</td>
<td>8</td>
<td>6,508</td>
<td>9,364</td>
<td>9,364</td>
<td>12,508</td>
</tr>
<tr>
<td>1.6 - 1.7</td>
<td>9</td>
<td>7,748</td>
<td>11,150</td>
<td>11,150</td>
<td>13,748</td>
</tr>
<tr>
<td>1.8 - 1.9</td>
<td>10</td>
<td>8,976</td>
<td>12,918</td>
<td>12,918</td>
<td>14,976</td>
</tr>
<tr>
<td>2.0 - 2.1</td>
<td>11</td>
<td>11,656</td>
<td>16,774</td>
<td>16,774</td>
<td>17,656</td>
</tr>
<tr>
<td>2.2 - 2.3</td>
<td>12</td>
<td>14,322</td>
<td>20,810</td>
<td>20,810</td>
<td>20,322</td>
</tr>
<tr>
<td>2.4 - 2.5</td>
<td>13</td>
<td>16,988</td>
<td>28,172</td>
<td>28,172</td>
<td>22,988</td>
</tr>
<tr>
<td>2.6 - 2.7</td>
<td>14</td>
<td>19,655</td>
<td>36,923</td>
<td>32,606</td>
<td>28,055</td>
</tr>
<tr>
<td>2.8 - 3.0</td>
<td>15</td>
<td>22,334</td>
<td>41,942</td>
<td>37,040</td>
<td>30,734</td>
</tr>
<tr>
<td>3.1 - 3.2</td>
<td>16</td>
<td>29,251</td>
<td>54,943</td>
<td>48,520</td>
<td>37,651</td>
</tr>
<tr>
<td>3.3 - 3.4</td>
<td>17</td>
<td>36,168</td>
<td>67,932</td>
<td>59,991</td>
<td>44,568</td>
</tr>
<tr>
<td>3.5 - 3.6</td>
<td>18</td>
<td>43,085</td>
<td>80,921</td>
<td>71,462</td>
<td>51,485</td>
</tr>
<tr>
<td>3.7 - 3.9</td>
<td>19</td>
<td>50,002</td>
<td>93,910</td>
<td>82,933</td>
<td>58,402</td>
</tr>
<tr>
<td>4.0 - 4.1</td>
<td>20</td>
<td>56,918</td>
<td>106,910</td>
<td>94,412</td>
<td>65,318</td>
</tr>
<tr>
<td>4.2 - 4.3</td>
<td>21</td>
<td>60,020</td>
<td>112,736</td>
<td>99,557</td>
<td>68,420</td>
</tr>
<tr>
<td>4.4 - 4.6</td>
<td>22</td>
<td>63,122</td>
<td>118,562</td>
<td>104,702</td>
<td>71,522</td>
</tr>
<tr>
<td>4.7 - 4.8</td>
<td>23</td>
<td>66,224</td>
<td>124,388</td>
<td>109,847</td>
<td>74,624</td>
</tr>
<tr>
<td>4.9 - 5.0</td>
<td>24</td>
<td>69,326</td>
<td>130,214</td>
<td>114,992</td>
<td>77,726</td>
</tr>
<tr>
<td>5.1 - 5.2</td>
<td>25</td>
<td>72,428</td>
<td>136,040</td>
<td>120,137</td>
<td>80,828</td>
</tr>
<tr>
<td>5.3 - 5.5</td>
<td>26</td>
<td>75,530</td>
<td>141,866</td>
<td>125,282</td>
<td>83,930</td>
</tr>
<tr>
<td>5.6 - 5.7</td>
<td>27</td>
<td>78,632</td>
<td>147,692</td>
<td>130,427</td>
<td>87,032</td>
</tr>
<tr>
<td>5.8 - 5.9</td>
<td>28</td>
<td>81,734</td>
<td>153,518</td>
<td>135,572</td>
<td>90,134</td>
</tr>
<tr>
<td>6.0 - 6.1</td>
<td>29</td>
<td>84,836</td>
<td>159,344</td>
<td>140,717</td>
<td>93,236</td>
</tr>
</tbody>
</table>

(1) See below, section 11.2: Excise compensating tax.
11.2. Excise compensating tax (E.C.T.)

This tax is levied on motor cars, twin-purpose cars and mini-buses with gasoline engine (diesel engine).

It is computed as a function of its fiscal engine rating in HP (see 11.1.3) and the tariffs are as follows:

<table>
<thead>
<tr>
<th>HP</th>
<th>Amount in BEF</th>
<th>HP</th>
<th>Amount in BEF</th>
<th>HP</th>
<th>Amount in BEF</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>1,224</td>
<td>11</td>
<td>5,118</td>
<td>17</td>
<td>31,764</td>
</tr>
<tr>
<td>6</td>
<td>1,770</td>
<td>12</td>
<td>6,288</td>
<td>18</td>
<td>37,836</td>
</tr>
<tr>
<td>7</td>
<td>2,310</td>
<td>13</td>
<td>11,184</td>
<td>19</td>
<td>43,908</td>
</tr>
<tr>
<td>8</td>
<td>2,856</td>
<td>14</td>
<td>17,268</td>
<td>20</td>
<td>49,992</td>
</tr>
<tr>
<td>9</td>
<td>3,402</td>
<td>15</td>
<td>19,608</td>
<td></td>
<td>51,396</td>
</tr>
</tbody>
</table>

Where the vehicle is exempt from road tax, it is also exempt from excise compensating tax, except for certain cases (i.a. taxis: see art. 111 of CTA). Ambulances and vehicles used for personal purposes by badly disabled war veterans or by other handicapped persons are exempt from the excise compensating tax (Art. 110 of CTA). An exemption is also granted for motor cars and twin-purpose cars which are more than 25 years of age and for collector's military vehicles which are more than 30 years of age; the latter two categories are liable to a fixed-rate tax (see 11.1.5.E) (Art. 110 CTA).

The excise compensating tax is reduced by 25% for vehicles that entered into service at least 5 years before the tax is due and of which the fiscal engine rating exceeds 13 HP (Art. 109bis CTA). For these vehicles, the rates are as follows:

<table>
<thead>
<tr>
<th>HP</th>
<th>Amount in BEF</th>
<th>HP</th>
<th>Amount in BEF</th>
<th>HP</th>
<th>Amount in BEF</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>1,224</td>
<td>11</td>
<td>5,118</td>
<td>17</td>
<td>23,823</td>
</tr>
<tr>
<td>6</td>
<td>1,770</td>
<td>12</td>
<td>6,288</td>
<td>18</td>
<td>28,377</td>
</tr>
<tr>
<td>7</td>
<td>2,310</td>
<td>13</td>
<td>11,184</td>
<td>19</td>
<td>32,931</td>
</tr>
<tr>
<td>8</td>
<td>2,856</td>
<td>14</td>
<td>12,951</td>
<td>20</td>
<td>37,494</td>
</tr>
<tr>
<td>9</td>
<td>3,402</td>
<td>15</td>
<td>14,706</td>
<td></td>
<td>51,396</td>
</tr>
</tbody>
</table>
Where necessary, the additional road tax (see 11.1.7) or the excise compensating tax (see 11.2) must be added.

