**THE REFORM OF THE EXPAT TAX REGIME IN BELGIUM**

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**INTRODUCTION**

Recently, the government announced that a new expat regime will be applicable in Belgium as from January 1, 2022.

After 38 years, the expat regime (actually still based on an Administrative Circular letter of 8/8/1983) will be updated in Belgium, in order to provide more legal certainty and to adapt the Belgian tax regime to the legal and tax needs of today.

The purpose of the expat regime was and still is to promote Belgium as an attractive and competitive place to do business, especially for internationally active groups of companies. It must ensure internationally operating companies to assign and hire key global talent and decision makers to Belgium at an acceptable and competitive cost (taken into account the very high individual income tax rates (more than 50%) as of a relative low salary level (approx. 41.000 euro of taxable income) and high (uncapped) social security contributions.

**Please note that the following principles of this new regime have been agreed on by the government, but that the text of the Law as such has not been published yet and that as a consequence a reserve must be made with regard to the details and transition period as mentioned below.**

**GENERAL PRINCIPLES OF THE NEW EXPAT LAW**

***TAX STATUS OF THE PERSONS WHO WILL BENEFIT FROM THE NEW EXPAT REGIME***

The individuals who will be benefiting from this system will have in principle the Belgian resident tax status. (This in opposition with the actual system where expats were always considered *by fiction* as “non-residents” of Belgium for income tax purposes).

***SCOPE OF APPLICATION***

The expat must be recruited from outside Belgium or seconded to Belgium to a company which is part of an international group, as defined in the law.

A minimum gross salary of 75,000 euros (excluding the tax free allowances) will in principle be required to apply for the new expat regime, except for the category of “researchers”. For “researchers” no minimum salary will be requested but they will need a Master degree or the equivalent of 10 years of professional experience. Please note that this is very different from the current regime.

***TAX BENEFIT OF THE NEW REGIME***

In order to make the system attractive a fixed percentage of 30% of the salary will be qualified as non-taxable “costs proper to the employer”. This makes the system more transparent and simple to manage for international companies.

This 30% will be limited to a cap of 90,000 euros. This means that above a salary of 300.000 euro (30% of 300.000 euro = 90.000 euro) no tax benefits will be applicable, which will make the system less  attractive for executives and decision makers with higher remunerations.

Please note that this system will be totally different from the actual regime as there will no longer be a tax free “travel exclusion” for days spend outside Belgium. However, the actual limited tax free allowances (up to a maximum of 11.250 euro or 29.750 euro on a year basis) will be replaced by a fixed percentage of 30% (with a maximum of 90.000 euro).

Near to the capped 30%, uncapped costs proper to the employer related to (1) the move to Belgium, (2) related to the furnishing of the house and (3) the school costs paid for the children, will be, under certain conditions, seen as “tax free allowances”.

***TERM OF THE NEW REGIME***

The regime will be applicable for five years, with a possibility to ask for a prolongation of this term, under certain conditions, for three years, which means that the new regime can be applied for a maximum of eight years.

***TRANSITION PERIOD***

The new expat regime will be applicable for new expats coming to Belgium as from January 1, 2022 (or for people opting for the new regime who can meet the new conditions, as foreseen in the law).

The expats who are currently benefiting from the expat tax regime, as laid down in the Administrative Circular letter of 8/8/1983, but would not meet the conditions of the new regime will in principle not immediately loose the benefits of the existing regime as of January 1, 2022. A transition period of two years will in principle be foreseen.

It will be important for companies who are actually employing expats, under the actual system, to verify if they will meet the conditions for application under this new regime.

Please note that the new expat tax regime will be inserted in a in the Belgian Income Tax Code in the future, which will lead to more legal certainty. However, as this reform is also part of a package of “budgetary measures”, some restrictions have been inserted (as a minimum salary of 75.000 euro and a cap on the tax free allowances of 90.000 euro). It can be questioned if the system will be competitive enough in the future in comparison with similar expat regimes that exist in other neighboring countries?

Do not hesitate to contact An De Reymaeker (**an.dereymaeker@vandendijk-taxlaw.be**), in case you would have any questions.