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PREFACE TO THE JANUARY 2015 ISSUE

By publishing the "Tax Survey", the Research Department of the Federal Public Service Finance, Staff Service Strategic Expertise and Support, aims at providing a regularly updated **overview** of the tax legislation in Belgium. The subject being particularly intricate, this brochure cannot of course cover every specific regulation: 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 and legal entities income tax. The non-resident income tax is not dealt with: it is a very specific domain one can only give a good perception of if the international agreements applicable to the bilateral situations are also dealt with. The last chapters deal with withholding taxes and advance payments. This first part also deals with special corporate income tax systems (advance ruling procedures, investment companies, etc.).

The second part of the Tax Survey deals with indirect taxation: VAT, registration duties, estate duties, miscellaneous duties and taxes, excise duties, etc.

This Tax Survey only describes the taxes which are or were the responsibility of the Federal Public Service Finance. A certain number of those taxes are now the responsibility of the Regions. As a result, the information relating to the last-mentioned taxes is purely indicative.

Generally speaking, the Tax Survey does not deal with procedures (returns, inspection, disputes).

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

- **to 2014 income (tax year 2015)** in the matter of direct taxation, with the exception of withholding taxes (part I, chapters 1 to 4);
- **on 1 January 2015** as far as indirect taxation (part II) and withholding taxes (part I, chapters 5 to 7) are concerned.

The authors of this publication are S. HAULOTTE and Ch. VALENDUC (Part I) and E. DELODDERE (Part II). They would like to thank their colleagues from the Research Department and from the Federal and Regional Tax Administrations for the preliminary work, the observations and the translations made during the drawing-up of this Tax 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 Department is not authorised to answer queries with regard to the application of tax legislation to individual cases. The circulars this Tax Survey refers to are available in the “Fiscal database“ (Fisconet*plus*) on the homepage of the website of the Federal Public Service Finance (Fiscal discipline – Income tax – Administrative directives and comments – Circular letters”; only available in French and Dutch).

The Tax Survey is also available in Dutch, in French and in German.
It can also be referred to on the website of the FPS Finance at http://finance.belgium.be/en/figures_and_analysis/analysis/tax_survey/, where it can be downloaded as a pdf-file.

July 2015

S. HAULOTTE Ch. VALENDUC E. DELODDERE
(Editors)

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LIST OF ACRONYMS

ACT	Additional circulation tax
AEO	Authorised Economic Operator
AGFisc/AAFisc	General tax administration
AGM	Automatic gaming machines
AP	Advance payments
APETRA	Agence de Pétrole – Petroleumagentschap
ARS	Advance ruling service
ATA (ATA carnet)	Admission temporaire – Temporary Admission
ATI	Aggregated taxable income
BGT	Betting and gambling tax
BIK	Benefit in kind
BLEU	Belgo-Luxembourg Economic Union
BOJ	Belgian Official Journal
CBA	Collective bargaining agreement
CI	Cadastral income
CIT	Corporate income tax
CJEC	Court of Justice of the European Communities
CMDT	Code of miscellaneous duties and taxes
CN Code	Code of the Combined Nomenclature
CREG	Electricity and Gas Regulatory Commission
CS	Crisis surcharge
CSP	Customs Security Programme
CT	Circulation tax
CTA	Code of taxes assimilated to income taxes
C-TPAT	Customs Trade partnership against terrorism
DE	Disallowed expenses
DIV	Vehicle registration service
DTA	Double taxation agreement
EAD	Export Accompanying Document
EC	European Community
ECB	European Central Bank
EEA	European Economic Area
EEC	European Economic Community

EFTA	European Free Trade Association
EORI	Economic Operator's Registration and Identification
ESA	European system of national and regional accounts
EU	European Union
FFTC	Fixed foreign tax credit
FPS	Federal Public Service
FRS - FNRS	Fonds de la Recherche Scientifique - FNRS
FWO-Vlaanderen	Fonds voor Wetenschappelijk Onderzoek-Vlaanderen
GATT	General Agreement on Tariffs and Trade
GDP	Gross domestic product
HP	Horsepower
LEA	Local employment agency
LEIT	Legal entities income tax
LPG	Liquefied petroleum gas
MAM	Maximum allowable mass
NBN	Bureau de Normalisation – Bureau voor Normalisatie
NCC	National Cooperation Council
NCTS	New Computerised Transit System
NPO	Non-profit organisation
OECE	Organisation for Economic Co-operation and Development
OFP	Organisations for Financing Pensions
OLO	Obligation linéaire – lineaire obligatie
ONE	Office de la Naissance et de l'Enfance
PIT	Personal income tax
PLC	Public limited company
PLDA	Paperless Customs and Excise Duties
PPS	Public Planning Service
PRICAF/PRIVAK	Private closed-end equity funds investing in unquoted companies and growth stocks
R&D	Research and Development
RD	Royal Decree
SIC/VBS	Debt investment companies
SICAF/BEVAKS	Closed-ended investment companies

SICAFI/ vastgoedbevaks	Closed-ended investment companies investing in real estate
SICAV/BEVEKS	Open-ended investment companies
SII	Sickness and invalidity insurance
SME	Small and medium-sized enterprise
SNCB/NMBS	Belgian National Railway Company
SRWT	Société régionale wallonne du Transport (Walloon public transport company)
STI	Separately taxable income
STIB/MIVB	Brussels public transport company
TES	Tax on the entry into service
TIR (TIR carnet)	Transports internationaux routiers
UCI	Undertaking for collective investment
VAT	Value added tax

PART I

DIRECT TAXATION

<table>
<tr><th colspan="4">Personal Income Tax (PIT)</th></tr>
<tr><td>Legal base</td><td colspan="3">Income Tax Code 1992, articles 3-178.
Law of 10.08.2001 (BOJ 20.09.2001) with reform of personal income tax.
Law of 08.05.2014 modifying the Income Tax Code 1992 as a consequence of the introduction of the regional additional tax on PIT (BOJ 28.05.2014)</td></tr>
<tr><td rowspan="3">Who sets</td><td>the tax rate</td><td>the tax base</td><td>Reliefs / tax credits</td></tr>
<tr><td>Federal authority and regional authority (determination of the regional surcharges)</td><td>Federal authority</td><td>Federal authority and regional authority (for matters under their material competences)</td></tr>
<tr><td colspan="3">(*) Comments about reliefs: lump sum credit granted by the Flemish Region</td></tr>
<tr><td>Beneficiary</td><td colspan="3">Federal authority
Regional authority
Local authority (*)
Social security
Others (**)
Securitisation since 2005-2006 (for withholding tax on earned income, assessment rolls and fines and miscellaneous)

(*) Municipal surtaxes are calculated at rates specific to each municipality.
(**) Since 2009, part of the withholding tax on earned income has gone to the alternative financing of social security.</td></tr>
<tr><td>Tax collector</td><td colspan="3">Federal Public Service Finance</td></tr>
</table>

Tax revenue	2013 tax revenue in millions of euro		Tax revenue as % of GDP	Tax revenue as % of total tax revenue (*)
	Withholding tax on income from movable property	4,230.8		
	Withholding tax on earned income	45,734.2		
	Advance payments	1,516.3		
	PIT assessment roll	-608.3		
	Special social security contribution	1,114.4		
	Others	55.0		
	TOTAL PIT	**52,042.4**	13.2%	42.5%
	(*) Total tax revenue (according to ESA2010 concept) paid to Belgian authorities. *Data regarding tax revenue are henceforth mentioned according to the ESA2010 concept. They cannot be compared to data mentioned in previous editions of the Tax Survey.*			

Corporate Income Tax (CIT)				
Legal base	Income Tax Code 1992, articles 179-219*bis*. Programme law of 24.12.2002 (BOJ 31.12.2002) with reform of corporate income tax.			
Who sets	the tax rate	the tax base	reliefs	
	Federal authority	Federal authority	Federal authority	
Beneficiary	Federal authority Social security Others (*) (*) Amount allocated to the 'Electricity and Gas Regulatory Commission' (CREG – "Commission de Régulation de l'Electricité et du Gaz") since 2009			
Tax collector	Federal Public Service Finance			
Tax revenue	2013 tax revenue in millions of euro		Tax revenue as % of GDP	Tax revenue as % of total tax revenue
	Withholding tax on movable property	569.8		
	Advance payments	7,939.5		
	CIT assessment roll	3,661.7		
	Non-resident CIT (on assessment)	113.4		
	Others	9.6		
	TOTAL CIT	**12,294.0**	3.1%	10.0%

<table>
<tr><th colspan="4">Withholding tax on real estate</th></tr>
<tr><td>Legal base</td><td colspan="3">Income Tax Code 1992, article 7 to 16, 251-260ter and 471-504 for the provisions concerning the withholding tax on real estate in the Walloon Region and in the Brussels-Capital Region. The provisions concerning the withholding tax on real estate in the Flemish Region are specified in the “Vlaamse Codex Fiscaliteit” (Flemish Tax Code)

For rates:
– Decree 22.10.2003 (BOJ 19.11.2003), 27.04.2006 (BOJ 15.05.2006) and 10.12.2009 (BOJ 23.12.2009) for the Walloon Region;
– Decree 19.12.2003 (BOJ 31.12.2003) for the Flemish Region;
– Order 08.12.2005 (BOJ 02.01.2006) for the Brussels-Capital Region.</td></tr>
<tr><td rowspan="2">Who sets</td><td>the tax rate</td><td>the tax base</td><td>reliefs</td></tr>
<tr><td>Regional authority</td><td>Regional authority</td><td>Regional authority</td></tr>
<tr><td>Beneficiary</td><td colspan="3">Regional and local authorities

Comments: The local surtax is a multiple of the revenue perceived by regional authorities. Both provinces and municipalities receive surtaxes.</td></tr>
<tr><td>Tax collector</td><td colspan="3">The withholding tax on real estate is not levied in the same way in the different Regions.
Since 1999, the withholding tax on real estate has been levied by the Flemish Region itself.
As far as the Walloon Region and the Brussels-Capital Region are concerned, the tax is still levied by the Federal State.</td></tr>
<tr><td rowspan="2">Tax revenue</td><td>2013 tax revenue in millions of euro</td><td>Tax revenue as % of GDP</td><td>Tax revenue as % of total tax revenue</td></tr>
<tr><td>4,854.6</td><td>1.2%</td><td>4.0%</td></tr>
</table>

Withholding tax on income from movable property			
Legal base	Income Tax Code 1992, articles 17-22 and 261-269.		
Who sets	the tax rate	the tax base	reliefs
	Federal authority	Federal authority	Federal authority
Beneficiary	Federal authority and social security Securitisation since 2006		
Tax collector	Federal Public Service Finance		
Tax revenue	2013 tax revenue in millions of euro	Tax revenue as % of GDP	Tax revenue as % of total tax revenue
	4,800.6	1.2%	3.9%

<table>
<tr><th colspan="5">Withholding tax on earned income and advance payments</th></tr>
<tr><td>Legal base</td><td colspan="4">Withholding tax on earned income: Royal Decree implementing the Income Tax Code 1992, Appendix III (Scales and rules applicable to the calculation of the withholding tax on earned income); Income Tax Code 1992, articles 270-275 and 296.

Advance payments: Income Tax Code 1992, articles 157-168, 175-177 and 218; Royal Decree implementing the Income Tax Code 1992, articles 64-71.</td></tr>
<tr><td rowspan="2">Who sets</td><td>the tax rate</td><td>the tax base</td><td colspan="2">reliefs</td></tr>
<tr><td>Federal authority</td><td>Federal authority</td><td colspan="2">Federal authority</td></tr>
<tr><td>Beneficiary</td><td colspan="4">See Personal Income Tax for further details</td></tr>
<tr><td>Tax collector</td><td colspan="4">Federal Public Service Finance</td></tr>
<tr><td rowspan="3">Tax revenue</td><td colspan="2">2013 tax revenue in millions of euro</td><td>Tax revenue as % of GDP</td><td>Tax revenue as % of total tax revenue</td></tr>
<tr><td>Withholding tax on earned income</td><td>45,734.2</td><td>11.6%</td><td>37.3%</td></tr>
<tr><td>Advance payments (made by individuals or companies)</td><td>9,455.8</td><td>2.4%</td><td>7.7%</td></tr>
</table>

CHAPTER ONE
PERSONAL INCOME TAX (PIT)

What is new?

Implementation of the tax component of the Special Finance Act. This chapter describes the PIT after the Sixth State Reform.

- *The reforms relating to the Special Finance Act have been applied since 1 July 2014. As a result, the new regional tax competences as regards PIT have come into force during tax year 2015.*
- *Under the Sixth State Reform, a series of tax credits have been transferred to the Regions and fall now within their exclusive competence. It concerns tax incentives relating to the own dwelling, service vouchers and LEA-vouchers, renovation in zones of 'positive metropolitan policy', renovation of low-rent dwellings, works for making dwellings secure against burglary and fire, classified monuments, energy-saving expenses (with the exception of interest paid on green loans, carried-over tax credits and the transitional system regarding low-energy houses).*
- *Compliance of the Income Tax Code with the tax provisions of the "new Special Finance Act" (1). Notably: abolition of the lump sum deduction for dwellings, abolition of the creditable withholding tax on real estate, change in the provisions concerning tax determination and collection, notably as regards refundable items.*

Other measures (excluding implementation of the Special Finance Act)

- *Suspended indexation of some tax expenditure (non-indexation of some tax advantages). It concerns the exemption for savings deposits, dividends of recognised cooperative companies, interest or dividends of companies with a social purpose, the standard tax credit for replacement income, the tax credits for long-term savings, pension savings, employer's shares, the carry-over of the tax credit for energy-saving expenses, the transitional system regarding passive or low-energy houses, electric vehicles, development funds, gifts and remunerations of domestic workers.*
- *Tax credit for overtime pay: increase from 130 to 180 hours for the building and the Horeca sectors, under some conditions.*
- *Under the partial harmonisation of the blue and white collar status, abolition of the exemption principle for the first bracket of the termination compensation and remunerations for activities performed during the notice period. This exemption has been replaced by a specific exemption system for "severance payments" paid by the Belgian National Employment Office to some entitled redundant workers.*
- *Increase in the tax credit for low-income workers (tax employment bonus) to 14.40% as from 1 April 2014.*
- *The tax credit for self-employed has become refundable.*

1 "New Special Finance Act" means the Special Finance Act of 16 January 1989, as modified by the Special Act of 6 January 2014 reforming the financing of Communities and Regions, increasing tax autonomy for the Regions and financing the new competences.

PIT basic principles after the Sixth State Reform

Under the Sixth State Reform, the Regions have been given increased tax autonomy and they can now levy a regional PIT by means of a **regional additional tax on PIT**. The tax component of the Sixth State Reform came into force on 1 July 2014 and has applied as from tax year 2015. As a result, as from 1 July 2014, the Regions can fix their own rules for the regional additional tax.

The Special Act of 6 January 2014 reforming the financing of Communities and Regions, increasing tax autonomy for the Regions and financing the new competences modified the Special Finance Act of 16 January 1989. However, for the concrete application of the Sixth State Reform as regards PIT, it must be referred to the Act of 8 May 2014 modifying the Income Tax Code 1992 as a consequence of the introduction of the regional additional tax on PIT (2).

Considering the scope of the changes, this edition of the Tax Survey aims at describing the most important and significant among them.

Exclusive competence of the federal authority

The federal authority remains exclusively competent for:

- determining the taxable base. As a consequence, the federal authority remains exclusively competent for the deductions applied to gross income (deduction of professional expenses, investment deduction, etc.). The Regions may grant no advantages in the form of a deduction from the taxable base;
- the tax on interest, dividends, royalties, prizes attached to debenture bonds, capital gains on securities;
- the withholding tax on income from movable property;
- the withholding tax on earned income;
- tax servicing.

Extended surcharge model

As from tax year 2015, PIT consists of two major components: federal PIT and regional PIT.

The base for determining surcharges is the PIT part corresponding to the **reduced State tax**.

The reduced State tax corresponds to the State tax after deduction of an amount equal to the State tax multiplied by the autonomy factor. For tax years 2015 to 2017, the autonomy factor amounts to 25.990%.

The surcharge rate amounts to 35.117% for tax years 2015 to 2017, unless a Region has determined another surcharge rate. The surcharge rates may be differentiated per tax bracket. However, surcharges may not be differentiated per tax bracket for separately taxable income (STI): they must be single (irrespective of the federal rate applied to STI) uniform (irrespective of the tax bracket) surcharges.

Progressivity principle

When exercing their competences, the Regions must respect the progressivity principle. However, if surcharges are differentiated per tax bracket, the surcharge rate can derogate from the tax progressivity, provided two conditions are met:

- the surcharge rate applied to a tax bracket may not be lower than 90% of the highest surcharge rate in the lower tax brackets;
- the derogation from the progressivity principle may not entitle to a tax advantage higher than 1,000 euro per year.

2 Act of 8 May 2014 modifying the Income Tax Code 1992 as a consequence of the introduction of the regional additional tax on PIT referred to in Title III/1 of the Special Act of 16 January 1989 concerning the financing of Communities and Regions, modifying the rules as regards non-resident income tax and modifying the Act of 6 January 2014 concerning the Sixth State Reform as regards matters referred to in Article 78 of the Constitution.

Overflow (or transfer) mechanism

The balance of regional tax reductions and credits, which cannot be set off against regional surcharges increased by regional tax increases, can be set off against the balance of the federal PIT (after offsetting federal tax credits). The balance is set off against the federal PIT relating to aggregated and separately taxed income.
The overflow mechanism also applies in the opposite direction: the federal tax credits which cannot be set off because of a lacking federal offsetting base, can be set off against the possible balance of the regional PIT relating to aggregated taxed income (in this case, there is no offsetting against the regional PIT relating to separately taxed income).

Standstill rule

The provisions existing on 30 June 2014 as regards tax credits and refundable tax credits which have been granted as regional tax credits or regional refundable tax credits as from tax year 2015, remain applicable until the Regions establish their own rules.

In this chapter the main features of the personal income tax are explained in **four steps**.

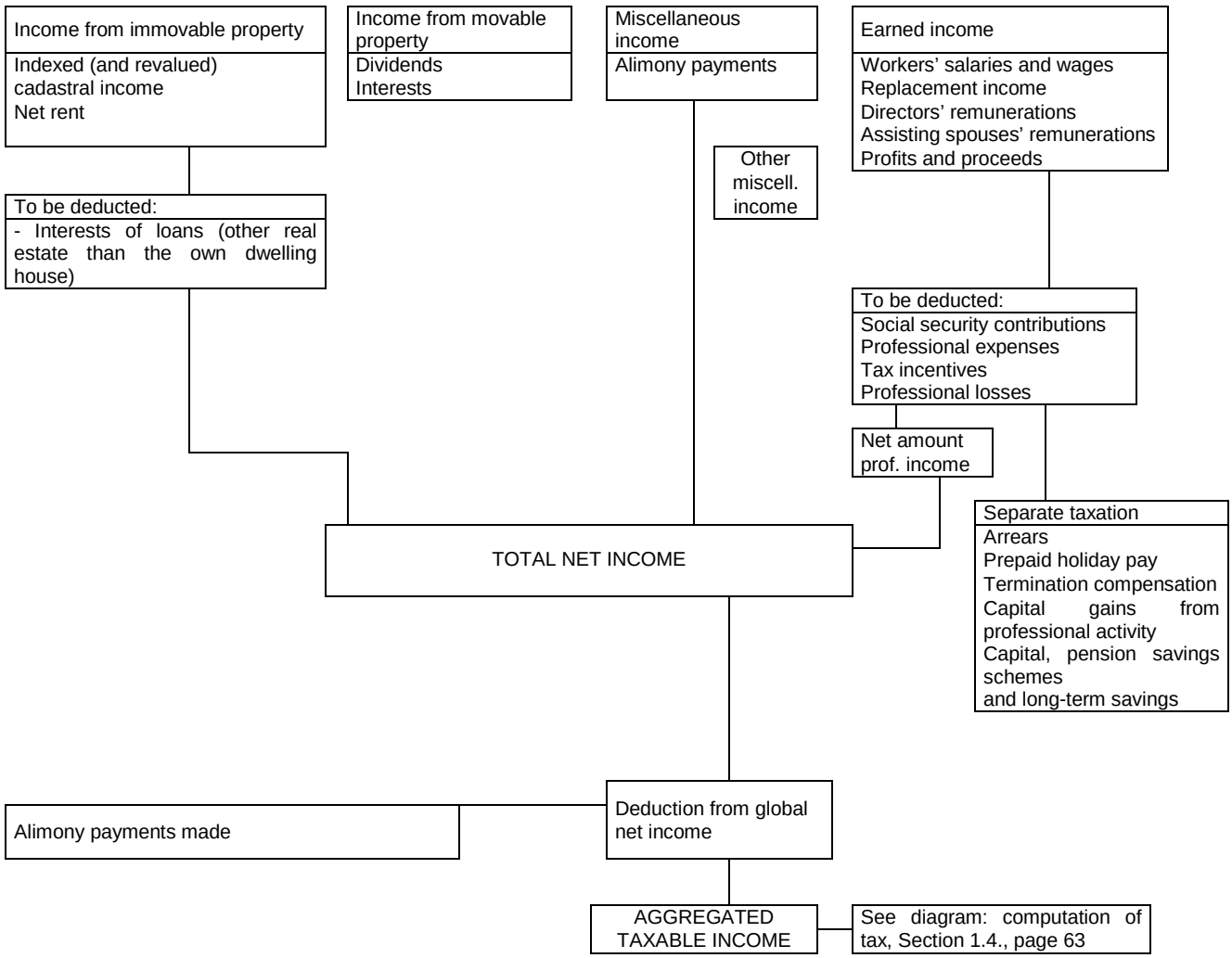
- Step one deals with the **chargeable persons**: it explains who is chargeable and where one is chargeable. Location of the taxpayer is important, as it determines the Region competent for the regional additional tax on PIT and the municipality of taxation for the rate of the municipal surcharges applicable.
- Step two deals with the establishment of the **net income**, i.e. the income minus expenses and losses. The different categories of income are gone through, as well as the gross taxable components thereof, the deductible expenses and the exempted components. The federal authority remains exclusively competent for determining the taxable income and what must be taxed as aggregated income or separately.

  Step two ends with the apportionment of the net income between spouses.
- Step three deals with the **expenses entitling to a tax advantage**; some of them have been transferred to the Regions which became therefore exclusively competent for them under their increased tax autonomy. It explains on what conditions these advantages are granted, how they are granted and what are possibly their limits.
- Step four deals with the **computation of the tax**. This computation has been completely changed as a consequence of the increased tax autonomy for the Regions under the Sixth State Reform. The new computation of the tax implies the application of the *extended surcharge model* with the application of the regional additional tax on PIT.

  Stef four will notably deal with: the application of the progressive rate structure (the tax rate increases, per successive bracket, according to the taxable income), the taking into account of the zero-rate bands, the split between both major components consisting of the federal PIT and the regional PIT.

The computation of the taxable income is represented in the following chart.

Diagram of PIT
Determining taxable income



1.1. Chargeable persons; location of tax liability

Personal income tax is due by the inhabitants of the Kingdom, i.e. the persons whose domicile or seat of wealth (3), when not domiciled in Belgium, is located in Belgium.

Unless evidence to the contrary can be provided, all individuals listed in the National Register of Individuals are considered inhabitants of the Kingdom.

The taxpayer is liable to the regional additional tax of the Region in which his tax residence is located on 1 January of the tax year (1 january 2015 for 2014 income). If the taxpayer changes his tax residence during the year from one to another Region, the situation on 1 January of the tax year applies. As a result, there is only one possible tax residence per tax year.

"Domicile" refers to a factual situation characterised by 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 on 1 January of the tax year is the "municipality of taxation", which determines the rate of the municipal surcharges.

As far as civil partnerships are concerned, separate taxation of the partners' income has become the rule, but the assessment is made on the aggregated income, the partners thus keeping the benefits of the marital quotient and of income allocations or tax exemptions.

Legal cohabitants are assimilated to spouses. Hereafter the word "spouse" may also have the meaning of "legal cohabitant".

As regards spouses, joint taxation is thus the rule. This shows in the common return. Separate taxation, and thus separate returns, applies however in the following cases:

- in respect of the year of marriage or of the year of registration of the legal cohabitation,
- in respect of the year of divorce or (official) termination of the legal cohabitation,
- as from the year following the year of actual separation or actual cessation of legal cohabitation, provided the separation has remained effective throughout the year.

In respect of the year of decease, the surviving spouse, or the heirs in case both spouses have deceased, may choose between a joint or a separate taxation; notice of the choice shall be given at the time of the return. If the joint taxation is not expressly stipulated, the separate taxation will automatically apply.

1.2. Determination of the net income

The taxable income includes 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 (i.e. after deduction of expenses and losses): these rules are described hereafter.

3 Under the new Special Finance Act, the concept "seat of wealth" has become a subsidiary criterion which is only used secondly.

1.2.1. Real estate income

A. General rules

The taxable amount of the real property is established separately for each spouse and the jointly owned property is apportioned on a fifty-fifty basis between the spouses. The fifty-fifty apportionment also applies to own real estate income if the spouses are married under the legal regime.

The taxable amount of real estate income is determined, according to the case, either on the basis of the cadastral income or on the basis of the rent. The net amount is then obtained by deducting interests on loans (other real estate than the own dwelling house).

TAXABLE AMOUNT

The underlying idea here is the cadastral income, which is a notional income deemed to represent the net annual income from the premises concerned, at the price of the year used as a reference for the most recent official valuation procedure. The reference year is 1975, but the cadastral income has been indexed since 1990. For the year 2014, the adjustment coefficient is 1.70.

The taxable income depends on the purpose it is given. Table 1.1 lists the possible purposes of **built movable property**.

Table 1.1
Income from real property: determination of the taxable amount

	Use the real property is put to?	Taxable income
a.	It is the taxpayer's own dwelling house	Since 1 January 2005, the cadastral income of the own dwelling house is no more taxable.
b.	It is not the taxpayer's dwelling house, but it is not leased (a second residence, for example)	The indexed cadastral income increased by 40%
c.	It is used by its owner for the purpose of a trade or business	No taxable income from immovable property; it is deemed to be a professional income
d.	It is leased to a natural person who does not use it for the purpose of a trade or business	The indexed cadastral income increased by 40%
e.	It is leased – to a natural person who uses it for the purpose of a trade or business, – to a company (*) – to any other legal person except those listed in (f)	The rent less 40% for standard expenses, BUT – the expenses may not exceed two thirds of 4.23 times the cadastral income – the net rent may not be less than the indexed cadastral income increased by 40%
f.	It is leased to a legal person not being a company, for purposes of underlease to one or more natural persons in order to be used exclusively as a dwelling house	The indexed cadastral income increased by 40%

(*) Taking into account the requalification-of-income principle. See infra: special provisions.

As far as **land** is concerned:

- cases (a) and (f) do not apply, of course;
- in cases (b) and (d), the increase by 40% of the cadastral income does not apply;
- in case (e), the taxable income is the amount of the gross rent, minus lump sum 10% deduction for expenses,
- as for farm rent, the taxable amount is limited to the indexed cadastral income, where rented in compliance with the law on agricultural leases.

ABOLITION OF THE STANDARD INTEREST DEDUCTION

The deduction of interest concerning the own dwelling house from real estate income has been abolished as from tax year 2015. On the one hand, the Regions are now exclusively competent for the tax advantages relating to the own dwelling house and on the other hand, they may not grant advantages which have an impact on the taxable base. However, under the standstill rule, the standard interest deduction has been converted into a regional tax credit for interest from debts incurred before 1 January 2015 (see hereafter).

REGIONAL STANDARD TAX CREDIT FOR INTEREST

It concerns the regional conversion of the old standard interest deduction. The interest entitles to a tax credit up to the amount corresponding to the "net real estate income". The tax credit is granted at the marginal rate and amounts to minimum 30% (4).

ABOLITION OF THE CREDITABLE WITHHOLDING TAX ON REAL ESTATE – CONVERSION INTO A REGIONAL TAX CREDIT FOR "CREDITABLE WITHHOLDING TAX ON REAL ESTATE"

The creditable withholding tax on real estate has been abolished (5) and converted into a regional tax credit calculated according to the interest paid for the own dwelling house, after application of the regional tax credit for standard interest. The tax credit amounts to 12.5% of the interest and royalties taken into account and applies in principle to loans incurred before 1 January 2005, but with the application of a transitional rule for loans incurred after this date, while another loan incurred before 1 January 2015 was ongoing and the housing bonus has not been chosen for the new loan.

4 The tax credit is only granted for loan interest or debts incurred before 1 January 2015, with the exception of the Flemish Region which extended the measure for loans incurred as from 1 January 2015.

5 Before the new Special Finance Act, only the withholding tax on real estate relating to the taxable cadastral income of the dwelling house was creditable where this withholding tax was really due. The creditable amount could not exceed 12.5% of the portion of the cadastral income included in the taxable base.

Concept of "own dwelling house" according to the Special Finance Act

The concept of "own dwelling house" is defined in the new Special Finance Act (and no longer in the Income Tax Code).

"Own dwelling house" means the dwelling house personally occupied in 2014 by the taxpayer as owner, occupier, emphyteutic lessee, superficiary owner or usufructuary, or not personally occupied for one of the following reasons: professional reasons, social reasons, legal or contractual impediments, the progress of building or renovation works.

The own dwelling house does not include the portion of the dwelling house used by the taxpayer or by a person who is not part of his household for the purpose of a trade or business. If the taxpayer personally occupies only a portion of the dwelling house, only this portion will be considered as being the own dwelling house.

As from tax year 2015: if the taxpayer personally occupies more than one dwelling house, he can no longer choose which dwelling house must be considered as his own dwelling house. The own dwelling house will be automatically the dwelling house where the *tax residence* has been located.

As far as the own dwelling house (and the other real estate income) is concerned, the monthly assessment has been changed into a daily assessment

According to the old monthly assessment, in case of changes in ownership, the situation on the 16th day of the month was the deciding factor. From now on, the recognition as own dwelling house will be assessed on a daily basis. This change has important consequences on the exemption of the cadastral income.

As a result, during the same taxable period, a regional tax advantage can be converted into a federal tax advantage if a dwelling house loses its status of own dwelling house during the taxable period.

B. Some special provisions

- Real estate income also includes sums obtained through the constitution or the transfer of long lease rights, building rights, planting rights or similar land rights. Sums paid for the acquisition of such rights are deductible, unless these rights relate to the own dwelling house (in this case, application of the regional tax credit).
- When a natural person rents a building to a company in which he is a corporate executive, the amount of the rent and rental benefits received can be **requalified** and classified as **earned income**: the part exceeding 7.05 times the cadastral income stops being considered income from immovable property and becomes a director's remuneration (6).
- Where 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.

6 I.e. 5/3 of the "revalued" cadastral income, that is to say multiplied by 4.23.

- Where a **furnished** building is **let** and the contract does not provide for separate rents for the building and for the furniture, 60% of the gross rent is deemed to be a real estate income taxed pursuant to the terms mentioned in Table 1.1, whereas the remaining 40% is deemed to concern the furniture and constitutes an income from movable assets (7).
- Where a non-furnished building has remained entirely **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 has been occupied and/or has produced income.

1.2.2. Income from movable property

The reader will find hereafter the situation relating to tax year 2015 (2014 income). He can refer to the chapter "Withholding tax on income from movable property" as regards income allocated as from 1 January 2015.

The specific system as regards copyright is described in point D hereafter.

The amount of the chargeable movable income is established for each spouse separately. Income from jointly owned movable property is apportioned according to the property law.

Under the new Special Finance Act, the tax on income from movable property is not reduced by the autonomy factor of 25.99% and it is not part of the basis for the calculation of the regional surcharges. The "movable property income box" includes dividends, interest, income from renting, lease-farming or concessions of movable property, income from prizes attached to debenture bonds, capital gains on securities taxed as miscellaneous income.

The following income is however subject to regional surcharges: income included in life annuities or temporary annuities, income from copyright, income from a sublease or the transfer of a lease, income from the permission to place advertising boards on buildings and income from sporting rights (hunting, fishing, trapping).

A. Income from movable property for which a return is optional

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

However, if the income from movable property is low, a return can be submitted so as to credit against the withholding tax and, if need be, to benefit from the refund of the surplus of the withholding tax at source.

B. Income from movable property for which a return is obligatory

A return must always be submitted for the following income:

- income earned abroad and collected directly abroad;
- income from ordinary savings accounts exceeding the first exempted bracket (cf. *infra*);

7 This is an income from movable property in respect of which a return is obligatory; see 1.2.2.B.

- income from capital invested in cooperative companies or companies with a social objective, exceeding the first exempted bracket (cf. *infra*);
- other income not liable to withholding tax, such as income from life annuities or temporary annuities, income from rent, from farming out or from the use or lease of any movable property, as well as income from mortgage debts on real estate situated in Belgium.

C. Non-taxable movable income

The most common cases are the following:

- the first 1,880 euro bracket of the income from ordinary savings deposits, **per spouse**. The exemption has been extended to the first bracket of interest from savings deposits received by credit institutions established in another Member State of the EEA, provided these deposits meet similar requirements to those laid down for deposits opened in Belgium;
- the first 190 euro bracket of income from capital invested in cooperative companies recognised by the National Cooperation Council (NCC), or in recognised companies with a social objective, **per spouse**.

Non-taxable income also includes income from preferential shares in the Belgian National Railway Company and from public bonds issued prior to 1962 that are exempted from real and personal taxation or from all forms of taxation.

D. Copyright

The income concerned is income from the cession or concession of copyright and related rights, as well as legal or compulsory licences, referred to in the Law of June 30th, 1994 on copyright and related rights or in similar provisions of foreign law (hereafter “copyright”).

Copyright, whether or not from a professional activity, is liable to the withholding tax on movable property.

However, copyright from a professional activity is definitively taxed as income from movable property for the first 57,080 euro bracket. The part of copyright exceeding 57,080 euro is taxable as professional income.

Where the right to deduct actual costs has not been used, the taxable amount results from the application of a lump sum cost amount calculated as follows:

- 50% on the first 15,220 euro bracket;
- 25% on the bracket between 15,220 and 30,440 euro;
- 0% above.

All income from copyright must be mentioned in the personal income tax return, even though a withholding tax has been levied on it.

E. Assessing procedures

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

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

Table 1.2
Assessment rates of the main income from capital and movable property (2014 income)

DIVIDENDS	
Dividends from the distribution of taxed reserves injected in the capital	10%
Dividends from "residential" real estate investment companies	15%
Other dividends	25%
INTEREST	
Income from ordinary savings deposits	15%
Interest from government bonds 24 November 2011 – 2 December 2011	15%
Interest relating to thematic citizens lending	15%
Other interest	25%
ROYALTIES, LIFE ANNUITIES AND TEMPORARY ANNUITIES	25%
COPYRIGHT	15%

Total aggregation is applied however where it is to the advantage of the taxpayer; only then are recovery and maintenance costs deductible.

The additional municipal surcharges are added to the tax amount, except for the tax on interest and dividends, irrespective of whether the income from movable property (or the miscellaneous movable income) is taxed as aggregated income or separately.

1.2.3. Miscellaneous income

This third category of taxable income includes all income with the **common characteristic** of **not being earned by performing a professional activity**. Among the categories of income mentioned hereafter, only "current" alimony payments are included in the aggregated taxable income (thus not "arrears"). Every other miscellaneous income is taxed separately (8).

The amount of the taxable miscellaneous income is determined separately for each spouse. Any shared income is apportioned according to the law of property.

8 Tax rates applicable to tax year 2015 are mentioned in Table 1.16, page 72.

ALIMONY PAYMENTS

80% of alimony payments received in the course of a taxable period are subject to tax (they are included in the aggregated taxable income) (9). Arrears of alimony payments are also taxed in respect of 80% of their total amount; nevertheless where paid under a Court order with retroactive effect they may be separately taxed.

OCCASIONAL PROFITS AND PROCEEDS

The profits and proceeds not connected with a professional activity are considered here. Are not concerned:

- profits and proceeds obtained through the normal management of one's private fortune,
- gains from gambling and lotteries.

The total amount of occasional profits and proceeds is taxable after deduction of actual expenses.

PRIZES AND SUBSIDIES

Prizes, subsidies, annuities or pensions allocated to scholars, authors or artists by Belgian or foreign public authorities or non-profit public bodies (10) are also subject to taxation as "miscellaneous income".

This miscellaneous income is taxable in respect of the total amount actually received, increased by the retained withholding tax on earned income.

There is no tax rebate for annuities and pensions. Prizes and subsidies (11) are only taxable in as far as they exceed 3,810 euro.

ALLOWANCES TO RESEARCH WORKERS

Are also considered as miscellaneous income, personal allowances from the exploitation of a discovery paid or granted to research workers by universities, "hautes écoles" (non-university tertiary education), the "Federaal Fonds voor Wetenschappelijk Onderzoek - Fonds fédéral de la Recherche scientifique", the "FRS-FNRS" (Fonds de la Recherche Scientifique–FNRS) or the "FWO-Vlaanderen" (Fonds voor Wetenschappelijk Onderzoek-Vlaanderen).

These allowances are taxable with respect to their net amount, i.e. after deduction of 10% costs from the gross amount. A withholding tax is levied on these allowances.

9 Alimony payments received in compliance with a foreign legal provision are dealt with in the same way as those received in compliance with a Belgian legal provision, provided those provisions are similar.

10 Unless these organisations are recognised by a Royal Decree deliberated in the Council of Ministers.

11 Where subsidies are allocated for several years, the taxpayer is entitled to a rebate only in respect of the first two years.

CAPITAL GAINS FROM BUILT REAL PROPERTY

These capital gains are only taxable as miscellaneous income where all the following conditions are met:

- the property is situated in Belgium,
- it is not the taxpayer's own dwelling house,
- the alienation for a consideration (generally a sale) occurs either less than five years after the acquisition for a consideration, or less than three years after a gift and less than five years after the acquisition for a consideration by the grantor.

The taxable amount is determined on the basis of the transfer price, from which are deducted:

- the purchase price and acquisition costs,
- a 5% revaluation of the purchase price and costs for each full year of ownership,
- 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.

CAPITAL GAINS FROM LAND

These capital gains are only taxable where the following conditions are jointly met:

- the real property is situated in Belgium,
- the alienation for a consideration occurs either less than eight years after the acquisition for valuable consideration or less than three years after a gift has been made and less than eight years after the acquisition by the grantor for a valuable consideration.

The taxable amount is determined on the basis of the transfer price, from which are be deducted:

- the purchase price and acquisition costs,
- a 5% revaluation of the purchase price and acquisition costs for each full year of ownership between the acquisition and the alienation.

CAPITAL GAINS REALISED UPON THE ALIENATION OF A BUILDING PUT UP ON LAND ACQUIRED FOR A CONSIDERATION

These capital gains are only liable to tax where all the conditions mentioned hereafter are met:

- the building is situated in Belgium,
- its construction was started less than five years after the acquisition of the land for a consideration by the taxpayer or the grantor,
- the alienation for a consideration takes place less than five years after the building was first brought into use or put up for rent.

The taxable amount is determined on the basis of the transfer price, from which may be deducted:

- the purchase price and acquisition costs,
- a 5% revaluation of the purchase price and costs for each full year of ownership between the acquisition and the alienation,
- the costs of renovation work carried out by a registered contractor on behalf of the owner between the first occupancy or letting and the alienation.

CAPITAL GAINS REALISED ON THE TRANSFER OF AN IMPORTANT PARCEL OF SHARES

These capital gains are taxable as miscellaneous income only where an important parcel of shares (more than 25%) is transferred to companies and legal entities established outside the European Economic Area.

The taxable amount is the difference between the transfer price and the purchase price, the latter being revalued if necessary (12).

Income mentioned hereafter constitutes the category "miscellaneous movable income". It concerns prizes attached to debenture bonds, income from a sublease or the transfer of a lease, income from the permission to place advertising boards and income from sporting rights (hunting, fishing, trapping).

PRIZES ATTACHED TO DEBENTURE BONDS

This type of income is rare, lottery loans having fallen into abeyance. The taxable amount is the net amount received increased by the (actual or notional) withholding tax.

INCOME FROM A SUBLEASE OR THE TRANSFER OF A LEASE

The taxable amount of income from a sublease or from the transfer of a lease is the gross rent received from the sublease, minus actual expenses and rent paid.

INCOME FROM THE PERMISSION TO PLACE ADVERTISING BOARDS

The taxable amount is the amount received minus actual expenses or minus a lump sum of 5% for expenses.

INCOME FROM SPORTING RIGHTS (HUNTING, FISHING, TRAPPING)

The taxable amount is the amount received.

1.2.4. Earned income

There are seven categories of professional earnings:

1. employees' salaries and wages;
2. company managers' remunerations;
3. assisting spouses' remunerations (without own social status) (13);
4. profits from agricultural, industrial and commercial activities;
5. proceeds from a liberal profession;
6. profits and proceeds from former professional activities;
7. replacement income: pensions, unemployment with company allowance regime (formerly called "prepensions"), unemployment benefits, health insurance benefits, etc.

12 The revaluation only concerns acquisitions realised before 1949.

13 Are concerned: assisting spouses pursuing a professional activity which does not give entitlement to own benefits under a compulsory system for pension, family allowances and sickness and invalidity insurance, being at least equal to those granted under the self-employed social status.

The taxpayer declaring profits or proceeds can remunerate the assisting spouse. This remuneration (assisting spouses under the “new system”, Article 33 Income Tax Code 92) coexists with the "assisting spouse quota" (assisting spouses under the “old system”, Article 86 Income Tax Code 92), but they cannot apply concurrently. The remuneration constitutes for the assisting spouse a source of earned income from independent activity (14).

The net income is determined in six stages:

- deduction of social security contributions;
- deduction of actual or lump sum professional expenses;
- economic exemptions, notably tax measures in favour of investment and/or employment;
- clearance of losses;
- awarding of the "assistant spouse" quota and the marital quotient;
- compensation of losses between spouses.

A. Taxable income, exempted income: a few clarifications

It is impossible to tell the long and short of the rules determining whether an income is taxable or not: only the general rules and the most frequent cases will be developed hereafter, and special attention will be given to earned income and replacement income.

Earned income includes wages, salaries and other remunerations received with respect to a professional activity. Is not included, the repayment of expenditures characteristic of employers.

A temporary exemption of PIT is given for **premiums for innovation**. This exemption covers the year 2014. The exemption is subject to some conditions being fulfilled. Amongst these conditions: these premiums must be granted for innovation which adds real value to the normal activities of the employer granting the premium, and the number of workers to whom these premiums are granted cannot exceed 10% of the number of workers employed by the company per calendar year (and maximum 3 workers for companies with less than 30 workers).

Commuting expenses have to be borne by the employee; they are deductible as professional expenses (see further, under C). Where these expenses are refunded by the employer, they are in principle a taxable income. The latter can partly be exempted however; the following chart explains the different possibilities.

14 From a tax point of view, those remunerations are considered as own professional income.

Table 1.3
How to determine the exempted part of the sums reimbursed by the employer for commuting expenses?

Lump sum deduction of professional expenses	Deduction of actual professional expenses
Bicycle commuting: allowance exempted up to 0.22 euro/km	Bicycle commuting: – allowance exempted up to 0.22 euro/km; – deductible bicycle expenses limited to 0.22 euro/km
Where a means of public transport is used: the total amount of the allowance or reimbursement made by the employer is exempted.	The allowance made by the employer is liable to tax. These expenses are deductible. In the absence of evidence, the deductible expenses are estimated at 0.15 euro per kilometre for the distance between home and work, this distance being limited to 100 kilometres.
Where a collective means of transport is provided by the employer or a group of employers, or in the case of carpooling: the allowance is exempted, pro rata temporis, up to the amount of a weekly first class train ticket between work and home	
Other means of transport: the allowance is exempted up to 380 euro	Actual expenses: maximum 0.15 euro per kilometre, The allowance made by the employer is liable to tax, with the exception of the bicycle allowance.

Earned income includes **termination compensation, arrears and advance holiday pay**. This income is however taxed separately.

A new exemption has been introduced for “severance payments” (“indemnités compensatoires de licenciement” / “ontslagcompensatievergoedingen”). Those are paid by the Belgian National Employment Office to compensate for the damage suffered by redundant workers (employed before 1 January 2014) resulting from the fact that a part of the notice period has been calculated according to the old less favourable rules (15).

Workers who received “severance payments” are no longer entitled to the redundancy allowance paid by the Belgian National Employment Office (see hereafter).

The **redundancy allowance** which is payable by the Belgian National Employment Office and which dismissed workers (employed before 1 January 2014) can benefit, is tax exempted and exempted from social security contributions (16). The exemption applies to allowances received as from 1 January 2012, provided the dismissal is notified by the employer on 1 January 2012 at the earliest. However, as soon as the worker is entitled to the “severance payment”, he loses entitlement to the redundancy allowance.

As regards remunerations relating to activities performed in the framework of **local employment agencies**, 4.10 euro are exempted from tax for each hour worked.

Earned income includes the **benefits in kind** obtained in respect of professional activities: this principle is extended to all categories of professional income.

15 The new rules, applicable as from 1 January 2014, provide for a longer notice period for redundant workers. However, the new notice periods only totally apply if the employment contract began after 31 December 2013.

16 The redundancy allowance is granted to workers bound by an employment contract for workers, service vouchers or domestic workers whose contract is terminated provided the dismissal is notified as from 1 January 2012.

The employer's financial intervention in **meal vouchers** (up to 5.91 euro per voucher) and in **sport and culture vouchers** (up to 100 euro per year) is an exempted social advantage for the beneficiary, provided some conditions are met.

Eco-vouchers can also be tax exempted. These vouchers must be registered and granted in the framework of a collective agreement either sectoral or concluded within the company. If there is no collective agreement, a written individual agreement is required. The exemption is limited to 250 euro per year.

The system of **non-recurrent advantages linked to results** or "wage bonus" is tax exempted. The bonus is an additional allowance granted to each worker or group of workers in the company and linked to the results of the company (more specifically to previously defined goals, financial or not, which can objectively be ascertained). The rules must be enshrined in a collective agreement or an accession procedure must be used for companies without union delegation. This procedure is limited to workers entitled to the bonus and must be submitted to the sectoral joint agreement. The tax exemption is granted for maximum 2,722 euro per worker.

At social level, ordinary social security contributions are still exempted. However, as far as advantages paid or allocated as from 1 January 2013 are concerned, a solidarity contribution of 13.07% is to be paid by the worker on actually granted advantages up to the social annual upper limit (a gross amount of 3,131 euro). Employers' contributions are limited to a special social security contribution of 33%. The portion of the bonus exceeding the upper limit is considered as wage. As a result, it is subject to ordinary social security contributions and is taxed.

There is also a special tax system for **sportsmen and volunteers** (referees, trainers, coaches and guides). The income earned from this activity by sportsmen or volunteers aged 26 at least, is taxed separately at 33% for a first 18,720 euro gross bracket, provided those sportsmen or volunteers have a higher income from another professional activity. This system does not apply to company managers' remunerations. Remunerations granted to sportsmen aged 16 to less than 26 on 1 January of the tax year are taxed separately at 16.5% for the first 18,720 euro gross bracket.

Allocation granted to **artists** and considered at social level as lump sum settlement of expenses for performing "small-scale" artistic activities, are exempted to 2,444.21 euro per calendar year. This tax exemption follows the exemption system applied to social security contributions, and applies where those allocations are considered as well as professional income as miscellaneous income.

The tax system for stock options (17)

Broadly speaking, a stock option plan consists of a right, granted voluntarily by a company to their staff, allowing the latter to acquire shares in that company within a fixed period and at a predetermined price, called the exercise price. This tax system for stock options applies to all companies and is not restricted to quoted companies.

The granting of share options is considered as a taxable benefit in kind (BIK). This BIK **becomes a taxable income at the time it is received** and not at the time it is exercised.

The taxable benefit in kind is **valued at a flat rate (**18**)**. It is fixed at 18% of the value of the shares the option relates to, at the time of the granting. This percentage is increased by 1% for each year or part of a year exceeding five years. Where a stock option plan provides for the option to be exercised seven years after the granting thereof, for example, the benefit in kind shall be fixed at a 20% flat rate of the shares' value at the day of their granting.

These percentages are halved when the following conditions are jointly met:

- the exercise price is determined definitely at the time the right is granted,
- the option may neither be exercised before the end of the third nor after the end of the tenth calendar year following the year the right is granted,
- the option may not be the object of a transfer inter vivos,
- the shares may not be covered against the risk of depreciation,
- the option shall relate to shares either of the company on behalf of which the professional activity is performed or of a parent company thereof.

The advantage thus calculated is **added to the aggregated taxable income**. The assessment pertaining to it is a final one. Possible capital gains realised or recorded upon the exercise of the right are not taxable.

The Act of 24 December 2002, allows for an extension up to maximum 3 years of the period during which the right of option can be exercised without additional fiscal burden.

In order to be eligible for this for this extension, the options must meet the following conditions:

- they must have been granted, i.e. not have been abandoned, within 60 days after the offer;
- they must have been given between 2 November 1998 and 31 December 2002;
- they have not been exercised yet and the option period is still running;
- they beneficiary must have given his consent and the Tax Administration must have been informed thereof by the enterprise giving the options.

The Economic Recovery Act of 27 March 2009 allows for a new extension of the period during which the right of option can be exercised without additional fiscal burden, for option plans concluded between 1 January 2003 and 31 August 2008. The conditions are the same as those listed above, except that they must have been offered between 2 November 2002 and 31 August 2008 included. The extension reaches 5 years for those option plans, up to a maximum fiscal value of 100,000 euro. "Fiscal value" means the value of the advantage in kind fixed as described above.

17 As far as stock options granted as from 1 January 2012 are concerned, the flat rate used to value the benefit in kind in case of granting of stock options, has been increased from 15% to 18%.

18 Where the shares are quoted or traded on a stock exchange, the taxable advantage is generally determined in respect of the last closing rate on the day preceding the day it was granted.

The tax system for company cars

The method for calculating the benefit in kind relating to the putting at disposal of a company car (including commuting) is to be found hereafter. The Federal Public Service Finance developed an online form thanks to which the citizen can ask for the calculation of this benefit in kind (19).

This calculation method applies to benefits in kind granted as from 1 January 2012.

The benefit in kind is calculated as 6/7th of the catalogue value of the car multiplied by a percentage linked to the car's CO_2 emission rate, that is to say

Benefit in kind = catalogue value * % (CO_2 coefficient) * 6/7

The basic CO_2 coefficient amounts to 5.5% for a diesel car with a CO_2 emission threshold of 93 g/km and for a petrol, LPG or natural gas car with a CO_2 emission threshold of 112 g/km (coefficients applicable to benefits in kind granted as from 1 January 2014).

Where the CO_2 emissions exceed the threshold, the basic percentage is increased by 0.1% per gram CO_2 to maximum 18%.

Where the CO_2 emissions are lower than the threshold, the basic percentage is decreased by 0.1% per gram CO_2 to minimum 4%. If the company car is exclusively powered by an electric motor, the CO_2 percentage is equal to the minimum, that is to say 4%.

In no circumstance can the benefit be lower than 1,250 euro.

CATALOGUE VALUE

Only one definition of the catalogue value applies to all company cars, as well new cars as second-hand or leasing cars.

The **catalogue value** is the list price of the new vehicle on the occasion of sales to private individuals, including the options and the actually paid VAT (20), but excluding reductions, deductions, rebates or discounts.

TAKING INTO ACCOUNT OF THE AGE OF THE VEHICLE

The fixed catalogue value is decreased according to the age of the vehicle, by 6% per year to a maximum decrease of 30%. The period as from the date of the first registration of the vehicle is therefore taken into consideration.

Period as from the first registration of the vehicle (*)	Percentage of the catalogue value for the computation of the benefit in kind
0-12 months	100%
13-24 months	94%
25-36 months	88%
37-48 months	82%
49-60 months	76%
More than 60 months	70%

(*) Every month started counts for a whole month. For instance: the date of the first registration within the "Direction pour l'Immatriculation des Véhicules"/"Directie Inschrijvingen van Voertuigen" (Department for Vehicles Registration) is 21 March 2012. The percentage of the catalogue value to be taken into consideration amounts to 100% from 1 March 2012 to 28 February 2013 and to 94% as from 1 March 2013.

19 The form is available at: http://ccff02.minfin.fgov.be/webForm/public/atn-vaa.jsf (only available in French and Dutch).

20 The (notional) VAT that should have been paid on this list price if the reductions, deductions, rebates and discounts granted were not applied for the calculation of the VAT, is therefore not taken into account.

Although, as a general rule, **replacement income** is taxable, some **social transfers** are exempted. Are concerned:

- income support;
- legal family allowances;
- maternity allowances and legal adoption premiums;
- disability allowances chargeable to the Treasury under current legislation;
- war pensions;
- allowances paid in respect of an incapacity for work or an occupational disease to a person losing no professional income. The allowances are automatically exempted where the degree of disablement does not exceed 20% or where the allowances are paid on top of a retirement pension. Where the degree of disablement exceeds 20%, the tax exemption is in principle limited to that percentage.

Copyright is considered as professional income if resulting from a professional activity and for the bracket above 57,080 euro. Below this threshold, it is assimilated to income from movable property (21).

As mentioned above, the taxable amount is fixed after application of lump sum costs.

B. Deduction of social security contributions

Employees' salaries and wages and directors' and assisting spouses' remunerations are taxable in respect of their gross amount less personal social security contributions.

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

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

The special social security contribution levied on the salaries of employees (or their counterparts) whose net taxable household income exceeds 18,592.01 euro 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.

On the other hand, the solidarity levies on pensions of which the gross monthly amount exceeds 2,222.18 euro (pension for singles) / 2,569.12 euro (pension for households), are assimilated to social contributions and are thus fiscally deductible.

C. Deduction of expenses

ACTUAL EXPENSES

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

May be deducted, expenses 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.

21 See above on page 29.

As regards commuting expenses, a distinction should be made between expenses borne in respect of a personal vehicle and others.

- Where the expenses are incurred in connexion with a personal vehicle, the deductibility is limited to 0.15 euro per kilometre;
- Where the travel expenses have been incurred by any other means, fixed professional expenses (0.15 euro per kilometre) are granted, the maximum distance between home and work being set at 100 kilometres in the absence of evidence. Where a chargeable person proves higher actual expenses, he may deduct the latter entirely, but he is not allowed to combine the lump sum amount of 0.15 euro per kilometre with the actual expenses in respect of the distance exceeding 100 kilometres. As far as bicycle commuting is concerned, the lump sum amount is equal to 0.22 euro per kilometre.

Besides commuting expenses, actual expenses can cover, among other things:

- 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, advertising expenses, training costs, etc.;
- additional insurance contributions in respect of disablement resulting from sickness or invalidity;
- personnel costs;
- remunerations paid to the assisting spouse (without own social status);
- depreciation of property used for a professional activity (22);
- 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;
- sums actually paid out to collective day care facilities by a taxpayer receiving profits (i.e. a merchant or a person practising a liberal profession) (23).

Are not deductible:

- personal expenses;
- fines and penalties;
- expenses exceeding the professional requirements to an unreasonable extent;
- expenses relating to clothing, with the exception of special professional clothing;
- 31% of restaurant expenses;
- 50% of entertainment allowances and business gifts;

22 The way depreciation is taken into account by the tax law will receive ample treatment in chapter 3 (Provisions common to PIT and CIT). See page 119.

23 In fact it concerns expenses paid for ‘enterprise crèches’. This regulation also applies to companies and is detailed in Chapter 3, page 129.

- travel expenses other than those relating to commuting: 25% of professional car expenses (including losses on those vehicles);
- the PIT as well as deductible withholding taxes and advance payments (AP) related thereto, payable to the State, to the municipalities and to the "agglomération bruxelloise/Brusselse agglomeratie" (urban area of Brussels);
- interest paid on loans contracted with third parties by company managers with a view to the subscription to shares in the share capital of a company from which they receive remunerations in the course of the taxable period.

LUMP SUM EXPENSES

For certain categories of earned income, the law provides **lump sum expenses** which substitute actual expenses, unless the latter are higher.

The basis for calculation of the lump sum expenses is the gross taxable amount, less social security contributions and contributions assimilated thereto (24).

For **directors,** the lump sum deduction is set at 3% of the basis of calculation, with a maximum of 2,370 euro.

For **remunerations paid to the assisting spouse**, the lump sum deduction is set at 5% of the basis of calculation, with a maximum of 3,950 euro.

The same 3,950 euro limit applies to the lump sum expenses which may be awarded to **employees** and **members of a liberal profession** (25); these are calculated according to the scale below.

Table 1.4
Lump sum allowable professional expenses

Basis of calculation in euro		Professional expenses	
		lower limit	above the limit
0	5,710	0	28.7%
5,710	11,340	1,638.77	10%
11,340	18,880	2,201.77	5%
18,880	and more	2,578.77	3%

An additional deduction for lump sum expenses can be granted to **employees** when the distance between their home and their work is at least 75 km.

Table 1.5
Additional allowable professional lump sum expenses

Distance between home and work			Additional fixed amount
75 km	-	100 km	75
101 km	-	125 km	125
126 km		and more	175

24 That is to say the deductible part of contributions to recognised mutual insurance companies; see above, page 39.

25 This maximum is reached at a basis of calculation of 64,588 euro.

DEDUCTION OF EXPENSES

Where the taxable earned income includes separately taxable income (STI) (26), professional expenses are deducted as follows:

- in proportion to the aggregate taxable income and separately taxable income, in the case of lump sum expenses,
- preferentially on aggregate taxable income, in the case of actual expenses.

D. Economic exemptions

The following can then be deducted from **profits** after expenses by virtue of tax provisions in favour of investment and employment:

- tax exemption for additional staff appointed to a managing function in the "Export" department or in the "Total quality management" department;
- tax exemption for additional staff in small and medium sized companies;
- investment deduction;
- trainer's bonus.

Taxpayers declaring **proceeds** are only eligible for the investment deduction and for the tax exemption in respect of additional staff taken on in small and medium sized companies.

These measures are common to PIT and CIT. They are described in Chapter 3.

Taxpayers declaring profits and proceeds are eligible for a tax credit if they have increased the "own assets" engaged in their company. This is explained in Section 1.4.9.3 (27).

E. Deduction of losses

LOSSES INCURRED IN THE CURRENT TAXABLE PERIOD

The losses a taxpayer incurs in the course of a taxable period in the framework of one professional activity are set off against the profits the same taxpayer realises in the same taxable period in the framework of another activity. The losses are first deducted from the aggregate taxable income, the remainder then being deducted proportionally from the different kinds of separately taxable income.

LOSSES INCURRED IN PREVIOUS TAXABLE PERIODS

Losses incurred by a taxpayer in the course of **previous** taxable periods can be set off by him against profits from subsequent taxable periods with no time limit.

26 For example arrears, termination compensation and certain capital gains.
27 See page 80.

F. Allocation of the assisting spouse quota and the marital quotient

ASSISTING SPOUSE QUOTA

A self-employed taxpayer (trader or member of a liberal profession) who actually receives assistance from his/her spouse can allocate a portion of his/her net income to the spouse.