**11.1.9. Summary table of the taxes on motor cars, twin-purpose cars and minibuses**

The table hereafter summarizes the final tax (road tax + additional road tax or excise compensating tax - see 11.2) on motor cars, twin-purpose cars and minibuses with petrol engine, diesel engine or LPG-equipment and with a cylinder capacity of up to 6 liters. Municipal surcharge is deemed to apply here.

Save changes of legal provisions having occurred in the meantime, the following tariffs are applicable from July 1st, 1997 till June 30th, 1998.

<table>
<thead>
<tr>
<th>Cylinder capacity in liters</th>
<th>HP</th>
<th>Petrol</th>
<th>Total &lt; 5 years</th>
<th>Total ≥ 5 years</th>
<th>LPG</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.7 and less</td>
<td>4</td>
<td>2,231</td>
<td>3,209</td>
<td>3,209</td>
<td>5,831</td>
</tr>
<tr>
<td>0.8 - 0.9</td>
<td>5</td>
<td>2,785</td>
<td>4,009</td>
<td>4,009</td>
<td>6,385</td>
</tr>
<tr>
<td>1.0 - 1.1</td>
<td>6</td>
<td>4,026</td>
<td>5,796</td>
<td>5,796</td>
<td>7,626</td>
</tr>
<tr>
<td>1.2 - 1.3</td>
<td>7</td>
<td>5,267</td>
<td>7,577</td>
<td>7,577</td>
<td>8,867</td>
</tr>
<tr>
<td>1.4 - 1.5</td>
<td>8</td>
<td>6,508</td>
<td>9,364</td>
<td>9,364</td>
<td>12,508</td>
</tr>
<tr>
<td>1.6 - 1.7</td>
<td>9</td>
<td>7,748</td>
<td>11,150</td>
<td>11,150</td>
<td>13,748</td>
</tr>
<tr>
<td>1.8 - 1.9</td>
<td>10</td>
<td>8,976</td>
<td>12,918</td>
<td>12,918</td>
<td>14,976</td>
</tr>
<tr>
<td>2.0 - 2.1</td>
<td>11</td>
<td>11,656</td>
<td>16,774</td>
<td>16,774</td>
<td>17,656</td>
</tr>
<tr>
<td>2.2 - 2.3</td>
<td>12</td>
<td>14,322</td>
<td>20,610</td>
<td>20,610</td>
<td>20,322</td>
</tr>
<tr>
<td>2.4 - 2.5</td>
<td>13</td>
<td>16,988</td>
<td>28,172</td>
<td>28,172</td>
<td>22,988</td>
</tr>
<tr>
<td>2.6 - 2.7</td>
<td>14</td>
<td>19,655</td>
<td>36,923</td>
<td>36,923</td>
<td>28,055</td>
</tr>
<tr>
<td>2.8 - 3.0</td>
<td>15</td>
<td>22,334</td>
<td>41,942</td>
<td>41,942</td>
<td>30,734</td>
</tr>
<tr>
<td>3.1 - 3.2</td>
<td>16</td>
<td>29,251</td>
<td>54,943</td>
<td>54,943</td>
<td>37,651</td>
</tr>
<tr>
<td>3.3 - 3.4</td>
<td>17</td>
<td>36,168</td>
<td>67,932</td>
<td>67,932</td>
<td>44,568</td>
</tr>
<tr>
<td>3.5 - 3.6</td>
<td>18</td>
<td>43,085</td>
<td>80,921</td>
<td>80,921</td>
<td>51,485</td>
</tr>
<tr>
<td>3.7 - 3.9</td>
<td>19</td>
<td>50,002</td>
<td>93,910</td>
<td>93,910</td>
<td>58,402</td>
</tr>
<tr>
<td>4.0 - 4.1</td>
<td>20</td>
<td>56,918</td>
<td>106,910</td>
<td>106,910</td>
<td>65,318</td>
</tr>
<tr>
<td>4.2 - 4.3</td>
<td>21</td>
<td>60,020</td>
<td>112,736</td>
<td>112,736</td>
<td>68,420</td>
</tr>
<tr>
<td>4.4 - 4.6</td>
<td>22</td>
<td>63,122</td>
<td>118,562</td>
<td>118,562</td>
<td>71,522</td>
</tr>
<tr>
<td>4.7 - 4.8</td>
<td>23</td>
<td>66,224</td>
<td>124,388</td>
<td>124,388</td>
<td>74,624</td>
</tr>
<tr>
<td>4.9 - 5.0</td>
<td>24</td>
<td>69,326</td>
<td>130,214</td>
<td>130,214</td>
<td>77,726</td>
</tr>
<tr>
<td>5.1 - 5.2</td>
<td>25</td>
<td>72,428</td>
<td>136,040</td>
<td>136,040</td>
<td>80,828</td>
</tr>
<tr>
<td>5.3 - 5.5</td>
<td>26</td>
<td>75,530</td>
<td>141,866</td>
<td>141,866</td>
<td>83,930</td>
</tr>
<tr>
<td>5.6 - 5.7</td>
<td>27</td>
<td>78,632</td>
<td>147,692</td>
<td>147,692</td>
<td>87,032</td>
</tr>
<tr>
<td>5.8 - 5.9</td>
<td>28</td>
<td>81,734</td>
<td>153,518</td>
<td>153,518</td>
<td>90,134</td>
</tr>
<tr>
<td>6.0 - 6.1</td>
<td>29</td>
<td>84,836</td>
<td>159,344</td>
<td>159,344</td>
<td>93,236</td>
</tr>
</tbody>
</table>

(1) See below, section 11.2: Excise compensating tax.
The excise compensating tax is not linked to the yearly indexation (see 11.1.4). Moreover, no municipal surcharge (see 11.1.8) is levied (Art. 111 CTA).

