MINISTRY OF FINANCE

Research and
Information Department

TAX SURVEY

Nr 4/1992

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PREFACE

The "Tax Survey" is published annually by the Research and Information Department of the Ministry of Finance (1). Its aim is to give an overview of the tax legislation in Belgium. The subject is particularly complex, and this brochure cannot of course cover every specific rule: only essential details or the most frequently occurring cases will be described here.

The first part of the tax survey deals with direct taxation: individual income tax, corporation tax, tax on legal entities and tax on non-residents. The second part of the survey deals with indirect taxation: V.A.T., excise duties, customs duties, registration duties, etc. The third part, which has been completely revised, deals with special tax arrangements (Coordination centres, UCITS, etc.), the tax regime of capital gains and the main tax incentives (Royal decrees 15 and 150, investment allowance, etc.).

The legislation described is that which is applicable:

- to 1991 income (1992 tax year) for direct taxation, with the exception of withholding taxes (part 1, chapters 1 to 5 and part 3).
- from January 1st 1992 on for indirect taxation (part two) and for withholding taxes (part 1, chapter 6).

The authors of this publication are Messrs. Ch. VALENDUC and I. PITTEVILS (parts 1 and 3) and E. DELODDERE (part 2), Advisors to the Ministry of Finance. They have taken particular care to ensure the reliability of the information given in this publication. The publication must nonetheless not be considered as an administrative circular letter.

They should like to thank the Tax Administration for their indispensable help in the compiling of this survey.

March 1992

S. VANDENDRIESSCHE
Director General.

1) This brochure is intended purely as a documentary publication: the Research and Information Department is not authorized to answer queries with regard to the application of tax legislation to individual cases.
FOREWORD

V.A.T. rates were changed by the Royal Decrees of March 17, 1992 (Moniteur belge of March 19, 1992) and March 28, 1992 (Moniteur belge of March 31, 1992). Certain excise rates were also adjusted by the Royal Decrees of March 17, 1992 (Moniteur belge of March 28, 1992) and March 28, 1992 (Moniteur belge of March 31, 1992) respectively.

The extent of these changes requires an updating of the Tax Survey in the form of a supplement.

This supplement relates to the following items:
- Part II, Chapter I, item 1.10. V.A.T. Rates.
- Part II, Chapter 6, Excise duties, item 6.7. Rates.
  6.7. Benzene
  6.75. Fermented beverages from fruit
  6.77. Mineral oils
  6.710. Tobacco

and describes the changes which take effect on April 1, 1992. The other V.A.T. and excise rates are not modified; the situation described on January 1, 1992, is still applicable.

It is obvious that other changes might still occur between April 1, 1992, and January 1, 1993. They will be included in the 5/93 edition of the Tax Survey.


S. VANDENDRIESSCHE
Director General
PART 1

DIRECT TAXATION

1. Individual income Tax (I.I.T.)
2. Corporation Tax (C.Tax)
3. Tax on Legal Entities (T.L.E.)
4. Tax on Non-Residents (T.N.R.)
5. Special levy on capital income.
6. Advance payments and withholding taxes.
CHAPTER 1

INDIVIDUAL INCOME TAX
(I.I.T.)

1.1. Liable persons

The individual income tax must be paid by the inhabitants of the Kingdom, i.e. persons who have their domicile or their center of economic interests in Belgium. Unless proof can be provided to the contrary, all individuals whose name appears in the National Register shall be considered as having their domicile or their center of economic interests in Belgium.

The "domicile" refers to the actual residence or living in the country; "center of economic interests" refers to the place from where the assets concerned are managed. A temporary leaving of the country does not represent a change of domicile.

The municipality where the taxpayer is domiciled as of January 1st of the tax year (1.1.92. for 1991 income) is the "tax municipality", which determines the rate of the additional tax.

1.2. Calculation of taxable income

The taxable income consists of real estate income, income from movable property, miscellaneous income and earned income. For each of these categories, there are specific rules for the calculation of income: these rules are given in detail in this paragraph.

1.21. Real estate income

A. TAXABLE AMOUNT

Taxable income is determined in most cases on the basis of the cadastral income which is taken to represent the net annual income from the premises concerned at the prices of the year which was used as the reference for the most recent official valuation procedure.
The cadastral income is adjusted for consumer price inflation. For tax year 1992 (income in respect of 1991), the adjustment coefficient is 1.0503 (1).

In the case of a dwelling, the inflation adjusted cadastral income counts in principle as taxable income, but a deduction, which is also adjusted for inflation, is generally granted (see below).

The inflation adjusted cadastral income also constitutes the tax base:
- for real estate property which is not leased (for example, a second home or premises made available to a third party free of charge);
- for premises rented to individuals who do not use them for professional duties.

However, when a building is leased to a legal entity (2) or to an individual who uses the premises for his professional activity, the taxable income shall be determined as follows on the basis of the rent:

- For undeveloped land: 90% of the gross rent (3)
- For buildings: 60% of the gross rent (4)

When the premises are used totally or partly by the owner for his professional activity, the corresponding cadastral income is not taxable as real estate income: it is counted as earned income.

Real estate income also includes sums which have been obtained through the constitution or the transfer of long lease rights, of building rights or of similar land rights.

1) The cadastral income thus adjusted is rounded up or down to the nearest hundred, depending on whether it reaches 50 or not.

2) That is to say either to a trade company, to a non profit-making association, to the State, to the provinces or local authorities, etc...

3) Except in the case of tenant farming: in such cases, only the cadastral income is taxable.

4) Nonetheless, the deductible costs (40% of the gross rent) cannot exceed two-thirds of the inflation adjusted cadastral income, i.e., for tax year 1992 (income 1991), it is multiplied by a coefficient of 2.80.
B. DEDUCTIBLE INTEREST

Interest on loans (5) can only be deducted if they are related to debts which were contracted specifically with a view to purchasing (6) or keeping immovable assets. Whereas the interest was formerly (7) deductible from total net income, it is now deducted directly from taxable real estate income before application of the fixed deduction for dwelling houses (8). The interest thus deducted must not exceed the amount of taxable income from real estate.

Mortgage interest (9) is also deductible.

C. FIXED DEDUCTION

A fixed deduction is awarded on the cadastral income of a dwelling house. This deduction is inflation adjusted according to the same arrangements as the cadastral income.

For 1991 income, this deduction amounts to 126,000 BEF with the following increases:

- 10,500 BEF for the spouse;
- 10,500 BEF for each dependant person;
- 10,500 BEF for each child previously living in the same house and dependant on the taxpayer at that time.

The ordinary deduction is made up of the basic deduction with any increases which apply thereto.

When the total net revenue does not exceed 1,013,000 BEF, an additional deduction is awarded which is equal to half of the difference between the cadastral income and the ordinary deduction.

The total deduction cannot exceed the cadastral income on which it is granted.

5) Except those which relate to a professional activity.
6) In the case of the acquisition of property by inheritance, the interest accruing on a loan which was taken out with a view to paying death duty is deductible in so far as these relate to this building.
7) For the tax years before and including 1989.
8) When, in addition to the cadastral income of the dwelling house, there are one or several other types of real estate income (Belgian, foreign), the deductible interest will first be charged, on a proportional basis, where appropriate, on this income; only the remainder, if any, is deducted from the cadastral income of the dwelling house.
9) see page 21 below.
Examples

<table>
<thead>
<tr>
<th>Cadastral income</th>
<th>Marital status</th>
<th>Other net income</th>
<th>Deduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>40,000</td>
<td>married, two children</td>
<td>600,000</td>
<td>40,000</td>
</tr>
<tr>
<td>150,000</td>
<td>married, one child</td>
<td>500,000</td>
<td>148,500</td>
</tr>
<tr>
<td>160,000</td>
<td>married, one child</td>
<td>1,800,000</td>
<td>147,000</td>
</tr>
</tbody>
</table>

The deduction can also apply to a building other than the dwelling house if the taxpayer is able to prove that the non-occupation of this house is justified on professional or social grounds. It does not apply to the parts of the building which are allocated by the owner to any professional activity or which are occupied by persons who are not part of the household.

D. SPECIAL CASES

In the event of any change of ownership in the course of the year, the taxable income is calculated in twelfths, on the basis of the situation on the 16th day of the month. The same rule applies when the cadastral income is modified in the course of the year.

When a rented building is partly used by the tenant for a professional activity, the tax base is determined on the basis of the rent for the whole building, except if the parts used for professional and private purposes are defined by a registered lease: if so, each part is examined according to the relevant arrangements.

When a furnished building is leased and the contract does not provide for separate rents for the building and for the furniture, the taxable real estate income is set at 60% of the total rent, and the remaining 40% is counted as income from movable assets (see below).

When a building has remained unoccupied or unproductive for at least 90 days, the cadastral income is only included in the taxable income in proportion to the whole months during which the building was occupied and/or produced income.

E. TAX CREDIT FOR REAL ESTATE INCOME

The withholding tax on real estate income can be credited against income tax; this credit equals 12.5% of the taxable cadastral income. It is no longer limited to the proportional share of tax on net real estate income in the total income tax amount, but is only limited by to the total payable income tax.
1.22. *Income from movable property*

There are two broad categories of income from movable property:

- income in respect of which the declaration is optional in view of the fact that the non-recurring withholding tax on income from movable property has been withheld at the collection of this income;

- income in respect of which the declaration is obligatory in view of the fact that the withholding tax on movable property has not been withheld at the collection of this income.

**A. INCOME FROM MOVABLE PROPERTY FOR WHICH DECLARATION IS OBLIGATORY**

This includes the following:

- income earned abroad and collected directly abroad;

- income from ordinary savings accounts and income from capital invested in cooperative companies exempt from the withholding tax on income from movable property but liable to I.I.T. (10);

- other income on which no withholding tax is applied, such as income from a life annuity or temporary annuity and any income from rent, leasing of farm property, and the use or lease of any movable property.

**B. INCOME FROM MOVABLE PROPERTY FOR WHICH DECLARATION IS OPTIONAL**

As a general rule, dividends, income on invested capital, certificates of deposit, cash deposits, bonds and other investments in fixed interest securities are liable to withholding tax at their collection: this income may be declared in the I.I.T. but, as explained below, the possibility of obtaining in this way a final taxation lower than the withholding tax has been greatly reduced with the implementation of the tax reform.

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10) The exemption is awarded per person for the withholding tax on income from movable property and per household for the I.I.T.
C. NON-TAXABLE INCOME FROM MOVABLE PROPERTY

The most current cases are the following:

- the first bracket of 53,000 BEF per household of income from ordinary savings accounts;
- the first bracket of 5,000 BEF per household of income on capital invested in cooperative companies approved by the National Cooperation Council;
- income paid in the event of the total splitting up of a company which was in liquidation as of 31st December 1889;
- yields of so called "capitalisation UCITS".

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

D. TAXATION MODALITIES

Income from movable property is taxable in respect of its gross amount, i.e. before withholding tax on income from movable property (11) and deduction of collection and custody charges.

Since tax year 1990, interest on any debts contracted with a view to acquiring or keeping income from movable property (12) is no longer deductible. Moreover, the tax credit and the fixed foreign tax credit are no longer chargeable and must therefore not be added to the taxable income.

Income from movable property can be separately taxed (13):

- at a rate of 10% for income from shares issued from March 1st 1990 and for which declaration is obligatory;
- at a rate of 25% for other income for which declaration is obligatory;
- for an amount equivalent to the withholding tax in the case of income for which declaration is optional.

11) The charging of the withholding tax on income from movable property is limited to the period during which they were effectively held.

12) Nonetheless, interest is deductible as professional expenses when it is effectively paid by active business associates or board members for loans taken out for the subscription or acquisition of stocks or shares representative of the capital of a Belgian Company from which they receive taxable income.

13) See page 30 below.
The total aggregation is only applied when it is more favourable to the taxpayer; it is only in such cases that the collection and custody charges are deductible.

The additional municipal taxes are to be added to the basic tax amount, whether this be calculated by aggregation or by separate taxation arrangements.

The abolition of the possibility to deduct interest up to the amount of taxable income on movable property and of the chargeability of the tax credit and of the fixed foreign tax credit has greatly reduced the possibility of recovering the withholding tax on income from movable property through income aggregation.

1.23. Miscellaneous income

This third category of taxable income includes all the income which can be characterized as having been earned outside the exercise of a professional activity.

The following table specifies this income and the extent to which it is taxable.

A. MISCELLANEOUS INCOME WITH JOINT ASSESSMENT

<table>
<thead>
<tr>
<th>Categories of income</th>
<th>Taxable amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance payments in respect of 1991 and received that same year (14)</td>
<td>80% of amount collected.</td>
</tr>
<tr>
<td>Prizes attached to Belgian lottery bonds</td>
<td>Net + fictitious withholding tax on income from movable property at 25%</td>
</tr>
</tbody>
</table>

14) Maintenance payments are always taxable in respect of the claimant. When the claimant is a child, this income is counted as normal taxable income in his own name. As for arrears, see below in the section on separately taxed miscellaneous income.
### B. MISCELLANEOUS INCOME WITH SEPARATE ASSESSMENT (15)

<table>
<thead>
<tr>
<th>Categories of income</th>
<th>Taxable amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occasional profit and proceeds (16)</td>
<td>Net amount minus real expenses.</td>
</tr>
<tr>
<td>Prizes and subsidies awarded by public authorities and official non-profit-making associations (17)</td>
<td>Amount actually received, with the addition of the withholding tax on earned income paid less a deduction of 107,000 BEF (18)</td>
</tr>
<tr>
<td>Income from the subleasing or lease-back of buildings</td>
<td>Total income from subleasing after reduction of real expenses</td>
</tr>
<tr>
<td>Income from the granting of permission to place hoardings on a building</td>
<td>Deduction of real expenses or 5% of fixed-rate costs</td>
</tr>
<tr>
<td>Income from hunting permits, fishing permits or bird-catching permits</td>
<td>The amount received</td>
</tr>
<tr>
<td>Capital gains on undeveloped land in Belgium in the case of sale within 8 years of the acquisition for valuable consideration or within 3 years of a donation and this within 8 years of a purchase for valuable consideration by the donor</td>
<td>The transfer price, less the total purchase price and acquisition costs, revalued by 5% for each year of outright ownership</td>
</tr>
<tr>
<td>Capital gains earned from the transfer of a large stake in a foreign company or a legal person liable to T.N.R.</td>
<td>The transfer price, less the purchase price, revalued or otherwise</td>
</tr>
<tr>
<td>Arrears of maintenance payments paid as a result of a legal decision with retroactive effect</td>
<td>80% of the amount received</td>
</tr>
</tbody>
</table>

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15) Rate: see page 28 below.

16) These relate to proceeds and profits obtained outside a professional activity. However, profits and proceeds obtained from the normal management of personal assets are not taxable.

17) Some of these organizations nonetheless enjoy exemptions.

18) For subsidies, this deduction is only granted in respect of the first two years.
1.24. Earned income

In the tax code earned income refers to the following:

1. salaries and wages;
2. remunerations of joint-stock company directors;
3. remunerations of active associates in partnerships;
4. profits from agricultural, industrial and commercial firms;
5. proceeds of a liberal profession;
6. gains and profits from previous activities;
7. and replacement income: pensions, early retirement payments, unemployment benefits, health insurance benefits, etc.

The tax reform has brought about many changes in the way the net amount of earned income is calculated.

This net income is determined in seven stages:

A. deduction of social security contributions;
B. deduction of real or fixed professional expenses;
C. exemptions, notably as a consequence of the tax measures in favour of investment and/or employment;
D. charging of losses;
E. awarding of the "assistant spouse" quota and the marital quotient;
F. charging of deductible expenses on total earned income;
G. compensation of losses between spouses.

A. DEDUCTION OF SOCIAL SECURITY CONTRIBUTIONS

The salaries and wages are taxable in respect of their gross amount less personal social security contributions. Group insurance contract premiums are also deductible.

Remunerations paid to board members and active associates are also taxable in respect of their gross amount less the contributions payable in respect of social legislation and premiums paid in respect of group insurance contract. Premiums paid to recognized mutual insurance companies for "minor risks" are also assimilated to social security contributions.

Taxable gains and profits are determined in a similar way with the proviso that group insurance premiums are not to be included therein.

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.
B. DEDUCTION OF EXPENSES

Real expenses

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

Those professional expenses may be deducted, which the taxpayer has incurred or borne with a view to acquiring or keeping taxable income and of which he will prove the authenticity and justify the amount.

The following are included;

- travelling expenses from home to the place of work;
- expenses relating to real estate or parts thereof allocated to a professional activity; shop premises, offices of a notary, lawyer, doctor, insurance agent, etc...;
- interest on loans;
- insurance premiums, commissions, brokerage expenses, publicity expenses, training costs, entertaining expenses, etc...;
- supplementary insurance contributions in respect of disablement resulting from sickness or invalidity;
- personnel costs;
- depreciation of property used for a professional activity (19);
- levies and taxes not directly payable on taxable income: non-deductible withholding tax on real estate income, road tax, local taxes and indirect taxes, including increases and default interest.

The following are not deductible:

- personal expenses;
- fines and penalties;
- expenses which exceed in an unreasonable manner the professional requirements;
- expenses relating to clothing, with the exception of specific professional garments;
- 50% of expenses for restaurants, entertainment and business gifts;
- 25% of the share of car expenses excluding fuel (the proportion of fuel used for professional purposes is totally deductible) used for professional purposes;
- The I.I.T. payable to the State, to the municipalities and to the conurbation of Brussels district, as well as deductible withholding taxes and advance payments.

19) The tax arrangements concerning depreciation are described more fully in the chapter on corporation tax. See page 38 below.
Fixed expenses

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

The basis of the calculation of fixed professional expenses is the gross deductible amount less social contributions and assimilated contributions (20).

For board members of companies and associates in partnerships, fixed expenses are awarded at a rate of 5% of calculation basis with a maximum of 107,000 F (21).

Fixed basis expenses which can be awarded to employees and members of a liberal professions are calculated according to the scale below and are also limited to 107,000 BEF (22).

<table>
<thead>
<tr>
<th>Calculation base</th>
<th>Professional expenses on lower limit</th>
<th>above the limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 160,000</td>
<td>0</td>
<td>20%</td>
</tr>
<tr>
<td>160,001 to 320,000</td>
<td>32,000</td>
<td>10%</td>
</tr>
<tr>
<td>320,001 to 533,000</td>
<td>48,000</td>
<td>5%</td>
</tr>
<tr>
<td>533,001 and more</td>
<td>58,650</td>
<td>3%</td>
</tr>
</tbody>
</table>

Additional fixed professional expenses can be awarded to employees who are domiciled far from their place of work.

<table>
<thead>
<tr>
<th>Distance (23)</th>
<th>Additional fixed amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domicile-place of work</td>
<td></td>
</tr>
<tr>
<td>75 to 100 km</td>
<td>3,000</td>
</tr>
<tr>
<td>101 to 125 km</td>
<td>5,000</td>
</tr>
<tr>
<td>126 km and more</td>
<td>7,000</td>
</tr>
</tbody>
</table>

20) That is to say group insurance contract premiums and the deductible part of contributions to recognized mutual insurance societies, cf. page 13 above.

21) This maximum is reached starting from a calculation base of 2,140,000 F.

22) This maximum is reached starting from a calculation base of 2,144,667 F.

23) One way trip.
Deduction of expenses

If the taxable earned income includes income which is separately taxable (24), the professional expenses are deducted as follows:

- proportionally in the case of fixed expenses;
- preferentially on aggregate taxable income, in the case of real expenses.

C. EXEMPTIONS

The following can then be deducted from profit after expenses:

- deduction, provisions for risks and expenses (25);
- tax exemption for additional staff employed in scientific research;
- investment allowance (26);

Taxpayers declaring profits are only eligible for investment allowances.

D. DEDUCTION OF LOSSES

Losses incurred in the current tax year

The losses incurred in the context of a professional activity are deducted from profits of another activity of the same taxpayer. This is first deducted from aggregate income, the remainder proportionally from separately taxable income.

Losses incurred in previous tax periods

Losses incurred by the same taxpayer in the course of previous tax periods can be set off against profits from subsequent tax periods with no time limit.

24) For example, arrears, dismissal compensation and certain capital gains.

25) The modalities of these deductions are described in the chapter on corporation tax. See page (page) and following.