This allocation is only allowed where the spouse who is to receive the quota has not earned a professional income amounting to more than 13,240 euro (after deduction of expenses and losses) from a separate activity.

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 his/her other own income.

MARITAL QUOTIENT

The marital quotient 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 then allocated is set at 30% of the total net earned income, **less the own income of the spouse enjoying the quotient**. It cannot exceed 10,200 euro.

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

QUALIFICATION OF THE ALLOCATED INCOME

The original qualification subsists and the assisting spouse quota and marital quotient are allocated proportionally to the different categories of income received by the allocating spouse. Where only one of the spouses enjoys an income, income allocated in application of the marital quotient is deemed to be earned income if that spouse is a wage-earner and is deemed to be a pension if the spouse concerned is a pensioner.

G. Compensation for losses between spouses

Where 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 the transferable losses cannot exceed the income of the spouse to whose income the deduction applies.

1.3. Expenses entitling to a tax relief

Table 1.6

Tax credits which remain a federal competence	**Tax credits transferred to the Regions**
Long-term savings	
Pension savings scheme	
Personal premiums for group insurance contracts and pension funds	
Acquisition of employers' shares	
Individual life insurance premiums not related to real estate	
Real estate	
Expenses for another dwelling than the own dwelling house: Federal tax credit for long-term savings (individual life insurance premiums + capital repayments)	Expenses for acquiring or maintaining the own dwelling house: regional tax credit for own dwelling house (housing bonus) or regional tax credit for long-term savings (loans and agreements which are not meeting the conditions giving entitlement to the housing bonus)
	Expenses for making dwellings secure against burglary and fire
	Expenses for renovating low-rent dwelling houses
	Classified monuments and sites
	Zones of 'positive metropolitan policy' (*)
Transitional provisions: federal tax credits at the marginal rate (for another dwelling than the own dwelling house) – loans contracted until 31 December 2013.	Regional tax credit for standard interest, regional tax credit for additional interest, regional tax credit for "housing-savings", regional tax credit for interest relating to the conversion of the old creditable withholding tax on real estate.
Environment	
Tax credit carried over for certain energy-saving expenses made in 2011 and 2012	Roof insulation (dwelling house of at least five years)
Tax credit for passive, low-energy and zero-energy houses	
"Green" loans	
Electric vehicles	
Other expenses	
Gifts	LEA vouchers and service vouchers
Child care expenses	
Remunerations domestic workers	
Shares of recognised development funds	

(*) As the royal decree determining the zones of 'positive metropolitan policy' has not been renewed, the tax credit may no longer apply in practice.

Certain expenses entitle to a tax relief (28). As already mentioned at the beginning of this chapter, the Regions are now exclusively competent for granting certain tax advantages. The distribution is given in Table 1.6. As a result, expenses for which the tax advantage is granted by the federal authority and those for which the tax advantage is granted by the Regions are described separately.

However, we start with a specific section about the tax system applicable to mortgage loans. In this section, there will be explicitely mentioned what remains a federal competence and what has been transferred to the Regions, with a distinction between the own dwelling house and other real estate.

The tax credits which remain granted by the federal authority after the implementation of the Special Finance Act are secondly dealt with. Those tax credits, which remain a federal competence, are divided into three categories: long-term savings, environment and other expenses for which tax advantages are granted at federal level.

Thirdly, the tax advantages transferred to the Regions as a result of their increased competences under the Sixth State Reform, are considered. For those competences, three categories have been established: real estate, environment and other expenses for which tax advantages are granted at regional level.

Finally, the existing regional provisions are described, exclusive transfer from the federal State to the Regions: win-win loan and renovation agreements in the Flemish Region.

The terms and conditions for the granting of the tax advantages are described here.

1.3.1. Investment in real property

Expenses relating to investment in real property include capital repayments of mortgage loans, interest payments and individual life insurance premiums.

As far as mortgage loans are concerned, there have been several successive systems; the matter may thus seem particularly complex. The regionalisation of tax incentives regarding the own dwelling house increased this complexity by creating numerous different tax systems.

The following diagram shows the applicable systems. We only consider here the case of one loan raised for the dwelling house. The essential distinction relates to whether the loan concerns *the taxpayer's own dwelling house or not on the date* interest, amounts used for the repayment or the reinstatement of the mortgage loan and life insurance premiums *have been paid* (29).

28 As a reminder, during tax year 2013, some tax advantages, which were considered as deductible expenses, had been converted into tax credits. It concerns gifts, child care expenses, expenses for domestic workers and expenses relating to the maintenance and restoration of classified monuments and sites. Two single rates had also been set for the tax credit: 45% (gifts and child care expenses) and 30% (domestic workers and classified monuments).
Alimony payments, the housing bonus and the additional deduction of mortgage interest had remained classified as deductible expenses.. As from tax year 2015, only alimony payments have still been deductible from the net income. The housing bonus has been transferred to the Regions and converted into a tax credit. The additional deduction of mortgage interest has been converted into a tax credit.

29 For further information about those different tax systems, see circular AGFisc/AAFisc 6/2015 (Ci.RH.331/633.998) of 3 February 2015. For the tax consequences of a mortgage transfer, see circular AGFisc/AAFisc 1/2015 (Ci.RH.331/635.143) of 12 January 2015. For the concept of "own dwelling house" according to the new Special Finance Act and the change from the monthly to the daily assessment as regards the own dwelling house, cf. the section relating to income from immovable property, p. 27.

Table 1.7

The dwelling house for which the loan has been raised is the **own dwelling house** on the date interest, amounts used for the repayment or the reinstatement of the mortgage loan and life insurance premiums have been paid.

Date on which the loan has been raised (case of only one loan)	Tax system applicable
From 1 January 2005 to 31 December 2014	If the conditions relating to the mortgage loan and the individual life insurance are fulfilled and if the loan concerns the taxpayer's single dwelling house, personally occupied by him on 31 December of the year in which the loan has been raised, ***regional housing bonus*** at the marginal rate (with minimum 30%) (In the case of aggregated taxable income: possible refundable tax credit) Otherwise, regional tax credit for long-term savings (rate of 30%) for capital repayments and life insurance premiums; tax credit for standard interest.
From 1 January 1993 to 31 December 2004	***Regional tax credit for "housing savings"*** inasmuch as the loan concerns the taxpayer's single dwelling house on the date the loan has been raised. Otherwise, regional tax credit for long-term savings. It is also possible to benefit the regional tax credit for additional interest or the regional tax credit for standard interest if the related conditions are fulfilled.

Tableau 1.8

The dwelling house for which the loan has been raised is not the own dwelling house on the date interest, amounts used for the repayment or the reinstatement of the mortgage loan and life insurance premiums have been paid. Case in which this other dwelling house was not the single dwelling house on the date on which the loan has been raised.

Date on which the loan has been raised (case of only one loan)	Tax system applicable
From 1 January 2005 to 31 December 2014	If the conditions relating to the mortgage loan and the individual life insurance are fulfilled, ***federal tax credit for long-term savings*** (rate of 30%) and standard interest deduction Art. 14 Income Tax Code 92
From 1 January 1993 to 31 December 2004	***Federal tax credit for long-term savings*** (rate of 30%) for capital repayments and life insurance premiums. Deduction of income from immovable property (Art. 14 Income Tax Code 92)

Table 1.9

The dwelling house for which the loan has been raised is not the own dwelling house on the date interest, amounts used for the repayment or the reinstatement of the mortgage loan and life insurance premiums have been paid. Case in which this other dwelling house **was the single dwelling house on the date on which the loan has been raised.**

Date on which the loan has been raised (case of only one loan)	Tax system applicable
As from 1 January 2014	If the conditions relating to the mortgage loan and the individual life insurance are fulfilled, ***federal tax credit for long-term savings*** and standard interest deduction Art. 14 Income Tax Code 92
From 1 January 2005 to 31 December 2013	***Federal housing bonus*** (transitional measures applicable to loans raised until 31 December 2013). The amount to which the taxpayer is entitled accordingly is reduced by the amount of the expenses made to acquire or maintain the own dwelling house for which regional tax credits can be granted.
From 1 January 1993 to 31 December 2004	If the dwelling house is the taxpayer's single dwelling house on the date at which the loan has been raised and if individual life insurance premiums are exclusively used for the securing or the reinstatement of this loan, ***federal tax credit for "housing savings"*** (transitional measures). It is also possible to benefit the federal tax credit for additional interest if the related conditions are fulfilled.

REGIONAL HOUSING BONUS
(expenses made for the own dwelling house on the date interest, amounts used for the repayment or the reinstatement of the mortgage loan and life insurance premiums have been paid)

This tax credit applies to loans raised in order to acquire or maintain the taxpayer's dwelling house. It must be the taxpayer's **single** dwelling house, which means that he cannot own other real estate by 31 December of the year in which the loan contract was entered into (30). The dwelling must be located in a Member State of the European Economic Area.

The regional tax credit applies to interest on loans, capital repayments or life insurance premiums assigned to the reinstatement of the mortgage loans and outstanding balance insurance premiums (although the latter is no longer compulsory). It is granted at the marginal rate (with minimum 30%) where the loan has been raised before 1 January 2015 (31).

The maximum amount of the tax credit, per taxpayer and per taxable period, is made up of the basic amount and of increases (32):

- for 2014 income, the basic amount is equal to 2,280 euro. It remains acquired to the taxpayer whatever changes in his real estate holdings may be after 31 December of the year in which the loan contract was entered into.

- this amount is increased during the first ten years of the loan contract. This increase amounts to 760 euro for 2014 income.

  The basic amount is also increased where at least three children are dependent on the taxpayer on 1 January of the year following the year in which the loan contract was entered into. This increase amounts to 80 euro for 2014 income.

These increases no longer apply as from the taxable period during which the taxpayer becomes owner, occupier, emphyteutic lessee, superficiary owner or usufructuary of a second dwelling. The increases are then definitively lost.

As regards mortgage repayments:

- the loan must be specifically raised to acquire or maintain the own dwelling house;
- the mortgage loan must have a minimum duration of ten years and must have been raised with an institution located in the EEA;
- the dwelling house must be located in a Member State of the European Economic Area.

30 Dwellings of which the taxpayer is co-owner, bare owner or usufructuary by inheritance, are not taken into account; neither is another dwelling considered as being for sale on the real estate market on 31 December of the year in which the loan contract was entered into and being actually sold at the latest on 31 December of the year following the year in which the loan contract was entered into.

31 With respect to mortgage loans raised as from 1 January 2015, the Regions can choose to change the rate of the tax credit. Otherwise, the 45%-rate will apply. The Flemish Region and the Walloon Region have already decided to apply a 40%-rate.

32 The amounts are the one applicable to the regional housing bonus. The amounts of the federal housing bonus (transitional measures) have been frozen up to the amounts for tax year 2014, i.e. 2,260 euro, 750 euro and 80 euro.

As regards individual life insurance contracts:

- the contract must have been signed by the taxpayer before the age of 65,
- where it includes a life bonus, the contract must have a minimum duration of ten years,
- the bonuses must be stipulated: in the event of life, in favour of the taxpayer; in the event of death, in favour of the person who acquires the full property or usufruct;
- the contract must be concluded with an institution located in the EEA.

Moreover, as mentioned above, it must concern the *single dwelling house personally occupied* by the taxpayer. However, the fact that the taxpayer does not personally occupy the dwelling house on 31 December of the year in which the loan contract was entered into, for one of the following reasons, is not taken into account: professional reasons, social reasons, legal or contractual impediments, the progress of building or renovation works.

MAIN CONDITIONS TAX CREDIT FOR LONG-TERM SAVINGS

As regards mortgage repayments:

- the loan must have been raised with an institution located in the EEA.
- the loan must have a minimum duration of ten years.

As regards individual life insurance contracts:

- the contract must have been signed by the taxpayer before the age of 65,
- where it includes a life bonus, the contract must have a minimum duration of 10 years,
- the bonuses must be stipulated: in the event of life, in favour of the taxpayer; in the event of death, in favour of the spouse or relatives up to the second degree. When the life insurance contract is assigned to the reinstatement or securing of a mortgage loan, the bonuses must be stipulated, in the event of death, in favour of the person who acquires the full property or usufruct of the dwelling, up to the insured amount used to reinstate or secure the loan;
- the contract must be concluded with an institution located in the EEA.

The amount of capital repayments and life insurance premiums entitling to the tax credit is **limited for each spouse**:

- to 15% of the first bracket of 1,880 euro (federal upper limit) / 1,900 euro (regional upper limit) (33) of earned income, and to 6% beyond, exclusive separately taxable income;
- with a maximum of 2,260 euro (federal upper limit) / 2,280 euro (regional upper limit).

33 From tax year 2015 to tax year 2018, the federal upper limits have been frozen up to the amounts for tax year 2014: 1,880 euro and 2,260 euro. However, the indexed amounts (1,900 euro and 2,280 euro for tax year 2015) apply to capital repayments and life insurance premiums relating to a loan contract for the own dwelling house (regional advantages).

This limit applies to the combined life insurance premiums and mortgage capital repayments, minus the premiums and the repayments benefiting the regional tax credit for single dwelling limited to the basic amount.

In the case of concurrence between the federal tax credit and the regional tax credit, the maximum amount applies to both tax credits together but priority goes to expenses entitling to the regional tax credit.

MAIN CONDITIONS INCREASED TAX CREDIT "HOUSING SAVINGS"

However, life insurance premiums may entitle to the **increased tax credit for "housing savings"**, which is granted at the marginal rate, if the following conditions are met:

- the life insurance is assigned exclusively to the reinstatement or securing of a mortgage loan;
- that mortgage loan was contracted with a view to acquiring, constructing or renovating the dwelling house which was the taxpayer's single dwelling house on the date the contract was entered into.

The increased tax credit for "housing savings" only applies to mortgage loans raised before 1 January 2005.

The tax credit for "housing savings" is only granted within the limits of a first bracket, computed on a basic amount detailed in Table 1.10, increased by 5, 10, 20 or 30%, depending on the number (1, 2, 3 or more than 3) of the taxpayer's dependent children on 1 January of the year which follows the year in which the life insurance contract was taken out.

Table 1.10
Basic amount of the loan entitling to the tax credit for "housing savings"

Year in which the insurance contract was taken out	Basic amount of loan entitling to the tax credit for "housing savings"
1993 to 1998	54,536.58
1999	55,057.15
2000	55,652.10
2001	57,570.00
2002	58,990.00
2003	59,960.00
2004	60,910.00

1.3.2. Tax credits for which the federal authority remains competent

In principle, the federal tax credits are set off against the reduced State tax, increased by the tax on the "movable property income box". They are only set off against the tax on aggregated taxed income.

1.3.2.1. Long-term savings

A. PENSION SAVINGS SCHEME

Any taxpayer can join a pension savings scheme, using one of the following formulas. Whatever the formula, the deposits must be made in Belgium and the instalments must be final.

- The plan participant opens an **individual savings account** with a financial institution. He may either adopt a self-administered approach or authorise the trust in writing to manage the funds in his name. In practise, 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.
- 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.
- The plan participant subscribes a **savings insurance** with an insurance company in order to build up a pension, annuities or a capital to be paid on death or on survival.

The amount taken into account for the tax credit cannot exceed 940 euro per taxable period and per taxpayer.

The following conditions shall be fulfilled:

- The savings account or savings insurance shall have been subscribed by an inhabitant of a Member State of the European Economic Area, aged 18 or over, but less than 65, for a duration of ten years at least.
- 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 (34).
- Where in the same taxable period the plan participant made payments to several savings accounts or savings insurances, the tax credit is only granted for the payments relating to only one account (savings account or savings insurance). The plan participant is only allowed to open one savings account or savings insurance in the same taxable period.

The tax credit amounts to 30% of the expenses actually paid.. Where a tax credit for a pension savings scheme is granted, no tax credit is available for the purchase of employer's shares.

34 From assessment year 2005 on, where savings-insurance contracts are used for the reinstatement or the securing of a mortgage loan, it shall be stipulated that, in the event of death, the advantages are to be paid out to the persons acquiring full ownership or the usufruct of the dwelling concerned, up to the amount which has been secured or amortised in favour of the creditor.

Granting a tax advantage where premiums are paid, leads to the taxation of the received amounts on the date of termination of the contract. The capital liquidated at the termination of the pension savings scheme is liable to an advanced taxation. This advanced taxation, also called "taxation on long-term savings", is a tax issued from the Code of Miscellaneous Fees and Taxes (indirect tax); it supersedes PIT. Inasmuch as the tax has been paid, the theoretical capital is not liable to PIT (35). This advanced taxation was itself partially "advanced" in 2012 by the levy of a single tax of 6.5% on pension savings scheme on reserves built up via the premiums paid before 1 January 1993.

Combining a tax advantage granted where premiums or contributions are paid, with a taxation upon withdrawal, i.e. where the capital or the annuity are paid out, applicable to pension savings schemes, is also possible for individual life insurances.

B. GROUP INSURANCE AND PENSION FUNDS

A group insurance is a contract between an employer or a group of employers and an insurance company with a view to providing additional retirement benefits to all or part of the employees. Group insurances are subject to rules providing for conditions of joining, 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.

Employer's contributions to a group insurance are deductible for the employer to the extent that the benefits they provide, added to the statutory and extra-statutory pensions, do not exceed 80% of the last regular gross annual salary.

Personal employee's contributions are taken into account for a tax credit inasmuch as the following conditions are fulfilled:

- 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, a provident institution or an institution for occupational retirement provision established in a Member State of the European Economic Area, and the payment is a final one;
- they meet the "80% of last gross yearly salary" condition.

This tax credit amounts to 30% of the expenses actually paid. There is also taxation of the received amounts on the date of termination of the contract (36).

35 See Part II, Chapter 4, page 224. Changes concerning the anticipated tax on long-term savings (decrease of the global rate from 10% to 8%, anticipated levy amounting to 1% of this tax in the years 2015 to 2019 included) entered into force on 1 January 2015.

36 See hereafter, page 73.

These types of long-term savings (second or third pillars) are also submitted to some taxation payable by insurance companies or pension funds. However, this matter will not be dealt with because the policyholder is not directly concerned.

C. PURCHASE OF EMPLOYERS' SHARES

The purchase of shares in a company established in the EEA by which the taxpayer is employed as worker or of which the company employing the taxpayer is a subsidiary or sub-subsidiary, entitles to a tax credit amounting to 30% of the expenses actually paid, only if the following conditions are all met:

- the taxpayer must be a salary or wage earner in the company or in a subsidiary or a sub-subsidiary thereof;
- the shares must be subscribed to at the time the company is constituted or when there is an increase in the company's capital;
- supporting documents establishing the purchase of the shares by the taxpayer and his still holding them at the end of the taxable period must be enclosed with the return.

The deductible amount is set at 750 euro for each spouse fulfilling these conditions. This deduction cannot be cumulated (37) with the tax credit for pension savings schemes.

The taxpayer must keep the shares in his possession for at least 5 years, except in the case of death. If the shares are transferred within 5 years, the tax credit granted is revoked, by means of a federal tax increase, up to as many sixtieths of the initial tax credit as the number of full missing months until the expiry of the 5-year period (i.e. 60 months).

D. INDIVIDUAL LIFE INSURANCE

Individual life insurance contracts which are not used for the reinstatement of a mortgage loan, also entitle to a federal tax credit for long-term savings.

1.3.2.2. Environment

A. CARRY-OVER OF TAX CREDITS FOR EXPENSES BORNE FOR WORK AIMED AT ENERGY SAVING

As a reminder, tax credits for work aimed at energy saving have been abolished since tax year 2013, with the exception of the tax credit for roof insulation which is now a regional tax credit.

However, it is still possible to benefit from a carry-over of the tax credit for some expenses incurred in 2011 and/or 2012 (38).

Where the expenses incurred in 2012 relate to works carried out under an agreement signed before 28 November 2011, the carry-over remains possible provided the dwelling has been occupied since at least 5 years at the start of the works. Where the expenses incurred in 2012 relate to works carried out under an agreement signed as from 28 November 2011, a carry-over is no longer possible.

37 The incompatibility is evaluated for each spouse separately.

38 For further information about the expenses concerned by this carry-over, it is referred to the previous editions of the Tax Survey.

B. HOUSES WITH LOW-ENERGY CONSUMPTION – TRANSITIONAL SYSTEM

The tax credits for passive houses, low-energy houses and zero-energy houses have been abolished since tax year 2013.

Nevertheless, a transitional system had been provided for: the “low-energy house”, “passive house” or “zero-energy house” certificates for which an application was submitted on 31 December 2011 at the latest and that were delivered on 29 February 2012 at the latest, were considered as certificates issued on 31 December 2011.

However, a judgment of the Constitutional Court (39) stated that the compulsory holding of a certificate of compliance for the application of the transitional measure, is discriminatory. As a result of this judgment, the tax credits for low-energy houses, passive houses and zero-energy houses are still granted to the taxpayers who are able to prove that they contractually committed themselves before 1 January 2012 to acquiring such a dwelling.

As a reminder, the tax credit for houses with low-energy consumption is granted for ten subsequent tax periods.

Under joint taxation, the tax credit is granted proportionately depending on each spouse’s taxable income in comparison to the sum of both spouses’ aggregated taxable income.

C. “GREEN” LOANS

Interest paid on “green” loans also entitles to a tax credit.

It concerns loans raised between 1 January 2009 and 31 December 2011 in order to finance expenses which entitled at that time to the tax credit for energy-saving investments.

The tax credit amounts to 30% of the interest actually paid after deduction of the State intervention as an interest rate subsidy.

The tax credit is not granted for interest considered as actual professional expenses or for which another loan-related tax advantage, regional tax credit or regional refundable tax credit has been claimed.

D. ELECTRIC VEHICLES

A tax credit is granted for expenses to acquire a vehicle with 2, 3 or 4 wheels, exclusively powered by an electric motor and suitable for the transport of two persons at least. The acquisition should concern a new vehicle.

The tax credit amounts to 15% of the purchase price with a maximum of:

- 4,940 euro for quadricycles;
- 3,010 euro for motorcycles or tricycles.

Under joint taxation, the tax credit is granted proportionately to the part of each of the spouses in both spouses’ aggregated taxable income.

39 Judgment n°63/2013 of 8 May 2013.

1.3.2.3. Other expenses entitling to federal tax incentives

A. CHILD CARE EXPENSES

A **45% tax credit** is granted for child care expenses, provided the following condtions are met:

- the taxpayer or his/her spouse must have received earned income: salaries, profits, proceeds, etc., including replacement income (pensions, unemployment benefits, etc.);
- the child must be dependent on the taxpayer (40) and must be less than 12 years old. This age limit is brought to 18 years old for severely handicapped children.
- the child care expenses must have been paid, either to institutions or facilities recognised by local public authorities (Regions or Communities), to nursery schools or elementary schools located in the European Economic Area or to associations linked to them. The first case refers to child care facilities, i.e. notably institutions or host families recognised, subsidised or controlled by the "Office de la Naissance et de l'Enfance", by "Kind en Gezin", by the local authorities (Regions or Communities) or by foreign public institutions located in another Member State of the European Economic Area.
  The second case refers to schools but also to associations linked to them and their competent authority (municipal authority or school board).
  "Recognised institutions" not longer refers exclusively to day nurseries. It also refers to other facilities (playgrounds organised by the municipalities, holiday camps organised by youth organisations or residential schools).
  Since 1 January 2008, the deductibility has been extended to child care expenses paid to institutions located in a country of the European Economic Area.
- the amount of these expenses must be established by supporting documents kept at the disposal of the tax office.

The amount entitling possibly to a tax credit is the daily rate actually paid and is limited to 11.20 euro per day of care and per child.

Under joint taxation, the tax credit is granted proportionately to each of the spouses' aggregated taxable income.

B. ALIMONY PAYMENTS

Under the new Special Finance Act, only alimony payments remain **deductible from the total net income**, provided the following conditions are met:

- the beneficiary is not a member of the taxpayer's household;
- the alimony payment is payable in pursuance of the Civil Code, the Judicial Code or the Law on legal cohabitation (41);
- the payments are made on a regular basis or, if they are made in a taxable period subsequent to the period the payment is related to, they are made in pursuance of a retroactive Court order.

40 In case of joint parenthood, each of the joint parents can deduct the personally incurred expenses.

41 Alimony payments made in compliance with a foreign legal provision are dealt with in the same way as those made in compliance with a Belgian legal provision, provided those provisions are similar.

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

Alimony payments made in respect of a liability of one of the spouses are deductible from the latter's income; where it is made in respect of a joint liability of both spouses, they are deductible proportionately to their incomes.

C. GIFTS

A **45% tax credit** is granted for gifts made to recognised institutions (42), provided the gifts amount to at least 40 euro per beneficiary institution.

The total amount of gifts for which the tax credit is granted can exceed neither 10% of the global net income of the spouse nor 376,350 euro per spouse.

Under joint taxation, the tax credit is granted proportionately to the spouses' aggregated taxable income.

D. WAGES OF DOMESTIC WORKERS

A **30% tax credit** is granted for wages paid or allocated to domestic workers during the taxable period.

This tax credit is only awarded for one domestic worker, provided the following conditions are met:

- the taxpayer must be registered as an employer at the National Social Security Office;
- upon engagement, the employee must have been receiving the support income or have been receiving full unemployment benefits for 6 months at least;
- the wages must be subject to social security contributions and must exceed 3,730 euro.

The amount entitling to the tax credit is equal to 50% of the wages paid, with a maximum of 7,530 euro.

Under joint taxation, the tax credit is granted proportionately to the part of each of the spouses in both spouses' aggregated taxable income.

E. SHARES OF DEVELOPMENT FUNDS FOR MICROFINANCE

This tax credit is granted for subscriptions for registered shares issued by recognised development funds which are active in the field of microcredit.

The sums paid must amount to minimum 380 euro. The subscriber must keep the shares in his possession for at least 60 months uninterrupted, except in the case of death. If the shares are transferred, the new subscriber is not entitled to the tax credit and the former subscriber is subject to a tax increase up to as many sixtieths of the initial tax credit as the number of full missing months. Under the Special Finance Act, the federal authority remains competent for this tax increase.

The tax credit equals 5% of the sums paid with a maximum of 320 euro for 2014 income.

42 Similar institutions located in another Member State of the European Economic Area are also taken into account.

1.3.3. Regional tax credits

The regional tax credits are set off against the regional surcharges, possibly increased by the regional tax increases and reduced by the regional tax reductions. They are related to the Regions' material competences.

1.3.3.1. Real estate

A. TAX CREDIT FOR THE SINGLE DWELLING HOUSE (REGIONAL HOUSING BONUS)

The deduction for single dwelling house has been converted into a tax credit. The Regions are now competent for the dwelling house recognised as own dwelling house on the date of payment (of life insurance premiums, interest and capital repayments for the mortgage loan).

The regional housing bonus and the related terms and conditions are described hereafter under 1.3.1.

B. EXPENSES RELATING TO THE MAINTENANCE AND RESTORATION OF CLASSIFIED MONUMENTS

Expenses relating to the maintenance and restoration of classified monuments entitle to a fiscal advantage in the form of a tax credit.

The tax credit amounts to 30% for expenses incurred by the owner for the maintenance or restoration of classified monuments or sites which are open to the public and not leased.

The amount to which the tax credit relates is equal to 50% of the expenses which are not covered by subventions, with maximum 38,060 euro.

Under joint taxation, the tax credit is granted proportionately to each of the spouses' aggregated taxable income.

C. EXPENSES FOR MAKING DWELLINGS SECURE AGAINST BURGLARY AND FIRE

Expenses taken into consideration are those borne for work being done to secure the real estate of which the taxpayer is the owner, occupier, emphyteutic lessee, superficiary owner or usufructuary. Are concerned:

- expenses relating to the delivery and the placing of intrusion retardant facade elements: special glass window units, security systems for the different building access points and reinforced doors;
- expenses relating to the delivery and the placing of alarm systems;
- expenses relating to the delivery and the placing of cameras fitted with a recording system.

The obligation to hire a registered contractor does no longer apply.

Expenses taken into consideration as professional expenses or entitling to the investment deduction are rejected.

The tax credit cannot be granted concurrently with the tax credit for expenses for renovation of low-rent dwelling houses, the tax credit for roof insulation or the tax credit for the maintenance and restoration of classified monuments.

The tax credit amounts to 30% of the expenses actually paid during the taxable period, with a maximum of 760 euro per dwelling house and per taxable period.

Under joint taxation, the tax credit is granted proportionately to the spouses' aggregated taxed income.

D. EXPENSES FOR RENOVATING LOW-RENT DWELLING HOUSES

Are taken into consideration, expenses which have been actually paid during the taxable period in order to renovate a dwelling house of which the taxpayer is the owner-lessor. The building must have been rented out for nine years via a social accommodation agency.

The tax credit is granted provided the following conditions are met:

- the dwelling house must have been in use for at least 15 years,
- the total cost of the work, including VAT, must amount to minimum 11,420 euro.

The tax credit is granted during nine taxable periods and amounts to 5% of the expenses which have been actually paid during each taxable period, with a maximum amount of 1,140 euro in respect of 2014 income.

The tax credit does not apply to:

- expenses taken into consideration as professional expenses;
- expenses entitling to the investment deduction.

The tax credit cannot be granted concurrently with the following tax credits: expenses for making dwellings secure against burglary and fire, classified monuments and sites, roof insulation.

Under joint taxation, the tax credit is granted proportionately to the part of each of the spouses in both spouses' aggregated taxable income.

1.3.3.2. Environment

ROOF INSULATION EXPENSES

The tax credit for roof insulation has been fixed at 30% of the expenses actually paid during the taxable period. At the start of the works, the dwelling must have been occupied for at least five years. The tax credit is limited to 3,040 euro per taxable period and per dwelling.

Expenses considered as professional expenses or entitling to the investment deduction are not taken into account. The tax credit cannot be granted concurrently with the following tax credits: expenses for renovation of low-rent dwelling houses, expenses for making dwellings secure against burglary and fire and classified monuments and sites.

The expenses are apportioned between the spouses depending on each spouse's aggregated taxable income in comparison to the sum of both spouses' aggregated taxable income.

1.3.3.3. Other expenses entitling to regional tax advantages

LEA VOUCHERS AND SERVICE VOUCHERS

The amounts paid out to local employment agencies (LEA) upon the acquisition and use of LEA vouchers are entitled to a **tax credit at the 30% rate**.

The conditions to be met are the following:

- the expense is made outside the context of any business activity;
- the expense is made to a local employment agency for work carried out by a person with a LEA contract;
- the taxpayer, as documentary evidence, encloses with his income tax return the certificate referred to in the regulations concerning the LEAs delivered by the issuer of the LEA vouchers.

The amounts spent for services paid with other service vouchers than social service vouchers also entitle to a **tax credit at a 30% rate**. Service vouchers are acquired by natural persons wishing to appeal to community services (household work and some activities outside the user's place of residence, such as accompanied transport for elderly persons or for persons with reduced mobility, or some daily shopping), but not within the framework of a professional activity. These vouchers are issued by companies recognised by the Belgian National Employment Service. The (private) person having acquired the vouchers then enters into a contract with one of those recognised companies and uses the vouchers to pay for the services performed.

These expenses entitle to a tax credit up to the nominal value of the LEA vouchers and service vouchers issued in the taxpayer's name and purchased from the issuer in 2014; where appropriate that amount must be diminished by the nominal value of the LEA vouchers returned to the issuer in the course of the same year.

The allowed expenses may not exceed 1,400 euro per taxpayer and per year for expenses incurred in 2014.

The portion of the tax credit for service vouchers which cannot be set off against the regional surcharges and the regional tax increases or against the federal PIT balance, is converted into a refundable regional tax credit (43). This only applies to taxpayers whose taxable income – with the exception of separately taxed income – does not exceed 26,280 euro.

Under joint taxation, the tax credit for LEA vouchers and service vouchers is granted proportionately to the part of each of the spouses in both spouses' aggregated taxable income.

43 However, the conversion into a refundable tax credit does not apply to the taxpayers whose earned income has been exempted by convention and is not taken into account for the calculation of the tax levied on the other income.

1.3.4. Regional provisions exclusive those resulting from the transfer of tax advantages from the federal authority to the Regions

A. Refundable tax credit for win-win loan (Flemish Region)

This tax advantage applies to loans granted by natural persons to small companies.

The **borrower** shall be a micro, small or medium-sized enterprise as defined in the European Recommendation (44). Are concerned enterprises which:

- employ fewer than 250 persons;
- do not exceed one of the following limits: an annual turnover of 50 million euro or an annual balance sheet total of 43 million euro;
- meet the independence criterion.

The enterprise shall be led either by a self-employed worker or by a legal entity.

One of the borrower's places of business shall be located in the Flemish Region and shall have been registered with the Crossroads Bank for Enterprises or with a social security institution for self-employed workers where registration with the Crossroads Bank for Enterprises is not compulsory.

The borrowed funds shall be used for performing the professional activity of the enterprise.

The borrower can borrow maximum 100,000 euro via one or several win-win loan(s).

The **creditor** shall be a natural person located in the Flemish Region, as defined in the new Special Finance Act. The creditor' tax residence must be located in this Region on 1 January of the PIT tax year.

The win-win loan shall be granted outside the creditor's professional and commercial activities. The creditor cannot be the borrower's employee. If the borrower is a self-employed worker, the creditor cannot be the borrower's spouse or legal cohabitant. If the borrower is a legal entity, the creditor cannot be the borrower-legal entity's manager, director or shareholder. Moreover, the creditor's spouse or legal cohabitant is also excluded. The compliance with those conditions is assessed at the time when the loan is granted. The creditor cannot be a borrower in the context of another win-win loan.

The **loan** shall be subordinated as well to the borrower's existing debts as to his future debts and shall be running for eight years. The amount of the loan granted by the creditor to one of several borrowers cannot exceed 50,000 euro. The loan can be repaid in one instalment after eight years or according to an amortization schedule set up by the parties. The win-win loan can be anticipatively paid off by the borrower via a single repayment of the balance of the principal and the interests. The interest rate shall be between 50 and 100% of the legal interest rate (2.75% for the year 2014).

44 Commission Recommendation 2003/361/EC of 6 May2003 and its possible modifications.

The advantage is granted in the form of a refundable tax credit (45). It includes an annual refundable tax credit based on the amounts of the loans and possibly a single refundable tax credit if the loan is not repaid by the borrower. The annual refundable tax credit amounts to 2.5% of the arithmetic average of the amounts which have been lent over the period. It is thus limited to 1,250 euro per spouse. The single refundable tax credit is granted when the loan cannot be repaid by the borrower because of a bankruptcy or a liquidation. It amounts to 30% of the principal which is definitively lost in 2014, and cannot exceed 50,000 euro.

B. Tax credit for renovation agreements (Flemish Region)

A tax credit is granted in the Flemish Region to a creditor/natural person who concludes a renovation convention with a borrower/natural person.

The **creditor** must be a natural person. During the renovation convention, the creditor cannot be himself the borrower in the framework of another renovation convention.

The **borrower** must also be a natural person. During the renovation convention, he cannot be himself the creditor or the borrower in the framework of another renovation convention.

At the time the renovation convention is being concluded, the **real estate** cannot be registered for more than four years:

- in the register of unoccupied buildings;
- in the inventory of derelict and/or neglected industrial sites;
- in the list of unsuitable and/or uninhabitable dwellings and the list of derelict buildings and/or dwellings.

After the renovation work, the real estate must be used as principal residence by at least one of the borrowers for at least eight successive years.

The duration of the convention cannot exceed 30 years and the claimed interests cannot be higher than a determined ceiling.

The **tax credit** amounts to 2.5% of the amount put at disposal by the creditor in the framework of the renovation convention.

The calculation basis is limited to 25,000 euro per taxpayer. For this calculation basis, the average of the amounts put at disposal on 1 January and 31 December of the taxable period, is taken into account.

The tax credit is granted for the first time for the taxable period in which at least one of the borrowers uses the real estate as his principal residence and as long as this condition is met.

45 The tax credit has been officially converted into a refundable tax credit by the Flemish Decree of 19 December 2014.

1.4. Computation of the tax

1.4.0. General principles – federal PIT and regional PIT (46)

<table>
<tr><td colspan="2">Tax on separately taxed income</td><td>Basic tax according to the federal rate structure on aggregated taxed income</td><td></td></tr>
<tr><td colspan="2" rowspan="5"></td><td>- tax on the zero-rate band</td><td rowspan="6"></td></tr>
<tr><td>= tax to be distributed</td></tr>
<tr><td>- tax credit for pensions and replacement income</td></tr>
<tr><td>- tax credit for foreign income</td></tr>
<tr><td>= “principal”</td></tr>
<tr><td colspan="3">Adding up the tax on separately taxed income and the “principal” on aggregated taxed income</td></tr>
<tr><td rowspan="4">Tax on interest, dividends, royalties, prizes attached to debenture bonds and capital gains on securities taxed as miscellaneous income</td><td colspan="2">Tax on other income</td></tr>
<tr><td colspan="2">= State tax</td></tr>
<tr><td colspan="2">- (State tax * autonomy factor)</td></tr>
<tr><td colspan="2">= reduced State tax</td><td>Regional surcharges on reduced State tax</td></tr>
<tr><td colspan="3" rowspan="3">- other federal tax credits</td><td>+ regional tax increases (47)</td></tr>
<tr><td>- regional lump sum tax reductions (48)</td></tr>
<tr><td>– regional tax credits (49)</td></tr>
<tr><td colspan="3">balance; if = 0, it is possible to deduct the portion of the federal tax credits which could not be set off but which can be set off against the Region’s positive balance</td><td>balance; if = 0, it is possible to deduct the portion of the regional tax reductions and credits which could not be set off but which can be set off against the federal positive balance</td></tr>
<tr><td colspan="3">= federal PIT (may be negative)</td><td>= regional PIT (may be negative)</td></tr>
<tr><td colspan="4">= total amount (may not be negative)</td></tr>
<tr><td>+</td><td colspan="3">federal increases</td></tr>
<tr><td>-</td><td colspan="3">non-refundable federal items which can be set off</td></tr>
<tr><td>-</td><td colspan="3">refundable federal and regional tax credits</td></tr>
<tr><td>-</td><td colspan="3">federal items which can be set off and refunded</td></tr>
<tr><td>+</td><td colspan="3">municipal surcharges and agglomeration tax on the “total amount”</td></tr>
<tr><td colspan="4">= amount to be paid or refunded</td></tr>
</table>

46 Those principles come from Annex 1 to circular AGFisc/AAFisc 29/2014 (Ci.RH.331/633.424) of 7 July 2014 commenting on the introduction of the regional additional tax on PIT.

47 The regional tax increases are proportional and relate to the Regions’ material competences.

48 The regional tax reductions are lump sum amounts and may be differentiated inasmuch as they respect the progressivity principle.

49 Irrespective of whether they are proportional or lump sum amounts, the regional tax credits relate to the Regions’ material competences.

Since 2004 the tax has been fully computed per spouse.

The concepts of “State tax”, “reduced State tax”, “federal PIT”, “regional PIT”, etc., as mentioned in the table above, must be understood as they are defined in the new Special Finance Act.

1.4.1. Tax rates

The basic tax is determined by application of the progressive rate structure on the ATI. The rates applicable to 2014 income are as follows:

Table 1.11
Progressive rate structure

Bracket of taxable income			Marginal rate
0	-	8,680	25 %
8,680	-	12,360	30 %
12,360	-	20,600	40 %
20,600	-	37,750	45 %
37,750		and more	50 %

To determine the “principal”, the tax credits for dependents, the tax credits for pensions and replacement income and the tax credits for foreign income must then be applied to the basic tax.

1.4.2. Zero-rate band and deduction for dependents

A global zero-rate band, varying according to the composition of the household, is tax exempted. This global band consists in the first place of the basic zero-rate band granted to each of the spouses. This band is then increased by the exempted income for dependents and for certain specific family situations.
Where the global zero-rate band of one of the spouses exceeds the income it is credited against, the balance can be transferred onto the other spouse’s income in order to be credited against his/her income. These exemptions are calculated "from the bottom up".

A. Exempted income of the taxpayer and his/her spouse

The basic zero-rate band is 7,070 euro, both for a single person and for a spouse. An additional amount of 280 euro is granted where the taxable income does not exceed 26,280 euro.

When the taxable income amounts to between 26,280 euro and 26,560 euro, a phasing out rule applies: the additional amount granted is progressively reduced proportionately to the difference between the taxable income and the 26,280 euro limit.

For contracts taken out at the latest on 31 December 2014, if a federal or regional housing bonus applies, there is a correction to compensate for the additional exempted amount possibly lost; this loss could be the consequence of the conversion of the housing bonus from a deduction into a tax credit.

The basic exemption is increased by 1,500 euro where the taxpayer is disabled. This is also true where the taxpayer's spouse is disabled.

B. Exemptions for dependent children or other dependent persons

Children, ascendants and collaterals up to the second degree included, and persons the taxpayer depended on exclusively or principally during his childhood, can be considered as dependent.

A person is considered *"dependent"* if two conditions are met:

- on 1 January of the tax year (i.e. on 1 January 2015) he is a member of the family (50),
- he has not had personal means of subsistence exceeding a net amount of 3,110 euro (51).

Moreover, a child cannot be considered as dependent if he has been in receipt of any remuneration which was a business expense for the parents.

MAXIMUM AMOUNT OF THE NET RESOURCES

In order to determine the net amount of the resources, account must be taken of all regular or casual income, taxable or not, regardless of their designation.

The following, however, are not taken into consideration:

- family allowances, maternity allowances, legal adoption premiums, premiums for premarital saving, scholarships;
- allowances chargeable to the Treasury when paid to disabled persons;
- remunerations received by disabled persons following their employment at a recognised adapted work company;
- arrears of alimony payments or additional alimony payments;
- alimony payments regularly made pursuant to an obligation under the Civil Code or Judicial Code, which are paid to children up to 3,110 euro a year;
- pensions, up to 25,030 euro per year, received by ascendants and collaterals up to the second degree aged 65 or older;
- remunerations received by student workers, up to 2,590 euro per year.

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

51 That amount is raised to 4,490 euro for single persons' dependent children, and to 5,700 euro for single persons' disabled dependent children.

In order to determine the net amount of the means of subsistence, their gross amount must be diminished by the expenses the taxpayer proves to have made or borne in order to acquire or maintain these means. Failing such evidential data, the deductible expenses are fixed at 20% of the gross amount of the means of subsistence, with a minimum of 430 euro in the case of remunerations of employed persons or proceeds from a professional activity.

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

Exemptions for dependent children are allocated **by priority to the spouse with the higher tax base**.

Table 1.12
Exemptions for dependent children

Rank of the child	Total exemption	Exemption for that child
1	1,500	1,500
2	3,870	2,370
3	8,670	4,800
4	14,020	5,350

For any child after the fourth, the exemption amounts to 5,350 euro per child.

An additional exemption of 560 euro is awarded for each dependent child who is less than three years old and for whom the tax credit for child care expenses has not been requested.

A disabled child counts for two (the child will be awarded the deduction according to his/her own rank plus the deduction granted to the child next in rank).

A child legally considered as stillborn is also considered as dependent for the year in which the death occurred. The additional exemption for each dependent child who is less than three years old, is automatically awarded for a stillborn child.

Example

A couple with three dependent children has a taxable net income of 42,000 euro which, after all deductions, breaks down as follows:

- *taxpayer : 22,000 euro*
- *spouse : 20,000 euro*

The taxpayer is awarded an exemption of 16,020 euro which is calculated as follows:

- *exemption for the spouse : 7,350 euro*
- *three dependent children : 8,670 euro*

*This exempted bracket includes the first two brackets of the progressive rate structure (*Table 1.11*). The remaining income is taxed at 40% up to 20,600 euro, i.e.4,580 euro, and at 45% above this limit.*

The spouse is entitled to an exemption of 7,350 euro. So 1,330 euro will be taxed at 25% and the remainder will be taxed at the succeeding tax bracket(s).

In case of **joint custody**, exemptions for dependent children can be apportioned between the parents. For that purpose, an "equal sharing of housing" under the Act of 18 July 2006 is necessary. The decision on joint custody must be written into an agreement registered or approved by a judge, or result from a judicial decision. The joint parents just have to mention this decision in the tax return and to keep at the disposal of the administration a copy of the decision on joint custody.

Exemptions for dependent children are then apportioned between the joint parents. The exemption granted for the child(ren) in question is determined without taking into consideration the other children of the household and is divided in two, one half being added to the other deductions to which the taxpayer is entitled, if there are any. The joint parent who does not request the tax credit for child care expenses has right to the additional exemption for children under three.

When exemptions for dependent children cannot be offset because of a too low income, they give rise to a **refundable tax credit**. The double exemption for disabled children and the additional exemption for children under three are to be taken into account. The refundable tax credit is computed at the marginal rate for the spouse with the highest income and is limited to 430 euro per dependent child.

C. Specific family situations

The other exemptions are as follows:

-	ascendants and collaterals up to the second degree included, aged more than 65	3,000 euro
-	other dependent persons	1,500 euro
-	disabled dependent persons (52)	1,500 euro
-	single person with dependent children	1,500 euro
-	spouse whose income does not exceed 3,110 euro: the year of marriage or the year of declaration of legal cohabitation, provided the assessment is made per taxpayer	1,500 euro

In case of joint custody, each single parent has right to the total exemption for single persons with dependent children.

1.4.3. Tax credits for replacement income

Pensions, unemployment with company allowance regime (formerly called "prepensions"), sickness and invalidity insurance (SII) benefits, unemployment benefits and all other relevant benefits allocated as a partial or total compensation for temporary losses of gains, profits or remunerations are entitled to a tax credit.

As from tax year 2015, the tax credit for remplacement income has been moved up in the computation of the tax and comes now after the zero-rate band but before the other federal and regional tax credits.

This tax credit is calculated and granted per spouse. Its computation is based on the basic amount, indexed annually (A). That amount is then subject to operations carried out in the following order:

- the restriction called "horizontal limitation", i.e. according to the composition of the incomes, and in particular to the relation between the incomes entitling to the tax credit and the total net incomes (B);

52 With the exception of children.

- the restriction called "vertical limitation", i.e. according to the level of the aggregate taxable income (C);
- a possible take-back of tax credits where the basic amount of the zero-rate band is increased (D);
- the limitation to proportional tax, i.e. according to the tax proportionately relating to the income concerned (E).

In certain cases an additional tax credit is granted so as to reduce the tax to nil (F).

A. Basic amounts

For 2014 income, the basic amounts of the credits are:

Table 1.13
Basic amounts of tax credits for replacement income

Categories of income	Amount
Pensions	2,024.12
Unemployment with company allowance regime (*)	2,024.12
Standard unemployment benefits	2,024.12
Unemployment benefits for elderly (**)	2,024.12
Legal SII benefits	2,598.29
Other replacement incomes	2,024.12

(*) Formerly called "prepensions"

(**) These are benefits granted to unemployed persons having reached the age of 58 on 1 January of the tax year (in this case: 1 January 2015) and enjoying a seniority supplement.

B. "Horizontal" limitation

PRINCIPLES

Each of the above-mentioned tax credits is restricted by multiplying it by a fraction corresponding to the relation between the income entitling to a tax credit and the total net income. A single person who has received unemployment benefits amounting to 2,500 euro and net earned income amounting to 10,000 euro, will thus be granted one fifth of the basic amount only.

The limitation is computed per spouse using the following ratio:

$$\frac{\text{net amount of the income entitling to tax credit}}{\text{total net income before application of the marital quotient}}$$

EXCEPTIONS

A particular provision applies as from 1 January 2007 as regards the combination of employed activities and pensions. The horizontal limitation does not apply:

- in case of combination of an employed activity and a survivors' pension;
- to the taxpayers having reached the legal pension age, in case of combination of an employed activity and a pension which does not exceed 15,518.54 euro.

Another particular provision relates to the re-entry in the labour market of people having taken early retirement (unemployment with company allowance regime). The horizontal limitation does not apply to the wage from the new employer or to earned income from a new self-employed activity where early retired workers' replacement income is one of the following payments:

- the company allowance referred to in the collective bargaining agreement (CBA) nr.17 of 19 December 1974 or company allowances referred to in collective bargaining agreements which provide for equivalent benefits;
- the additional payment granted in addition to unemployment benefits with company allowance, for workers having reached 50;
- the additional prepension payments provided the old employer's obligation to keep on paying it after the resumption of work, is not mentioned in a collective bargaining agreement or in an individual agreement providing for the additional payment.

C. "Vertical" limitation

This restriction is related to the total ATI of the spouse. There are two series of limits: the general rule and the limits applying to standard unemployment benefits.

GENERAL RULE

The general rule applies to all categories of income mentioned in Table 1.13 except the standard unemployment benefits.

The tax credit which subsists after the horizontal limitation is maintained in its entirety up to an ATI of 22,430 euro; it then diminishes gradually and is reduced to one third of its amount as from an ATI of 44,860 euro.

The credit thus limited (R') is calculated according to the tax credit subsisting after application of the horizontal limitation (R):

Table 1.14
Vertical limitation of the tax credits: general rule

Brackets of ATI	*Limitation of the tax credit*
Less than 22,430 euro	R' = R
From 22,430 euro to 44,860 euro	R': [R*1/3] + [R* 2/3 *(44,860 – ATI) / 22,430]
More than 44,860 euro	R' = R * 1/3

PARTICULAR RULE APPLYING TO STANDARD UNEMPLOYMENT BENEFITS

The tax credit subsisting after application of the horizontal limitation is maintained in its entirety up to an ATI of 22,430 euro; it then diminishes gradually and is no longer granted when the ATI of the household amounts to 28,000 euro.

The credit thus limited (R') is calculated according to the tax credit subsisting after application of the horizontal limitation (R) as follows:

Table 1.15
Vertical limitation of the tax credits: standard unemployment benefits

Brackets of ATI	*Limitation of the tax credit*
Less than 22,430euro	R'= R
From 22,430 euro to 28,000 euro	R': R*(28,000 – ATI) / 5,570
More than 28,000 euro	R'= 0

D. Take-back of tax credits where the basic amount of the zero-rate band is increased

There is a (total or partial) take-back of the tax credits for pensions and replacement income where the basic amount of the zero-rate band exceeds 7,070 euro (i.e. where the ATI is lower than 26,280 + [7,350 – 7,070 euro]) (53). The amount of the take-back of tax credits is fixed as follows:

a) where the taxable income consists of exclusively either pensions or other replacement income, or unemployment benefits, or legal sickness and invalidity insurance benefits, the amount of the take-back is equal to 25% of the difference between the increased amount of the zero-rate band and the amount of 7,070 euro.

b) in the other cases, for each income categories entitled to the tax credit, the amount calculated under a) just has to be multiplied by the proportion of the income concerned in the ATI.

E. Limitation to proportional tax

The credit remaining after these limitations shall in no case exceed the part of the tax which relates proportionately to the income entitling to this tax relief. This limitation will apply, for example, where the basic amount of the credit exceeds the taxpayer's tax liability.

F. Cases where the tax is reduced to nil (additional tax credit)

After the awarding of standard tax credits for replacement income, the remaining tax is reduced to nil when the global net income is made up exclusively of replacement incomes which do not exceed:

- in respect of unemployment benefits 17,569.48 euro
- in respect of pensions and other forms of replacement income 15,518.54 euro
- in respect of sickness and invalidity insurance (SII) benefits 17,242.82 euro

A phasing out rule applies where the income exceeds the upper limit. The remaining tax may not exceed the difference between the taxable income and the upper limit.

Under joint taxation, the total net income of both spouses is taken into consideration for the application of the additional credit for pensions and replacement income.

53 As regards the increase in the zero-rate band for low income, cf. page 64.

1.4.4. Tax credits for foreign income

Foreign income is in principle taxed in the country where it originates, i.e. the country where the activity is pursued and where the liable taxpayer resides. In order to avoid double taxation, international agreements provide for **exemption of the income in the country of residence**. Belgium applies the **progressiveness reserve**: foreign income is taken into account in order to calculate the tax rate.

At this stage of the calculation, a tax credit is granted for the part of the tax on aggregated taxable income originated in countries with which Belgium has signed a double taxation agreement (DTA).

Where the foreign income originates from a country with which Belgium has signed no such agreement, the part of tax relating to this income is halved.

These credits are determined per spouse.

As from tax year 2015, the tax credit for foreign income has been moved up in the computation of the tax and comes now after the tax credit for pensions and replacement income but before the other federal and regional tax credits.

1.4.5. Separate taxation

The law has provided for separate taxation in respect of three categories of income:

- income from movable property,
- most miscellaneous income,
- certain types of non-periodical income: notably capital gains, arrears, termination compensation, amounts paid on due date in respect of group insurance contracts, life insurance contracts or pension savings schemes, regional employment premiums.

The income escapes aggregation and is taxed at special rates mentioned hereafter. Total aggregation (inclusion of the income in the ATI and application of the progressive rate structure) is nonetheless applied where doing so is to the taxpayer's advantage.
The choice is made for separately taxable income as a whole.

Since the new Special Finance Act has been implemented, the sum of the "State tax" and the tax on the "movable property income box" is taken into consideration in order to determine whether the aggregation is more favourable to the taxpayer.

The tax on separately taxable income is calculated as follows.

INCOME FROM MOVABLE PROPERTY

The assessment rates vary between 10% and 25% according to the case: the conditions and terms are detailed in Table 1.2, page 30.

MISCELLANEOUS INCOME

The taxable amount of miscellaneous incomes has been detailed above (54). The tax rates applying to these incomes are the following:

Table 1.16
Rates of separately taxed miscellaneous income (2014 income)

Type of income	Tax rates
Occasional profits and proceeds	33%
Allowances “research workers”	33%
Prizes and subsidies	16.5%
Prizes attached to debenture bonds	25%
Income from sublease or from transfer of a lease	25%
Income from permission to place advertising boards	25%
Income from sporting rights (hunting, fishing, trapping)	25%
Capital gains from built property	16.5%
Capital gains from unbuilt property	33% if the capital gains are realised less than 5 years after the acquisition, 16.5% in the other cases
Capital gains realised on the transfer of an important parcel of shares	16.5%

EARNED INCOME

In many cases earned income which can enjoy the separate taxation is taxed at an average rate.

The average rate is based on the tax amount to be paid after application of the tax credits for the zero-rate band, the tax credits for replacement income, the federal and regional tax credits (as from 2016 income, only the federal tax credits will be taken into account), but without considering the tax credit for foreign income.

54 See page 30.

Table 1.17
Separate taxation of earned income

Type of income	Tax rate
Salary arrears, replacement income arrears	the previous year's average rate
Termination compensation	the previous year's average rate
Redeployment allowances	the previous year's average rate
Prepaid holiday pay	the current year's average rate
Arrears of alimony payments	the current year's average rate
Fee arrears	the current year's average rate
Capital gains from professional activities	16.5%
Gross regional employment premiums (*) < 180 euro per month	10.38%
Young sportsmen's remunerations, first 18,720 euro gross bracket	16.5%
Volunteer sporting activity as a self-employed secondary activity, first 18,720 euro gross bracket	33%
Setting-up allowance for general practitioners (*)	16.5%
Remunerations of casual workers in the Horeca sector (**)	33%

(*) A setting-up allowance amounting to 20,000 euro is granted to general practitioners who decide to set up in a "priority area" with a lack of general practitioners.

(**) In force as from 1 October 2013 and provided certain conditions are met (remunerations for services provided during maximum 50 days a year, etc.)

CAPITALS AND ANNUITIES FROM A GROUP INSURANCE CONTRACT

In case a **capital is paid out**, a separate taxation is made for the paid-out capital where a group insurance is liquidated. There are different taxation methods depending on whether the capital is liquidated on the "usual date" or earlier.

"Usual date" (55) means:

- the retirement of the beneficiary (56);
- from the age of 60;
- the death of the insured.

55 The concept "usual date" in the context of the liquidation of the capital of a group insurance, has been modified by the law of 28.04.2003 relating to supplementary pensions.

56 The concept "retirement" includes early retirement pensions but not the unemployment with company allowance regime (formerly referred to as "prepension").

Table 1.18
Taxation upon the liquidation of the capital of a group insurance

<table>
<tr><td colspan="4">Liquidation of capital or surrender values upon usual termination or assimilated date</td></tr>
<tr><td></td><td>Contributions made until 31 December 1992</td><td colspan="2">Contributions made from 1 January 1993</td></tr>
<tr><td rowspan="2">employer’s contributions</td><td colspan="2" rowspan="2">separate taxation
(rates applicable to capital paid as from 1 July 2013)</td><td>payment at the age of 60 years: 20% (*)
payment at the age of 61 years: 18%
payment between 62 and 64 years: 16.5%</td></tr>
<tr><td>payment at the age of 65 years: 10% (**)
otherwise: 16.5%</td></tr>
<tr><td>employee’s contributions</td><td>separate taxation at a 16.5% rate</td><td colspan="2">separate taxation at a 10% rate</td></tr>
<tr><td colspan="4">Liquidation of capital or surrender values before legal date</td></tr>
<tr><td>employer’s contributions</td><td colspan="3">taxation at marginal rate</td></tr>
<tr><td>employee’s contributions</td><td>taxation at marginal rate</td><td colspan="2">taxation at a 33% rate</td></tr>
</table>

(*) The taxation increase from 18% to 20% is the continuation of the increase to 62 years in the minimum retirement age and, as a result, only applies where capital and surrender values are paid or allocated before this minimum age.

(**) Taxation at a 10% rate where the beneficiary actually remained professionally active at least until the legal retirement age. In case of liquidation resulting from the death after the legal retirement age, the 10% rate remains acquired where the deceased actually kept on working until this age.

Anyway, upon liquidation of the capital, a special 3.55% social security contribution is levied for the benefit of the National Institute for Sickness and Invalidity Insurance.

CAPITAL AND SURRENDER VALUES TAXABLE UP TO THE NOTIONAL ANNUITY

Are taxed **at the termination date**:

- capital of outstanding balance insurance contracts,
- capital and surrender values of individual life insurance contracts, up to the amounts used for the reinstatement or the securing of a mortgage loan.

The capital and surrender values are taxed in the form of a **notional annuity** where paid out upon the policy holder’s death, at the normal termination of the insurance contract or in the course of the five years preceding the termination date of the contract. In the other cases, the capital itself is taxed at the marginal rate. The notional annuity is a conversion annuity calculated according to the age reached by the beneficiary at the time the capital or surrender value is paid out. It is included in the aggregated taxable income.

Capital from the additional pension scheme for self-employed, which is liquidated, in the event of life, at the earliest at the legal retirement age of the beneficiary who actually kept on working at least until this age or, in the event of death after the legal retirement age, where the deceased actually kept on working until this age, is always taxed in the form of a notional annuity.

Table 1.19
Conversion rates for the calculation of notional annuities

Age reached by the beneficiary at the time of the capital liquidation	Conversion rates	Taxable period (*)
40 or less from 41 to 45 from 46 to 50 from 51 to 55 from 56 to 58 from 59 to 60 from 61 to 62 from 63 to 64	1 1.5 2 2.5 3 3.5 4 4.5	13 years
65 and more	5	10 years

(*) The requirement to report income comes to an end if the policy holder deceases before the end of that period.