11.3. The Eurosticker (Eurovignette/Eurovignet)

This Eurosticker is laid down by the Law of December 27, 1994, approving the Treaty concerning the levy of duties for the use of certain roads by heavy lorries, signed at Brussels on February 9, 1994, by the Governments of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, and introducing a "Eurovignette" pursuant to Council Directive 93/89/EEC of the European Community of October 25, 1993, and by the decrees issued for its implementation.

11.3.1. Definition

The Eurosticker is a tax assimilated to income taxes which is levied as a duty for the use of the road network (Art. 2 of the Law of December 27th, 1994, approving the Treaty establishing the levy of duties on heavy lorries for the use of certain roads).

11.3.2. Vehicles subject to the tax

The Eurosticker is levied on the motor vehicles and the combinations of vehicles which are exclusively destined for the transport of goods by road and whose maximum authorized mass is 12 tons at least (Art. 3).

The Eurosticker is due (Art. 4):

- for vehicles which are or must be registered in Belgium: as from the first day of the month of their registration in the directory of the Office of Traffic (DIV);
- for other vehicles subjected to the tax: as soon as they are travelling on the road system specified by the King (see Royal Decree of September 8th, 1997 specifying the road system where the Eurosticker is applicable).
11.3.3. **Exempt vehicles**

The following are exempted (Art.5):

- vehicles which are destined exclusively for purposes of national defence, civilian protection, intervention in disasters, fire service and other aid services, services for the maintenance of law and order for road maintenance and management;
- motor vehicles registered in Belgium, which travel only now and then on the public highway in Belgium and are used by natural or legal persons whose main activity is not the transport of goods, provided the transport made with these vehicles be restricted to the Belgian territory.

11.3.4. **Rates**

The rates of the Eurosticker are expressed in ECU (Art. 7). They are converted into Belgian francs, in the manner prescribed by law, by the Minister who is competent in the matter of Finance (Art.15). The rates in Belgian francs are as follows:

<table>
<thead>
<tr>
<th>Country of registration</th>
<th>Annually</th>
<th>Quarterly</th>
<th>Monthly</th>
<th>Weekly</th>
<th>Daily</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;= 3 &gt; 3 axles</td>
<td>50,714</td>
<td>8,887</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Belgium</td>
<td>30,428</td>
<td>8,887</td>
<td>14,812</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1. All other countries</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Vehicles covered by</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a Belgian trader's</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>number plate</td>
<td>30,428</td>
<td>50,714</td>
<td>2,962</td>
<td>4,937</td>
<td>790</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1,303</td>
<td></td>
<td>237</td>
</tr>
</tbody>
</table>

For vehicles registered in Belgium, the Eurosticker is payable for the full yearly amount per successive twelve-months period at the annual rate (see table). Upon written and duly motivated request, the tax will be due per successive three-months periods, at the quarterly rate (see table). In both cases the first period is deemed to start:

- either on January 1st, 1998, where the vehicle was or was to be registered before that date;
- or on the first day of the month in which the car is or is to be registered, in the other cases.
11.4. The tax on the entry into service

11.4.1. 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 (DIY), 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.

11.4.2. 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.

11.4.3. 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.
11.4.4. 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 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>6 up to &lt; 7 years</th>
<th>7 up to &lt; 8 years</th>
<th>8 up to &lt; 9 years</th>
<th>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>4,500</td>
<td>4,000</td>
<td>3,500</td>
<td>3,000</td>
<td>2,000</td>
</tr>
<tr>
<td>2.0 - 2.1</td>
<td>11</td>
<td>86 to 100</td>
<td>30,000</td>
<td>25,000</td>
<td>20,000</td>
<td>15,000</td>
<td>10,000</td>
<td>5,000</td>
</tr>
<tr>
<td>2.2 - 2.7</td>
<td>12 to 14</td>
<td>101 to 110</td>
<td>35,000</td>
<td>31,500</td>
<td>28,000</td>
<td>24,500</td>
<td>21,000</td>
<td>20,000</td>
</tr>
<tr>
<td>2.8 - 3.0</td>
<td>15</td>
<td>111 to 120</td>
<td>50,000</td>
<td>45,000</td>
<td>40,000</td>
<td>35,000</td>
<td>30,000</td>
<td>30,000</td>
</tr>
<tr>
<td>3.1 - 3.4</td>
<td>16 and 17</td>
<td>121 to 155</td>
<td>100,000</td>
<td>90,000</td>
<td>80,000</td>
<td>70,000</td>
<td>60,000</td>
<td>60,000</td>
</tr>
<tr>
<td>3.5 and +</td>
<td>18 and +</td>
<td>156 and +</td>
<td>200,000</td>
<td>180,000</td>
<td>160,000</td>
<td>140,000</td>
<td>120,000</td>
<td></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 15 months after the first registration (i.e. between 1 year and less than two years) the tax amounts 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 the same scheme as for road vehicles (see A above).
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).

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).

11.5. Betting and gambling tax (BGT)

The tax on betting and gambling is levied on the gross amount of the sums involved.

The general rate is 15% in the Flemish region and in the region of Brussels-Capital, and 11% in the Walloon region. There are some special cases though (horse-racing, casino gambling, pigeons) and there are exemptions (exempt lotteries such as "lotto", "presto", "subito", etc.).

11.6. Amusement machine licence duty

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, irrespective of the fact that the entry to these circles is subjected to certain formalities or not.

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</th>
<th>Region of Brussels Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>144,000 BEF</td>
<td>55,000 BEF</td>
<td>72,000 BEF</td>
</tr>
<tr>
<td>B</td>
<td>52,000 BEF</td>
<td>36,000 BEF</td>
<td>52,000 BEF</td>
</tr>
<tr>
<td>C</td>
<td>14,000 BEF</td>
<td>9,000 BEF</td>
<td>14,000 BEF</td>
</tr>
<tr>
<td>D</td>
<td>10,000 BEF</td>
<td>6,000 BEF</td>
<td>10,000 BEF</td>
</tr>
<tr>
<td>E</td>
<td>6,000 BEF</td>
<td>4,000 BEF</td>
<td>6,000 BEF</td>
</tr>
</tbody>
</table>
PART 3

SPECIAL TAX REGIMES

TAX MEASURES IN FAVOUR OF INVESTMENT AND EMPLOYMENT

CHAPTER ONE SPECIAL TAX REGIMES 199
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CHAPTER ONE
SPECIAL TAX REGIMES

1.1. Co-ordination centres (103)

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 whose consolidated annual turnover reaches 10 billion francs;
- their exclusive purpose must be the development and centralization of one or more coordination activities performed for the sale benefit 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;
- cost-plus regime: 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.