26) The latter two measures are described in part 3.
E. ALLOCATION OF THE ASSISTING SPOUSE QUOTA AND OF THE MARITAL QUOTIENT

Assisting spouse quota

A self-employed person (trader, active associate in a partnership, member of a liberal profession) who effectively receives assistance from his/her spouse can allocate to the spouse a share of his/her net income.

This allocation is only allowed if the spouse who is to receive the quota has not received in his/her name earned income from a separate activity amounting to more than 373,000 BEF. (after expenses and losses).

This quota constitutes for the recipient a source of earned income from independent activity from which can be deducted any recoverable losses which were not deductible from other own income.

Marital quotient

The marital quotient is then calculated. This can be awarded when the earned income of one of the spouses does not exceed 30% of the couple's total earned income.

The amount allocated is 30% of total net earned income, less the own income of the spouse enjoying the quotient.

It cannot exceed 288,000 BEF.

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

F. EXPENSES DEDUCTIBLE FROM TOTAL EARNED INCOME

There are three categories of deductible expenses in this respect (27):

- individual life insurance premiums;
- mortgage capital repayments;
- the purchase of shares from an employer.

None of these three deductions can exceed the net income from which they are deducted.

27) The tax reform had modified the calculation of deductions in respect of certain expenses. As mentioned above, group insurance contributions and contributions paid to mutual insurance societies, which were formerly deductible from total professional income after expenses and losses, are now taken into account before the deduction of real or fixed professional expenses. In addition, the purchase of shares from an employer, which was previously deducted from total net income, is now deducted from total earned income.
Individual life insurance premiums

For the premiums to be deductible, the contract must have been signed by the taxpayer before the age of 65 (man) or 60 (woman) and, if including life bonus, 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 spouse or relatives to the second degree.

The deductible amount is limited, for each spouse:

- to 15% of the first bracket of 53,000 BEF of earned income and 6% beyond;
- with a maximum of 64,000 BEF.

However, this limit applies both to life insurance premiums and to mortgage capital repayments combined.

Mortgage capital repayments

The situation regarding loan contracts concluded before 1.1.1989 has not been modified. The amount of the loan for which deduction may be granted therefore remains different according to whether it concerns a social, a medium sized or a large house;

- in the case of "a social house", the total capital borrowed gives entitlement to a deduction;
- deductibility is, however, refused in the case of "large" homes;
- in the case of "medium sized" homes, the capital for which this deduction can be granted is limited to:
  - the first bracket of 2,000,000 BEF of the loan amount for construction or purchase contracts concluded after 30.04.86;
  - the first bracket of 400,000 BEF in other cases.

In all cases, deductibility is only accepted if the house is located in Belgium and if the loan is guaranteed by life insurance of the outstanding balance type.
The type of house is no longer taken into consideration for loan contracts concluded after 1.1.1989 if they do not roll over existing contracts.

The deduction is awarded for the first bracket of 2,133,000 BEF (28) with an increase (29) of 5, 10, 20 or 30%. These rates depend on whether the taxpayer has 1, 2, 3 or more than 3 dependant children as of January 1st of the year which follows that of the signing of the contract.

The other conditions with regard to deductibility are maintained.

**Purchase of shares from an employer**

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

- the taxpayer must be an employee or wage-earner of the company, of a subsidiary or of a sub-subsidiary;
- the shares must be subscribed when the company is constituted or when there is an increase in the company's capital;
- the company which issues the shares must be liable to C.Tax;
- documents proving that the taxpayer has purchased these shares and kept them until the end of the tax period must be enclosed with the declaration.

The deductible amount is set at 21,000 BEF for each spouse who fulfils these conditions.

It is incompatible (30) with the deduction for pension savings schemes.

**G. COMPENSATIONS FOR LOSSES BETWEEN SPOUSES**

When the income of one of the spouses is negative, the loss can be deducted from the income of the other spouse after taking into account all the deductions to which the latter is entitled.

The amount of transferable losses cannot exceed the income of the spouse on whose income the deduction is made.

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28) The ceiling is determined on the basis of the year of purchase and remains the same for all subsequent years during which the repayments are deductible. Thus, for a house purchased in 1989, the amount deductible for 1990 and subsequent years is calculated on the basis of the ceiling applicable to 1990 (income from 1989) i.e. 2,000,000 F.

29) This increase only applies to houses for which the fixed dwelling house deduction mentioned on page 7 is payable.

30) The incompatibility is evaluated for each spouse separately.
1.25. *Expenses deductible from total net income*

The following can be deducted from total net income (31):
- maintenance allowances;
- gifts;
- remunerations of domestic personnel;
- expenses in respect of maintenance and restoration of classified monuments;
- long lease rights;
- certain types of mortgage interests;
- sums paid towards a pension savings scheme;
- sums paid to the Treasury by certain civil servants by virtue of the cumulation of activities;
- the purchase of shares in innovation companies;
- child care expenses.

And as mentioned above;
- the collection and custody charges are deducted directly from the income from movable property when this income is aggregated for tax purposes;
- the interest on loans to acquire real estate income is deducted directly from real estate income;
- the deduction for the purchase of shares from an employer is made on total earned income and no longer on total net income.

A. MAINTENANCE ALLOWANCES

The conditions for deductibility are as follows:
- the beneficiary cannot be a member of the taxpayer's household;
- the maintenance allowance must be payable in pursuance of the civil code or judicial proceedings code;
- the payment must have been made during the tax period on a regular basis;
- in the case of maintenance allowances paid in pursuance of a retroactive judgment, the payments made in one instalment are deductible in the year of the payment, even if they relate to previous years.

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

31) Since tax year 1990 the special social security contribution is no longer payable, but the amount outstanding in respect of previous years is still deductible from total net income.
B. DONATIONS

Donations made to approved institutions are deductible provided they exceed 1,000 BEF per beneficiary institution. The total amount which is thus deductible cannot exceed 10% of net income for 10,667,000 BEF. The deduction is made proportionally on the income of each spouse.

C. PAYMENT OF DOMESTIC PERSONNEL

This deduction is only awarded for one member of domestic personnel and according to the following conditions:

- the taxpayer must be registered as an employer by the national Social Security office;
- Upon his engagement, the employee must have been receiving the national welfare income or have been receiving full unemployment benefit for at least 6 months;
- the salary is liable to social security payments and must exceed 107,000 BEF.

The deduction is limited to 50% of the first bracket of 427,000 BEF of the salary. This deduction is made proportionally on the income of each spouse.

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

The expenses deductible under this section are those incurred by the owner for the maintenance and restoration of classified monuments or sites which are open to the public and not leased. The deduction is limited to 50% of the expenses not covered by subsidies with a maximum of 267,000 BEF. The deduction is made proportionally on the income of each spouse.

E. ADDITIONAL DEDUCTION OF MORTGAGE INTEREST

Calculation base and conditions with regard to additional deduction

The interest on loans for the acquisition of real estate can be deducted from taxable real estate income up to this amount.
For the remainder, a complementary deduction can be awarded when the loan fulfils the following conditions:

- it must be a mortgage loan contracted after 30.4.1986 for at least 10 years;
- it must have been concluded with a view to constructing, acquiring new or renovating (32) the taxpayer's sole dwelling house.

Limitation in relation to the sum borrowed

Firstly, the additional deduction is limited to the interest on the capital of loans not exceeding 1,067,000 BEF (renovation) or 2,133,000 BEF (other cases) (33). This sum is increased as follows according to the number of dependant children as of 1.1. of the year which follows the year in which the loan was taken out.

<table>
<thead>
<tr>
<th>Children</th>
<th>increase of</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5%</td>
</tr>
<tr>
<td>2</td>
<td>10%</td>
</tr>
<tr>
<td>3</td>
<td>20%</td>
</tr>
<tr>
<td>4 and +</td>
<td>30%</td>
</tr>
</tbody>
</table>

Second limitation

On the deduction based on the above limits, a quota is calculated which gives entitlement to a deduction on the total net income and which is determined as follows:

- for the first (34) to the fifth year, 80%;
- for the sixth year, 70%;
- for the seventh year, 60%;
- for the eighth year, 50%;
- for the ninth year, 40%;
- for the tenth year, 30%;
- for the eleventh year, 20%;
- for the twelfth year, 10%.

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

32) In this case, the renovation work must amount to 853,000 F inclusive of VAT, it must have been carried out by a registered contractor and the house must be more than 20 years old.

33) This limit is determined for the year of acquisition and remains the same for all the additional deductions of interest awarded in the course of subsequent tax periods. For loans taken out, for example, in 1989, the limit of deductions is calculated on the basis of the limits in force at that time (1 or 2 million as the case may be).

34) The first year is that from which the rentable value is taxable.
### Examples: Construction work carried out in 1991

<table>
<thead>
<tr>
<th>Amount of loan</th>
<th>1,500,000</th>
<th>2,000,000</th>
<th>3,000,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of children</td>
<td>2</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Amount taken into account</td>
<td>1,500,000</td>
<td>2,000,000</td>
<td>2,262,800</td>
</tr>
<tr>
<td>Rate of interest</td>
<td>8%</td>
<td>8%</td>
<td>10%</td>
</tr>
<tr>
<td>Annual interest (*)</td>
<td>120,000</td>
<td>160,000</td>
<td>300,000</td>
</tr>
<tr>
<td>Rental value</td>
<td>30,000</td>
<td>40,000</td>
<td>60,000</td>
</tr>
<tr>
<td>Balance after deduction made on real estate income</td>
<td>90,000</td>
<td>120,000</td>
<td>240,000</td>
</tr>
<tr>
<td>Limit depending on the amount borrowed</td>
<td>90,000</td>
<td>120,000</td>
<td>187,704</td>
</tr>
<tr>
<td>Additional deductible interest on income in respect of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1991 to 1995</td>
<td>72,000</td>
<td>96,000</td>
<td>133,456</td>
</tr>
<tr>
<td>1996</td>
<td>63,000</td>
<td>84,000</td>
<td>116,774</td>
</tr>
<tr>
<td>1997</td>
<td>54,000</td>
<td>72,000</td>
<td>100,092</td>
</tr>
<tr>
<td>1998</td>
<td>43,000</td>
<td>60,000</td>
<td>83,410</td>
</tr>
<tr>
<td>1999</td>
<td>36,000</td>
<td>48,000</td>
<td>66,728</td>
</tr>
<tr>
<td>2000</td>
<td>27,000</td>
<td>36,000</td>
<td>50,046</td>
</tr>
<tr>
<td>2001</td>
<td>18,000</td>
<td>24,000</td>
<td>33,364</td>
</tr>
<tr>
<td>2002</td>
<td>9,000</td>
<td>12,000</td>
<td>16,682</td>
</tr>
</tbody>
</table>

(*) Loan on mixed life insurance.

### F. PENSION SAVINGS SCHEMES

Sums which are assigned to a pension scheme are deductible up to a limit of 21,000 BEF for each spouse. This deduction is made by priority on the income of the spouse who made the payment.

### G. SUMS PAID BY CIVIL SERVANTS BY VIRTUE OF THE CUMULATION OF OFFICES

In certain cases, civil servants must return to the State sums received by virtue of cumulated offices of which the total amount should not exceed the authorized limit. These payments are totally deductible and the deduction is made proportionally on the income of each spouse.
H. **PURCHASE OF SHARES IN INNOVATION COMPANIES**

The sums paid towards the purchase of shares in innovation companies give entitlement to a deduction equivalent to half (35) the sums which are paid for this purpose spread in equal proportion over 5 successive tax periods starting from the period in which the shares were paid up. The deduction is made proportionally on the income of each spouse.

I. **EXPENSES FOR CHILD CARE**

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

- the taxpayer must have received earned income: salaries, proceeds, profits but also pensions, unemployment benefit, etc.;
- the child must be dependant on the taxpayer and must be less than 3 years old;
- the care of the child must be entrusted to a person or an institution approved by the Office de la Naissance et de l'Enfance (ONE - National Child Care Organization) (36);
- the amount of these expenses must be proved by documents enclosed with the declaration.

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

J. **LONG LEASE RIGHTS AND BUILDING RIGHTS**

Long lease rights or building rights are deductible from total net income, up to the amount of income from immovable and movable property less deductible interest and the fixed dwelling house deduction.

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

---

35) For taxpayers who are employed by the innovation company at the time of their purchase of the shares, the full amount can be deducted.

36) Or by "Kind en Gezin" (ONE's Flemish counterpart) or by the executive authorities of the German-speaking Community.
1.3. Calculation of taxes

1.30. General principles

<table>
<thead>
<tr>
<th>Calculation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax according to scale (1.31)</td>
<td>- rebate for dependant family members (1.32)</td>
</tr>
<tr>
<td>= tax to be allocated</td>
<td></td>
</tr>
<tr>
<td>- tax reduction for replacement income (1.33)</td>
<td></td>
</tr>
<tr>
<td>= reduced basic tax</td>
<td></td>
</tr>
<tr>
<td>- tax rebate for foreign income (1.34)</td>
<td></td>
</tr>
<tr>
<td>= principal of A.T.I. (aggregated taxable income)</td>
<td></td>
</tr>
<tr>
<td>+ tax on separately taxed income (1.35)</td>
<td></td>
</tr>
<tr>
<td>= principal</td>
<td></td>
</tr>
<tr>
<td>- withholding taxes, advance payments and allowable items (1.36)</td>
<td></td>
</tr>
<tr>
<td>+ increases for non-payment or insufficient advance payment (1.37)</td>
<td></td>
</tr>
<tr>
<td>- bonus for advance payment (1.37)</td>
<td></td>
</tr>
<tr>
<td>= &quot;National tax&quot;</td>
<td></td>
</tr>
<tr>
<td>+ additional municipal taxes (1.38)</td>
<td></td>
</tr>
<tr>
<td>+ tax increase (1.39)</td>
<td></td>
</tr>
<tr>
<td>= amount payable by or to the taxpayer</td>
<td></td>
</tr>
</tbody>
</table>
1.31 Scale

The scale applicable to 1991 income is as follows:

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Marginal rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 245,000</td>
<td>25%</td>
</tr>
<tr>
<td>245,000 - 325,000</td>
<td>30%</td>
</tr>
<tr>
<td>325,000 - 464,000</td>
<td>40%</td>
</tr>
<tr>
<td>464,000 - 1,067,000</td>
<td>45%</td>
</tr>
<tr>
<td>1,067,000 - 1,600,000</td>
<td>50%</td>
</tr>
<tr>
<td>1,600,000 - 2,347,000</td>
<td>52.5%</td>
</tr>
<tr>
<td>2,347,000 and more</td>
<td>55%</td>
</tr>
</tbody>
</table>

1.32. Basic exempted income bracket and dependants

The first income bracket, which varies according to the composition of the household, is tax exempted. This bracket consists in the first place of the basic exempted bracket of the taxpayer and his/her spouse. These amounts are then increased by the income exempted in respect of dependants and certain special family situations. In all the cases mentioned below, the exempted bracket can be transferred onto the income of the other spouse in as much as it exceeds the income of the first spouse.

These rebates are calculated "from the bottom up".

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

The basic exemption is 176,000 BEF for a single person and 139,000 BEF for each spouse.
B. EXEMPTIONS FOR DEPENDANT CHILDREN

Exemptions for dependant children are awarded by priority on the income of the spouse who has the highest income.

<table>
<thead>
<tr>
<th></th>
<th>Exemption for that child</th>
<th>Total exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st child</td>
<td>37,000</td>
<td>37,000</td>
</tr>
<tr>
<td>2nd child</td>
<td>59,000</td>
<td>96,000</td>
</tr>
<tr>
<td>3rd child</td>
<td>120,000</td>
<td>216,000</td>
</tr>
<tr>
<td>4th child</td>
<td>133,000</td>
<td>349,000</td>
</tr>
</tbody>
</table>

For any child after the fourth, the exemption is 133,000 BEF per child.

An additional exemption of 11,000 BEF is awarded for each dependant child who is less than 3 years old and for whom the deduction for child care expenses has not been requested. Handicapped children count as two (the rebate is awarded according to whether the child is the first, second,... in the row as well as the rebate applicable for the next child) and any child who has deceased during the tax period remains dependant for that period.

Example

A couple with three children on a taxable net income of 900,000 BEF, which after all deductions, breaks down as follows:

- taxpayer : 600,000 BEF,
- spouse : 300,000 BEF.

The taxpayer is awarded an exempted bracket of 355,000 BEF which is calculated as follows:

- exempted bracket for the "spouse" : 139,000 BEF,
- 3 dependant children : 216,000 BEF.

The remaining income is taxed at 40%, and at 45% from 464,000 BEF.

The other spouse is entitled to an exempted bracket of 139,000 BEF.
C. SPECIAL FAMILY SITUATIONS

The other exemptions are as follows:

- other dependant persons 37,000 BEF
- handicapped spouse 37,000 BEF
- handicapped dependant persons (37) 37,000 BEF
- widow(er) with dependant children 37,000 BEF
- single parent family 37,000 BEF
- spouse whose income does not exceed the year of marriage 37,000 BEF
  - the year of marriage 37,000 BEF
  - the year of death 101,000 BEF

1.3. Tax rebates on replacement income

A. GENERAL PRINCIPLES

There are 5 distinct categories of replacement income:

1. unemployment benefit other than those received by elderly unemployed persons;
2. sickness-invalidity insurance allowances;
3. early retirement payments awarded under the old system (38);
4. unemployment benefit awarded to elderly unemployed persons;
5. other replacement income.

In each case, the tax rebate is based on a certain type of social security benefit payment, as follows:

1. The maximum amount of unemployment benefit less 11,000 BEF
2. Ten ninths of the unemployment benefit referred to in (1) less 11,000 BEF
3. The amount of the early retirement provided for in Collective Labour Agreement No. 17, less 11,000 BEF.

The basic rebate corresponds to the sum that would be paid as tax by the benefit recipient, who has no other taxable income and no other dependant person, but taking into account the fact that he is single or married.

37) With the exception of children.
38) That is to say those awarded by virtue of collective agreements concluded before 1.1.86 or which came into force before 1.1.87. Any other early retirement payments are assimilated to the other forms of other replacement income.
This basic amount is then limited:
- by the amount of aggregated taxable net income (39): this is the "vertical" limit;
- according to the correlation between the income for which it is awarded and total net income (40): this is the "horizontal" limit.

The reduction which remains after these two limits can in no circumstances exceed the tax which relates proportionally to the income which gives entitlement to this reduction.

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

- for benefits paid to elderly unemployed persons: 411,022 BEF;
- for other forms of unemployment benefits and other forms of replacement income: 372,234 BEF;
- for sickness and invalidity insurance benefits: 413,593 BEF;
- for early retirement payments under the old system: 480,985 BEF.

B. BASIC REBATES

<table>
<thead>
<tr>
<th>Categories of income</th>
<th>Amount of typical benefit</th>
<th>Rebate (single person)</th>
<th>Rebate (spouse)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployment</td>
<td>361,234</td>
<td>55,744</td>
<td>64,994</td>
</tr>
<tr>
<td>Sickness/invalidity</td>
<td>402,593</td>
<td>71,798</td>
<td>81,048</td>
</tr>
<tr>
<td>Early retirement</td>
<td>469,985</td>
<td>99,543</td>
<td>108,793</td>
</tr>
<tr>
<td>Other</td>
<td>361,234</td>
<td>55,744</td>
<td>64,994</td>
</tr>
</tbody>
</table>

C. LIMITS BASED ON A.T.I.

The basic rebate (BR) is subsequently limited according to the amount of aggregate taxable income (A.T.I.).

---

39) i.e. after taking account of the deductions mentioned in paragraph 1.25.

40) i.e. after taking account of the deductions mentioned in paragraph 1.25.
Unemployment benefit

The total rebate is maintained up to 640,000 BEF. of A.T.I. but is then reduced progressively to zero when the A.T.I. reaches 800,000 BEF.

The rebate thus limited (R') is therefore calculated as follows;

\[
\begin{align*}
\text{A.T.I.} & < 640,000 \text{ BEF} & R' &= BR \\
\text{A.T.I.} & \text{ between 640,000 and 800,000 BEF} & R' &= BR \times \frac{(800,000 - \text{A.T.I.})}{160,000} \\
\text{A.T.I.} & > 800,000 \text{ BEF} & R' &= 0
\end{align*}
\]

Other cases

For all other types of replacement income, the basic rebate is also maintained up to 640,000 BEF of A.T.I. but it is then progressively reduced to one third of its original amount when the A.T.I. reaches 1,280,000 BEF.

