



FACTS FROM BELGIUM

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CORPORATE TAXATION

Standard Corporate Income Tax Rate

(for Belgian branches and Belgian branches of foreign companies)

33.99%

General Ruling Practice: Upfront Legal Certainty For Investors

Since January 1, 2005 a new general ruling practice has been established:

- Upon request, an independent 'ruling commission' of the Federal Public Service (FPS) Finance will inform investors about the tax implications of their investments **prior to** the start or the expansion of operations.
- Rulings can cover all matters under the jurisdiction of the FPS Finance, and will be given within three months of the ruling request, unless otherwise determined by mutual agreement.
- Ruling decisions will be binding for a maximum of five years and based on Belgian law, providing investors with maximum legal certainty.
- An elaborate pre-filing practice has been developed. Pre-filing meetings can be done on a 'no name' basis.

Corporate Taxation: New Features of Equity Funded Entities

1. Tax Deduction for Risk Capital: 'Notional Interest'

Belgium recently introduced a tax deduction for all Belgian companies and Belgian branches of foreign companies applicable as of January 1, 2006. (for companies with a financial year ending on December 31, 2006).

The new provision, commonly referred to as the 'notional interest deduction', is a **unique and innovative tax feature**. It entitles all companies subject to Belgian corporate tax to an annual deduction on their taxable income equal to the interest they would have paid on their aggregate equity amount in the case of long-term debt financing, thus reducing their taxable base.

The deduction is based on the 'equity capital' as stated in the company's opening balance sheet of the taxable period. Increases or decreases of the equity during the taxable period will be taken into account on a pro rata basis. The notional interest rate will be set each year and will follow the average annual 10-year government bond rate. At this time, that rate is around 3.5%. Currently, the law sets a maximum deviation of 1% from one year to the next and a maximum percentage of 6.5%.

The new rules are expected to reduce the average effective corporate tax rate to around 25% but can be substantially lower for e.g. financing or licensing companies or branches. They encourage capital intensive investments, and provide an incentive for multinationals to allocate such activities as intra-group financing, central procurement and factoring, to a Belgian group entity. They also present a viable alternative to the Belgian coordination center regime, which will be phased out between 2006 and 2010.

The notional interest deduction applies to all companies and branches and complies fully with existing Belgian and EU law. To the extent that the interest deduction does not have a direct tax effect (e.g. in loss situations), the interest deduction can be carried forward for the next seven years.

2. 0% Registration Duty on Capital Contributions

Belgium abolished the 0.5% registration duty on capital contributions as of January 1, 2006, and, hence, the equity of Belgian companies can be increased without any further tax burden.

Corporate Taxation: Features of Debt Funded Entities

1. Interest expenses are generally deductible, provided the interest is at arm's length and the beneficiary is not a tax haven company.
2. There are no real 'thin cap' rules (7/1 applies for interest paid to tax havens).
3. A domestic interest withholding tax applies (15%), but is reduced or exempt based on the double tax treaties or domestic exemptions, such as:

- **New Withholding Tax Exemption for Interest Paid to U.S. and Other Foreign Banks**

-A withholding tax exemption exists for interest paid on loans or debt claims by a Belgian company or Belgian branch of a foreign company to a bank established in a country that has a double tax treaty with Belgium, such as the U.S.

-The exemption will benefit the competitive position of U.S. banks on the Belgian market since qualifying borrowers in Belgium will no longer have to apply withholding tax when making interest payments to U.S. banks.

- **Implementation of EU Interest and Royalty Directive**

-No withholding tax under certain conditions if interest or royalties are paid by a Belgian company to directly or indirectly 'connected' companies in the EU (shareholding of at least 25%)

Holding Regime

- **Dividend Received Deduction (Repatriation of Profits):** Belgian and foreign dividends received by a Belgian company or Belgian branch of a foreign company are under certain conditions 95% deductible.
- **Capital Gains On Shares:** Capital gains on shares (net amount) are 100% exempt from tax, provided the conditions for the dividend received deduction would have been fulfilled with regard to possible dividends which would have been derived from these shareholdings. There is no minimum holding period or minimum participation threshold.

Double Tax Treaties

- **Belgium has a very extensive network of double taxation treaties, which** provide for reduced withholding tax rates and which exempts (under certain conditions) foreign source profits. Belgium was the first country to conclude a tax treaty (2004) with Hong Kong. The treaty provides for a 0% dividend withholding tax under certain conditions.

Expatriate Regime

- Foreign executives assigned temporarily to Belgium within an international group of companies may qualify for a special 'expat' taxation regime.
- The expatriate will be treated for tax purposes as a non-resident, liable to Belgian personal income tax only on income related to the activities in Belgium. Days spent outside Belgium will not be taxed in Belgium. ('travel exclusion').
- Non-taxable allowances apply, i.e. allowances or reimbursements made to cover the extra expenses caused by the assignment in Belgium.

Tax Measures to Boost Scientific Research

- Institutes of higher education, research institutions and private companies working on projects with them need to remit only 50% of the payroll tax on researchers' wages.
- Companies that hire new employees for scientific research can reduce their taxable profit for every additional employee.

Useful Addresses and Links

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