103. 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 notional withholding tax on income from movable property was modified by the laws of February 22nd 1990 and of December 28th 1990.
The provider of capital can profit from a notional withholding tax on income from movable property (N.T.Mov.) if the following conditions are met:

- the financing is the result of an agreement concluded before July 24th 1991: the notional 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.

The notional withholding tax on income from movable property is awarded at a rate of 10/90 (104):

- 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 notional withholding tax on income from movable property of 25/75.

This notional withholding tax is added to the taxable amount of corporate income tax, as N.A.E.; it can be set off against the corporate income tax and can be 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. Distribution centres

Distribution centres are legal entities which form part of a (usually multinational) group of companies and whose aim is to centralize all the distributional activities of the members of the group wherever the customers' demand be located. They enjoy a special tax regime enacted in administrative regulations (105). The basic principle behind this special tax regime is that the members of the group are allowed to carry out activities for the benefit of the companies of the group at very low prices, without the tax administration taking action against the low profit margin.

104. For these investments, the allowance of the notional 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.

To enjoy this special regime, a distribution centre must meet the following conditions:

1° it must be liable to the Corporate Income Tax or to the Non-Resident Corp. Tax;

2° its activities must be confined to:
   - the purchase, either in its own name or in the name and for the account of group members for their own use, of raw materials, finished products and merchandise; the storage, handling and packaging thereof; the selling, transportation and delivery of the products to members of the group; the preparation and sending of invoices;
   - the collection of orders;
   - the handling of all administrative and financial formalities concerning the above activities, such as bank operations, formalities concerning VAT, customs and excise, ...;

3° under no circumstances it shall carry out activities modifying the essential quality of the finished products or merchandise it has to deliver;

4° it may not bear any business risks or only insignificant ones.

The taxable gain of the distribution centres which meet the above conditions can not be less than a fixed amount computed as follows:

\[
\text{Turnover} - \text{purchase price of the products} - \text{services included in the cost price, provided these services have been invoiced by the service providing company at a normal price} - \text{105\% of the remaining operating costs.}
\]

By granting this special tax regime, the Administration assumes that within the margins of the amount thus computed, the companies of the group grant no abnormal or benevolent advantage. This rule applies to each of the companies of the group separately.
The higher of the following amounts shall be taken into account as taxable gain:

a) the sum of the net variation of the taxed reserves, the disallowed expenses and the distributed dividends (normal regime);

b) the fixed gains such as computed above.

Exempt and non-chargeable constituents may be deducted from the benefit thus computed.

1.3. Service centres (106)

Service centres are independent entities being part of a Belgian or foreign group of affiliated companies. Their sole object must be the performance of one or several activities on behalf of that group of companies. Hence, only members of the group can be customers of a Service centre.

Independent service centres, acting in their own name and selling their services to third parties, are not entitled to the special tax regime.

The special tax regime is optional and will be granted for renewable periods of five years.

---

In order to be eligible for the special tax regime, Service centres must meet the following conditions:

1° they must be subject to Corporate Income Tax or to Non-Resident Corporate Income Tax;

2° they must perform one or several of the following activities:
   - activities whose nature is essentially preparatory or auxiliary, e.g. the centralization of the purchases of goods on behalf of the group
   - supplying information to the customers: are to be included here, the activities where the service centre proceeds as an intermediary between members of the group and external customers or between different members of the group, e.g. information about goods and services provided by the companies of the group
   - activities contributing passively to sales operations. The Service centre acts in the name of the group and on their account. It has no power of decision with regard to sales operations.
   - activities implying an active participation in sales operations
     The Service centre can in certain circumstances act in its own name but on account of the members of the group, e.g. the Service centre is allowed to collect orders of which the conditions (price, quantity, terms of delivery and payment, etc.) have been set beforehand by the companies of the group.

Activities with a view to increasing the turnover of the companies of the group shall always be excluded.

3° they may under no circumstances add to the value of the goods or services provided

4° they may bear no business risks but insignificant ones.

Activities which are exclusively commercial (direct sales, marketing, etc.) and manufacturing processes are deemed to be non-authorised activities.

As a rule, the taxable profits are subject to the ordinary corporate income tax rules.
Where the Service centre is eligible for the special tax regime, it is deemed not to have granted any abnormal or benevolent advantage, provided the turnover is not less than the sum of A + B,

- A = being the operating expenses incurred by the activities which don’t imply an active participation in the sales operations, increased by a determined percentage : this is the so-called “cost-plus method”;

- B = being a fixed percentage of the sales in which the Service centre has served as an active intermediary : this is called the “resale-minus method”.

“Cost-plus” method.

Operating expenses include the total amount of the expenses booked in the accounts 60 through 64 of the Chart of accounts, except for disallowed expenses, for taxed provisions and reserves and for the part of the turnover that is returned to the companies of the group.

To these operating expenses is added a mark-up varying from 5% to 15%. This mark-up is determined for each of the Service centres according to the volume of the activities they perform.

Rates applying to this regime are :

- preparatory and auxiliary activities : 5%
- provision of information to customers : 10%
- activities contributing passively to sales : 15%.

The Service centre may charge some of the expenses to the companies of the group without applying the mark-up, notably

- all personnel costs;
- re-invoicing of services provided to the Service centre by third parties.

“Resale-minus” method

This method only concerns activities where the Service centre has taken an active part in the sales operations. The centre shall charge the companies of the group with a remuneration for its intervention. This remuneration shall be increased, in function of the nature of the intervention and of the risks the centre has borne, by a percentage not exceeding 5%.
1.4. Reconversion companies (107)

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 corporate income 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;
- 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 was suspended for the tax year 1994.

1.5. Employment zones

Companies set up within employment zones (108), 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 corporate income 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 notional withholding tax on capital income from movable property to the provider of capital (109);
- exemption from the withholding tax on income from movable property;
- exemption from the proportional registration duty on capital subscriptions.

1.6. 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 (110):

- 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 (111);
- exemption for ten years from advance tax on income from immovable assets;
- exemption from proportional registration fees on capital subscriptions;
- 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;

109. According to the same arrangements as for Coordination centres.
110. See Law of July 31st, 1984, art. 68-76.
111. See below, sub 2.1.3.
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 put an end to 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 corporate income 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.

1.7. 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 corporate income tax.
1.7.1. Taxation of UCITs

The investment company is only liable to corporate income tax on a base limited to not-allowed expenses (112) 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 P.E.

This tax base is subject to the normal rate of C.I.T..

The investment company is, moreover, exempt from the proportional registration duties on capital subscription.