The rebate thus limited (R') is therefore calculated as follows;

\[
\begin{align*}
\text{A.T.I.} & < 640,000 \text{ BEF} & R' &= BR \\
\text{A.T.I.} & \text{ between 640,000 and 1,280,000 BEF} & R' &= [BR \times \frac{1}{3}] + [BR \times \frac{2}{3} \times \frac{(1,280,000 - \text{A.T.I.})}{640,000}] \\
\text{A.T.I.} & > 1,280,000 \text{ BEF} & R' &= BR \times \frac{1}{3}
\end{align*}
\]

D. LIMITS RELATING TO OTHER INCOME

Each rebate is only awarded according to a quota which takes into account the ratio between:

- the net income for which it is awarded,
- and the total net income.

This is the "horizontal" limit.

1.34. Tax rebate for foreign income

- in the case of income exempted by international agreements, the tax which relates proportionally to this income is totally deducted;
- in the case of other foreign income, the tax which relates to this income is halved.
1.35. Separate taxation and calculation of the principal

A. SEPARATE TAXATION

The law has provided for separate taxation of income from movable property (41) and for certain types of non-periodical income: capital gains, arrears, dismissal compensation, etc. This income is therefore not aggregated and is taxed after expenses at a special rate shown below.

The total aggregation (inclusion of this income in the A.T.I. subject to the progressive scale) is nonetheless applied if this is more advantageous for the taxpayer. The choice is made including or excluding total separately taxable income.

The tax on separately taxable income is calculated as follows:

<table>
<thead>
<tr>
<th>Separately taxable income</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>salary arrears, replacement income arrears</td>
<td>average rate (42) for the previous year</td>
</tr>
<tr>
<td>dismissal compensation (43) &gt; 27,000 BEF</td>
<td>average rate for the previous year</td>
</tr>
<tr>
<td>prepaid holiday pay, fee arrears, arrears of maintenance allowances in pursuance of a retroactive judgment.</td>
<td>average rate for the year</td>
</tr>
<tr>
<td>capital gains from professional activities</td>
<td>16.5%</td>
</tr>
<tr>
<td>income from movable property for which declaration is obligatory</td>
<td>25% or 10% (44)</td>
</tr>
<tr>
<td>income from movable property for which the declaration is optional</td>
<td>tax = withholding tax</td>
</tr>
</tbody>
</table>

41) and miscellaneous income relating to movable property.

42) Average rate = reduced tax base / aggregated taxable income.

43) Dismissal compensations are aggregated for taxation when they are less than 27000 F.

44) 25% in the case of:
- income from foreign shares,
- income from approved cooperatives received advance tax being deducted
- other income from movable assets for which the declaration is obligatory which were paid or assigned by virtue of agreements concluded before 1.3.1990.
10% in other cases.
capital and surrender value of life insurance or group insurance contracts (45)
capital and surrender value of pension savings accounts or pension insurance schemes (46)
ocasional profits and gains
prizes
capital gains from the disposal of undeveloped land
capital gains from the transfer of considerable share-holdings

CALCULATION OF THE PRINCIPAL

The "principal" is calculated by adding:
- the tax payable on the A.T.I. (after reduction for income earned abroad);
- the tax payable on the separately taxable income.

This serves as the calculation base for additional taxes.

---

45) For capital: provided the capital is paid off at the normal expiry of the contract or at the death of the insured party.
   For surrender values: provided the surrender value is paid off
   - either at early retirement,
   - in the course of one of the 5 years which precedes the normal expiry of the contract,
   - or at the normal age of the complete and definitive cessation of the professional activity.

46) Provided they are paid off at the earliest
   - either at the age of 65 years,
   - or at the date of the retirement or early retirement or in one of the five preceding years.

47) 33% if the capital gains are realized within 5 years of the acquisition; 16.5% in other cases.
1.36. **Allowance of withholding taxes, advance payments and other allowable items**

The following items are credited against the "principal"(48):

- tax credit (T.Cr) and the fixed foreign tax credit (F.F.T.C.) when they relate to securities invested in a professional activity;
- the withholding tax on real estate income at 12.5% of the cadastral income included in the taxable base;
- the withholding tax on real estate income at 12.5% of the cadastral income of property used by the owner for his professional activity.

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

However, the following withholding taxes are allowable and repayable:

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

1.37. **Increases and bonuses**

Taxpayers who declare income from a self-employed activity must make advance payments and a tax increase is applied when these payments are not made or when they are insufficient.

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

Increases and bonuses are calculated on the basis of a reference rate. This is the reference rate applied by the National Bank of Belgium to overdraft facilities on government securities other than Treasury bonds, as of January 1st of the year in which the income is earned (i.e. 1.1.1991).

A special rate can be set by Royal decree and this was the case in 1991.

For tax year 1992 (1991 income), this rate is 10%.

---

48) The application of T.Cr., the F.F.T.C. and the tax on income from movable property is limited according to the time during which the securities are held.
As stated below (49), advance payments must be made:
- for the first quarter (AP1), no later than April 10th;
- for the second quarter (AP2) no later than July 10th;
- for the third quarter (AP3), no later than October 10th;
- for the fourth quarter (AP4), no later than December 20th.

Exemption from the increase for lack of or insufficient advance payments (50)

Exemption from the tax increase for lack of or insufficient advance payments can be awarded to any individual who, before the age of 35 and by 1.1.1982 at the earliest, began for the first time a self-employed activity as his/her main activity.

The exemption is awarded for the first three years of the professional activity.

Any advance payment made by the taxpayer who is thus exempted entitles the taxpayer to a tax bonus in so far as the other conditions relating to the awarding of these rebates are fulfilled.
The method of calculating increases and rebates is as follows:

<table>
<thead>
<tr>
<th>Increase</th>
<th>Rebate</th>
</tr>
</thead>
<tbody>
<tr>
<td>- the tax calculated in respect of income from a self-employed activity considered separately or the tax which relates proportionally to this income, if it is lower;</td>
<td>- the principal, increased to 106% less advance payments made to compensate the A.P. increase and less withholding taxes and items allowed on the principal</td>
</tr>
<tr>
<td>- increased to 106% and less the withholding taxes and allowable items against income eligible for an increase.</td>
<td></td>
</tr>
</tbody>
</table>

**Rate of increase**

2.25 times the reference percentage, i.e. **22.5%**

**Amounts payable**

| AP1: 30% (3.0 x the reference rate) | AP1: 15% (1.5 x the reference %) |
| AP2: 25% (2.5 x the reference rate) | AP2: 12.5% (1.25 x the reference %) |
| AP3: 20% (2.0 x the reference rate) | AP3: 10.0% (1 x the reference %) |
| AP4: 15% (1.5 x the reference rate) | AP4: 7.5% (0.75 x the reference %) |

A bonus is awarded for excess A.P.

A bonus is not awarded for excess A.P.

**Adjustments**

- the increase is reduced by 10%
- the increase is reduced to zero if it does not reach 1,000 BEF or 1% of its base

None
1.38. Additional municipal and conurbation taxes

These are calculated at the appropriate rate which is specific to each municipality, on the basis of the "principal", i.e. the tax payable on aggregate and separate taxable income before the allowing of withholding taxes, tax increases or bonuses.

1.39. Tax increases

PRINCIPLES

The following tax increases may be applied in the event of late declaration, failure to declare or incomplete or inexact declaration:

- either on the total taxes payable after the allowance of withholding taxes, advance payments, tax increases and bonuses;
- or on a proportion of 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 repetitive nature of the infringement

1°) Incomplete or inexact declaration or failure to declare owing to circumstances which are independent of the will of the taxpayer.

NIHIL

2°) Incomplete or inexact declaration or failure to declare without intending to evade taxation:

1st infringement
(not counting failure to declare as under sub. A) 10%
2nd infringement 20%
3rd infringement 30%
4th and subsequent infringements see 3°)

3°) Incomplete or inexact declaration or failure to declare with the intention to evade taxation:

1st infringement 50%
2nd infringement 100%
3rd infringement 200%
4°) Incomplete or inexact declaration or failure to declare combined with an inaccuracy, a deliberate omission or a fraudulent omission, or the making use of forged documents in the course of the inspection of the tax declaration, or the corruption or attempted corruption of a civil servant:

In all these cases: 200%

B. LIMIT

The total sum of the taxes payable on non-declared income and the increases applied thereto cannot exceed the income.
CHAPTER 2

CORPORATION TAX (C.TAX)

2.1. Tax period

For the taxation of individuals, the tax period is always the calendar year. This is not the case for the corporation tax: the tax period is the financial year and the link between the taxable period and the tax year is based on the date the accounts are closed. Legislation relating to tax period 1992 therefore applies to profits from financial years closed between 31.12.1991 and 30.12.1992.

2.2. Liability to corporation tax

All companies, associations, institutions or organizations are liable if:
- they are a legal entity,
- they have their registered offices, their main offices, their headquarters or administrative offices in Belgium,
- they undertake profit-making activities or operations.

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

Non profit-making associations are, in principle, not liable to corporation tax, provided their activity is in keeping with their legal status; the status of non-profit company does not automatically bind the tax office, which can require a non profit-making company to pay corporation tax if the association pursues a profit-making activity.

The law specifies, however, that the following are not considered as profit-making activities;
- isolated or exceptional trons actions,
- transactions relating to the investment of funds collected by the non profit-making association in the course of its statutory mission,
- transactions which only incidentally involved industrial, commercial or agriculture activities or which are not conducted using industrial or commercial methods.
2.3. Taxable base

2.30. Financial profit and taxable profit

The taxable profit is a very different notion from that of financial profit: the latter is certainly the basis for the process of calculating the taxable income but it must undergo several adjustments:

- either because certain profits are exempted (see below: exempted reserves, dividends and income from exempted capital),
- because certain expenses which have burdened the financial results are not tax deductible (see below "not-allowed expenses")
- or because the tax depreciation does not correspond to financial depreciation.
### Tax regime of depreciation

The Income Tax Code authorizes depreciation methods (1):

- Linear depreciation,
- Degressive depreciation.

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

**Degressive depreciation** (2) is calculated on the residual value of the property and its maximum rate is equal to twice the linear depreciation which corresponds to the normal duration of use.

The taxpayer must use the normal linear depreciation annuity starting from the tax period in which this annuity exceeds the degressive depreciation annuity.

Degressive depreciation cannot be applied to:

- motor vehicles, with the exception of taxis and vehicles used for self-drive hire,
- real estate the use of which has been transferred to a third party by the taxpayer who writes them off and which was acquired or accumulated starting from the first day of the tax period which relates to tax year 1992.

The taxpayer opting for degressive depreciation must mention the related assets in an appropriate list.

The depreciation of additional costs is authorized provided these costs relate to assets for which depreciation of the principal is acceptable to the tax administration.

Two different depreciation systems are accepted:

- inclusion in the depreciation value of the property with simultaneous depreciation;
- separate depreciation according to a specific scheme (3), which may be 100% in the course of the tax year or the financial year in which the investment was made.

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

The adjustments and deductions which allow the calculation of net taxable profit on the basis of financial profit are usually grouped into "six operations" as follows:

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1) In certain special cases, linear amortization can be doubled: see part 3, page 121.


3) For motor vehicles, the depreciation of additional costs must be made at the same rate as the depreciation of the principal.
1° the addition of the three elements which make up taxable profit: reserves, not allowed expenses and distributed profits;
2° the breakdown of profits according to whether they are made in Belgium or abroad;
3° the deduction of non-taxable items;
4° the deduction for "definitively taxed income" (D.T.I.);
5° the deduction of previous losses;
6° the investment allowances.

The profit thus calculated is taxed globally (4).

2.31. **First operation: the components of taxable profit**

A. **RESERVES**

As a general rule, any net increase in company assets is counted as taxable profit. Slush funds are to be added to visible reserves: exempted reserves are then separated to ascertain the amount of taxable reserves.

**Visible reserves**

In principle, all reserved profits go towards the accumulation of taxable profits, irrespective of the title given to these: legal reserves, available reserves, unavailable reserves, statutory reserves, provisions for risks and expenses, reserves carried over, etc.

**Slush funds**

Overestimations of assets and underestimations of liabilities constitute slush funds which also make up part of the taxable profit. Depreciations which appeared in addition to those which are allowed by the tax code or an underestimation of inventory constitute an underestimation of assets. A fictitious debt is a case of overestimation of liabilities.

**Exempted reserves**

The exempted portion of capital gains (5) is considered as an exempted reserve: if the intangibility condition is required, the exemption is only awarded if the liabilities appear in a separate account.

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4) Certain capital gains were formerly taxed separately at a rate equal to half the normal rate of corporation tax. Capital gains are now exempted or taxed at the full rate. Depending on the dates at which the amendments came into force, certain special cases (companies in liquidation, financial periods which do not end on December 31st) which relate to separately taxable capital gains may nonetheless still be accepted.

5) See below page 122 and following
- Certain provisions are also exempted: these must relate to specifically defined risks and expenses. The expenses which they are to meet must be by their very nature professional expenses for the year in which they are to be borne and the accumulation of this provision must be justified:
  - either by events which occurred in the course of the financial year;
  - or by a periodicity of expenses lasting beyond the year but not exceeding 10 years.

- Written off debt-claims are deductible in total as professional expenses when the loss is actually incurred in cash. In the case of a loss which is only a probable loss, the amount written off is taken into account by the creation of an exempted reserve.

### Tax regime of written off debt-claims

When the amounts written off relate to a probable loss, the debts involved must result from the professional activity and be identified and justified case by case. Moreover, the exemption can only be made within the following limits:

- either 5% of financial profit, whereby the total amount written off thus exempted cannot exceed 7.5% of the highest annual profit for the 5 previous tax periods;
- Or 2% of debts, whereby the total amount written off thus exempted cannot exceed 3% of the highest total amount of debt in the 5 previous tax statements.

Share premiums and capital subscription reserves are exempted if they are incorporated in the capital or appear in an unavailable reserve account.
B. **NOT-ALLOWED EXPENSES (N.A.E.)**

This grouping is made up of expenses which appear as charges in the financial accounts but for which a deduction is not authorized in the calculation of taxable profits.

This concerns mainly:

1° **non-deductible taxes**

Corporation Tax (6), advance payments, allowable withholding taxes (7) which are levied or determined on income included in the taxable base are not deductible. This is also the case for the interest on late payments, fines and prosecution expenses relating thereto.

2° **fines, penalties and confiscations of any kind (8).**

3° **exaggerated interest**

Article 50, 1° of the Income Tax Code introduces the principle of limiting deductible loan interests, and the law of December 22nd 1989 made this principle applicable to loans denominated in foreign currency: a Royal Decree (9) has set maximum limits on the interest rates for each specific currency. These limits apply neither to interest on shares nor to sums paid by or to financial institutions.

4° **abnormal or benevolent advantages** which are granted to companies which are established abroad and with which the company has direct or indirect links involving interdependence, or to a company which is subject in the country of its registered offices to a tax system which is considerably more advantageous.

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

6° **donations**

Certain types of donations can nonetheless be deducted from the taxable profit provided they fulfil the conditions for exemption specified in article 71 §1, 4°, 5°, 10° and §2 paragraphs 2 and 3 of the Income Tax code. In such cases, the deduction is made at the third operation.

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6) The contribution which is payable on slush commission is deductible.

7) The F.F.T.C. is assimilated to a withholding tax and is therefore included in the taxable base as N.A.E. Only the chargeable amount is included in the N.A.E. and this may possibly be limited pro rata temporis (see below, paragraph 2.44).

8) The non-deductibility of fines also includes fines which are incurred by active associates, board members and company employees.

withdrawal of exemption for additional staff employed in scientific research
The employment of additional staff can give entitlement to exemption from taxation at the third operation. The exemption awarded is, however, withdrawn when the personnel is reduced.

certain specific professional expenses
These involve:
- expenses and charges which exceed in an unreasonable fashion the professional needs,
- 25% of the professional quota in respect of car expenses (10),
- expenses in respect of clothing with the exception of specific working clothes,
- and 50% of restaurant bills, entertainment expenses, catering expenses and business gifts.

Remark
Tax regime of payments made to active associates and board members.

The remunerations of active associates and board members are totally deductible from corporation tax: article 99 of the Income Tax Code, which set a limit on the deductibility of payments to board members (having real and permanent functions), has been repealed. As a consequence, the tax on directors fees ("tantièmes") is no longer applicable in the calculation of the taxable base and the "board member tax credit" is no longer applicable to the I.I.T.

C. DISTRIBUTED PROFITS

Dividends and revenue from invested capital

Dividends distributed by share companies and revenue from capital invested in partnerships are included in the taxable base. Any interest on loans paid to partnerships (11) by associates, their spouses or under age children are to be added to these.

Exemptions

There are certain cases where dividends and revenue from invested capital are not taxable: the most frequent cases relate to the application of Royal Decrees 15 and 150 (12).

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10) Fuel expenses remain fully deductible.

11) Other than the Cooperatives which are approved by the National Cooperation Council.

12) See part 3 below.
1st part: direct taxation

Repurchase of shares, total or partial distribution of company assets

Distributed profits also include payments made for the repurchase of shares and a total or partial distribution of company assets.

This rule is applicable, in respect of the repurchase of shares:

a) when the purchase is made outside the conditions prescribed by the coordinated laws on trade companies;

b) when the stocks or shares which are acquired in pursuance of the coordinated laws on trade companies but are reduced in value, are alienated, destroyed or declared void ipso jure.

c) at the latest when the company goes into liquidation.

The sums assigned are subsequently taxable as distributed profit in respect of the proportion which exceeds the effectively paid quota of company assets which remains outstanding, with any revaluation, which is represented by the purchased stocks or shares (13). Specific rules are provided for the cases mentioned in b).

In the event of distribution of company assets, the sums shared out are considered as distributed profit in respect of the quota which exceeds the effectively paid company assets which remain outstanding with any re-evaluation.

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

2.32. Second operation: breakdown of profits

Taxable profits which are made up of the sum of reserves from not allowed expenses, dividends and revenue from invested capital are subsequently broken down into three categories according to whether they are earned:

- in Belgium: they are in this case taxable at the full rate;
- abroad in a country with which Belgium has not concluded an international convention preventing double taxation: they consequently receive a tax rebate when the C.Tax is calculated (14);
- abroad in a country with which Belgium has concluded a convention: they are in this case exempted from C.Tax and can no longer be taken into account in the calculation of the taxable base.

13) See article 103 new Income Tax Code, §1, section 3, 4 and 5.

14) See section 2.42 below.
2.33. Sums deductible at the "third operation"

The following are deductible:

- exemptions of 107,000 BEF awarded for each additional member of personnel involved in scientific research in Belgium (15);
- tax exemption awarded to companies which have signed a collective labour agreement which provides for a reduction in working hours (16);
- gifts;
  The deduction of gifts cannot, however, exceed 5% of the result of the 1st operation or 20,000,000 BEF.

2.34 The "fourth operation": deduction of definitively taxed income (D.T.I.)

A. INCOME DEDUCTIBLE AS D.T.I.

"Definitively taxed income" includes:

a. dividends, revenue from invested capital and assimilated interests on loans (17);
b. sums obtained through the distribution of assets of a company or the repurchase by a company of its own shares, provided the dispositions of article 103 and 118 of the Income Tax Code or similar dispositions in foreign law have been applied;

B. THE "TAXATION CONDITION"

Since the passing of the law of December 22nd 1989, Belgian legislation has instituted measures designed to remove the deductibility in respect of D.T.I. of dividends which had clearly not previously been submitted to normal taxation.

It has therefore been required that the company which allocates its revenue be liable to corporation tax (18) or, if it is a foreign company, to a tax similar to corporation tax.

15) See part 3, page 123.
16) See part 3, page 125.
17) This concerns interest for loans granted by a company which is liable to C.Tax to a partnership of which it is a shareholder and which is liable to Belgian corporation tax.
18) This condition is not required for income assigned by inter-municipal associations involved in the production or distribution of gas or electricity.
The deduction made for D.T.I. referred to in (a) or (b) is therefore not permitted if the revenue is allocated or assigned by companies which are not liable to corporation tax or which are established in countries which offer a legally established tax system which is considerably more advantageous: the tax office has published a list of the cases to which this refers (19).