1.4.6. State tax, reduced State tax and regional surcharges

The balance remaining after having considered the zero-rate band and having set off the tax credits for replacement income and the tax credit for foreign income, is called “principal”.

The next step is the calculation of the “State tax”. This tax is obtained by adding up this “principal” and the tax to be paid on separately taxed income and then by deducting from this total the tax on the “movable property income box”.

The State tax is then apportioned between the federal authority and the Regions on the basis of the autonomy factor (25.99%). The portion allocated to the federal authority (74.01%) is called “reduced State tax”.

The reduced State tax is the base for calculating the regional surcharges. These surcharges are reported as a percentage of the reduced State tax. A a result, the rate of the regional surcharges amounts to:

25.99 / (1-0.2599) = 25.99 / 74.01 = 35.117.

This rate can be modified by the Regions which could introduce differentiated surcharges per tax bracket, in compliance with the progressivity principle described in the box on p. 20. No modification was decided for the year 2014. The rate of 35.117 applies therefore fully in the three Regions.

1.4.7. Offsetting tax credits

Tax credits are set off in the following order. This order applies to as well federal as regional tax credits. Within each group, the offsetting occurs in principle in the same order as the tax credits appear in the Income Tax Code; i.e.:

– firstly, the tax credits which cannot be converted into refundable tax credits and which cannot result in a subsequent taxation.

  Are notably concerned: the (federal or regional, as appropriate) tax credits for personal premiums for group insurance contracts, additional interest, capital repayments, houses with low-energy consumption, interest paid on “green” loans, electric vehicles, gifts, domestic workers, child care expenses, overtime pay, LEA vouchers, expenses for renovating low-rent dwelling houses, expenses for making dwellings secure against

burglary and fire, classified monuments, roof insulation, standard interest, renovation agreements (Flemish Region).

– secondly, the tax credits which cannot be converted into refundable tax credits but which can result in a subsequent taxation.

  Are concerned: the tax credits for employers' shares and shares in development funds, as a subsequent take-back of tax credits is possible. The tax credit for pension scheme and life insurance premiums (future impact via capital taxation) are also concerned.

– finally, the tax credits which can be converted into refundable tax credits.

  Are concerned: certain carried-over tax credits for energy-saving expenses, the tax credit for service vouchers which can be converted into a refundable tax credit in certain cases and the regional tax credit for the own dwelling house (regional housing bonus), which can also be converted into a refundable tax credit under certain conditions.

1.4.7.1 Federal tax credits

The federal tax credits (other than for dependents, replacement income and foreign income) are set off against the sum of the reduced State tax (74.01% of the State tax) and the tax on the "movable property income box". They are only set off against the tax on aggregated taxed income.

It is referred to Section 1.3.2 for the detailed federal tax credits.

TAX CREDIT FOR OVERTIME PAY

A tax credit is granted to persons employed in the market sector, the non-market sector, autonomous public undertakings and the public limited company HR Rail, who have worked overtime.

The credit is computed on the amounts on which the bonus for hours of overtime was calculated, i.e. the gross salary before deduction of personal social security contributions, plus possible other remunerations.

The credit is only granted for a bracket of 130 hours. If the number of hours of overtime (NHO) exceeds 130, the basis is limited to 130/NHO.

From now on, the rate of tax credit amounts to:

– 57.75% per hour achieved, to which a legal supplementary payment of 50 or 100% is applied;
– 66.81% per hour achieved, to which a legal supplementary payment of 20% is applied.

The maximum number of hours of overtime has been increased from 130 hours to 180 hours for:

- workers employed by employers in the Horeca sector, provided those employers use a cash register system in each operating place and provided registration of this cash register system with the tax administration;
- workers employed by employers carrying out construction works, provided the employers use an electronic attendance registration system.

The tax credit cannot exceed the State tax which applies to net salary and wages taxable as aggregated income according to the progressive rate structure.

1.4.7.2 Regional tax credits

It is referred to Section 1.3.3 for an overview of the regional tax credits.

1.4.8. Federal PIT, regional PIT, overflow and computation of the total tax

The amount remaining after offsetting federal tax credits is the **federal PIT**. It may be negative.

The regional surcharges are increased by the regional tax increases; the regional tax credits and reductions are then set off.

The remaining amount is the **regional PIT**. It may also be negative.

If a tax is negative according to a calculation method (irrespective whether the federal or regional calculation method has been applied), there will be a transfer (also called “overflow mechanism”) to the other calculation method.

Example: the regional housing bonus can be set off against the federal PIT thanks to the overflow mechanism, if the taxable base of regional surcharges is not sufficient.

1.4.9. From the total tax to the final balance (tax amount to be paid or refunded)

The final tax is increased by the federal tax increases (increase for no or insufficient advance payments, increase for take-back of tax credits for employers’ shares and shares in development funds).

It is then decreased by:

- creditable and non-refundable federal items (FFTC (57), bonuses for advance payments);
- refundable federal and regional tax credits;
- finally, creditable and refundable federal items (advance payments, withholding tax on income from movable property and withholding tax on earned income).

The balance is increased by the municipal surcharges and, as appropriate, by the agglomeration tax.

57 Offsetting the FFTC is limited to the portion of the State tax relating to professional income.

The possible surplus of refundable tax credits for dependent children and carried-over energy saving expenses, the possible surplus of advance payments, withholding tax on earned income, actual or notional withholding taxes on income from movable property, refundable tax credits for self-employed, for low income from professional activities and for low-income workers (employment bonus) and regional tax credits, is, as appropriate, set off against the additional taxes on PIT. The surplus is refunded provided it amounts to minimum 2.50 euro.

1.4.9.1 Base for the calculation of municipal surcharges

The calculation of municipal surcharges is based on the total tax, i.e. after offsetting of federal and regional tax credits, inclusive the Flemish regional tax credit for renovation agreements.

The rate of municipal surcharges is specific to each municipality. Municipal surcharges do not apply to the tax on interest and dividends, provided those interest and dividends have no professional nature.

1.4.9.2 Increases and bonuses in respect of advance payments

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. The assisting spouse quota and remunerations paid to the assisting spouse are considered an income from a self-employed activity.

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

In order not to encumber the assisting spouse with the obligation to make advance payments (58), a specific ruling has been introduced which assures the transfer of advance payments made by the taxpayer who allocates the assisting spouse quota. So advance payments made by the taxpayer are used:

- firstly, to clear his tax increase;
- secondly, for the balance, to clear the tax increase due by the spouse who is allocated an assisting spouse quota;
- finally, for the possible balance, to compute tax bonuses.

Increases and bonuses are calculated on the basis of a reference rate. **For 2014 income, this rate is 0.75%.**

Advance payments must have been made:

- for the first quarter (AP1), no later than 10 April 2014;
- for the second quarter (AP2) no later than 10 July 2014;
- for the third quarter (AP3), no later than 10 October 2014;
- for the fourth quarter (AP4), no later than 22 December 2014.

58 However, the assisting spouse, as defined in Article 33, Income Tax Code 92, must make his own advance payments.

Natural persons having begun their first self-employed principal activity are exempted from the tax increase due on profits incurred during the first three years of their self-employed activity (59).

Any advance payment made by the taxpayer who is thus exempted entitles the taxpayer to a tax bonus insofar as the other conditions relating to the awarding of these rebates are fulfilled.

Increases and bonuses are calculated as follows:

Table 1.20
Increases and bonuses in respect of advance payments

Increase	Bonus
<u>Base</u>	
- the total tax calculated in respect of income from a self-employed activity considered separately (notional calculation) or the total tax which relates proportionally to this income, if it is lower; - increased to 106%, less withholding taxes, the FFTC, tax credits related to this income (60).	the total tax, increased to 106% and increased by the federal tax increases, less the amounts creditable as withholding taxes, FFTC, or federal or regional tax credit and less the amount of advance payments necessary to avoid the increase.
<u>Rate of increase</u>	
2.25 times the reference rate, i.e. 1.69%	
<u>Amounts payable</u>	
AP1: 2.25% (3.0 x the reference rate)	AP1: 1.13% (1.5 x the reference rate)
AP2: 1.88% (2.5 x the reference rate)	AP2: 0.94% (1.25 x the reference rate)
AP3: 1.50% (2.0 x the reference rate)	AP3: 0.75% (1.0 x the reference rate)
AP4: 1.13% (1.5 x the reference rate)	AP4: 0.56% (0.75 x the reference rate)
A bonus is awarded for excess AP.	No bonus is awarded for excess AP.
<u>Adjustments</u>	
- the increase is reduced by 10% - the increase is reduced to nil if it amounts to less than 30 euro or 1% of its calculation base – contingent exemptions for beginning self-employed	None

59 The exemption does not only apply to profits but also to proceeds and to directors' and assisting spouses' remunerations.

60 Profits and proceeds from a previous professional activity, replacement income relating to an activity generating profits, proceeds, etc. and separately taxed income do not fall within the scope of the AP increase. Nor are levies on replacement income deducted.

1.4.9.3 Creditable withholding taxes and refundable tax credits

The new Special Finance Act explicitely states that the Regions can grant refundable tax credits. Just like tax credits, refundable tax credits must explicitely relate to the Regions' material competences.

Refundable tax credits have no impact on the additional municipal tax.

A. REFUNDABLE TAX CREDIT FOR INCREASE IN "OWN ASSETS"

Taxpayers declaring profits or proceeds are entitled to a refundable tax credit if they have increased the company's "own assets". The company being a family business, the concept of "capital" used for CIT when this refundable tax credit applied thereto, is inappropriate here. "Own assets" are measured by the difference between the fiscal value of the tangible assets put into the company and the amount of the liabilities assigned to the performance of the professional activity.

The refundable tax credit amounts to 10% of the difference between:

- the fiscal value of the "own assets" at the end of the taxable period,
- and the highest amount those assets have reached at the end of any of the three assessment years preceding the current taxable period.

The refundable tax credit is limited to 3,750 euro per spouse.

As from tax year 2015, the tax credit for self-employed is refundable and, as a result, it can be fully set off against the "total tax" (sum of the federal PIT and the regional PIT), increased by the federal increases.

The refundable tax credit is granted provided that the taxpayer joins a certificate to his return asserting that he has made all relevant social security contributions he is liable to as a self-employed person.

B. REFUNDABLE TAX CREDIT ON LOW INCOME FROM PROFESSIONAL ACTIVITIES

The refundable tax credit is computed on the net amount of the activity income, i.e. the amount of the earned income not being a replacement income or a separately taxed income, after deduction of the actual or lump sum professional expenses. Income from an occasional independent activity is not taken into account either.

Wage income is not taken into account except for statutory civil servants. In fact, wage income not taken into account for the refundable tax credit is entitled to a reduction in personal social security contributions and to the refundable tax credit for low-income workers.

Remunerations paid to the assisting spouse, who has no own social statut, constitute a source of earned income from independent activity and are consequently included in the refundable tax credit basis.

The tax base is computed before taking into account the marital quotient and the allocation of the assisting spouse quota.
Taxpayers subject – entirely or partially – to lump sum taxation, are not entitled to the refundable tax credit.

The tax base is calculated **per spouse** and the refundable tax credit is granted per spouse.

The refundable tax credit is calculated in function of the income (I) and of the upper (L_2) and lower (L_1) limits of the tax brackets in the scale, as follows:

Table 1.21
Scale of refundable tax credit

Brackets of income (I)		Amount of refundable tax credit (euro)
L_1	L_2	
0	4,960	0
4,960	6,620	670 x $(I-L_1)/(L_2-L_1)$
6,620	16,560	670
16,560	21,520	670 x $(L_2-I)/(L_2-L_1)$
21,520	and more	0

The refundable tax credit is reduced proportionately to the part of the activity income in the total net earned income.

The amount of 670 euro, mentioned in the table above, must be replaced by the amounts of 300 euro or 740 euro respectively for assisting spouses and statutory civil servants.

C. REFUNDABLE TAX CREDIT FOR LOW-INCOME WORKERS

This refundable tax credit (tax bonus) is intended for low-income workers (and company managers subject to the employees' social security system) entitled to the social employment bonus.

The refundable tax credit amounts to 8.95% (14.40% on 1 April 2014) of the reduction in personal social security contributions which is actually granted on remunerations earned during the taxable period.

It cannot exceed 200 euro (300 euro as from 1 April 2014) per taxable period.

D. REFUNDABLE TAX CREDIT FOR ENERGY SAVING EXPENSES

The conversion into a refundable tax credit only remains applying where it concerns the carried-over surplus of the tax credits relating to energy saving expenses paid in the years 2011 and 2012 and which can be carried over to the subsequent taxable periods, i.e. respectively 2014 and 2015.

E. REFUNDABLE REGIONAL TAX CREDIT FOR SERVICE VOUCHERS

The portion of the tax credit for service vouchers which could not be set off against regional surcharges and regional tax increases or against the balance of the federal PIT, is converted into a .refundable regional tax credit.

F. REFUNDABLE TAX CREDIT RELATED TO THE REGIONAL HOUSING BONUS

Under joint taxation and if the loan has been raised before 1 January 2015, the regional tax credit for the single dwelling house (regional housing bonus) can be converted into a refundable tax credit.

G. FLEMISH REFUNDABLE REGIONAL TAX CREDIT FOR WIN-WIN LOAN

The provisions concerning the win-win loan are referred to in Section 1.3.4.

1.4.9.4 Tax increases

PRINCIPLES

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

- either on the entirety of the taxes payable before the allowance of withholding taxes, advance payments, tax increases and bonuses;
- or proportionately 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 1.22
Rates of increase

	Nature of infringement	applicable rate
A.	Incomplete or incorrect return or failure to make return owing to circumstances which are independent of the will of the taxpayer	NIHIL
B.	Incomplete or incorrect return or failure to make return without intending to evade taxation: 1st infringement (excluding failure to declare as sub A) 2nd infringement 3rd infringement 4th and subsequent infringements	 10% 20% 30% (as for C)
C.	Incomplete or incorrect return or failure to make return with the intention to evade taxation: 1st infringement 2nd infringement 3rd infringement	 50% 100% 200%
D.	Incomplete or incorrect return or failure to make return with an inaccuracy, a deliberate or 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	200%

B. Limit value of increase

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.

The limit value of non-reported income below which the increase does not apply, amounts to 3.810 euro.

CHAPTER TWO
CORPORATE INCOME TAX (CIT)

What is new?

- ***Transition to the corporate income tax for inter-municipal associations of which the financial year was closed at the earliest on 1 July 2015 (any change as from 1 November 2014 on the closing date of the annual accounts has no consequence in this respect). As a result, inter-municipal associations for which the closure of the financial year corresponds to the calendar year are still liable to legal entities income tax (LEIT) for the tax year 2015.***
- ***Reform of the "secret commissions" system which now exclusively compensates for Belgian income tax losses.***
- ***Possibility for SMEs to build up a liquidation reserve.***
- ***Abolishment of the separate contribution of 15% on dividends (anti-abuse provision of the transitional system as regards liquidation surpluses).***
- ***Under the new Special Finance Act, the federal authority remains exclusively competent for the corporate income tax.***

2.1. Taxable period

In respect of the taxation of individuals, the taxable period is always the calendar year.
This is not the case for corporate income tax: the taxable period is the **financial year** and the link between the taxable period and the tax year is based on the date the accounts are closed.
Legislation relating to tax year 2015 therefore applies **to profits from financial years closed between 31 December 2014 and 30 December 2015**.

2.2. Liability to corporate income tax

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

- they possess 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.

Inter-municipal associations are now liable to corporate income tax.

A transitional system has been implemented for inter-municipal associations for the transition from the legal entities income tax to the corporate income tax: the reserves built up during the period in which inter-municipal associations were liable to legal entities income tax, are only exempted provided the intangibility condition is met.

Nonetheless, the law explicitly points out a number of exceptions to CIT liability.

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 organisation does not automatically bind the tax office, which **can submit a non-profit organisation to the payment of corporate income tax if the organisation is engaged in profit-making activities.**

Those criteria are now used to determine whether an inter-municipal association is liable to CIT or to LEIT. An inter-municipal association is still liable to LEIT only if it does not carry out profit-making concerns or transactions. Otherwise, it is excluded from LEIT and CIT applies.

The law specifies, however, that the following **are not considered profit-making transactions**:

- isolated or exceptional transactions,
- transactions relating to the **investment of funds** collected by the non-profit organisation 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. Tax base

The tax base described in this section applies to the **common tax system** of profits. Other, more specific tax systems are notably the system relating to investment companies. They are described in annex 2 to this chapter (61).

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: tax exempted reserves and dividends),
- 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.

In addition to these differences, we may add those relating to specific tax deductions.

The adjustments and deductions allowing the calculation of the net taxable profit on the basis of the financial profit, take place in the following order:

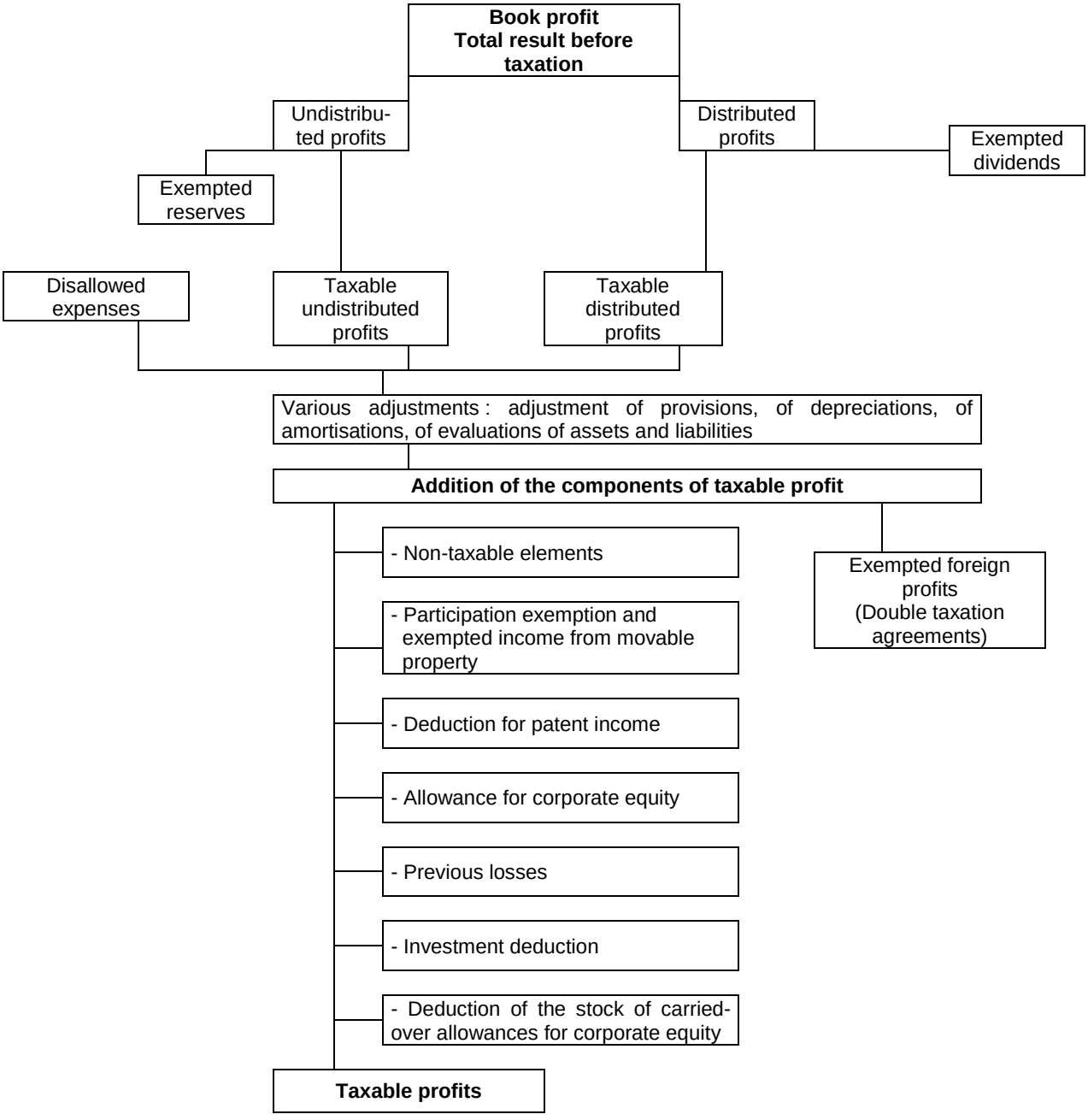
- addition of the three elements making up the taxable profit: reserves, disallowed expenses and distributed profits (see 2.3.1.);
- breakdown of profits according to their origin (Belgian or foreign) (see 2.3.2.);
- deduction of non-taxable items (see 2.3.3.);
- deduction for participation exemption and for exempted movable income (see 2.3.4.);

61 See page 113 and following.

- deduction for patent income (see 2.3.5.);
- allowance for corporate equity (see 2.3.6.);
- deduction of previous losses (see 2.3.7.);
- investment deduction (see 2.3.8.);
- deduction of the stock of carried-over allowances for corporate equity (see 2.3.9.).

The net taxable profit thus calculated is taxed globally.

Diagram of CIT
Assessment of tax base



2.3.1. 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); exempted reserves are then singled out in order to ascertain the amount of the taxable reserves.

DISCLOSED RESERVES

In principle, any retained earnings contribute to the accruing 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

Under-valuation of assets and overvaluation of liabilities constitute hidden reserves which are also part of the taxable profit.

Depreciations exceeding the depreciation limits allowed by the tax code and underestimations of inventory constitute *underestimations of assets*.
A notional debt is a case of *overvaluation of liabilities*.

EXEMPTED RESERVES

Capital gains

The exempted portion of capital gains (62) is considered an exempted reserve if the intangibility condition is met. Moreover, the exemption is only awarded where the capital gains appear in a separate account.

Provisions for risks and expenses

Certain provisions can also be exempted: they must relate to specifically defined risks and expenses. The expenses they are to meet must, by their very nature, be professional expenses for the year in which they are to be borne. 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).

Depreciation of debts receivable

The depreciation of debt-claims is deductible in total as professional expenses when the loss is certain and conclusive. In the case of a depreciation relating to a probable loss, the debt-claim must result from the professional activity and be identified and justified case by case.

62 See pages 126 and following.

Share premiums and capital subscription reserves

Share premiums and capital subscription reserves are exempted if they are incorporated in the capital or appear in an unavailable reserve account and so satisfy the same unavailability condition as the share capital.

Profits exempted in the framework of the tax shelter agreement for audiovisual work

Since 2003, sums paid up for the financing of the production of audiovisual work have been entitled to exemption from CIT in the framework of the tax shelter agreement.

This exemption system is based on one or several framework agreement(s) entered into with a view to the financing of audiovisual productions. This/those agreement(s) is/are concluded between the company producing the audiovisual work and the company or companies financing it.

The production company should be a resident company or the Belgian establishment of a foreign production company.

Are considered as "audiovisual work":

- fiction, documentary or animation feature films intended for distribution;
- TV fiction feature films (63);
- animation TV-series;
- documentary TV films;
- TV-series intended for children and youth, i.e. educational, cultural and informative fiction series intended for a target group of children and youth between 0 and 16 years.

The investment can take the form of a loan or of an acquisition of rights related to the production and/or distribution of the audiovisual work. The total amount of the loans allocated may not exceed 40% of the global sums used by the company in compliance with the framework agreement.

The "framework agreement" should notably mention the estimated expenses necessary for audiovisual work by distinguishing the proportion borne by the production company from the proportion financed by the other parties to the "framework agreement".

Exemption of the profits is subject to the following conditions:

- the total amount of the sums paid for the execution of the framework agreement under exemption of profits may not exceed 50% of the total expenses budgeted for the production of the audiovisual work;
- as regards any of the companies participating in the financing, the exemption may exceed neither 50% of the profits of the taxable period nor 750,000 euro (64);
- the tax-exempted profits must be booked in an unavailable reserve account (intangibility condition) on the liabilities side of the balance sheet and may not be used for the computation of any remuneration or allocation;

63 Fiction films broadcast in 52 minutes or less can qualify as recognised audiovisual works for purposes of the tax shelter legislation, on condition that the fiction film as a whole is longer than 52 minutes.

64 The part of the sums entitling to tax-exemption that cannot be exempted because of lack or insufficiency of profits, is carried over to the next taxable periods.

- as regards framework agreements concluded as from 1 July 2013, additional conditions have been fixed. The part of the budget which must be spent in Belgium has been fixed at 90% of the total funds collected and at least 70% of the global budget must be used for expenses directly related to production.

The profits are exempted up to 150% of the sums paid, provided the above-mentioned conditions have been met.

Investment reserve

The reform of CIT entered into force in 2003 creates the possibility to constitute an exempted investment reserve. This possibility is open to SMEs as defined in the Corporation Code.

The exempted amount of the investment reserve is calculated in function of the variation of the reserved taxable results. These contain not only the (accounting) non-distributed profits but also the undisclosed reserves.

The variation of the taxable reserves is computed before each increase of the starting situation of the reserves and is reduced by:

- the exempted capital gains on shares,
- the reduction in the paid-up capital,
- the increase in the company's claims on natural persons retaining parts in the company or on persons carrying out the duty of a manager, a liquidator or any similar function.

The result obtained is limited to 37,500 euro and can be exempted up to 50%.

The reserve actually constituted must be booked in an unavailable separate account of the liabilities (intangibility condition).

Within three years, the company must invest an amount equal to the investment reserve in tangible or intangible fixed assets entitling to the investment deduction (65). This three-year period starts the first day of the taxable period in respect of which the investment reserve was constituted. If these conditions are not met, the investment reserve will be considered as profit of the taxable period during which the three-year investment period expires.

SMEs benefiting the investment reserve have to choose between this reserve and the allowance for corporate equity (see page 101).

Exempted regional aid

By way of derogation from the general system which includes regional aid in the tax base (66), the Act of 23 December 2005 exempts some aid measures granted by the Regions to companies. Are concerned:

- back-to-work bonuses and progression-to-work bonuses granted to companies by the competent regional institutions.

- capital subsidies and interest subsidies.

65 See below, page 102.
66 See chapter 3, page 125.

These subsidies are granted by the Regions in the context of their laws of economic expansion for the acquisition or constitution of tangible or intangible fixed assets. Are also concerned, subsidies granted by the competent regional institutions in the context of R&D aid.

Where a subsidised asset is transferred within the first three years of the investment, the amount of formerly exempted profits is considered as a profit obtained in the taxable period during which the asset is transferred (except in case of disaster, expropriation, etc.).

B. Deductibility of expenses and disallowed expenses (DE)

The general principle of deductibility of expenses is the same as with PIT (67).

Expenses paid for enterprise crèches are deductible within the limits and conditions set out in chapter 3 (68).

Will be mentioned hereafter only the cases where the accounting charges are not deductible and are incorporated in the basis of assessment as “disallowed expenses”. The latter also include certain withdrawals of exemptions previously granted.

Are mainly concerned:

- non deductible taxes,
- fines, penalties and confiscations of any kind,
- certain interests on loans,
- abnormal or benevolent advantages,
- social benefits in respect of which the beneficiary is exempted from taxation,
- gifts,
- withdrawal of exemption for additional staff,
- certain specific professional expenses,
- writedowns on share participations, except in the case of full distribution of company assets (69),
- certain pensions and pension contributions,
- amounts attributed within the framework of employee equity participation and employee participation in profits and enterprise results (70).

Some of these elements are explained hereafter.

67 See above, page 39.
68 See below, page 129.
69 Where the reduction in value results from the full distribution of the assets of the company having issued the shares, the deductibility is maintained up to the share capital actually paid up represented by the shares in that company.
70 This system is described in the annex to this chapter.

Depreciation rules are described in Chapter 3 (71).Among the differences between accounting depreciation and tax depreciation are: the obligation to depreciate the assets *pro rata temporis* in the accounting year of their acquisition and the obligation to depreciate supplementary expenses at the same rate as the principal. Neither of these restrictions applies to SMEs such as they are being defined in the Corporation Code.

SMEs such as defined in the Corporation Code

According to Article 15 of the Corporation Code, "small companies" are companies possessing legal personality and having not exceeded more than one of the following criteria in both the last and the last but one approved financial years:

- annual work force average: 50
- annual turnover (excluding VAT): 7,300,000 euro
- balance-sheet total: 3,650,000 euro

A company whose annual work force average exceeds 100, falls beyond the scope of the definition.

All criteria are fully described in article 15, § 1-6, of the Corporation Code.

DEDUCTIBILITY OF TAXES

Corporate income tax (fairness tax included) and the related crisis surcharge (CS), advance payments and allowable withholding taxes (72) levied or determined on income included in the tax base are not deductible. This is also the case as regards interest on late payments, fines and prosecution expenses related thereto.

On the other hand, the tax levied on secret commissions is deductible. The withholding tax on real estate due by companies for real property they own is also a deductible expense.

Are also non-deductible: taxes, fees and public service charges due to the Regions, as well as the surcharges, penalties, charges and default interests related to them. The non-deductibility applies to the Regions' own taxation (73) but not to the former federal taxes in respect of which the competences have been transferred entirely or partly to the Regions (notably registration duties, inheritance tax, withholding tax on real estate, opening tax on drinking establishments, taxes on vehicles, Eurovignette) (74).

DEDUCTIBILITY OF INTERESTS ON LOANS

There are four cases where interests on loans are not deductible:

- interests attributed to associates or directors in respect of advances granted to the company: these advances can be considered as dividends, according to the conditions explained hereafter in the section related to taxable dividends (75),
- interests considered "exaggerated",
- application of the thin capitalisation rule,
- the consequence of the failure to comply with the permanency condition in the matter of participation exemption.

71 See Chapter 3, page 119.
72 FTTC is assimilated to a withholding tax and is therefore included in the tax base as a disallowed expense. Only the chargeable amount is included in the DE and it may be limited pro rata temporis (see page 108).
73 The same deductibility rules as applicable to the Eurovignette will apply to the "kilometre tax" that must be introduced by the Regions to replace the Eurovignette.
74 I.e. taxes referred to in Article 3 of the Special Law of 16 January 1989 concerning the financing of Communities and Regions.
75 See *infra*, page 95.

Interests are considered **"exaggerated"** to the extent that they exceed an amount corresponding to the market rate of interest adjusted on the basis of particular elements such as the risk involved in the operation, the debtor's financial situation and the term of the loan (76).

This eligibility for non-deduction applies to interests on bonds, loans, debt-claims and other certificates representing amounts borrowed. It applies neither to interest on loans issued by a public call for funds nor to sums paid by or to financial institutions.

The thin capitalisation rule adds to the two previous rules. It only applies to interests which have not been assimilated to dividends and which have not been considered "exaggerated". These interests are considered non-deductible where the beneficiary is not liable to a common tax system or benefits a tax system which derogates from the common tax system.

The system also applies where the actual beneficiary of the interest is part of a group to which the debtor belongs. These interests are considered disallowed expenses to the extent that the balance of the interest-yielding loans exceeds five times the sum 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 rule does not apply notably to interests on loans issued by a public call for funds.

BENEVOLENT OR ABNORMAL ADVANTAGES

Are concerned here advantages granted to companies established abroad with which the company has direct or indirect ties involving interdependence, or to companies which are subject, in their country of residence, to a tax system which is considerably more advantageous.

GIFTS

All gifts are considered disallowed expenses. However, some of them can be deducted from the taxable profits where they entitle to a tax credit for gifts (see below 2.3.3.).

WITHDRAWAL OF THE EXEMPTION FOR ADDITIONAL STAFF

Taking on additional staff can entitle to a tax exemption (see below 2.3.3.).

This exoneration is withdrawn however when the staff in question is subsequently reduced.

CAR EXPENSES

With the exception of fuel expenses of which the deductibility has been fixed to 75%, the other expenses relating to the use of motor cars, twin-purpose vehicles, vans and minibuses other than those exclusively used for paid conveyance of passengers, are deductible as professional expenses up to a percentage depending on the CO_2 emissions per kilometre and the type of vehicle (diesel / petrol / electric).

76 The burden of proof lies with the taxpayer.

Are not concerned:

- vehicles exclusively used as taxis or for self-drive hire and which are therefore exempted from the circulation tax;
- vehicles used for car driving lessons via driving schools;
- vehicles exclusively leased to third parties.

The deductibility of car expenses is computed according to CO_2 emissions per kilometre.

Table 2.1.
Deductibility of car expenses

Diesel vehicles	Petrol vehicles	Deduction rate
CO_2 emissions g/km		
		120% (*)
0 - 60	0 - 60	100%
61-105	61 - 105	90%
106 - 115	106 - 125	80%
116 - 145	126 - 155	75%
146 - 170	156 - 180	70%
171 - 195	181 - 205	60%
> 195	> 205	50% (**)

(*) The deductibility amounts to 120% for vehicles without CO_2 emissions, i.e. 100% electric vehicles.

(**) If there are no data available about CO_2 emissions of the vehicle, the 50% rate applies.

NON-DEDUCTIBILITY OF SPECIFIC PROFESSIONAL EXPENSES

Are especially concerned here:

- expenses and charges exceeding professional needs to an unreasonable extent,
- expenses in respect of clothing with the exception of specific working clothes,
- 31% of restaurants bills,
- 50% of business-related reception expenses and business gifts.

TAX SYSTEM AS REGARDS PENSIONS AND PENSION CONTRIBUTIONS

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 compensations chargeable to the results of the taxable period are paid to the personnel. Payments relating to compensations granted by the general meeting of shareholders, or placed on a current account, are therefore not deductible.

The payments shall be irredeemable and shall be made, outside any statutory obligation, to an insurance company, a provident institution or an institution for occupational retirement provision established in one of the Member States of the European Economic Area.

However, the deduction of these contributions is granted only to the extent that the statutory and extra-statutory allowances converted into an annuity upon the beneficiary's retirement (77), added to the other amounts the retirement entitles to, do not exceed 80% of the latest annual ordinary gross remuneration of a “normal” career (as a rule 40 years).

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

EMPLOYEE EQUITY PARTICIPATION AND EMPLOYEE PARTICIPATION IN PROFITS AND ENTERPRISE RESULTS

The amounts attributed by the company are considered as disallowed expenses. Annex 1 to this chapter provides for a description of the calculation of the taxable amounts.

No deduction for gifts, for participation exemption, for patent income, no allowance for corporate equity, no deduction of previous losses or investment deduction can be made on the amount thus considered as a disallowed expense.

PUTTING AT DISPOSAL OF A COMPANY CAR

Car expenses are considered as disallowed expenses for 17% of the benefit in kind resulting from the private use of a vehicle put at disposal by the employer.

C. Distributed profits

DIVIDENDS

Dividends distributed by share companies are included in the taxable base.

INTEREST ASSIMILATED TO DIVIDENDS

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

- by a natural person retaining parts in the company;
- by persons holding a managing function in the company, as well as by their spouses and under-age 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 Income Tax Code 1992 taking into account the market rate of interest (78),
- the total amount of interest-yielding advances exceeds the total amount represented, at the beginning of the taxable period, by the paid-up capital at the end of the taxable period increased with the taxed reserves at the beginning of the taxable period.

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 on income from movable property at the rate applicable to dividends (79).

REPURCHASE OF OWN SHARES, TOTAL OR PARTIAL DISTRIBUTION OF COMPANY ASSETS

Distributed dividends also include allocations made upon the **acquisition of own shares** (80). The rate of the withholding tax on movable property has been fixed at 25% of the payments defined as dividents in Art. 186 of the Income Tax Code 1992, i.e. acquisition surpluses.

78 See above “disallowed expenses”.

79 This provision does not apply to interest allocated by the cooperative companies recognised by the National Cooperation Council, nor to interest from bonds issued through a public call for funds.

80 The conditions and rules applicable in the event of a repurchase of own shares are described in Art. 186 of the Income Tax Code 1992.

In the event of a **(total of partial) distribution of company assets** (81), the payments shared out are considered as distributed profits in respect of the quota exceeding the outstanding share capital effectively paid up, after re-evaluation, if any. The surplus is taxable as liquidation surplus and a withholding tax amounting to 25% of the amount considered as a distributed dividend is levied (82).

2.3.2 Breakdown of profits

Taxable profits made up of the sum of reserves, disallowed expenses and dividends are subsequently broken down into two categories:

- The first category concerns profits earned in Belgium which are taxable at the full rate, and foreign profits from a country Belgium has not concluded a double taxation agreement with.
- The second category concerns foreign profits from a country Belgium has concluded a double taxation agreement with and which are exempted from CIT. The second category is not taken into consideration in the calculation of the tax base.

2.3.3. Miscellaneous exemptions

The following are deducted:

- the 15,220 euro exemption awarded for each additional staff member appointed in Belgium to a managing function in the "Export" department or in the "Total quality management" department (83);
- exemption of 40% for the remunerations paid or allocated to workers in respect of whom the employer benefits a trainer's bonus (84);
- the 5,660 euro exemption for each additional staff member in SMEs (85);
- gifts. The deduction of gifts can, however, exceed neither 5% of the taxable profit as computed in 2.3.1., nor 500,000 euro.

2.3.4. Participation exemption and exempted income from movable assets

A. Participation exemption

INCOME DEDUCTIBLE AS PARTICIPATION EXEMPTION

Participation exemption can be granted for:

(a) dividends;

(b) acquisition and liquidation surpluses, inasmuch as they constitute a dividend to which articles 186 (acquisition of own shares), 187 (partial repayment of a company's capital) or 209 (total repayment of a company's capital) of the Income Tax Code 1992, or similar provisions in foreign law apply (86).

81 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.

82 Those rates of withholding tax on income from movable property are those in force for tax year 2015. Rate applicable to liquidation surpluses as from 1 October 2014.

83 See Chapter 3, page 124.

84 See Chapter 3, page 125.

85 See Chapter 3, page 124.

86 The participation exemption system can apply to accounting capital gains realised from shares in SICAVs/BEVEKS entitling to the participation exemption system (SICAV/BEVEK 90%) (circular Ci.RH. 421/506.082 of 31.05.2006 and decision ARS (advance ruling service) n° 500.156 of 24.11.2005).

EXCLUSIONS

Statute law provides five cases of exclusion:

1° The first case of exclusion concerns income allocated or assigned by companies which are not liable to CIT 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 (87), money market funds (88) or investment companies (89) which, although they are liable in their country to a tax similar to CIT, are subject to a tax system which derogates from the common tax system.

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

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 globally a tax system which is **'markedly more advantageous'** than the one the capital gains would have been subject to in Belgium (90).

5° The last case of exclusion concerns income obtained by companies, not being investment companies, distributing at least 90% of the dividends to which the first four exclusions apply.

A tax system is considered 'markedly more advantageous' when the normal CIT rate or the effective tax burden is lower than 15%. The common right fiscal provisions applicable to companies located in the European Union are deemed not to be markedly more advantageous.

However, law stipulates limitations of the five cases of exclusion:

1° Case 1 does not apply to dividends attributed or paid by inter-municipal associations.

2° Case 2 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 case 2 nor case 5 apply to finance companies having established their residence in one of the member states of the EU, as regards legal business or profit-making activities and insofar as the company is not overcapitalised.

4° Case 5 does not apply where the distributing company is noted on a European stock exchange and is liable to CIT in a country with which Belgium has concluded a double taxation agreement.

87 A financing company is any 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.

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

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

90 Will not be considered to have benefited a "markedly more advantageous system", capital gains taxed at a rate of not less than 15% in countries with which Belgium has concluded a double taxation agreement.

PARTICIPATION THRESHOLD

Another requirement is that, at the time of the attribution or payment of the dividends, the shareholding company holds a participation in the capital of the issuing company amounting either to not less than 10% of the latter's capital or to not less than 2,500,000 euro.

This participation threshold does not apply to income received by investment companies and allocated or assigned by them, and to income allocated or assigned by inter-municipal associations.

PERMANENCY CONDITION

Deduction for participation exemption is only granted in respect of shares in participations which have been held by the company for an uninterrupted period of one year at least.

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 (91):

- 'non-deductible' gifts;
- fines and penalties;
- certain specific professional expenses;
- non-deductible proportion of fuel expenses;
- exaggerated interests;
- abnormal or benevolent advantages;
- social benefits;
- contributions to pension savings schemes.

These disallowed expenses are not to be taken out of the base to which the participation exemption applies, if the dividend is allocated or attributed by a company established in a Member State of the European Economic Area.

The advantages which are not deductible as professional expenses and granted in the context of some private or public corruptions are also to be taken out of the base to which the participation exemption applies.

Moreover, no deduction can apply to the amounts of employee equity participation or employee participation in profits and enterprise results, considered as disallowed expenses.

91 This is made in order to prevent amounts from being deducted from those disallowed expenses because it would imply their non-taxability.

CARRY-OVER OF PARTICIPATION EXEMPTION SURPLUSES

In case of lack or insufficiency of taxable profit remaining after the "third operation", the remaining participation exemption can be carried over the next taxable periods, as a consequence of the "Cobelfret" judgment of the European Court of Justice (92) .

The Court indeed considered that the non-carry-over of the participation exemption surpluses as envisaged in the Belgian participation exemption system, was contrary to the Mother-Subsidiary Directive aiming at avoiding economic double taxation.

The carry-over of participation exemption surpluses applies to dividends allocated or assigned by a company established at the time of the distribution:

- in a Member State of the European Economic Area (93), including Belgium;
- in a non-EU country with which Belgium has concluded a double taxation agreement including a clause providing for equal treatment as regards dividends;
- in another non-EU country than those mentioned above, provided the principle of free movement of capital applies to capital producing the dividends in question.

B. Exempted income from movable property

Income from preference shares in the Belgian National Railway Company (SNCB/NMBS) and income from tax exempted bonds (issued prior to 1962) are also deductible.

2.3.5. Deduction for patent income

Are taken into consideration: the patents or supplementary protection certificates registered by the company itself and that have been developed, wholly or partially, in the R&D centres of the company, as well as the patents, supplementary protection certificates or licences acquired by the company provided they had been improved in the R&D centres of the company.

However, the system has been made more flexible for SMEs (as defined in Article 15 of the Corporation Code) as it is no longer necessary for those companies to have a research centre constituting a separate branch of activities of the company.

"Patent income" means as well the income *stricto sensu* notably derived from the granting of licences, as the income which would have been received from a third party by the company having exploited patents on its own behalf. The income must be assessed on the basis of the remuneration which would have been agreed between independent companies.

The qualifying income must be included in the taxable income and the following expenses must be deducted:

- amortisation charge for the taxable period, on the investment value or cost price of the patents, provided it is deducted from the basic amount which is taxable in Belgium;
- compensation owed to third parties pertaining to these patents, deducted from the taxable result in Belgium.

92 "Cobelfret judgment" (CJEC 12.02.2009; nr. C-138/07).
93 Or of the European Community as regards dividends allocated or made payable before 01.01.1994.

The so determined income enjoys a 80% exemption. In case of insufficiency of profit, the balance of the deduction for patent income cannot be carried over the next taxable periods.

2.3.6. Allowance for corporate equity

The allowance for corporate equity or tax system applying to notional interests (94) allows companies to deduct from their taxable profits a notional interest calculated on the basis of their corporate equity.

CALCULATION BASIS

The allowance for corporate equity is based on the amount of the adjusted net assets the company was holding at the end of the taxable period preceding the period in the course of which the deduction is applied for.

The eligible net assets correspond to columns I to VI of the liabilities: paid-up capital, share premiums, re-evaluation capital gains, reserves, retained earnings and capital subsidies.

This calculation basis is then the object of several adjustments (95), aimed at avoiding cascading deductions, at excluding assets that are not taxable in Belgium by virtue of double taxation agreements, and at preventing abuses such as the artificial incorporation of tangible assets in a company so as to increase the benefit from the allowance for corporate equity.

Since tax year 2014, shares held in treasury investments from which the income entitles to the deduction for participation exemption, are excluded from the basis for the calculation of the notional interests.

Following a judgment of the Court of Justice of the European Union (96), net assets related to *foreign permanent establishments* from which the income is exempted under a double taxation agreement, are no longer excluded from the basis for the calculation of the notional interests.

As to the variations in own resources registered during the taxable period, the risk capital taken into consideration is increased or diminished by the amount of these variations (calculated as a weighted average).

RATE

The reference rate for the allowance for corporate equity is determined each tax year on the basis of the average rate of the 10-year linear treasury bonds ("OLO") of July, August and September of the year preceding the year in which the financial year starts, i.e. the year 2013 for tax year 2015. The rate calculated in this way amounts to 2.630%. The maximum rate of 3% fixed as from tax year 2013 is therefore not exceeded.

94 Act of 22.06.2005, BOJ of 30.06.2005.

95 See article 205*ter* of the Income Tax Code 1992.

96 Judgment C-350/11 of 04.07.2013 ("Argenta" judgment). The Court held that the exclusion of net assets of the foreign permanent establishment is contrary to European law regarding freedom of establishment, because this restriction does not apply to the assets of a Belgian permanent establishment of a Belgian company.

The rate for 2014 is thus set at 2.630% and at 3.130% for SMEs. For companies recognised as SMEs according to Article 15 of the Corporation Code (see page 92), in respect of the tax year covering the taxable period during which they have benefited from the allowance for corporate equity, this rate is indeed increased by 0.50 point.

NON-ELIGIBLE COMPANIES

Are not eligible for the notional interest deduction (97):

- open-ended investment companies ("SICAV/BEVEKS"), closed-ended investment companies ("SICAF/BEVAKS") and debt investment companies ("SIC/VBS");
- participation cooperative companies set up in pursuance of the Act of 22.05.2001 concerning employee equity participation and employee participation in the profits of their enterprise;
- certain shipping companies.

CARRY-OVER FOR INSUFFICIENCY OF PROFITS

As from tax year 2013, the allowance for corporate equity can only be set off against profits of the taxable period linked to the deduction and can therefore no longer be carried over.

However, with respect to companies still having remaining allowances for corporate equity which can be carried over on 31 December 2011 (or at the end of the taxable period linked to tax year 2012), the carry-over within the deadlines previously provided for (98) remains possible; however, above one million euro, the carry-over is limited to 60% of the remaining profits.

An extension of the carry-over period is planned for the amounts which could not be deducted because of this 60% limit.

The deduction of the stock of carry-overs is an integral part of the calculation of the corporate income tax (see 2.3.9.) and occurs after the deduction of previous losses and the investment deduction.

SMES HAVE TO CHOOSE BETWEEN THE INVESTMENT RESERVE AND THE ALLOWANCE FOR CORPORATE EQUITY

SMEs, as defined in the Corporation Code, having constituted an exonerated investment reserve in the course of the taxable period, cannot combine this advantage with the benefit of the allowance for corporate equity, not only for the taxable period in question but also for the following two taxable periods.

2.3.7. Deduction of previous losses

Losses from previous taxable periods are deductible without any time limit.

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 (99).

97 Coordination centres and conversion companies have been deleted from the list of exclusions.

98 Where profits were lacking or insufficient, the deduction not used could be successively carried over to the profits of the subsequent seven taxable periods.

99 See Art. 206 of the Income Tax Code 1992.

2.3.8. Investment deduction

The arrangements for investment deductions are detailed hereafter in chapter three. The allowance is in force:

- for “green” R&D investments, energy-saving investments, security investments and for patents;
- for investments aimed at the production of reusable packages and the recycling thereof;
- for investments aimed at the installation of smoke extraction systems or ventilation systems in hotels, restaurants and cafés;
- in the "spread deduction" form.

It must also be noted that the standard investment deduction has been reactivated for SMEs, as defined in the Corporation Code, but only for investments made in 2014 and 2015 under certain conditions.

The applicable rates and the conditions under which deductions are granted, are detailed in chapter 3.

2.3.9. Deduction of the stock of carried-over allowances for corporate equity

The amount considered as allowance for corporate equity cannot exceed 60% of the result remaining before this operation. This limit does not apply to the first million euro of this result. The carry-over period of the amount which could not be deducted because of this limit, has been extended.

2.3.10. Provisions which are common to the deductions

None of the deductions mentioned in 2.3.3. to 2.3.9. can apply to:

a) the part of the taxable profits corresponding to received abnormal or benevolent advantages or received financial advantages or benefits in kind (100);

b) the amounts booked as employee participation in profits and enterprise results, considered disallowed expenses;

c) the basis of assessment of the special taxation on secret commissions;

d) the part of the taxable profits arising from the failure to respect the intangibility condition related to investment reserves.

e) the part of the profits used to pay the costs relating to car expenses for 17% of the benefit in kind resulting from the private use of a vehicle put at disposal by the employer.

f) capital gains to which the separate tax of 0.4% applies (see p. 106);

g) dividends to which the fairness tax applies (see p. 104).

100 “Received financial advantages or benefits in kind” means advantages which have been received in the framework of private or public “corruptions” and which cannot be deducted by the debtor.

2.4. Computation of the tax

2.4.1. Common rate

CIT is payable at a rate of 33%.

2.4.2. Reduced rates

Reduced rates can be applied when the taxable profit does not exceed 322,500 euro.

Table 2.2.
Reduced CIT rates

Taxable net profit			Rate applicable to this bracket
0	-	25,000	24.25%
25,000	-	90,000	31%
90,000	-	322,500	34.50%
322,500		and more	33%

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

- the activities of the company,
- the shareholding of the company,
- the yield on the capital,
- the remuneration of their managers.

THE ACTIVITIES OF THE COMPANY

In order to qualify for the reduced rates, the company must, by law, fulfil one condition in respect of its activity (101). The company must not hold shares with an investment value exceeding 50% of either the revalorised paid-up capital, or the paid-up capital increased by the taxed reserve and the accounting capital gains. The values taken into consideration are those on the closing date of the annual accounts of the shareholding company. The shares representing at least 75% of the paid-up share capital of the issuing company are not taken into consideration when determining whether the 50% limit is exceeded or not.

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 YIELD ON THE SHARE CAPITAL

Entitlement to the reduced rates is also denied where the dividend yield on the share capital effectively paid up which remains to be reimbursed at the beginning of the taxable period exceeds 13%.

101 The reduced rates were also refused to companies being part of a group to which a coordination centre belongs. This reference to coordination centres has been abolished as from 10 January 2014.

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, to one manager at least a remuneration which, if it is less than 36,000 euro, shall not be less than the company's taxable income.

CASE OF COOPERATIVE COMPANIES RECOGNISED BY THE NATIONAL COOPERATION COUNCIL

A cooperative company approved by the National Cooperation Council can be entitled to the reduced rates even if it does not fulfil the conditions relating to:

- the shareholding of the company,
- the possession of shares in other companies,
- the remuneration of the managers.

The other conditions remain applicable.

2.4.3. Fairness tax

The fairness tax, or minimum corporate income tax, is a separate contribution applicable as from tax year 2014. It applies to the cases where, for the same taxable period, dividends are distributed on the one hand, and the taxable income is reduced by the allowance for corporate equity and/or by offsetting carried-over losses.

The rate of the separate contribution, or fairness tax, amounts to 5% (5.15% with the application of the crisis surcharge).

A company which is not a SME as defined by the Corporation Code is liable to the fairness tax where it distributes, for a determined financial year, dividends equal to a higher amount than the final taxable basis to which the rate of the CIT applies.

The concept "dividends" includes ordinary dividends, repayments of share capital and repayments of share premiums. Dividends subject to the transitional rate of 10% (liquidation surpluses) are not liable to the fairness tax.

Tax base of the fairness tax

Three steps must be distinguished:

Step 1. The gross taxable base of the fairness tax is equal to the difference between the gross amount of the dividends distributed for the taxable period and the final taxable income subject to the (ordinary or reduced) rate of the corporate income tax.

Step 2. Where the dividend distribution is accompanied by a withdrawal from previously taxed reserves, the taxable base is reduced by the amount of the withdrawal. The reduction applies first and foremost to the last introduced reserves.

Only withdrawals from reserves that have been built up and taxed until tax year 2014 included, lead to a reduction of the taxable base. The taxable base is not further reduced if there is a withdrawal from profits realised, undistributed and taxed as from tax year 2015.

Example 1

- *Dividend distributed: 3,000*
- *Withdrawal from reserves taxed previously and at the latest during tax year 2014: 3,200*

In this case, the company is not liable to the fairness tax because the taxable base has been offset by the withdrawal from previously taxed reserves.

Step 3. Limitation of the taxable base

The balance is then limited according to the following rate:

- in the numerator, the deduction of the carried-over losses actually carried out for the taxable period and the allowance for corporate equity actually carried out for the same taxable period (102);
- in the denominator, the taxable income after the first operation (excluding writedowns, provisions and exempted capital gains).

The fairness tax at the rate of 5% applies to the base limited in this way.

Example 2

** undistributed profits: 1,000*

** disallowed expenses: 200*

** dividends: 300*

Taxable income after the 1st operation = 1,500

** deduction for participation exemption: 700*

** deduction of notional interests: 500*

** deduction of previous losses: 250*

** investment deduction: 50*

Final taxable income = 0

Step 1. The gross taxable base of the fairness tax amounts to 300, i.e. the difference between the amount of the dividends and the final taxable base (300 - 0).

Step 2. There is no correction for a withdrawal from previously taxed reserves.

Step 3. The taxable base is then limited taking into consideration the deduction of losses and of notional interests in the numerator (500 + 250), and the taxable income after the 1st operation in the denominator (1,500). After calculation, the ratio is equal to 50% (750 / 1,500).

*The final taxable base of the fairness tax amounts therefore to 150 (300 * 50%).*

*Separate contribution of 5% (fairness tax) = 7.5 (150 * 5%), to be increased by the crisis surcharge.*

102 The stock of notional interests is not taken into account.

Example 3

** withdrawal from reserves: -1,000*

** disallowed expenses: 100*

** dividends: 3,000*

Taxable income after the 1st operation = 2,100

** deduction for participation exemption: 100*

** deduction of notional interests: 1,000*

** deduction of previous losses: 1,000*

** carry-over allowance for corporate equity: 1,000*

Final taxable income = 0

Step 1. The gross taxable base of the fairness tax amounts to 3,000.

Step 2. The correction to apply for a withdrawal from taxed reserves (at the latest during tax year 2014) is equal to 1,000, i.e. a taxable base amounting to 2,000.

Step 3. The taxable base is then limited taking into consideration the deduction of losses and of notional interests in the numerator (1,000 + 1,000), and the taxable income after the 1st operation in the denominator (2,100). After calculation, the ratio is equal to 95.23% (2,000 / 2,100).

*The final taxable base of the fairness tax amounts therefore to 1,904.76 (2,000 * 95.23%).*

*Separate contribution of 5% (fairness tax) = 95.73 (1,904.76 * 5%), to be increased by the crisis surcharge.*

2.4.4. Separate tax of 0.4%

A separate tax (0.4%, i.e. 0.412% with the crisis surcharge) has been introduced on capital gains on shares which are in principle totally exempted and realised by another company than a SME. This separate tax cannot be offset by tax deductions or losses. It is not deductible with respect to CIT.

2.4.5. Tax credit for research and development

A tax credit for R&D is granted for investments in patents and “green” R&D investments.

INVESTMENTS TAKEN INTO ACCOUNT

The tax credit for R&D is granted for investments in tangible fixed assets newly acquired or constituted and in new intangible fixed assets, which are allocated in Belgium to the exercise of a professional activity.

CALCULATION BASIS

The present basis used for the calculation of the investment deduction, i.e. the investment value or yield value, is multiplied by the rate of the investment deduction, by distinguishing between the increased investment deduction and the spread investment deduction. Indeed, the tax credit can be applied in one go or be spread.

This calculation basis is then multiplied by 33.99% (nominal rate of corporate income tax increased by the crisis surcharge).

Example:

Investment R&D of 1,000 euro
Investment deduction rated at 13.5% (tax year 2015, investment R&D)
Spread investment deduction rated at 20.5% (tax year 2015, investment R&D)
Nominal rate of corporate income tax fixed at 33.99% (crisis surcharge included)

Tax credit applied in one go:
1,000 * 13.5% * 33.99% = 45.89 euro
Spread tax credit (according to the accepted fiscal depreciation, e.g. over five years):
1,000 * 20% * 20.5% * 33.99% = 13.94 euro

ARRANGEMENTS

Assets invested in R&D shall be used to this end for the whole period of depreciation. Otherwise, a part of the granted tax credit will have to be refunded.

INCOMPATIBILITY

Companies have to choose between the tax credit for R&D and the investment deduction for patents or for "green" R&D investments. This choice is irrevocable.

EXCLUSION FROM ENTITLEMENT TO THE TAX CREDIT FOR R&D

The provisions relating to the exclusion of some fixed assets from entitlement to the investment deduction, also apply to the tax credit for R&D (103).

CREDITING AND CARRY-OVER

The tax credit fully applies to corporate income tax. As appropriate, it can be carried over successively to the subsequent four tax years.

Table 2.3.
Offset ceiling of the R&D tax credit

Total amount of the R&D tax credit to be carried over	Offset limitation of the R&D tax credit to be carried over per tax year
less than 160,440 euro	none
from 160,440 to 641,760 euro	160,440 euro max.
641,760 euro and more	25% of carry-over

2.4.6. Crisis surcharge

Owing to the introduction of the crisis surcharge, an additional 3% surcharge is levied on corporate income tax, for the benefit of the State only.

103 See Chapter 3, page 121.

2.4.7. Tax increase for lack or insufficiency of advance payments

The tax increase for lack or insufficiency of advance payments is, as a rule, calculated in the same way as for the PIT (104), **except that**:

- the dates are calculated from the first day of the financial year and not from the first day of the calendar year;
- the base must not be raised to 106%;
- the increase is not reduced to 90%.

Companies established as from 2003 and which are considered as "small companies" within the meaning of the Corporation Code, are exempted from the tax increase during the first three financial years after their establishment (105).

2.4.8. Crediting of withholding taxes

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.

With respect to dividends, the crediting of the withholding tax is made conditional upon the requirement that the recipient has 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 dividends when the attribution or payment of this income results in a writedown or a capital loss on the underlying shares.

With respect to interests, the crediting of the withholding tax on income from movable assets is only awarded, **pro rata temporis,** for the period during which the company has enjoyed **full ownership** of the securities.

B. Non-repayable taxes and payments

The withholding tax on real estate cannot be set off against CIT, but is to be considered as a deductible expense.

The **fixed foreign tax credit** (FFTC) can be set off against CIT but is not refundable. It relates to interests and royalties only.

As regards royalties, the creditable FFTC corresponds to the tax actually withheld.

As regards interests, it is determined as follows:

- the rate of the FFTC is no longer uniform, but depends on the tax actually levied abroad. 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 CIT, but it cannot exceed the amount of CIT relating proportionally to the braking margin, which is the difference between the "border income" and the relating financial expenses.

The FFTC can be set off only as regards the period in which the company has detained full ownership of the goods or capital.

104 See above, page 79.
105 See above, page 92.

2.4.9. Special tax systems

A. Special tax on secret commissions

As a consequence of the reform of the secret commissions system, this tax is no longer used as a sanction but is now only used to compensate for Belgian income tax losses. As a result, the rate has strongly declined from 309% to 103% (100% + crisis surcharge). It has been reduced to 51.5% if it can be demonstrated that the beneficiary of the advantage is a legal person.

The separate tax does not apply to minor expenses which are no professional expenses (restaurant expenses, hospitality expenses, minor computer expenses, etc.).