1.7.2. Allocation of revenue

The revenue from capitalization shares is not liable to withholding tax on income from movable property. However, these shares are always subjected to the tax on stock exchange transactions both when they are purchased and when they are sold or transferred to another department within the same open-end UCIT.

The revenue from distribution shares are considered as dividends and are therefore liable to the withholding tax on income from movable property of 15%.

1.7.3. Revenue allocated to resident natural persons

Revenue from a capitalization open-end UCIT constitutes non-taxable revenue for private savers (113).

The withholding tax on the revenue from distribution shares of an open-end UCIT and a closed-end UCIT is definitive.

112 Including the withholding taxes on the income which it collects.

113 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 corporate income tax.
1.7.4. **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 P.E. 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 P.E.: application of the transparency rule.

1.7.5. **Tax on the acquisition, sale or change of department**

The income from capital shares is not liable to the withholding tax on income from movable property. But the tax on stock exchange transactions is applied:

- at a rate of 0.50%, on each sale and acquisition for a consideration of capitalisation shares of investment trusts;
- at a rate of 0.50%, on the purchase by an investment trust of its own capitalisation shares;
- at a rate of 1%, on the conversion, from one department to another, of capitalisation or distribution shares into capitalisation shares;
- at a rate of 0.50%, on the conversions, from one department to another, of capitalisation and distribution shares;
- at a rate of 1%, on the conversions, within one department, of distribution shares into capitalisation shares;
- at a rate of 0.50%, on the conversions, within the same department, of capitalisation shares into distribution shares.
CHAPTER TWO
SPECIAL TAX MEASURES

2.1. Investment allowance

The investment allowance (114) 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, as for individuals, to those who declare profits or proceeds.

2.1.1. 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.

114 Articles 68 to 77 of the Income Tax Code.
Other cases of exclusion

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 notional withholding tax on income from movable property is awarded to the provider of capital (115);
- real estate acquired with a view to resale;
- 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 (116).

2.1.2. Calculation base

It is the amount that can be depreciated which determines the basis for calculation of the investment allowance.

2.1.3. Applicable rates

Determination of the base rate

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 point (companies) and by 1.5 points (natural persons). For companies the base rate cannot be less than 3% and not more than 10% (117).

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115 For fixed assets acquired or constituted before March 27th, 1992. As from that date, write-offs for investments through co-ordination centres are cancelled. See below.

116 Except for vehicles assigned exclusively to taxi services, to rent with driver and to practical training in recognised driving-schools.

117 For natural persons the minimum is 3.5% and the maximum 10.5%.
Increased rates

Increased rates are always calculated in relation to the rates applying to natural persons, even where the investments are effected by companies.

These rates apply:

- to research & development investments and to patents (+10 points);
- to so-called “green” investments, which are defined as being investments aiming at promoting research and development of new products and of hightech which do not interfere with environment or aiming at minimizing the negative effects on environment (+10 points);
- investments in energy-saving: the basic rate is increased by 10 points;
- investments by innovation companies (118);

In the case of staggered deduction (see below), the base rate is increased

- by 17 points for “green” investments,
- by 7 points for other investments.

De-activation of the investment allowance

The investment allowance is "de-activated" for investments made as of March 27, 1992: this means that the rate is reduced to zero, except for:

- investments by natural persons and by small and medium-sized companies, the latter being defined as those in which the majority of voting rights is held by natural persons and which do not belong to a group controlling a Co-ordination centre;
- investments benefitting increased rates, whether the investor is a natural person or a company subject to C.I.T.
Hence, the rates applicable for tax year 1998 are (119):

<table>
<thead>
<tr>
<th>Kind of investor and nature of investment</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural persons (allowance at one go)</td>
<td></td>
</tr>
<tr>
<td>Base rate</td>
<td>3.5%</td>
</tr>
<tr>
<td>Patents, R&amp;D-investments, &quot;green&quot; investments or energy saving investments</td>
<td>13.5%</td>
</tr>
<tr>
<td>Companies (allowance at one go)</td>
<td></td>
</tr>
<tr>
<td>Small and medium-sized companies</td>
<td>3.0%</td>
</tr>
<tr>
<td>Other companies</td>
<td>0.0%</td>
</tr>
<tr>
<td>Patents, R&amp;D-investments, &quot;green&quot; investments, energy saving</td>
<td>13.5%</td>
</tr>
<tr>
<td>Staggered deduction (see 2.1.4)</td>
<td></td>
</tr>
<tr>
<td>Green investments</td>
<td>20.5%</td>
</tr>
<tr>
<td>Other investments</td>
<td>10.5%</td>
</tr>
<tr>
<td>Innovation companies</td>
<td></td>
</tr>
<tr>
<td>Base rate for small and medium-sized innovation companies</td>
<td>8.0%</td>
</tr>
<tr>
<td>Base rate for other innovation companies</td>
<td>5.0%</td>
</tr>
<tr>
<td>Patents, R&amp;D-investments, energy-saving, &quot;green&quot;</td>
<td>18.5%</td>
</tr>
<tr>
<td>Staggered deduction for &quot;green&quot; investments</td>
<td>25.5%</td>
</tr>
<tr>
<td>Staggered deduction for other investments</td>
<td>15.5%</td>
</tr>
</tbody>
</table>

2.1.4. 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 simplified staggered deduction (120). 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 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>


120 The condition with regard to the number of workers need not be met in order to be entitled to the staggered deduction for green investments.
2.2. Fiscal impact of regional aid

2.2.1. Inclusion of aid in the taxable base

Employment subsidies constitute a taxable income 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.

2.2.2. Doubling of linear depreciation

The doubling of depreciation (121) 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.

2.2.3. Exemption from withholding tax on real estate income

The exemption from withholding tax on real estate income (122) 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; it relates both to the buildings and the land forming part of the same cadastral plot and to the equipment and tools that are immovable by their very nature or by their purpose. A notional withholding tax on real estate income accompanies the exemption.

121 See Art. 64 bis of the Income Tax Code.
2.3. Tax arrangements for capital gains made during exploitation

2.3.1. Capital gains realised during exploitation

A. CAPITAL GAINS INTENTIONALLY REALIZED ON TANGIBLE AND INTANGIBLE ASSETS.

The tax regime is based on the principle that taxation can be carried over.

This carry-over of taxation applies to capital gains made on tangible and intangible assets allocated for more than 5 years to the performance of the professional activity, on condition that there is a re-investment.

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 re-investment 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 re-investment must be made in respect of tangible or intangible assets that can be depreciated. The re-investment must be made within a period of 3 years starting from the first day of the tax period during which the capital gains were acquired.