If the revenue is assigned:

- by holding companies or finance companies which, in the countries where they are established, operate under a fiscal system different from ordinary law;
- by investment firms (open-end UCITS - closed-end UCITS).

The deduction referred to in (a) or (b) is only awarded in so far as it has been established that the income allocated or assigned by these companies comes from income received by companies which themselves fulfil the conditions for deduction (transparency rule).

From tax year 1992 onwards, this taxation condition is reinforced; the income allocated or assigned by a company established abroad does not constitute D.T.I. if the company distributes revenue which does not itself fulfil the condition of taxation. This condition must therefore be verified upstream of all the stages of distribution of the revenue for which the deduction in respect of D.T.I. is requested; each time, it must involve dividends or other forms of revenue mentioned in sub A) which fulfil the taxation criteria.

C. EXEMPTED INCOME FROM MOVABLE PROPERTY

Income from preference shares of the Belgian National Railway Company (S.N.C.B./N.M.B.S.) and income from tax exempted bonds (prior to 1962) are also deductible.

D. DEDUCTIBLE AMOUNT

The deductible amount is set at 95% of income before deduction of the witholding tax on capital income. The former distinction between financial companies and non-financial companies is no longer applicable.

2.35. **The "fifth operation": Deduction of previous losses**

**A. GENERAL RULE**

The losses from previous tax periods are deductible with no time limit: the five-year rule and its exceptions have been abolished.

**B. TAX-EXEMPTED MERGERS AND TAKE-OVERS**

A special disposition is, however, provided if a company gets the contribution of the whole or part of a contributor's assets or when it absorbs another company: the professional losses which the absorbing company has incurred before the contribution are only deductible in respect of the proportion of the stake which is represented by its net fiscal assets before the operation within the total net fiscal assets after the said operation (20).

**C. LIMITATION OF THE DEDUCTIBLE AMOUNT**

From tax year 1992 onwards, the deductibility of previous losses is limited as follows, depending on the result remaining after the fourth operation.

<table>
<thead>
<tr>
<th>Result after the 4th operation</th>
<th>Limit on the deductibility of carry-over</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 20 million</td>
<td>None</td>
</tr>
<tr>
<td>20 to 40 million</td>
<td>maximum 20 million</td>
</tr>
<tr>
<td>40 million and more</td>
<td>50% of carry-over</td>
</tr>
</tbody>
</table>

2.36. **Sixth operation: The investment allowance**

The arrangements for investment allowances are described in greater detail in part three (21).

For investments relating to 1991, the deduction rates are as follows:

- normal rate: 4%
- "R & D" investments and "energy saving" investments: 14.5%
- staggered deduction: 11.5%

20) In order to determine the net assets of the absorbing company, any stake it held in the companies being absorbed is disregarded.

21) See part 3, pages 119 and following.
The deductions to which the company is thus entitled can be **carried over with no limit** if the taxable profit remaining after the fifth operation does not allow total deduction.

Investment allowances to which the company is entitled for investments made in previous tax periods but which it was unable to make due to lack of taxable profits are deductible with the following limits:

<table>
<thead>
<tr>
<th>Result after the 5th operation</th>
<th>Limit on deductibility of carry-over</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 26,668,000</td>
<td>none</td>
</tr>
<tr>
<td>26,668,000 to 106,670,000</td>
<td>26,668,000 maximum</td>
</tr>
<tr>
<td>106,670,000 or more</td>
<td>25% of carry-over</td>
</tr>
</tbody>
</table>

2.4. **Calculation of the tax**

2.41. **Normal rate**

C. Tax is payable at a rate of 39%.

2.42. **Reduced rates**

Reduced rates can be applied when the taxable profit does not exceed 13,000,000 BEF.

<table>
<thead>
<tr>
<th>Taxable net profit</th>
<th>Rate applicable to this bracket</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 1,000,000 BEF</td>
<td>28%</td>
</tr>
<tr>
<td>1,000,000 - 3,600,000 BEF</td>
<td>36%</td>
</tr>
<tr>
<td>3,600,000 - 13,000,000 BEF</td>
<td>41%</td>
</tr>
<tr>
<td>13,000,000 BEF and more</td>
<td>39%</td>
</tr>
</tbody>
</table>

These reduced rates are, however, not applicable:

1° when the rate of return on the registered capital effectively paid which remains to be reimbursed at the beginning of the tax period exceeds 13%;

2° to financial companies (holdings);

3° to companies of which 50% of the stock representative of company shares is held by one or more other companies.
2.43. **Foreign income**

C. Tax which relates to the net foreign income from countries with which Belgium has not signed an agreement preventing double taxation is reduced to a quarter.

2.44. **Allowance of withholding taxes**

The following are set off against corporation tax and repayable:

- advance payments,
- withholding tax on movable property.

The following are allowable but not repayable:

- withholding tax on real estate income, amounting to 12.5% of cadastral income of the property of which the company is the owner,
- foreign taxes paid on fixed interest securities, on the basis of a percentage which is calculated as follows (22):

\[
\text{Taxes effectively paid abroad / revenue in Belgium}
\]

The allowance of the withholding tax on movable property, the T.Cr. and the F.F.T.C. is however, subject to certain limits.

- A company cannot set off the withholding tax on capital income, the T.Cr. and the F.F.T.C. relating to dividends or revenue from invested capital when the assignation of this revenue results in a depreciation or a drop in value of the stocks or shares.

- For all other types of income from movable property, the allowance of the withholding tax on income from movable property, of the T.Cr. and the F.F.T.C. is only awarded, *pro rata temporis*, for the period in the course of which the company has enjoyed full ownership of the securities.

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22) When international agreements, which supersede Belgian Law, award special F.F.T.C. conditions, these conditions continue to be applied until the said conventions have been renegotiated.
2.45. *Increase for non-payment or insufficient advance payments*

The increase for non-payment or insufficient advance payments is, in principle, calculated in the same way as for the I.I.P. (23), except that:

- the dates are calculated from the first day of the financial year and not on the basis of the calendar year;
- the base is not raised to 106%;
- the increase is not reduced to 90%.

2.46. *Special tax conditions*

A 200% tax imposition is applied to sums or expenses which are not justified and to slush funds. This contribution constitutes a professional expense.

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23) See above pages 30-32.
CHAPTER 3

TAX ON LEGAL ENTITIES (T.L.E.)

3.1. Liability

The following are liable to taxation as legal entities:

- the State, the provinces, the Brussels conurbation, the municipalities and public religious institutions;
- companies and associations, particularly non-profit-making companies which are not involved in profit-making concerns or operations;
- inter-municipal associations, interurban transport companies, as well as certain institutions designated by name: National Delcredere Office (= national export credit insurance office), Belgian National Company for Local Transport, etc.

3.2. Taxable base and levy of the tax

Legal entities liable to T.L.E. are not taxed on their total annual net income but only:

- on their real estate income,
- on their income from capital and movable assets,
- on certain miscellaneous forms of income,

and the taxes are collected in the form of withholding taxes.

However, in five special cases specific items are put on the tax roll:

a) Certain types of real estate income, notably net income from land and buildings in Belgium and leased, are subject to a tax of 20%.

Public religious institutions ("Fabriques d'église/Kerkrabrieken" ≈ authorities managing church property) are exempted from this contribution.

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

c) The transfer of important participations is taxable according to the same arrangements as the I.I.T.(1).

d) Sums or expenses which are not justified are taxable according to the same arrangements as C.Tax (Rate of 200%, deductible).

1) see page 12.
e) Inter-municipal associations involved in the production and distribution of gas and electricity are also liable to the payment of a special contribution.

The base for this contribution is set at 8.5% of the difference between the income excluding of VAT from the sale of electricity to end-users and the cost of the fuel used to produce this supply.

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

The increase for lack of sufficient of advance payments is applicable according to the same arrangements as corporation tax (2).

2) See page 48 above.
CHAPTER 4

TAX ON NON-RESIDENTS (T.N.R.)

4.1. Individuals

Individuals who are considered as non-residents of the Kingdom (1) are liable to taxation only in respect of income earned or collected in Belgium.

Real estate income and/or earned income are, in certain cases which are mentioned below, aggregated and taxed at progressive rates. Separately taxed income is liable to withholding tax; in this case the T.N.R. is equal to the withholding tax; in this case, therefore, the withholding tax constitutes a non recurring tax.

The aggregation concerns:

- either the total real estate income. This is the case when non-inhabitants of the Kingdom receive in Belgium income from leased property or income from the establishment or the transfer of long lease rights or building rights.

- or aggregated real estate and earned income from Belgian origine; This is the case when, in the context of their professional activity, non-inhabitants of the Kingdom possess one or several Belgian establishments or receive from Belgium:
  - capital gains or real estate income;
  - income of associates in Belgian companies which are not legal persons;
  - profits, gains or profits from previous activities;
  - payments, pensions, annuities or allowances paid by a Belgian resident or the Belgian establishment of a non-resident;
  - payments made by a non-resident in respect of an activity carried out in Belgium for more than 183 days;
  - capital gains earned through the transfer to a non-resident company of a considerable significant participation (25% at least) in a Belgian company.

The assessment of the amount of aggregated taxable income is made according to the rules of the individual income tax, with the exception of the following peculiarities:

- Interest is only deductible (2) if there is real estate

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1) The criteria according to which an individual is or is not considered as an inhabitant of the Kingdom are explained at the beginning of Chapter 1, page 5.

2) With the exception of special conditions for the deduction of mortgage interests.
income and if the interest relates to buildings located in Belgium.

- If a non-inhabitant of the Kingdom owned a dwelling house in Belgium during the total tax period, he is entitled to all the deductions with the exception of those relating to maintenance allowances paid to a non-inhabitant of the Kingdom and the taxes in respect of long lease rights or building rights relating to buildings abroad.

- If the non-inhabitant did not own a dwelling house in Belgium for the total tax period, only the following are deductible:
  - maintenance allowances paid to an inhabitant of the Kingdom;
  - certain donations;
  - compensation paid for long lease rights or building rights relating to buildings situated in Belgium;
  - pension saving schemes, but only if (3), at the signing of the contract or the opening of the account, the taxpayer was liable to the dual income tax and received by virtue of this fact deductions in respect of the sums paid.

The following deductions are not therefore taken into account:

- payments made to domestic personnel;
- expenses relating to maintenance and restoration work on classified monuments;
- additional deduction of mortgage interest;
- sums paid by civil servants by virtue of a cumulation of offices;
- sums paid for the purchase of shares in innovation companies.

The tax is subsequently calculated:

- according to the usual rules regarding individual income tax, if the taxpayer has possessed a dwelling house in Belgium for the total tax period;
- on the basis of a single scale, with no exemption at the base in other cases (4).

In all cases, additional municipal taxes are replaced by a 6% additional tax payable to the State.

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3) Administrative measure.

4) The reduction of taxes on replacement income is nonetheless awarded according to particular arrangements: the base reduction is the tax reduction to which the exempted income would have given entitlement. These arrangements have not been yet published and cannot therefore be specified.
4.2. **Companies**

As is the case with individuals, taxation is limited to income received in Belgium, regardless of the nature of this income: all income received by a company is earned income.

The rate of T.N.R./C.Tax is 43% except in the case of a specific rate set by international agreements.

The following are also applied in T.N.R./C.Tax:

- taxation at the reduced rate for increases of assets;
- increases for absence or insufficiency of advance payments;
- the special levy on not allowed sums or expenses.
CHAPTER 5

SPECIAL LEVY ON CAPITAL INCOME

5.1. Base

The special levy on capital income is applied to income from all debts, loans and cash deposits:
- which have been declared as I.I.T. and have been separately taxed;
- or which have not been declared by the taxpayer by virtue of the non recurring withholding tax on income from movable property;

provided the net amount exceeds 523,000 BEF.

The net amount of this income is calculated on the basis of the amount encashed or collected:
- **before** deduction of collection and custody charges;
- **after** deduction of withholding tax on income from movable property or a sum equal to 10% of this income when no withholding tax on income from movable property was levied.

5.2. Rates

The levy is set at a rate of 25% on the net income exceeding 523,000 BEF.

5.3. Exemptions

The special contribution is not paid by taxpayers who undertake and observe the commitment:

- **to assign** a sum which is at least equal to the basis of calculation of the levy to the underwriting of securities (shares or bonds) (1) issued by companies liable to corporation tax;
- **and to keep** the underwritten securities for at least five years or, in the event of a transfer, to reinvest them in securities which meet the same specifications.

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1) With the exception of bonds issued by credit institutions, mortgage lending companies, insurance companies, portfolio companies, real estate investment companies and transport companies.
CHAPTER 6
WITHOLDING TAXES AND ADVANCE PAYMENTS

6.1. Witholding tax on real estate income (T_IMM)

The witholding tax on real estate income is based on the inflation adjusted cadastral income. For income earned in 1992, the inflation adjustment coefficient is set at 1.0829.

It is levied:

- at the rate of 1.25% (0.8% for subsidized housing) with an increase for the proportional additional provincial and municipal taxes on real estate located in the Wallonian and the Brussels region;
- at the rate of 2.5% (1.6% for subsidized housing) with an increase for the proportional additional provincial and municipal taxes on real estate located in the Flemish region;

The following are awarded on request:

- a rebate of 25%, if the rental value of all the property of the taxpayer does not exceed 30,000 BEF (1);
- a rebate of 25% for war invalids and 10% for handicapped persons (2);
- a rebate of 10% per dependant child, provided the head of the family who claims the rebate has still at least two living children;
- a rebate proportional with the period of non-occupation or unproductiveness of the property.

6.2. Witholding tax on income from movable property (T_MOV)

6.21. On dividends and revenue from invested capital

The witholding tax on capital income is levied at a rate of 25% on dividends and revenue from invested capital. Interest on payments made to partnerships by their associates, spouse or children are assimilated to the same.

The rate is reduced to 20% for dividends from "AFV" (Avantages Fiscales / Fiscale Voordelen ≈ Fiscal Advantages) securities (3).

1) This sum is not index-linked.
2) Suffering from a handicap of at least 66%, due to one or several complaints.
3) See part 3, chapter 2.2.21.
6.22. **On interest**

The withholding tax on income from movable property is levied at a rate of 10% on interest from the new, fixed revenue assets, i.e.:

- demand deposit accounts, savings accounts and term deposits;
- for other securities, on interest from securities issued from 1.3.90 onwards.

The withholding tax on income from movable property is non-recurring tax with the proviso that a special levy may be imposed on capital income exceeding a certain threshold (4).

### 6.3. Witholding tax on earned income

The application of the withholding tax on earned income which is allocated or payable from 1.1.1992 onwards is regulated by the Royal Decree of 19.12.1991 (Moniteur belge/Belgisch Staatsblad of 25.12.1991).

The present paragraph concerns only the application of the withholding tax on earned income received by residents or by non-residents who have had their home in Belgium for the whole tax period.

Only the most frequently occurring cases are described below.

#### 6.31. **Salaries**

As regards the payment of salaried workers, the earned income tax deducted at source is withheld by the debtor of the taxable income according to a scale corresponding to the I.T.T.-scale, taking account of dependants and fixed professional expenses.

The gross annual income is first determined by deducting the levies made in pursuance of social legislation or of an assimilated legal or administrative regulations, of a group insurance contract or of an extra-legal insurance scheme for old age or premature death.

The gross annual income is then transformed into net annual taxable income by subtracting fixed professional expenses.

For 1992 salaries, these charges are calculated according to the following scale:
At the third stage, the basic tax is determined according to the following scales.

**Applicable base scale:**
- when the beneficiary of the income is single;
- when the spouse of the beneficiary of the income has also his/her own earned income.

<table>
<thead>
<tr>
<th>Gross annual income</th>
<th>Professional expenses on lower limit</th>
<th>above this</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 163,000</td>
<td></td>
<td>20%</td>
</tr>
<tr>
<td>163,000 - 325,000</td>
<td>32,600</td>
<td>10%</td>
</tr>
<tr>
<td>325,000 - 542,000</td>
<td>48,800</td>
<td>5%</td>
</tr>
<tr>
<td>542,000 - 2,153,667</td>
<td>59,650</td>
<td>3%</td>
</tr>
<tr>
<td>2,153,667 and more</td>
<td>108,000</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Net annual taxable income</th>
<th>Basic tax on lower limit</th>
<th>% above</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 141,000</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>141,000 - 249,000</td>
<td>26.5%</td>
<td></td>
</tr>
<tr>
<td>249,000 - 330,000</td>
<td>31.8%</td>
<td></td>
</tr>
<tr>
<td>330,000 - 471,000</td>
<td>42.4%</td>
<td></td>
</tr>
<tr>
<td>471,000 - 1,084,000</td>
<td>47.7%</td>
<td></td>
</tr>
<tr>
<td>1,084,000 - 1,625,000</td>
<td>53.0%</td>
<td></td>
</tr>
<tr>
<td>1,625,000 - 2,384,000</td>
<td>55.65%</td>
<td></td>
</tr>
<tr>
<td>2,384,000 and more</td>
<td>58.3%</td>
<td></td>
</tr>
</tbody>
</table>

Basic scale applicable when the spouse of the beneficiary of the income does not have his/her own earned income:
1st part: direct taxation

<table>
<thead>
<tr>
<th>Net annual taxable income</th>
<th>Basic tax on lower limit</th>
<th>% above</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 249,000</td>
<td>0</td>
<td>26.5%</td>
</tr>
<tr>
<td>249,000 - 330,000</td>
<td>65,985</td>
<td>31.8%</td>
</tr>
<tr>
<td>330,000 - 471,000</td>
<td>91,743</td>
<td>42.4%</td>
</tr>
<tr>
<td>471,000 - 1,084,000</td>
<td>151,527</td>
<td>47.7%</td>
</tr>
<tr>
<td>1,084,000 - 1,625,000</td>
<td>443,928</td>
<td>53.0%</td>
</tr>
<tr>
<td>1,625,000 - 2,384,000</td>
<td>730,658</td>
<td>55.65%</td>
</tr>
<tr>
<td>2,384,000 and more</td>
<td>1,153,042</td>
<td>58.3%</td>
</tr>
</tbody>
</table>

Fourthly, the following tax reductions are taken into account.

1 dependant child (5) : 10,200
2 dependant children : 26,100
3 dependant children : 67,200
4 dependant children : 126,300
5 dependant children : 190,500
6 dependant children : 255,000
7 dependant children : 319,500
8 dependant children : 383,700
single person : 10,200
widow(er) who has not remarried with dependant child : 10,200
single parent family : 10,200
handicapped taxpayer (6) : 10,200
other dependant persons (7) : 10,200

When the spouse has his/her own earned income of which the net amount (8) does not exceed 5,500 BEF per month, a further reduction of 33,000 BEF is awarded.

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

6.32. Salary arrears

On salary arrears the withholding tax on earned income is calculated according to a "reference salary". This corresponds to the annual amount of the normal gross salary allocated to the beneficiaries of income first before the revision which led to the payment of arrears.

---

5) Handicapped children count as two.
6) Each of the spouses.
7) This reduction is doubled for handicapped dependant persons.
8) That is to say income less social security contributions, with this balance itself reduced by 20%.
62 1st part: direct taxation

Scale applicable to arrears:

<table>
<thead>
<tr>
<th>Reference salary (in thousands of BEF)</th>
<th>Rate of withholding tax on earned income</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 208</td>
<td>0</td>
</tr>
<tr>
<td>208 - 290</td>
<td>6</td>
</tr>
<tr>
<td>290 - 376</td>
<td>12</td>
</tr>
<tr>
<td>376 - 523</td>
<td>18</td>
</tr>
<tr>
<td>523 - 607</td>
<td>19</td>
</tr>
<tr>
<td>607 - 1144</td>
<td>31</td>
</tr>
<tr>
<td>1144 - 1694</td>
<td>38</td>
</tr>
<tr>
<td>1664 - 2454</td>
<td>42</td>
</tr>
<tr>
<td>2454 and more</td>
<td>50</td>
</tr>
</tbody>
</table>

There are specific arrangements to take account of dependents.

6.33. *Holiday allowance and other exceptional allowances*

For holiday allowances and the other exceptional allowances paid by the usual employer, the withholding tax on earned income to be deducted is calculated according to a special scale, whereby the rate does not vary according to actually received income but according to the annual gross amount of compensation.

Scale of withholding tax on earned income applicable to the holiday allowance paid by the employer and other exceptional allowances:
Exemptions for dependant children are subsequently taken into account.