As far as hidden profits are concerned, no tax increase applies when those profits are integrated, on own initiative, in the accounts relating to a financial year following the financial year during which they have been made.

The tax on certain hidden expenses and profits is only to be paid if the beneficiary's identity has not been reported to the tax administration.

A separate tax must generally be paid on unreported expenses and profits, unless the taxpayer can demonstrate that:

- the amount of those expenses and profits is included in a return submitted in Belgium or abroad within the time limit, or
- the beneficiary has been unequivocally identified at the latest within 2 years and 6 months starting from the 1 January of the tax year concerned.

In principle, the tax remains deductible as professional expense.

If the expenses and profits are included in a return submitted by the beneficiary, no criminal or administrative sanction will apply for the non-justification via individual datasheets and a summary report.

The new system came into force on 29 December 2014 and also applies to all disputes that are not yet finally settled on this date.

B. Liquidation reserve

Subject to a separate tax of 10% (which is added to the standard CIT and relates to the taxable period during which a liquidation reserve has been built up), SMEs, as defined in Article 15 of the Corporation Code (106), may build up a reserve which can be later distributed without being taxed (exemption from withholding tax on income from movable property and from PIT) upon liquidation of the company (liquidation surpluses).

This reserve must be recorded in one or several separate liabilities accounts.

If dividends are distributed via a withdrawal from this reserve, before the liquidation of the company, the dividends are subject to the withholding tax on income from movable property at the following reduced rates:

- 15% if the distribution occurs during the first five years,
- 5% if the distribution occurs later.

The separate tax of 10% cannot be deducted as professional expense by the company concerned.

106 And for the years in which a company meets the criteria relating to small companies.

ANNEX ONE TO CHAPTER TWO
EMPLOYEE EQUITY PARTICIPATION AND EMPLOYEE PARTICIPATION IN PROFITS AND ENTERPRISE RESULTS

The Act of 22 May 2001 established a taxation system which is deemed to promote employee equity participation and employee participation in the profits of their enterprise or of the group their enterprise is part of. The present annex briefly describes the principles of the said system and the fiscal provisions.

Principles of the system

The participation scheme is to respect certain conditions, the most important of which are explained hereafter.

It shall be set up through a collective agreement or, where the enterprise has no union delegation, through an acknowledgment of approval established by the employer and approved by the employees. It shall provide a procedure allowing the collection of the employees' observations or remarks and, where necessary, a conciliation with the employer's proposals.

All the employees shall be allowed to participate in the scheme. The collective agreement or acknowledgment of approval may impose a condition as to the length of service, provided the latter does not exceed on year.

At the end of the financial year, the total amount of the equity participation and participation in profits granted to the workers shall not exceed one of the following two limits: 10% of the gross total emoluments or 20% of the profit after taxation.

The participation scheme shall not be established in order to substitute or convert remunerations, bonuses, benefits or supplements stipulated in the collective or individual agreements.

The profit sharing scheme established by a "small company" such as defined in the Corporation Code, may take the form of an investment savings scheme, by virtue of which the benefits attributed to the employees by the company are put at the disposal of the company as a non-subordinated loan. The amounts lent bear interest, the rate of which can not be inferior to the interest borne by linear bonds having the same duration as the loan granted to the company. The loan shall be paid back within a period that shall not be less than two years nor exceed five years. The company is obliged to assign the received amounts to fixed assets during the same period.

In principle, no employers' social contributions or employees' social contributions are chargeable in respect of the sums allocated by the company in the framework of the participation scheme.

Taxation system

The sums allocated by the company in the framework of the participation plan are **liable to corporate income tax as disallowed expenses.** Neither are they considered a professional income nor a movable capital income. Half of the amount of CIT thus collected is transferred to the National Office of Social Security. No deduction of gifts, of participation exemption, for patent income, for corporate equity, of previous losses, or investment deduction can apply to the allocated amount considered as disallowed expenses.

Equity participation

- As regards equity participations, the taxable amount is determined in function of the stock market price where listed shares are concerned and, where non-listed shares are concerned, the determined amount can neither be lower than the book value of the shares nor lower than its actual value, the latter being fixed by a company auditor or by a chartered accountant.
- The equity participation is subject to a **15% levy in full discharge** (107) insofar as the participation plan provides for a non-redemption period that can neither be inferior to two years nor longer than five years. Where the non-redemption period is not respected, a supplementary 23.29% tax is charged (108).

Participation in the profits

- The allocated amount constitutes the taxable amount.
- The allocated amounts are subject to employees' social contributions and the remainder is subject to a 25% levy in full discharge.

107 This levy is a tax assimilated to income taxes. See Part II, Chapter 8, page 293.

108 The rate of this tax was set in such a way that the tax levied would correspond to the global levy, including social security contributions, that would be payable in the case of a cash remuneration.

ANNEX TWO TO CHAPTER TWO
SPECIAL CORPORATE INCOME TAX SYSTEMS

The advanced ruling procedures

The law of 24 December 2002 established a new legal framework in respect of advanced ruling, which entered into force on 1 January 2003. It replaces all prior provisions related to this matter.

Definition and general principles

'Advanced ruling' means the legal action whereby FPS Finance determines, in accordance with the provisions in force, how the law will be applied in respect of a particular situation or operation that has not had an outcome yet at tax level.

Its aim is not to establish new contractual provisions but only to clarify how the law will be applied in a given circumstance and so to guarantee the bona fide taxpayer legal security.

An advanced ruling may not result in a tax exemption or tax credit in comparison with the normal application of the ruling laws, regulations or administrative provisions.

Advanced rulings shall be accounted for. They are published without the taxpayers' names to be mentioned. Each year the Chamber will be sent a report on the application of the advanced ruling system. This report shall be published.

Field of application

The system for advanced ruling is enforceable overall. This means that it also applies to the activities of distribution centres and service centres which benefited so far from an *ad hoc* system. Unlike the previous systems, which limited the field of application, the act and the royal decree implementing it here consist of a summing-up of cases of non-application.

These cases of non-application are:

a) the application concerns situations or operations which are identical to situations or operations having had an effect at tax level for the applicant;

b) the application concerns situations or operations which are identical to situations or operations having been the object of a dispute between the Tax Administration and the taxpayer (administrative appeal or legal action);

c) the application concerns the implementation of tax law in respect of tax collection or proceedings;

d) no advanced ruling will take place where essential parts of the situation or operation described in the application concern tax havens that are considered by the OECD to be non-cooperative (109).

e) the application concerns a situation in respect of which it would be inappropriate to give an advanced ruling. A royal decree considers the following matters as inappropriate:

- tax rates and computation of taxes;
- amounts and percentages;
- assessment procedures;
- regulations in respect of which a specific recognition procedure or decision procedure exists (included collective procedures);
- cases in respect of which FPS Finance is not competent to take an unilateral decision and has to consult other authorities, e.g. recognition of companies with a social purpose, admission of non profit-making companies to the list of institutions entitling to deduction of gifts made to them;
- sanctions, penalties, surtaxes and tax increases;
- presumptive taxation.

Procedure

The application for advanced ruling must be made in writing and must contain: the identity of the applicant, a description of his activities, a comprehensive description of the situation or operation is respect of which the advanced ruling is being applied for and a reference to the legal and regulatory provisions the ruling is to give an upshot for.

If necessary, it must contain a) a complete copy of the applications submitted in respect of the same matter to the tax authorities of other European Member States or of third countries Belgium has concluded a tax treaty with and b) the decisions taken by those authorities in respect of the application.

As long as no decision has been taken, new elements may be added to the application.

In principle, the ruling takes place within a period of three months, but FPS Finance and the applicant can come to terms about a shorter or longer period.
In principle a ruling covers a five-year period, unless its object justifies another time limit.

Once a decision has been taken, FPS Finance is bound by it, except in the following situations:

a) where the requirements to be fulfilled in respect of the advanced ruling, are not;

b) where the situation or operations have been described incompletely or incorrectly by the applicant;

109 There are no more jurisdictions on the OECD list of uncooperative tax havens, because the last jurisdictions listed (Andorra, Liechtenstein and Monaco) made commitments to implement the OECD's standards of transparency and exchange of information.

c) where essential elements of the operation have not been realised in the way the applicant has described them;

d) where provisions in agreements, in common law or in national law related to the situation or operation the ruling is being applied for, are altered;

e) where the advanced ruling appears not to be conform with the provisions of the agreements, of common law or of national law.

Moreover, an advanced ruling ceases to be applicable when the principal effects of the situation or operation it gives a decision about, are modified by one or more related or subsequent elements attributable directly or indirectly to the applicant.

Investment companies

Belgian undertakings for collective investment (UCIs) belong to one of the following three categories:

- open-ended UCIs;
- closed-ended UCIs;
- UCIs in debt securities.

UCIs group together common investment funds and investment companies.

Unlike common investment funds which are undistributed, investment companies (open-ended investment companies – "SICAV/BEVEKS", closed-ended investment companies – "SICAF/BEVAKS", debt investment companies – "SIC/VBS") are legal entities which are in principle liable to corporate income tax.

Taxation of investment companies

The investment company's liability to corporate income tax is limited to its disallowed expenses (110) 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 participation exemption.

This tax base is subject to the standard CIT rate.

The investment company is, moreover, exempted from capital duty.

Attribution of income

- Income from other capitalisation SICAV/BEVEKS than the so-called "open-ended bond investment companies" (see however below "Income attributed to resident natural persons") is not liable to withholding tax on income from movable property. Nevertheless, these shares are always subject to the tax on stock-exchange transactions both when they are purchased and when they are sold or transferred to another subfund within the same SICAV/BEVEK.

110 Including the withholding taxes on the income which it collects and excluding depreciations and capital losses on shares.

- Income from a distribution SICAV/BEVEK is considered a dividend and is liable to the 25% withholding tax on income from movable property. Dividends distributed by a "PRICAF/PRIVAK" are not subject to the withholding tax on income from movable property up to an amount equal to the capital gains on shares realised by that PRICAF/PRIVAK.

Income attributed to resident natural persons

Income from a capitalisation SICAV/BEVEK is in principle non-taxable for private savers (111).

However, with respect to capitalisation SICAVs/BEVEKS having invested at least 25% (112) of their portfolio in interest-bearing debt securities (notably bonds, Treasury certificates) and having or not a European passport (113), capital gains obtained through the repurchase of own shares or through a partial or total distribution of the social assets of the SICAV/BEVEK, are liable to the 25% withholding tax in respect of the part corresponding to, on the one hand, the interest received by the SICAV/BEVEK and, on the other hand, capital gains generated by the debt securities portfolio, after deduction of losses.

Income attributed to resident companies

Income from investment companies is taxable, knowing that dividends received from certain distribution SICAVs/BEVEKS (114) entitle, to a limited extent (115), to the deduction for participation exemption.

Tax on the acquisitions and disposals

Stock-exchange transactions are taxable at the following rates:

- acquisitions or disposals for a consideration of shares in capitalisation SICAVs/BEVEKS: 1% (as from 1 August 2012) (116);
- repurchase of its own shares by capitalisation SICAVs/BEVEKS: 1% (as from 1 August 2012) (117).

111 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.

112 The investment threshold in debt securities of 25% applies to operations carried out since 20 December 2012 (previously: 40%).

113 This percentage can be assessed per SICAV/BEVEK subfund. In this case, the rule only applies to the subfunds exceeding 25%. Cf. also Chapter 6, page 148 for the application scope as from 1 July 2013 (SICAVs/BEVEKS without European passport).

114 SICAVs/BEVEKS of which the statutes stipulate that at least 90% of the income received is distributed, after deduction of remunerations, commissions and expenses, are concerned. This distribution condition can be assessed per subfund of distribution shares. Moreover, the coexistence of capitalisation shares and distribution shares within the same subfund is no impediment to the appliance of the participation exemption system, inasmuch as at least 90% of the income from distribution shares is yearly distributed.

115 Inasmuch as and insofar as it concerns distributed income from dividends that self fulfil the conditions entitling to the deduction for participation exemption or capital gains on shares that can be exempted from corporate income tax.

116 The tax has been temporarily increased to 1% for the period from 01.08.2012 to 31.12.2014. The tax has been increased to 1.32% as from 1 January 2015.

117 The tax has been temporarily increased to 1% for the period from 01.08.2012 to 31.12.2014. The tax has been increased to 1.32% as from 1 January 2015.

Organisations for Financing Pensions

In the framework of the European Directive on the activities and supervision of institutions for occupational retirement provision (118), pension funds and social security funds shall become "Organisations for Financing Pensions" (OFPs).

OFPs are liable to corporate income tax but benefit a special tax status. Their tax base is the same as the one of SICAVs/BEVEKS.

Private PRICAFs/PRIVAKS

Private PRICAFs/PRIVAKS are private (i.e. unquoted) collective investment undertakings, aimed at the promotion of private investments in unlisted companies, whether from Belgian or from foreign origin. The private PRICAF/PRIVAK system was reformed in 2007 in order to make it more flexible and more attractive.

Regulatory framework of PRICAFs/PRIVAKS

A PRICAF/PRIVAK can take the shape of a public limited company (PLC), a limited partnership or a limited partnership with a share capital and is established for a period not exceeding 12 years. It attracts deposits with private investors. Each of the latter must invest not less than 50,000 euro in cash. The shareholders may be neither members of the same family nor in-laws (119).

PRICAFs/PRIVAKS invest the attracted deposits in financial instruments issued by unlisted companies; liquid assets or cash-equivalent items may be held only incidentally or temporarily as from the third year.

Tax system applicable to PRICAFs/PRIVAKS

The base of the PRICAFs/PRIVAKS' liability to CIT is limited to the following elements:

- abnormal or benevolent advantages;
- disallowed expenses, except depreciations on share participations;
- compensation for missing coupons.

The tax is computed at the normal rate (33.99%).

Where a PRICAF/PRIVAK buys back shares, the repurchase surplus is not liable to the withholding tax on movable property. The same is true in respect of liquidation surpluses.

PRICAFs/PRIVAKS are exempted from withholding tax on movable property on any income from investment except dividends. Any withholding tax on movable property levied on income received is deductible and refundable unconditionally.

118 Directive 2003/41/EC of 03.06.2003.

119 The rules have however been made more flexible: the prohibition applies now to relatives up to the fourth degree.

Tax system for investors

THE INVESTOR IS A PRIVATE PERSON

Dividends distributed by PRICAFs/PRIVAKS are liable to a 25% withholding tax on movable property, which is at the same time a final tax. But PRICAFs/PRIVAKS are exempted from that withholding tax inasmuch as the dividends distributed originate from gains on shares realised by the PRICAFs/PRIVAKS or when the beneficiary is a foreign company inasmuch as the distributed income originates from dividends on shares or participations issued by foreign companies.

Capital gains realised by investors-private persons on their shares in a PRICAF/PRIVAK are tax exempted.

THE INVESTOR IS A COMPANY

The withholding tax is levied under the same conditions as for private persons. But here the withholding tax is not a final tax; it is deductible from the CIT due by the investor and refundable.

Dividends received from a private PRICAF/PRIVAK entitle to the participation exemption inasmuch as the dividends distributed originate at a previous stage (at the level of the PRICAF/PRIVAK) from participations meeting the conditions for deductibility (transparency principle).
In the same way gains realised on the participation in a private PRICAF/PRIVAK are tax exempted inasmuch as the company has invested its total assets (excluding liquidities and incidental investments amounting to not more than 10% of the total balance value) in shares the income of which entitle to the participation exemption or in shares of other private PRICAFs/PRIVAKS.

CHAPTER THREE
PROVISIONS COMMON TO PIT AND CIT

What is new?

- ***Reintroduction of the standard investment deduction for a two-year period and only for SMEs as defined in the Corporation Code.***
- ***Increase in the exemption for the trainer's bonus.***
- ***Agricultural support measures remain applicable to the year 2014.***

3.1. Tax rules for depreciation

The Income Tax Code authorises two depreciation methods (120): straight-line depreciation and double declining balance depreciation.

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

Double declining balance depreciation is calculated annually on the **residual** value of the property and its maximum amount is equal to twice the straight-line depreciation corresponding to the useful economic life. The taxpayer must apply a depreciation equal to the straight-line depreciation annuity starting from the taxable period in which this annuity exceeds the double declining balance depreciation annuity.
However, double declining balance depreciation annuity can in no case exceed 40% of the acquisition or investment cost.

Double declining balance 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 the double declining balance depreciation must mention the related assets in an appropriate list.

The first annuity can be booked starting with the accounting year in which the fixed assets were obtained. In respect to companies that do not answer the definition of SMEs described in the Corporation Code (121), the first annuity is apportioned in function of the number of days elapsed since the acquisition.

The depreciation of **additional costs** is authorised, provided these costs relate to assets for which depreciation of the principal is acceptable to the tax administration.

120 In some cases, the straight-line depreciation can be doubled: see page 126.
121 See *supra*, Chapter 2, page 92.

In principle, two different depreciation systems are accepted:

- inclusion in the depreciation value of the property with simultaneous depreciation;
- separate depreciation according to a specific scheme (122), or a 100% depreciation in the course of the tax year or the financial year in which the investment was made.

Companies that do not answer the definition of SMEs described in the Corporation Code, can opt only for the first method: so, the additional costs must be depreciated following the same scheme as the principal. This means that the *pro rata* limitation of the annuity in respect of the year of acquisition also applies to the additional costs.

3.2. Expenses categories entitling to an increased deduction

3.2.1. Deduction up to 120% of the expenses for staff collective transport

Where minibuses, buses and coaches are used for the collective transport of the staff members between home and work, 120% of the expenses can be deducted by the employer or the group of employers.

3.2.2. Deduction up to 120% of security expenses

A tax deduction up to 120% applies to some professional security expenses borne by the employer or a group of employers, i.e. subscription expenses paid to be connected to a telemonitoring station and expenses borne if a security firm has been hired (or collectively hired by a group of companies). As far as companies are concerned, this increased deduction is exclusively granted to SMEs, either defined as the companies of which the voting rights are held for more than 50% by natural persons, or to which the definition of “small companies” in the Corporation Code applies.

3.2.3. Deduction up to 120% of some expenses incurred to encourage the use of the bicycle by the staff for commuting

The deduction concerns the expenses incurred by the employer to acquire, construct or convert a real estate intended for bicycle storage during working hours, or to put a changing room or sanitation facilities at the staff’s disposal.

It also concerns expenses incurred by the employer to acquire, maintain of repair bicycles and their accessories put at the staff’s disposal.

3.3. Investment incentives: investment deduction

3.3.1. Principle

The investment deduction (123) permits to deduct, from the tax base, a quota of the amount of investments made in the course of the taxable period.

It can be granted to companies and to individuals declaring profits or proceeds.

122 For motor vehicles, the additional costs must be written off at the same rate as the vehicle itself.
123 Articles 68 to 77 of the Income Tax Code 1992.

3.3.2. Investments taken into account

GENERAL RULE

The investment deduction may apply to investments in **tangible** or **intangible** fixed assets, **newly** acquired or constituted during the taxable period and which are assigned **in Belgium** for the exercise of a professional activity.

INVESTMENTS TRANSFERRED TO THIRD PARTIES

When the investment concerns assets the use of which has been transferred to a third party, the latter being entitled to write them off, then the lessor will not be granted an investment deduction: this is the case as concerns leasing contracts and agreements for long lease rights or building rights.

When the investment concerns assets the use of which has been transferred according to other means than leasing contracts and agreements for long lease rights or building rights, the lessor being entitled to write them off, then the transferee will only be granted an investment deduction if he is a natural person or a company fulfilling itself the conditions, criteria and limits for the application of the investment deduction at the same or a higher rate, using the assets in Belgium in order to obtain profits or benefits and not transferring, be it partially, the use of the assets to another third party (124).

OTHER CASES OF EXCLUSION

The following are excluded from the investment deduction:

- fixed assets which are not exclusively assigned for the exercise of a professional activity (125),
- investments financed through a coordination centre,
- buildings 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 (126).

3.3.3. Calculation basis

It is the amount that can be depreciated which determines the basis for calculation of the investment deduction.

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124 As from tax year 2013, in case of transfer of the right to use the assets, the right to the investment deduction is maintained where the right to use the assets is transferred to a *company*, provided that the transferee himself fulfills the conditions entitling to the investment deduction.

125 The investment deduction does apply however in respect of the professional part of twin purpose premises, provided the professional and the private parts are obviously distinct.

126 Except for vehicles assigned exclusively to taxi services, to rent with driver and to practical training in recognised driving-schools.

3.3.4. Applicable rates

DETERMINATION OF THE BASIC RATE

The **basic rate** is linked to the inflation rate: for investments made in the year "t" it is based on the difference between the average consumer price index for the years "t-1" and "t-2", increased by 1 point (companies) or by 1.5 points (natural persons).

For companies the basic rate cannot be less than 3% and not more than 10%. For natural persons, the limits are set at 3.5% and 10.5%.

INVESTMENTS ENTITLING TO DEDUCTION AT THE BASIC RATE

Since the investment deduction was de-activated the deduction at the basic rate is restricted to:

- investments by natural persons,
- investments aimed at the production and the recycling of reusable packaging.

However, the investment deduction has been reactivated for investments made in 2014 and 2015 by a company considered as a small company (as defined in Article 15 of the Corporation Code) for the tax year relating to the taxable period during which those investments were made.

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 patents (+10 points);
- to investments aimed at the promotion of research and development of new products and of high-tech which do not interfere with the environment or aimed at minimising the negative effects thereof on environment (+10 points);
- to energy-saving investments (+10 points);
- to investments aimed at the installation of smoke extraction or air treatment systems in the Horeca sector (+10 points);
- to fixed assets aimed at securing professional premises and their content, and company vehicles (+17 points).

In the case of spread deduction (see below), the basic rate is increased:

- by 17 points for investments for environmentally-friendly R&D;
- by 7 points for other investments.

Table 3.1.
Rates of investment deduction – Tax year 2015 (127)

Nature of the investment	Deduction rate		
	Applicable to natural persons	Applicable to all companies	Applicable to SMEs article 15 Corporation Code
Allowance in one go			
Basic rate applicable to standard investment	3.5%	0%	4% (*)
Increased rates			
Patents (**)	13.5%	13.5%	13.5%
"Green" R&D investments (**)	13.5%	13.5%	13.5%
Energy-saving investments	13.5%	13.5%	13.5%
Smoke extraction or air treatment systems in the Horeca sector	13.5%	13.5%	13.5%
Security investments	20.5%	n.a.	20.5% (***)
Investments made in order to promote reutilisation of refillable beverage packages and reusable industrial products	n.a.	3%	3%
Spread deduction			
"Green" R&D investments (**)	20.5%	20.5%	20.5%
Other investments	10.5%	0%	0%

n.a.: non applicable

(*) Applicable to investments made in 2014 and 2015, provided that the assets directly relate to the economic activity actually carried out by the company. Only applicable if the company irrevocably waived the allowance for corporate equity.

(**) Unless the company has chosen to benefit the tax credit for R&D. The taxpayer's choice is irrevocable.

(***) Are only entitled to the 20.5% deduction rate: SMEs of which the voting rights are held for more than 50% by natural persons or SMEs to which the definition of "small companies" in the Corporation Code applies.

3.3.5. Arrangements

The deduction is made in principle **in one go**.

Natural persons employing less than 20 workers on the first day of the taxable period can opt for a system of simplified spread deduction (128).

In this case, the allowance is made in accordance with the accepted fiscal depreciation.

In the event of insufficient profits (or proceeds), the investment deductions which cannot be awarded are carried over to the following taxable periods. However, the carry-over is limited to one year for the reactivated standard investment deduction granted at a 4% rate to SMEs (as defined in the Corporation Code).

127 General Tax Administration, Advice regarding the investment deduction, published in the BOJ of 23 March 2014.

128 The condition with regard to the number of workers need not be met in order to be entitled to the spread deduction for environmentally-friendly R&D-investments.

The investment deductions to which the taxpayer is entitled by virtue of investments in previous taxable periods, are deductible within the following limits:

Table 3.2.
Limitation of carry-over of investment deduction per taxable period

Total deduction amount	Deductibility limitation
less than 943,760 euro	none
between 943,760 euro and 3,775,060 euro	943,760 euro maximum
3,775,060 euro and more	25% of carry-over

Where the company chooses for the tax credit for research and development, the above-mentioned amounts are halved, i.e. respectively 471,880 euro and 1,887,530 euro.

3.4. Employment incentives

3.4.1. Exports and total quality management

An exemption (deduction from taxable profit) of 15,220 euro is awarded for each additional staff member employed in Belgium and directly assigned fulltime to the management of the export department (129) or to the management of the "Total quality management" department.

This is a permanent regulation that applies to all companies.

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 taxable period. The exemption awarded is withdrawn in the event of a staff reduction.

3.4.2. Exemption for low-income additional staff

Per taxable period and per low-income additional staff member employed in Belgium 5,660 euro of the profits and proceeds obtained by an SME are tax exempted.

Are considered to be SMEs: enterprises declaring profits or proceeds and employing less than eleven wage or salary earners on 31 December 1997 or, where the company has started its activity after that date, on 31 December of the year the company has started its activity.

The increase in personnel is computed by comparing the average work force in the current year with the work force in the preceding year.

Are not taken into account for the exemption:

- workers taken into consideration for the exemption for additional personnel, mentioned above sub 3.4.1.;
- additional personnel whose gross salary exceeds 90.32 euro per day or 11.88 euro per hour;

129 The exemption can also be awarded if the function is conferred upon a member of the existing personnel, provided a new recruitment fills in the vacancy thus opened within thirty days.

- increases in personnel pursuant to the take-over of personnel under contract with either a company in respect of which the taxpayer has any form of interdependence, or a company whose activity the taxpayer is carrying on.

If however, in the course of the year following the exemption, the work force diminishes in comparison with the year of exemption, the total amount of formerly exempted profits or proceeds shall be diminished by 5,660 euro per released member of the personnel.

The exemption for low-income additional staff members is also a permanent measure.

3.4.3. Training periods (trainer's bonus)

A tax incentive has been introduced to encourage employers to organise training periods: profits or gains reaped by employers who benefit a trainer's bonus, are exempted up to 40% of remunerations paid to workers in respect of whom employers benefit the training period bonus (130).

3.5. Fiscal treatment of regional aid

3.5.1. Inclusion of aid in the taxable base

Regional aid premiums, capital subsidies and interest subsidies constitute a taxable income for the beneficiary companies for the taxable period in which they are granted. However, capital subsidies benefit a spread tax system: they are considered as profits for the taxable period concerned and the subsequent taxable periods proportionate to the depreciation approved as professional expenses, respectively at the end of the taxable period concerned and in the course of any subsequent period and, where appropriate, up to the balance when the fixed assets are transferred or put out of circulation.

Nevertheless, since the Act of 23 December 2005, some regional aid measures are exempted in respect of CIT (see chapter 2, page 90).

However, the tax system prior to the modifications introduced by the Act of 23 December 2005 still applies to former subsidies and to each regional aid not concerned by the exemption.

Agricultural support measures remain applicable to the year 2014. They apply to premiums and capital and interest subsidies paid between 2008 and 2014 to farms liable to PIT and CIT. They also apply to suckler cow premiums and premiums regarding entitlements for the single payment, which have been introduced by the European Communities to support the agricultural sector. The support measures consist of an exemption (interest and capital subsidies) or a separate tax rate of 12.5% (suckler cow premiums and premiums regarding entitlements for the single payment) as far as PIT is concerned and of a reduced rate of 5% applying under certain conditions to subsidies granted by the Regions as far as CIT is concerned.

130 The *trainer's bonus* (or training period bonus) is part of the Intergenerational Solidarity Pact's measures. This bonus is granted by the NEO (National Employment Office) to employers offering training periods to young people obliged to attend school on a part-time basis.
The NEO pays a starting bonus to young people who undertake an apprenticeship in a company within the framework of a work and training programme.

3.5.2. Doubling of straight-line depreciation

The doubling of straight-line depreciation (131) applies to certain investments in buildings, tools and equipment which enjoy regional aid (or, formerly, the laws of economic expansion).

The authorised annual depreciation is equal to double the normal straight-line depreciation for a period of maximum 3 successive taxable periods, as agreed in the aid contract.
This provision is no longer applicable in the Walloon Region.

3.5.3. Exemption from withholding tax on real estate income

The exemption from withholding tax on real estate income 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.

3.6. Tax arrangements for capital gains

3.6.1. Definition of realised capital gain

The net amount (after deduction of the realisation costs) of capital gains is exempted.

3.6.2. Capital gains realised during exploitation

A. Capital gains intentionally realised on tangible and intangible assets

The tax system is based on the principle that taxation can be carried over. This carry-over of taxation applies to capital gains realised on tangible and intangible assets allocated for **more than 5 years** to the performance of the professional activity, on condition that there is a reinvestment.

If the duration of the allocation is less than or equal to 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 reinvestment and for subsequent taxable periods in proportion to the depreciation and the non-depreciated balance for the taxable period during which the property ceases to be allocated to the exercise of the professional activity. The spread taxation is made at the full rate.

The reinvestment must be made in respect of tangible or intangible assets that can be depreciated and are used in a Member State of the European Economic Area (EEA) in the context of the professional activity. Moreover, the reinvestment must be made within a period of 3 years starting from the first day of the taxable period during which the capital gains were realised.

If there is no reinvestment within this period, the capital gains are considered as a profit for the taxable period during which the reinvestment period expired. The tax is payable at the full rate.

The exemption of the monetary adjustment portion is maintained (132).

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131 See Art. 64*bis* of the Income Tax Code 1992.

132 The exemption of the monetary adjustment portion only concerns capital gains realised on assets acquired or constituted not later than 1949.

B. Capital gains intentionally realised on financial fixed assets

Capital gains realised on fixed income securities are taxable at the full rate.

Capital gains realised on shares are totally exempted, without the reinvestment condition or intangibility condition having to be met, subject to the application of separate tax amounting to 0.4% (except for SMEs as defined in the Corporation Code – cf. *infra*, Separate tax).

As a result, the exemption of capital gains realised is now only applicable to SMEs, but it is contingent upon the fulfilment of the upstream taxation requirement and the minimum holding requirement (see below).

EXCLUSION OF TRADING COMPANIES

The tax exemption of capital gains on shares and the prohibition on the deduction of capital losses and writedowns on shares, do no longer apply to securities that are part of the commercial portfolio of trading companies.

UPSTREAM TAXATION REQUIREMENT

The revenue produced by the shares on which the capital gains are realised must comply with the "upstream taxation requirement" applicable to participation exemption (133). On the other hand, the condition relating to the participation threshold is without effect on the exemption of capital gains.

MINIMUM HOLDING REQUIREMENT

Since tax year 2013, an extra requirement must be fulfilled: the shares must be held in full ownership for an uninterrupted period of at least one year. The new system also applies, provided certain conditions are met, to capital gains realised as from 28 November 2011.

Capital gains on shares fulfilling the upstream taxation requirement but not the minimum holding requirement are now taxable at 25.75% (i.e. 25% increased by 3% crisis surcharge). The normal rate (33.99%) remains applicable as regards the taxation of capital gains on shares which are already taxable insofar as their income does not entitle to the deduction for participation exemption.

SEPARATE TAX

Since tax year 2014, a separate tax amounting to 0.4% (0.412% including the crisis surcharge) must be paid where the capital gains on shares are realised by another company than a SME as defined in the Corporation Code.

133 See above, page 96.

FISCAL NEUTRALITY OF TRANSFERS, MERGERS OR DIVISIONS

In order to determine whether the minimum holding requirement of one year has been fulfilled by the receiving or acquiring company, the shares received by the receiving or acquiring company as a result of a fiscally neutral transfer, merger or division, are considered as being acquired by those companies on the date on which they become part of the assets of the transferring, acquired, divided or converted company.

C. Forced capital gains

Forced capital gains must be construed as capital gains acquired through compensations received as a result of 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 system for "capital gains upon the cessation of a professional activity" applies.

Otherwise, 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 reinvestment in tangible or intangible fixed assets is met;
- full rate taxation for capital gains realised on fixed income securities;
- exemption without reinvestment condition, provided the condition of taxation for capital gains realised on shares is met.

The reinvestment period ends three years after the end of the taxable period in which the compensation is **received.**

D. Capital gains from inland waterway vessels

Capital gains realised through the alienation of commercial inland waterway vessels, are totally exempted, where an amount equal to the compensation or to the realisation value, is reinvested in inland waterway vessels meeting some environmental standards.

If the capital gain has been intentionally realised, it must relate to an inland waterway vessel being naturally a fixed asset for more than five years.

3.6.3. 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 realised voluntarily or not. The special system applies to capital gains on stocks and contracts in progress and to capital gains on intangible, tangible and financial fixed assets and on other portfolio securities (134).
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 lease-purchase agreement, upon the declaration of estate.

134 The system described hereafter applies where the discontinuation of a professional activity occurred after 06.04.1992.

Tax system 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 33% rate applies; for the balance, the separate taxation does not apply. Where the discontinuation is the result of the taxpayer's decease, where it is a forced final cessation or where the taxpayer is more than 60 at the time the cessation of activity is registered, the 16.5% rate applies.

3.7. Other: enterprise crèches

Companies, traders and people occupying a liberal profession are entitled to deduct, as professional expenses, the sums paid for the financing of enterprise crèches. The deduction is allowed as well for the sums paid for the creation of new crèches as for the maintenance of existing ones.

The following conditions must be met:

- it has to be a facility recognised, subsidised or authorised by *Kind en Gezin, l'Office de la naissance et de l'enfance (ONE)* or the government of the German speaking Community;
- the sums must be paid with a view to the financing of the cost of working or of equipment. They may not include the parents' intervention in the day care facility.

The deduction may not exceed 7,990 euro per newly created or maintained accommodation.

CHAPTER FOUR
LEGAL ENTITIES INCOME TAX (LEIT)

What is new?

Inter-municipal associations are no longer liable to LEIT, but to CIT for financial years closed at the earliest on 1 July 2015 (any change as from 1 November 2014 on the closing date of the annual accounts has no consequence in this respect). As a result, inter-municipal associations for which the closure of the financial year corresponds to the calendar year are still liable to LEIT for tax year 2015.

4.1. Who is liable to legal entities income tax?

Three categories of bodies are liable to legal entities income tax:

- the State, Communities, Regions, provinces, "polders and wateringen", agglomerations, federations of municipalities, municipalities, public social assistance centres and public clerical institutions (authorities managing church property);
- certain institutions designated by name: National Delcredere Office (= national export credit insurance office), the "Société régionale wallonne du Transport" (Walloon public transport company), the "Vlaamse Vervoermaatschappij" (Flemish public transport company), the "Société des transports intercommunaux de Bruxelles - Maatschappij voor het Intercommunaal Vervoer te Brussel" (Brussels public transport company) (135), etc.;
- companies and associations, particularly non profit-making companies which are not involved in profit-making concerns or transactions.

4.2. Taxable base and levy of the tax

4.2.1. Basic principle

Legal entities liable to LEIT are not taxed on their total annual net income, but only:

- on their real estate income,
- on their income from capital and movable property, inclusive the first 1,880 euro bracket of income from savings deposits and the first 190 euro bracket of dividends from recognised cooperative companies and to companies with a social purpose.
- on certain miscellaneous forms of income.

The legal entities income tax is collected by means of withholding taxes.

4.2.2. Taxation of income from movable property

Where taxpayers subject to LEIT receive income from movable property or miscellaneous income of movable origin in respect of which no withholding tax on income from movable property was deducted at source, the withholding tax is due by the recipient of the income.

135 Respectively SRWT, De Lijn and STIB/MIVB.

4.2.3. Five cases of putting items on the tax roll

However, in five special cases specific items are put on the tax roll. In all these cases the crisis surcharge applies and is subject to the same conditions as in corporate income tax.

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%. This tax only applies to category 3 mentioned in 4.1.

b) Capital gains made through the transfer for a consideration of developed or undeveloped real estate are taxable at 16.5% or 33% according to the same arrangements as for PIT. This applies to category 3.

c) The transfer of important participations is taxable, at the 16.5% rate, according to the same arrangements as for PIT (136). This applies to category 3.

d) Expenses or benefits in kind which are not justified and financial advantages or benefits in kind, are taxable according to the same arrangements as for CIT (contribution of 100% on secret commissions, unless it can be established that the beneficiary for those expenses, benefits in kind and financial advantages is a legal person; in this case, the contribution amounts to 50%). This does not apply to category 1.

e) Pension contributions and pensions considered as disallowed expenses under CIT, financial advantages or benefits in kind, as well as the amount equal to 17% of the benefit in kind resulting from the private use of a company car, are liable to a 33% tax. This tax is not due by category 1 (i.e. the State, provinces, etc.).

136 See page 33.

CHAPTER FIVE
WITHHOLDING TAX ON REAL ESTATE

What is new?

Annual indexation of cadastral income.

The « Vlaamse Codex Fiscaliteit » (Flemish Tax Code) includes the provisions relating to the withholding tax on real estate in the Flemish Region.

The provisions relating to the withholding tax on real estate in the Walloon Region and in the Brussels-Capital Region are included in the Income Tax Code.

5.1. Tax base, rates and surcharges

The rate of the withholding tax on real estate income is based on the indexed cadastral income. For income earned in 2015, the index coefficient has been set at 1.7057.

The rate of the withholding tax on real estate income includes the basic rate and the provincial and municipal surcharges.

The Regions are competent to determine the basic rate and the exemptions with respect to withholding tax on real estate. The applicable rates are the following:

Table 5.1.
Rates of withholding tax on real estate

	Flemish Region	Walloon Region	Brussels-Capital Region
Basic rate	2.5	1.25	1.25
Social dwelling	1.6 (a)	0.8 (c)	0.8 (f)
Material and equipment	1.77 (b)	1.25 (d)	1.02 (g)
Passive houses		reduced rates (e)	

In the Flemish Region:

(a) The reduced rate of 1.6% applies to social dwellings owned by some Flemish or federal institutions. The scope thereof has been extended to dwellings owned by similar institutions in the European Economic Area. The reduced rate also applies to social dwellings of associations having as members public social assistance centres.

(b) The rate amounts to 2.5% multiplied by a coefficient obtained by dividing the average of the price indices of 1996 by the average of the price indices of the year preceding the year in which the income was received, which results in a rate of 1.77 for income earned in 2015. The application of this coefficient cannot give rise to a higher rate than the rate applicable the previous tax year.

In the Walloon Region:

(c) The reduced rate of 0.8% applies to houses belonging to the SRWL (a regional housing board), to companies recognised by it and to houses belonging to the FLFNW (a cooperative housing company with limited liability). This rate also applies to dwellings leased or managed by a real estate manager in conformity with the Walloon Housing Code (e.g. by a social real estate agency).

(d) The 1.25% rate applies to the cadastral income indexed until 2002. The indexation has been frozen since 1 January 2003.

(e) As from tax year 2010, a reduced rate temporarily applies to real estate renewed in order to convert it into a passive house. The rate amounts to 0.25% for the first tax year following the year during which it is established that the dwelling is a passive house. For the second, third and fourth tax years, the reduced rate amounts respectively to 0.5%, 0.75% and 1%. As from the fifth tax year, the normal rate of 1.25% applies again.

In the Brussels-Capital Region:

(f) This rate also applies to the building (or part of the building) put on lease by social real estate agencies located in the Brussels-Capital Region.

(g) The 1.25% rate is multiplied by a coefficient obtained by dividing the average of the price indices of 2004 by the average of the price indices of the year preceding the tax year, which results in a rate of 1.02 for income earned in 2015. This amounts to freezing indexation as from 1 January 2005.

All these rates are to be increased by the provincial and municipal surcharges. If the basic rate is 1.25%, for instance, then a surcharge of 3,000 centimes will generate an additional rate of 37.5%, the total rate of the withholding tax on real estate thus amounting to 38.75%.

5.2. Reductions, rebates and exemptions for built real property

5.2.1. Common provisions

Is not chargeable to withholding tax on real estate income, the cadastral income of:

- immovable property or parts of immovable property used, outside any profit seeking, for education or for the establishment of hospitals, rest homes and holiday homes for children or elderly people,
- immovable property used by foreign states for the establishment of their diplomatic or consular missions,
- immovable property that belongs to the national domain, yields no profit by itself and is used for a public service or a service of public utility.

5.2.2. Flemish Region

REDUCTION FOR A MODEST DWELLING

A reduction is granted for the dwelling which is, according to the population register, the main residence of the taxpayer where the **non-indexed** cadastral income of the taxpayer's global real estate situated *in the Flemish Region* does not exceed 745 euro. The standard rate of this reduction is 25%.

In the case of the construction of a new dwelling house or the acquisition of a newly built dwelling house, the reduction amounts to 50% during the first five years in which the withholding tax on that real estate is due. The taxpayer is not granted this increased reduction if he has received a subsidy for the construction or the acquisition of that dwelling house.

REBATE FOR DEPENDENTS

Rebates for dependents are granted as a lump sum and are independent of the concept of "dependent children" used in respect of personal income tax. In order to entitle to this rebate, a child must entitle to child benefits and be part of the household in 1 January of the tax year. A disabled child counts for two.

These rebates are granted, from two children onwards, according to the following scale.

Table 5.2.
Rebate of withholding tax on real estate income for dependents – Flemish Region

Number of children taken into consideration	Total amount of the rebate (in euro)
2	7.62
3	12.06
4	16.89
5	22.14
6	27.77
7	33.83
8	40.31
9	47.17
10	54.48

Official notice published in the BOJ of 5 March 2015, p.15364-15365

These rebates apply to withholding tax on real estate due to the Region and thus have to be multiplied by the rate of the surcharges.

Example

Indexed cadastral income: 1,500 euro
Surcharges: 1,500
Dependent children: 2

Computation withholding tax on real estate due to Region: (1,500 x 0.025) – 7.62 =	*29.88*
Computation withholding tax due to local authorities: 29.88 x 15 =	*448.20*
Total withholding tax:	*478.08*

DISABILITY AND INFIRMITY

War invalids are granted a 20% rebate.

The rebate for disabled people (137) (other than children) is granted as if the disabled were children. A family with one (not disabled) child and a disabled adult, is entitled to a rebate of the withholding tax on real estate for a disabled person, which is equal to the rebate for two (not disabled) children (see Table 5.2).

The rebate for war invalids cannot be cumulated with the rebate for disabled people.

REBATE FOR UNPRODUCTIVENESS

The rebate for unproductiveness is granted proportionally to the period of non-occupation or unproductiveness of the property. In order to entitle to this proportional rebate, the unproductiveness or non-occupation must be of not less than 90 days in the year. The rebate stops being granted as soon as the period of unproductiveness exceeds 12 months combined over the current and the previous assessment period. So, in order to entitle to the proportional rebate, the period of unproductiveness must be of not less than 90 days and not more than 12 months.

This limitation does not apply to built real property which is the object of an expropriation project, to real property with a social or cultural end and which are renovated or transformed on behalf of a public body by social housing agencies. It does not apply either where the taxpayer is unable to exercise his right in rem because of a disaster of because of a case of force majeure.

REDUCTION FOR ENERGY-SAVING BUILDINGS

A reduction in the withholding tax on real estate has been granted in the Flemish Region to buildings with a “low” energy consumption, i.e. buildings with an energy level (E-level) not exceeding a certain upper limit.

The regulation has been changed for buildings for which the application for a “planning permission” has been introduced after 31 December 2012.

The E-level is the level of primary energy consumption, as calculated in pursuance of the Flemish Energy Decree of 8 May 2009.

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

Application for a planning permission introduced before 1 January 2013

The reduction in the withholding tax on real estate applies to the following three building categories:

- a dwelling house with an energy level (E-level) of maximum E60 on 1 January of the tax year;
- a building other than a dwelling house (e.g. an office) with an E-level of maximum E70 on 1 January of the tax year;
- a building (dwelling house or other) with an E-level of maximum E40 on 1 January of the tax year.

The reduction amounts to 20% of the withholding tax for the first two categories and to 40% for the third category. It is granted for a period of ten years and can be combined with the rebates for dependents, for a modest dwelling house and for disability and infirmity (138).

Application for a planning permission introduced as from 1 January 2013

The reduction now only applies for five years and the requirements as regards the authorized E-level are stricter than previously. On the contrary, the reductions in the withholding tax on real estate granted are higher.

According to this new regulation, the reduction in the withholding tax on real estate amounts to:

- 50% during five years for built real estate with an energy level of maximum E40 on 1 January of the tax year (139);
- 100% during five years for built real estate with an energy level of maximum E30 on 1 January of the tax year.

If the building is transferred, the reduction relating to the part of the five years or ten years (as the case may be – new or old regulation) period which has not yet expired, is transferred to the new purchaser.

EXEMPTIONS

Is exempted from the withholding tax in the Flemish Region, the cadastral income of:

- under certain conditions, real estate used for facilities and/or services for elderly people;
- real estate that is within the scope of the forest decree of 13 June 1990, and that is recognised as a nature reserve or as a forest reserve.

Moreover, two other exemptions are in force: the first is granted where premises used for commercial purposes are converted into dwelling houses; the second is granted in respect of renovation of houses unfit for human habitation (partial exemption limited to the part of the CI exceeding the CI fixed before the start of the renovation work) or in case of demolition work in order to build a replacing construction. Both exemptions are granted for three or five years but they cannot be granted concurrently.

138 For further information about the reduction of withholding tax on real estate: www.onroerendevoorheffing.be (only available in Dutch).

139 The maximum energy level was E50 with respect to applications for a planning permission introduced from 1 January 2013 to 31 December 2013. With respect to applications introduced as from 1 January 2014, the maximum energy level is E40.

Another exemption, applicable since 2011, concerns real estate considered as classified monuments, of which the long lease rights or the full ownership have been transferred by the Flemish Government to an "open monument association" ("openmonumentenvereniging / association des monuments ouverts").

5.2.3. Walloon Region

The rebates of withholding tax on real estate apply to only one dwelling, to be designated by the taxpayer. Only the reduction for a modest dwelling is still expressed as a percentage of the cadastral income. The other reductions are lump sums, applied to the global withholding tax on real estate, i.e. provincial and local surcharges included.

REDUCTION FOR A MODEST DWELLING

A reduction is granted for the dwelling which is the taxpayer's **single** dwelling on 1 January of the tax year and which is personally occupied by the taxpayer on the same date, where the **non-indexed** cadastral income of the taxpayer's global real estate *located in Belgium* does not exceed 745 euro.

To determine whether the dwelling is or not the single dwelling, the real estate *located in Belgium or abroad* must be taken into consideration, with the exclusion of certain dwellings (other dwellings of which the owner is only bare owner, dwellings for which the taxpayer has actually granted his right in rem, dwelling which is not personally occupied because of legal or contractual obstacles, or because of the progress of building or renovation work).

The standard rate of the reduction for a modest dwelling is 25%. It is not granted in respect of the part of the dwelling house that is used for the purpose of a trade or business, where that part exceeds one fourth of the cadastral income of the dwelling house.

In the case of the construction of a new dwelling house or the acquisition of a newly built dwelling house, the reduction amounts to 50% during the first five years in which the withholding tax on real estate is due. The taxpayer is not granted this reduction if he has received a subsidy for the construction or the acquisition of that dwelling house.

REBATE FOR DEPENDENTS

This rebate is granted for each person dependent on the taxpayer, the taxpayer's spouse or legal cohabitant. The rebate amounts to 125 euro per dependent person. It is doubled (250 euro) for each disabled dependent person or for the disabled spouse.

Spouses or legal cohabitants (not disabled) do not entitle to the rebate.

Example

Indexed cadastral income: 1,500 euro
Surcharges: 3,000
Dependent children: 2

Computation withholding tax on real estate due to Region: (1,500 x 1.25%) =	*18.75 euro*
Computation withholding tax due to local authorities: 30 x 18.75 =	*562.50 euro*
Rebate for dependent children: 2 x 125 euro =	*- 250.00 euro*
Total withholding tax:	*331.25 euro*

DISABILITY AND INFIRMITY

War invalids are granted a 250 euro rebate for the dwelling they occupy as owners or tenants; a disabled taxpayer is entitled to a 125 euro rebate.

These rebates cannot be granted concurrently.

REBATE FOR UNPRODUCTIVENESS

The rebate for unproductiveness is granted proportionally to the period of non-occupation or unproductiveness of the property. In order to entitle to this proportional rebate, the unproductiveness or non-occupation must be of not less than 180 days in the year.

The unproductiveness must be involuntary. The only fact that the real estate has been simultaneously put on lease and on sale by the taxpayer is not sufficient to prove the unproductiveness.

Where the real estate has no longer been used for more than 12 months, considering the previous tax year, the rebate or reduction for unproductiveness is no longer granted insofar as the non-occupation period exceeds 12 months (those 12 months need not be consecutive). This limitation does not apply where the taxpayer is unable to exercise his right in rem because of a disaster or a case of force majeure.

EXEMPTIONS

Is exempted from withholding tax in the Walloon Region, the cadastral income of:

- service-flats, child care facilities for children under three years of age and care and accommodation facilities for disabled persons;
- real estate situated in the Walloon Region and included within the perimeter of a “Natura 2000” territory, a nature reserve or a forest reserve, or within the perimeter of a candidate site for the Natura 2000 network, and subject to the primary protection system;
- dwellings owned by a natural person and leased or managed by a real estate manager in conformity with the Walloon Housing Code, provided a written agreement has been concluded between the taxpayer and the real estate manager, determining the period during which the dwelling is made available, the amount of the rent asked by the natural person and, if need be, the description of the work to be done;
- real estate used for providing services of general interest in the context of airports and airfields operating activities within the meaning of the Walloon Decree of 23 June 1994 concerning the creation of and operating activities in airports and airfields under Walloon jurisdiction;
- goods owned by the social cooperative company with limited liability "Parc d’Aventures scientifiques”.

It should also be mentioned that, certain economic sectors excepted, SMEs having established their seat in the Walloon Region, can be exempted from the withholding tax (from 1 July 2004 on), if they realise certain investment programs. The SME which realises an investment program in the Walloon Region must be:

- either a natural person having the status of trader or being self-employed or an association made up from those persons;
- or one of the companies listed in Article 2, § 2, of the Corporation Code or a European Economic Interest Grouping;
- or a cluster company;
- or a spin-off company.

5.2.4. Brussels-Capital Region

REDUCTION FOR A MODEST DWELLING

A reduction is granted for the dwelling entirely occupied by the taxpayer himself where the **non-indexed** cadastral income of the taxpayer's global real estate located in Belgium does not exceed 745 euro. The standard rate of this reduction, which applies to the withholding tax on the main residence, is 25%.
In the case of the construction of a new dwelling house or the acquisition of a newly built dwelling house, the reduction amounts to 50% during the first five years in which the withholding tax on that real estate is due. The taxpayer is not granted this reduction if he has received a subsidy for the construction or the acquisition of that dwelling house.

REBATE FOR DEPENDENTS

A 10% rebate is granted for each dependent child, provided the head of the family who claims the rebate has at least two children alive on 1 January of the year.

Example

Indexed cadastral income: 1,500 euro	
Surcharges: 3,000	
Dependent children: 2	
Computation withholding tax on real estate due to Region: (1,500 x 1.25%) =	*18.75 euro*
Computation withholding tax due to local authorities: 30 x 18.75 =	*562.50 euro*
Subtotal:	*581.25 euro*
20% rebate for 2 dependent children:	*- 116.25 euro*
Total withholding tax:	*465.00 euro*

DISABILITY AND INFIRMITY

War invalids are granted a 20% rebate and disabled people a 10% rebate for the dwelling they occupy as owners or tenants. These rebates cannot be granted concurrently.

REBATE FOR UNPRODUCTIVENESS

The rebate for unproductiveness is granted proportionally to the period of non-occupation or unproductiveness of the property. In order to entitle to this proportional rebate, the unproductiveness or non-occupation must be of not less than 90 days in the year. In the Brussels-Capital Region, this reduction is only granted under specific conditions (140).

EXEMPTIONS

Is exempted from the withholding tax in the Brussels-Capital Region, the cadastral income of goods that are part of the protected patrimony and that are neither let nor exploited.

5.3. Withholding tax on real estate for investments in material and equipment

5.3.1. Definition

"Material and equipment" means devices, engines and other facilities useful for commercial, industrial or craft enterprises, except from premises, shelters and their necessary accessories (cf. article 471, §3, Income Tax Code 1992).

Where material and equipment are housed in built or unbuilt real property, the Cadastral administration fixes a separate cadastral income for those elements.

5.3.2. Flemish Region

A total exemption is granted for every investment in new material and equipment (as well *totally new* as *replacement investments*) for which a CI (cadastral income) has been fixed as from 1 January 2008.

However, for companies belonging to the target group to the attention of which the Flemish Government drew up an energy agreement, the exemption is granted provided that these companies accede and comply with this agreement. Failing that, the previous exemption (with the limitation on 1 January 1998, see hereafter) still applies to their replacement investments. As far as companies not belonging to the target group are concerned, the exemption is total and unconditional.

Until tax year 2008 included, a distinction had to be made between *totally new* investments in material and equipment (i.e. placed on plots where there were no material and equipment on January 1st, 1998) and *replacement investments* (i.e. investments in new material and equipment, aimed at replacing existing material and equipment).

A total exemption from withholding tax on real estate was granted on the CI of totally new investments. On the contrary, a partial exemption was granted for replacement investments leading before 1 January 2008 to an increased CI in comparison to the CI existing on 1 January 1998; it was limited to the portion of the CI exceeding the CI fixed on 1 January 1998.

140 The conditions were set in the ordnance of 13.04.1995 amending the ordnance of 23.07.1992 concerning withholding taxes on real estate (BOJ of 13.06.1995). In its judgment of 19.12.2002 the Constitutional Court considers this ordnance to be in conflict with the articles 11 and 12 of the Constitution.

5.3.3. Walloon Region

The CI of material and equipment is exempted from withholding tax on real estate where the CI of the assets existing on 31 December 2004 is lower than 795 euro per cadastral parcel.

The CI of material and equipment is also exempted from withholding tax on real estate for new investments acquired or constituted as new as from 1 January 2005. This exemption is total or partial depending on whether, on 31 December 2004, material and equipment had already been housed on the cadastral parcel (on which the new investments are acquired or constituted as new). In the event of an affirmative reply, the exemption only applies to the part of the CI of material and equipment of that parcel exceeding, after 1 January 2005, the CI which exists on 1 January 2005.

Finally, an other unconditional exemption from withholding tax on real estate applies to investments in material and equipment acquired or constituted as new from 1 January 2006 on.

5.3.4. Brussels-Capital Region

Since 1 January 2006, a tax credit has been granted by the Brussels-Capital Region to natural persons or legal entities liable to withholding tax on material and equipment. This tax credit is totally chargeable to the Brussels-Capital Region.

This tax incentive for businesses is granted as a tax credit, so as to allow local entities and the “agglomération bruxelloise/Brusselse agglomeratie” (urban area of Brussels) to keep on collecting additional surtaxes on the withholding tax on real estate.

CHAPTER SIX
WITHHOLDING TAX ON INCOME FROM MOVABLE PROPERTY

What is new?

<u>The legislation described in this chapter includes changes decided in the year 2014 and likely to concern income allocated or made payable in 2015:</u>

- ***Under the new Special Finance Act, the federal authority remains exlusively competent for the withholding tax on income from movable property.***
- ***Suspended indexation for exempted income from savings deposits.***
- ***End of the transitional system and of the separate rate of the withholding tax applicable to liquidation surpluses.***
- ***Consequences as regards the withholding tax on income from movable property of the possibility for SMEs to build up a liquidation reserve.***

EXTENSION OF THE 25% RATE OF THE WITHHOLDING TAX TO THE MOST MOVABLE INCOME AND MISCELLANEOUS MOVABLE INCOME

The rate of the withholding tax on income from movable property amounts henceforth as a standard to 25%, with the exception of five income categories (see hereafter: it concerns dividends from residential real estate investment companies (SICAFI/vastgoedbevaks), income from ordinary savings deposits, interest from the so-called "Leterme government bonds", interest linked to thematic citizens lending and a portion of income from copyright) (141).

Some reduced rates, which will apply in the near future, are also mentioned hereafter (dividends withdrawn from the liquidation reserve and dividends from certain SMEs' shares).

6.1. Dividends

INTEREST ON ADVANCES ASSIMILATED TO DIVIDENDS

Interest on advances granted to their company by company managers or by natural persons who are shareholders (or by their spouse or children), is assimilated to dividends insofar as and to the extent that:

- either the interest rate exceeds the normal market rate applicable to the present case;
- or the total amount of interest-bearing advances exceeds the total represented by the paid up capital at the end of the taxable period, increased by the taxed reserves existing at the beginning of this taxable period.

Interest on advances assimilated to dividends is liable to the withholding tax at the 25% standard rate.

141 With the exception of compensations for missing coupons which are taxable at 15% or 25% according to the rate of the withholding tax applicable to the income to which these compensations relate.

Interest is not assimilated to dividends where it relates to:

- bonds issued through a public call for funds;
- money loans to cooperative companies recognised by the National Cooperation Council;
- money loans by legal entities liable to corporate income tax.

SURPLUSES FROM REPURCHASE OF OWN SHARES

A 25% withholding tax is levied on the amounts allocated for the repurchase by the company of its own shares. The amount liable to withholding tax is the amount chargeable as a dividend distributed under CIT provisions.

LIQUIDATION SURPLUSES – END OF THE TRANSITIONAL SYSTEM

A 25% withholding tax (rate applicable as from 1 October 2014) is levied on the amounts allocated as a result of the total or partial distribution of the assets of a resident or foreign company. The amount liable to withholding tax is the amount chargeable as a dividend distributed under CIT provisions.

According to a transitional system, a reduced rate of 10% applied to dividends corresponding to the decrease in taxed reserves of which the amount had been immediately injected in the capital of the company and maintained for a specific period (4 years for SMEs and 8 years for other companies). Taxed reserves, as approved by the General Meeting on 31 March 2013 at the latest, could be distributed at a 10% tax rate, *provided that and insofar as the amount received had been immediately injected in the capital and the capital injection had occurred during the last accounting year ended before 1 October 2014.*

If the capital injected under this measure has been reduced, a withholding tax of 15%, 10% or 5% will apply according to the kind of company concerned (SME or other) and to the year in which the capital reduction occurs (within the 4 or 8 years after the capital injection).

LIQUIDATION RESERVE

A special tax system of liquidation surpluses has been introduced for SMEs (as defined in Art. 15 of the Corporation Code). As from tax year 2015, SMEs have the possibility to use totally or partially their accounting profit after tax to build up a “liquidation reserve”. This reserve must be recorded and held continuously in one or several separate liabilities accounts (it may not be used as basis for any remuneration or allocation). It is liable to a separate tax of 10% when it is built up (142).

No withholding tax will be due on the part of this reserve held until the liquidation of the company.

If dividends are distributed via a withdrawal from this reserve, before the liquidation of the company, the dividends are subject to the withholding tax on income from movable property at the following reduced rates:

- 15% if the distribution occurs during the first five years,
- 5% if the distribution occurs later.

142 See Chapter 2 (CIT), p. 109.

If a part of the liquidation reserve is reduced, the oldest reserves are deemed to be the first withdrawn.