If there is no re-investment within this period, the capital gains are considered as a profit for the tax period during which the re-investment period expired.

The tax is payable at the full rate.

The exemption of the monetary adjustment portion is maintained (123).

---

123 The exemption of the monetary adjustment portion only concerns capital gains made on assets acquired or constituted not later than 1949.
B. CAPITAL GAINS INTENTIONALLY REALIZED ON FINANCIAL FIXED 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 exempt, without the re-investment condition or intangibility condition having to be met. 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 (124). On the other hand, the condition relating to the participation threshold is without effect on the exemption of capital gains.

C. UNINTENTIONAL OR FORCED CAPITAL GAINS

Forced capital gains must be construed as capital gains acquired through compensations received in respect to casualties, expropriation, claim to right of ownership or any other similar event; are hence concerned, events which the natural or legal person could neither foresee nor prevent. Where the event results in a permanent cessation of the professional activity, the regime of "capital gains on cessation of activity" applies.

In the other case, i.e. where the professional activity is furthered, the capital gains are chargeable according to the rules that apply to voluntary disposition:

- carry-over taxation, where the condition of re-investment in tangible or intangible fixed assets is met;
- full rate taxation for capital gains on fixed income securities;
- exemption without re-investment condition, provided the condition of taxation for capital gains on shares is met.

The re-investment period starts running on the last day of the taxable period in which the compensation is received.

2.3.2. Capital gains realised upon the cessation of a professional activity

Capital gains realised upon the cessation of a professional activity are capital gains realised on the occasion or as a result of the discontinuation of a professional activity, whether these gains are made involuntarily or not. The special regime applies for capital gains on stocks and contracts in progress, on intangible fixed assets, on tangible and financial assets and on other portfolio securities (125).

124 See part 1, Chapter 2, Section 2.3.4.

125 The regime described hereafter applies where the discontinuation of a professional activity happened after April 6th, 1992.
The discontinuation can be complete or partial, but it must be final.

The capital gains are taxable as from the date they are settled, e.g. upon promise to sell, upon a hire-purchase contract, upon the declaration of an inheritance.

Tax regime and rates to apply depend on the circumstances and on the nature of the assets:

- for tangible or financial assets and for other securities: 16.5%

- for intangible fixed assets: for the portion of the discontinuation gains not exceeding the algebraic sum of the taxable net profits and proceeds obtained during the four years preceding the year of discontinuation, the rate of 33% applies; for the balance, the separate taxation does not apply.

The 16.5% rate also applies where the discontinuation is the result of the taxpayer's decease, where it is a forced final cessation and where the taxpayer has reached the age of 60 at the time the cessation of activity is registered.

2.4. Additional personnel employed in the field of scientific research and export-management

An exemption (deduction from taxable profit) of 440,000 BEF is awarded for each additional member of personnel employed in Belgium and assigned to

- scientific research;
- the development of the company's technological potential;
- the management of the export-department (126);
- the management of the "total quality"-department (126).

This amount is raised from 440,000 BEF to 880,000 BEF when the newly engaged person is a highly qualified researcher employed in the field of scientific research.

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 of the personnel.

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126. The exemption can also be awarded if the function is conferred to a member of the existing personnel, provided a new recruitment fills in the vacancy thus opened within thirty days.
3.1. Pension schemes

3.1.1. Forms of pension schemes

By means of a final instalment, any taxpayer can join a pension scheme, using one of the following formulas:

- an individual savings account: The plan participant opens an individual savings account with a financial institution. He may either adopt a self-administered approach or authorize the trust in writing to manage the funds in his name. In practice, this formula is rarely used, due on the one hand to the smallness of the amounts and on the other hand to the high costs attached to the purchasing and managing of small portfolios.

- a collective savings account: The plan participant opens a collective savings account with a financial institution, but the assets are pooled and managed by the trust according to the investment regulations established by law, in a pension fund specially designed for that purpose.

- a savings insurance: The plan participant subscribes a savings insurance with an insurance company (127) in order to build up a pension, annuities or a capital to be paid on death or on survival.

127 The savings insurance must be subscribed with a Belgian insurance company or a Belgian branch of a foreign company licensed to conduct insurance business in Belgium.
3.1.2. Application of tax reductions

Up to 22,000 BEF per taxpayer and per calendar year can give rise to a tax reduction, provided the following conditions are met:

- The savings account or savings insurance must have been subscribed:
  - by an inhabitant of the Kingdom aged 18 or over, but less than 65;
  - for a duration of ten years at least (128).

- At the subscription of the insurance, it shall be stipulated that the benefits of the insurance will be paid:
  - to the plan participant himself, in the event of life;
  - to the plan participant's spouse or to relatives up to the second degree, in the event of death.

- In any particular tax period, the plan participant is allowed to make payments to one specific account or to one savings insurance only, and the payments must be made with only one institution or company. He may hold more than one savings account or savings insurance, but the payments made in one particular tax period are restricted to one of them.

Tax reductions are computed at the "adjusted average rate" (129).-

Where a reduction for pension plans is granted, no reduction is available for the purchase of employer’s shares.

3.1.3. Taxation of the built-up savings.

DETERMINATION OF THE TAXABLE AMOUNT

- Savings account:
  The taxable amount corresponds to the "theoretical capital" which is a notional amount obtained by applying a capitalization rate of:
  - 6.25% as regards premiums paid until 31/12/1991;
  - 4.75% as regards premiums paid as from 1/1/1992.

---

128 Since assessment year 1993, the mandatory duration has been reduced to 5 years for individuals aged 55 or over on December 31st, 1986, that is to say for persons born in 1932 or before.

129 See Part I, chapter 1, point 1.3.3.c.: "Tax reduction for long term savings".
- Savings insurance:
  Taxed on the theoretical capital, which is a notional amount obtained by applying a capitalization rate of 4.75% to the premiums paid.
  Participations in profits are not liable to tax provided they are paid out together with the pensions, annuities, principal or surrender value provided for in the savings policy.

TAXATION REGIME

Since 1993, built-up savings are liable to an “advance taxation”. This advance taxation, or “taxation on long term savings” is assimilated to a stamp duty (an indirect tax); it supersedes P.I.T. in full discharge. Insofar as the tax has been paid, the theoretical capital is not liable to P.I.T.. At least one deduction or reduction must have been made though.

Moreover, the tax treatment differs according to the time when the built-up capital is surrendered, i.e. whether the withdrawal takes place before or after the age of 60.