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

- 17% if the amount of the holiday allowance does not exceed 33,000 BEF;
- 23% if the amount of holiday allowance exceeds 33,000 BEF.

6.34. **Unemployment benefit**

Unemployment benefit and waiting allowances are liable to a 10% withholding tax rate on earned income except when they are awarded to a fully unemployed person who is the "head of the family" according to unemployment insurance legislation. The exemption is also awarded for additional allowances paid by local employment agencies and, in certain cases, for allowances paid to cohabitants.

6.35. **Attendance fees, commissions**

Attendance fees as well as compensation and allowances awarded occasionally are liable to withholding tax on earned income calculated as follows:
Withholding tax on earned income payable on attendance fees, commissions and other occasional allowances:

<table>
<thead>
<tr>
<th>Amount of compensation (in thousands of BEF)</th>
<th>Withholding tax rate on earned income</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 20</td>
<td>27</td>
</tr>
<tr>
<td>20 - 25</td>
<td>32</td>
</tr>
<tr>
<td>25 and more</td>
<td>37</td>
</tr>
</tbody>
</table>

6.36. **Surrender capital and surrender value**

Surrender capital and values which are not awarded in the context of savings for the elderly or pension savings schemes are liable to a withholding tax rate on earned income of 16.5%.

6.37. **Board members and active associates**

Remunerations paid or allocated to active associates in partnerships are liable to withholding tax on earned income.

The withholding tax is calculated on the basis of the scale applicable to the employees except that the deduction of social contributions and professional charges is made according to specific rules.

**A. PERIODICAL REMUNERATIONS**

To allow these taxpayers to take account of the social contributions for the self-employed and "minor risk" sickness insurance contributions, a reduction is applied on their gross income which is calculated as follows:

<table>
<thead>
<tr>
<th>Gross amount of monthly remuneration</th>
<th>Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>30,500 BEF and less</td>
<td>10,500 BEF</td>
</tr>
<tr>
<td>30,500 to 131,000 BEF</td>
<td>10,500 BEF + 16% of the part over 30,500 BEF</td>
</tr>
<tr>
<td>131,000 to 198,000 BEF</td>
<td>26,580 BEF + 11.5% of the part over 131,000 BEF</td>
</tr>
<tr>
<td>198,000 BEF and more</td>
<td>34,285 BEF</td>
</tr>
</tbody>
</table>

Deductible professional expenses are calculated at the single rate of 5% with a maximum of 107,000 BEF.
**B. NON-PERIODICAL REMUNERATIONS**

The withholding tax on earned income applicable on non-periodical remunerations is equal to 12 times the difference between:

- on the one hand, the withholding tax due on the sum of the periodical remunerations of the month during which the non-periodical remunerations are allocated and one twelfth of the non-periodical remuneration,

- and, on the other hand, the withholding tax on earned income applicable on the periodical remunerations for the month during which the non-periodical remunerations are allocated.

**6.4. Advance Payments**

Traders, board members, active associates and members of professions, as well as companies, are obliged to make advance payments of taxes in four instalments (quarterly instalments 10/4, 10/7, 10/10 and 20/12) (9).

These instalments allow them to avoid tax increases (10).

A dispensation may be given on certain conditions when a self-employed person sets up in business for the first time (11).

Moreover, all taxpayers liable to I.I.T. can make advance payments to pay off in advance those taxes which are not covered by withholding tax. Bonuses are awarded for advance payments made (12).

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9) These dates are valid for natural persons and for companies whose accounting year coincides with the calendar year. For other companies, the dates for A.P. are calculated from the 1st day of the accounting year.

10) See 1.3.8.

11) See part three, chapter 1, 1.28.

12) See 1.3.8.
PART 2

INDIRECT TAXATION

1. Value added tax (V.A.T.)
2. Registration duties, mortgage duties and court fees
3. Death duties
4. Stamp duties and taxes assimilated to stamp duties
5. Customs duties
6. Excise duties
7. Taxes on drinking establishments
8. Taxes assimilated to income tax

Remark: Although certain types of tax are rather similar in kind to wealth taxes (for example, death duty, certain types of registration duties), they are dealt with here for practical reasons.
CHAPTER ONE

VALUE ADDED TAX (V.A.T.)

1.1. Definition

V.A.T. is a tax on the 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 process. 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. V.A.T. is therefore a unitary tax on consumption, which is paid off in instalments.

V.A.T. is a proportional tax on the sales price excluding V.A.T.. The rates applied may, however, vary according to the nature of the goods or services to be taxed.

1.2. Economic units which bear V.A.T. eventually

The following broad categories of economic units eventually bear the greatest proportion of V.A.T. :

a. private consumption;
b. the purchase of goods and services by public bodies, as well as public investments;
c. the purchase of goods and services, including investments, by companies which are not liable to V.A.T. (see 1.3.) (and which can therefore not deduct the V.A.T. on these inputs);
d. investments in dwelling houses;
e. certain inputs of persons liable to V.A.T. for which the entitlement to the deduction is not - or is only partly - applicable.

1.3. Persons liable to V.A.T.

The persons liable to V.A.T. form a crucial link in the process of levy the V.A.T.. They charge V.A.T. on the sales to their customers and can, on the other hand, deduct from the V.A.T. levied on their sales the V.A.T. that is levied on their own purchases and investments. They therefore only pay to the Treasury the difference (= the tax on the value which they themselves have added.)
A person is liable to V.A.T. when, in a habitual and independent manner, his activity consists in delivering goods or providing services mentioned in the V.A.T. code (see 1.4.). This activity can be a main activity or secondary activity, profit-making or not.

Public authorities and public bodies are not liable, unless they exercise in a habitual manner an economic activity as producer or provider of services.

1.4. Activities liable to V.A.T.

The following are liable to the tax:

- the provision of goods which are movable by their nature;
- the supply of heat, cold and energy;
- the supply of certain buildings (mainly new buildings) with the exception of land;
- the provision of services (with the exception of the lease of most types of immovable property);
- imports of goods.

The latter activity is liable to V.A.T., whoever carries out this activity (even if it is carried out by a person who is not liable to V.A.T.).

1.5. Activities exempted from V.A.T.

These activities can be divided into two groups.

On the one hand, there are the activities which are exempted from V.A.T. but which do not take away the quality of liability of V.A.T. from the person who carries out the activities in question, which are mainly:

- exporting;
- international transport and certain related activities;
- certain deliveries and imports of certain boats and aircrafts, as well as certain related activities;
- certain supplies for diplomatic and consular missions and for international organizations.

These persons therefore retain, for these activities, the entitlement to deduct the V.A.T. which they have paid.

Furthermore, there are exempted activities for which the exemption is based mainly on cultural and social considerations and which do take away the liability to V.A.T. from the person who carries out the activities in question, such as:

- services provided by notaries, lawyers and bailiffs;
- services provided by the medical profession and certain paramedical professions;
2nd part: indirect taxation

- hospitals, teaching establishments;
- services provided by certain other social and cultural institutions (in certain conditions);
- services provided by authors, artists and interpreters of works of art;
- operations relating to deposit and credit, certain operations relating to payment and levy;
- insurances.

In view of this, the persons who carry out these activities do not enjoy entitlement to the deduction of the V.A.T. which they have paid.

1.6. The V.A.T. tax base

In principle, the V.A.T. tax base is the amount which the by-contractor of the supplier of goods or the provider of services must pay to this supplier or provider. This amount does not include the V.A.T. itself. The rates of V.A.T. are expressed as a percentage of the tax base. Special conditions apply notably to imports, operations in which the price is not given only in cash and to the services of travel agencies, etc.

There is a minimum tax base for certain goods and services, such as for new constructions, second-hand cars,...

1.7. Submission of V.A.T. declarations and payment of the tax

The correct functioning of a V.A.T. system requires that the persons liable to pay tax must fulfil a certain number of obligations. These concern accounting, the provision of invoices, the drawing up of client lists, the submission of V.A.T. declarations and the payment of V.A.T.. For certain companies, special (simplified) prescriptions apply.

In addition to the declaration of starting, modification or cessation of an activity, persons who are liable to pay V.A.T. must, in principle, draw up a V.A.T. declaration every month (giving the V.A.T. to be paid and to be deducted) and pay every month the amount due. The submission and the payment must be made by the 20th of the following month at the latest. On December 20th at the latest, a deposit must be paid in respect of the V.A.T. which will be payable for that month.

Persons who are liable to V.A.T. whose turnover does not exceed 20,000,000 BEF per year must submit quarterly declarations. They must pay, in the 2nd of 3rd months of each calendar quarter, a deposit equal to one third of the tax due for the preceding quarter. They can nonetheless opt for monthly declaration.
Persons who are liable to V.A.T. whose turnover does not exceed 3,000,000 BEF per year must submit an annual declaration by January 20th of the following year at the latest. They must pay, during the months from February to December, a deposit equal to one twelfth of the tax due in respect of the previous year. They can nonetheless opt for monthly or quarterly declaration.

1.8. The deduction of V.A.T. (or V.A.T. charged on inputs)

Persons who are liable to V.A.T. can deduct from the V.A.T. which they owe the V.A.T. which has been put on the goods which were delivered to them or the services which were provided in so far as he/she uses these goods and services in professional activities which are liable to the V.A.T. or which are exempted from V.A.T. because of exports (and also in certain other cases).

Sometimes, however, the deduction is limited. The deduction is in fact limited to a maximum of 50% for the purchase of cars and supplies (e.g. fuel, oil, ...) and services (e.g. maintenance, repairs, ...) relating to these vehicles. No deduction of V.A.T. is allowed notably for the supply of manufactured tobaccos, the supply for the end consumption of spirits and certain expenses relating to accommodation, food and drinks.

For "persons partially liable to V.A.T.", i.e. persons who are liable to V.A.T. and who are involved both in professional activities which are liable to V.A.T. and activities which are not liable, the deduction of the V.A.T. charged on inputs is also limited, in this case, to the correlation which exists between the turnover of operations which give entitlement to the deduction and the total turnover (in certain conditions, on the basis of the actual use of the inputs).

Periodical V.A.T. declarations must mention the V.A.T. which is payable and the V.A.T. which is deductible. Only the difference is paid to the Treasury. If the V.A.T. to be deducted is greater than the V.A.T. due, the difference is carried over to the following declaration. On express request and subject to certain conditions being fulfilled, the balance referred to above is effectively refunded.

1.9. Special cases

In view of the fact that the normal V.A.T. system entails considerable obligations which, for certain companies, especially small companies, are difficult to fulfil, special arrangements apply to certain companies.
1.91. **System of flat-rate V.A.T. for small companies**

This system applies only to companies which handle mainly private individuals, which have a turnover which does not exceed 20,000,000 BEF per year and which are active in certain sectors (e.g., bakers, butchers, hairdressers, ...). For each rate of V.A.T., their turnover is set according to a fixed rate. The deduction of the V.A.T. charged on inputs is applied according to the normal rules. These companies can, however, opt for the normal V.A.T. system.

1.92. **The system of equalization tax**

This system applies to retailers whose total purchases, other than investments, do not exceed the following amounts:

- 4.5 million BEF per year in the general food sector;
- 2.5 million BEF per year in the sector relating to shoes, clothes, drugstore goods, books and newspapers.

These persons do not submit a V.A.T. declaration and do not pay V.A.T. to the Treasury. By the same token, they are not entitled to a deduction. They are, however, entitled to the refund of the V.A.T. which is payable on their investments.

In compensation for the V.A.T. which is paid normally, the suppliers of these persons must, in addition to the V.A.T. which they put on their supplies, add in addition the equalization tax and pay this tax to the Treasury. The equalization tax is set at a percentage of the V.A.T. charged. This percentage amounts to:

- 15% for goods liable to the 6% V.A.T. rate, as well as certain others (e.g., certain drinks);
- 33% for all other goods.

These persons can opt for the normal system. This option is, however, irrevocable.

1.93. **Special system for certain agricultural firms**

These companies are not liable to the obligations relating to invoicing, declaration and the payment of V.A.T. If the by-contractor is liable to V.A.T. and he submits declarations, he must pay the agricultural firm a sum which is calculated at a fixed rate for the recovery of the V.A.T. charged on inputs. This amount is equal to 2% of the purchase price for the supply of wood and 6% for other supplies. Agricultural firms can opt for the normal V.A.T. system.
1.94. **Exemption from the obligations relating to the levy of V.A.T.**

In certain conditions, certain specific companies can, in certain sectors, obtain a dispensation from its obligations with regard to V.A.T.: accounting, submission of declarations and payment of V.A.T. to the Treasury. They must, however, in certain cases, also renounce their entitlement to the deduction of V.A.T. paid to their suppliers. This is notably the case for inland navigation companies, owners of laundries, dyeing and dry cleaning establishments and certain other types of small firms.

Finally, a dispensation from V.A.T. registration is awarded for a very limited number of activities, notably for certain independent press correspondents.

1.10. **V.A.T. rates**

V.A.T. is calculated on the tax base at rates which depend on the nature of the transaction. Besides a whole series of exceptions and special cases, the rates are as follows:

- **0%**: newspapers and certain weeklies;
- **1%**: gold for investment purposes;
- **6%**: the goods and services listed in table A of the Annex of Royal Decree no 20, 1970, determing the rate of the V.A.T. and the breakdown of goods and services according to these rates, as last amended by the Royal Decree of March 17, 1992, and by the Royal Decree of March 28, 1992.

We are mainly concerned here with live animals, foodstuffs (except i.a. margarine, caviar, and certain crustaceans, or molluscs) water, ores, waste and scrap metals, pharmaceutical products, books and certain periodicals, textiles, original works of art, collectors' pieces and antiques, motor car for invalids, coffins, certain orthopaedic appliances, agricultural services, transport of persons, maintenance and repair of the goods in table A above, as also performances hotels and campings, services rendered by undertakers, certain transactions relating to immovable property of over 20 years and a few other services;

- **12%**: the goods and services listed in table B of the Annex of the above mentioned Royal Decree no 20, last modified by the Royal Decree of March 17, 1992, and by the Royal Decree of March 28, 1992. We are concerned here mainly with tobacco, fertilizes consisting of secondary substances (calcium, fertilizers and other fertilizes with a calcium and/or magnesium basis, plant-protection products, nappies and shaped nappies
for incontinent adults, syringes for insuline injections, margarine, tyres and tubes for wheels of agricultural machines and tractors, certain solid fuels (i.a. coal brown coal and coke), pay television and real estate transaction relating to subsidized housing;

19,5% : all goods and services subjected to V.A.T. and not listed elsewhere.

Table C of the Annex of the above-mentioned Royal Decree no 20 as well as the special 8% tax in addition to the V.A.T. rate were abolished on April 1, 1992.
CHAPTER TWO

REGISTRATION DUTIES, MORTGAGE DUTIES AND COURT FEES

2.1. Registration duties

Registration duties are levied when a deed or written document is registered, i.e. at any formality which consists in copying, analyzing or mentioning this deed or this written document by the receiver of registry fees and stamp duties in a register made for this purpose.

The following must be registered:

- deeds drawn up by Belgian notaries;
- writs and summonses by Belgian bailiffs;
- decisions and judgments issued by Belgian courts and tribunals which contain dispositions subject to proportional duty;
- private deeds or notarial deeds signed abroad, relating to the transfer or declaration of property or usufruct of property situated in Belgium or relating to the lease, sub-lease or transfer of lease of such property;
- records of the public sale of tangible movable assets drawn up in Belgium;
- private contracts and notarial deeds drawn up in Belgium relating to the appropriation of movable or immovable assets by Belgian companies which are legal persons.

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 from property located in Belgium and for agreements relating to the transfer of goods to a Belgian company which is a legal person.

There are three types of registration duties:

- proportional duties,
- specific fixed duties,
- the general fixed duty.
2.11. *Proportional registration duties*

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

**A. SALE OF REAL ESTATE**

The duty is set at 12.5% for sales, exchanges and all conveyancing agreements for valuable consideration, other than transfers to companies, of property or profit from real estate located in Belgium. The 12.5% duty is levied in principle on the contractual value of the real estate. This value cannot, however, be lower than the market value of the property as of the day of the agreement. For the sale of small rural properties and modest lodgings, this duty is reduced to 6%. There are other reduced duties which are applicable to other operations.

**B. LEASE OF REAL ESTATE**

In principle, the duty is set at 0.2% for leases, sub-leases and transfers of leases of property (or parts of buildings) located in Belgium and certain other similar operations. This duty is levied on the basis of the cumulated amount of rent and charges.

Nonetheless, in the case of lease, sub-lease and transfer of lease in respect of real estate (or parts of buildings) used exclusively for the accommodation of a family or a single person, the contracts are exempted from proportional registration duty and are liable to the fixed general duty (see 2.13).

**C. CONTRIBUTION OF ASSETS TO BELGIAN COMPANIES**

The contribution of assets (immovable, movable, cash, credit, etc.) to Belgian companies is liable to 0.5% duty. The duty is calculated on the total value of the assets. The taxable base cannot be lower than the market value of the assets transferred. There are exemptions in certain cases.

**D. CAPITAL INCREASE OF BELGIAN COMPANIES**

The increase in statutory capital, without contribution of new assets, of a Belgian company is liable to a 0.5% duty. There are exemptions in certain cases.
E. CREATION OF MORTGAGE

The creation of mortgage on real estate located in Belgium is liable to a 1% duty calculated on the amount guaranteed by the mortgage. A reduced duty of 0.5% is applicable for the creation of certain mortgages (e.g. on ships or boats) and for similar operations.

F. PUBLIC SALE OF TANGIBLE MOVABLE PROPERTY

The public sale of tangible movable property is liable to a 5% duty calculated on the price and the expenses.

G. DUTY ON DONATIONS

Duties on donations apply to all donations of movable and immovable assets, regardless of their form, their purpose or their arrangements and regardless of the manner in which they are carried out. This duty is calculated on the market value of the donated goods, without the deduction of expenses. The tariff of this duty is the same as the tariff for the death duty (see Chapter 3: Death duty). The reductions applicable for the death duty do not apply here, except regarding the reduction awarded to beneficiaries who have at least three children who have reached the age of 21 years (see also chapter 3: Death duty). For certain securities ("AFV" shares), there is a possible exemption in certain conditions.

H. OTHER OPERATIONS

Other operations, which are not mentioned here, are also liable to proportional registration duty (example: sharing out of immovable assets, certain judgments and rulings). The amount of proportional duties can in no case be lower than the general fixed duty (see 2.13.). For a certain number of operations, there is an exemption from the proportional registration duty (for example: for operations liable to V.A.T.).

2.12. Specific fixed duties

These duties are those of which the amount is a fixed sum which can nonetheless vary according to the nature of the deed. These deeds are:

- protest actions and actions relating to refusal of acceptance or payment in replacement of protests: 200 BEF
- naturalization: 6,000 BEF, save reduction
- the permission to change one's first name (20,000 BEF, with possible reduction to 2,000 BEF), the permission to change one's family name (2,000 BEF) or the permission to add
another name or a particle to a name or to substitute a small letter for a capital letter (30,000 BEF).

2.13. **General fixed duty**

The general fixed duty is levied on all deeds not explicitly included in the Code of Registration Duties as having been made subject to proportional duty or specific fixed duty, for example, marriage contracts, wills, most appendices to certified deeds, certain leases, ...

The general fixed duty is 750 BEF.

2.2. **Mortgage duty**

Mortgage duty is levied on the registration of mortgage and privileges. It is 0.3% of the amount in principle and accessories of sums for which the registration is contracted or renewed (with a minimum of 200 BEF.). Certain types of registration (notably those payable by the State) are exempted from mortgage duty.

2.3. **Court fees**

These duties are levied on certain operations carried out in the law-clerk's office of courts and tribunals. These are fixed duties which vary according to case and which are levied either by operation or by the page of the document concerned. A distinction is made between enrolment duty (registration of lawsuits in the role), drawing-up duty (levied on the deeds of the clerk of the court), expedition duties (on expeditions, copies or extracts which are delivered in clerk's offices), and enrolment duty in the registry of commerce, the registry of handicrafts and the registers of economic interest groups. There are a whole series of exemptions.
CHAPTER 3

DEATH DUTY

Death duty is a tax which is levied on the net value of all goods (movable and immovable, located in the country and abroad) collected through the succession of an inhabitant of the kingdom, less deductions of debts and funeral expenses.