This system also applies to dividends from foreign companies established in a Member State of the EEA, provided that this Member State has decided similar measures to the Belgian system concerning the payment or the allocation of dividends.

RESIDENTIAL REAL ESTATE INVESTMENT COMPANIES (SICAFI/VASTGOEDBEVAKS)

Since 1 January 2013, dividends from Belgian or foreign residential real estate investment companies (SICAFI/vastgoedbevaks) are liable to a 15% withholding tax.

DIVIDENDS FROM SOME SHARES OF SMES

A reduced withholding tax applies to dividends allocated by SMEs (as defined in article 15 of the Corporation Code) to new registered shares issued upon cash contributions carried out as from 1 July 2013.

The withholding tax is equal to:

- 20% for dividends allocated or assigned on the occasion of the profit distribution relating to the second accounting year following that in which the injection occurred;
- 15% for dividends allocated or assigned on the occasion of the profit distribution relating to the third accounting year following that in which the injection occurred, and of the following profit distributions.

The conditions for the application of those reduced rates of withholding tax are the following:

- it must concern new cash contributions carried out as from 1 July 2013;
- the company benefiting from the capital injection must be a SME as defined in Article 15 of the Corporation Code (143);
- the new shares must be registered and paid up in full;
- the new shares must be hold by the shareholders in full ownership and for an uninterrupted period as from the capital injection.

Anti-abuse measures complete this system in case of capital increases associated with capital reductions.

"PARENT-SUBSIDIARY" DIVIDENDS

Dividends allocated by a subsidiary to its parent company are exempted from withholding tax inasmuch as the parent company is located in a Member State of the European Union or in a State with which Belgium has concluded a double taxation agreement (144). To benefit this exemption, the parent company shall maintain or have maintained, during an uninterrupted period of at least one year, a minimum share of 10% in the capital of its subsidiary.

143 The criterium “small company”, as defined in the Corporation Code, must be assessed for the tax year related to the taxable year in which the capital injection occurred.

144 In the latter case, the extension of the exemption is subordinated to an additional condition: there shall be no restriction as regards the exchange of information which is necessary to apply the provisions of the contracting States’ national law.

6.2. Interest

The rate of withholding tax on income from movable property amounts generally to 25%.

There are exceptions to this rule relating to the nature of the financial asset or to the status of the investor. The main exceptions are mentioned hereafter. Moreover, a special tax system is provided for dematerialised securities.

SAVINGS DEPOSITS (15%)

The first 1,880 euro bracket (2015 income) of a yearly income from ordinary savings deposits is exempted from withholding tax where the beneficiary is a natural person.

Each spouse or legal cohabitant is entitled to the exemption. The double exemption also applies when only one savings account has been opened in the name of both spouses or legal cohabitants.

The exemption has been extended to the first bracket of interest from savings deposits received by credit institutions established in another Member State of the EEA, provided these deposits meet similar requirements to those laid down for Belgian regulated savings deposits.

The taxable interest amount is liable to a 15% withholding tax.

Exemption conditions for ordinary savings deposits

The exemption applied to the first bracket of interest from ordinary savings deposits is subject to miscellaneous conditions, as detailed in Article 2 of the Royal Decree implementing the Income Tax Code 1992, and of which an overview is presented hereafter These conditions have been last amended by the Royal Decree of 21 September 2013, notably as regards loyalty bonus.

- Conditions for the withdrawal from savings books

The conditions should provide for the possibility for the depository bank to require a prior notice of five calendar days to withdraw amounts exceeding 1,250 euro, and to limit withdrawals to a maximum of 2,500 euro per half month.

- Income components

Income from savings deposits consists compulsory and exclusively of a base interest rate and a loyalty bonus. The growth bonus can no longer be granted.

- Level of income from savings deposits

The base interest rate cannot exceed the highest of the following rates: either 3%, or the rate applied by the ECB for its main refinancing operations on the 10th day of the month preceding the current calendar six-month period (i.e. the ECB's rate on 10 December 2014 for the first six-month period of 2015 and on 10 June 2015 for the second six-month period of 2015).

In principle, the rate of the loyalty bonus cannot exceed 50% of the maximum base interest rate and cannot be less than 25% of the base interest rate granted.

- *Only one base rate* can be granted for a same savings deposit at a specific time (and not several base rates applicable to different brackets of the deposit).

- Calculation method of the *loyalty bonus* and period over which it must be calculated

A loyalty bonus is granted for each amount invested for twelve consecutive months in the same savings deposit. The loyalty bonus remains acquired, provided certain conditions are met, when a saver transfers funds to another savings deposit he holds in the same bank.

The loyalty bonus is calculated as from the day following the deposit day.

Loyalty bonuses must be taken into consideration as from the first day following the *quarter* during which they are acquired. Loyalty bonuses acquired during the first, second, third and fourth quarters, bear a basic interest as from respectively 1 April, 1 July, 1 October and 1 January following this quarter.

- Observance of the maximum exemption

The depository bank must consider whether the first exempted bracket of interest is reached whenever the basic interest and the loyalty bonus are taken into account, considering all amounts allocated during the taxable period.

INTEREST FROM GOVERNMENT BONDS SUBSCRIBED TO BETWEEN 24 NOVEMBER 2011 AND 2 DECEMBER 2011, AND ISSUED ON 4 DECEMBER 2011

A 15% withholding tax is levied on interest from these government bonds (the so-called “Leterme government bonds”).

THEMATIC CITIZENS LENDING

Income from savings certificates and from term deposits to finance thematic citizens lending, is liable to the 15% withholding tax. The funds collected via the citizens lending must be used to finance clearly defined socio-economic projects.

CAPITALISATION BONDS

With respect to financial assets with capitalisation of interest, any amount attributed by the issuer, at any moment, in excess of the issue price, is a taxable income from movable property.

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

CAPITALISATION SICAVS/BEVEKS AND FUNDS

Income from capitalisation SICAVs/BEVEKS and capitalisation funds of which the portfolio consists of more than 25% of interest-bearing debt securities (e.g.: bonds) is subject to a 25% withholding tax on income from movable property. Income from the “debt component” of investments made by the SICAVs/BEVEKS or the funds (including capital gains and after deduction of capital losses) is taxable.

As appropriate, a lump sum income is fixed.

Only SICAVs/BEVEKS having a European passport and being established outside the EEA were previously concerned. However, since 1 July 2013, the application scope has been extended to SICAVs/BEVEKS without European passport established in the EEA.

ASSOCIATED COMPANIES: APPLICATION OF THE "INTEREST-ROYALTY DIRECTIVE"

Interest allocated by a domestic company to a domestic associated company or to an associated company situated in another EU Member State is exempted from withholding tax on income from movable property.

Two companies are deemed to be "associated companies" where one of them has a direct or indirect minimum holding of at least 25% in the capital of the second or where a third company established in the European Union has a direct or indirect holding of 25% in the capital of both the first and the second company. This holding must be or have been maintained during an uninterrupted period of at least one year.

The waiver of withholding tax on income from movable property only applies where the rights or debt-claims in respect of which the interest is paid, have not been held, at any time during the income-generating period, by an establishment situated outside the European Union.

The burden of proof as to the fulfilment of the requirements needed to be exempted from withholding tax, lies with the taxpayee, notably by obtaining a certificate relating to the beneficiary's status.

SAVINGS DIRECTIVE

The aim of the Directive on taxation of savings income in the form of interest payments is to bring about effective taxation of interest payments made to individuals within the European Union from cross-border savings investments.

Insurance products do not currently come under the Directive.

This Directive provides for an **automatic exchange of information** in respect of interest payments made by "paying agents" established within a Member State to natural persons residing in another Member State. Income from interest received by a natural person in another Member State that is not his residence for tax purposes has to be communicated by this other Member State to the tax authorities of the beneficiary's country of residence.

The interest payments referred to in the Directive are interest payments related to debt claims of every kind, obtained either directly or indirectly via undertakings for collective investment: accounts and deposits, fixed rate securities, income distributed by some collective investment institutions (CIIs) with a European passport and capital gains on parts in certain CIIs.

Some countries have the possibility to levy a "State of residence tax". According to the principle of the "State of residence tax", a tax is withheld at source by those countries instead of communicating to the beneficiary's State of residence the information in their possession (145). Austria, Switzerland and some associated territories apply this system.

145 The withholding tax has been levied at a 35% rate since 01.07.2011.

For Belgian residents who received interest in a country withholding a tax at source, the "State of residence tax" is not a final tax. The natural person benefiting the income has to report the income in his/her annual personal income tax return in his/her country of residence, like any foreign movable income collected abroad. Double taxation of income is however avoided thanks to a compensation system. If the interest received has been subject to withholding tax, the beneficiary is entitled to a credit and, as appropriate, a refund equal to the amount of the tax withheld. As a result, the tax withheld at source has a neutral impact with regard to the automatic exchange of information.

EXEMPTIONS IN RESPECT OF THE INVESTORS' STATUS

There are five distinct categories of investors:

- "**financial institutions**" (FI) means banks, insurance companies, credit unions, financial enterprises and, more broadly, public and private institutions having a legal personality and of which the activity consists solely in granting credits and loans,
- "**semi-public social security institutions**" (SPSSI) means health insurance funds and institutions created within the framework of social legislation,
- "**professional investors**" (PI) means notably companies liable to CIT and Belgian branches of foreign companies liable to non-resident income tax/CIT,
- "**private savers**" (PS) means all taxpayers who are Belgian residents and have not used their interest bearing movable property for their professional activity;
- "**non-resident savers**" (NRS) means taxpayers liable to non-resident income tax who have not used their movable capital for their professional activity in Belgium.

The table hereafter summarises the main exemptions (E), which are generally conditional, according to the investor's status and the kind of income.

Table 6.1.
Withholding tax: exemptions according to the investor's status

	FI	SPSSI	PI	PS	NRS
- public funds, bonds, savings certificates and similar securities	E	E			E
- income from debt-claims and loans					
- mortgage loans	E	E	E	E	
- other loans	E	E	E		E
- ordinary savings deposits	E	E		E (*)	E
- other deposits	E	E			E

(*) Only for the first 1,880 euro bracket of interest (see supra), for income earned in 2015.

6.3. Other movable income

COPYRIGHT AND RELATED RIGHTS

The system as regards copyright and related rights is described in Chapter 1, on page 29.

A 15% withholding tax on income from movable property applies to the first 57,270 euro bracket (amount for the year 2015) of gross income from copyright (moreover, actual or lump sum professional expenses can be deducted). Gross income exceeding 57,270 euro is liable to the withholding tax at the 25% standard rate.

All income from copyright must be mentioned in the personal income tax return.

CHAPTER SEVEN
WITHHOLDING TAX ON EARNED INCOME AND ADVANCE PAYMENTS (AP)

What is new?

- ***Under the new Special Finance Act, the federal authority remains exclusively competent for the withholding tax on earned income.***
- ***Annual indexation.***
- ***The increase in the lump sums for the employees' professional expenses and the suspended indexation of certain amounts in the Income Tax Code have been taken into consideration for the calculation of the withholding tax.***

This chapter relates to withholding tax on earned income and to advance payments of the year 2015.

7.1. Computation of the withholding tax on earned income (146)

This chapter only relates to withholding taxes on income earned by residents. Only the most frequent forms of remuneration are dealt with, i.e. the general system applying to employees' and director's remunerations and some particular cases.

7.1.1. Employees' remunerations

The tax deducted at source is withheld by the employer and computed in seven main steps (147):

- deduction of the social security contributions,
- deduction of the professional expenses,
- application of a tariff aligned with the PIT tariff,
- taking into consideration of the basic zero-rate band,
- taking into consideration of the family situation,
- application of the tax credits,
- computation of the monthly amount.

A. Deduction of social security contributions

From the gross income are subtracted the employee's social security fees and other levies made in pursuance of the legal or assimilated administrative status. The special social security contribution is not deductible though.

B. Deduction of lump sum professional expenses

The annual income is then transformed into a net annual income by subtracting the **lump sum professional expenses.**

146 The ways of implementation applicable to the withholding tax on earned income allocated or made payable as from 1 January 2015 are published in the BOJ of 16 December 2014.

147 The 7% local surtaxes have been taken into account for the calculation of the withholding tax on earned income.

Table 7.1.
Professional expenses and computation of the withholding tax on earned income

Gross annual income			Professional expenses	
			on lower limit	% above lower limit
0	-	5,770.00	0	29.35%
5,770.00	-	11,380.00	1,693.50	10.50%
11,380.00	-	19,410.00	2,282.55	8%
19,410.00	-	58,245.00	2,924.95	3%
58,245.00		and more	4,090.00	0%

C. *Scale*

The **common scale** shown in Table 7.2 applies as it is:

- where the beneficiary of the income is single;
- where the beneficiary's spouse has also an own earned income consisting exclusively of pensions, annuities or assimilated benefits exceeding a monthly net amount of 129 euro. "Net" amount means the amount after deduction of social security contributions and after deduction of 20% of the remainder.

From 1 January 2004, legal cohabitants have been assimilated to married people. So the term "spouse" also covers a "legal cohabitant".

Table 7.2.
Computation of withholding tax on earned income – Common scale

Net taxable annual income			"base tax"	
			on lower limit	% above lower limit
0	-	8,720	0.00	26.75%
8,720	-	11,840	2,332.60	32.10%
11,840	-	17,160	3,334.12	42.80%
17,160	-	37,890	5,611.08	48.15%
37,890		and more	15,592.58	53.50%

A particular provision applies:

- where the beneficiary's spouse has no earned income of his/her own;
- where, on 1 January 2015, the beneficiary's spouse has an own earned income consisting exclusively of pensions, annuities or assimilated benefits not exceeding a monthly net amount of 129 euro. "Net" amount means the amount after deduction of social security contributions and after deduction of 20% of the remainder.

The withholding tax on earned income is then computed as follows:

- 30% of the beneficiary's net taxable annual income is attributed to his/her spouse, with a maximum of 10,240 euro. The amount attributed is "Income B", the remainder being "Income A";
- the common scale is then applied to both Income A and Income B;
- finally, the addition of both results gives the "base tax".

D. Taking into consideration of the zero-rate band

When the common scale, as mentioned in Table 7.2, applies as it is, the base tax computed according to that scale shall be reduced by 1,613.03 euro, but this reduction shall on no account result in a negative base tax.

When the particular provision applies, which divides the taxable income in two parts (one-earner families or equivalent), the "base tax" which result from adding the results of the application of the scale to "Income A" **and** "Income B", is reduced by 3,226.06 euro, but this reduction shall on no account result in a negative base tax.

E. The family situation

Step five takes account of the family situation by granting the following tax reductions:

Table 7.3.
Reductions of withholding tax for dependent children and specific family situations (148)

Number of dependent children and specific family situations	Annual reduction
1	408
2	1,104
3	2,964
4	5,424
5	8,004
6	10,596
7	13,176
8	15,960
for each child beyond the eighth	2,880
single person (except where the taxable income consists of pensions or of unemployment with company allowance)	288
widow(er) not married again, with dependent children	408
single parent family	408
disabled taxpayer (149)	408
for ascendants and collaterals up to the second degree and aged 65 at least: for each dependent person	828
for all other dependent persons	408

148 Disabled children and other disabled dependent persons count for two.
149 This reduction applies to each of the spouses.

A tax credit of 1,290 euro is yearly granted where the income beneficiary's **spouse** has **own professional income not consisting of pensions, annuities or assimilated benefits** and not exceeding 215 euro per month.

A tax credit of 2,580 euro is yearly granted where the income beneficiary's **spouse** has **own professional income exclusively consisting of pensions, annuities or assimilated benefits** and not exceeding 430 euro per month.

The ceilings of 215 euro and 430 euro per month are assessed on the basis of 80% of the gross income after deduction of the social security contributions.

F. Other tax credits

- Where appropriate, 30% of the mandatory deductions implementing a group insurance contract or a precautionary provision for old age and premature death are deducted from the "base tax".
- A tax credit is granted for the first annual 130 hours of overtime by workers. The credit is computed on the basis of the "gross amount NOSS - National Office For Social Security" (i.e. before deduction of the personal social contributions) of the remunerations on which overtime pay has been calculated. The credit amounts to 57.75% where overtime pay is equal to 50% or 100%, and to 66.81% where overtime pay is equal to 20%.

  The upper limit of 130 hours of overtime has been increased to 180 hours for workers employed by employers in the Horeca sector, provided those employers use a cash register system in each operating place and provided registration of this cash register system with the tax administration.

  The upper limit of 130 hours of overtime has also been increased to 180 hours for workers employed by employers carrying out construction works, provided the employers use an electronic attendance registration system.
- A tax credit of 77.52 euro is granted to employees whose taxable monthly remuneration does not exceed 2,291.80 euro.
- A tax credit is granted to low-income workers entitled to the employment bonus (150). It is equal to 14.40% of the amount of the employment bonus actually granted.

G. Computation of monthly amount

The amount of tax thus obtained is then divided by 12 so as to determine the amount of withholding tax to deduct from monthly earned income.

7.1.2. Holiday pay and other exceptional allowances

For holiday pay and other exceptional allowances **paid by usual employer**, the withholding tax on earned income to be deducted is calculated according to a special scale, whereby the rate varies according to the normal gross annual income and not to the income actually paid out.

150 The employment bonus (or social bonus) is a reduction of the personal social security contributions targeted on low-income workers. It is also granted to some workers affected by restructuring. It is a lump sum reduction that decreases progressively where the reference wage increases.

Table 7.4.
Scale of withholding tax on earned income applicable to the holiday pay paid by the employer and to other exceptional allowances

Normal gross annual income (euro)			Applicable rate of withholding tax on earned income %	
			Annual holiday pay	Other allowances
0.00	-	7,420.00	0.00	0.00
7,420.01	-	9,150.00	19.17	23.22
9,150.01	-	11,305.00	21.20	25.23
11,305.01	-	13,405.00	26.25	30.28
13,4050.01	-	15,625.00	31.30	35.33
15,625.01	-	17,840.00	34.33	38.36
17,840.01	-	22,130.00	36.34	40.38
22,130.01	-	24,275.00	39.37	43.41
24,275.01	-	32,870.00	42.39	46.44
32,870,01	-	43,615.00	47.44	51.48
43,615.01		and more	53.50	53.50

Exemptions for dependent children are subsequently taken into account.

Where the annual amount of the normal gross salary does not exceed the maximum amount mentioned in the Table 7.5. according to the number of dependent children, the exceptional allowance is exempted up to the difference between the amount mentioned in the table and the annual amount of the normal gross salary.

Table 7.5.
Withholding tax on exceptional allowances
Exemption limit for dependent children

Number of dependent children (1)	Maximum amount
1	9,640
2	12,264
3	17,503
4	23,137
5	28,673
6	34,209
7	39,745

(1) A disabled dependent child counts for two.

So the holiday pay of a taxpayer with four dependent children and a gross annual salary of 13,000 euro, is exempted up to 23,137 euro - 13,000 euro = 10,137 euro.

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 or 4 of Table 7.6, 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 7.6.

Table 7.6.
Withholding tax on exceptional allowances
Reduction for dependent children

Number of dependent children (1)	Percentage of the reduction	Annual amount of the normal gross salary beyond which no reduction is granted
1	7.5	21,485
2	20	21,485
3	35	23,635
4	55	27,930
5	75	30,080

(1) A disabled dependent child counts for two.

7.1.3. Salary arrears and redeployment allowances

The withholding tax on salary arrears and on redeployment allowances is calculated according to a "reference salary".

This corresponds in principle to the annual amount of the normal gross salary the beneficiary of the income enjoyed immediately before the revision which led to the payment of the arrears.

Table 7.7.
Scale applicable to arrears

Reference salary (euro)			Percentage of the withholding tax to be paid
0.00	-	8,805.00	0.00
8,805.01	-	10,570.00	2.68
10,570.01	-	11,740.00	6.57
11,740.01	-	14,090.00	10.77
14,090.01	-	15,265.00	13.55
15,265.01	-	17,025.00	16.55
17,025.01	-	19,960.00	19.17
19,960.01	-	25,825.00	24.92
25,825.01	-	31,695.00	29.93
31,695.01	-	41,090.00	31.30
41,090.01	-	46,370.00	36.90
46,370.01	-	52,825.00	38.96
52,825.01	-	61,625.00	40.93
61,625.01	-	73,960.00	42.92
73,960.01	-	92,735.00	44.99
92,735.01	-	106,825.00	46.47
106,825.01	-	125,605.00	47.48
125,605.01		and more	48.00

Subsequently, the exemption for dependent children is taken into account using a particular method. In particular, where the reference salary does not exceed the maximum amount which is mentioned in Table 7.5. sub 7.1.2., the salary arrears are exempted up to the difference between the said maximum amount and the reference salary.

7.1.4. Termination compensation

The withholding tax on earned income levied on termination compensation, is calculated according to the rules set forth above in respect of arrears.

The reference salary to be taken into account is the one 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 in the service of the employer who pays the compensation.

7.1.5. Company managers

Remunerations paid or allocated to company managers are liable to withholding tax on earned income. A distinction is made between periodical and non-periodical remunerations.

A. Periodical remunerations

The withholding tax is calculated on the basis of the method applicable to wage and salary earners, with the exception of three specific points:

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

Table 7.8.
Periodical remunerations of managers
Reduced base of withholding tax

Gross amount of monthly remuneration			Reduction	
			on lower limit	% above the limit
0	-	1,110	330,00	
1,110	-	4,775	330,00	23.0%
4,775	-	7,025	1,172.95	14.5%
7,025		and more	1,499.20	0.0%

- Deductible professional expenses are calculated at the single rate of 3% with a maximum of 2,380 euro.
- The tax credit for low- or middle-income company managers amounts to 77,52 euro per year and is granted where the taxable monthly remuneration does not exceed 2,104.49 euro.

Company managers subject to the employees' social security system and entitled to the employment bonus, are also entitled to the reduction in withholding tax on earned income. This reduction amounts to 14.40% of the employment bonus.

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 in which the non-periodical remunerations are allocated, increased by 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 in which the non-periodical remunerations are allocated.

7.1.6. Attendance fees, commissions

Attendance fees as well as compensation and allowances awarded occasionally are liable to withholding tax on earned income calculated as follows:

Table 7.9.
Withholding tax on earned income payable on attendance fees, commissions and other occasional allowances

Amount of the compensation			Withholding tax rate on earned income (in %)
0.00	-	500.00	27.25
500.01	-	650.00	32.30
650.01		and more	37.35

7.1.7. Students

In derogation from all the provisions mentioned above, no withholding tax is due on remunerations paid or allocated to students with a written employment contract not exceeding fifty working days per calendar year.

This tax exemption is granted only where, apart from the solidarity contribution, no social security contributions are due on the payments.

7.1.8. Young workers

No withholding tax is due on remunerations paid or allocated to young workers who meet the conditions of eligibility for school-leavers' unemployment benefits (art. 36, §1, para.1, 1° to 3° of the Royal Decree of 25 November 1991 imposing regulations on unemployment), provided the work is carried out under the terms of an employment contract starting in October, November or December of the preceding year and provided the gross amount of the remunerations does not exceed 2,725 euro a month.

7.1.9. Casual labour in the Horeca sector

The rate of the withholding tax on earned income has been uniformly (without reduction) fixed at 33.31% for remunerations entitled to separate taxation. The conditions are the following:

- the remunerations must relate to services supplied during maximum 50 days per calendar year;
- the employer and the worker must conclude a fixed-term employment contract or a contract for a clearly determined job not exceeding 2 consecutive days;

- the employer must come under the joint committee for the hotel industry or under the joint committee for temporary work if the user comes under the joint committee for the hotel industry;
- the calculation of the social security contributions must be based on a hourly or daily lump sum amount.

7.2. Exemptions of payment

The withholding tax on earned income, computed as described in paragraph 7.1., is in principle withheld by the employer and paid to the tax administration.

In some cases, the most important of which are commented upon below, the employer is entitled to a partial exemption of payment which has no impact on the amount withheld. The part of the withholding tax that is deducted but not paid to the tax administration stays at the disposal of the employer. As a result, this mechanism works as a wage subsidy to the employer. The exemption has no impact on the withholding tax credited against the tax to be paid by the income recipient.

7.2.1. Structural reduction

The law of 17 May 2007 introduced an structural exemption of payment, calculated on the basis of the gross remunerations. This exemption applies to the profit sector, the non-profit sector, autonomous public undertakings (the SNCB/NMBS Group, bpost and Belgacom) and the public limited company HR Rail.

The rate of this exemption (initially amounting to 0.25%) has been progressively increased and has amounted to 1% since 1 January 2010. This increase does not apply de facto to the non-profit sector because the additional exemption of payment has been replaced by a payment to the “Maribel Social” Funds.

For employers who are either considered as small companies, as defined in article 15 of the Corporation Code, or natural persons meeting *mutatis mutandis* the criteria set out in the same article 15, the rate has been increased to 1.12%.

7.2.2. Research workers

Since 1 July 2013, the exemption of payment of withholding tax on earned income has amounted to 80% for:

- universities and “hautes écoles” (non-university tertiary education), as well as for the “Federaal Fonds voor Wetenschappelijk Onderzoek – Fonds fédéral de la Recherche scientifique”, the “FRS-FNRS” (Fonds de la Recherche Scientifique – FNRS) and the “FWO-Vlaanderen” (Fonds voor Wetenschappelijk Onderzoek Vlaanderen);
- scientific institutions approved by Royal Decree;
- private companies employing research workers implied in research or development projects or programs in collaboration with institutions referred to in the first and second indents above;
- companies employing research workers having either a PhD in Applied Sciences, Exact Sciences, Medicine, Veterinary Medicine or Pharmaceutical Sciences or Civil Engineering, or a Master or equivalent in fields of sciences (151). Those persons shall be working on R&D programs;
- remunerations paid by the “Young Innovative Companies”.

151 A list of all Masters entitling to the exemption from withholding tax on earned income, can be found in article 275/3 §2, Income Tax Code 1992.

"Research or development projects or programs" mean projects or programs aiming at basic research, industrial research or experimental development. The registration with the Federal Public Planning Service (PPS) Science Policy has now been made mandatory to be entitled to the exemption from withholding tax on earned income.

7.2.3. Team bonuses and night shift differentials

The part of the withholding tax on earned income which is not to be paid to the tax administration by companies of which work schedules include team work or night shifts, has been set at 15.6% of the taxable remunerations, including team bonuses but excluding holiday allowances, end-of-year payments and salary arrears.

This exemption of payment has been extended to autonomous public undertakings (Belgacom, bpost and companies from the SNCB/NMBS Group) and to the public limited company HR Rail.

The exemption has been increased by 2.2 points (i.e. 17.8%) for companies applying a continuous work system. "Continuous work" means work carried out by workers divided into at least four teams of at least two workers. Those teams do the same work (regarding as well the purpose as the extent), ensure a continuous occupation in the week and in the weekend, work shifts continuously and without overlapping exceeding a quarter of the day-to-day activities. Uptime in those companies amounts to at least 160 hours on a weekly basis.

7.2.4. Overtime pay

For the employees, the tax relief consists of a tax credit implemented in the calculation of the withholding tax on earned income and for their employers in the market sector or temping sector, the advantage consists of a partial exemption of payment to the tax administration of withholding tax on earned income. The tax relief has been extended to autonomous public undertakings (Belgacom, bpost and companies from the SNCB/NMBS Group) and to the public limited company HR Rail.

The exempted amount of withholding tax on earned income not to be paid to the tax administration amounts to:

- 32.19% of the gross amount (basic salary) of the remunerations paid for hours of overtime to which an overtime pay of 20% applies;
- 41.25% of the gross amount of the remunerations for hours of overtime to which an overtime pay of 50% or 100% applies.

This exemption applies to the first 130 hours of overtime, per employee and per year.

The number of hours of overtime has been increased from 130 to 180 hours in the Horeca sector, provided that employers use in each operating area a cash register system which has been registered with the tax administration.

The number of hours of overtime has also been increased to 180 hours in the building sector. The condition is that employers carrying out construction works must use an electronic attendance registration system on temporary or mobile work sites.

7.2.5. Sportsmen

Since 1 January 2008, a partial exemption of payment of withholding tax on earned income up to 80% has been granted for remunerations paid or granted by sporting clubs to sportsmen younger than 26.

Sporting clubs may also benefit the partial exemption of payment of withholding tax on earned income for sportsmen aged 26 or older, on the understanding that half of this exemption of payment is devoted, within a given period, to the training of young sportsmen. Amounts devoted to the training of young sportsmen cover the payment of trainers' and coaches' wages on the one hand, and of young sportsmen's wages on the other hand.

Young sportsmen's remunerations considered as valid devoted amounts cannot exceed, *per young sportsman*, eight times the minimum remuneration entitling to the status of remunerated sportsman, this remuneration being currently fixed at 9,400 euro (152).

Remunerations earned by the sportsman as manager, do not entitle to the partial exemption of payment of withholding tax on earned income.

7.3. Advance payments (AP)

Traders, company managers, members of liberal professions and companies have to make advance payments in four quarterly instalments (10 April 2015, 10 July 2015, 12 October 2015 and 21 December 2015) (153). By paying these instalments, they prevent tax increases.

A dispensation of tax increase may be given, for the first three years of activity, when a self-employed person sets up a business for the first time as a principal activity.

Moreover, all taxpayers liable to PIT can make advance payments to pay off in advance 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 the withholding taxes, they are awarded a bonus for advance payments made (154).

For the income of the year 2015, the reference rate is 0.50%.

The taxation rates which apply in respect of tax increases and bonuses are thus the following:

Table 7.10.
Increases and bonuses in respect of advance payments of the year 2015

Increase		Bonus	
AP1	1.5%	AP1	0.75%
AP2	1.25%	AP2	0.63%
AP3	1%	AP3	0.50%
AP4	0.75%	AP4	0.38%

152 Amount applicable from 1 July 2014 to 30 June 2015 (Royal Decree of 27 May 2014).

153 These dates are valid for natural persons and for companies whose financial year coincides with the calendar year. For other companies, the dates for advance payments are calculated from the 1st day of the financial year. Where the date falls on a Saturday, Sunday or public holliday, the payment must be made on the first following working day.

154 See page 78 and following.

PART II

INDIRECT TAXATION

Value added tax (VAT)			
Legal base	The Code of Value Added Tax (VAT Code) and the decrees issued for its implementation.		
Who sets	the tax rate	the tax base	reliefs
	Federal authority	Federal authority	Federal authority
Beneficiary	European Union Federal authority Communities Social security Others (*) Securitisation since 2006 (*) Since 2005: part of the revenue to the “Commission pour la régulation de l’électricité et du gaz / Commissie voor de Regulering van de Elektriciteit en het Gas”. Since 2009: part of the revenue to the “APETRA” (“Agence de Pétrole – Petroleumagentschap”)		
Tax collector	Federal Public Service Finance		
Tax revenue	2013 tax revenue in millions of euro	Tax revenue as % of GDP	Tax revenue as % of total tax revenue (*)
	27,225.9	6.9%	22.2%
	(*) Total tax revenue (according to ESA2010 concept) paid to Belgian authorities. *Data regarding tax revenue are henceforth mentioned according to the ESA2010 concept. They cannot be compared to data mentioned in previous editions of the Tax Survey.*		

Registration duties, mortgage duties, court fees and registration tax				
Legal base	Code of Registration Duties, Mortgage Duties and Court Fees and the decrees issued for its implementation. For the Flemish Region: “Vlaamse Codex Fiscaliteit” (Flemish Tax Code) and the decrees issued for its implementation.			
Who sets	the tax rate		the tax base	reliefs
	Federal authority Regional authority		Federal authority Regional authority	Federal authority Regional authority
Beneficiary	Federal and regional authorities. Since 2004: part of the “other revenues” (see below “tax revenue”) to the police zones. Regional authorities set the tax rate, tax base and reliefs for and benefit from the revenue from most of registration duties.			
Tax collector	Usually professional intermediaries (notaries, …) collect the duties and transfer the revenues to the federal tax administration. As far as the Flemish Region is concerned, as from 2015, those intermediaries have been transferring the revenue of the registration tax to the Flemish tax administration.			
Tax revenue	2013 tax revenue in millions of euro		Tax revenue as % of GDP	Tax revenue as % of total tax revenue
	Registration duties Mortgage duties Court fees	4,004.6 72.1 37.2		
	TOTAL	**4,113.9**	1.0%	3.4%

Estate duties and inheritance tax			
Legal base	The Estate Duty Code and the decrees issued for its implementation. For the Flemish Region: “Vlaamse Codex Fiscaliteit” and the decrees issued for its implementation.		
Who sets	the tax rate	the tax base	reliefs
	Regional authority	Regional authority	Regional authority
Beneficiary	Estate duties (including transfer duty upon death) and inheritance tax: regional authority Estate duties compensating tax, tax on undertakings for collective investment, credit institutions and insurance companies: central authority		
Tax collector	Federal Public Service Finance. As from 2015, the Flemish inheritance tax has been collected by the Flemish tax administration.		
Tax revenue	2013 tax revenue in millions of euro	Tax revenue as % of GDP	Tax revenue as % of total tax revenue
	3,026.0	0.8%	2.5%

<table>
<tr><th colspan="4">Miscellaneous duties and taxes</th></tr>
<tr><td>Legal base</td><td colspan="3">These duties and taxes are regulated by the Code of miscellaneous duties and taxes (CMDT) and by the decrees issued for its implementation.</td></tr>
<tr><td rowspan="2">Who sets</td><td>the tax rate</td><td>the tax base</td><td>reliefs</td></tr>
<tr><td>Federal authority</td><td>Federal authority</td><td>Federal authority</td></tr>
<tr><td>Beneficiary</td><td colspan="3">Federal authority
Social security (*)
Others (*)

(*) The federal authority is the beneficiary of most of the revenue. Since 2006 however, part of the insurance taxes is transferred to the social security institutions and the National Disaster Relief Fund ("Caisse nationale des Calamités / Nationale Kas voor Rampenschade").</td></tr>
<tr><td>Tax collector</td><td colspan="3">Federal Public Service Finance</td></tr>
<tr><td rowspan="2">Tax revenue</td><td>2013 tax revenue in millions of euro</td><td>Tax revenue as % of GDP</td><td>Tax revenue as % of total tax revenue</td></tr>
<tr><td>1,831.4</td><td>0.5%</td><td>1.5%</td></tr>
</table>

Customs procedures upon importation, exportation and transit			
Legal base	These procedures are mainly based on the Community Customs Code and on the decrees issued for its implementation.		
Who sets	the tax rate	the tax base	reliefs
	European Union	European Union	European Union
Beneficiary	European Union		
Tax collector	Federal Public Service Finance		
Tax revenue	2013 tax revenue in millions of euro	Tax revenue as % of GDP	Tax revenue as % of total tax revenue
	1,230.0	0.3%	1.0%

<table>
<tr><th colspan="4">Excise duties</th></tr>
<tr><td>Legal base</td><td colspan="3">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 22 December 2009, relating to the general arrangements for excise duty (BOJ of 31 December 2009);
- the Law of 21 December 2009, relating to the excise duty arrangements for non-alcoholic beverages and coffee (BOJ of 15 January 2010);
- the Programme law of 27 December 2004 (BOJ of 31 December 2004);
- the Law of 7 January 1998, relating to the structure and excise tariffs on alcohol and alcoholic beverages (BOJ of 4 February 1998);
- the Law of 3 April 1997, relating to the tax system for manufactured tobacco (BOJ of 16 May 1997);
their modifications and the decrees issued for the implementation of these laws.</td></tr>
<tr><td rowspan="2">Who sets</td><td>the tax rate</td><td>the tax base</td><td>reliefs</td></tr>
<tr><td>Federal authority</td><td>Federal authority</td><td>Federal authority</td></tr>
<tr><td>Beneficiary</td><td colspan="3">Federal authority, but
- part of excise duties on tobacco to Social Security since 2003.
- part of excise duties on energy products to the “CREG” (Electricity and Gas Regulatory Commission) since 2006.</td></tr>
<tr><td>Tax collector</td><td colspan="3">Federal Public Service Finance, Customs and Excise Administration.</td></tr>
<tr><td rowspan="2">Tax revenue</td><td>2013 tax revenue in millions of euro</td><td>Tax revenue as % of GDP</td><td>Tax revenue as % of total tax revenue</td></tr>
<tr><td>7,212.4</td><td>1.8%</td><td>5.9%</td></tr>
</table>

The packaging charge and the environmental charge			
Legal base	The packaging charge and the environmental charge are the object of art. 91-93 and 95, §4 of the special law of 16 July 1993 finalising the federal structure of the State (BOJ of 20 July 1993) and of Book III (articles 369-401*bis*) of the ordinary law of 16 July 1993 aimed at finalising the federal structures of the State (BOJ of 20 July 1993), the amendments thereof and the decrees issued for the implementations of the laws. The environmental charge has been abolished as from 1 January 2015.		
Who sets	the tax rate	the tax base	reliefs
	Federal authority	Federal authority	Federal authority
Beneficiary	Federal authority, but part of the packaging charge to Social Security since 2005.		
Tax collector	Federal Public Service Finance		
Tax revenue	2013 tax revenue in millions of euro	Tax revenue as % of GDP	Tax revenue as % of total tax revenue
	346.3	0.1%	0.3%

<table>
<tr><th colspan="5">Taxes assimilated to income taxes</th></tr>
<tr><td>Legal base</td><td colspan="4">These taxes are laid down and regulated by the Code of taxes assimilated to income taxes and by the decrees issued for its implementation. As far as the Flemish Region is concerned, the circulation tax, the tax on the entry into service and the Eurovignette are laid down and regulated by the “Vlaamse Codex Fiscaliteit” (Flemish Tax Code) and by the decrees issued for its implementation.</td></tr>
<tr><td rowspan="3">Who sets</td><td></td><td>the tax rate</td><td>the tax base</td><td>reliefs</td></tr>
<tr><td>1. Circulation tax
2. Tax on the entry into service
3. Eurovignette
4. Betting and gambling tax
5. Gaming machine licence duty</td><td>Regional authority</td><td>Regional authority</td><td>Regional authority</td></tr>
<tr><td>6. Tax on the participation of employees in the benefit or the capital of the company</td><td>Federal authority</td><td>Federal authority</td><td>Federal authority</td></tr>
<tr><td>Beneficiary</td><td>1. Circulation tax</td><td colspan="3">Regional and local authorities

Comment: Taxes on traffic are regional taxes whose administration was assumed by the central authority until 2010 for all regions (see ‘tax collector’). Since 2002 however, regional authorities benefit from all tax revenue except for the local surcharge.

<u>Surcharge in favour of the municipalities</u>:

This surcharge applies to all vehicles liable to the circulation tax, except:
- unscheduled coaches (vehicles which exclusively transport people for a consideration by virtue of a license to supply unscheduled transportation);
- vehicles for which an abatement of the circulation tax was granted for exclusive use within the confines of a port;
- vehicles liable to the daily tax (vehicles used in Belgium with a foreign number plate).

Where applicable, the additional circulation tax (ACT) must be added.</td></tr>
</table>

	2. Tax on the entry into service	Regional authority Until 2010, the central authority assumed the administration of the tax on the entry into service for all regions (see 'tax collector'). Since 2002 however, regional authorities benefit from all tax revenue. No surtaxes can be levied by local authorities.
	3. Eurovignette	Since 2002, regional authorities benefit from all tax revenue.
	4. Betting and gambling tax	Regional authorities benefit from all tax revenue.
	5. Gaming machine licence duty	Regional authorities benefit from all tax revenue.
	6. Tax on the participation of employees in the benefit or the capital of the company	Federal authority and social security Since 2004, about half of the revenue collected is transferred to the National Office of Social Security.

Tax collector	*1. Circulation tax* *2. Tax on the entry into service* *3. Eurovignette*		Until 2010: Federal Public Service Finance As from 2011: Federal Public Service Finance (for the Walloon Region and the Brussels-Capital Region) and the Flemish Region
	4. Betting and gambling tax *5. Gaming machine licence duty*		Until 2009, Federal Public Service Finance Since 2010: Federal Public Service Finance (for the Flemish Region and the Brussels-Capital Region) and the Walloon Region
	6. Tax on the participation of employees in the benefit or the capital of the company		Federal Public Service Finance
Tax revenue	2013 tax revenue in millions of euro	Tax revenue as % of GDP	Tax revenue as % of total tax revenue
	2,357.6	0.6%	1.9 %

CHAPTER ONE
VALUE ADDED TAX (VAT)

What is new?

- ***As from 1 April 2014: VAT rate of 6% on the supply of electricity to household customers.***
- ***As from 1 April 2014: increase from 5,580 euro to 15,000 euro in the threshold relating to the exemption system for certain small entreprises.***
- ***As from 1 May 2014: exemption for services of travel agents with respect to extra-Community travels.***
- ***As from 1 January 2015: new regulation for determining the place of supply of radio and television broadcasting services, telecommunications services and electronically supplied services.***

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 EU Member State (Art. 3);
- 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 EU Member States (Art. 3*bis*).

1.2. Persons liable to VAT

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 8*bis* 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 out (Art. 4).

Public authorities and public bodies are not considered as taxable persons for the activities or transactions in respect of which they engage as public authorities (to this effect they are considered as non-taxable legal persons). They are, however, liable to tax for these activities or transactions where treatment as non-taxable persons would lead to distortions of competition of a certain magnitude (Art. 6).

Furthermore, as far as some activities or transactions are concerned, and inasmuch as they are considerable, public authorities and public bodies are considered as taxable persons in any case. Those activities are for instance telecommunications services, water, gas and electricity supply, transport of goods and individuals, ports, waterways and airports exploitation, and some other activities.

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 buildings and the land on which they stand, 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 motorised land vehicles with an engine of more than 48 cm^3 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.

1.3. Taxable transactions

Taxable activities include the following four major categories:

- supplies of goods (Art. 9 to 17);
- supplies of services (Art. 18 to 22*bis*);
- importations (Art. 23 to 25);
- intra-Community acquisitions of goods (Art. 25*bis* to 25*sexies*).

1.3.1. Supply of goods

Goods and transactions concerned

The term **goods** (Art. 9) shall be understood to mean any tangible good 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.

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

Place of supply of goods

Where the goods are not dispatched or transported, the **place of supply** shall be deemed to be the place where the goods are when the supply takes place (Art. 14, §1).

Where the goods are dispatched or transported by the supplier, the purchaser or a third party, the place of supply shall be deemed to be the place where the goods are at the time when dispatch or transport to the person to whom they are supplied begins. Where the place of departure of the consignment or transport of goods is in a third territory or in a third country, the place of supply shall be deemed to be, as a rule, in the Member State into which the goods were imported in the European Union (Art. 14, §2).

Where the goods are installed or assembled by or on behalf of the supplier, the place of supply shall be deemed to be the place of such an installation or assembly (Art. 14, §3).

Where the supply is made on board ships, aircraft or trains in the course of the part of the transport of passengers effected in the Community, the place of supply shall be deemed to be the point of departure of the transport of passengers (Art. 14, §4).

In the case of the supply of gas through a natural gas system, electricity or heat or refrigeration, the place of supply shall be deemed to be the place where the customer has effective use and consumption of the goods (with exceptions, such as taxpayers whose principal activity is reselling these goods; in this case, the place of supply shall be deemed to be, as a rule, the place where the purchaser has established his business or has a fixed establishment) (Art. 14*bis*);

The place of supply (Art. 15), however, shall always be **in Belgium** where 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 EU Member State to Belgium (system of remote sales - Art. 15, § 1) and if the supply of the goods is carried out for:

- a taxable person benefiting the exemption system (see point 1.9.1) or the flat-rate system for farmers (see point 1.9.2), a taxable person effecting exclusively supplies of goods or services non-eligible for the deduction (see point 1.4.2) or a non-taxable legal person, who are exempted for the intra-Community acquisition in Belgium of these goods (up to the exempted amount of 11,200 euro, excluding VAT, see below);
- any other non-taxable person.

For the supply of goods *other than excise goods* (viz. energy products (except for gas supplied by a natural gas system), alcohol and alcoholic beverages, as well as manufactured tobacco) **for a total amount per calendar year not exceeding 35,000 euro** (excluding VAT), the place of supply shall be in this case Belgium only if the supplier (for example, a mail-order selling firm established in another EU Member State) **chooses to be taxed in Belgium**.

Taxable event and chargeability of VAT

As a rule, the tax becomes due (**"taxable event"**) (Art. 16) at the time of delivery of the goods. In certain cases, however, another arrangement may apply (deferred payment until the 15th day of the following month if no invoice has been issued by that time [for intra-Community transactions], chargeability arising upon all of part of cashing, expiry of each period to which an account statement or a payment relates, e.g. for continuing supplies) (Art. 16 and 17).

1.3.2. Supply of services

Services concerned

A **service** is defined as any operation other than the supply of goods within the meaning of the VAT Code (Art. 18).

Some examples of the services mentioned explicitly are notably:

- 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 some tangible property 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;
- radio and television broadcasting services and telecommunications services;
- the granting of the right of access to traffic routes and to the corresponding civil engineering works;
- electronically supplied services.

A service for a consideration shall be deemed to also include notably 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).

Place of supply of services

As far as the **place where a service is supplied** (Art. 21 to 21*ter*) is concerned, a distinction must be made according to the customer's status.

a) Where the customer is *a taxable person, a hybrid taxable person or a non-taxable legal person identified for VAT purposes*, the place of supply of the service is the place where the customer has established his business or the place where he has a fixed establishment to which the service is supplied.

There are some exceptions to that rule (Art. 21), for example:

- the place where the immovable property is located for services relating to immovable property by nature;
- for passengers transport: the place where the transport takes place, proportionate to the distances covered;
- the place where the event or activity actually takes place (granting access to some events, activities and services linked to these events or activities);
- the place where the service is physically supplied (restaurant and catering services, with some exceptions);
- the place where the means of transport is actually put at the customer's disposal (short-term hiring);
- the place of departure of the passengers transport (restaurant and catering services on board ships, aircrafts or trains during the section of the transport within the European Union).

b) Where the customer is another *non-taxable person* than those above-mentioned sub. a), the place of supply of the service is the place where the supplier has established his business or the place where he has a fixed establishment from which the service is supplied.

There are also a lot of exceptions to that rule (Art. 21*bis*), for example:

- the place where the immovable property is located for services relating to immovable property by nature;
- for passengers transport: the place where the transport takes place, proportionate to the distances covered;
- for transport of goods with the exception of intra-Community transport: the place where the transport takes place, proportionate to the distances covered (for intra-Community transport: the place of departure is taken into consideration);
- the place where the event or activity actually takes place (granting access to some events, activities and services linked to these events or activities);
- the place where the service is physically supplied (restaurant and catering services, with some exceptions; ancillary transport services; valuations of and work on movable property);

- the place where the means of transport is actually put at the customer's disposal (short-term hiring);
- the place where the customer is established (hiring of means of transport other than short-term hiring; however, as far as pleasure sea-crafts are concerned, the place of supply of the service shall be deemed to be, under certain conditions, the place where the sea-craft is actually put at disposal);
- the place of departure of the passengers transport (restaurant and catering services on board ships, aircrafts or trains during the section of the transport within the European Union);
- the place where the customer is established, e.g.:
  - for telecommunications services, radio and television broadcasting services and electronically supplied services;
  - for services supplied to a customer established outside the European Union and relating to:
    - advertising;
    - the services of consultants, lawyers, accountants, etc.;
    - banking, financial and insurance transactions;
    - the supply of staff;
    - the hiring out of movable property (with the exception of the means of transport);
    - the provision of access to natural gas systems located on the territory of the European Union or to networks connected thereto, to electricity systems, or to heating or cooling networks, or to transport or distribution by means of those systems or networks, and the supply of other services directly linked thereto, etc.;

Taxable event and chargeability of VAT

The **taxable event** (Art. 22) occurs, as a rule, at the time the service is supplied. The tax is then also due. In certain cases (e.g. all or part of cashing (Art. 22*bis*), or continuing supplies of services), another arrangement may apply.

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** (Art. 23) in the Member State of the EU within the territory of which the goods are located at the time of entry into the Community. 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 *a Member State of the EU other* 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*, §1, paragraph 1).

Intra-Community acquisitions of goods are *not*, however, subject to the VAT in the following cases:

1° where their delivery of these goods in Belgium would be anyway exempted (e.g. acquisitions of sea-going vessels, acquisitions of aircraft mainly for the purpose of international transport, acquisitions of goods for diplomatic of consular establishments, etc.) (Art. 25*ter*, §1, paragraph 2, 1°);

2° if the acquisition is made:

- by a taxable person to whom the exemption arrangements are applicable (certain small enterprises, see point 1.9.1.);
- by certain farms which are subject to a flat-rate system (see point 1.9.2.);
- by 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);
- by a non-taxable legal person;

and this within the limits of a total amount per calendar year of **11,200 euro** (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 (Art. 25*ter*, §1, paragraph 2, 2°);

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, are dispatched or transported directly to the customer identified in Belgium 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, paragraph 2, 3°);

4° if we are concerned with used goods, works of art, collectors' pieces, antiques and used means of transport, 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 profit margin (see Art. 58, §4), as well as in a number of other cases (Art. 25*ter*, §1, paragraph 2, 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. 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 (Art. 25*quinquies*).

The **taxable event** takes place at the time the intra-Community acquisition of goods occurs. This time is determined according to the same rules as those applied to the delivery of goods in the country (Art. 25*sexies*, §1 and Art. 16). The tax shall become chargeable on the 15th day of the month following that in which the taxable event occurred, unless the invoice for the delivery/acquisition was issued to the purchaser before that date. In this case, the tax shall become chargeable on issue of the invoice (Art. 25*sexies,* §2).

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 exempted activities for which the exemption is based mainly on cultural and social considerations and which do take away from those who carry on these activities the right to deduct VAT levied on the goods and services supplied to them (see point 1.4.2).

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 in Belgium 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 supplies of new means of transport;

- importations, intra-Community acquisitions and supplies of goods placed in Belgium under a warehousing system other than customs warehousing and a certain number of related activities.
- certain importations, intra-Community acquisitions, reimportations and temporary importations and related services (for example, goods placed under certain customs procedures pursuant to Customs regulations);
- supplies of goods and services which take place in another Member State and are exempted in this Member State as a result of national provisions transposing the VAT Directive;
- international transportation of passengers by sea or air;
- services of travel agents with respect to extra-Community travels;
- international transportation of goods originating from non-EU countries and certain related activities (for example loading and unloading);
- certain deliveries of sea-going ships and vessels, commercial inland waterway vessels, aircraft, seaplanes, helicopters and similar craft, as well as certain related activities;
- certain deliveries, intra-Community acquisitions and importations of goods and services for diplomatic and consular missions and for specified international organisations;
- the deliveries, intra-Community acquisitions and importations of gold to central banks.

1.4.2. Other exemptions

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

These are *notably*:

- services provided by the medical and certain paramedical professions;
- services provided by hospitals and similar establishments;
- services related to social work, social security or protection of children and young people, where provided by public bodies or other registered social establishments (e.g. care of the elderly, childcare, care of the disabled, home help, health insurance funds, etc.);
- services provided by certain sports establishments;
- school or university education, vocational training or retraining by public bodies or assimilated bodies which do not systematically aim at making profits, and lessons given, on a personal basis, by teachers and relating to school or university education;
- services provided by certain other social and cultural institutions, such as libraries, theatres, cinemas (under certain conditions);
- services provided by authors, artists and interpreters of works of art;

- a supply of real property which is immovable by nature, *except* the supply of *buildings and the land on which they stand* by certain taxable persons and occurring not later than December 31st of the second year following the one in which the building was first placed into service or entered into first possession. Similar rules apply to the establishment and transfer of rights *in rem*;
- lease-farming and renting of real property (except the provision of parking space and space for storing goods, hotels and camp sites, the supply of immovable property by nature made available for operating ports, waterways and airports, the supply of permanently fixed equipment and machines, and the leasing, under 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;
- a supply of post-stamps for the payment of postage, of revenue stamps and the like;
- betting, lotteries and other chance and money games (under certain conditions);
- services provided by the universal postal services and supplies of goods incidental thereto;
- the supply, intra-Community acquisition and importation of investment gold, under the conditions of Art. 44*bis*.

1.5. The tax base

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

As a rule, the tax base 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 also includes the commission, insurance and transportation costs as well as the taxes (except the VAT itself), duties and levies (Art. 26).

The tax base does not include, however, the discount, price reductions, interest due in case of late payment, deposits on packaging, the VAT itself, 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 (where the basis is, in principle, the *normal value* - Art. 32) and to the services of travel agencies (Art. 29, §2), etc.

There is a minimum tax base for certain goods and services, such as for new buildings (Art. 36).

1.6. The VAT rates

1.6.1. General points

The VAT is calculated on the tax base 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 (cashing) (Art. 38).

The standard VAT rate amounts to **21%** and applies to goods and services which are not explicitly mentioned in one of the tables A or B of the Annex to Royal Decree No 20 of 20 July 1970, establishing VAT rates and the classification of goods and services under these rates.

In addition to the standard VAT rate, there are two reduced rates amounting to 6% and 12% and applying to a certain number of goods and services which are respectively mentioned in the above-mentioned Table A or B.

1.6.2. The reduced rate of 6%

Table A of the above-mentioned Annex to Royal Decree No 20 lists the various categories of goods and services to which the reduced rate of 6% applies. However, this reduced rate **does not** apply where the services listed in table A are incidentally part of a complex agreement which relates essentially to other services.

It concerns notably:

a) the following goods:

- live animals (for instance: bovine, swine, sheep, goats, some horses, poultry, etc.) (Section I)
- meat and meat offal (Section II)
- fish, crustaceans, shellfish and molluscs, with the exception of caviar and caviar substitutes, spiny lobsters, lobsters, crabs, crayfish and oysters, and preparations and ready-made meals containing spiny lobsters, lobsters, crabs, crayfish and oysters (Section III)
- milk and dairy products; eggs; honey (Section IV)
- edible vegetables, plants, roots and tubers (Section V)
- edible fruit; peel of citrus fruit or melons (Section VI)
- vegetable products (for instance: cereals, seeds, live trees, bulbs, corms, roots and other plants for ornamental horticulture, fresh cut flowers and fresh ornamental foliage, etc.), with the exception of goods offered for sale as dog, cat and some other animals food (Section VII)
- products of the milling industry; malt; starches, with the exception of goods offered for sale as dog, cat and some other animals food (Section VIII)
- fats and oils (animal or vegetable fats and oils, and prepared edible fats with the exception of margarine) (Section IX)
- other foodstuffs (for instance: coffee, tea, spices, sugars, chocolate, etc., with the exception of beer with an alcoholic strength by volume exceeding 0.5% or any other beverage with an alcoholic strength by volume exceeding 1.2% (Section X)
- animal fodder and waste; fertiliser; animal products with the exception of goods offered for sale as dog, cat and some other animals food (Section XII)
- water supply (Section XIII)
- medicines and medical appliances (Section XVII)
- newspapers, periodicals and books, with the exception of works published for advertising purposes or essentially focused on advertising (Section XIX)
- works of art, collectors' pieces and antiques (only for importation of certain works of art, collectors' pieces and antiques specified, as well as for certain supplies and intra-Community acquisitions of works of art specified, under certain conditions) (Section XXI)

- motor cars for invalids; spare parts, equipment and accessories for those cars, see also hereafter (Section XXII). Under certain conditions, the invoiced VAT on the acquisition or importation of motor cars for invalids, is refunded to those persons (Art. 77, § 2, VAT Code)
- miscellaneous goods (for instance: coffins, orthopaedic appliances, walking frames, wheel chairs and similar vehicles for invalids or sick people, etc.) (Section XXIII)
- supplies of goods by institutions for social promotion (Section XXIII*bis)*

b) the following services:

- agricultural services, with the exception of services relating to animals not mentioned in Section I, and of gardening companies (Section XXIV)
- transport of persons, and unchecked luggage and animals accompanying passengers (Section XXV)
- maintenance and repair of motor cars for invalids and most of goods mentioned in Section XXIII (Section XXVI)
- establishments for culture, sports and entertainment, with the exception of granting the right to make use of automated recreation devices and providing movable goods (Section XXVIII)
- copyrights; performing concerts and shows, with the exception of services relating to advertising (Section XXIX)
- hotels and camping sites (Section XXX)
- construction work relating to private dwellings which are at least 15 years old (Section XXXI)
- private dwellings for handicapped persons (Section XXXII)
- institutions for handicapped persons (Section XXXIII)
- miscellaneous services (hire of most of goods mentioned in Section XXIII, services performed by funeral directors, with some exceptions) (Section XXXIV)
- services supplied by institutions for social promotion (Section XXXV)
- housing in the framework of social policy, by regional housing companies, social housing companies agreed by them and by the funds agreed by the regional Housing Codes (Section XXXVI)
- demolition and rebuilding of dwellings in urban territories (Section XXXVII)
- renovation and repair of private dwellings (Section XXXVIII)
- small repair services (repair of bicycles, shoes and leather goods, repair and alteration of clothing and household linen) (Section XXXIX)

*Temporarily as from 1 April 2014 (Art. 1*bis *Royal Decree 20)*

The 6% rate applies temporarily to the supply of electricity to household customers.

1.6.3. The reduced rate of 12%

Table B of the above-mentioned Annex to Royal Decree no 20 lists the various categories of goods and services to which the reduced rate of 12% applies:

- restaurant and catering services, with the exception of the supply of drinks (Section I)
- phytopharmacology (Section III)
- margarine (Section VI)

- tyres and tubes for wheels of agricultural machines and tractors, with the exception of tyres and tubes for wheels of forestry tractors and pedestrian-controlled tractors (Section VII)
- certain solid fuels (i.e. notably coal, brown coal and coke, etc.) (Section VIII)
- housing in the framework of social policy, by notably provinces, municipalities, public social assistance centres and certain other persons governed by public or private law, such as housing supplied by public social assistance centres, managers of accommodation facilities for elderly, residential schools, youth protection centres, refuges for people with major difficulties, psychiatric nursing homes, “habitations protégées” (i.e. refuges for persons with psychiatric difficulties) (Section X)

1.6.4. Daily papers and some periodicals

Supplies, intra-Community acquisitions and importations of daily papers and periodicals containing general information and published at least 48 times a year, are exempted from VAT but keep the deduction right from their supply by the publisher until their arrival to the reader.

A concrete and more detailed description of all the above-mentioned categories is to be found in the above-mentioned Royal Decree No 20 and in the complementary legislation and circulars on the subject.

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 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 (a) in economic activities *subject* to VAT or (b) 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) and (c) in some other cases (Art. 45, §1, 1*ter* and 1*quater*).

As regards immovable property by nature and other capital goods and services subject to revision, which are part of the taxable person’s business assets and are also used for other purposes than the economic activity carried out by the company, only the VAT relating to the economic activity can be deducted (Art. 45, §1*quinquies*).

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* and Art. 39*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. For example, the deduction of VAT for the purchase of cars and car related supplies (for example fuel, oil,...) and services (for example maintenance, repairs,...) is limited to a maximum of 50%, in most cases. For the supply and intra-Community acquisition of manufactured tobaccos, spirits for end consumption and certain expenses relating to accommodation, food and drinks, among other things, no deduction of VAT is allowed (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 profit margin (Art. 45, §5).