1. Withdrawal after the age of 60:

   The advance taxation is due when the plan participant reaches the age of 60. Thereafter, withdrawals may be made free of tax at any time. The plan participant is allowed to continue making contributions to the pension plan until he is 64 years old. Such contributions are not taxed but they entitle to a tax reduction. The tax is set at:

   - 16.5% of the theoretical capital built up with premiums paid until 31/12/1992;
   - 10% of the theoretical capital built up with premiums paid as from 1/1/1993.

2. Withdrawal before the age of 60:

   The theoretical capital is taxed at the 16.5% rate with regard to premiums paid until 31/12/1992 and at the 10% rate for premiums paid as from 1/1/1993, where the following four conditions are met coincidentally:

   - the withdrawal occurs at the participant’s retirement, early retirement or bridge pension;
   - the pension scheme duration of ten years is met;
   - all deposits have been kept on the account for five years at least;
   - the instalments were spread over five different years, at least.
Where one or more of the four conditions are not met, the theoretical capital is taxed:

- at the progressive rate, as regards premiums paid until 31/12/1991;
- at the 33% rate, for premiums paid on or after 1/1/1992.

Where the taxpayer was already 55 or over when he opened a savings account or subscribed a savings insurance, the first tax liability will occur on the tenth anniversary of the contract. Unless the built-up savings are surrendered before that date, the taxpayer being 60 or over 60 at the surrender, the tax liability will arise at the time of repayment.

Where the surrender takes the form of annuities, the latter will be charged at the progressive rate.

### 3.1.4. Inheritance tax

When the account holder deceases after the age of sixty, inheritance tax is only due on the proceeds. Indeed, an advance taxation has taken place when he was sixty.

When the account holder deceases before he is sixty, the savings are chargeable to P.I.T. at the 16.5% rate with respect to premiums paid until 31/12/1992 and at the 10% rate with respect to premiums paid as from 1/1/1993. Moreover, inheritance tax is due on the proceeds.

In the case of a savings insurance the policy-owner can have named a beneficiary to whom the proceeds are to be paid. If such is the case, the policy is removed from the insured’s estate, and no inheritance tax charge shall arise in respect of it.

### 3.2. Individual life insurance

Individual life insurances can be classified in three different types of products (130):

- life insurance policies providing the payment of benefits upon the death of the insured;
- life insurance policies providing annuities or a lump sum upon the survival of the insured;
- endowment policies, where a capital is paid both in case of death and in case of life.

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130 Are concerned here, the common insurance products offered by insurance companies, the so-called “21st branch”.
3.2.1. Tax treatment of premiums paid

Life policy holders are entitled, under certain conditions (131), to tax reductions in respect of premiums paid under an individual life insurance.

A distinction is made between “tax reduction for long term savings” and “increased tax reduction for savings for house-purchase” (132).

The tax reduction for long term savings applies to premiums paid for individual life insurance policies which are not entitled to the increased deduction for house-purchase. The reduction is computed at the “adjusted average rate”, determined for each of the spouses separately:

1. by subtracting from the tax calculated according to the tax scale, the tax relating to the exempt portion granted to that spouse, and

2. by dividing the result of 1. by the aggregate taxable income of the concerned spouse.

The rate so computed shall not be less than 30%, nor shall it exceed 40%.

The increased tax reduction for house-purchase supersedes the tax reduction for long term savings when the taxpayer has used the premiums for the reinstatement, the securing or the amortisation of a mortgage loan entered into with a view to building, buying or improving a house in Belgium which is the borrower’s only dwelling. The increased reduction is granted at the highest marginal rate applying to each spouse separately.

The premiums paid are only taken into account for the increased tax reduction in respect of the first 2,200,000 BEF bracket, increased by respectively 5, 10, 20 or 30% when the taxpayer has one, two, three or more than three dependent children. The number of dependent children to be taken into account is the one recorded by January 1st following the signature of the mortgage loan.

131 See Part I, Chapter 1, point 1.3.3.B.
132 See Part I, Chapter 1, point 1.3.3.C.
Premiums paid are only taken into consideration for the tax reduction (both for the tax reduction for long term savings and for the increased tax reduction for house-purchase) insofar as they do not exceed the following limits:

- relative limit: 15% of the first 55,000 BEF bracket of earned income, plus 6% of the remainder;
- absolute limit: 66,000 BEF.

Where both reductions are to be applied simultaneously, premiums benefitting from the increased reduction for house-purchase will be taken into account first.

3.2.2. Tax treatment of the benefits

Since 1993, individual insurance contracts have been liable to the "tax on long-term savings".

Insurance companies are subject to this one-shot taxation on the theoretical surrender value of the life policy as soon as the assured reaches the age of 60, whether any surrenders were made or not.

When the insurance contract is opened or subscribed by a taxpayer of 55 years of age or over 55, the tax liability arises on the tenth anniversary of the signature of the contract. The tax is levied at the time of allotment, unless the capital is surrendered before that time the taxpayer having reached the age of 60.

The advance taxation amounts to:

- 16.5% of the theoretical surrender value, pensions, annuities or capital of the insurance policy, built up with premiums paid until 31/12/1992;
- 10% of the theoretical surrender value, pensions, annuities or capital of the insurance policy, built up with premiums paid as from 1/1/1993;
- 33% of the surrender value, when the surrender is made before the contractual termination date.

Capitals and surrender values are taxed separately under P.I.T. where the chargeable event (liquidation, surrender) takes place before the taxpayer reaches the age of 60 (133).

133 See Annex 2, Bulletin der Belastingen, nr. 765, nov. 1996.
Three situations can occur:

1) The rate amounts to:

- 16.5% insofar as the capital/surrender value are formed by premiums paid until 31/12/1992;
- 10% insofar as the capital/surrender value are formed by premiums paid as from 1/1/1993.

This rate only applies in the case of a payment of:

- a capital on the termination date of the contract;
- the surrender value of an individual life insurance in the course of the five years preceding the termination of the contract;
- a capital upon death of the life assured.

The proceeds may not have been used for the reinstatement or the securing of a mortgage loan.

2) The proceeds are paid out at any other time:

- progressive rate for capital/surrender values built up by premiums paid until 31/12/1991;
- 33% for capital/surrender values built up as from 1/1/1992.

The proceeds may not have been used for the reinstatement or the securing of a mortgage loan.

3) Capital/surrender values are in certain cases converted into notional interests (=conversion interests). This applies to:

- capital/surrender values of individual insurance contracts, up to the amounts used for the reinstatement or the securing of a mortgage loan, when the payments are made:
  - upon the policy holder’s death;
  - at the normal termination of an insurance contract;
  - in the course of the five years preceding the termination date of the contract.