The transfer duty is a tax which is levied on the value without deduction of charges relating to immovable property situated in Belgium, collected through the succession of a non-inhabitant of the kingdom. The tariff is the same as that for death duty (see below).

The property which the administration recognizes that the deceased possessed outright in the three years preceding his death are considered as part of his inheritance if the donation has not been liable to the registration duty imposed on donations.

The tax base is in principle the market value of the goods as of the day of the death. The tariffs vary according to the degree of blood-relationship between the beneficiary and the deceased and according to the net share received by each beneficiary. The calculation is made according to the brackets shown in the following table.

Table 1.
Death duty

<table>
<thead>
<tr>
<th>bracket of the net share (in BEF)</th>
<th>Tariff in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>from 500,000 to (including)</td>
<td>In direct line and between spouses</td>
</tr>
<tr>
<td>1 500,000</td>
<td>3</td>
</tr>
<tr>
<td>500,000</td>
<td>4</td>
</tr>
<tr>
<td>1,000,000</td>
<td>5</td>
</tr>
<tr>
<td>2,000,000</td>
<td>7</td>
</tr>
<tr>
<td>4,000,000</td>
<td>10</td>
</tr>
<tr>
<td>6,000,000</td>
<td>14</td>
</tr>
<tr>
<td>8,000,000</td>
<td>18</td>
</tr>
<tr>
<td>10,000,000</td>
<td>24</td>
</tr>
<tr>
<td>more than 20,000,000</td>
<td>30</td>
</tr>
</tbody>
</table>
Table 2.
Death duty

<table>
<thead>
<tr>
<th>Bracket of the net share (in BEF)</th>
<th>Tariff in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>from to (including)</td>
<td>Between brothers and sisters</td>
</tr>
<tr>
<td>1 to 500,000</td>
<td>20</td>
</tr>
<tr>
<td>500,000 to 1,000,000</td>
<td>25</td>
</tr>
<tr>
<td>1,000,000 to 3,000,000</td>
<td>35</td>
</tr>
<tr>
<td>3,000,000 to 7,000,000</td>
<td>50</td>
</tr>
<tr>
<td>more than 7,000,000</td>
<td>65</td>
</tr>
</tbody>
</table>

Remarks:

1. No duty is payable on any inheritance of which the net assets do not exceed 25,000 BEF.
2. There is an exemption from death duty for goods received by an heir who is called legally to inherit or by the surviving spouse in respect of the first bracket of 500,000 BEF. This exemption is increased, in favour of the children of the deceased, by 100,000 BEF for each whole year which remains until the age of 21 years and, in favour of the surviving spouse, for half the additional rebates to which the common children are entitled. These exemptions are not awarded for donations.
3. A reduction in death duty and transfer duty through death is awarded to each heir who has at least three living children who have not reached the age of 21 years as of the day of the opening of the inheritance. Reductions are also provided if, within a year of the death of the deceased, the goods which are received through inheritance are transferred anew through death and in certain other cases.
Finally, there is a 0.17% compensatory tax for death duty levied annually on the total goods which non profit-making companies own in Belgium. The tax is not payable if the value of this total sum does not exceed 1,000,000 BEF.
Example

A person who is the father of three children dies. Taking account of the applicable dispositions (marriage contract, will, liabilities, funeral expenses, ...), the sum which the deceased leaves to his spouse (47 years old) and his three children comes to 9,000,000 BEF. The children are aged 22 years, 21 years and 19 years nine months respectively. The inheritance includes all the goods which are owned outright.

The inheritance is divided as follows: the surviving spouse receives the beneficial ownership of the total amount. The children receive the bare property rights, each having one third. The beneficial ownership of the spouse is set at a standard rate by multiplying the annual turnover from the goods, evaluated at 4% of the value of full property rights, by a coefficient which varies according to the age of the beneficial owner (47 years: coefficient 14).

1. **Partition of the inheritance**

   Spouse: 9,000,000 BEF x 4% x 14 = 5,040,000 BEF
   Children: 9,000,000 BEF - 5,040,000 BEF = 3,960,000 BEF
   For each child: 3,960,000 BEF / 3 = 1,320,000 BEF

2. **Calculation of exemptions**

   1st child, (the eldest): 500,000 BEF
   2nd child: 500,000 BEF
   3rd child, (youngest): 500,000 BEF x 1 x 100,000 BEF = 600,000 BEF.
   Surviving spouse: 500,000 BEF + 100,000 BEF x 1/2 = 550,000 BEF.

3. **Calculation of death duties**

   a/ Surviving spouse
   - Taxable amount: 5,040,000 BEF
   - Tax on the 1 - 500,000 BEF bracket: 500,000 x 3% = 15,000 BEF
   - Tax on the 500,000 - 1,000,000 BEF bracket: 500,000 x 4% = 20,000 BEF
   - Tax on the 1,000,000 - 2,000,000 BEF bracket: 1,000,000 x 5% = 50,000 BEF
   - Tax on the 2,000,000 - 4,000,000 BEF bracket: 2,000,000 x 7% = 140,000 BEF
   - Tax on the 4,000,000 - 5,040,000 BEF bracket: 1,040,000 x 10% = 104,000 BEF
   Total: 329,000 BEF

   **CALCULATION OF EXEMPTIONS:**
   1 - 500,000 BEF bracket: 15,000 BEF (= 500,000 BEF x 3%)
   500,000 - 550,000 BEF bracket: 2,000 BEF (= 50,000 x 4%)
   Total tax to be deducted: 17,000 BEF

   **Final amount:** 329,000 BEF - 17,000 BEF = 312,000 BEF

   b/ Children
   - Taxable amount: 1,320,000 BEF
   - Tax (on brackets): 1 - 500,000 BEF: 15,000 BEF
   - 500,000 - 1,000,000 BEF: 20,000 BEF
   - 1,000,000 - 1,320,000 BEF: 16,000 BEF
   Total: 51,000 BEF
   **CALCULATION OF EXEMPTIONS**
   (on the brackets respectively)
   - 1 - 500,000 BEF: 15,000 BEF
   - 500,000 - 600,000 BEF: -
   Total tax to be deducted: 15,000 BEF
   **FINAL AMOUNT**
   36,000 BEF 36,000 BEF 32,000 BEF
CHAPTER FOUR

STAMP DUTIES AND TAXES ASSIMILATED TO STAMP DUTIES

4.1 Stamp duties

A Stamp duty is a tax levied on certain deeds and written documents which are defined in the Code of Stamp Duties.

The tariffs vary according to the type of deed or written document:

* 150 BEF per sheet of limited surface (twice this amount if the surface is exceeded), for notarial deeds and documents relating to public sales of tangible movable assets drawn up by bailiffs as well as repertories of which the drawing-up by notaries and bailiffs is mandatory (art. 4 and 5 of the Code);

* 150 BEF per indivisible group of four pages of limited surface (twice this amount if this surface is exceeded), for authentic copies, copies or extracts of the aforementioned documents as well as the duplicates of registers drawn up by notaries (art. 4 and 5 of the Code);

* 120 BEF per sheet for documents drawn up by the recorders of mortgages (art. 7 of the Code);

* 90 BEF, notably for extracts from the registry of births, marriages and deaths, deeds concerning nationality, certificates of identity, nationality, domicile or residence, registration of motor vehicles, private contracts relating to the transfer or declaration of immovable property, or relating to lease, sub-lease or transfer of lease in respect of immovable assets, as well as a whole series of other documents (art. 8 of the Code);

* 75 BEF for certificates, copies or extracts, delivered by the recorders of mortgages, as well as certain other documents (art. 9 of the Code);

* 9 BEF notably for protests (art. 10 of the Code);

* 6 BEF notably for certain documents (including loan deeds, account closures and statements) drawn up by bankers for private citizens (art. 11 of the Code);

* 90 BEF for all deeds and documents, other than those which are priced by articles 12 and 4 to 12 (art. 21 of the Code).
The deeds and written documents priced by articles 4 and 8 to 12 are liable to stamp duty as and when they are drawn up (art. 22 of the Code). The stamp duty of repertories and registers priced by articles 5 and 7 is payable when they are implemented (art. 23 of the Code).

All other deeds and written documents are liable to stamp duty by virtue of:

1. their presentation for formal registration;
2. their depositing in the minutes of a notary;
3. their appending to a deed or register which is liable to stamp duty under the terms of articles 4 to 12 (art. 25 of the Code).

A whole series of exemptions are provided, notably for deeds concerning electoral matters, military service, the execution of tax laws, certain banking operations, town and country planning, etc.

4.2. Taxes assimilated to stamp duty

The taxes assimilated to stamp duty are defined by the Code of taxes assimilated to stamp duty.

4.2.1. Registration tax

This tax is levied on:

- the registration in the repertory of the vehicle licensing service of motorbikes, cars, twin-purpose cars and mini-buses, as well as camping cars;
- the delivery of a registration certificate of an aircraft;
- the first use on the public highway in Belgium of a camping trailer (caravans, etc.);
- the first use in Belgium of a pleasure craft.

In order to avoid paying both V.A.T and registration tax, a whole series of cases have been defined where no registration tax is levied on means of transport for which V.A.T. has already been paid. The consequence of this is that in most cases, the registration tax is only paid on second-hand goods acquired from a person who is not liable to V.A.T.. Other exemptions concern notably goods received by inheritance, cars for certain invalids and handicapped persons, etc.

The tax base is the normal value of the goods at the time when the tax is payable. A minimum tax base is applicable for second-hand cars and twin-purpose cars.
The rate of the registration tax is set in principle at 25%. It increases, however, to 33% for cars fitted with an engine larger than 3,000 c.c. or with more than 116 kW of power as well as for yachts and pleasure boats which must be fitted with a certificate of registry ("flag letter").

4.22. **Tax on stock exchange and carry over transactions**

**A. TAX ON STOCK EXCHANGE TRANSACTIONS**

The following are liable to the tax: any purchase or sale of securities carried out or concluded in Belgium, and any delivery of these securities to the subscriber, carried out subsequent to an appeal to the public through issue, exhibition, offer or public sale.

There are various exemptions, notably for operations in which no professional intermediary intervenes or contracts either on behalf of one of the parties or on his own behalf, for the sales or purchases of certain intermediaries, on their own behalf and in a professional capacity, for the delivery of Belgian public debt securities and debt issued by the Regions or the Communities, for operations concerning treasury bonds or linear bonds issued by the state, etc.

The applicable tax base:

- for purchases, acquisitions or subscriptions, is the amount to be paid by the purchaser or the subscriber, excluding the brokerage of the intermediary;
- for sales or transfers, is the amount to be received by the seller or the lessee, including the brokerage of the intermediary.

The tax is therefore levied separately both on the sale and on the purchase. In the case of subscription, the tax is payable only in respect of the delivery of securities.

There are two rates for:

* a) the secondary market (transfers and acquisitions for valuable consideration)*

- 0.70 %: notably for securities on the public debt of the Belgian state or of foreign states, company bonds, etc.
- 1.70 %: normal tax base.
b) the primary market  
(delivery of securities to the subscriber, carried out subsequent to an appeal to the public).

- 1.40 %: notably the public debt securities of foreign states, corporate bonds, etc.
- 3.50 %: normal tax base.

The amount of the tax must in no circumstances exceed 10,000 BEF. per operation.

B. TAX ON CARRY-OVER

This tax is levied on carry-over on securities, in which a professional intermediary for stock market operations intervenes on behalf of a third party or on his own behalf.

The rate amounts to 0.85 per thousand.

The tax is payable by both parties.

An exemption is provided for operations which centre on treasury bonds or linear bonds issued by the state.

4.23. Annual tax on securities quoted on the stock market.

This tax is levied annually on securities which, as of January 1st of the tax year, are admitted to dealings on a Belgian stock exchange.

There are various exemptions, notably for securities on the Belgian public debt and on the debt of certain public institutions.

The tax base is the total value of the securities quoted on the stock exchange, calculated in a specific manner.

The rate amounts to 0.42 per thousand, (per 1,000 BEF or fraction of 1,000 BEF).


This tax is levied on insurance contracts which fulfil one of the following three conditions:

- the insurer is established in Belgium;
- the insured party has his permanent residence in Belgium;
- the contract relates to movable or immovable property situated in Belgium.
Various contracts are exempt from this tax, notably contracts for reinsurance, certain insurances in the context of social security, insurances against risks incurred abroad, etc.

The tax base is the amount of the premiums, contributions and charges to be paid by the insured party in the course of the tax year.

There are three rates:

- 9.25\%: normal rate
- 4.40\%: rate notably for life insurances and life annuity contracts
- 1.40\%: rate for insurance relating to goods handled by international transport.

4.25. **Annual tax on profit-sharing schemes**

Sums which are divided up for profit sharing, which relate to insurance contracts undertaken with an insurer operating in Belgium, are liable to this tax.

The rate of the tax is 9.25\%.

The tax is calculated on the total amount of the sums divided for profit sharing for the tax year.

4.26. **Bill-posting tax**

This tax is levied on all signs posted in the view of the public, as well as illuminated signs, etc.

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.

The tax base is the surface area. This sometimes concerns a single right, sometimes annual rights. They vary case by case.
4.27. *Special tax on bonds held by financial intermediaries.*

There is an exemption from this tax for financial establishments and certain other financial intermediaries (including stock-brokers, stock market companies, unit trusts, ...) which are exempted from the withholding tax on capital income or which can set off the tax or obtain its restitution, when the nominal value of the bonds they hold and issued before the 15th November 1989 exceeds certain thresholds.

These thresholds are set annually as of December 31st 1990, December 31st 1991 and December 31st 1992.

The taxable base amounts to 8% of the bonds exceeding the annual thresholds. The tax rate is 15%.
CHAPTER 5

CUSTOMS DUTIES

5.1. Import duties, variable levies and agricultural levies

5.11. Provisions

Import duties are levied according to a common E.C. tariff on goods imported from countries which are not members of the E.C.. For certain sectors a transitory system is applied to Portugal and to Spain until 1995.

Variable levies are not import duties, but charges (specific duties) levied in addition to the import duties on the import of certain transformed agricultural products from countries which are not members of the E.C..

Agricultural levies are levied on the import of certain agricultural products from countries which are not members of the E.C.. They are designed to compensate the difference between the agricultural prices, as set by the E.C., and the prices on the world market. On the other hand, when certain agricultural products which were produced in the countries of the E.C. are exported, restitution payments are made. These levies and payments are not made by the Customs and Excise Office but they are made on the basis of documents which are controlled by the office.

All these duties and charges are levied on behalf of the E.C.. 90% of these is transmitted to the E.C., while the remaining 10% is used to cover administrative costs.

5.12. Free circulation and release for consumption

Goods are put in free circulation in the E.C. when they have fulfilled the conditions relating to import into the E.C.: payment of any import duties, including agricultural levies and the application of trade policy measures other than tariff measures.

Goods are made available for consumption when they have fulfilled the conditions for consumption in the country: payment of national taxes, such as V.A.T. and excise duties, and the application of other national dispositions.
Goods which come from the E.C. are only declared for consumption. Other goods are declared:
- for free circulation and consumption
- for free circulation alone (for example, dispatch under the transit system as Community goods to another country of the E.C.).

5.13. **Assessment basis of import duties: the customs value**

The customs value constitutes the assessment basis of import duties when expressed ad valorem. It is set according to one of six methods placed in hierarchical order. The first method must be applied first, and if the value cannot be determined by that method, the following method is immediately applied. The six methods are:

**A. TRANSACTIONAL VALUE OF THE IMPORTED GOODS**

This is the price which is effectively paid or to be paid (set in a precise manner) for the imported goods.

**B. TRANSACTIONAL VALUE OF IDENTICAL GOODS**

This is the value of goods of like origin and with the same material characteristics, the same qualities and reputation as the imported goods.

**C. TRANSACTIONAL VALUE OF SIMILAR GOODS**

This is the value of goods which offer the similar characteristics and the same functions as the imported goods and which are commercially interchangeable.

**D. DEDUCTIVE METHOD**

In this method, the selling price in the country is taken into account, which is applicable to the highest quantity of goods imported (possibly goods which are identical or similar) to persons not connected within a maximum period of 90 days after importing. The import duty and other taxes paid on imports are subtracted from this price.
E. **METHOD OF CALCULATED VALUE**

This is the sum of the following costs: materials, production, profit, general costs and transport costs.

F. **METHOD OF REASONABLE AVERAGES**

This method consists of a more flexible application of the five preceding methods and avoids a certain number of conditions set in these methods.

Remarks:
- the importer can request the application of the method of calculated value before the deductive method.
- in certain cases, simplified procedures are applied (for example, fruit and vegetables).

5.14. **Import tariffs**

The rate of entry tax is based on the nature of the goods and on the country from which they are imported. Based on the nomenclature of the Harmonized System, the E.C. tariff determines the rate applicable for each category of goods. Moreover, within the framework of international agreements and for economic reasons, a series of exemptions, suspensions, reduced tariffs (which may or may not be linked to quotas), etc. are applied. All these possibilities are listed, with the various legal and accessory dispositions, in the "Standard tariffs of import duties" issued by the administration.

5.15. **The single document**

Since the 1st of January 1988, the "single document" has replaced - with a few exceptions - all the declarations of imports, exports and transit used in the E.C. This document consists of 8 copies (1 to 8); in Belgium, the supplementary copies A and B are used for the Customs Information Processing Centre (C.I.V./C.T.I.).

Exceptions include:
- the Benelux 50 Statement
- the T.I.R. Carnet (international transport of goods by road)
- the A.T.A. Carnet (temporary admission)
- the 136 Declaration (diplomatic free entry)
5.2. **Import of goods**

Strictly speaking, the term "import" is only used to refer to goods which come from countries which are not members of the E.C.. For goods which come from the E.C., the term used is "introduction". For practical reasons, the term "imports" will be used in the following text, even when referring to goods which come from the E.C..

5.21. **The normal system**

The goods can be declared for free circulation and/or consumption. For declaration purposes, the "single document" is generally used and accompanied by a number of annexes (for example, invoice, certificates of origin and provenance, any necessary import licences, etc.). When importing from the Netherlands or from Luxembourg, in the case of declaration for consumption at the border, the Benelux 50 Statement is generally used. However, other systems are also applied.

The declaration is made at a customs post or at an office within the country, during the opening hours of this office and provided it is competent for this purpose. In the event of declaration within the country, the goods are taken, with a document to cover them, from the border to a place of unloading which is managed by the customs office. These places of unloading are: bonded warehouses, harbour offices, airport offices and post offices.

Import duties and other taxes, excises, special excises and V.A.T. are, in principle, paid at the import office when the declaration is validated. For imports from the Netherlands and Luxembourg, the mandatory system of deferral of the V.A.T. levy is applied in certain conditions.

After obtaining authorization and paying a deposit, the declarer can obtain the relocation of the payment. The arrangements vary according to the tax.

5.22. **Special conditions regarding suspension or exemption of payment**

A. **BONDED IMPORTS**

A bonded warehouse is a building where goods can be stored without having to pay duties and taxes and without having to apply the trade policy measures other than tariff measures.

On January 1st 1992, a new Community regulation came into effect. In pursuance of this regulation, a distinction is made between, on the one hand, private bonded warehouses which are leased exclusively for the temporary storage of goods by the storekeeper and, on the other, public bonded warehouses which can be used by any person for the temporary storage of goods.
Among the private bonded warehouse, a distinction is made between bonded warehouses of types C, D and E depending on the arrangements relating to the entry and clearance of goods.

Among the public bonded warehouses, a distinction is made between bonded warehouses of type A (not applicable in Belgium), bonded warehouses of type B (especially in harbours) and bonded warehouses of type BEF (made available by the commune). In bonded warehouse of type B, the control is based on the entry and clearance documents; bonded warehouses of type BEF are managed by the customs.

B. **INWARD PROCESSING ARRANGEMENTS**

This is a customs arrangement which makes it possible to import goods which will be reexported after undergoing transformation, processing or repair, without the payment of import duties or taxes. This system is applied in certain conditions (ensuring that the essential interests of producers operating in the E.C. are not harmed, payment of a deposit, control).

C. **DEFINITIVE EXEMPTION AWARDED TO GOODS IN PURSUANCE OF INTERNATIONAL AGREEMENTS OR BY VIRTUE OF THEIR USE**

In certain cases, no import duty and possibly no other taxes are to be paid on imports. For private citizens, this system applies to certain personal goods (in the case of removals, marriage, death, ...), to the personal luggage of travellers (within certain limits), etc. For the circulation of goods, this relates, for example, to educational, scientific or cultural goods or to goods which are made for charitable institutions, etc.