For "hybrid taxable persons", 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 (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 (Art. 48).

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 keeping accounting records, issuing of invoices, filing of annual client lists, submitting of VAT returns and payment of VAT. For certain taxable persons, 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 most taxable persons, except, for instance, to those taxable persons carrying out exclusively supplies in respect of which VAT is not deductible. Those taxable persons who are not assigned such a VAT identification number as well as non-taxable legal persons will also be assigned such a VAT identification number when their intra-Community acquisitions of goods exceed 11,200 euro (excl. VAT) or when they declare to submit to VAT all their intra-Community acquisitions (Art. 50).

In addition to the application for identification and the notifications of modification or cessation of an activity, taxable persons must, in principle, file a monthly VAT return (showing the VAT to be paid and deducted) and pay the amount due every month. The return must be submitted and the payment must be made by the 20th of the following month at the latest. On 24 December at the latest, a deposit must be paid in respect of the VAT which will be payable for that month (Art. 53).

However, taxable persons whose turnover does not exceed 2,500,000 euro (excl. VAT) a year may, if they comply with certain rules, submit quarterly VAT returns.

This provision does not apply to taxpayers whose overall annual turnover (less VAT) exceeds 250,000 euro in respect of their supplies of energy products, mobile telephone equipment, computers with their peripherals, accessories and components, and motorised land vehicles subject to registration.

Taxpayers submitting quarterly returns 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.

Taxable persons submitting a VAT return, must send the return and both lists mentioned hereafter online. However, they are discharged from this obligation as long as they have no computer at their disposal to fulfil this obligation.

Finally, taxable persons must also yearly submit a list of the Belgian taxable persons to whom they supplied services or goods (Art. 53*quinquies*). As regards intra-Community deliveries and services for which the VAT must be paid by the recipient, an intra-Community statement must be monthly submitted (Art. 53*sexies*). Subject to certain conditions, this intra-Community statement can be quarterly submitted (Art. 53*octies*).

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 and Art. 56*bis*.

There is first the **flat-rate system** for small enterprises (Art. 56). This system applies only to enterprises which deal mainly with private individuals, which have a turnover not exceeding 750,000 euro (excl. VAT) 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 (cf. Royal Decree No 2 of 7 November 1969 fixing VAT presumptive taxation).

In addition there is also the **tax exemption** for the supply of goods and services by enterprises whose annual turnover does not exceed 15,000 euro (excl. VAT – Art. 56*bis*). They are not entitled, however, to deduct the VAT on their purchases. This exemption system does, inter alia, not apply to certain immovable transactions or to certain transactions with new means of transport and to some other transactions (notably in the building, Horeca and recovery sectors). 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 (cf. Royal Decree No 19 of 29 June 2014 relating to the VAT exemption scheme in favour of small enterprises).

1.9.2. The special system for certain farms

This special system is governed by Art. 57.

Farms are not required to fulfil the obligations relating to invoicing, returns and the payment of VAT, except in respect of their intra-Community purchases exceeding the threshold of 11,200 euro (excl. VAT).

If the contracting partner is a taxable person who submits returns, the latter pays the farm 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, under certain conditions, to deduct this fixed compensation from the VAT which he owes the Treasury.

Farms can opt for the normal VAT system. The normal system is compulsory, however, for certain farms (for example those which are in the form of a commercial company) (cf. Royal Decree No 22 of 15 September 1970 relating to the special VAT scheme applicable to farms).

1.9.3. Special systems applicable to telecommunications services, radio and television broadcasting services and services electronically supplied to non-taxable persons

Those special systems originate from Art. 58*bis*, 58*ter* and 58*quater.*

Telecommunications services, radio and television broadcasting services and services electronically supplied to non-taxable persons take place where the customer is established or in his home or usual residence (= Member State of consumption).

In order to be more able to fulfil his VAT obligations and to avoid to identify himself in each Member State, the service provider can designate only one identification Member State as being the only electronic contact point for the VAT identification, the submission of th VAT return and the payment of the VAT due in each Member State of consumption.

As well the taxable person who is not established in the Community (Art. 58*ter*) as the one established in the Community but in another Member State than the Member State of consumption (Art. 58*quater*) can choose this special system.

1.9.4. Other special systems

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

Special taxation regimes have been implemented, for instance, for *manufactured tobacco* (VAT levied together with the excise duty - Art. 58, §1), for importation of *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) and for the *importation of goods which are sent in small consignments or carried in the luggage of travellers* (flat-rate calculation - Art. 58, §3).

In addition, a number of taxable persons *in certain sectors* can, under certain conditions, be discharged from specific VAT obligations: 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, for instance, the case for certain inland navigation service providers, 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, for instance for certain independent press correspondents.

1.9.5. The special VAT return

A 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 11,200 euro (excl. VAT) a 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) for the transactions referred to above (notably the intra-Community acquisition of goods).

The persons concerned must, *before* they carry out 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 after the quarter in which the VAT became due. As from 1 April 2013, this special return can also be filed electronically.

CHAPTER TWO
REGISTRATION DUTIES, MORTGAGE DUTIES, COURT FEES AND THE REGISTRATION TAX

What is new?

- ***As far as the Walloon Region is concerned: simplified application of reduced donation duties on movable assets.***
- ***As far as the Flemish Region is concerned: new terminology as regards some registration duties; a part of the legislative provisions as regards registration duties are now included in the "Vlaamse Codex Fiscaliteit" (Flemish Tax Code).***
- ***As far as the Flemish Region is concerned: extention until 2019 for the application of the reduced rate of the donation tax on building land; decrease to 1% in the share duty due on sharing out in the event of divorce or termination of legal cohabitation.***

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.

As far as the Flemish Region is concerned: some of those taxes (i.e. the donation tax, the sales duty, the share duty and the duty on mortgage creation) are fixed and regulated in the "Vlaamse Codex Fiscaliteit". As from 1 January 2015, the Flemish Region has also become competent to service those taxes.

2.1. Registration duties and the registration tax

Registration duties (and the registration tax in the Flemish Region) 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 or on any other data medium determined by Royal Decree.

The following must be registered, among others:

- deeds drawn up by Belgian notaries;
- other writs and reports by Belgian bailiffs than protests;
- decisions and judgments issued by Belgian courts and tribunals which contain dispositions subject to proportional duty for transfer against payment;
- 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 abroad relating to the contribution of movable or immovable assets to Belgian companies which are legal persons.

The King can rule that certain kinds of deeds drawn up by notaries and bailiffs shall be exempted 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 or relating to the transfer of assets to a Belgian company which is a legal person.

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

In the Flemish Region, some of those proportional duties are called otherwise in certain cases: the donation tax, the sales duty, the share duty and the duty on mortgage creation. Those four taxes together are called “the registration tax”.

In respect of certain deeds (such as certain transfers of real estate intended exclusively for education; leases, underleases or assignment of leases relating to real estate or parts of real estate which are located in Belgium and intended to be exclusively a single person or single family lodging), the registration is free of charges.

Registration duties are to be paid in principle before deed registration by the registry office concerned.

In the Flemish Region, the taxpayer must pay the *registration tax* immediately after the transmission of the tax assessment notice.

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 and expenses. The taxable value cannot, however, be lower than the market value of the property as of the day of the agreement.

However, in the *Walloon Region*, expenses regarding studies relating to investigation costs on polluted or potentially polluted grounds and to drainage deeds or work, are not taken into consideration in the taxable value.

In the *Flemish Region*, a **sales duty** of **10%** is levied on those operations.

Except for the Brussels-Capital Region, sales of certain small rural properties and modest dwellings entitle to a reduced rate of duty. The duty amounts to **6%** in the Walloon Region. In the Flemish Region, a sales duty applies in those cases at a reduced rate of **5%**. There are also other reduced duties which are applicable to other operations.

In the *Walloon Region*, the duty amounting to 6% for modest dwellings and small rural properties is however reduced to 5% where a mortgage loan is granted, in the framework of the sale, to the buyer by the “*Société wallonne du Crédit social*", the “*Guichets du Crédit social*” or the “*Fonds du Logement des Familles nombreuses de Wallonie*”. Where this reduction to 5% does not apply, the taxable base entitling to the 6%-rate is limited to 160,431.53 euro in areas of housing pressure and to 150,404.55 euro outside those areas. The balance of the taxable base is taxed at the standard rate.

In the *Flemish Region*, the tax base can, under certain conditions, be diminished by 15,000 euro in respect of acquisitions, by natural persons, of real estate intended to be used as their main residence. This standard relief is called 'abatement'. If a mortgage is created on the acquired real estate in order to finance this acquisition (building, planning or renovation works), this abatement is increased, under certain conditions, by 10,000 euro where the 10% sales duty applies and by 20,000 euro where the 5% sales duty applies (cf. notably Art. 2.9.3.0.2 of the "Vlaamse Codex Fiscaliteit").

In addition to the regulation in respect of this abatement, the Flemish Region applies 'portability' of sales duties formerly paid. When a natural person sells or splits up his main residence and acquires within two years a new real estate (house or building lot) intended to become his new main residence [and this within two years (house) or five years (building lot)], the initial sales duties paid formerly are deductible, under certain conditions and within certain limits, from the duties to be paid in respect of the new acquisition intended to be his new main residence. This is called portability in the form of deduction (see notably Art. 2.9.5.0.1 to 2.9.5.0.3 included of the "Vlaamse Codex Fiscaliteit").

Besides, there is a portability in the form of reimbursement. The latter can be applied for where the natural person only sells or splits up his main residence after acquiring the building lot or house intended to become his new residence. The sale or splitting has to take place within two years after the acquisition of the dwelling or five years in the case of an acquisition of a building lot intended to be used as his new main residence (cf. notably Art. 3.6.0.0.6 of the "Vlaamse Codex Fiscaliteit"). The tax advantage is the same in both forms of portability (maximum 12,500 euro).

The abatement cannot be combined with the portability.

In the *Brussels-Capital Region*, the tax base is, under certain conditions, reduced by 60,000 euro in respect of acquisitions, by natural persons, of real estate (other than a building lot) aimed at being their main residence. This reduction is brought to 75,000 euro when the real estate is situated in an area allotted for enlarged development of housing or urban renovation. These areas have been determined in legal provisions laid out by the Brussels-Capital Region.

In certain cases (e.g. certain resales) and under certain conditions, the duties levied may be entirely or partly refunded.

B. 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.

C. 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 assimilated operations. This duty is levied on the basis of the cumulated amount of rent and charges.

In the case of lease, sub-lease and transfer of lease in respect of real estate (or parts of buildings) located in Belgium which is used exclusively for the accommodation of a family or a single person, the registration duties for the contracts are nil.

However, the rate for hunting and fishing leases amounts to 1.5%. As regards agreements establishing long lease rights or building rights, and their transfer, the rate is 2%, except where non-profit organisations or similar legal persons become holders of the long lease rights or building rights; in this case the rate has been fixed at 0.50%.

D. Creation of mortgage

The creation of mortgage on real estate located in Belgium is liable to a **1%** duty (in the Flemish Region: "duty on mortgage creation") calculated on the amount guaranteed by the mortgage. A 0.5% rate is applicable to creations of mortgage on vessels **not** intended by nature to be seagoing vessels, to the giving in pledge of a business and to the creation of farming privileges. Creations of mortgage on vessels intended by nature to be seagoing vessels are not chargeable to these duties.

In the *Walloon Region*, the duty is reduced to 0% if the mortgage secures an Eco-loan granted by the "Société wallonne du Crédit social", the "Guichets du Crédit social" or the "Fonds du Logement des Familles nombreuses de Wallonie".

E. Division of real estate

In the *Walloon Region* and in the *Brussels-Capital Region,* a duty amounting to **1%** is levied on 1° the total or partial divisions of real estate, 2° transfers for a consideration, between co-owners, of undivided shares in real estate, and 3° certain conversions of rights on real estate (Art. 109 of the Code of Registration Duties, Mortgage Duties and Court Fees, as applicable in the Walloon Region and in the Brussels-Capital Region).

In the *Flemish Region*, a **share duty** amounting to **2.5%** is levied on the above-mentioned operations. However, as far as the operations mentioned under 1° and 2° above are concerned, the tax base is reduced, in certain cases and provided certain conditions are met, by 50,000 euro and by an extra amount of 20,000 euro by child taken into consideration (see notably Art. 2.10.1.0.1, 2.10.3.0.2 and 2.10.4.0.1 of the "Vlaamse Codex Fiscaliteit").

The share duty is reduced to **1%** for the operations mentioned under 1° and 2° above, for sharing out in the event of divorce by mutual consent, for a shared liquidation after divorce on the grounds of irreconcilable differences or a share resulting from the termination of the legal cohabitation, within a 1 year period, provided that, on the date of the termination of the legal cohabitation, the persons have been legally living together for at least one year without interruption (see notably Art. 2.10.4.0.1 of the "Vlaamse Codex Fiscaliteit").

F. Contribution of assets to Belgian companies and capital increase of Belgian companies (capital duty)

The registration duty on the contribution of assets to Belgian companies was reduced to nil as from January 1st, 2006 by the Act of June 22nd, 2005 (BOJ June 30th, 2005, first edition) introducing a tax allowance for corporate equity.

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 (in the Flemish Region: to the 10% sales duty) when the contribution is made by natural persons.

The registration duty on the increase in statutory capital of a Belgian company, without contribution of new assets, was reduced to nil as from January 1st, 2006 by the Act of June 22nd, 2005 (BOJ June 30th, 2005, first edition) introducing a tax allowance for corporate equity.

G. Donations

Donation duties (in the Flemish Region: donation tax) apply to all donations of movable and immovable assets, regardless of their form, their object or their arrangements and of the manner in which they are carried out. The manual donation (including the bank donation) is an exception to that principle.

This donation duty or donation tax is calculated on the market value of the donated goods, in principle without deduction of expenses. In the *Walloon Region*, expenses resulting from investigation and draining requirements on polluted or potentially polluted grounds, including demolition and restoration costs linked to this draining operation, are deducted.

The rate can differ from one Region to another.

In respect of donations made by an *inhabitant of the Kingdom*, the rate to be applied is the rate applying in the Region where the donor has established his fiscal residence at the moment of the donation. If the donor's fiscal residence had been situated in more than one place in Belgium during the period of five years preceding the donation, the longest residence determines the Region whose rates will be applicable. In respect of donations of real estate situated in Belgium by a person who is *not an inhabitant of the Kingdom*, the rate to be applied is the one applying in the Region where the real estate is situated.

1. RATES OF THE DONATION TAX IN THE FLEMISH REGION

In the Flemish Region a distinction is made between donations of immovable property, movable property and undertakings.

As regards donations of *immovable property*, a donation tax is levied on the gross part of each of the donees; it is calculated according to the tables I and II here after.

TABLE I - Donations of immovable property between lineal relatives and between partners

Portion of value of the donation in euro		Tax rates in %
From	Up to (and including)	Lineal and between partners
0.01	12,500	3
12,500.01	25,000	4
25,000.01	50,000	5
50,000.01	100,000	7
100,000.01	150,000	10
150,000.01	200,000	14
200,000.01	250,000	18
250,000.01	500,000	24
500,000.01	above	30

TABLE II - Donations of immovable property to collaterals and non-relatives

Portion of value of the donation in euro		Tax rate in %		
from	Up to (and including)	Between brothers and sisters	Between uncles, aunts, nephews and nieces	Between any other persons
0.01	12,500	20	25	30
12,500.01	25,000	25	30	35
25,000.01	75,000	35	40	50
75,000.01	175,000	50	55	65
175,000.01	above	65	70	80

The tax is calculated per donee and per portion of the donation.

In respect of donations of *land* the town and country planning provisions have designed as building land, special rates apply, under certain conditions, to a natural person's gross portion in the donated land, when notarial deeds drawn up between 1 January 2012 and 31 December 2019 are concerned.

TABLE III - Donations of building land between lineal relatives and between partners

Portion of value of the donation in euro		Tax rate in %
From	Up to (and including)	Lineal and between partners
0.01	12,500	1
12,500.01	25,000	2
25,000.01	50,000	3
50,000.01	100,000	5
100,000.01	150,000	8
150,000.01	200,000	14
200,000.01	250,000	18
250,000.01	500,000	24
500,000.01	above	30

TABLE IV - Donations of building land between collaterals and between non-relatives

Portion of value of the donation in euro		Tax rate in %		
From	Up to (and including)	Between brothers and sisters	Between uncles, aunts, nephews and nieces	Between any other persons
0.01	150,000	10	10	10
150,000.01	175,000	50	55	65
175,000.01	above	65	70	80

The tax is calculated per donee and per portion of the donation.

As regards donations of *movable property*, a **3%** tax is levied on the gross part of each of the donees in respect of donations between lineal relatives or between partners, and a **7%** tax in respect of donations between collaterals or non-relatives. However, donations of movable property made under the suspensive condition that the donor deceases before the donee, are assimilated to legacies and are subject to inheritance tax (see further, chapter 3).

With respect to donation tax, the word "partner" shall be construed as being:

1° the person who, on the date of the donation, is married with the donor;

2° the person who, on the date of the donation, in compliance with the provisions of Book III, Title V*bis* of the Civil Code, legally cohabits with the donor;

3° the persons who, on the date of the donation, have been living together with the donor, sharing his household, for at least one year without interruption (three years for the application of the rate on donations of assets of family businesses or shares of family companies, see hereafter). These conditions are also deemed to be met when the cohabitation and the sharing of the household have become impossible, due to force majeure, between the cohabitation period of one (or three) uninterrupted year(s) and the date of the gift. A certificate of residence holds a refutable assumption of uninterrupted cohabitation and shared household.

"Donations between lineal relatives" means:

1. donations between persons who are descended from each other, in compliance with Art. 736 of the Civil Code, or between persons who, as a consequence of full adoption in compliance with Art. 356-1 of the Civil Code, have a status including the same rights and obligations;
2. under certain conditions, donations between a person and his/her partner's child;
3. donations between persons who are or were linked by a relationship foster parents/foster children. Such a relationship shall be deemed to exist or have existed where someone has cohabited, before having reached 21 years old and for three consecutive years, with another person and has received during this period from principally this other person or this other person and his/her partner assistance and care which are usually provided to children by their parents. The registration of the foster child in the population register or in the register of aliens at the foster parent's address, is a rebuttable presumption of the cohabitation with the foster parent;
4. under certain conditions, donations resulting from relationship as a consequence of simple adoption;
5. donations between ex-partners if there are common descendants.

Certain donations of the full ownership, bare ownership or usufruct of the assets of family businesses or shares of family companies, are exempted from the donation tax, subject to a whole series of conditions. This exemption does not apply to transfers of immovable property essentially used or intended to be used as a dwelling. Conditions and implementations are described in the "Vlaamse Codex Fiscaliteit".

2. RATES OF DONATION DUTIES IN THE WALLOON REGION

In the Walloon Region, a distinction is made between the general system and the conditional system applying to donations of movable property, dwellings or businesses.

In the *general system*, a duty is levied on the gross part of each of the donees; it is calculated according to the tables I and II hereafter.

TABLE I - Donations between lineal relatives, between spouses and between legal cohabitants – General system

Portion of value of the donation in euro		Tax rates in %
From	Up to (and including)	Lineal, between spouses and between legal cohabitants
0.01	12,500	3
12,500	25,000	4
25,000	50,000	5
50,000	100,000	7
100,000	150,000	10
150,000	200,000	14
200,000	250,000	18
250,000	500,000	24
above	500,000	30

TABLE II - Donations between collaterals and between non-relatives General system

Portion of value of the donation in euro		Tax rate in %		
From	Up to (and including)	Between brothers and sisters	Between uncles or aunts and nephews or nieces	Between any other persons
0.01	12,500	20	25	30
12,500	25,000	25	30	35
25,000	75,000	35	40	60
75,000	175,000	50	55	80
above	175,000	65	70	80

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

“Spouses” and “legal cohabitants” are defined as follows:

- “spouse” means the person who, on the date of the donation, was married to the donor, in accordance with the provisions of Book I, Title V, of the Civil Code, and the person who, on the date of the donation, was married to the donor, in accordance with Chapter III of the law on international private law;
- “legal cohabitant” means the person who, on the date of the donation, was domiciled and legally cohabiting with the donor, in accordance with the provisions of Book III, Title V*bis*, of the Civil Code, and the person who, on the date of the donation, was domiciled with the donor or had his/her habitual residence with the donor, within the meaning of Article 4 of the law on international private law, and was living together with the donor, in accordance with Chapter IV of the same law.

For *donations of movable property*, the following proportional rates on the gross part of each of the donees (Art. 131*bis* of the Code, as applicable in the Walloon Region) are due:

- 3.3% on donations between lineal relatives, between spouses or between legal cohabitants;
- 5.5% on donations between brothers and sisters or between uncles/aunts and nephews/nieces;
- 7.7% on donations between other persons.

However, the above-mentioned rates do not apply to donations subject to suspensive conditions realised after the donor's death (Art. 131*bis* of the Code of Registration Duties, Mortgage Duties and Court Fees, as applicable in the Walloon Region).

The preferential rates in Table III may apply to *donations of dwellings* where:

- it is a donation, between lineal relatives, spouses or legal cohabitants, of a 'dwelling', i.e. (a portion of) a real estate that is in the unrestricted ownership of the donor and is intended to be used wholly or partly as a dwelling;
- this dwelling is situated in the Walloon Region;
- it has been, in principle, the donor's main residence for at least five years at the time of the donation.

TABLE III - Donations of dwellings between lineal relatives, spouses or legal cohabitants

Portion of value of the donation in euro		Tax rates in %
From	Up to (and including)	Lineal, between spouses and between legal cohabitants
0.01	25,000	1
25,000	50,000	2
50,000	175,000	5
175,000	250,000	12
250,000	500,000	24
above	500,000	30

A tax exemption amounting to 12,500 euro is granted on the first bracket of the donation (25,000 euro if the donee's gross portion does not exceed 125,000 euro). The value relating to the possible professional share of the immovable property entitling to the rate applied to donations of businesses (see below), is not taken into account when determining the taxable share.

As regards certain donations of businesses and donations of property rights on agricultural land or on shares or securities of certain companies, they are liable, subject to certain conditions, to a **0%** duty. This rate does not apply to immovable property used or intended to be used partially or wholly as a dwelling. Conditions and implementations are described in art. 140*bis* to 140*octies* of the Code of Registration Duties, Mortgage Duties and Court Fees, as applicable in the Walloon Region.

In the Walloon Region, are exempted from donation duties, under certain conditions:

- the value of real estate located within the perimeter of a Natura 2000 site or within the perimeter of a candidate site for the Natura 2000 network;
- the value of growing trees in woodlands and forests;
- the value of stocks and shares of forestry groups, inasmuch as this value relates to growing trees in woodlands and forests.

3. RATES OF DONATION DUTIES IN THE BRUSSELS-CAPITAL REGION

In the Brussels-Capital Region, a distinction is made between donations of immovable property, donations of movable property, donations of dwellings and donations of businesses.

As regards donations of *immovable property* a duty is levied on the gross part of each of the donees; it is calculated according to the tables I to IV hereafter.

TABLE I - Donations of immovable property between lineal relatives, between spouses and between cohabitants

Portion of value of the donation in euro		Tax rates in %
From	Up to (and including)	Lineal and between spouses and between cohabitants
0.01	50,000	3
50,000	100,000	8
100,000	175,000	9
175,000	250,000	18
250,000	500,000	24
above	500,000	30

"Cohabitant" means any person being in a situation of legal cohabitation such as defined in Book III, Title V*bis* of the Civil Code.

TABLE II - Donations of immovable property between brothers and sisters

Portion of value of the donation in euro		Tax rate in %
From	Up to (and including)	Between brothers and sisters
0.01	12,500	20
12,500	25,000	25
25,000	50,000	30
50,000	100,000	40
100,000	175,000	55
175,000	250,000	60
above	250,000	65

TABLE III - Donations of immovable property between uncles or aunts and nephews or nieces

Portion of value of the donation in euro		Tax rate in %
From	Up to (and including)	Between uncles or aunts and nephews or nieces
0.01	50,000	35
50,000	100,000	50
100,000	175,000	60
above	175,000	70

TABLE IV - Donations of immovable property between any other persons

Portion of value of the donation in euro		Tax rate in %
From	Up to (and including)	Between any other persons
0.01	50,000	40
50,000	75,000	55
75,000	175,000	65
above	175,000	80

As regards donations of *movable property*, a 3% duty is levied on the gross part of each of the donees in respect of donations between lineal relatives or between spouses or cohabitants, and a 7% duty in respect of donations between collaterals or non-relatives. However, donations of movable property made under the suspensive condition that the donor deceases before the donee, are assimilated to legacies and are subject to inheritance tax (see further, chapter 3).

As regards donations of *dwellings* the rates of table V can apply. This preferential rate only applies where:

- it is a donation between lineal relatives, between spouses or between cohabitants;
- the donation is a “dwelling” i.e. (a portion of) a real estate intended to be used wholly or partly as a dwelling, and that is in the unrestricted ownership of the donor,
- provided the dwelling is situated in the Brussels-Capital Region.

Donations of building land are explicitly excluded from the preferential rate.

In order to be entitled to the preferential rate, the donee may not be the owner of a dwelling and the donee or one of the other donees have to make certain commitments (see art. 131*bis* of the Code of Registration Duties, Mortgage Duties and Court Fees, as applicable in the Brussels-Capital Region).

TABLE V - Donations of dwellings between lineal relatives, between spouses and between cohabitants

Portion of value of the donation in euro		Tax rate in %
From	Up to (and including)	Lineal, between spouses and between cohabitants
0.01	50,000	2
50,000	100,000	5.3
100,000	175,000	6
175,000	250,000	12
250,000	500,000	24
above	500,000	30

The duty is calculated, on the basis of the above-mentioned tables, per donee and per portion of the donation.

As regards certain donations of *businesses* (full ownership of an industrial, commercial or agricultural undertaking or of a liberal profession), as well as donations of shares of certain companies, they are liable, subject to certain conditions, to a **3%** duty. This rate does not apply to immovable property used or intended to be used partially or wholly as a dwelling. Conditions and implementations are described in art. 140*bis* to 140*octies* of the Code of Registration Duties, Mortgage Duties and Court Fees, as applicable in the Brussels-Capital Region.

4. REDUCED DONATION DUTIES OR DONATION TAX BASED ON THE EXISTENCE OF CHILDREN

In the *Walloon Region* and in the *Brussels-Capital Region*, donees having at least three children under 21 at the time of the donation are entitled to a tax reduction. In the *Flemish Region*, this reduction is granted only on behalf of immovable property not entitled to the special rate for building land.

H. Other operations

Other operations, which are not mentioned here, are also liable to proportional registration duty (for example: 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 VAT liable operations relating to immovable property).

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:

- the permission to change one's first name (490 euro, with possible reduction to 49 euro), the permission to change one's family name (49 euro) or the permission to add another name or a particle to a name or to substitute a small letter for a capital letter (740 euro, with possible reduction to 490 euro);
- the total or partial discharge of mortgage taken out in Belgium: 75 euro;
- deeds or written documents annexed to deeds drawn up by Belgian notaries and writs and reports by Belgian bailiffs: 100 euro for all those annexed documents. If some of those documents require the payment of other registration duties, the registration duties applicable to those documents are due and the specific fixed duties amounting to 100 euro are due for all other documents;
- in the Flemish Region, provided certain conditions are met, the amicable rescission or cancellation of pre-contracts: 10 euro;
- in the Walloon Region, provided certain conditions are met, some conventions relating to rescission of sales, sharings, donations and some other deeds, notably terminated conventions: 10 euro.

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 or in the “Vlaamse Codex Fiscaliteit”, as having been made subject to proportional duty or specific fixed duty, for example, marriage contracts, wills, most appendices to deeds subject to a proportional or fixed duty.

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 **50 euro**.

2.2. Mortgage duty

Mortgage duty is levied on the registration of mortgage and privileges on immovable property. It is **0.3%** of the amount in principal and accessories of sums for which the registration is contracted or renewed (with a minimum) of 5 euro. Certain types of registration (notably those payable by the State) are exempted from mortgage duty.

The duty is to be paid before the mortgage registration.

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 the case and which are levied either per operation or per 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), and *expedition duties* (on expeditions, copies or extracts which are delivered in clerk's offices). There is a whole series of exemptions.

Depending on the cases, miscellaneous rules apply for the payment of duties.

CHAPTER THREE
ESTATE DUTIES AND THE INHERITANCE TAX

What is new?

- ***As far as the Walloon Region is concerned: exemption of the first bracket of 160,000 euro for the dwelling house inherited by the surviving spouse or legal cohabitant.***
- ***As far as the Flemish Region is concerned: new terminology; a part of the legislative provisions in this field are now included in the "Vlaamse Codex Fiscaliteit" (Flemish Tax Code). .***

These duties are laid down and regulated by the Estate Duty Code and the decrees issued for its implementation.

The inheritance tax (inheritance duty and transfer duty) is determined and regulated in the "Vlaamse Codex Fiscaliteit". As from 1 January 2015, the Flemish Region has also become competent to service this tax.

3.1. Estate duties and the inheritance tax

3.1.1 Generalities

In the Walloon Region and in the Brussels-Capital Region, **estate duties** distinguish between the inheritance duty and the transfer duty upon death. In the Flemish Region, the concept of "**inheritance tax**" is used for these duties and includes the inheritance duty and the transfer duty.

The inheritance duty 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** (in the Flemish Region: **transfer duty**) is a tax which is levied on the value relating to immovable property situated in Belgium, collected through the succession of a non-inhabitant of the Kingdom, after deduction of certain debts. In the Walloon Region, it concerns debts specially relating to this property. In the Flemish Region and in the Brussels-Capital Region, debts specifically contracted to acquire or maintain this property are deductible if the deceased was an inhabitant of the EEA. The tariff is the same as that for the inheritance duty (see below).

These duties are calculated by means of a declaration which must be filed by the legal successors within 4, 5 or 6 months after the decease, according as to whether the testator died in Belgium, elsewhere in Europe or outside Europe. In the Flemish Region, these deadlines apply to deaths occurred respectively in Belgium, in another Member State of the European Economic Area or outside the European Economic Area.

The duties have to be paid at the latest two months after the expiry of the period in which the declaration of estate must be filed. However, in the Flemish Region, the amount due must be paid at the latest within two months from the date the tax notice was sent (date mentioned on it).

The property that, according to evidence provided by the administration (in the Flemish Region: the relevant department of the Flemish administration), was put at the deceased's disposal, free of charge, in the three years preceding his death, is considered as part of his inheritance if the donation has not been liable to the registration duty on donations (or the donation tax) (see 2.1.1.G). In the Flemish Region, as far as certain assets of family businesses or shares of family companies are concerned, the three years period is brought to seven years (except for free provisions before 1 January 2012) and a gift exempted from the registration tax is assimilated to a gift liable to the donation tax or the registration duty on donations.

The 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 (155) by each of the heirs,
3. according to the Region to which duties come. Where the deceased was a resident, estate duties come to the Region where his last **fiscal** domicile was located. Where however the deceased had been fiscally domiciled in more than one Region during the last five years preceding his death, the longest-lasting of the domiciliations will determine the Region to which estate duties come. Where the deceased was not a resident, estate duties come to the Region where the estate is located. The taxes are computed according to brackets and tax rates that can differ depending on the Region where they are levied.

3.1.2. Rates and particular provisions per Region

A *Inheritances opened in the Flemish Region*

A.1. GENERAL TAX RATES AND DELIMITATION OF TAX RATE CATEGORIES

TABLE I - Inheritances between lineal relatives and between partners

Bracket of the net acquisition in euro		Tax rates in %
From	Up to (and including)	Upon lineal relatives and between partners
0.01	50,000	3
50,000.01	250,000	9
250,000.01	more than	27

The partner's net share in the real estate being the family dwelling house at the time of death, is no longer taken into account for calculating the taxable net share. However, this exemption does not apply to the partner who is either a testator's lineal assignee or assimilated to a lineal assignee.

155 Exceptions: as regards inheritances opened in the Flemish Region or in the Brussels-Capital Region: where one or more heirs do **not** belong to the groups "lineal relatives, spouses or cohabitants" (in the Flemish Region: "lineal relatives and partners") or "brothers and sisters", the tax rates vary according to the **sum** of the total net shares of these persons (see *infra*).

"Partner" means:

1° the person who, on the date the inheritance is opened, was married with the testator;

2° the person who, on the date the inheritance is opened, in line with the terms of Book III, Title V*bis* of the Civil Code, legally cohabited with the testator;

3° the persons who, on the date the inheritance is opened, cohabited with the testator, sharing his household, for at least one year without interruption (three years for the exemption of the net share in the dwelling house, see above, and for the application of the tariff to acquisitions of assets of family businesses or shares of family companies, see hereafter). These conditions are also deemed to be met when the cohabitation and the sharing of the household have become impossible, due to force majeure, between the cohabitation period of one uninterrupted year (or three years) and the testator's death. A certificate of residence holds a rebuttable assumption of uninterrupted cohabitation and shared household.

"Acquisition between lineal relatives" means:

1. acquisitions between persons who are descended from each other, in compliance with Art. 736 of the Civil Code, or between persons who, as a consequence of full adoption in compliance with Art. 356-1 of the Civil Code, have a status including the same rights and obligations;

2. acquisitions between a person and his/her partner's child. If the acquisition occurs after the partner's death, the latter must still be considered as the partner of the first mentioned person on the date of the death;

3. acquisitions between persons who are or were linked by a relationship foster parents/foster children. Such a relationship shall be deemed to exist or have existed where someone has cohabited, before having reached 21 years old and for three consecutive years, with another person and has received during this period from principally this other person or this other person and his/her partner assistance and care which are usually provided to children by their parents. The registration of the foster child in the population register or in the register of aliens at the foster parent's address, is a rebuttable presumption of the cohabitation with the foster parent;

4. under certain conditions, acquisitions resulting from relationship as a consequence of simple adoption;

5. acquisitions between ex-partners if there are common descendants.

TABLE II - Inheritances between brothers and sisters or between "others"

Bracket of taxable amount in euro		Tax rates in %	
From	Up to (and including)	Between brothers and sisters	Between "others"
0.01	75,000	30	45
75,000.01	125,000	55	55
125,000.01	more than	65	65

"Taxable amount" means:

- as far as brothers and sisters are concerned: the net acquisition of each of the brothers and sisters upon whom the estate devolves;
- as far as "others" are concerned: the **sum** of the net acquisitions devolving upon these persons.

A.2. SPECIAL SCHEMES

1. The following distinction should be made with respect to inheritance tax:
   - if the inheritance devolves upon lineal relatives and/or on the partner, Table I **applies possibly 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 brothers or sisters, table II applies to the global net share of **each of them**;
   - if the inheritance devolves upon other persons, table II applies to the **aggregate** of the global net shares of the assignees of the group (156).

2. The lineal heirs and the partner are entitled to a tax reduction, which is degressive and shall not exceed 500 euro. No reduction shall be allowed for net acquisitions (movable and immovable property considered together) exceeding 50,000 euro. For net acquisitions up to 50,000 euro, the reduction amounts to 500 euro x (1 – net acquisition/50,000). The net share in the dwelling house is not taken into account for calculating the total net acquisition.

3. The testator's brothers and sisters are also entitled to a tax reduction on their net acquisition, inasmuch as it does not exceed 75,000 euro. If the net acquisition does not exceed 18,750 euro, the reduction amounts to 2,000 euro x net acquisition/20,000. If the net acquisition exceeds 18,750 euro but does not exceed 75,000 euro, the reduction amounts to 2,500 euro x (1 – net share/75,000).

4. All other heirs who are neither lineal heirs nor partners, brothers or sisters are entitled to a tax reduction, provided the **sum** of their net acquisitions does not exceed 75,000 euro. That reduction is apportioned between the heirs in proportion to their net acquisition of the inheritance. Where the aggregate of the net acquisitions does not exceed 12,500 euro, the reduction amounts to 2,000 euro x ([aggregate of the net acquisitions]/12,500). Where the aggregate exceeds 12,500 euro but does not exceed 75,000 euro, the reduction amounts to 2,400 euro x (1 - [aggregate of the net acquisitions]/75,000).

5. In order to determine the net acquisitions mentioned sub 2, 3 and 4 above, the exemption for disabled persons (see 7 *infra*) is not taken into consideration. Where applicable, the reduction in the inheritance tax cannot exceed the amount of the inheritance tax due after the granting of the exemption for disabled persons.

156 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 net share of the inheritance that devolves to each of them.

6. There is a 75 euro tax reduction in favour of the children under 21 for each whole year remaining until they reach the age of 21, as well as a tax reduction, in favour of the surviving partner, amounting to half the total amount of the additional reductions to which the common children are entitled. These reductions apply to all net acquisitions, whatever is their amount, and they come on top of the reduction the children are entitled to according to point 2 above.

7. For acquisitions between lineal relatives and partners, an abatment is granted to disabled persons on the basis of the applicable rate (Table I) of the inheritance tax. This abatement, which amounts to 3,000 euro, is to be multiplied by a factor varying from 2 to 18, depending on the age of the assignee. The abatement is first offset against the assignee's net immovable share and then (if this net immovable share is exhausted) against his net movable share and finally (if this net movable share is exhausted) against the taxable base to which the reduced rate for family businesses and family companies applies (see hereafter). In respect of acquisitions devolving to other persons (Table II), the exemption amounts to 1,000 euro, to be multiplied by the above-mentioned factor. If a disabled person is taxable at the Table II rates together with one or more non-disabled persons, this disabled person's tax will be calculated as if he/she was the only person to which his/her net inheritance share devolved. The tax to be paid by the other assignees will be calculated as if the disabled person were not disabled.

8. Social rights in residential real estate investment companies (SICAFI/vastgoedbevaks) recognised by the Flemish government in the framework of the financing and constructing of services providing apartment buildings or residential complexes are exempted from the inheritance duty. To be entitled to this exemption, several conditions must be met, which are enumerated in Art. 2.7.6.0.1 of the "Vlaamse Codex Fiscaliteit" and in the relevant implementing orders by the Flemish government.

9. Provided certain conditions are met, assets of family businesses or shares in family companies which are part of an estate, are liable to the **3%** rate for an acquisition between lineal relatives and between partners, and to the **7%** rate for an acquisition between other persons. Numerous stipulations must be met in order to obtain or maintain this advantage. For further details, reference is made to the "Vlaamse Codex Fiscaliteit". Those reduced rates do not apply to the acquisition of immovable property essentially used or intended to be used as a dwelling.

10. Under certain circumstances (see "Vlaamse Codex Fiscaliteit"), the value of unbuilt immovable property situated in the VEN (Vlaams Ecologisch Netwerk – Flemish Green Network) and of immovable property (land as well as fixtures) to be considered as woodlands is exempted from the inheritance tax.

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

12. All donations of movable property inter vivos made under a suspensive condition that is met when the donor deceases, are assimilated to legacies and are subject to the inheritance duty and not to the donation tax.

B. Inheritances opened in the Walloon Region

B.1. GENERAL TAX RATES AND DELIMITATION OF TAX RATE CATEGORIES

TABLE I - Inheritances between lineal relatives, between spouses and between legal cohabitants

Bracket of the net share in euro		Tax rates in %
From	Up to (and including)	Upon lineal relatives and between spouses and legal cohabitants
0.01	12,500	3
12,500	25,000	4
25,000	50,000	5
50,000	100,000	7
100,000	150,000	10
150,000	200,000	14
200,000	250,000	18
250,000	500,000	24
More than	500,000	30

"Spouses" and "legal cohabitants" are defined as follows:

- the "spouse" is the person who, on the date the inheritance was opened, was married with the deceased, in accordance with the provisions of Book I, Title V of the Civil Code, and the person who, on the date the inheritance was opened, was married with the deceased, in accordance with Chapter III of the law on private international law.
- the "legal cohabitant" is the person who, on the date the inheritance was opened, was domiciled with the deceased and was legally cohabiting with the deceased, in accordance with the provisions of Book III, Title V*bis* of the Civil Code, and the person who, on the date the inheritance was opened, was domiciled with the deceased or had his/her habitual residence with the deceased, within the meaning of Article 4 of the law on private international law, and was living together with the deceased in accordance with Chapter IV of the abovementioned law.

The rate between spouses and legal cohabitants is not applicable where the spouses are divorced or legally separated or where the legal cohabitants submitted a declaration of termination of legal cohabitation in accordance with Article 1476 of the Civil Code, and have no common children or descendants.

TABLE II - Inheritances between collateral relatives and between non-relatives

Bracket of the net share in euro		Tax rate in %		
From	Up to (and including)	Between brothers and sisters	Between uncles or aunts and nephews or nieces	Between all other persons
0.01	12,500	20	25	30
12,500	25,000	25	30	35
25,000	75,000	35	40	60
75,000	175,000	50	55	80
More than	175,000	65	70	80 (*)

(*) In its judgment of 22.06.2005, the Court of Arbitration (now called "Constitutional Court") has invalidated article 1 of the decree of the Walloon Region dated 22.10.2003 insofar as it fixes a tax rate exceeding 80% for the 'more than 175,000 euro' bracket.

B.2. SPECIAL SCHEMES

1. No inheritance duty is due on any inheritance of which the net assets do not exceed 620 euro.

2. The lineal heirs, the surviving spouse or legal cohabitant are entitled to an exemption of 12,500 euro, which means there is no liability to estate duties for the first 12,500 euro bracket. Moreover, where the net portion inherited by the beneficiary does not exceed 125,000 euro, this abatement is extended to the second bracket (12,500 euro - 25,000 euro). The abatement is increased, in favour of each of the children under 21, by 2,500 euro for each whole year remaining until they reach the age of 21 (additional abatement) and also, in favour of the surviving spouse or legal cohabitant, by half the total amount of the additional abatements to which the common children are entitled. The total amount of the exemption is imputed preferentially to the successive brackets of the net portion of the immovable property liable to the specific rate for dwellings (see point 5 below), starting with the lowest bracket. The rest, if any, will be set off against the successive brackets of the net portion in other property liable to estate duties, starting with the lowest bracket of the rate actually applicable to abovementioned other property.

3. The brothers and sisters of a minor deceased benefit a deduction of 12,500 euro. If the net share devolved to the beneficiary does not exceed 125,000 euro, this deduction is increased up to the second bracket, between 12,500 euro and 25,000 euro. The total exempted amount is set off against the successive brackets of the net share in the goods subject to estate duties, starting with the lowest bracket of the rate actually applicable to these goods.

4. A reduction in the inheritance duty and in 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.

5. With respect to as well inheritance duty as transfer duty upon death, assets and shares of certain businesses or companies which are part of inheritances are charged at a **0%** rate, provided certain conditions are met. In order to obtain this advantage and to maintain it, several conditions must be met, which are enumerated in art. 60*bis* of the Estate Duty Code, applicable in the Walloon Region. This rate does not apply to conveyances of rights *in rem* related to immovable property used wholly or partly as a dwelling at the time of the decease.

6. Where inheritances between lineal relatives, between spouses or between legal cohabitants hold at least a part in full ownership of the real property having been the testator's main residence for at least five years before his death, the inheritance duty on the net value of that part is levied according to the rates of Table III hereafter, after deduction, as appropriate, of the value relating to the professional share of the real property entitling to the application of the 0% rate, as mentioned in point 4 above, under certain circumstances (see art. 60*ter* of the Estate Duty Code applicable in the Walloon Region).

TABLE III - Inheritances of dwellings between lineal relatives, spouses or legal cohabitants (preferential rate)

Bracket of the net share (euro)		Spouse or legal cohabitant	Lineal heir, donee, legatee
From	Up to (and including)	Rate in %	Rate in %
0.01	25,000.00	0	1
25,000.01	50,000.00	0	2
50,000.01	160,000.00	0	5
160,000.01	175,000.00	5	5
175,000.01	250,000.00	12	12
250,000.01	500,000.00	24	24
more than	500,000.00	30	30

In order to determine the progressive inheritance duty applying to the inheritance of other property, the tax base of the inheritance entitled to this preferential rate is added to the remainder of the heir's share in the other property (see art. 66*ter* of the Estate Duty Code applicable in the Walloon Region).

7. If, within a year of the death of the deceased, the goods which are previously received through inheritance, are transferred anew through death, the inheritance duty or the transfer duty upon death on this second transfer is reduced by half.

8. In the Walloon Region, are exempted from inheritance duty and transfer duty upon death, under certain conditions:

   - the value of growing trees in woodlands and forests;
   - the value of stocks and shares of forestry groups, inasmuch as this value relates to growing trees in woodlands and forests;
   - the value of real estate located within the perimeter of a Natura 2000 site or within the perimeter of a candidate site for the Natura 2000 network. In the latter case, the duties, after having been reduced, are fully chargeable again where, within a certain period of time, the site has finally not been taken into consideration for the Natura 2000 network (cf. articles 55*bis* and 56*bis* of the Estate Duty Code applicable to the Walloon Region).

9. Provided some conditions are met and with a limit amounting to 250,000 euro, an exemption of inheritance duty and transfer duty upon death is granted for the share inherited by a lineal heir or between spouses or between legal cohabitants, as defined above, by the brothers and sisters of the deceased or by the children of those brothers and sisters, in all cases provided they are entitled by law to inherit from a victim deceased as a result of an exceptional act of violence.

C. Inheritances opened in the Brussels-Capital Region

C.1. GENERAL TAX RATES AND DELIMITATION OF TAX RATE CATEGORIES

TABLE I - Inheritances between lineal relatives, between spouses and between cohabitants

Tax brackets in euro		Tax rate in %
From	Up to (and including)	Upon lineal relatives, between spouses and between cohabitants
0.01	50,000	3
50,000	100,000	8
100,000	175,000	9
175,000	250,000	18
250,000	500,000	24
More than	500,000	30

The assignees' net share (spouse or cohabitant) in the real estate being the family dwelling house at the time of death, is exempted from inheritance duty and from transfer duty upon death. This exemption does apply neither to the cohabitant who is a lineal relative of the deceased or assimilated to a lineal relative, nor to the cohabiting assignee who is a brother or sister, a nephew or niece, an uncle or aunt of the deceased.

A "cohabitant" is a person being in a situation of legal cohabitation, as defined in Book III, Title V*bis* of the Civil Code.

For the application of the tax rate between lineal relatives, is assimilated to a descendant of the deceased a child who is not a deceased's descendant provided that this child, when he was less than 21, has continuously cohabited for six years with the deceased and has received during this period from the deceased or from the deceased and his/her spouse or cohabitant, assistance and care which are usually provided to children by their parents. The registration of the child in the population register or in the register of aliens at the deceased's address presumes, unless evidence to the contrary is provided, the cohabitation with the deceased. For the application of the same tax rate, is assimilated to the deceased's father or mother the person who provided the deceased, under the same conditions, above-mentioned assistance and care.

The rate of the duty between spouses and between cohabitants does not apply, as appropriate, where the spouses are divorced or legally separated or where the legal cohabitation ceased to exist, unless the spouses or the cohabitants have common children or descendants.

TABLE II - Inheritances between brothers and sisters

Tax brackets in euro		Tax rate in %
From	Up to (and including)	between brothers and sisters
0.01	12,500	20
12,500	25,000	25
25,000	50,000	30
50,000	100,000	40
100,000	175,000	55
175,000	250,000	60
More than	250,000	65

TABLE III - Inheritances between uncles or aunts and nephews or nieces

Tax brackets in euro		Tax rate in %
From	Up to (and including)	between uncles or aunts and nephews or nieces
0.01	50,000	35
50,000	100,000	50
100,000	175,000	60
More than	175,000	70

TABLE IV - Inheritances between any other persons

Tax brackets in euro		Tax rate in %
From	Up to (and including)	between any other persons
0.01	50,000	40
50,000	75,000	55
75,000	175,000	65
More than	175,000	80

In respect of inheritances between lineal heirs, spouses or cohabitants and between brothers and sisters, the rates of Table I and Table II apply to the share of each assignee in the taxable value of the assets. In respect of the other inheritances, the rates of Table III and Table IV apply to the **aggregate** shares of the assignees in the taxable value of the assets.

C.2. SPECIAL SCHEMES

1. No inheritance duty or transfer duty upon death is due on any inheritance of which the net amount do not exceed 1,250 euro.

2. With respect to the inheritance duty and the transfer duty upon death, the lineal heirs, the surviving spouse or legal cohabitant are entitled to an exemption of 15,000 euro, which means there is no liability to estate duties for the first 15,000 euro bracket. The abatement is increased, in favour of each of the children under 21, by 2,500 euro for each whole year remaining until they reach the age of 21 (additional abatement) and also, in favour of the surviving spouse or legal cohabitant, by half the total amount of the additional abatements to which the common children are entitled.

3. A reduction in the inheritance duty and in 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.

4. With respect to as well inheritance duty as transfer duty upon death, assets and shares of certain small and medium enterprises which are part of inheritances 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. 60*bis* of the Estate Duty Code, applicable in the Brussels-Capital 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 duty for the estate (see Estate Duty Code, art. 66*ter*, applicable in the Brussels-Capital Region).

5. Where an inheritance devolving to lineal heirs or cohabitants not entitled to the exemption for the family dwelling house, holds unrestricted ownership of at least a part of the dwelling the testator had been using as his main residence for at least five years before his decease, the net value of that part is, under certain conditions (see art. 60*ter* of the Estate Duty Code applicable in the Brussels-Capital Region), liable to the inheritance duty according to the Table I rates, with the following adjustments:

   - 0.01 euro to 50,000 euro bracket: 2% instead of 3%
   - 50,000 euro to 100,000 euro bracket: 5.3% instead of 8%
   - 100,000 euro to 175,000 euro bracket: 6% instead of 9%
   - 175,000 euro to 250,000 euro bracket: 12% instead of 18%

   In order to determine the progressive inheritance duty applying to the inheritance, the tax base of the inheritance entitled to this tax relief is added to the remainder of the heir's share (see art. 66 of the Estate Duty Code applicable in the Brussels-Capital Region);

6. If, within a year of the death of the deceased, the goods which are received through inheritance are transferred anew through death, the inheritance duty or the transfer duty upon death on this second transfer is reduced by half.

3.2. The annual compensatory tax for estate duties

This tax is also called "tax on non-profit organisation" (NPO).

The compensatory tax for estate duties is levied annually on the total assets which non-profit making companies and private foundations 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 25,000 euro.

3.3. The annual tax on undertakings for collective investment, credit companies and insurance companies

As far as this tax is concerned, the (non-official) term "subscription tax" is sometimes also used. However, this terminology is **not clear**. According to the context, the term "subscription tax" is also used for **other taxes and contributions**, such as **notably** the annual tax on credit institutions dealt with in point 4.8. of Part II of this Tax Survey. As a result, according to the context, the designation "subscription tax" can refer to different taxes and contributions.

Investment institutions and companies for the management of investment institutions, undertakings for collective investment under foreign law, as well as credit companies and insurance companies paying certain dividends, granting income or involved in certain insurance activities as defined in Art. 161 of the Estate Duty Code, are subject to this tax.

The tax is due on the net amount outstanding (investment companies, etc.), on a part of the amount of savings deposits (credit institutions), on the mathematical and technical reserves related to life insurance and insurance in respect of investment funds (insurance enterprises) and on a part of the share capital (credit institutions and insurance enterprises having taken the form of cooperative companies recognised by the National Cooperation Council) (Art. 161*bis* of the Estate Duty Code).

The tax rate is **0.0925%**. As far as the above-mentioned part of the amount of savings deposits (credit institutions) is concerned, the rate amounts however to **0.1929%**.

It is only inasmuch as a Belgian investment company has attracted capital from institutional and professional investors that the rate is reduced to **0.01%** (Art. 161*ter* of the Estate Duty Code).

CHAPTER FOUR
MISCELLANEOUS DUTIES AND TAXES

What is new?

Change in the rates of the tax on stock-exchange transactions and of the tax on long-term savings.

These duties and taxes are laid down and regulated by the Code of miscellaneous duties and taxes (CMDT) and by the decrees issued for its implementation.

4.1. Duties on written documents

A duty is levied, according to the tariffs mentioned below, on the following deeds and written documents, as far as they are drawn up in Belgium:

4.1.1. Deeds drawn up by notaries

There are three tariffs (art. 3 to 5 CMDT):

* 50 euro: standard tariff;
* 95 euro: for deeds drawn up for companies which are legal persons;
* 7.50 euro: for death certificates, deeds relating to the matrimonial property system or the property system for legal cohabitants, inheritances, donations inter vivos, wills and gifts, divorce and paternity and legal recognition.

4.1.2. Deeds drawn up by bailiffs

There are two tariffs (art. 6 to 7 CMDT):

* 50 euro: for records relating to public sales of tangible movable assets;
* 7.50 euro: for records relating to public sales of tangible movable assets resulting from an enforced debt redemption.

4.1.3. Written bank documents

A duty of 0.15 euro is levied on some written bank documents (art. 8 CMDT):

For instance, on some loan or credit facility agreements, agreements regarding a commitment, acknowledgment or guarantee in favour of bankers (art. 8, 1°, CMDT), security remittance or deposit receipts, some statements of account, receipts relating to securities placed in safe custody so that the scripholder can attend a shareholders' or a bondholders' meeting, etc. (art. 8, 2° to 4°, CMDT).

4.1.4. Other written documents

For some written documents delivered by the recorders of mortgages, the duty amounts to 2 euro (art. 10 CMDT).

4.1.5. Application rules

When the same deeds, by virtue of articles 3 to 7, are subject to different tariffs, only the highest shall be paid.

The deeds and written documents priced by articles 3 to 7, 8, 1° and 10 are subject to duty as and when they are drawn up and signed by the person or one of the persons who deliver them. The deeds and written documents priced by articles, 8, 2° to 4° are subject to duty as and when they are drawn up by the persons who deliver them (Art. 11 CMDT).

In principle, the duty is to be paid at the latest the fifth working day following the date on which the duty is due. With respect to written bank documents, bankers and persons assimilated thereto can make use of periodical declaration per calendar quarter. These declarations must be filed within the month of expiry of a quarter and the duties must be paid within the same time limit. A similar method can be applied by notaries, bailiffs, administrations, public bodies or any other person, for deeds drawn up by notaries, by bailiffs and for other written documents.

4.1.6. Exemptions

A whole series of exemptions are provided, notably for deeds and written documents concerning the execution of tax laws, laws relating to town and country planning, the creation of the Crossroads Bank for Enterprises, the total or partial discharge of mortgage taken out in Belgium, etc. (art. 21 CMDT).

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

4.2.1. Tax on stock-exchange transactions

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

1° *any purchase and any sale* of public securities carried out or concluded in Belgium;

2° *any repurchase* by an open-end investment company of its own shares, if this transaction relates to *capitalisation* shares (this also applies in the case of conversions in capitalisation shares, since conversions consist of, on the one side, a purchase and, on the other side, the issue of new securities).

There are various exemptions (Art. 126^1 CMDT) for:

- transactions in which no professional intermediary intervenes or contracts either on behalf of one of the parties or on his own behalf;
- transactions made on their own behalf by financial intermediaries, insurance companies, institutions for occupational retirement provision, undertakings for collective investment and non-residents;
- transactions concerning participation rights in an institutional or private undertaking for collective investment;
- transactions concerning treasury bonds or linear bonds issued by the Belgian State or concerning treasury bonds or linear bonds similar to Belgian linear bonds, issued by a Member State of the European Economic Area;
- transactions concerning short term treasury bonds issued by the National Bank of Belgium;
- and for a certain number of other transactions.

The applicable tax base is (Art. 123 CMDT):

- for *purchases or acquisitions*: the amount to be paid by the purchaser, excluding the brokerage of the intermediary;
- for *sales or transfers*: 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 capitalisation shares*: the net inventory value of the shares, without deduction of the flat-rate compensation;
- for *repurchases of capitalisation shares by collective investment undertakings with European authorisation and by collective investment undertakings established outside the European Community*: the inventory value of the shares, without deduction of the flat rate compensation, but minus the withheld withholding tax on income from movable property.

The tax is levied *both on the sale and on the purchase*. In the case of *a repurchase by an investment company of its own capitalisation shares*, the tax is due solely in respect of the transfer of the shares to the investment company (Art. 122 CMDT).

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

a. **2.70 per thousand**: normal rate;
b. **0.90 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 municipalities (both national and foreign); company bonds; participation interests in investment funds; shares issued by investment companies, etc.

However, the rate is **1.32%** for all sales and purchases of capitalisation shares of an investment company and for the repurchase by an investment company of its own capitalisation shares (see 2° above).

Per transaction, the amount of the tax may not exceed 650 euro for transactions to which the rate of 0.90 per thousand applies, 800 euro for transactions to which the rate of 2.70 per thousand applies and 2,000 euro for transactions concerning capitalisation shares (Art. 124 CMDT).

The tax is to be paid at the latest the last working day of the month following the month during which the transaction has been carried out (Art. 125, §1, CMDT).

4.2.2. 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 CMDT).

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

The tax is payable by both parties. It is not due, however, by financial intermediaries, insurance companies, institutions for occupational retirement provision, undertakings for collective investments and non-residents (Art. 139 CMDT).

Exemptions are provided for transactions concerning treasury bonds or linear bonds issued by the Belgian State, or concerning treasury bonds or linear bonds similar to Belgian linear bonds, issued by a Member State of the European Economic Area, concerning treasury bills or deposit certificates issued pursuant to the law of July 22, 1991, concerning short term treasury bonds issued by the National Bank of Belgium and concerning cession-retrocession of securities (Art. 139*bis* CMDT).

With respect to the payment of this tax, the legislation in force is the one applicable to the tax on stock-exchange transactions (Art. 143 CMDT).

4.3. Annual tax on insurance transactions

This tax is levied on insurance contracts when the risk is located in Belgium (Art. 173 CMDT).

The risk of the insurance transaction is located in Belgium when one of the following conditions is fulfilled:

- the policyholder has his habitual residence in Belgium;
- if the policyholder is a legal person: the contract relates to the establishment of the legal person situated in Belgium;
- the contract relates to immovable or certain movable property situated in Belgium;
- the contract relates to vehicles of any type registered in Belgium;
- the insurance policy relating to the risks incurred when travelling or being on holiday, is issued in Belgium for maximum four months.

Various contracts are exempted from this tax, **notably** (Art. 176^{2} CMDT):

- credit insurance contracts against commercial risks and/or country risks;
- contracts for reinsurance;
- certain insurances in the context of social security;
- certain healthcare insurances offering a high level of protection;
- insurances against risks incurred abroad;
- insurances in the context of pension savings schemes;
- insurances in the context of the supplementary pension for the self-employed;
- the conversion of a life insurance payment into an annuity;
- hull insurances for sea-going vessels and inland vessels;
- certain insurances for aeroplanes;
- all other insurance policies related to seagoing and inland navigation (except those subject to the 1.4% charge; see further);
- compulsory liability insurance policies related to motor vehicles and property damage insurance policies related to motor vehicles or compound vehicles used exclusively for the transportation of goods by road and having a maximum allowable mass (MAM) of not less than 12 tons;
- some legal expenses insurance contracts, etc..

The tax base is the amount of the premiums, employers' and employees' contributions, plus the charges, to be paid in the course of the tax year either by the policyholders or by the affiliated members and their employers (Art. 176^{1} CMDT).

