



1. The Belgian Expat regime: 35 years and counting

A Belgian special tax regime for foreign executives and specialists, also known as the expat status or expat regime, was born on August 8, 1983. Strangely enough, the expat status was never introduced in a legislative text. Since the beginning, the expat status was implied based on an administrative circular and until now, this has never been changed.

Notwithstanding this mere 'administrative status, the regime recently celebrated its 35th birthday and is still playing its roll in attracting expats with specialized skills to the Belgian labor market.

The regime is, together with other incentives¹, crucial to reduce the tax burden on employment income in Belgium. The expat status ensures that expats are taxed on a lower income base and hence the attraction of Belgium as a location for highly skilled workers and the companies employing them. By lowering the taxable base for the expats, the gross net ratio becomes higher and thus the Belgian employers need less budget to grant attractive salary packages to these expats with specialized profiles (or the expat receives more net salary for the same gross).

This factsheet provides an overview of the most important conditions to become an expat, as well as of the fiscal advantages of the expat status.

2. Conditions

In order to qualify for this special regime, some conditions should be met.

The first and easiest condition determines that **one can not have the Belgian nationality**. A person with a double nationality, including the Belgian nationality, is thus also excluded.

The expat regime was introduced in order to motivate foreign executives or experts to work in Belgium. However, the Belgian government wanted to avoid that expats would 'steal' the jobs of Belgian employees. Therefore, the applicant must be an **executive** or an expert with an **expertise that usually can not be found on the Belgian labor market**. Amongst others, following elements are important to decide whether the concerned person has such skills:

- The salary level
- Job title
- Appointment to management board
- Actual job content
- Number of staff under direct responsibility
- Persons to whom the individual reports
- Level of technical or business specialization
- Seniority within the group

The assignment to Belgium must be **temporarily**. Although in practice, it is possible that an expat is staying multiple years in Belgium, it's still necessary that the expat has the intention to stay in Belgium for a limited period only. When the application is filed, it is

¹ See a.o. exceptions for wage withholding, bonus payment incentives, pension optimization, ...

important to prove that the expat has kept his center of his personal or economic interests outside of Belgium. The following elements might be important to do so:

- The expat owns real estate in his home country or has a house at his disposal
- The expat has a pension plan or a social security coverage in his home country
- The Expat's family is living in the home country. If the family moved to Belgium together with the expat, the tax authorities will check whether the children are going to an international school or a local school, whether the rental agreement in Belgium is temporary or has an 'expat-clause', ...
- The expat has bank accounts, insurances,... in his home country
- The expat has a driving license in his home country
- The expat has an employment contract of limited duration (although having an employment contract for an indefinite period would not automatically result in a refusal)

This element is very crucial and the tax authorities can check whenever they want whether this condition is still met. One can indeed imagine, that an expat who is staying multiple years in Belgium would lose his ties with his home country. If so, the tax authorities could consider that the expat became a Belgian resident for tax purposes and would thus lose the expat status. The main consequence would be that the expat would be taxable on a world-wide basis instead of on source income (with exceptions) only.

The expat should be directly recruited abroad by a **Belgian company of an international group or should be assigned to a Belgian entity of an international group**. To be an international company, a Belgian company should have presence in at least one other country.

3. Benefits

a. Non-residency

Based on Belgian tax law, a taxpayer is treated as a Belgian resident if:

- he is subscribed in the Belgian population register (refutable presumption)
- he is *living* with his family in Belgium (irrefutable presumption)

Belgian tax residents are taxable on their worldwide income.

However, these presumptions are set aside for the expats as an expat is being assumed to be a non-resident for tax purposes, regardless of the fact that he is living with his family in Belgium (this, as mentioned, can however have an impact on the overall assessment of the residency status over time).

Belgian non-tax residents are only taxable on the income related to the Belgian activities and on other Belgian source income. Income obtained abroad therefor generally will not be taxable in Belgium (e.g. foreign real estate, foreign movable income). Some of the reporting duties applicable for Belgian tax residents, do not apply to Belgian non-tax residents (e.g. reporting of foreign bank accounts and private wealth structures).

The special expat-status can require special attention from a double tax treaty point of view and should, in the case at hand, be carefully reviewed from that point of view.

b. Travel exclusion

Income related to days worked outside of Belgium will also be excluded from the total taxable base. This so called 'travel exclusion' is a percentage of the compensation that is based on the number of working days delivered outside of Belgium.

It is important that an expat is able to prove his foreign business days. This evidence can be given by a set of documents which are dated and which make a clear reference to the expat, such as:

- Documents regarding transport (boarding passes, train tickets,...)
- Invoices related to accommodation costs
- Credit card expenses
- Minutes of meetings
- Evidence of the expat's presence abroad (f.e. print of a badge system, extract of a register,...)
- ...

Depending on the ratio, the travel exclusion could significantly reduce the Belgian tax burden.

c. Exempted amount of costs proper to the employer

Some allowances granted to the expat by the Belgian employer, are considered to be costs proper to the employer which are tax exempt.

Please note that some costs proper to the employer are exempted without limitations (f.e. school fees, moving

costs and settling-in costs), whereas other allowances are exempted from taxation with limitation (f.e. cost of living allowance), housing allowance, tax equalization,...). In the latter case, the maximum exempted expat allowance amounts to EUR 11.250/year. However in some cases this ceiling is increased to EUR 29.750/year (coordination, research).

4. Procedure

The expat and the employer should file an application with the Federal Public Services of Finance ('Brussel Buitenland') within 6 months starting from the first day of the month following the month in which the expat started working in Belgium.

If this deadline is not met, parties can still file an application, but if the expat status is granted by the tax authorities, it will only have effect as of January 1 of the year following the year in which the application was filed.

Handling of the requests takes some time, but approval can be implemented with retroactive effect.