The following goods, provided they are not made for commercial purposes and they are contained in the personal luggage of travellers may be imported free of charge.
<table>
<thead>
<tr>
<th>Goods</th>
<th>Travellers from the E.C.</th>
<th>Travellers from other countries</th>
<th>Reduced duty-free (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tobacco products (2)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cigarettes</td>
<td>300</td>
<td>200</td>
<td>100</td>
</tr>
<tr>
<td>or cigarillos</td>
<td>150</td>
<td>100</td>
<td>50</td>
</tr>
<tr>
<td>or cigars</td>
<td>75</td>
<td>50</td>
<td>25</td>
</tr>
<tr>
<td>or smoking tobacco</td>
<td>400 grammes</td>
<td>250 grammes</td>
<td>125 grammes</td>
</tr>
<tr>
<td><strong>Alcohol and alcoholic drinks (2)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-sparkling wines</td>
<td>5 litres (3)</td>
<td>2 litres</td>
<td>1 litre</td>
</tr>
<tr>
<td><strong>AND</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>either:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>spirits (&gt; 22% vol.) (4)</td>
<td>1.5 litre</td>
<td>1 litre</td>
<td>0.25 litre</td>
</tr>
<tr>
<td>or:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>spirits, aperitifs and other drinks &lt;= 22% vol., sparkling wines or liqueur wines (5)</td>
<td>3 litres</td>
<td>2 litres</td>
<td>0.50 litres</td>
</tr>
<tr>
<td><strong>Perfumes</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- perfume</td>
<td>75 grammes</td>
<td>50 grammes</td>
<td>7.5 grammes</td>
</tr>
<tr>
<td>- toilet water</td>
<td>0.375 litre</td>
<td>0.25 litre</td>
<td>0.125 litre</td>
</tr>
<tr>
<td><strong>Coffee</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or coffee extracts and essence</td>
<td>1000 grammes</td>
<td>500 grammes</td>
<td>500 grammes</td>
</tr>
<tr>
<td>or coffee extracts and essence</td>
<td>400 grammes</td>
<td>200 grammes</td>
<td>200 grammes</td>
</tr>
<tr>
<td><strong>Tea</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or tea extract and essence</td>
<td>200 grammes</td>
<td>100 grammes</td>
<td>100 grammes</td>
</tr>
<tr>
<td>or tea extract and essence</td>
<td>80 grammes</td>
<td>40 grammes</td>
<td>40 grammes</td>
</tr>
</tbody>
</table>

1) These exemptions apply to certain persons, such as members of armed forces stationed abroad, the personnel of means of transports used for international traffic, border inhabitants and cross-border workers.

2) The exemptions for these categories only apply to travellers over the age of 17 years.

3) For travellers aged at least 17 years who enter Belgium by the Luxembourg border: an additional maximum of 8 litres of still wine produced in Luxembourg.

4) That is to say distilled drinks and spirits with an alcohol content of more than 22%; denatured ethyl alcohol 80% vol. and more.

5) That is to say distilled alcohol and spirits, wine-based or alcohol-based aperitifs, tafia, sake or similar drinks with an alcohol content of 22% vol. or less, sparkling wines, liqueur wines.
Other goods  
(maximum total value)  

<table>
<thead>
<tr>
<th></th>
<th>25,500 BEF</th>
<th>2,000 BEF</th>
<th>1,000 or 2,600 BEF</th>
</tr>
</thead>
<tbody>
<tr>
<td>(6)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For more details and for special cases, see the brochure which the Customs and Excise Office has published on this subject.

D. DEFINITIVE DUTY-FREE REIMPORT OF GOODS WHICH WERE PREVIOUSLY EXPORTED

On certain conditions (for example, goods which have not been processed), definitive exemption can be awarded for the reimport of goods.

E. TEMPORARY ADMISSION OF DUTY-FREE GOODS

Provided they are subsequently re-exported, certain goods can enjoy a partial or total exemption. For each case, a maximum duration and, possibly, a deposit are set.

F. TRANSFORMATION IN CUSTOMS

This system applies to specific goods and transformations and requires the payment of a deposit. Through this system, it is possible to import duty exempted goods, to transform them and to put the transformed products in free circulation with the application of the rate applicable to the transformed product.

G. REFUND OR REMISSION OF THE IMPORT DUTY, EXCISE DUTY, SPECIAL EXCISE DUTY AND V.A.T.

This system applies, for example, to goods which are destroyed by act of God before they have been released to the importer, to goods refused because they are not in conformity with the purchase contract, or, in all cases of regularization, etc.

6) For travellers no more than 15 years old, 6400 BEF and 1400 BEF respectively. These travellers do not enjoy any exemption for coffee or extracts and essence of coffee.

7) The first amount applies when the goods are imported from a country which is not a member of the EC, while the second amount applies when the goods are imported from a country which is a member of the EC.
5.3. Export of goods

Strictly speaking, the term "export" is only used if the goods are transported towards a country which is not a member of the E.C.. In the opposite case, one may speak of "forwarding". For practical purposes, the term "export" will be used here, even if the goods are transported towards a country of the E.C.. In addition, for export purposes, the place of declaration is the customs post or an office in the country, provided it is open and competent.

5.31. Definitive export

Definitive export can give entitlement to various advantages, for example, exemption from excise duty and special excise duty, exemption from VAT or repayment for certain agricultural products, etc.

The documents used are generally the "single document" accompanied by appendices such as a copy of the invoice, possibly an export licence, etc. For exports towards the Netherlands and Luxembourg, the Benelux 50 Statement is generally used.

5.32. Temporary exports

A. OUTWARD PROCESSING ARRANGEMENTS AND STANDARD EXCHANGES

The "outward processing" arrangements make it possible to export goods to be finished and to reimport them as processed products with a partial or total exemption from entry tax or from the agricultural levy.

The system of "standard exchange arrangements" is a special regime within the system of outward processing and can be applied in the case of repairs to goods. An equivalent article which has already been repaired is imported in replacement for the article to be repaired which is exported. In addition, in this case, a total or partial exemption from entry tax is awarded.

B. TEMPORARY EXPORTS FOR OTHER PURPOSES

This relates notably to goods which are exhibited or delivered abroad on a trial basis. Providing certain conditions are met, no entry tax is payable on reimporting.
5.4. **Transit of goods**

5.41. **The T.I.R. system**

Within the T.I.R. system (International Transport of Goods by Road), an international customs document, the T.I.R. Carnet is used for the clearance at different borders. The vehicle is sealed by the customs of the country of departure. The vehicles and containers must previously have been approved and a deposit must have been paid by approved organizations.

This system can be applied in the case of transports which begin and end in the E.C..

5.42. **Community transit**

We refer to Community transit in the case of transport between two places situated in the E.C. and of common transit in relation with the E.F.T.A. countries. To cover this operation, a document is drawn up, namely a community transit declaration or T document (in general, specific copies of the "single document" are used). The goods are presented at a departure office and taken to a destination office. One single deposit covers the whole itinerary.

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

- T1 : non-Community goods
- T2 : community goods
- T2ES : Spanish goods
- T2PT : Portuguese goods

5.43. **Simplified systems**

A simplified system is applied for rail transport. Similarly, a simplified procedure can be applied for certain types of regular transport in the framework of bilateral agreements regardless of the type of transport. Finally, simplified systems also exist for the clearance and entry of goods at centres of production and distribution.
CHAPTER 6

EXCISE DUTIES

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 or imported. A distinction is made between (ordinary) excise duties and special excise duties. The total excise duty is the sum of these two categories.

6.2. Classification of excise duties

A distinction is made between:

a. Benelux excise duties (identical rate in Belgium, in the Netherlands and in Luxembourg): (ordinary) excise duties on fermented drinks from fruit and sparkling fermented drinks;
b. Bene excise duties (identical rate in Belgium and in the Netherlands): special excise duties on fermented drinks from fruit and sparkling fermented drinks;
c. B.L.E.U. excise duties (identical rate in Belgium and in Luxembourg): (ordinary) excise duties on alcohol, beer, sugar, mineral oils, tobacco and benzene;
d. excise duties specific to Belgium: (ordinary) excise duties on non-alcoholic drinks and coffee, as well as special excise duties, except those which are payable on fermented drinks made from fruit and sparkling fermented drinks.

6.3. Tax base

Depending on the product, quantity and/or value. See also the section on "rates" below.

6.4. Origin of tax debt and payment

The tax debt occurs:

a. at production: fermented drinks made from fruit, sparkling fermented drinks and beer;
b. at circulation for consumption: alcohol, non-alcoholic drinks, benzene, mineral oils and sugar;
c. at the remittance of the declaration of actual consumption: for tobacco plants;
d. at the ordering of fiscal marks: manufactured tobacco;
e. on import: the aforementioned goods as well as coffee.
The payment is made at the time of the occurrence of the tax debt. In principle, this is a cash payment. Provided certain conditions are met and a deposit is paid, terms of payment may be set which vary according to the product.

6.5. Exemptions

As a general rule, an exemption from excise duties and special excise duties can be awarded if the goods are exported. An exemption or a credit (credit entry to a special account) can also be awarded for certain industrial uses and in certain other cases.

6.6. Inspection

The inspection is made at different points in the production process or in the premises of the trader, on the basis of the various registers and declarations; this may, if required, be supplemented by physical inspections. In certain cases, a permanent inspection of production is made by excise agents.

In the course of transport, the inspection is carried out on the basis of the transport document or the tax marks (tobacco); this may be supplemented by physical inspections.

6.7. Rates

6.7.1. Ethyl alcohol

per hectolitre and for each percent by volume of alcohol at 20°C.

<table>
<thead>
<tr>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>90</td>
<td>545</td>
<td>635</td>
</tr>
</tbody>
</table>

(in Belgian francs)

Exemption: if the alcohol is to be used for other purposes than human internal consumption. The alcohol is denatured.

Example:
The total excise duties on a 75 cl bottle of spirits with an alcohol content of 40% volume are as follows:

$$635 \text{ BEF} \times 0.0075 \times 40 = 190.5 \text{ BEF}$$
6.72. *Non-alcoholic drinks*

(Per hectolitre - in Belgian francs)

<table>
<thead>
<tr>
<th></th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>mineral water and assimilated</td>
<td>200</td>
<td>-</td>
<td>200</td>
</tr>
<tr>
<td>products</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>lemonade</td>
<td>300</td>
<td>-</td>
<td>300</td>
</tr>
</tbody>
</table>

6.73. *Benzene*

(Per hectolitre at 15°C - in Belgian Francs)

<table>
<thead>
<tr>
<th></th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>896</td>
<td>749</td>
<td>1645</td>
</tr>
</tbody>
</table>

Exemption: for any use other than engine fuel

6.74. *Beer*

For beer produced in the country, excise duties and special excise duties are levied for each brewery according to the bracket of its annual production of wort. The rates are increased when production goes from one bracket to the following bracket.

The amounts shown in the table are expressed in hectolitres - degree of wort.

(In Belgian Francs)

<table>
<thead>
<tr>
<th>Brackets</th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the first 10,000 hl-degree</td>
<td>31.9</td>
<td>84.1</td>
<td>116.0</td>
</tr>
<tr>
<td>From 10,001 to 50,000 hl-degree</td>
<td>38.1</td>
<td>91.2</td>
<td>129.3</td>
</tr>
<tr>
<td>From 50,001 to 1,250,000 hl-degree</td>
<td>46.0</td>
<td>101.8</td>
<td>147.8</td>
</tr>
<tr>
<td>more than 1,250,000 hl-degree</td>
<td>52.2</td>
<td>103.0</td>
<td>155.2</td>
</tr>
</tbody>
</table>

For imported beers, excise duties and special excise duties are levied according to the annual production of wort by the brewery which produces the beer. In this case, the breweries are divided into 13 groups depending on their annual production. For each group, there is a fixed rate for the excise duty and for the special excise duty.

The amounts shown in the table are expressed in hectolitres-degrees of wort.
It may be said that, on all types of beer, the total of the excise duties comes to an average of 7 BEF per litre. This amount is lower in the case of low density beers or beers produced by small breweries.

### 6.75. Fermented beverages from fruits

#### a. From fresh grapes or raisins

Per hectolitre at 20°C, according to the percentage in volume of alcohol.

<table>
<thead>
<tr>
<th></th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>max alcohol content 12%</td>
<td>600.0</td>
<td>871.0</td>
<td>1471.0</td>
</tr>
<tr>
<td>alcohol content greater than 12% and not exceeding 15%, for each tenth of percent above 12%</td>
<td>+13.3</td>
<td>-</td>
<td>+13.3</td>
</tr>
<tr>
<td>alcohol content greater than 15%, for each tenth of % above 12%</td>
<td>+21.0</td>
<td>-</td>
<td>+21.0</td>
</tr>
</tbody>
</table>

If the alcohol content of these drinks exceeds 22%, they are taxed as spirits (see 6.71 alcohol)
b. Other assimilated fruits and drinks

Per hl at 20°C, according to the percentage volume of alcohol

<table>
<thead>
<tr>
<th></th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>max alcohol content 12%</td>
<td>600.0</td>
<td>871.0</td>
<td>1471.0</td>
</tr>
<tr>
<td>alcohol content greater than 12% and not exceeding 15%, for each tenth of percent above 12%</td>
<td>+13.3</td>
<td>-</td>
<td>+13.3</td>
</tr>
</tbody>
</table>

Exemption: notably for certain industrial uses, for drinks made from fresh fruits other than grapes (in certain conditions). This is limited to those beverages whose alcoholic strength does not exceed 8.5% by volume at 20°C as of April 1, 1992 (see Ministerial Decree of March 20, 1992, Moniteur belge of March 27, 1992).

If the alcohol content of these drinks exceeds 15%, they are taxed as spirits (see 6.71 alcohol).

6.76. Coffee

Per kilogram (for extracts of coffee: per kilogram of dry matter)

<table>
<thead>
<tr>
<th></th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>non-roasted coffee</td>
<td>8</td>
<td>-</td>
<td>8</td>
</tr>
<tr>
<td>roasted coffee</td>
<td>10</td>
<td>-</td>
<td>10</td>
</tr>
<tr>
<td>coffee extracts</td>
<td>28</td>
<td>-</td>
<td>28</td>
</tr>
</tbody>
</table>
6.77. *Mineral oils*

per hectolitre at 15°C

<table>
<thead>
<tr>
<th>Light and medium heavy mineral oils</th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>- unleaded petrol</td>
<td>896</td>
<td>524</td>
<td>1420</td>
</tr>
<tr>
<td>- others</td>
<td>896</td>
<td>749</td>
<td>1645</td>
</tr>
<tr>
<td>Gasoil (diesel)</td>
<td>430</td>
<td>700</td>
<td>1130</td>
</tr>
<tr>
<td>Other mineral oils</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

exemptions and control measures: no changes

6.78. *Sparkling fermented drinks*

per hectolitre at 20°C, depending on the percentage volume of alcohol

<table>
<thead>
<tr>
<th>- max. 6% alcohol content</th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>- alcohol content greater than 6%</td>
<td>150</td>
<td>34</td>
<td>184</td>
</tr>
<tr>
<td>- from fresh grapes or raisins</td>
<td>1500</td>
<td>2178</td>
<td>3678</td>
</tr>
<tr>
<td>- from other fruit</td>
<td>750</td>
<td>169</td>
<td>919</td>
</tr>
</tbody>
</table>

These duties are levied in addition to those levied on fermented drinks made from fruit (see 6.75).

Sparkling fermented drinks are taxed as spirits (see 6.71. Alcohol) when their alcohol content exceeds:

- 15% if they are produced from fruit other than fresh grapes or raisins;
- 22% if they are produced from fresh grapes or raisins.
6.79. *Sugar*

per 100 kilogrammes

<table>
<thead>
<tr>
<th></th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>- in solid state</td>
<td>60</td>
<td>-</td>
<td>60</td>
</tr>
<tr>
<td>- in paste or liquid (in certain conditions)</td>
<td>0.6 (1)</td>
<td>-</td>
<td>0.6 (1)</td>
</tr>
</tbody>
</table>

(1) per percentage of richness in sugar.

6.710. *Tobacco*

For manufactured tobacco, the excise duty and special excise duty are expressed as a percentage of the retail price (inclusive taxes).

<table>
<thead>
<tr>
<th></th>
<th>Excise duty</th>
<th>Special excise duty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>- cigars</td>
<td>11.50%</td>
<td>5.00%</td>
<td>16.50%</td>
</tr>
<tr>
<td>- cigarillos</td>
<td>16.00%</td>
<td>5.00%</td>
<td>21.00%</td>
</tr>
<tr>
<td>- cigarettes (1)</td>
<td>55.55%</td>
<td>-</td>
<td>55.55%</td>
</tr>
<tr>
<td>- smoking tobacco, snuff and chewing tobacco sold in the cured state</td>
<td>31.50%</td>
<td>6.05%</td>
<td>37.55%</td>
</tr>
</tbody>
</table>

(1) Cigarettes are in addition, subjected to an (ordinary) specific excise duty of 48 BEF per one thousand pieces, whereby the aggregate amount of that specific duty and the ad valorem duty shall not be less than 420 BEF per one thousand pieces. At the same time, a specific special excise duty of 214 BEF per one thousand pieces is levied, whereby the aggregate amount of the ordinary excise duty, the special excise duty and the ad valorem excise duty shall not be less than 2,215 BEF per one thousand pieces.

An excise duty of 3 BEF per plant is levied on tobacco plants intended for the planter's personal use. A maximum amount of 150 tobacco plants is allowed per household.
Example

On April 1, 1992, a pack of ordinary cigarettes of 25 pieces cost 99 BEF. The V.A.T. amounts to 12%/1.12 = 10.71 % of the price inclusive V.A.T. (V.A.T. rates are expressed as a percentage of the price exclusive V.A.T). This corresponds to an amount of 10.607 BEF. The ad valorem excise duty amounts to 55.55% of the retail price, i.e. 55.55 % x 99 BEF = 54.994 BEF. The specific excise duty amounts to 262 BEF per one thousand pieces, i.e. 262 BEF x 25/1,000 = 6.6550 BEF per 25 pieces.
CHAPTER 7

TAXES ON DRINKING ESTABLISHMENTS

7.1. **Opening tax, annual tax and five-year tax on the sale of fermented drinks**

These taxes are calculated on the annual effective rentable value or assumed rentable value of the premises used for business purposes. However, there is a minimum rate according to the size of the municipality (number of inhabitants).

Rate:

- for new establishments: three times the annual rental value; (for street merchants: 5000 BEF, for occasional establishments: 200 BEF per day);
- after 15 years: every 5 years: half the annual rental value;
- for small retail outlets dealing in spirits: annual tax of 1/5 of the annual rental value.

7.2. **Licence tax on establishments for the sale of spirits**

This tax also varies according to the annual rentable value, i.e. 25% of the same. The minimum amount is 12,000 BEF, and maximum is 40,000 BEF.

For street merchants, the base is increased to 12,000 BEF per year and, for occasional outlets, the tax amounts to 500 BEF per day.
CHAPTER 8

TAXES ASSIMILATED TO INCOME TAX

8.1. Road tax

8.11. Motor vehicle tax

The motor vehicle tax is levied on all motor vehicles and their trailers which are used on public roads.

The tax base is determined, case by case, according to the engine power (fiscal horse-power) or the weight of the vehicle. Most often, the scales are adjusted on July 1st of each year to the fluctuations of the official consumer price index.