There are five rates (Art. 175^{1} to 175^{3} CMDT):

* **9.25%** normal rate;
* **4.40%** rate i.a. for life insurances (not taken out individually), death insurance, life annuities and temporary annuities, certain collective additional undertakings for disability and liabilities contracted by pension funds (provided every employee has an “equal right” to be in the scheme, see Art. 175^{1} CMDT);

* **2.00%** rate for life insurance transactions, even in respect of investment funds, and life annuities or temporary annuities built up by natural persons, except if the 1.10%-rate applies;

* **1.40%** rate for insurance policies related to seagoing and inland navigation, related to the risk of transportation of goods by air or overland, related to liability insurance policies for motor vehicles and to property damage insurance policies in respect of taxis, buses, coaches and vehicles intended for the transportation of goods where the maximum allowable mass exceeds 3.5 tons but is less than 12 tons;

* **1.10%** rate for transactions related to temporary death insurances with decreasing capital, used for securing a mortgage loan raised to acquire or maintain real estate, where taken out by natural persons (the so-called "outstanding balance insurances"), and for insurances fulfiling the criteria and conditions specified in the law of 26 December 2013 relating to various provisions as regards thematic citizens lending.

Depending on the cases, the tax is to be paid by (Art. 177 CMDT):

1° the insurance company, the pension institution, etc.,

2° agents and other intermediaries residing in Belgium for insurance contracts subscribed with insurers not established in Belgium and carrying out insurance transactions for which the risk is located in Belgium, and insurance companies that are not established in Belgium, have no representative in Belgium and carry out insurance operations for which the risk is located in Belgium, without hiring intermediaries residing in Belgium, or

3° policyholders themselves.

In the first two cases, the tax is to be paid at the latest the 20th day of the month following the month during which the premium or the contribution fell due. A deposit is to be paid on 15 December at the latest on the tax due in January of the following year. The amount of the deposit is based on the amount due the previous November (Art. 179[1] CMDT). In the third case, the tax is to be paid within the three months as from the due date of the premium (Art. 179[2] CMDT).

4.4. Annual tax on profit-sharing schemes

Sums divided up by way of profit sharing are liable to this tax (Art. 183*bis* CMDT) when they are related to life insurance contracts, to life annuities or temporary annuities or to additional pensions built up, by any means but through a life insurance, with an insurer operating in Belgium.

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

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

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

The tax is to be paid within the three months as from the date of the decision relating to profit-sharing distribution (Art. 183*octies* CMDT).

4.5. Tax on long-term savings

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

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

No tax is levied on insurance contracts providing for advantages exclusively in case of death and life insurances whose aim is to secure the repayment or the reinstatement of a mortgage loan (Art. 187^2 CMDT).

The tax is levied (Art. 184 and 186 CMDT), 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 60^{th} anniversary of the policyholder 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 10^{th} 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 CMDT):

- **10%** standard rate;
- **8%** for the theoretical surrender value of savings insurance contracts under pension savings schemes and for savings placed in savings accounts under pension savings schemes;
- **33%** on certain conditions for early payments or the early granting of savings balances or surrender values.

The tax is to be paid at the latest the last working day of the month following the month during which the chargeable event for tax occurred (Art. 187^3 CMDT).

During the years 2015 to 2019, the **8% tax** will be collected in advance. During a five-year period, 1% will be collected each year up to a total percentage of 5% of the reserves built up until 31 December 2014. The amount collected in advance will be deducted from the tax due on the date for payment of this tax. The amount collected in advance is to be paid on 30 September of each of the years 2015 to 2019.

4.6. Bill-posting tax

This tax is levied on all placards posted in the view of the public, when their surface area exceeds 1m^2, as well as on illuminated signs, etc (art. 188 and following CMDT).

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 CMDT).

The tax amounts to 0.50 euro per m^2 or fraction of a m^2. The amount of the tax levied on bills which are printed out on a plain paper and sticked up on billboards, without any protection, does not exceed 5 euro (art. 190 CMDT).

With respect to illuminated signs (and the like), there is an annual tax of five times the abovementioned amounts (art. 191 CMDT).

The tax is to be paid before bill-posting (Art. 195 CMDT). The annual tax must be paid in principle at the latest on 31 January of the year following the expired year (the year expires on 31 December) (see Art. 197 CMDT, also for particular cases).

4.7. Annual tax on credit institutions

Are liable to the tax (Art. 201[10] CMDT):

a) credit institutions under Belgian law;

b) credit institutions established in another Member State of the European Economic Area and having a branch in Belgium;

c) credit institutions established in a third country and having a branch in Belgium.

The tax is to be paid by these credit institutions on a proportion of the total amount of certain savings deposits on 1 January of the taxation year, with the exclusion of the interest relating to the previous year. The exempted bracket of income from savings deposits which is not taxable as movable income in compliance with the Income Tax Code 1992, is concerned. The above-mentioned proportion is equal to the ratio of the total non-taxable income in compliance with the Income Tax Code 1992 to the total income allocated on these savings deposits for the year preceding the taxation year (Art. 201[11] CMDT).

The tax rate amounts to **0.0435%** (Art. 201[12] CMDT).

The tax is due on 1 January of each year and is to be paid at the latest on 1 July of the same year (Art. 201[13] CMDT).

CHAPTER FIVE
CUSTOMS PROCEDURES UPON IMPORTATION, EXPORTATION AND TRANSIT

These procedures are mainly based on the Community Customs Code and on the decrees issued for its implementation.

5.1. Import duties

Upon the importation of goods from countries outside the EU, "import duties" are levied according to a scale which has been harmonised on Community level. These "import duties" consist of customs duties upon importation, possibly supplemented by anti-dumping duties, countervailing duties and levies under the common agricultural policy.

Most of these duties are levied for the sole benefit of the European Union. The Member States receive a percentage thereof as "operating costs".

5.1.1. Determining the value - Tax base of import duties

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 12th, 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 "General Agreement on Tariffs and Trade" (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.

The tax base for the calculation of import duties is generally the customs value. In some very specific cases, the calculation is based on the quantity, the weight, etc. of the goods (specific duties).

Note:

The tax base of national taxes upon importation (VAT, excise duties, etc.) is calculated on the basis of the customs value, increased by additional charges (transport, insurance, etc.) up to the place of destination.

5.1.2. Tariff of import duties

The tariff of import duties is based on the nature of the goods and on the country from which they have been imported. Based on the nomenclature of the Harmonised System, the EU tariff determines the tariff applicable for each category of goods. Moreover, under international agreements or for economic reasons, a series of exemptions, suspensions, reduced tariffs (which may or may not be linked to quotas) etc. applies. All these possibilities are listed, with the related legal provisions, in the "Tarif d'usage partie imprimée" / "Boekwerk Gebruikstarief" (Applied Tariff – printed version) issued by the administration and on the TARWEB website of the Belgian customs administration (http://tarweb.minfin.fgov.be - only available in French and Dutch).

5.2. Customs approved treatment

5.2.1. 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 (temporary storage facility) 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.

5.2.2. The Single Administrative Document

The placing of the goods under a customs procedure is effected, as a rule, under cover of the "Single Administrative Document" form. The Single Administrative Document has been designed to cover all movements of goods, i.e. exportation, transit and importation.

The Single Administrative Document was modified by the Commission Regulation (EC) No 2286/2003 of December 18th, 2003, amending the applicable Community Code (Official Journal L 343 of December 31st, 2003). The new Single Administrative Document explanatory note, included in this Regulation, is applicable since:

- January 1st, 2007, for paper returns;
- February 4th, 2008, for returns sent online via the so-called "Paperless douanes et accises" (PLDA, i.e. Paperless Customs and Excise Duties) program (compulsory for exportation, but for importation only compulsory for customs officials).

In order to reduce administrative burdens principally borne by economic operators, **EORI** (*Economic Operator's Registration and Identification*) has been introduced: only one customs registration for a company is now necessary in the whole European Union.

The **EORI number** has been created for this purpose: a Community single number used for the registration and the identification of economic operators and other persons in their relations with the customs authorities, and which must be mentioned in the Single Administrative Document.

The provisions as regards EORI came into force on 1 July 2009, but they are at present only compulsory for exportation and transit.

Further information is available on the website of the Customs and Excise Duties Department: http://www.fiscus.fgov.be/interfdanl/fr/dau/index.htm (Single Administrative Document) and http://www.fiscus.fgov.be/interfdanl/fr/enterprises/eori.htm (EORI) (157).

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, copy C for the placing in a customs warehouse, copy R for the granting of agricultural refunds). PLDA computerised this procedure for people having to use PLDA or using PLDA voluntarily, so that some copies are no longer used.

Some of the boxes are self-copying, so the information needed is provided to all the Member States concerned in one go. That's one of the reasons why most data on the document have to be encoded.

The Single Administrative Document is not used if certain documents are employed especially:

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

157 Website only available in French and Dutch.

Where certain conditions are met, customs authorities may grant permission for the use of simplified procedures in order to accelerate customs treatment. Examples of simplified procedures are:

- simplified declaration;
- lodging of declaration prior to presentation of goods;
- periodic globalisation of declarations;
- incomplete declaration.

These simplified procedures are applicable to nearly all customs treatments.

5.2.3. 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 duties, the special excise duties and the VAT (provided no deferment of payment of the VAT is granted by the AGFisc/AAFisc (General Tax Administration)) shall, as a rule, be paid at the (customs) office of importation when the declaration for release for free circulation and/or for consumption is validated.

Excise products may however be released by the customs authorities under a duty-suspension arrangement with a view to their placing in a fiscal warehouse.

After obtaining authorisation 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 authorisation is granted by the AGFisc/AAFisc, and for which a prior payment must be made by the applicant).

5.2.4. Declaration for release for free circulation and for consumption

A. <u>Principles</u>

Declaring goods for **free circulation** is a deed that confers on non-Community goods the customs status of Community goods, through the payment of contingent duties upon importation and the application of the commercial policy measures applying on importations in the European Union.

Declaring goods for **consumption** means that, in addition, all national taxes and duties, such as VAT and excise duties, are paid and that the national provisions in respect of importations are complied with.

Where goods from third countries are intended for the Belgian market, they are usually declared simultaneously for free circulation and for consumption. On the other hand, Community goods are not subject to customs formalities in respect of intra-Community circulation; these movements are subject to the VAT regulations as intra-Community supplies.

However, in respect of intra-Community acquisitions of certain means of transport, customs formalities still have to be gone through, the customs authorities acting in these cases on behalf of the AGFisc/AAFisc.

When goods declared for free circulation in Belgium are intended for another Member State, exemption of VAT may be granted in Belgium; the supply of goods is then deemed to be an intra-Community supply. If the exportation to the other Member State they are intended for is not to take place immediately after the declaration for free circulation, the goods have to be stored under a VAT warehousing arrangement in Belgium.

Excise goods to be sent to another Member State after their declaration for free circulation have to be stored in Belgium under a fiscal warehousing arrangement.

B. Final exemption

In about thirty cases, no import duties 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, inheritance, etc.), 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 on the occasion of a transfer of activities to the European Union, 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)

Tobacco products (2)		
	cigarettes	200 pieces (3)
or	cigarillos	100 pieces (3)
or	cigars	50 pieces (3)
or	smoking tobacco	250 grams (3)
Alcohol and alcoholic beverages (2)		
Non-sparkling wines		4 litres (3)
AND Beer AND		16 litres (3)
either:	distilled beverages and spirits of an alcoholic strength exceeding 22% vol.; not denatured ethyl alcohol of 80% vol. and over	1 litre (3)
or:	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	2 litres (3)
Other goods than those mentioned above		Maximum total value: 430 or 300 or 175 euro (3) (4) (5)

(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.

(3) For staff members of means of transport used in international travel from a third country or territory, the exemptions are limited to respectively 40 pieces, 20 pieces, 10 pieces, 50 grams, 2 litres, 8 litres, 0.25 litre, 0.50 litre and 175 euro. If these staff members produce the evidence that they do not travel for professional purposes, the ordinary exemptions apply.

(4) 430 euro for airpassengers and ship passengers (with the exception of private pleasure flying or boating), 300 euro for the other travellers, 175 euro for travellers under 15 and for travellers mentioned in note (3).

(5) These amounts can be modified.

2) TRAVELLERS FROM A EU-MEMBER STATE

Goods acquired under domestic market conditions (all taxes paid in the country where they are bought) in a Member State of the EU: travellers coming from a EU Member state are thus allowed to import the acquired goods without restrictions as to their quantity and value.

Excise duties are still due, however, on excise goods imported to Belgium for commercial purposes.

In order to determine whether the goods imported by the traveller are so for commercial purposes, the commercial status and the motives of the person concerned shall be taken into consideration as well as the place where the goods are located, the means of transportation used, any document related to the goods as well as the nature and quantity of the latter, following the indicative levels of the table hereafter.

Tobacco products	
cigarettes	800 pieces
cigarillos (cigars with a maximum weight of 3 g a piece)	400 pieces
cigars	200 pieces
smoking tobacco	1 kg
Alcoholic beverages	
distilled beverages	10 litres
intermediate products (e.g. Port, Pineau des Charentes)	20 litres
wine (of which maximum 60 litres sparkling wine)	90 litres
beer	110 litres

It should be noted that transfers for a consideration of goods subject to excise duties between private citizens are deemed to be effected for commercial purposes even when they are made without profit.

C. Final exemption upon reimportation of goods previously exported

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

5.2.5. Customs procedures involving suspension of duties and taxes on importation

A. Transit

a. The TIR carnet

About sixty countries (among which all the Member States of the European Union) have signed a convention in order to accelerate transportation of goods by means of road vehicles and packages, by simplifying border controls and formalities.

The goods are transported under cover of a TIR carnet, which is an international customs document that can be used when crossing successive borders.

After controlling the consignment, the customs authorities of the State of departure put their seal on the road vehicle or package. These vehicles and package must be approved by the customs authorities of the State where the owner or hauler lives or is established.

The TIR carnets are delivered in the countries concerned and are guaranteed by the responsible associations approved by the customs authorities. The users of the TIR carnets also have to be approved by the customs authorities and by the responsible associations.

TIR carnets are to be used neither for consignments both starting and ending in the European Union nor for transportation of alcohol and manufactured tobacco. They may be used however for transportation between EU Member States, if the consignment passes through the territory of a third country.

The TIR carnet covers the whole customs territory of the European Union. No formalities have to be carried out at the intra-Community borders.

As from January 1st, 2009, the NCTS-TIR is compulsory within the EU. It implies that the return of voucher No 2 has been replaced by an e-mail.

However, the paper TIR carnet must always be used together with the NCTS-TIR application program.

b. Community/common transit

The *external* community transit procedure allows the movement of non-community goods from one place in the customs territory of the Community to another, without levying import duties and without applying the trade policy measures.

The *internal* community transit procedure allows the movement of community goods from one place in the customs territory of the EU to another through a third country without the customs status being changed. The common transit system extends the Community transit procedure to include the relations with the countries of the European Free Trade Association (EFTA), i.e. Norway, Iceland, Switzerland and Liechtenstein, and with Turkey.

The NCTS (New Computerised Transit System) has been mandatory since July 1st, 2003; except in cases where the emergency procedure applies, and T-documents have been replaced by electronic transit operations. These T-documents are in the case of external Community transit, the T1-document, and for internal Community transit the T2-document. Except where a simplified procedure is allowed, the goods and documents must be presented both at the office of departure and at the office of destination. A security covering the whole itinerary shall be paid.

There are simplified procedures which, under certain conditions, allow the use of transport documents which are specific to the mean of transportation used in lieu of a transit declaration made by means of NCTS. Such documents are e.g. the railway bill of lading, the airway bill, the marine bill of lading. Moreover the decisions as to whether simplified procedures are allowed can be included in conventions concluded with other countries.

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 5.1, 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 system by the warehousekeeper and, on the other, **public** bonded warehouses which can used by any person for the storage of goods in that arrangement.

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 warehousekeeper's stock records. These types of arrangements can also be granted for goods that are to be stored under the customs warehousing arrangement in different EU Member States.

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 warehousekeeper'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** at the 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

a. Definition

The inward processing procedure is a customs procedure with economic impact, which makes it possible to submit the following goods to one or several processing operations performed within the customs territory of the EU, using thereby, if necessary, one or more Community goods:

1) non-Community goods intended for re-exportation from the customs territory of the Community in the form of processed products, without their being subjected to import duties or to commercial policy measures (system of suspension);
2) goods released for free circulation, whereby the import duties on those goods are paid back or remitted if the goods are re-exported from the customs territory of the Community in the form of processed products (draw-back system).

This customs procedure also applies to the cost of making when the contractor remains the owner of the imported goods.

It should be noticed that an inward processing procedure is not necessarily an industrial processing entailing an increase in value of the goods; small operations (common operations, repair, fine-tuning) can also be executed under this procedure.

b. Purpose and scope of the procedure

The main purpose of the inward processing procedure is to promote exportation from the customs territory of the EU by treating on the same terms Community-processors who incorporate goods from third countries in order to manufacture products to be exported and non-Community-processors who produce the same products without being subjected to customs duties. The temporary exemption from import duties (suspension system) or the refunding of the latter (draw-back system) on non-Community goods that are used in the exported processed products allow the Community-processors to produce quality products at the lowest cost, increasing their competitiveness on the foreign markets.

By promoting the exportations, the inward processing procedure contributes to improve the trade balance; anyhow, it adds an asset element to the balance, that is to say the plus-value of the used Community goods, added to the non-Community goods imported under the procedure and exported, after transformation, in the form of processed products, in addition to the labour costs linked with the processing.

Finally, the inward processing procedure is a means to fight unemployment, since it allows the preservation or the creation of jobs in the EU.

D. Processing under customs control (PCC)

a. Definition

PCC is a customs procedure with economic impact, allowing certain non-Community goods to be submitted, within the customs territory of the EU and without their being subjected to import duties or to commercial policy measures, to operations altering their state or their nature, and to release the products thus processed for free circulation in the EU at the relevant rate of import duties.

b. Purpose and scope of the procedure

The rate of the import duties has been determined in such a way that it safeguards the interests of all the producers of Community goods (raw materials, semi-finished products and finished products).

Generally, there is a higher duty upon importation of finished products than of raw materials or semi-finished goods needed for the production of those finished products.

In certain cases, the amount of the import duties to be paid on goods to be processed within the EU with a view to obtaining a (semi-)finished product may be higher than the import duties that would be due upon direct importation from a third country of the same (semi-)finished product. Such situations encourage the relocation of processing activities outside the EU. In order to prevent those risks, the Community legislator has provided for a processing procedure under customs control.

The processing under customs control is thus a procedure which advantages the EU-processors, insofar as the financial burden they have to bear in order to produce the finished product is lower than the financial burden they would have borne upon direct importation and release for free circulation of the goods bought in a third country.

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. An "ATA carnet" can replace the single document for the temporary admission.

F. Flat rate outward processing

a. Definition

The outward processing procedure is a customs procedure with economic impact, which allows temporary exportation from the customs territory of the EU of Community goods, in order to submit them to processing operations and in order to release the thus processed goods for free circulation in the EU, under a partial or total exemption from import duties.

b. Purpose and scope of the procedure

The outward processing procedure complies with the present international labour organisation, which entrusts a series of specialised enterprises with the manufacturing of certain goods. Although the outward processing procedure puts the Community workers at a disadvantage in comparison with foreign workers, its economic consequences are nonetheless positive for the EU. As it happens, it can lead to an increase of the exportations of Community goods intended to be incorporated in the processing of non-Community goods and reimported in the EU, and to a decrease of the imports of non-Community goods.

Furthermore, this procedure can lead to a kind of industrial cooperation with certain non-Community countries, at lower labour costs than in the EU and can, from this point of view, prevent production problems in the EU. In this case, the Community enterprises make the most of the low labour costs in developing countries by entrusting the latter with a part of their production; the savings in costs on the part of the production processed abroad have repercussions on the production costs of the production as a whole (principle of the proportionate division of costs) and prevent the production activities in the EU from being disturbed.

The outward processing procedure is also used where the EU lacks the required technology to perform part or parts of the processing operations and where the goods have to be repaired in a third country pursuant to contractual or legal obligations.

5.2.6. 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 within the time limits 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.

Since 1 July 2009, the export declaration, including security data, has been compulsorily submitted online via the PLDA-program (ECS = Export Control System).

For exportation to Switzerland (Liechtenstein included) and Norway and for expeditions to non-fiscal territories, the security data must not be mentioned.

The document used to support this online procedure is called “Export Accompanying Document” (EAD).

As a result, the ECS applies to indirect exportation (2 Member States concerned). The ECS enables to control the exit out of the customs territory of the EU via the exchange of emails between the customs office of export and the customs office of exit out of the European Union.

When the PLDA-program sends the release message, the declarant can, on the basis of this message, print himself an EAD or ask the branch to print it.

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. Provided certain conditions are met, a final exemption can be granted upon reimportation.

The "ATA carnet" can replace the "Single Administrative Document" for temporary exportation.

5.2.7. 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 regularisation, etc.

5.2.8. Authorised Economic Operator

In the international context characterised by the increase of terrorist threats and organised cross-border crime which can seriously endanger not only the whole word economy but also public security, public health and the environment, the European Union is willing to increase security in the international supply chain.

In this context, the European Union, based notably on the “SAFE Standards Framework securing and facilitating world trade”, which was adopted on 23 June 2005 by the members of the World Customs Organization, has developed its own Customs Security Programme (CSP).

This programme, which balances controls with trade facilitation, contains activities to support and implement measures focused on an increased security via improved customs controls and provides the introduction of appropriate security controls which are liable to ensure the protection of the internal market and the security of the international supply chain, in close coordination with the world’s major trading partners. The security amendments of the Community Customs Code [Regulation (EC) No. 648/2005 and Regulation (EC) No. 1875/2006] provide a legal framework for the measures of the CSP programme.

The creation of the Authorised Economic Operator (AEO) status, which is closely linked to other measures introduced in Community Customs Law (information exchange between customs authorities via information technology and computer networks – customs risk management at community level in compliance with Community electronic management – notification prior to arrival and departure, and summary entry and exit declarations), is one of the major elements of the CSP programme and aims at allowing reliable and certified economic operators to benefit from trade facilitation measures.

The implementation of all the above-mentioned measures and the mutual recognition of the AEO certification between economic powers which develop of will develop this kind of certification (e.g.: C-TPAT – Customs Trade Partnership Against Terrorism – in the United States), will enable the progressive implementation of a fast customs clearance system ("Green Lane" – almost no control) for goods in an international supply chain of which all parts (manufacturer, exporter, consignor, warehousekeeper, customs agent, carrier, importer, etc.) are totally secured.

For economic operators which want to remain competitive in the extremely complex international supply chain, the AEO certification, ensuring a qualitative recognition and painting the picture of a reliable trading partner, implies a genuine quality label at international level with notably the following advantages:

- faster and easier access to simplifications such as the status of authorised consignor, the centralised clearance, the guarantee waiver, etc.;
- fewer controls;
- less information transmitted in accordance with security obligations.

The introduction of the AEO status is an important step in the relations between authorised economic operators and customs authorities. This status gives the opportunity to distinguish economic operators whose accounting and supply management and preventive measures as regards security risk management, provide unquestionable quality and reliability guarantees.

Further information about this status is available on the following website: http://fiscus.fgov.be/interfdanl/fr/oeafr/index.htm (only available in French and Dutch).

CHAPTER SIX
EXCISE DUTIES

What is new?

- ***Modification of excise duties on some manufactured tobacco.***
- ***Indexation of certain rates.***

*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 22 December 2009 concerning the general arrangements for excise duty (BOJ of 31 December 2009);*
- *the Law of 21 December 2009 concerning the excise duty system as regards non-alcoholic beverages and coffee (BOJ of 15 January 2010);*
- *the Programme law of 27 December 2004 (BOJ of 31 December 2004);*
- *the Law of 7 January 1998, relating to the structure and excise tariffs on alcohol and alcoholic beverages (BOJ of 4 February 1998);*
- *the Law of 3 April 1997, relating to the tax system as regards manufactured tobacco (BOJ of 16 May 1997);*

their modifications and the decrees issued for the implementation of these laws.

6.1. Definition

Excise duties are indirect taxes which are payable for the consumption or use of certain products, whether they are manufactured within the country, originated from a Member State of the European Union or imported from a country outside the European Union. Are to be distinguished, the (ordinary) excise duties, the special excise duties, the levy on energy (on energy products and electricity) and the inspection fee (on domestic fuel oil). The total excise duty is the sum of these four categories.

6.2. Classification of excise duties

A distinction is made between:

a. **excise goods** harmonised at Community level, on which ordinary excise duties are levied which are common to the Belgo-Luxembourg Economic Union (BLEU), and special excise duties (and possibly a levy on energy and an inspection fee) levied at the sole benefit of Belgium; the said Community excise goods are alcohol and alcoholic beverages (i.e. beer, wine, other fermented beverages than beer and wine, intermediate products and ethyl alcohol), energy products and electricity and manufactured tobacco;

b. national **excise products**, which are not harmonised at Community level and on which ordinary excise duties are levied at the sole benefit of Belgium: these autonomous excise products are the non-alcoholic beverages and coffee.

As far as **energy products and electricity, alcohol and alcoholic beverages, as well as manufactured tobacco** are concerned, the European directive concerning the general arrangements for excise duty (the so-called horizontal directive) applies. Moreover, there are directives relating to the structures and rates of excise duties applying to these products and relating to the taxation of energy products and electricity.

For **non-alcoholic beverages and coffee**, a special national system applies irrespective of the provisions of the above-mentioned horizontal directive.

6.3. Tax base

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

6.4. General arrangements for excise duty

6.4.1. General

Directive 2008/118/EEC of the Council of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC, relates to the general arrangements for excise duty. It was transposed into Belgian law by the *law of 22 December 2009 concerning the general arrangements for excise duty*.

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 for its implementation.

Excise goods, i.e. **energy products and electricity, alcohol and alcoholic beverages, as well as manufactured tobacco,** shall be subject to excise duty at the time of their production, extraction or importation.

6.4.2. Chargeability, reimbursement and exemption

Excise duty shall be *chargeable* at the time of *release for consumption* in the country, i.e. at the time of the departure of excise goods from a duty suspension arrangement, at the time of the holding of excise goods outside a duty suspension arrangement where excise duty has not been levied, at the time of the production of excise goods outside a duty suspension arrangement and at the time of the importation, unless the excise goods are placed, immediately upon importation, under a duty suspension arrangement. Excise duty is also chargeable where the absence of goods which must be subject to excise duties is noticed.

A *duty suspension arrangement* is a tax arrangement applied to the production, processing, holding and movement of excise goods not covered by a customs suspension arrangement, excise duty being suspended.

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, a term of payment may be granted which vary according to the product.

With respect to *ethyl alcohol and spirit drinks, beer, non-sparkling wines, sparkling wines, other non-sparkling or sparkling fermented beverages, intermediate products and energy products (excl. natural gas, coal, coke and lignite),* this term of payment for registered warehousekeepers and importers runs until the Thursday of the week following the week during which the declaration of release for consumption has been filed.

As regards *manufactured tobacco*, economic operators (manufacturers or importers established in Belgium, or representatives of manufacturers or importers established abroad) may benefit a deadline for the payment of the excise duty and the VAT until the Thursday of the week following the week during which the declaration of release for consumption has been filed.

In certain cases and under certain conditions, excise duty on excise goods which have been released for consumption in the country, may be reimbursed or remitted. This applies to excise goods held for commercial purposes in another Member State in order to be delivered or used there, to excise goods sold in another Member State via distance selling, to exported excise goods, to the correction of some irregularities or errors, etc.

Under certain conditions, there are exemptions for diplomats, consular officers, the armed forces, a certain number of (international) organisations, tax-free shops, goods supplied on board an aircraft or ship during the flight or sea-crossing to a third country or a third territory, etc.

As far as **electricity and natural gas** are concerned, excise duty becomes chargeable by the provider at the time he supplies them to the consumer. Where continuous supplies of natural gas or electricity give rise to successive account statements or payments, the supply is deemed to occur at the expiry of each period to which an account statement or a payment relates.

The provider must file, at the latest the 20th day of each month, a declaration of release for consumption with regard to consumption and intermediary invoices of the previous month, and pay cash the chargeable excise duty. As far as excise duty chargeable on intermediary invoices is concerned, the provider can pay them by means of advances.

As regards **coal, coke and lignite**, excise duty becomes chargeable at the time they are supplied to the retailer by companies which have to be registered for that purpose according to the procedures laid down by the Minister of Finance, unless the producer, importer, introducer or possibly his tax representative substitute these registered companies for the obligations imposed upon them. “Retailer” means any natural person or legal body delivering coal, coke or lignite to natural persons or legal bodies for their own consumption.

“At the time they are supplied to the retailer” means the date the invoice relating to the delivery was issued. The registered company must file, at the latest the Thursday of the week following the week during which the invoice has been issued, a declaration of release for consumption, and pay cash the chargeable excise duty. Where the release for consumption occurs with exemption from excise duty, the declaration of release for consumption must be filed at the latest the 15th of the month following the month during which the invoice has been issued.

6.4.3. Production, processing and holding of excise goods

The production and processing in the country of excise goods shall take place in a *tax warehouse*. Where excide duty has not been paid, the holding of these goods must also take place in a tax warehouse.

A *tax warehouse* is a place where excise goods are, under certain conditions, produced, processed, held, received or dispatched under a *duty suspension* arrangement by an *authorised warehousekeeper* in the course of his business.

An *authorised warehousekeeper* is a natural or legal person authorised, in the course of his business, to produce, process, hold, receive or dispatch excise goods under a duty suspension arrangement in a tax warehouse.

6.4.4. Movement of excise goods under suspension of excise duty

Excise goods may be moved under a duty suspension arrangement in Belgium from a tax warehouse to:

- another tax warehouse;
- a registered consignee, where the excise goods are dispatched from another Member State;
- a place where the excise goods leave the territory of the Community;
- a certain number of other consignees (diplomats, consular officers, the armed forces, some (international) organisations), where the excise goods are dispatched from another Member State.

They may also be dispatched under a duty suspension arrangement by a registered consignor from the place of importation to one of the above-mentioned destinations. A *registered consignor* is a natural or legal person authorised, under a certain number of conditions and in the course of his business, to dispatch excise goods under a duty suspension arrangement upon their release for free circulation.

A *registered consignee* may be a company which is not an authorised warehousekeeper. The registered consignee is authorised to receive, in the course of his business, excise goods moving under a duty suspension arrangement from another Member State, but is not allowed to hold these goods or to dispatch them under a duty suspension arrangement. He must register himself before the dispatching of the excise goods, provide a guarantee and fulfil some other conditions. On receipt of the excise goods, excise duty is chargeable and must be paid according to the procedure laid down. A registered consignee is not authorised to receive manufactured tobacco not carrying Belgian tax markings.

The movement of excise goods under suspension of excise duty takes place in principle under cover of an electronic administrative document and according to a determined procedure.

6.4.5. Movement and taxation of excise goods after release for consumption

No excise duty is chargeable for excise goods acquired by private individuals for their own use and transported by themselves, provided excise duty was levied in the Member State in which the goods were acquired. However, there are specific rules to determine whether or not the goods have been acquired by private individuals for their own use.

Excise duty is chargeable where excise goods which have already been released for consumption in another Member State are held for commercial purposes in the country in order to be delivered or used there. The same applies to excise goods which have already been released for consumption in another Member State and which are delivered in Belgium in the context of distance selling. Nevertheless, there is a reimbursement procedure to avoid double taxation. However, no excise duty is chargeable in case of total destruction or irretrievable loss of these goods in Belgium.

6.5. Excise duty system for non-alcoholic beverage and coffee

"**Excise products**" means non-alcoholic beverage and coffee.

Excise products are subject to excise duty at the time they are manufactured in the country, imported in the country or introduced (i.e. from another Member State of the EU) in the country.

Excise duty becomes chargeable at the time of release for consumption in the country. "Release for consumption" means the release of excise products from a suspensive procedure, the holding or the manufacture of excise products outside a suspensive procedure as well as the importation and introduction of excise products which are not immediately placed under a suspensive procedure. A suspensive procedure is a tax arrangement applicable to the manufacture, the holding or the movement of excise products, excise duty being suspended.

In principle, the amount must be paid cash where tax liability is incurred. Under certain conditions and provided lodging of a security, a term of payment can be granted to holders of the so-called "excise establishment" authorisation. This term of payment runs until the Thursday of the week following the week during which the declaration of release for consumption has been filed.

Excise duty levied on excise products exported, dispatched to another Member State or declared unfit for consumption by a public authority and destroyed under administrative supervision, is reimbursed. Provision is also made for a repayment or remission in some other cases, such as the correction of errors.

The manufacture, receipt and holding of excise products on which excise duty has not been levied, must take place in an authorised excise establishment. An excise establishment is any place where the manufacture, the holding, the receipt and the dispatching of excise products take place under a suspensive procedure. The status of authorised excise establishment is granted subject to the submission of an application for authorisation.

Excise products may move, under the suspensive procedure, from an excise establishment to another excise establishment, bound for another Member State or for a customs office of export. Under this procedure, they may also move from a customs office of import located in the country to an excise establishment or bound for another Member State. Finally, they may, upon their entry and under a suspensive procedure, move to an excise establishment, bound for another Member State via the Belgian territory and bound for a customs office of export located in the country.

The dispatching of excise products under a suspensive procedure must be covered by a commercial identification document.

No excise duty is chargeable on excise products acquired by private individuals for their own use and transported by themselves, provided they have been acquired on the terms ruling in the home market in the Member State of acquisition.

Excise products may be manufactured outside an excise establishment, utilising other excise products, provided the excise duty amount relating to the excise product obtained by that process is lower than or equal to the total excise duty amount which has been levied beforehand on each manufactured excise product.

Coffee roasting, the manufacture of extracts, essences and concentrates of coffee, solid or liquid, as well as the manufacture of preparations with a basis of coffee or of extracts, essences and concentrates of coffee, may occur outside an excise establishment, provided excise duty has been levied on manufactured unroasted or roasted coffee.

6.6. Checks

Checks in tax warehouses and excise establishments are carried out on the basis of the stock records related to the commercial accounts of the authorised warehousekeeper or of the holder of the authorisation “excise establishment”, and on the basis of verifications of the registers, documents and declarations (declarations of release for consumption, export declarations, etc.).

Moreover, a stock taking (physical control) shall be carried out at least once a year in the tax warehouse or the excise establishment.

In certain cases, excise agents carry out a permanent check of the production.

When excise goods or excise products are put into circulation, the check is carried out on the basis of the accompanying documents for transport (e.g. in the case of transportation under duty suspension arrangements or under a suspensive procedure: the e-AD or the commercial document; in the case of transportation with payment of excise duty: according to the case, the simplified accompanying document (SAD) or the commercial documents, possibly with a proof that a security has been paid).

It should be noticed that manufactured tobacco released for consumption in the country must carry tax markings.

It is obvious that the document check can go together with a physical control of the transported goods/products.

The transport of excise goods, which have already been released for consumption in Belgium and which are intended to be transported to another place located in Belgium, via the territory of a Member State, must be covered by a simplified accompanying document.

Inversely, the simplified accompanying document must be used for intra-Community transportation of excise goods which have already been released for consumption, from a Member State to another place in the same Member State, via the Belgian territory.

6.7. Rates

Remark: some of these rates can be adjusted at very short notice.

6.7.1. Energy products and electricity

Directive 2003/96/EC of the Council of 27 October 2003 restructures the Community framework for the taxation of energy products and electricity. At national level, provision is made for this in Chapter XVIII of Title XI – Finance of the Programme Law of 27 December 2004.

For the application of Chapter XVIII of the Programme Law of 27 December 2004, “excise duty” means (ordinary) excise duty, special excise duties, the inspection fee on domestic fuel oil and the levy on energy.

In euro per 1,000 litres at 15 °C, unless otherwise specified

Product	Excise duty	Special excise duty	Levy on energy	Total
A. Leaded petrol	245.4146	365.3455	28.6317	639.3918
B. Unleaded petrol ≥ 98 octane				
1. High-sulphur and high-aromatic	245.4146	356.2209	28.6317	630.2672
2. Low-sulphur and low-aromatic	245.4146	341.1804	28.6317	615.2267
C. Other kinds of unleaded petrol	245.4146	341.1804	28.6317	615.2267
D. Kerosene				
1. Used as motor fuel	294.9933	304.9457	28.6317	628.5707
2. Used as motor fuel for industrial and commercial applications (1)	18.5920	4.1492	0	22.7412
3. Used at heating fuel				
3.1. Business use	0	0	19.4356	19.4356
3.2. Non-business use	0	0	19.4356	19.4356
E. Gas oil with a sulphur content exceeding 10 mg/kg				
1. Used as motor fuel	198.3148	230.6949	14.8736	443.8833
2. Used as motor fuel for industrial and commercial applications (2)	18.5920	4.1492	0	22.7412
3. Used at heating fuel				
3.1. Business use	0	0	10.0000 (3) +8.5353	18.5353
3.2. Non-business use	0	0	10.0000 (3) + 8.5353	18.5353

(1) Kerosene used under fiscal control for stationary motors, plant and machinery used in construction, civil engineering and public works and vehicles intended for use off the public highway or which have not been granted authorisation for use mainly on the public roadway.

(2) Gas oil used under fiscal control for stationary motors, plant and machinery used in construction, civil engineering and public works and vehicles intended for use off the public roadway or which have not been granted authorisation for use mainly on the public roadway.

(3) Inspection fee.

Product	Excise duty	Special excise duty	Levy on energy	Total
F. Gas oil with a sulphur content not exceeding 10 mg/kg				
1. Used as motor fuel	198.3148	215.6544 (1)	14.8736	428.8428 (1)
2. Used as motor fuel for industrial and commercial applications (2)	18.5920	4.1492	0	22.7412
3. Used at heating fuel				
3.1. Business use	0	0	10.0000 (3) +7.1484	17.1484
3.2. Non-business use	0	0	10.0000 (3) + 7.1484	17.1484
G. Heavy fuel oil (in euro per 1,000 kg)				
1. Business use (4)	13.0000	3.2437	0	16.2437
2. Non-business use	13.0000	3.2437	0	16.2437
3. Used to produce electricity	13.0000	3.2437	0	16.2437
H. Liquified petroleum gas (in euro per 1,000 kg)				
1. Used as motor fuel	0	0	0	0
2. Used as motor fuel for industrial and commercial applications (5)	37.1840	7.2156	0	44.3996
3. Used at heating fuel				
3.1. Business use	0	0	18.5230 (6) or 18.7913 (7)	18.5230 (6) or 18.7913 (7)
3.2. Non-business use	0	0	18.5230 (6) or 18.7913 (7)	18.5230 (6) or 18.7913 (7)

(1) A reimbursement of the special excise duty amounting to 0.0763 euro per litre is provided for vehicles described in the Programme Law of 27 December 2004, i.e. taxis, motor vehicles intended for the transportation of disabled persons, motor vehicles having more than 8 seats, excl. the driver's seat, intended for the transportation of passengers and vehicles with a maximum allowable mass equal to or exceeding 7.5 tons and which are exclusively intended for the transportation of goods by road.

(2) Gas oil used under fiscal control for stationary motors, plant and machinery used in construction, civil engineering and public works, and vehicles intended for use off the public roadway or which have not been granted authorisation for use mainly on the public roadway.

(3) Inspection fee.

(4) Except where used to produce electricity.

(5) LPG used under fiscal control for stationary motors, plant and machinery used in construction, civil engineering and public works and vehicles intended for use off the public roadway or which have not been granted authorisation for use mainly on the public roadway.

(6) Butane.

(7) Propane.

Product	Excise duty	Special excise duty	Levy on energy	Total
I. Natural gas (in euro per MWh – upper combustion value)				
1. Used as motor fuel	0	0	0	0
2. Used as motor fuel for industrial and commercial applications (1)	0	0	0	0
3. Used at heating fuel				
3a. Business use	0	0	0.9916	0.9916
3b. Non-business use	0	0	0.9916	0.9916
J. Coal, coke and lignite (in euro per 1,000 kg)	0	8.6841 (2)	3.0000 (2)	11.6841 (2)
K. Electricity (in euro per MWh)				
1. Business use				
1a. supplied to end user connected to the transport or distribution network with a nominal voltage > 1 kV, including end user identified as a customer assimilated to a high-voltage customer (3)	0	0	0	0
1b. supplied to end user connected to the transport or distribution network with a nominal voltage ≤ 1 kV	0	0	1.9140	1.9140
2. Non-business use	0	0	1.9140	1.9140

(1) Natural gas used under fiscal control for stationary motors, plant and machinery used in construction, civil engineering and public works, and vehicles intended for use off the public roadway or which have not been granted authorisation for use mainly on the public roadway.

(2) Exemption for coal, coke, lignite and solid fuels used by households (see below, exemptions, item 2, k).

(3) A customer assimilated to a high-voltage customer is a final user supplied by an individualised cable, which is financed by the customer himself, from a transformer station being part of the high-voltage network. The customers concerned are identified by the network operator.

Where intended for use, offered for sale or used as *motor fuel or heating fuel*, energy products for which no rate of taxation is specified in the above table (for definitions of these products, see art. 415 of the Programme Law of December 27th, 2004) shall be taxed, according to use, at the rate for the equivalent motor fuel or heating fuel.

In addition to the above-mentioned energy products, *any product* shall be taxed as an equivalent to motor fuel when it is intended for use, offered for sale or used as *motor fuel* or as an additive or extender in motor fuels. Likewise, in addition to the above-mentioned energy products, any other *hydrocarbon*, except for peat, shall be taxed at the rate for the equivalent energy product if it is intended for use, offered for sale or used as *heating fuel*.

Exemptions

1. Exemptions are provided (unless otherwise stipulated) for:
   a. energy products used for purposes other than as motor fuels or as heating fuels;
   b. dual use of energy products (= used both as heating fuels and for purposes other than as motor fuels or heating fuel; e.g. the use of energy products for chemical reduction and in electrolytic and metallurgical processes);
   c. electricity used principally for the purposes of chemical reduction and in electrolytic and metallurgical processes;
   d. energy products and electricity used for mineralogical processes;
   e. energy products (except heavy fuel oil, coal, coke and lignite) and electricity used to produce electricity and electricity used to maintain the ability to produce electricity;
   f. energy products supplied for use as motor fuel or heating fuel for the purpose of air navigation, excluding private pleasure flying;
   g. energy products supplied for use as motor fuel or heating fuel for the purposes of navigation within Community waters (including fishing) and electricity produced on board a craft, excluding private pleasure craft.

2. Further exemptions are provided for the following products used *under fiscal control* (unless otherwise stipulated):
   a. taxable products used in the field of pilot projects for the technological development of more environment-friendly products or in relation to fuels from renewable resources;
   b. where produced by a user for private use, electricity a) of solar, wind, wave, tidal or geothermal origin, b) of hydraulic origin produced in hydroelectric installations, c) generated from biomass, from products produced from biomass of from fuel cells (scope of the exemption limited to electricity corresponding to legal provisions in respect of green certificates or of combined heat and power generation);
   c. energy products and electricity used for combined heat and power generation;
   d. electricity produced by a user for private use from combined heat and power generation provided the combined generators are environmentally friendly;
   e. motor fuel used for the manufacture, development, testing and maintenance of aircraft and ships;
   f. gas oil, kerosene and electricity used for the carriage of passengers and goods by rail;
   g. gas oil, kerosene and heavy fuel oil supplied for use as fuel for navigation on inland waterways (including fishing), excluding navigation in private pleasure craft, and electricity produced on board a craft;

h. gas oil, kerosene and heavy fuel oil used for dredging operations in navigable waterways and in ports;

i. gas oil, kerosene, heavy fuel oil, LPG, natural gas, electricity, coal, coke or lignite used exclusively in agricultural, horticultural or piscicultural works and in forestry (under certain conditions);

j. (lapsed);

k. coal, coke, lignite and solid fuels, where used by households;

l. natural gas and LPG, where used as propellants;

m. coleseed oil used as motor fuel, when produced by a natural person or a legal person who acts alone or in collaboration with others, depending on his own production, and when sold to an end user without intermediary (exemption temporarily suspended until a date to be determined);

n. (lapsed);

o. electricity supplied by the distributor to a “protected residential customer on low incomes or in precarious situations”;

p. natural gas supplied by the distributor to a “protected residential customer on low incomes or in precarious situations”.

Under certain conditions, where energy products released for consumption in another Member State are either contained in standard tanks of commercial motor vehicles and intended to be used as fuel by those same vehicles or contained in special packages and intended to be used to operate the systems equipping those same packages during the course of the transport, they shall not be subject to excise duty in Belgium.

Petrol for other applications than motor fuel or heating fuel must be denatured.

“Solvent Yellow 124” shall be added to *kerosene* and *gas oil* intended to be used:

- as motor fuel for industrial and commercial applications;
- as heating fuel;
- in situations in which exemptions are foreseen;
- as motor fuel for sailing outside Community waters.

A red pigment shall also be added to *gas oil* (and in certain cases *heavy fuel oil*)..

6.7.2. 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 hectolitre-degree Plato of the end product:

in euro

	Excise duty	Special excise duty	Total
Beer	0.7933	1.0540	1.8473

The *number of degrees Plato* measures the percentage in weight of the original extract per 100 grams of beer, this value being calculated from the actual extract and the alcohol contained in the finished product.

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 x 1.8473 euro / 100 = 0.221676 euro.

For beer produced by small independent 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:

in euro

Yearly production	Excise duty	Special excise duty	Total
not exceeding 12,500 hl	0.3966	1.2097	1.6063
not exceeding 25,000 hl	0.3966	1.2633	1.6599
not exceeding 50,000 hl	0.3966	1.3168	1.7134
not exceeding 75,000 hl	0.4462	1.3208	1.7670
not exceeding 200,000 hl	0.4462	1.3744	1.8206

B. *<u>Wine</u>*

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 more than 15%, where the alcohol in the end product is obtained entirely through fermentation, or an actual alcoholic strength by volume of more than 15% but not more than 18%, where the alcohol in the end product is obtained entirely through fermentation and, **in addition,** the wines 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 (replaced by the current CN Codes 2204 21 06, 2204 21 07, 2204 21 08 and 2204 21 09), 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 actual 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:

in euro

	Excise duty (1)	Special excise duty (1)	Total
Non sparkling wines	0	57.2440	57.2440
Sparkling wines	0	195.8775	195.8775

(1) 0 euro excise duty and 18.2049 euro 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 litre bottle of grape wine of an alcoholic strength of 12% vol. is 0.7 x 57.2440 euro / 100 = 0.400708 euro*
- *The total excise duty for a 0.7 litre bottle of champagne of an alcoholic strength of 11% vol. is 0.7 x 195.8775 euro / 100 = 1.3711425 euro*

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 either an actual alcoholic strength by volume of more than 1.2 % but not exceeding 10 %, or an actual alcoholic strength by volume of more than 10 % but not exceeding 15 %, and, **in addition,** the alcohol in the end product being obtained entirely through fermentation.

Other sparkling fermented beverages shall be taken to include all products of CN Codes 2206 00 91 as well as the products of CN Codes 2204 10, 2204 21 10 (replaced by the current CN Codes 2204 21 06, 2204 21 07, 2204 21 08 and 2204 21 09), 2204 29 10 and 2205 which are not listed under B (see annex to this chapter). They are presented in bottles having a mushroom-shaped cork confined by threads, strips or otherwise, **or** having an excess pressure of not less than 3 bars produced by carbon dioxide in solution. They must have either an actual alcoholic strength by volume of more than 1.2% but not exceeding 13%, or an actual alcoholic strength by volume of more than 13% but not exceeding 15%, the latter the alcohol in the end product being obtained entirely through fermentation.

Per hectolitre of the end product:

in euro

	Excise duty (1)	Special excise duty (1)	Total
Non-sparkling	0	57.2440	57.2440
Sparkling	0	195.8775	195.8775

(1) 0 euro excise duty and 18.2049 euro special excise duty for any kind of other (non-sparkling or sparkling) fermented beverage 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 litre bottle of non-sparkling perry of an alcoholic strength of 9% vol. is 0.7 x 57.2440 euro / 100 = 0.400708 euro*
- *The total excise duty for a 0.7 litre bottle of sparkling cider of an alcoholic strength of 9% vol. is 0.7 x 195.8775 euro / 100 = 1.3711425 euro*

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 actual alcoholic strength by volume of more than 1.2% but not exceeding 22 %.

Per hectolitre of end product:

in euro

	Excise duty	Special excise duty	Total
"Non-sparkling" intermediate products			
a) alcoholic strength exceeding 15% by volume	66.9313	53.5886	120.5199
b) alcoholic strength not exceeding 15% by volume	47.0998	43.4233	90.5231
"Sparkling" intermediate products (1)			
a) alcoholic strength exceeding 15% by volume	66.9313	128.8512	195.7825
b) alcoholic strength not exceeding 15% by volume	47.0998	148.6827	195.7825

(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 litre bottle of vermouth of an alcoholic strength of 17% vol. = 0.75 x 120.5199 euro / 100 = 0.90389925 euro

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 actual 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 actual alcoholic strength of more than 22% by volume;

c. distilled beverages whether or not containing products in solution.

Per hectolitre of absolute alcohol at a temperature of 20°C:

in euro

	Excise duty	Special excise duty	Total
Ethyl alcohol	223.1042	1,901.5770	2,124.6812

Example:

The total excise duty on a 70 cl bottle of whisky of an actual alcoholic strength of 40% by volume amounts to: 2,124.6812 euro x 0.4 x 0.007 = 5.949107 euro

F. Exemptions

In certain cases the products listed above are exempted from the excise duty and special excise duty: i.a. if they are both denatured in accordance with the Belgian legislation and used for the manufacture of any product not for human consumption, 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).

6.7.3. Manufactured tobacco

For manufactured products of tobacco, excise duty and special excise duty are expressed as a percentage of the retail price (i.e. inclusive all taxes – *ad valorem* excise duty, *ad valorem* special excise duty and VAT); cigarettes are furthermore compulsorily subjected to a specific excise duty per 1,000 pieces and smoking tobacco to a specific special excise duty per kilogram.

	Excise duty	Special excise duty	Total
Cigars (2)	5.00 %	5.00 %	10.00 %
Cigarettes (1) (2)	45.84 %	0.00 %	45.84 %
Smoking tobacco (1) (2)	31.50 %	0.00 %	31.50 %

(1) **Cigarettes** are, in addition, subjected to a specific excise duty of 6.8914 euro per 1,000 pieces and to a specific special excise duty of 30.0000 euro per 1,000 pieces.

Moreover, for **smoking tobacco**, a specific special excise duty of 16.5000 euro per kilogram is levied.

(2) For **cigarettes**, the aggregate amount of excise duty and special excise duty (both specific and *ad valorem*) shall in no case be less than 154.4645 euro per 1,000 pieces.

For **smoking tobacco** finely cut for rolling cigarettes and other kinds of smoking tobacco, the aggregate amount of excise duty and special excise duty shall in no case be less than 52.0747 euro per kilogram.

As regards **cigars**, the aggregate amount of excise duty, special excise duty and VAT shall by no means be less than the aggregate amount of the same taxes applying to the most popular price category (the price of cigars in the most popular price category was fixed on 1 January 2015 at 265 euro per 1,000 pieces, which means that the minimum amount of taxes per 1,000 pieces is 72.9917 euro. For other quantities, this amount is calculated proportionally).

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: denaturing for use in industrial or horticultural applications, destruction under administrative supervision, tobacco used for scientific experimentations, retreatment or reprocessing by the producer), there is under certain circumstances an exemption from excise duty.

Example
Take the case of a pack of 19 pieces of cigarettes priced 5.50 euro. The VAT amounts to 21%/1.21 = 17.36% of the retail price inclusive VAT (VAT rates are expressed as a percentage of the price exclusive of VAT). This corresponds to an amount of 0.9545 euro. The total ad valorem *excise duty amounts to 45.84% of the retail price, corresponding to an amount of 2.5212 euro. The total specific excise duty amounts to 36.8914 euro per 1,000 pieces, corresponding to an amount of 36.8914 x 19/1,000 = 0.7009 euro per 19 pieces (0.1309 euro for the specific excise duty and 0.5700 euro for the specific special excise duty).*

6.7.4. Non-alcoholic beverages

Per hectolitre, except where otherwise provided:

in euro

	Excise duty
Rate a	0
Rate b	3.7284
Rate c	0
Rate d1	22.3706
Rate d2 (per 100 kg net weight)	37.2844

Rate a applies to waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured, as well as ice covered by CN code 2201.

Rate b applies to:

1. waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages covered by CN code 2202, with the exception of milk-based drinks or soya drinks. The concept of "milk-based drinks or soya drinks" is further defined in the circular relating to the application of Article 26 of the Law of 19 May 2010 making fiscal and various provisions (BOJ of 25 June 2010, Ed. 2, p. 39585-39586);
2. beers such as described sub 6.7.2.A, with an alcoholic strength not exceeding 0.5% vol.;
3. wines covered by CN codes 2204 and 2205, with an alcoholic strength not exceeding 1.2% vol.;
4. other fermented beverages covered by CN codes 2204 and 2205, as well as those covered by CN code 2206, with an alcoholic strength not exceeding 1.2% vol.;
5. beverages covered by CN code 2208, with an alcoholic strength not exceeding 1.2% vol.

Rate c applies to fruit juices and vegetable juices unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, covered by CN Code 2009.

Rate d1 applies to all substances obviously used for the preparation of non-alcoholic beverages mentioned sub 1, packed in either retail-sale packages or packages used for the preparation of such drinks ready for consumption, where the substance is presented in liquid form. *Rate d2* applies where this substance is presented in powder or granular form, or in another solid form. The concept of "substances" is further defined in the circular relating to the application of Article 26 of the Law of 19 May 2010 making fiscal and various provisions (BOJ of 25 June 2010, Ed. 2, p. 39585-39586).

Tap waters, even if they are flowed after possible gasification by fountains directly connected to the water line, and not put up for sale or delivery as drinking waters, are not considered, as regards excise duty, as non-alcoholic beverages.

Beverages based on fruit or vegetable juice intended for the feeding of infants, non-alcoholic beverages intended to be used for research, quality controls and taste testing, as well as waters to which the above-mentioned rate a applies in principle, intended to be freely distributed by official institutions when disasters occur, are exempted from excise duty.

6.7.5. Coffee

Per kilogram net weight:

in euro

	Excise duty
Rate a	0.1988
Rate b	0.2486
Rate c	0.6960

Rate a applies to not roasted coffee covered by CN code 0901, *rate b* to roasted coffee covered by CN code 0901 and *rate c* to extracts, essences and concentrates of coffee, solid or liquid, as well as to preparations with a basis of extracts, essences and concentrates of coffee and to preparations with a basis of coffee, covered by CN code 2101.

Coffee intended for other industrial uses than roasting or preparing coffee extracts, and coffee intended to be used for research, quality controls and taste testing, are exempted from excise duty.

ANNEX TO CHAPTER SIX

Codes of the combined nomenclature (CN) of the common customs tariff of the European Communities for alcoholic beverages (codes as laid down in annex I to Regulation (EEC) No 2658/87 of the Council of the European Communities of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as modified by Regulation (EEC) No 2587/91 of the Commission of the European Communities of 26 July 1991).

CN Code	Description
0901	coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion
2009	fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter
2101	extracts, essences and concentrates, of coffee, tea or mate and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof
2201	waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow
2202	waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009
2203	beer made from malt
2204	wines from fresh grapes, including wines with added alcohol; grape must, other than referred to in heading 2009
	including:
2204 10	sparkling wines (for example champagne)
2204 21 10 (*)	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
2204 29 10	as 2204 21 10, but in larger packaging

(*) replaced by the current CN Codes 2204 21 06, 2204 21 07, 2204 21 08 and 2204 21 09

CN Code	**Description**
2205	vermouths and other wines of fresh grapes, prepared with aromatic plants or flavoured with aromatic extracts
2206	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
	including
2206 00 91	sparkling beverages
2207	ethyl alcohol, undenatured, of a strength of 80% by volume or higher; ethyl alcohol and distilled beverages, denatured, whatever the strength
2208	ethyl alcohol, undenatured, of an alcoholic strength by volume of less than 80%; distilled beverages, liqueurs and other beverages containing distilled alcohol
2209	vinegar, natural or obtained from acetic acid

CHAPTER SEVEN
THE PACKAGING CHARGE

What is new?

Abolishment of the environmental charge as from 1 January 2015.

The packaging charge is the object of art. 91-93 and 95, §4 of the special law of July 16th, 1993 finalising the federal structure of the State (BOJ of July 20th, 1993) and of Book III (articles 369-401bis) of the ordinary law of July 16th, 1993 aimed at finalising the federal structures of the State (BOJ of July 20th, 1993), the amendments thereof and the decrees issued for the implementation of the laws.

7.1. Generalities

The *packaging charge* is levied on drinks packages. Are considered as "drinks": water, lemonade and other non-alcoholic drinks, beer, wine, vermouth and similar beverages, other fermented beverages, ethyl alcohol, spirit beverages, unfermented fruit juices and vegetable juices (see Art. 370 of the ordinary law of July 16th, 1993, finalising the federal structure of the State). The packaging charge is due at the time the above-mentioned drinks packed in individual packages are released for consumption in the matter of excise duty or, where the packing in individual packages takes place after those drinks are released for consumption in the matter of excise duty, at the time those drinks are brought on the Belgian market.

"Individual package" means any package, whatever the material, intended to be delivered to the end-user without the package to be modified. Moreover "individual reusable packages" (see below) as well as individual non-reusable packages are concerned.

The exemption of the packaging charge applies to all individual packages containing a beverage for which an exemption of excise duty has been provided.

The payment must occur in the same way and under the same conditions as for excise duties on the packaged goods.

7.2. Tax amounts

The packaging charge amounts to 1.41 euro per hectolitre of product packed in individual reusable packages and to 9.86 euro per hectolitre of product packed in individual non-reusable packages. "Individual reusable package" means a package for which evidence is produced that it:

- can be refilled at least seven times;
- is collected by means of a deposit refund system (minimum 0.16 euro for packages of more than 0.5 l and 0.08 euro for packages of not more than 0.5 l);
- is actually being reused.

CHAPTER EIGHT
TAXES ASSIMILATED TO INCOME TAXES

What is new?

- ***Annual indexation on 1 July of certain rates of vehicle taxes.***
- ***As far as the Walloon Region and the Brussels-Capital Region are concerned: indexation of the rates relating to the gaming machine licence duty.***

These taxes are laid down and regulated by the Code of taxes assimilated to income taxes (CTA) and by the decrees issued for its implementation. From a juridical point of view, they are considered direct taxes. But since they are in most cases charged on goods and services, rather than on income (dealt with in Part I), they are discussed in Part II (indirect taxes) of the Tax Survey.
As regards the circulation tax, the tax on the entry into service and the Eurovignette, which fall within the competence of the Flemish Region, the provisions specified in the "Vlaamse Codex Fiscaliteit" (Flemish Tax Code) apply.

8.1. Circulation tax (CT)

Preliminary remark:

As from 1 January 2011, only the Flemish Region is competent to service the circulation tax for natural persons domiciled therein or legal persons having their registered office there.