(Where these proceeds are not paid out in one of these circumstances, they are taxed at the progressive rate).
- capitals of mortgage insurance policies;

The conversion rates may not exceed 5%.

Table of conversion rates:

<table>
<thead>
<tr>
<th>Age of the beneficiary at the time of the surrender</th>
<th>Conversion rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 and below</td>
<td>1</td>
</tr>
<tr>
<td>from 41 to 45</td>
<td>1.5</td>
</tr>
<tr>
<td>from 46 to 50</td>
<td>2</td>
</tr>
<tr>
<td>from 51 to 55</td>
<td>2.5</td>
</tr>
<tr>
<td>from 56 to 58</td>
<td>3</td>
</tr>
<tr>
<td>from 59 to 60</td>
<td>3.5</td>
</tr>
<tr>
<td>from 61 to 62</td>
<td>4</td>
</tr>
<tr>
<td>from 63 to 64</td>
<td>4.5</td>
</tr>
<tr>
<td>65 and over</td>
<td>5</td>
</tr>
</tbody>
</table>

For each of the taxable periods, the progressive rate applies to the aggregate amount of the converted notional interests and the other income, starting at the time the capital is surrendered.

The requirement to report income is limited to:

- 10 years when the conversion rate is 5% (the policy holder is 65 or over);
- 13 years when the conversion rate is less than 5% (the policy holder is under 65).

The requirement to report income comes to an end if the policy holder deceases before the end of that period.

Where the individual life policy provides for annuities to be paid, these annuities are liable to P.I.T. at the progressive rate (taking into account the tax relief for retirement pensions).
Remarks:

- The annuities are not liable to tax to the extend that:
  - the premiums were paid before 1950;
  - the individual life premiums have never been deducted from the chargeable earned income and have never attracted a tax reduction.

- The tax on long-term savings is not due for:
  - insurance contracts providing benefits upon the death of the life assured only;
  - life insurance contracts utilised for the reinstatement or the repayment of a mortgage loan.

The capital, surrender values and interests of these contracts are liable to P.I.T.

3.3. **Insured occupational scheme**

A group insurance is a contract effected between an employer or a group of employers and an insurance company with a view to the providing of additional retirement benefits to all or part of the employees.

Occupational schemes are subject to rules providing for:

- conditions of approval;
- rights and duties of the employees;
- rights and duties of the employers.

The financing is secured from two kinds of contributions:

- employer’s contributions, paid by the employer;
- employees’ contributions, withheld at source from salaries by the employer.

A 4.4% tax is due both on the employees’ and on the employer’s contributions. A further social security contribution is due on the employer’s contribution, at the 8.86% rate.
3.3.1. Tax treatment of premiums paid

FOR THE EMPLOYER

Employer's contributions to a group insurance are tax deductible under C.I.T. However, the contributions are entitled to a tax deduction to the extend that the benefits they provide, added to the statutory and extra-statutory pensions, do not exceed 80% of the last regular gross yearly salary.

FOR THE EMPLOYEE

The personal employee's contribution entitles to a tax rebate which is calculated at the « adjusted average rate » (134).

To be entitled to this tax rebate, the contribution must satisfy the following conditions:

- they are personal contributions to an additional assurance against old age and premature death;
- they are made under a contract assuring a capital or an annuity on death or on survival;
- they are withheld on salaries by the employer;
- they are paid to an insurance company or to a pension fund established in Belgium, and the payment is a final one;
- they meet the above « 80% of last gross yearly salary » condition.

3.3.2. Tax treatment of the benefits

Where a group insurance is liquidated, a separate assessment is made for the capital or paid surrender value, provided the payment satisfies one of the following conditions:

[134] See Part 1, Ch.1, 1.3.3.C.
- it takes place at maturity of the contract;
- it takes place within the five years preceding maturity;
- it takes place on the death of the insured;
- it takes place on the retirement or early retirement of the insured;
- it takes place at the normal date of complete and final cessation of the professional activity (135).

The amount paid is taxed at the following rates:

- 16.5% for the part of the capital built up with installments made before 1/1/93;
- 16.5% for the part of the capital built up with employer's contributions made from 1/1/93 onwards;
- 10% for the part of the capital representing employees' contributions made from 1/1/93 onwards.

If the capital is paid prior to these dates, the marginal rate applies with respect to the capital from employer's contributions and from personal contributions made prior to 1/1/93; with respect to personal contributions paid from 1/1/93 on, the 33% rate applies.

Where the group insurance is paid in the form of annuities, the progressive rate applies (taking into account the tax rebate for retirement pension savings).

A 3.55% social security contribution is levied on the surrender, for the benefit of the National Institute for Sickness and Invalidity Insurance.

Participations in profit are tax exempt provided they are paid together with the benefits, annuities or surrender values arising from the contract.

Where proceeds built up by a group insurance are transferred to another insurance company or pension fund, this transfer is not deemed to be a taxable payment or (assignment/attribution), even when it occurs at the beneficiary's request.

A transfer of capital gains to an insurance company established abroad cannot qualify as a non-chargeable transfer.

135 Are concerned here certain professional activities which are generally carried out for a short period of time only, such as professional sports. Cessation of professional activities at an early stage allows to take a new professional start with the help of the capital received at the liquidation of the group insurance.
3.3.3. Tax treatment of group insurance contracts which have been the subject of withdrawals or of a mortgage.

The capital and surrender value of group insurance contracts are converted into notional interests where the following conditions are met:

- the chargeable person has made withdrawals from the policy or has used it to secure a mortgage loan;
- the partial surrenders are used to build, acquire or renovate a house that is to serve as the taxpayer’s only residence;
- the house is exclusively used for private purposes by the borrower and his family;
- if the contract is liquidated on the life of the assured, at least ten years must have gone by between the (partial) surrenders or the taking out of the mortgage loan and the liquidation of the contract;
- the payment of the surrender value must not occur more than five years before the termination date of the contract upon life.

The conversion into notional interests applies to the first 2,200,000 BEF bracket of the capital or surrender value of the group policy on which partial surrenders were made or which was used to secure a mortgage loan.

Tax treatment and conversion rates are the same as for individual life insurance (136)

3.3.4. Inheritance tax

Where the group insurance contract provides for benefits upon the death of the life assured, the proceeds received by the surviving spouse are not deemed to form part of the life assured’s estate, which means that proceeds and annuities received by the beneficiary are free of inheritance tax.

136 See 3.4.2. « Tax treatment of benefits » and Conversion rates table.
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