Scale applicable to vehicles used for personal transport, with the exception of coaches and buses.
<table>
<thead>
<tr>
<th>Horse-power</th>
<th>Tax (in BEF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 or less</td>
<td>1,780</td>
</tr>
<tr>
<td>5</td>
<td>2,232</td>
</tr>
<tr>
<td>6</td>
<td>3,228</td>
</tr>
<tr>
<td>7</td>
<td>4,212</td>
</tr>
<tr>
<td>8</td>
<td>5,208</td>
</tr>
<tr>
<td>9</td>
<td>6,192</td>
</tr>
<tr>
<td>10</td>
<td>7,188</td>
</tr>
<tr>
<td>11</td>
<td>9,324</td>
</tr>
<tr>
<td>12</td>
<td>11,460</td>
</tr>
<tr>
<td>13</td>
<td>13,596</td>
</tr>
<tr>
<td>14</td>
<td>15,732</td>
</tr>
<tr>
<td>15</td>
<td>17,868</td>
</tr>
<tr>
<td>16</td>
<td>23,412</td>
</tr>
<tr>
<td>17</td>
<td>28,944</td>
</tr>
<tr>
<td>18</td>
<td>34,488</td>
</tr>
<tr>
<td>19</td>
<td>40,020</td>
</tr>
<tr>
<td>20</td>
<td>45,552</td>
</tr>
</tbody>
</table>

For each additional fiscal horse-power 2,484

Example:

A car has a four-cylinder engine with an internal diameter of 80 mm. Its piston stroke is also 80 mm. The cubic capacity is therefore 1.6 litres. The fiscal power is expressed in horse-power, or

\[ \text{h.p.} = 4 \times \text{cubic capacity} + \frac{\text{weight (in 100 kg)}}{4} \]

For most cars, the second term in the formula is replaced by a coefficient which varies according to the cubic capacity. For a cubic capacity of 1.6 litres, this coefficient is equal to 2.25.
The fiscal rating in h.p. (horse-power) amounts therefore to

\[ 4 \times 1.6 + 2.25 = 8.65 \text{ rounded up to } 9 \text{ h.p.} \]

In other cases, the road tax is calculated as follows:

- **Coaches and buses**
  - if \( \leq 10 \text{ h.p.} \) : 180 BEF per h.p. with a minimum of 1,787 BEF.;
  - if \( > 10 \text{ h.p.} \) : 180 BEF per h.p. + 13 BEF per h.p. over 10 with a maximum total of 505 BEF per h.p..

- **Motorcycles** with a cubic capacity \( > 250 \text{ cm}^3 \) : 1,260 BEF (fixed-rate charge) (if \( \leq 250 \text{ cm}^3 \), no road tax but a small local authority tax)

- **Cars older than 25 years, camping trailers and boats**: 809 BEF (fixed-rate charge)

- **Other transport vehicles (trucks, vans, trailers, ...)**:
  - If \( \leq 1,000 \text{ kg} \): 150 BEF per 100 kg
  - If \( > 1,000 \text{ kg} \): 150 BEF + 7 BEF per bracket of 100 kg above 1,000 kg, with a maximum of 346 BEF per 100 kg.

The **minimum tax** on all vehicles liable to motor vehicle tax amounts to 809 BEF.

### 8.12. Additional motor vehicle tax

This tax is levied on all cars, twin-purpose cars and minibuses equipped with an LPG installation. The amount depends on the fiscal power of the vehicle:

- max. 7 h.p.: 3,600 BEF
- from 8 to 13 h.p.: 6,000 BEF
- more than 13 h.p.: 8,400 BEF
8.13 Surcharge in favour of the municipalities

A 10 percent surcharge is levied on most vehicles which are liable to the motor vehicle tax. The motor vehicle tax which is levied on cars, which is described in the example in point 8.11, amounts after the addition of the surcharge to:

\[ 6,192 \text{ BEF} \times 1.10 = 6,811 \text{ BEF}. \]

The surcharge in favour of the municipalities is not levied on the additional motor vehicle tax.

8.2. Tax on betting and gambling

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

The general rate is 11% (15% in the Flemish region) but there are special cases (horse-racing, casino gambling, pigeons) and there are exemptions (exempted lotteries such as "lotto", "baraka", etc.).

8.3. Tax on automatic amusement machines

The tax on automatic amusement machines is levied on machines which are placed on the public highway, in places accessible to the public and in private clubs.

The amount of the tax varies according to the category of the device.
PART 3

SPECIAL TAX ARRANGEMENTS

TAX MEASURES IN FAVOUR OF INVESTMENT AND EMPLOYMENT
CHAPTER 1

SPECIAL TAX ARRANGEMENTS

1.1. Coordination centres (1)

Any registered Belgian company or any Belgian subsidiary of a registered foreign company can enjoy the tax arrangements relating to coordination centres if they fulfil the following conditions:

- they must be part of a group whose consolidated capital and reserves reach 1 billion francs and the consolidated turnover reaches 10 billion francs;

- they must have as their exclusive purpose the development and centralization of one or more coordination activities on behalf of all or part of the companies in the group.

The coordination centre enjoys the following tax advantages:

- exemption from the proportional registration duties on capital subscription;

- calculation of the taxable profit by a standard fixed-rate method depending on the activity exercised and on the basis of the expenses and operating costs with the exclusion of personnel costs and financial charges;

- exemption from the withholding tax on income from real estate, equipment and tools used by the centre within the context of its professional activity;

- exemption from the withholding tax on income from movable property on distributed profits and revenue from credit or loans.

The provider of capital can profit from a fictitious withholding tax on income from movable property (F.T.Mov.) if the following conditions are met:

- the financing is the result of an agreement concluded before July 24th 1991: the fictitious withholding tax on income from movable property has been suppressed for agreements concluded from that date;

- the capital borrowed must be assigned in Belgium for fixed assets or for research and development expenses.

1) Royal Decree n°187 of 30.12.1982. Various modifications have been made to the laws of 11.4.83, 28.12.83, 31.7.84 and 27.12.84, as well as to the Royal decree of 20.12.84. The rate of fictitious withholding tax on income from movable property was modified by the laws of 22nd February 1990 and of December 28th 1990.
The fictitious withholding tax on income from movable property is awarded at a rate of 10/90 (2):

- in the case of financing by credit, if this relates to agreements concluded from January 22nd 1990 onwards,
- in the case of financing by the issue of shares, to those which relate to investments recorded from July 23rd 1990 onwards.

Financing undertaken before this date continues to enjoy a fictitious withholding tax on income from movable property of 25/75.

This fictitious withholding tax is added to the taxable amount of corporation tax, as N.A.E. and can be set off against the corporation tax but is not repayable.

1.2. **Reconversion companies** (3)

These special tax arrangements apply to companies which are constituted specially for the execution of a reconversion project within the framework of a "reconversion contract" and set up in one of the zones delimited for this purpose by the Royal Decree.

The company which meets these conditions would enjoy at the outset:

- an exemption from the proportional registration duties on capital subscription,
- an exemption from corporation tax, for 10 consecutive financial years, limited to the part of the dividends which does not exceed 13% of the paid-up capital.

This system was modified as follows:

- for companies which were set up before 1.1.1990, the maximum exemption rate is reduced from 13 to 8% and the exemption period is extended by 5 trading years,
- for companies which were set up between the 1.1. and 22.7.1990, the exemption rate is reduced from 13 to 8% but the exemption period is not extended.

---

2) For these investments, the allowance of the fictitious withholding tax on income from movable property to the provider of capital cannot be cumulated with the awarding of the deduction for investments in the company in which these investments were made.

The tax advantages described above are not awarded to companies set up in a reconversion zone after 22.07.1990. Existing companies enjoy transitory arrangements: the tax advantages are still awarded for capital subscribed and paid up between July 23rd 1990 and December 31st 1992.

1.3. Employment zones

Companies set up within employment zones (4), of which the territory has been delimited in the three regions of the country, enjoy the following tax advantages:

- total exemption for 10 years from the corporation tax on reserved or distributed profits;
- total exemption from the withholding tax on income from movable property on dividends distributed to shareholders;
- for investments of which the financing is the result of an agreement concluded before 24th July 1991, awarding of the fictitious withholding tax on capital income from movable property to the provider of capital (5);
- exemption from the withholding tax on income from movable property;
- exemption from the proportional registration duty on capital subscriptions.

1.4. Innovation companies

Innovation companies are companies which exercise their activity in the sectors of high technology, and which were set up from 1984 onwards and explicitly recognized as such.

At the outset, they enjoyed the following tax advantages (6):

- exemptions from profits in respect of 13% of the innovation capital which is effectively paid up and which is outstanding at the beginning of the financial year. During the first three financial years, the company can choose between exemption from revenue distributed to innovation securities and exemption from reserved profits.
- increase in the rate of investment allowances(7);
- exemption for ten years from advance tax on income from immovable assets;
- exemption from proportional registration fees on capital subscriptions.
- exemption, in the name of the finance company, from the tax on the capital gains made from returns on the equity invested in the innovation company;
- deduction of contribution of capital to an innovation company on taxable income.

5) According to the same arrangements as for Coordination centres.
6) Cf. law of 31.7.1984, article 68 to 76.
7) See 2.13 below.
- for half the amount and spread over 5 years for private citizens,
- for the whole amount and spread over 5 years for any employee of the innovation company.

The law of December 28th 1990 ended this system:
- only companies whose request for approval was submitted before July 22nd 1990 can still enjoy tax advantages,
- the capital which can be subject to the corporation tax exemption must have been subscribed by December 31st 1990,
- the exemption from capital duty is only awarded on contribution of capital which were made by December 31st 1990 at the latest,
- the deduction of capital investment on taxable income is still authorized for shares which were subscribed and paid up in 1990.

1.5. **Closed-end investment trusts and open-end investment trusts**

Since the law of 4th December 1990 on financial operations and markets, Belgian investment houses can adopt three legal forms:

- Trusts investment,
- Closed-end UCITS (SICAF/BEVAK),
- Open-end UCITS (SICAV/BEVEK).

In contrast to common investment funds which are undistributed, the two new legal forms (SICAF/BEVAK and SICAV/BEVEK) are legal entities which are in principle liable to corporation tax.

1.51. **Taxation of UCITS**

The investment company is only liable to corporation tax on a base limited to not-allowed expenses (8) 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 D.T.I..

This tax base is subject to the normal rate of C.Tax.

The investment company is, moreover, exempt from the proportional registration duties on capital subscription.

---

8) Including the withholding taxes on the income which it collects.
1.52. Allocation of revenue

- The revenue from a capitalization open-end UCIT is not liable to withholding tax on income from movable property;

- The revenue from a distribution open-end UCIT and from closed-end UCITS is liable to a 25% withholding tax on income from movable property.

1.53. Revenue allocated to resident individuals

Revenue from a capitalization open-end UCIT constitutes non-taxable revenue for private savers (9).

The withholding tax on the revenue from a distribution open-end UCIT and a closed-end UCIT is definitive.

1.54. Revenue allocated to resident companies

Revenue from a capitalization open-end UCIT, revenue from a distribution open-end UCIT and from a closed-end UCIT are treated similarly: they are taxable and the deduction for D.T.I. is only awarded for that proportion of revenue which, at the time of the collection by the investment company, is made up of dividends which themselves meet the requirements for the awarding of the deduction for D.T.I..

---

9) 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 corporation tax.
CHAPTER 2

SPECIAL TAX MEASURES

2.1. Investment allowance

The investment allowance (1) makes it possible to deduct from the tax base a quota of the amount of investments made in the course of the tax period.

It can be awarded to companies and, for individuals, to those who declare profits or proceeds.

2.11. Investments taken into account

The investment allowance may apply to investments in tangible or intangible fixed assets, newly acquired or constituted during the tax period and which are assigned in Belgium for the exercise of a professional activity.

The following are excluded from the allowance investment:

- investment financed through a Coordination centre, whereby the fictitious withholding tax on income from movable property is awarded to the provider of capital;
- real estate acquired with a view to resale or the awarding of customary right to a third party,
- assets which can not be depreciated or which can be depreciated in less than 3 years,
- accessory expenses,
- cars and twin-purpose cars.

2.12. Calculation base

It is the amount that can be depreciated which determines the basis for calculation of the allowance investment.

2.13. Applicable rates

The base rate is linked to the inflation rate: it is equal to the difference between the average consumer price index for the year which precedes the year in which the investments were made and the average index for the previous year, increased by 1.5 points (companies) and by 2 points (individuals).

1) Article 42 ter Income Tax Code.
This rate cannot exceed 10.5% and cannot be less than 3.5% (2).

**Increased rates** are applicable:

- to research & development investments, investments of innovation companies (3) and investment in energy saving: for companies, the base rate is increased by 10.5 points (individuals: 10 points);
- in the case of staggered deduction (see below): for companies, the base rate is increased by 7.5 points (natural persons: 7 points).

The applicable rates are as follows:

<table>
<thead>
<tr>
<th>Investments in</th>
<th>1990</th>
<th>1991</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Individuals</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Base rate</td>
<td>5%</td>
<td>4.5%</td>
</tr>
<tr>
<td>investments in &quot;R&amp;D&quot; or energy saving</td>
<td>15%</td>
<td>14.5%</td>
</tr>
<tr>
<td>Staggered deduction (see 2.14)</td>
<td>12%</td>
<td>11.5%</td>
</tr>
<tr>
<td><strong>Companies (normal arrangements)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Base rate</td>
<td>5%</td>
<td>4%</td>
</tr>
<tr>
<td>investments in &quot;R&amp;D&quot; or energy saving</td>
<td>15%</td>
<td>14.5%</td>
</tr>
<tr>
<td>Staggered deduction (see 2.14)</td>
<td>12%</td>
<td>11.5%</td>
</tr>
<tr>
<td><strong>Innovation companies</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Base rate</td>
<td>10%</td>
<td>9%</td>
</tr>
<tr>
<td>investments in &quot;R&amp;D&quot; or energy saving</td>
<td>20%</td>
<td>19.5%</td>
</tr>
<tr>
<td>Staggered deduction (see 2.14)</td>
<td>17%</td>
<td>16.5%</td>
</tr>
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</table>

2.14. **Arrangements**

The deduction is made in principle at one go.

Companies employing less than 20 workers as of the first day of the tax period can opt for a system of **staggered deduction**.

In this case, the allowance is made in accordance with the accepted fiscal depreciation.

In the event of insufficient profits (or earnings), the invest which cannot be awarded are carried over to the following tax periods.

---

2) For individuals, the minimum and maximum rates are 4 and 11% respectively.

3) See above under 1.4..
The investment allowances to which the taxpayer is entitled by virtue of investments in previous tax periods, are deductible, for the tax year 1992, within the following limits:

<table>
<thead>
<tr>
<th>Net result</th>
<th>Limit of deductibility of carry-over</th>
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<tr>
<td>less than 26,668,000 BEF</td>
<td>none</td>
</tr>
<tr>
<td>between 26,668,000 and</td>
<td>26,668,000 maximum</td>
</tr>
<tr>
<td>106,670,000</td>
<td>25% of carry-over</td>
</tr>
<tr>
<td>106,670,000 and more</td>
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2.2. Fiscal impact of regional aid

2.21. Inclusion of aid in the taxable base

Employment subsidies constitute taxable revenue for the beneficiary companies.

Regional investment aid generally consists of either interest subsidies or capital subsidies.

Interest subsidies are always taxable, as they reduce the amount of interest paid and therefore deductible.

Capital subsidies are not taxable at their collection but are considered as profits for this tax period and for subsequent tax periods proportionally to the depreciation which have been approved as professional expenses respectively at the end of this tax period and in the course of any subsequent period and, where appropriate, for the amount remaining when the fixed assets are transferred or put out of circulation.

2.22. Doubling of linear depreciation

The doubling of depreciation (4) applies to certain investments in buildings, tools and equipment which enjoy regional aid (or, formerly, the laws of economic expansion). The authorized annual depreciation is equal to double the normal linear depreciation for a period of maximum 3 successive taxable periods, as agreed in the aid contract.

2.23. **Exemption from withholding tax on real estate income**

The exemption from withholding tax on real estate income (5) 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 and relates to the buildings and the land which form part of the same cadastral plot as well as equipment and tools which are immovable by their nature or their purpose.

This is accompanied by the imposition of the fictitious withholding tax on real estate income.

2.3. **Tax arrangements for capital gains made during exploitation**

2.31. **Fully realized capital gains on tangible and intangible assets**

The tax regime is based on the principle of carried over taxation. This carry-over of taxation applies, on condition that there is a reutilization, to capital gains made on tangible and intangible assets allocated for more than 5 years to the exercise of the professional activity.

If the duration of the allocation is less than 5 years, the capital gains constitute a taxable profit at the full rate.

When the tax can be carried over, the capital gains in question are considered as profits for the taxable period of reutilization and for subsequent taxable periods in proportion to the depreciation and the non-depreciated balance for the tax period during which the property ceases to be allocated to the exercise of the professional activity.

The taxation is made at the full rate.

The reutilization must be made in respect of tangible or intangible assets that can be depreciated. The depreciation must be made within a period of 3 years (6) starting from the first day of the tax period during which the capital gains were acquired.

If there is no reutilization within this period, the capital gains are considered as a profit for the tax period during which the reutilization period expired.

The tax is payable at the full rate.

The exemption of the monetary adjustment portion is maintained (7).

---


6) Five years for buildings, ships and aircraft.

7) The exemption of the monetary adjustment portion only concerns capital gains made on assets acquired or constituted in 1949 at the latest.
2.32. **Fully realized capital gains on financial assets**

Capital gains made on fixed income securities are taxable at the full rate.

From tax year 1992 onwards, capital gains made on stocks and shares are totally exempted, without the condition of reutilization or the condition of intangibility. Nonetheless, the revenue produced by the stocks or shares on which the capital gains are made must comply with the "taxation condition" applicable to Definitively Taxed Income (8).

2.4. **Additional personnel employed in scientific research** (9)

An exemption (deduction from taxable profit) of 107,000 BEF is awarded for each additional member of personnel employed in scientific research in Belgium. The additional personnel is determined according to the average number of workers employed by the company for the same purpose in the course of the previous tax period. The exemption awarded is withdrawn in the event of a reduction in personnel.

2.5. **Encouragement to subscribe or purchase stocks or shares representing company assets in Belgian companies**

The effects of this measure (10) concern legal persons (C.Tax) and natural persons (I.I.T. and death duties)

2.51. **Corporation tax**

Companies which were set up in 1982 or 1983 and existing companies which increased their capital in cash in 1982 or in 1983 can exclude from the tax base of the companies for a period of 5 years the dividends distributed in respect of 8% of the capital which is effectively paid in cash.

In principle, to benefit from this exemption, at least 60% of the amount of capital or the increase in capital paid in cash must be assigned to the acquisition or the constitution of tangible or intangible assets, or to the subscription and payment of shares in legally registered Belgian companies.

The 8% exemption for 5 years is increased to 13% for 10 years when the company undertakes to allow its new shareholders to enjoy the tax savings resulting from the aforementioned exemption.

---

8) See part 1, corporation tax, section 2.32.

9) Article 42b Income Tax Code.

This rate of 13% is reduced to 8% from tax year 1991 and the period of exemption is extended by two financial years (11).

2.52. **Individual income tax**

The withholding tax on income from movable property on "AFV" securities is 20%, not 25%.

The taxpayer has, moreover, the choice between two formulas:

- dividends which remunerate new shares issued in 1982 and 1983 are exempt from the individual income tax for 5 or 10 years (12) according to whether the company itself is exempt from tax;

- individuals could deduct from their taxable income, from 1982 to 1985, the sum devoted to the acquisition of stocks and shares in Belgian companies or investment trusts.

  The securities or certificates must in this case be held for a period of 5 years. If they are transferred within this period, the proceeds must be reinvested in similar securities within 3 months.

2.53. **Death duty**

If the taxpayer has opted for the first formula, the amount subscribed also gives entitlement for 10 years to an exemption from death duty or registration duties on gifts.

2.6. **Additional personnel and C.L.A. "5-3-3"** (13)

An exemption from individual income tax, of corporation tax or of income tax on non-residents of 2,000,000 BEF is awarded for each additional member of personnel employed in Belgium by companies which have concluded a collective labour agreement (C.L.A.):

- which provides for a reduction in working hours,
- which came into force between 1.1.1985 and 31.12.1987,
- and which is approved by the Minister of Employment and Labour.

---

11) In certain particular cases, by 3 or 4 business years.

12) Since 1.1.84, the withholding tax on income from movable property has become a non-recurring tax.

The exemption is spread over 6 consecutive tax periods starting from the tax period which follows the period in which the C.L.A. came into force, with the following amounts:

- 500,000 BEF for each of the first 2 periods;
- 400,000 BEF for the 3rd period;
- 300,000 BEF for the 4th period;
- 200,000 BEF for the 5th period;
- 100,000 BEF for the 6th of these periods.

The net increase in manpower is the average increase made in the course of a tax period and converted into full-time jobs in comparison with the average manpower in the previous tax period.
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ERRATUM

Preface

The legislation described is that which is applicable:

- 

- from April 1st 1992 on for indirect taxation (....)