As from 1 January 2014, only the Walloon Region is competent to service the circulation tax for natural persons domiciled therein or legal persons having their registered office there.

As far as the Brussels-Capital Region is concerned, the FPS Finance remains competent to service this tax.

8.1.1. Walloon Region and Brussels-Capital Region

A. <u>Taxable</u> <u>vehicles</u>

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 and also on similar vehicles used for the carriage of goods by road (Art. 3 and 4 CTA).

Motor vehicles are in principle listed in conformity with the regulations concerning their registration at the DIV (vehicle registration service) (Art. 4 CTA). However, a dispensation exists for motor vehicles intended for the carriage of goods, having a maximum allowable mass not exceeding 3.5 tonnes and registrated at the DIV as "light trucks", since a *fiscal definition of "light trucks"* has been introduced *from tax year 2006 on*.

In the matter of taxes assimilated to income taxes, vehicles "designed and constructed for the carriage of goods and having a maximum allowable mass not exceeding 3.5 tonnes", are only considered fiscally as "light trucks" if they are part of one of the four following groups:

1. *"Single Cab Pickups",*

   that is to say vehicles consisting of a single cab totally separated from the cargo space and comprising no more than *two* seating positions exclusive of the driver, and an open loading platform. The latter may be closed by means of a canvas, a flat horizontal cover or a construction intended to protect the load.

2. "*Double Cab Pickups*",

   that is to say vehicles consisting of a double cab, totally separated from the loading area and comprising not more than *six* seating positions exclusive of the driver, and an open loading platform. The latter may be closed by means of a canvas, a flat horizontal cover or a construction intended to protect the load.

Pickup-type vehicles will fiscally be considered as light trucks.

3. "*Vans with a single row of seats*".

   These vehicles shall "concurrently" comprise, *on the one hand* a passenger compartment of not more than *two* seating positions exclusive of the driver and, *on the other hand*, a loading area separated from the passenger compartment. The passenger compartment and the loading area shall be separated by a partition with a height of not less than 20 cm or, in the absence of such a partition, by the back of the seats. The loading area shall cover at least 50% of the wheel base. Moreover, the whole surface of the loading area shall consist of an integrated, permanent or durably fixed, horizontal platform having no additional anchorages for seats or safety belts.

4. "*Vans with two rows of seats*".

   These vehicles shall "concurrently" comprise, on the one hand, a passenger compartment of not more than *six* seating positions exclusive of the driver and, on the other hand, a loading area separated from the passenger compartment. Here, the passenger compartment and the loading area have to be separated *completely* by a non-detachable rigid partition running right across the width and the height of the inner compartment. The loading area shall cover at least 50% of the wheel base. Moreover, the whole surface of the loading area shall consist of an integrated, permanent or durably fixed, horizontal platform having no additional anchorages for seats or safety belts.

Where vehicles registered with the DIV as light trucks do not meet the conditions set in respect of their category, they are deemed to be (private) motor cars, twin-purpose cars or minibuses, depending on their construction.

B. <u>Exemptions</u>

The exempted vehicles are listed in Art. 5 CTA.

As for motor vehicles and compound vehicles with a maximum allowable mass of not less than 12 tons used for road transport, the following, among others, are exempted from the tax: motor vehicles and compound vehicles used exclusively for the services of national defence, civil defence or contingency, for fire departments and other emergency services, for services in

charge of public order, maintenance and management of the road system, as well as a few other motor vehicles and compound vehicles (Art. 5 § 2 CTA).

As for the other taxable vehicles, the following, among others, are exempted from the tax: vehicles used exclusively for a public service of the various authorities, vehicles exclusively used for public transport, ambulances and vehicles used as a personal means of transport by badly disabled war veterans or other disabled people, certain agricultural vehicles and vehicles of the like, vehicles used exclusively as a taxi, motorcycles powered by an engine having a cylinder capacity not exceeding 250 cm^3 as well as a few other vehicles (Art. 5 § 1 CTA).

C. Tax base

The tax base is determined, as the case may be, according to the engine power, the cylinder capacity or the maximum allowable mass of the vehicle (Art. 7 and 8 CTA). For motor cars, twin-purpose cars and minibuses not fitted with electromotors and liable to circulation tax, the tax is determined by the number of HP, which is calculated on the basis of a formula in which all the data are related to the cylinder capacity in litres.

Example
A car has a four-cylinder engine with an internal diameter of 76 mm. Its piston stroke is 80 mm. The cylinder capacity is therefore 1.5 litres. The fiscal power, expressed in HP, is: $HP = 4 \times \text{cylinder capacity (in litre)} + \frac{\text{weight (in 100 kg)}}{4}$ *For that car, the second term in the formula is replaced by a coefficient which varies according to the cylinder capacity. For a cylinder capacity of 1.5 litres, the coefficient is equal to 2.00. The fiscal rating in HP amounts therefore for that car to:* $4 \times 1.5 + 2.00 = 8.00$, *i.e. 8 HP.*

D. Indexation of the rates

A number of rates are adjusted **on 1 July** of each year according to a determined calculation method, on the basis of the fluctuations of the general consumer price index. In particular, these are the tax rates for the following vehicles (Art. 11 CTA):

1°. motor cars, twin-purpose cars and minibuses;
2°. motorcycles;
3°. coaches and buses (the minimum rate **only**);
4°. trailers and semi-trailers with a maximum allowable mass not exceeding 3,500 kg;
5°. motor cars, twin-purpose cars and minibuses which are more than 25 years old, camping trailers and trailers for the transportation of one boat, collectors' military vehicles which are more than 30 years old, as well as the minimum rate generally applicable.

E. Rates

The rates of the circulation tax are determined in Art. 9 and 10 CTA.

Where the rates are indexed, the amounts mentioned hereafter, **irrespective of any changes in the law which may occur meanwhile**, are applicable from 1 July 2014 till 30 June 2015.

1. MOTOR CARS, TWIN-PURPOSE VEHICLES AND MINIBUSES

HP	Tax in euro (without surcharges, see 8.1.1-H)
4 or less	69.96
5	87.60
6	126.48
7	165.36
8	204.48
9	243.60
10	282.24
11	366.24
12	450.24
13	534.00
14	618.00
15	702.00
16	919.56
17	1,137.24
18	1,354.80
19	1,572.00
20	1,789.68
for each additional HP above 20 HP	97.56

2. MOTOR VEHICLES INTENDED FOR ROAD HAULAGE, WHOSE MAXIMUM ALLOWABLE MASS IS LESS THAN 3,500 KG

19.32 euro per 500 kg of maximum allowable mass (exclusive of surcharges, see 8.1.1-H), with application of a minimum tax amounting to **31.73 euro** (34.90 euro, surcharges included) for the first 0-500 kg bracket.

3. MOTORCYCLES

Uniform **49.56 euro** tax (exclusive of surcharges, see 8.1.1-H, i.e. a total amount of 54.52 euro). Where the cylinder capacity does not exceed 250 cm^3, an exemption from circulation tax is granted, but a small tax is levied by the local authorities.

4. COACHES AND BUSES

- if ≤ 10 HP: **4.44 euro** per HP with a minimum of **70.19 euro** (exclusive of surcharges; see 8.1.1-H).
- if > 10 HP: **4.44 euro** per HP + **0.24 euro** per HP above 10 HP, with a maximum rate of **12.48 euro** per HP (exclusive of surcharges; see 8.1.1-H).

5. MOTOR VEHICLES OR COMPOUND VEHICLES INTENDED FOR ROAD HAULAGE

If the maximum allowable mass (MAM) of those vehicles exceeds 3,500 kg, the tax amounts are based on tax scales taking into consideration the MAM, the number of axles and the nature of the suspension (on the one hand driving axles with a pneumatic suspension or a suspension recognised as equivalent, and on the other hand the other suspension systems).

Where a self-propelling vehicle is concerned, the MAM to be taken into account is its own MAM; where a compound vehicle is concerned, the MAM to be taken into consideration is the sum of the MAMs of the vehicles making up the compound vehicle.

There are 338 tariff rates (surcharges are still to be added: see 8.1.1-H.), subdivided in 10 tables:

a. Self-propelled motor vehicles

I. Motor vehicle with not more than two axles (30 rates, varying from 59.97 euro to 337.04 euro)
II. Motor vehicle with three axles (22 rates, varying from 209.67 euro to 448.59 euro)
III. Motor vehicle with four axles (18 rates, varying from 248.44 euro to 552.11 euro)
IV. Motor vehicle with more than four axles (58 rates, varying from 59.97 euro to 552.11 euro)

b. Compound vehicles

V. Motor vehicle with not more than two axles and trailer or semi-trailer with a single axle (50 rates, varying from 59.97 euro to 524.15 euro)
VI. Motor vehicle with two axles and trailer or semi-trailer with two axles (30 rates, varying from 260.29 euro to 705.98 euro)
VII. Motor vehicle with two axles and trailer or semi-trailer with three axles (16 rates, varying from 471.00 euro to 771.35 euro)
VIII. Motor vehicle with three axles and trailer or semi-trailer with not more than two axles (16 rates, varying from 429.20 euro to 844.70 euro)
IX. Motor vehicle with three axles and trailer or semi-trailer with three axles (16 rates, varying from 286.07 euro to 771.35 euro)
X. Compound vehicles made up differently from the configurations mentioned in V to IX (82 rates, varying from 59.97 euro to 808.01 euro)

Examples (excl. surcharges)

1. *Two-axled truck with a MAM of 10,000 kg: 164.68 euro when pneumatic suspension and 205.85 euro when not;*
2. *Three-axled truck with a MAM of 20,000 kg: 262.15 euro when pneumatic suspension and 374.52 euro when not;*
3. *Four-axled truck with a MAN of 25,000 kg: 269.14 euro when pneumatic suspension and 448.59 euro when not;*
4. *Five-axled truck with a MAM of 30,000 kg: 337.21 euro when pneumatic suspension and 534.86 euro when not;*
5. *Two-axled tractor and single-axled semi-trailer with a MAM of 20,000 kg: 309.87 euro when pneumatic suspension and 393.26 euro when not;*
6. *Two-axled truck and two-axled trailer with a MAM of 30,000 kg: 433.81 euro when pneumatic suspension and 580.37 euro when not;*
7. *Three-axled tractor and two-axled semi-trailer with a MAM of 43,000 kg: 571.00 euro when pneumatic suspension and 844.70 euro when not;*
8. *Three-axled tractor and three-axled semi-trailer with a MAM of 43,000 kg: 313.61 euro when pneumatic suspension and 771.35 euro when not.*

6. TRAILERS AND SEMI-TRAILERS WITH A MAXIMUM ALLOWABLE MASS (MAM) NOT EXCEEDING 3,500 KG

- **32.76 euro** (+ surcharges, i.e. a total amount of 36.04 euro) when MAM not exceeding 500 kg;
- **68.04 euro** (+ surcharges, i.e. a total amount of 74.84 euro) when MAM exceeding 500 kg and not exceeding 3,500 kg.

7. VEHICLES LIABLE TO A FIXED-RATE CHARGE

This tax amounts to **31.73 euro** (+ surcharges, i.e. a total amount of 34.90 euro) and is levied on:

- motor cars, twin-purpose cars and minibuses and motorcycles older than 25 years;
- camping trailers and trailers for the transportation of one boat;
- collectors' military vehicles older than 30 years.

The **minimum tax** on all vehicles liable to circulation tax amounts to **31.73 euro** (+ surcharges, i.e. a total amount of 34.90 euro).

F. Tax abatements

In certain cases (Art. 14-16 CTA) and provided certain well defined conditions are met, the following abatements can be granted:

a. abatement for long time utilisation of the vehicles (only for certain vehicles used exclusively for paid conveyance of passengers);
b. abatement for exclusive use within the confines of a port (only for certain vehicles used exclusively for transportation of goods or of any objects);
c. abatement for car fleets (only for certain vehicles used exclusively for paid conveyance of passengers).

G. Additional circulation tax (ACT)

The additional circulation tax is dealt with in Art. 12-13 CTA.

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 : 89.16 euro
- from 8 to 13 HP : 148.68 euro
- more than 13 HP : 208.20 euro

Where the vehicle is exempted from circulation tax, it is also exempted from the additional circulation 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, etc.). The yearly indexation (see 8.1.1-D) does **not** apply to the ACT and **no** municipal surcharge (see 8.1.1-H) is levied.

H. Surcharge in favour of the municipalities

This surcharge applies to all vehicles liable to the circulation tax, except (Art. 42 CTA):

a. to vehicles which are exclusively used for *paid conveyance of passengers* by virtue of a license to supply *not* regularly scheduled transportation;

b. to vehicles for which an abatement of the circulation tax was granted for exclusive use within the confines of a port;

c. to vehicles liable to the *daily* tax (vehicles used in Belgium with a foreign number plate).

After addition of the surcharge, the circulation tax for the vehicle described in the example in 8.1.1-C. amounts to:

204.48 euro + 20.45 euro = 224.93 euro

Where necessary, the additional circulation tax (see 8.1.1-G) must be added.

I. Summary table of the circulation tax

Irrespective of any changes in the law which may occur meanwhile, the circulation tax tariffs mentioned below, surcharges included, apply from 1 July 2014 until 30 June 2015. The table hereafter illustrates the tariffs applying to vehicles with a cylinder capacity of not more than 4.1 litres.

Tax amounts in euro

Cylinder capacity in litres	HP	Tax	Cylinder capacity in litres	HP	Tax
0.7 or less	4	76.96	2.4 – 2.5	13	587.40
0.8 – 0.9	5	96.36	2.6 – 2.7	14	679.80
			2.8 – 3.0	15	772.20
1.0 – 1.1	6	139.13	3.1 – 3.2	16	1,011.52
1.2 – 1.3	7	181.90			
1.4 – 1.5	8	224.93	3.3 – 3.4	17	1,250.96
1.6 – 1.7	9	267.96	3.5 – 3.6	18	1,490.28
1.8 – 1.9	10	310.46	3.7 – 3.9	19	1,729.20
			4.0 – 4.1	20	1,968.65
2.0 – 2.1	11	402.86			
2.2 – 2.3	12	495.26			

8.1.2. Flemish Region

A. *<u>Taxable</u> <u>vehicles</u>*

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 and also on similar vehicles used for the carriage of goods by road (Art. 1.1.0.0.2 and 2.2.1.0.1 “Vlaamse Codex Fiscaliteit”).

Motor vehicles are in principle listed in conformity with the regulations concerning their registration at the DIV (vehicle registration service). However, a dispensation exists for motor vehicles intended for the carriage of goods, having a maximum allowable mass not exceeding 3.5 tonnes and registrated at the DIV as “light trucks”, since the *fiscal definition of “light trucks”* applies to those vehicles *(*Art. 1.1.0.0.2 “Vlaamse Codex Fiscaliteit”).

In the matter of circulation tax, vehicles designed and constructed for the carriage of goods and having a maximum allowable mass not exceeding 3.5 tonnes, are only considered fiscally as “light trucks” if they are part of one of the four following groups:

1. *“Single Cab Pickups”,*

   i.e. vehicles consisting of a single cab totally separated from the cargo space and comprising no more than *two* seating positions exclusive of the driver, and an open loading platform. The latter may be closed by means of a canvas, a flat horizontal cover or a construction intended to protect the load.

2. “*Double Cab Pickups*”,

   i.e. vehicles consisting of a double cab, totally separated from the loading area and comprising not more than *six* seating positions exclusive of the driver, and an open loading platform. The latter may be closed by means of a canvas, a flat horizontal cover or a construction intended to protect the load.

Pickup-type vehicles will fiscally be considered as light trucks.

3. "*Vans with a single row of seats*".

   These vehicles shall "concurrently" comprise, *on the one hand*, a passenger compartment of not more than *two* seating positions exclusive of the driver and, *on the other hand*, a loading area separated from the passenger compartment. The passenger compartment and the loading area shall be separated by a partition with a height of not less than 20 cm or, in the absence of such a partition, by the back of the seats. The loading area shall cover at least 50% of the wheel base. Moreover, the whole surface of the loading area shall consist of an integrated, permanent or durably fixed, horizontal platform having no additional anchorages for seats or safety belts.

4. "*Vans with two rows of seats*".

   These vehicles shall "concurrently" comprise, *on the one hand*, a passenger compartment of not more than *six* seating positions exclusive of the driver and, *on the other hand*, a loading area separated from the passenger compartment. Here, the passenger compartment and the loading area have to be separated *completely* by a non-detachable rigid partition running right across the width and the height of the inner compartment. The loading area shall cover at least 50% of the wheel base. Moreover, the whole surface of the loading area shall consist of an integrated, permanent or durably fixed, horizontal platform having no additional anchorages for seats or safety belts.

Where vehicles registered with the DIV as light trucks do not meet the conditions set in respect of their category, they are deemed to be (private) motor cars, twin-purpose cars or minibuses, depending on their construction.

B. Exemptions

The exempted vehicles are listed in Art. 2.2.6.0.1 and following of the "Vlaamse Codex Fiscaliteit".

As for motor vehicles and compound vehicles with a maximum allowable mass of not less than 12 tons used for road transport, the following, among others, are exempted from the tax: motor vehicles and compound vehicles used exclusively for the services of national defence, civil defence or contingency, for fire departments and other emergency services, for services in charge of public order, maintenance and management of the road system, as well as a few other motor vehicles and compound vehicles (Art. 2.2.6.0.1 § 2 "Vlaamse Codex Fiscaliteit").

As for the other taxable vehicles, the following, among others, are exempted from the tax: vehicles used exclusively for a public service of the various authorities, vehicles exclusively used for public transport, ambulances and vehicles used as a personal means of transport by badly disabled war veterans or other disabled people, certain agricultural vehicles and vehicles of the like, vehicles used exclusively as a taxi, motorcycles not exceeding 250 cm^3 as well as a few other vehicles. An exemption has also been provided for vehicles deployed by transporters subsidized by the Flemish government and used exclusively for the transportation of disabled persons or persons with severely reduced mobility (Art. 2.2.6.0.1 § 1 "Vlaamse Codex Fiscaliteit").

C. Tax base

The tax base is determined, as the case may be, according to the engine power, the cylinder capacity or the maximum allowable mass of the vehicle. For vehicles powered by rotary piston engines and liable to circulation tax, the tax is determined by the number of HP, which is calculated on the basis of a formula in which all the data are related to the cylinder capacity in litres (Art. 2.2.3.0.1 and following "Vlaamse Codex Fiscaliteit").

Example
A car has a four-cylinder engine with an internal diameter of 76 mm. Its piston stroke is 80 mm. The cylinder capacity is therefore 1.5 litre. The fiscal power, expressed in HP, is: $HP = 4 \times \text{cylinder capacity (in litre)} + \frac{\text{weight (in 100 kg)}}{4}$ *For that car, the second term in the formula is replaced by a coefficient which varies according to the cylinder capacity. For a cylinder capacity of 1.5 litre, the coefficient is equal to 2.00. The fiscal rating in HP amounts therefore for that car to:* $4 \times 1.5 + 2.00 = 8.00$, *i.e. 8 HP.*

D. Indexation of the rates

A number of rates are adjusted **on 1 July** of each year according to a determined calculation method, on the basis of the fluctuations of the general consumer price index (Art. 2.2.4.0.3 "Vlaamse Codex Fiscaliteit").

In particular, these are the tax rates for the following vehicles:

1°. motor cars, twin-purpose cars and minibuses;
2°. motorcycles;
3°. coaches and buses (the minimum rate **only**);
4°. trailers and semi-trailers with a maximum allowable mass not exceeding 3,500 kg;
5°. motor cars, twin-purpose cars and minibuses which are more than 25 years old, camping trailers and trailers for the transportation of one boat, collectors' military vehicles which are more than 30 years old, as well as the minimum rate generally applicable.

E. Rates

Where the rates are indexed*,* the amounts mentioned hereafter, **irrespective of any changes in the law which may occur meanwhile**, are applicable from 1 July 2014 till 30 June 2015.

1. MOTOR CARS, TWIN-PURPOSE VEHICLES AND MINIBUSES

HP	Tax in euro (without surcharges, see 8.1.2-H)
4 or less	69.96
5	87.48
6	126.48
7	165.24
8	204.48
9	243.48
10	282.12
11	366.12
12	450.12
13	534.00
14	618.00
15	702.00
16	919.44
17	1,137.24
18	1,354.80
19	1,572.00
20	1,789.56
for each additional HP above 20 HP	97.44

2. MOTOR VEHICLES INTENDED FOR ROAD HAULAGE, WHOSE MAXIMUM ALLOWABLE MASS IS LESS THAN 3,500 KG

19.32 euro per 500 kg of maximum allowable mass (+ surcharges, see 8.1.2-H), with application of a minimum tax amounting to **31.72 euro** (34.89 euro, surcharges included) for the first 0-500 kg bracket.

3. MOTORCYCLES

Uniform **49.56 euro** tax (+ surcharges, see 8.1.2-H, i.e. a total amount of 54.52 euro). Where the cylinder capacity does not exceed 250 cm^3, an exemption from circulation tax is granted, but a small tax is levied by the local authorities.

4. COACHES AND BUSES

- if ≤ 10 HP: **4.44 euro** per HP with a minimum of **70.19 euro** (+ surcharges; see 8.1.2-H).
- if > 10 HP: **4.44 euro** per HP + **0.24 euro** per HP above 10 HP, with a maximum rate of **12.48 euro** per HP (+ surcharges; see 8.1.2-H).

5. MOTOR VEHICLES OR COMPOUND VEHICLES INTENDED FOR ROAD HAULAGE

If the maximum allowable mass (MAM) of those vehicles exceeds 3,500 kg, the tax amounts are based on tax scales taking into consideration the MAM, the number of axles and the nature of the suspension (on the one hand driving axles with a pneumatic suspension or a suspension recognised as equivalent, and on the other hand the other suspension systems).

Where a self-propelling vehicle is concerned, the MAM to be taken into account is its own MAM; where a compound vehicle is concerned, the MAM to be taken into consideration is the sum of the MAMs of the vehicles making up the compound vehicle.

There are 338 tariff rates (surcharges are still to be added – see 8.1.2-H), subdivided in 10 tables:

a. Self-propelled motor vehicles

I. Motor vehicle with not more than two axles (30 rates, varying from 59.97 euro to 337.04 euro)
II. Motor vehicle with three axles (22 rates, varying from 209.67 euro to 448.59 euro)
III. Motor vehicle with four axles (18 rates, varying from 248.44 euro to 552.11 euro)
IV. Motor vehicle with more than four axles (58 rates, varying from 59.97 euro to 552.11 euro)

b. Compound vehicles

V. Motor vehicle with not more than two axles and trailer or semi-trailer with a single axle (50 rates, varying from 59.97 euro to 524.15 euro)
VI. Motor vehicle with two axles and trailer or semi-trailer with two axles (30 rates, varying from 260.29 euro to 705.98 euro)
VII. Motor vehicle with two axles and trailer or semi-trailer with three axles (16 rates, varying from 471.00 euro to 771.35 euro)
VIII. Motor vehicle with three axles and trailer or semi-trailer with not more than two axles (16 rates, varying from 429.20 euro to 844.70 euro)
IX. Motor vehicle with three axles and trailer or semi-trailer with three axles (16 rates, varying from 286.07 euro to 771.35 euro)
X. Compound vehicles made up differently from the configurations mentioned in V to IX (82 rates, varying from 59.97 euro to 808.01 euro)

Examples (excl. surcharges)

1. *Two-axled truck with a MAM of 10,000 kg: 164.68 euro when pneumatic suspension and 205.85 euro when not;*
2. *Three-axled truck with a MAM of 20,000 kg: 262.15 euro when pneumatic suspension and 374.52 euro when not;*
3. *Four-axled truck with a MAN of 25,000 kg: 269.14 euro when pneumatic suspension and 448.59 euro when not;*
4. *Five-axled truck with a MAM of 30,000 kg: 337.21 euro when pneumatic suspension and 534.86 euro when not;*
5. *Two-axled tractor and single-axled semi-trailer with a MAM of 20,000 kg: 309.87 euro when pneumatic suspension and 393.26 euro when not;*
6. *Two-axled truck and two-axled trailer with a MAM of 30,000 kg: 433.81 euro when pneumatic suspension and 580.37 euro when not;*

7. Three-axled tractor and two-axled semi-trailer with a MAM of 43,000 kg: 571.00 euro when pneumatic suspension and 844.70 euro when not;
8. Three-axled tractor and three-axled semi-trailer with a MAM of 43,000 kg: 313.61 euro when pneumatic suspension and 771.35 euro when not.

6. TRAILERS AND SEMI-TRAILERS WITH A MAXIMUM ALLOWABLE MASS (MAM) NOT EXCEEDING 3,500 KG

32.64 euro (+ surcharges, i.e. a total amount of 35.90 euro) when MAM not exceeding 500 kg;

68.04 euro (+ surcharges, i.e. a total amount of 74.84 euro) when MAM exceeding 500 kg and not exceeding 3,500 kg.

There is an exemption from circulation tax for trailers and semi-trailers with a MAM of 750 kg or lower, towed exclusively by motor cars, twin-purpose cars, minibuses, ambulances, motorcycles, light trucks, motorhomes, buses or coaches.

This exemption only applies to taxpayers who are natural persons or other legal persons than companies, autonomous public undertakings and non-profit organisations, engaged in leasing activities.

N.B.: Camping trailers and trailers for the transportation of one boat remain liable to the fixed-rate charge (see point 7 hereafter).

7. VEHICLES LIABLE TO A FIXED-RATE CHARGE

This tax amounts to **31.72 euro** (+ surcharges, i.e. a total amount of 34.89 euro) and is levied on:

- motor cars, twin-purpose cars and minibuses and motorcycles older than 25 years;
- camping trailers and trailers for the transportation of one boat;
- collectors' military vehicles older than 30 years.

The **minimum rate** on all vehicles liable to circulation tax amounts to **31.72 euro** (+ surcharges, i.e. a total amount of 34.89 euro).

8. MOTORHOMES

Maximum allowable mass (MAM) in kg		Tax in euro (excl. surcharge)
from	to	
0	1,500	84
1,501	3,500	120
3,501	7,999	132
8,000	10,999	168
11,000	and more	264

These tariffs must still be **increased by the surcharge**. They only apply to natural persons and to other legal persons than companies, autonomous public undertakings and non-profit organisations, engaged in leasing activities. These vehicles do not entitle for an exemption.

F. Tax abatements

In certain cases (Art. 2.2.5.0.1 and following "Vlaamse Codex Fiscaliteit") and provided certain well defined conditions are met, the following abatements can be granted:

a. abatement for long time utilisation of the vehicles (only for certain vehicles used exclusively for paid conveyance of passengers);
b. abatement for exclusive use within the confines of a port (only for certain vehicles used exclusively for transportation of goods or of any objects);
c. abatement for car fleets (only for certain vehicles used exclusively for paid conveyance of passengers).

G. Additional circulation tax (ACT)

The additional circulation tax is dealt with in Art. 2.2.4.0.4 "Vlaamse Codex Fiscaliteit".

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 : 89.16 euro
- from 8 to 13 HP : 148.68 euro
- more than 13 HP : 208.20 euro

Where the vehicle is exempted from circulation tax, it is also exempted from the additional circulation 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, etc.). The yearly indexation (see 8.1.2-D) does **not** apply to the ACT and **no** municipal surcharge (see 8.1.2-H) is levied.

H. Surcharge in favour of the municipalities

This surcharge applies to all vehicles liable to the circulation tax (Art. 2.2.4.0.5 "Vlaamse Codex Fiscaliteit"), except:

a. to vehicles which are exclusively used for *paid conveyance of passengers* by virtue of a license to supply *not* regularly scheduled transportation;
b. to vehicles for which an abatement of the circulation tax was granted for exclusive use within the confines of a port;
c. to vehicles liable to the daily tax (vehicles used in Belgium with a foreign number plate).

After addition of the surcharge, the circulation tax for the vehicle described in the example in 8.1.2-C. amounts to:

204.48 euro + 20.45 euro = 224.93 euro

Where necessary, the additional circulation tax (see 8.1.2-G) must be added.

I. Summary table of the circulation tax

Irrespective of any changes in the law which may occur meanwhile, the following circulation tax tariffs, surcharges included, apply from 1 July 2014 until 30 June 2015. The table hereafter illustrates the tariffs applying to vehicles with a cylinder capacity of not more than 4.1 litres.

Tax amounts in euro

Cylinder capacity in litres	HP	Tax	Cylinder capacity in litres	HP	Tax
0.7 or less	4	76.96	2.4 – 2.5	13	587.40
0.8 – 0.9	5	96.23	2.6 – 2.7	14	679.80
			2.8 – 3.0	15	772.20
1.0 – 1.1	6	139.13	3.1 – 3.2	16	1,011.38
1.2 – 1.3	7	181.76			
1.4 – 1.5	8	224.93	3.3 – 3.4	17	1,250.96
1.6 – 1.7	9	267.83	3.5 – 3.6	18	1,490.28
1.8 – 1.9	10	310.33	3.7 – 3.9	19	1,729.20
			4.0 – 4.1	20	1,968.52
2.0 – 2.1	11	402.73			
2.2 – 2.3	12	495.13			

As far as *vehicles fitted with an LPG fuel system* are concerned, the additional circulation tax (see amounts in point 8.1.2-G.) must be added to the amounts listed in the table above.

8.2. The tax on the entry into service (TES)

Preliminary remark:

As from 1 January 2011, only the Flemish Region is competent to service the tax on the entry into service for natural persons domiciled therein or legal persons having their registered office there.

As from 1 January 2014, only the Walloon Region is competent to service the tax on the entry into service for natural persons domiciled therein or legal persons having their registered office there.

As far as the Brussels-Capital Region is concerned, the FPS Finance remains competent to service this tax.

8.2.1. Walloon Region and Brussels-Capital Region

A. Taxable vehicles

The tax on the entry into service is levied on:

a. motor cars, twin-purpose vehicles, minibuses and motorcycles (including motor vehicles described as/called “light trucks” in the legislation regarding the registration of motor vehicles, but which do not meet the fiscal definition of “light trucks”, cf. 8.1.1-A above);

b. airplanes, seaplanes, helicopters, gliders, balloons and certain other aircraft;

c. yachts and pleasure sea-craft of a length exceeding 7.5 metres, when these craft must have a certificate of registry;

when these road vehicles, aircraft or boats are entered into service on public roads or when they are used in Belgium (cf. Art. 94 CTA). 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, an aircraft or a boat (respectively registration in the directory of the Office of Traffic, registration by the Aviation Board and delivery of the certificate of registry by the Navy and Inland Navigation Administration).

The tax is due once, upon the first entry into service on public roads of the vehicle or the first use of the aircraft or the boat, in the name of one well-determined person. So, if the same vehicle is entered into service again under another person's name, TES is due again.

This tax is not due however in the case of a transfer between spouses or in the case of a transfer between divorcees where the transfer is due to the divorce, provided the tax on the entry into service due on the road vehicle, aircraft or boat has been fully paid by the assignor.

Moreover, in the **Walloon Region**, the exemption also applies, under the same conditions of previous payment by the assignor, to legal cohabitants or ex-legal cohabitants, where the transfer is due to the termination of the legal cohabitation.

In this Region, "legal cohabitant" and "termination of legal cohabitation" are defined as follows:

- "legal cohabitant": any person living together with the holder of the old registration on the day of the new registration and having made a declaration of legal cohabitation in accordance with the regulations of Book III, Title V*bis* of the Civil Code, with the exception of two persons cohabiting as defined above and having a father-mother/child, brother/sister or uncle-aunt/nephew-niece relationship, and provided the declaration of legal cohabitation was registered more than one year before the date of the new registration;
- "termination of legal cohabitation": the end of the state of legal cohabitation following a declaration of termination of legal cohabitation, made in accordance with article 1476 § 2 of the Civil Code.

B. *Exemptions*

The exemptions are listed in Art. 96 CTA and concern **notably**:

a. aircraft and boats used exclusively by a public service of the State or other public authorities;

b. vehicles used exclusively for the transportation of ill or wounded persons and, as regards road vehicles, registered as ambulances;

c. vehicles used as a personal means of transport by badly disabled war veterans and certain handicapped persons.

C. 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.

D. Rates

Remark

For any taxable vehicle, only one payment request will be sent. This will mention the amount to be paid as well for the circulation tax as, if need be, for the additional circulation tax and for the tax on the entry into service.

1. MOTOR CARS, TWIN-PURPOSE VEHICLES, MINIBUSES AND MOTORCYCLES

HP	kW	Tax in euro
0 to 8	0 to 70	61.50
9 and 10	71 to 85	123.00
11	86 to 100	495.00
12 to 14	101 to 110	867.00
15	111 to 120	1,239.00
16 and 17	121 to 155	2,478.00
More than 17	More than 155	4,957.00

If the power of a given engine expressed in fiscal HP and in kW causes a different amount of TES to be levied, TES is due on the **largest** amount.

Vehicles having been registered previously in this country or, prior to their final importation, abroad, are entitled to a reduction in TES which is proportional to the number of entire years elapsed between the first registration and the new registration. After the 15th year elapsed between the first registration and the new registration, they are taxed at a flat rate.

Period elapsed since first registration	The tax is reduced to the following percentage of the amount
1 year to < 2 years	90%
2 years to < 3 years	80%
3 years to < 4 years	70%
4 years to < 5 years	60%
5 years to < 6 years	55%
6 years to < 7 years	50%
7 years to < 8 years	45%
8 years to < 9 years	40%
9 years to < 10 years	35%
10 years to < 11 years	30%
11 years to < 12 years	25%
12 years to < 13 years	20%
13 years to < 14 years	15%
14 years to < 15 years	10%
at least 15 years	61.50 euro (flat rate)

After the reduction has been applied the tax **cannot**, however, **be less than 61.50 euro.**

Tax reduction

Vehicles running on LPG, even if only partly or occasionally, are entitled to a 298.00 euro reduction in TES. The reduction cannot exceed the amount of the tax due, however.

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 867.00 euro 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 867.00 euro x 90% = 780.30 euro. Upon registration 7 years after the first registration, the tax on the entry into service amounts to 867.00 euro x 45% = 390.15 euro. *If this car runs on LPG, the tax amounts to 867.00 euro - 298.00 euro = 569.00 euro upon the first entry into service. Upon registration 15 months after the first registration, the tax amounts to (867.00 euro - 298.00 euro) x 90% = 512.10 euro.*

2. AIRCRAFT

A fixed-rate amount of 619 euro for ultra-light motorised aircraft and 2,478 euro for the others.

If these aircraft have already been normally registered previously during at least one year either in this country or abroad before their final importation, the tax is reduced according to the following table.

Period elapsed since first registration	The tax is reduced to the following percentage of the amount
1 year to < 2 years	90%
2 years to < 3 years	80%
3 years to < 4 years	70%
4 years to < 5 years	60%
5 years to < 6 years	50%
6 years to < 7 years	40%
7 years to < years	30%
8 years to < 9 years	20%
9 years to < 10 years	10%
at least 10 years	61.50 euro (flat rate) (1)

Example
An ultra-light motorised aircraft is registered for the first time. The tax amounts to 619 euro. If a subsequent registration occurs 7.5 years after the first, the tax amounts to 619 euro x 30% = 185.70 euro. Upon a subsequent registration at least 10 years after the first, the tax amounts to 61.50 euro (flat rate).

3. BOATS

A fixed-rate amount of 2,478 euro.

If these boats have been previously provided with a certificate of registry either in this country or abroad before their final importation during at least one year, the tax is reduced according to the same scheme as for aircraft (see point 2 above).

Example
A boat receives a certificate for the first time. The tax amounts to 2,478 euro. If a subsequent delivery of a certificate occurs 9.5 years after the first, the tax amounts to 2,478 euro x 10% = 247.80 euro. Upon delivery of a certificate at least 10 years after the first, the tax amounts to 61.50 euro (flat rate).

E. The ecomalus system in the Walloon Region

This system is exclusively applicable to (new or used) motor cars and twin-purpose cars which are put into service in the Walloon Region, except those put into service in the same Region by companies, autonomous public undertakings and non-profit organisations engaged in leasing activities. The ecomalus is levied in addition to the TES. It is ruled by articles 97 to 97*quinquies* of the Code of taxes assimilated to income taxes, applicable in the Walloon Region.

The emission category of the vehicle put into service determines the amount of the ecomalus. It is fixed on the basis of the CO_2 emission in g/km as fixed according to Directive 80/1268/EEC and is set out in Tabel I hereafter.

TABLE I – EMISSION CATEGORIES FOR THE ECOMALUS

CO_2 emissions in g/km	Emission category
0 – 98	1
99 – 104	2
105 – 115	3
116 – 125	4
126 – 135	5
136 – 145	6
146 – 155	7
156 – 165	8
166 – 175	9
176 – 185	10
186 – 195	11
196 – 205	12
206 – 215	13
216 – 225	14
226 – 235	15
236 – 245	16
246 – 255	17
256 and more	18

As far as large families are concerned, i.e. families with at least three dependent children, the figure representing the emission category of the vehicle put into service is reduced by one for families with three dependent children and by two for families with at least four dependent children. Those deductions only apply to vehicles belonging to an emission category lower than 15.

For LPG vehicles, the figure representing the emission category of the vehicle put into service is reduced by one.

The amount of the ecomalus is mentioned in Table II hereafter.

TABLE II – AMOUNT OF THE ECOMALUS

Figure representing the emission category of the motor vehicle recently put into service on the territory of the Walloon Region, after possible deduction	Ecomalus in euro
7	100
8	175
9	250
10	375
11	500
12	600
13	700
14	1,000
15	1,200
16	1,500
17	2,000
18	2,500

Remark

The ecomalus amounts to 0 euro for cars and twin-purpose cars which have been in service for more than 25 years and which holds the special number plate (vehicles referred to in article 2, §2, paragraph 2, 7°, of the Royal Decree of 15 March 1968 laying down general rules for the technical conditions which must be met by motor vehicles, their trailers, components and security accessories).

Examples

1. A motor vehicle with an emission of 169 g/km (emission category 9) is put into service. The ecomalus amounts to 250 euro.
2. A large family with four dependent children puts a LPG vehicle with an emission of 210 g/km into service. The emission category is equal to 13, reduced in this case to category 10 (= 13-2 (large family with more than three dependent children) -1 (LPG vehicle)). The ecomalus amounts to 375 euro.

8.2.2. Flemish Region

A. Taxable vehicles

The tax on the entry into service is levied on:

a. motor cars, twin-purpose vehicles, minibuses and motorcycles (including motor vehicles described as/called "light trucks" in the legislation regarding the registration of motor vehicles, but which do not meet the fiscal definition of "light trucks", cf. 8.1.2-A above);

b. airplanes, seaplanes, helicopters, gliders, balloons and certain other aircraft;

c. yachts and pleasure sea-craft of a length exceeding 7.5 metres, when these craft must have a certificate of registry;

when these road vehicles, aircraft or boats are entered into service on public roads or when they are used in Belgium (cf. Art. 2.3.1.0.1 "Vlaamse Codex Fiscaliteit"). 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, an aircraft or a boat (respectively registration in the directory of the Directorate-General for Mobility and Road Safety, registration by the Directorate-General for Air Transport and delivery of the certificate of registry by the Federal Public Service Mobility).

The tax is due once, upon the first entry into service on public roads of the vehicle or the first use of the aircraft or the boat in the name of one well-determined person. So, if the same vehicle is entered into service again under another person's name, TES is due again.

This tax is not due however in the case of a transfer between spouses or in the case of a transfer between divorcees where the transfer is due to the divorce, provided the tax on the entry into service due on the road vehicle, aircraft or boat has been fully paid by the assignor.

B. Exemptions

The exemptions are listed in Art. 2.3.6.0.1-2 of the "Vlaamse Codex Fiscaliteit" and concern **notably**:

a. aircraft and boats used exclusively by a public service of the State or other public authorities;

b. vehicles used exclusively for the transportation of ill or wounded persons and, as regards road vehicles, registered as ambulances;

c. vehicles used as a personal means of transport by badly disabled war veterans and certain handicapped persons.

C. Tax base

For **motor cars, twin-purpose vehicles and minibuses** that are deemed to be put into service in the Flemish Region, **with the exception of** motor cars, twin-purpose vehicles and minibuses that are deemed to be put into service by companies, autonomous public undertakings and non-profit organisations, engaged in leasing activities, the tax is computed on the basis of environmental characteristics.

These environmental characteristics are CO_2 emissions and environmental categories based on the Euro 0 to 6 standards. The presence of a particulate filter is also taken into consideration.

For the **other taxable road vehicles** (including motorcycles), the tax is computed on the basis of the engine power, expressed either in fiscal HP or in kilowatts (kW).

For **aircraft** and **boats**, the tax is a lump sum amount.

However, for all those means of transport, the tax also depends on the period of time elapsed after the first entry into service.

D. *Rates*

Remark

For any taxable vehicle, only one payment request will be sent. This will mention the amount to be paid as well for the circulation tax as, if need be, for the additional circulation tax and for the tax on the entry into service.

1. MOTOR CARS, TWIN-PURPOSE VEHICLES AND MINIBUSES, WITH THE EXCEPTION OF LEASING COMPANIES

For **motor cars, twin-purpose vehicles and minibuses** that are deemed to be put into service in the Flemish Region, **with the exception of** motor cars, twin-purpose vehicles and minibuses that are deemed to be put into service by companies, autonomous public undertakings and non-profit organisations, engaged in leasing activities, the following rates apply:

TES in euro = $(((CO_2*f + x)/250)^6 * 4500 + c) * ACF$

where:

CO_2 = CO_2 emissions of the vehicle in g/km, such as measured during the approval of the vehicle in accordance with the European legislation in force;

f = 0.88 for LPG vehicles, 0.93 for natural gas vehicles, 0.744 for vehicles powered by as well natural gas as petrol and insofar as they have been approved as petrol cars, and 1 for other vehicles;

x = CO_2 correction factor according to technological developments. The x value for 2015 amounts to 13.5 g CO_2/km. This value is yearly increased by 4.5 g CO_2/km;

ACF = age correction factor, determined on the basis of the age of the vehicle. The age of the vehicle is based on the date of the first registration of the vehicle in Belgium or abroad, as mentioned on the registration certificate. The ACF value is calculated on the basis of the following table:

Age of the vehicle	ACF value
Less than 12 full months	100%
From 12 to 23 full months	90%
From 24 to 35 full months	80%
From 36 to 47 full months	70%
From 48 to 59 full months	60%
From 60 to 71 full months	50%
From 72 to 83 full months	40%
From 84 to 95 full months	30%
From 96 to 107 full months	20%
108 full months or more	10%

c = fixed price (air component) depending on the Euro standard (that indicates the harmfulness of exhaust fumes) and the fuel type, as shown in the tables below:

Diesel	Euro standard	Amounts in euro
	Euro 0	2,223.94
	Euro 1	652.47
	Euro 2	473.30
	Euro 3	372.93
	Euro 3 + particulate filter	352.49
	Euro 4	352.49
	Euro 4 + particulate filter	346.50
	Euro 5	346.50
	Euro 6	12.79

Petrol, LPG and natural gas	Euro standard	Amounts in euro
	Euro 0	884.54
	Euro 1	395.58
	Euro 2	118.29
	Euro 3	74.21
	Euro 4	17.81
	Euro 5	16.02
	Euro 6	16.02

The TES cannot be lower than 41.76 euro and higher than 10,439.45 euro. The TES relating to vehicles put into service for the first time at least 25 years ago, is equal to a lump sum amount of 41.76 euro.

The amounts of the “c” component (air component) and the minimum and maximum amounts of the TES are adjusted on 1 July of each year on the basis of fluctuations in the general consumer price index.

Vehicles exclusively powered by an electric engine or by hydrogen, and plug-in hybrids are not liable to the TES. A plug-in hybrid is a vehicle powered by an electric engine and a combustion engine and for which electric power is provided to the electric engine by batteries that can be fully charged by a connection to an external power supply.

Examples

1. A diesel vehicle meeting the Euro 6 standard and with CO_2 emissions of 109 g/km, is put into service for the first time on 2 January 2015. The TES amounts to 75.07 euro.

2. A diesel vehicle is put into service again on 2 January 2015. It has the following characteristics: the vehicle was put into service for the first time on 12 July 2011, it meets the Euro 5 standard and its CO_2 emissions are equal to 104 g/km. The TES amounts to 276.51 euro.

3. A petrol vehicle meeting the Euro 6 standard and with CO_2 emissions of 127 g/km, is put into service for the first time on 2 January 2015. The TES amounts to 157.82 euro.

4. A petrol vehicle is put into service again on 2 January 2015. It has the following characteristics: the vehicle was put into service for the first time on 12 July 2011, it meets the Euro 5 standard and its CO_2 emissions are equal to 134 g/km. The TES amounts to 144.08 euro.

2. OTHER TAXABLE ROAD VEHICLES (INCLUDING MOTORCYCLES)

HP	kW	Tax in euro
0 to 8	0 to 70	61.50
9 and 10	71 to 85	123.00
11	86 to 100	495.00
12 to 14	101 to 110	867.00
15	111 to 120	1,239.00
16 and 17	121 to 155	2,478.00
More than 17	More than 155	4,957.00

If the power of a given engine expressed in fiscal HP and in kW causes a different amount of TES to be levied, TES is due on the **largest** amount.

Vehicles having been registered previously in this country or, prior to their final importation, abroad, are entitled to a reduction in TES which is proportional to the number of entire years elapsed between the first registration and the new registration. After the 15th year elapsed between the first registration and the new registration, they are taxed at a flat rate.

Period elapsed since first registration	The tax is reduced to the following percentage of the amount
1 year to < 2 years	90%
2 years to < 3 years	80%
3 years to < 4 years	70%
4 years to < 5 years	60%
5 years to < 6 years	55%
6 years to < 7 years	50%
7 years to < 8 years	45%
8 years to < 9 years	40%
9 years to < 10 years	35%
10 years to < 11 years	30%
11 years to < 12 years	25%
12 years to < 13 years	20%
13 years to < 14 years	15%
14 years to < 15 years	10%
at least 15 years	61.50 euro (flat rate)

After the reduction has been applied the tax **cannot**, however, **be less than 61.50 euro.**

Tax reduction

Vehicles running on LPG, even if only partly or occasionally, are entitled to a 298.00 euro reduction in TES. The reduction cannot exceed the amount of the tax due, however.

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 867.00 euro 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 867.00 euro x 90% = 780.30 euro. Upon registration 7 years after the first registration, the tax on the entry into service amounts to 867.00 euro x 45% = 390.15 euro. *If this car runs on LPG, the tax amounts to 867.00 euro - 298.00 euro = 569.00 euro upon the first entry into service. Upon registration 15 months after the first registration, the tax amounts to (867.00 euro - 298.00 euro) x 90% = 512.10 euro.*

3. AIRCRAFT

A fixed-rate amount of 619 euro for ultra-light motorised aircraft and 2,478 euro for the others.

If these aircraft have already been normally registered previously during at least one year either in this country or abroad before their final importation, the tax is reduced according to the following table.

Period elapsed since first registration	The tax is reduced to the following percentage of the amount
1 year to < 2 years	90%
2 years to < 3 years	80%
3 years to < 4 years	70%
4 years to < 5 years	60%
5 years to < 6 years	50%
6 years to < 7 years	40%
7 years to < years	30%
8 years to < 9 years	20%
9 years to < 10 years	10%
at least 10 years	61.50 euro (flat rate) (1)

(1) This amount also applies to amateur-built aircrafts of natural persons, regardless of the age of the aircrafts.

Example
An ultra-light motorised aircraft is registered for the first time. The tax amounts to 619 euro. If a subsequent registration occurs 7.5 years after the first, the tax amounts to 619 euro x 30% = 185.70 euro. Upon a subsequent registration at least 10 years after the first, the tax amounts to 61.50 euro (flat rate).

4. BOATS

A fixed-rate amount of 2,478 euro.

If these boats have been previously provided with a certificate of registry either in this country or abroad before their final importation during at least one year, the tax is reduced according to the same scheme as for aircraft (see B above).

Example
A boat receives a certificate for the first time. The tax amounts to 2,478 euro. If a subsequent delivery of a certificate occurs 9.5 years after the first, the tax amounts to 2,478 euro x 10% = 247.80 euro. Upon delivery of a certificate at least 10 years after the first, the tax amounts to 61.50 euro (flat rate).

8.3. The Eurovignette

This Eurovignette is laid down by the Law of 27 December 1994, approving the Treaty concerning the levy of duties for the use of certain roads by heavy lorries, signed at Brussels on 9 February 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 25 October 1993, and by the decrees issued for its implementation.
As regards the Eurovignette, which falls within the competence of the Flemish Region, the provisions specified in the "Vlaamse Codex Fiscaliteit" (Flemish Tax Code) apply.

Preliminary remark:

As from 1 January 2011, only the Flemish Region is competent to service the Eurovignette for natural persons domiciled therein or legal persons having their registered office there.

As from 1 January 2014, only the Walloon Region is competent to service the Eurovignette for natural persons domiciled therein or legal persons having their registered office there.

As far as the Brussels-Capital Region is concerned, the FPS Finance remains competent to service this tax.

8.3.1. Definition

The Eurovignette is a tax assimilated to income taxes which is levied as a duty for the use of the road network.

8.3.2. Taxable vehicles

The Eurovignette is levied on the vehicles engaged in or exclusively used for road transport of goods, and of which maximum authorised mass is 12 tons at least.

The Eurovignette is due:

- for vehicles which are or must be registered in Belgium: as from the very moment they use a public highway;
- 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 Eurovignette is applicable).

8.3.3. Exempted vehicles

The following are exempted:

- 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, and which are identified as such;
- provided certain conditions are met, 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. For the Flemish Region, this exemption is further detailed in art. 2.4.6.0.1, § 2, of the "Vlaamse Codex Fiscaliteit".

8.3.4. Rates

Rates in euro:

	Annually		Quarterly (*)		Monthly		Weekly		Daily
Country of registration	≤ 3 axles	≥ 4 axles	≤ 3 axles	≥ 4 axles	≤ 3 axles	≥ 4 axles	≤ 3 axles	≥ 4 axles	
Belgium									
- emission norm non-EURO	960	1,550	288	465	-	-	-	-	-
- emission norm EURO I	850	1,400	255	420	-	-	-	-	-
- emission norm EURO II and cleaner	750	1,250	225	375	-	-	-	-	-
1. All other countries 2. Vehicles covered by a Belgian trader's number plate or a temporary number plate									
- emission norm non-EURO	960	1,550	-	-	96	155	26	41	8
- emission norm EURO I	850	1,400	-	-	85	140	23	37	8
- emission norm EURO II and cleaner	750	1,250	-	-	75	125	20	33	8

(*) It is in fact a payment term of the annual rate; the amount is equal to three times the amount of the monthly rate.

8.4. Betting and gambling tax (BGT)

8.4.1. Flemish Region

The tax on betting and gambling is levied on the gross amount of the sums and/or stakes involved, or on the gross margin realised upon the bet or the gamble.

In the Flemish Region, the rates and tax bases of this tax are as follows:

Nature of the betting and gambling activities	Tax base (in euro)	Rates
Online betting and gambling activities (including horse-races, dog-races and sporting events)	Actual gross margin realised upon the bet or the gamble	11%
Betting and gambling activities via 0900 phone numbers, SMS messages, etc., with the exception of bets on horse-races, dog-races and sporting events	Gross amount of the sums involved	15%
Bets on horse-races, dog-races and sporting events taking place abroad IN the EEA	Actual gross margin realised upon the bet or the gamble	15%
Bets on horse-races, dog-races and sporting events taking place abroad OUTSIDE the EEA	Gross amount of the sums or stakes involved	15%
Bets on horse-races, dog-races and sporting events taking place in Belgium	Actual gross margin realised upon the bet or the gamble	15%
Betting and gambling in casinos - baccara “chemin de fer” - roulette without zero	 Bankers’ winnings Punters’ winnings	 5.3% 3%
Other casino games	Gross gaming proceeds: Up to € 865,000 More than € 865,000	 33% 44%
Gaming machines assimilated to casino games, simultaneously operated by the organiser of casino games	Gross gaming proceeds: € 0 - € 1,200,000.00 € 1,200,000 - € 2,450,000 € 2,450,000 - € 3,700,000 € 3,700,000 - € 6,150,000 € 6,150,000 - € 8,650,000 € 8,650,000 - € 12,350,000 € 12,350,000 and more	 20% 25% 30% 35% 40% 45% 50%
Other betting and gambling activities	Sums or stakes involved	15%

There are exemptions, e.g. exempted lotteries such as "Lotto", "Presto", "Subito", pigeon fanciers’ shows during which money is only gambled by the owners of the registered pigeons, etc.

8.4.2. Walloon Region

As from 1 January 2010, only the Walloon Region is competent to service the tax on betting and gambling taking place on its territory. As far as the two other regions are concerned, the FPS Finance keeps on servicing this tax.

The tax on betting and gambling is levied on the gross amount of the sums and/or stakes involved or on the gross proceeds of betting and gambling activities accruing to the organiser.

In the Walloon Region, the rates and tax bases of this tax are as follows:

Nature of the betting and gambling activities	Tax base (in euro)	Rates
Betting and gambling activities of which the sums or stakes are involved by means of electronic equipment for the processing and storage of data, which are entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means	Actual gross margin realised upon the betting or gambling activity	11%
Bets on horse-races taking place in Belgium and abroad	Actual gross margin realised upon the bet	15%
Bets on dog-races taking place in Belgium and abroad	Actual gross margin realised upon the bet	15%
Bets on sporting events taking place in Belgium and abroad	Actual gross margin realised upon the bet	15%
Betting and gambling in casinos - Card games except black-jack and texas hold'em poker and games using - even occasionally - dice or dominoes - roulette without zero	 Gross margin (difference between the sum of the stakes of the day and the gamers' winnings) Punters' winnings	 11% 2.75%
Automatic gaming machines placed in class I gambling establishments, as defined in the Law of 7 May 1999 relating to games of chance	Gross gaming proceeds: from € 0.01 to € 1,200,000.00 from € 1,200,000.01 to € 2,450,000.00 from € 2,450,000.01 to € 3,700,000.00 from € 3,700,000.01 to € 6,150,000.00 from € 6,150,000.01 to € 8,650,000.00 from € 8,650,000.01 to € 12,350,000.00 € 12,350,000.01 and more	 20% 25% 30% 35% 40% 45% 50%
Poker games	Gross gaming proceeds where the casino takes part in the game, or the difference between the sum of the stakes of the day and the gamers' winnings, where the casino **does not** take part in the game: until € 1,360,000.00 € 1,360,000.01 and more	 33% 44%
Other casino games	Gross gaming proceeds: until € 1,360,000.00 € 1,360,000.01 and more	 33% 44%
Other betting and gambling activities	Sums or stakes involved	11%

There are exemptions, e.g. exempted lotteries such as "Lotto", "Presto", "Subito", pigeon fanciers' shows during which money is only gambled by the owners of the registered pigeons, etc.

8.4.3. Brussels-Capital Region

The tax on betting and gambling is levied on the gross amount of the sums and/or stakes involved, or on the gross margin realised upon the bet or the gamble.

In the Brussels-Capital Region, the rates and tax bases of this tax are as follows:

Nature of the betting and gambling activities	Tax base (in euro)	Rates
Online betting and gambling activities (including horse-races, dog-races and sporting events)	Actual gross margin realised upon the bet or the gamble	11%
Betting and gambling activities via 0900 phone numbers, SMS messages, etc., with the exception of bets on horse-races, dog-races and sporting events	Gross amount of the sums involved	15%
Bets on horse-races, dog-races and sporting events taking place abroad IN the EEA	Actual gross margin realised upon the bet or the gamble	15%
Bets on horse-races, dog-races and sporting events taking place abroad OUTSIDE the EEA	Actual gross margin realised upon the bet or the gamble	15%
Bets on horse-races, dog-races and sporting events taking place in Belgium	Actual gross margin realised upon the bet or the gamble	15%
Betting and gambling in casinos - baccara “chemin de fer” - roulette without zero	 Bankers’ winnings Punters’ winnings	 4.8% 2.75%
Other casino games	Gross gaming proceeds: Up to 865,000 More than 865,000	 33% 44%
Gaming machines assimilated to casino games, simultaneously operated by the organiser of casino games	Gross gaming proceeds: € 0 - € 1,200,000.00 € 1,200,001 - € 2,450,000 € 2,450,001 - € 3,700,000 € 3,700,001 - € 6,150,000 € 6,150,001 - € 8,650,000 € 8,650,001 - € 12,350,000 € 12,350,001 and more	 20% 25% 30% 35% 40% 45% 50%
Other betting and gambling activities	Sums or stakes involved	15%

There are exemptions, e.g. exempted lotteries such as "Lotto", "Presto", "Subito", pigeon fanciers’ shows during which money is only gambled by the owners of the registered pigeons, etc.

8.5. Automatic gaming machine licence duty

As from 1 January 2010, only the Walloon Region is competent to service the duty on gaming machine licences installed on its territory. As far as the two other regions are concerned, the FPS Finance keeps on servicing this duty.

The annual flat rate tax on automatic gaming machines (AGM) is levied on automatic 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 exemptions vary depending on the region.

The amount of the tax varies according to the category of the machine and the Region where it is placed.

There are five categories, from A to E. The classification of the machines in those categories can vary depending on the region. The amounts of the tax are as follows:

in euro

Category	Flemish Region	Walloon Region	Brussels-Capital Region
A	3,570.00	3,055.98	4,645.60
B	1,290.00	1,217.09	1,343.70
C	350.00	387.26	364.60
D	250.00	276.61	260.50
E	150.00	165.97	156.30

8.6. Tax on employee equity participation and employee participation in profits and enterprise results

This tax (158), chargeable to employees, is levied on their participation in the equity capital or profits, in accordance with the Act of May 22nd, 2001 bearing provisions related to employee equity participation and employee participation in profits and enterprise results. Where certain conditions in respect of a non-redemption period are not satisfied (in principle not less than two years and not more than five years), a **supplementary tax** is charged (Art. 112 CTA).

The basis of the **tax** ("base tax") is determined as follows (Art. 113 CTA):

1° with respect to participation in profits: the amount paid out cash in accordance with the participation scheme (after deduction of social security contributions);

2° with respect to equity participation: the amount attributable to the equity participation (minimum requirements as to the appreciation), attributed in accordance with the annual participation scheme;

3° with respect to profits which are subject of an investment savings scheme (the benefits attributed to the employee are put at the disposal of the company as a non-subordinated loan): the amount in cash attributed in accordance with the company's annual participation scheme.

158 See also annex 1 to chapter 2 in part I of this Tax Survey.

The basis of the **supplementary tax** is the same as in 2° above with respect to equity participation and as in 3° above with respect to participation in profits which are subject of an investment savings scheme; in both cases, the "base tax" is first deducted (Art. 114 CTA).

The rates of the **tax** ("base tax") are:

- 15% for equity participations;
- 15% for participations in profits attributed in the framework of an investment savings scheme which are the subject of a non-subordinated loan;
- 25% for participations in profits that are not chargeable at the 15% rate.

The rate of the **supplementary tax** is 23.29%.

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