

Global Tax Update

BELGIUM

Amendments to the special tax regime for expatriates

As announced, as part of the 2022 Federal budget measures, the Belgian government has agreed on the principles of a new special tax regime for inbound taxpayers and inbound researchers. This new special tax regime was included in the year-end 'Programme Law' and entered into force on 1 January 2022.

The following summarises the key characteristics of this new special tax regime for in-patriates taxpayers and in-patriate researchers:

1. Legal Basis

The new regime is included in the Income Tax Code and therefore provides more legal certainty than the former special tax status which was based on an administrative circular.

2. Qualifying Conditions

2.1. Absence of connection with Belgium

During a period of 60 months prior to the arrival in Belgium, the qualifying employee or director should not:

- Have been taxed as a resident taxpayer in Belgium
- Have been living at a distance of less than 150 km from the Belgian borders
- Have been taxed as a non-resident on Belgian professional income.

The in-patriate must:

- Be recruited from outside Belgium by a resident company, a Belgian establishment of a foreign company or a non-profit association; or
- Through an assignment or transfer within a multinational group or non-profit organisation. In other words, in case of recruitment from abroad, Belgian companies who are not part of an international group also qualify for this in-patriate tax regime. This was usually not the case under the old regime.

There is no foreign citizenship requirement anymore: Belgian nationals satisfying the conditions mentioned above are also eligible for these tax concessions.

2.2. Minimum gross compensation threshold: €75,000

There will be a minimum annual gross salary threshold of €75,000. This threshold includes gross salary, variable compensation as well as benefits in kind, but not the 30% tax free allowance itself. Should the employment or directorship not cover a full calendar year, this threshold would have to be pro-rated accordingly.

Exception For Researchers

This annual minimum salary threshold will not be applicable for researchers as long as they meet the following conditions:

- They hold a master's degree in the following expertise area - agricultural sciences, applied sciences, industrial sciences, medical sciences, natural science pharmaceutical sciences, veterinary sciences and engineering; or
- They have at least 10 years of relevant experience in these areas.

Please note that this exception only applies to employees and not to directors.

This exemption only applies when the researcher spends at least 80% of their professional time on research activities.

2.3. Contractual

Based on the explanatory memorandum, it appears that the employment contract or directorship agreement should include provisions that confirm the application of the new special tax regime and the details of the compensation package and tax-free allowance that will be paid. Although it is not confirmed by the Law, we assume that it will be confirmed in an upcoming administrative circular detailing the practical aspects of this new regime.

3. Benefits Of The New Regime

- The employer may reimburse or compensate the expatriate on a tax-free basis for the recurring additional costs resulting from the expatriation (e.g. cost of living, housing cost etc.). This reimbursement is limited to 30% of the gross remuneration, but it has now been clarified that a lower percentage is also possible, which means that more expatriates become eligible for the new scheme. On the other hand, the benefits are capped at a maximum tax-free amount of €90,000. Please note that the social security position should still be aligned with the tax exemption
- This lump-sum tax free amount of 30% replaces the current travel exemption and deductions of costs proper to the employer (currently capped at €11,250 or €29,750)
- The reimbursement of school fees, moving and installation costs can still be reimbursed as costs proper to the employer on top of the 30% compensation (conditions apply).

4. Maximum Duration

The new in-patriate regime can apply for an initial 5-year period with a possible 3-year extension (through the filing of a new request by demonstrating that the qualifying conditions are still met).

This new regime is no longer exclusively linked to the employer. Therefore, it could continue to apply when there is a change of employer.

5. Belgian Residency

Unlike the previous system, the new special tax regime provides that standard residency rules included in the Belgian income tax legislation apply. Should the concerned expatriate not be considered as a resident taxpayer under the domestic tax rules, they would need to provide the tax authorities with a certificate of tax residency from another country.

This residency status implies that qualifying expatriates will be taxable in Belgium on their worldwide income but are entitled to invoke the double tax treaties concluded by Belgium.

6. Procedure

To benefit from the special tax regime, the employee/director and their employer need to submit a joint application within 3 months after the start of the Belgian employment/assignment.

Every year, before January 31st, employers will have to provide the Belgian tax authorities with a listing of all the qualifying employees/directors for the preceding year.

7. Entry Into Force

This new regime will be applicable for all employments/assignments starting as of 1 January 2022.

8. Transitional Measures

The Law provides some opt-in/opt-out mechanisms for existing situations that need to be analysed on a case-by-case basis. This transitional period will be limited to 2 years.

8.1. Opt-In For New Regime

Taxpayers benefitting from the previous special tax status for less than 5 years may opt for the new regime if they already meet the qualifying conditions of the new special tax regime. This opt-in demand needs to be filed by 31 July 2022 at the latest.

The years of the current special regime will be deducted from the 5 year-limit of the new regime.

8.2. Opt-Out

Taxpayers benefitting from the previous special tax status for less than 5 years and meeting the qualifying conditions of the new special tax regime may also opt out and remain subject to the previous regime until 31 December 2023. This option might be of interest to expatriates with high travel exclusion percentages.

8.3. Expatriates not qualifying for the new special tax status

Expatriates present in Belgium for more than 5 years or not meeting the qualifying conditions of the new regime may continue to benefit from the previous concessions until 31 December 2023. They will become tax resident from 1 January 2024 and will then also no longer be entitled to any favourable tax treatment.

BDO Comment

Please do review the new rules to determine how this will impact both current and future assignees. Do watch out for further details regarding the practical arrangements for the operation of this new expatriate regime.

CANADA

Claiming a home office expense deduction for the 2021 tax filing season

The Canadian federal government announced that it will extend the temporary flat rate method of claiming employee home office expenses for the 2021 and 2022 tax years. This means eligible employees working from home during COVID-19 have two options to claim home office expenses: the temporary flat rate method and the detailed method.

1. The Temporary Flat Rate Method

The temporary flat rate method was first introduced by the Canada Revenue Agency (CRA) in 2020. In late 2021, the federal government extended it to the 2021 and 2022 tax years and increased the maximum deductible from \$400 to \$500. The temporary flat rate method simplifies home office expense claims for employees who are eligible and choose to use this method.

Who is eligible to use the temporary flat rate method?

As an employee, you are eligible for this method if you:

- Worked from home in 2021 due to COVID-19 (if you were not required to work from home but your employer provided you with the choice to work at home because of the pandemic, the CRA will consider you to have worked from home due to COVID-19)
- Worked from home more than 50% of the time for a period of at least four consecutive weeks in 2021 due to the COVID-19 pandemic
- Are only claiming home office expenses and are not claiming any other employment expenses; and
- Were not reimbursed by your employer for all your deductible home office expenses.

How to calculate your home office tax deduction

Under the temporary flat rate method, the home office expense deduction is calculated at \$2 per day for each day the eligible

employee worked from home in 2021 due to COVID-19, up to a maximum of \$500 (i.e., 250 work at home days). Days off, vacation days, sick leave days, and other leaves or absences don't count as a workday from home.

The temporary flat rate method simplifies home office expense claims for employees who are eligible and choose to use this method.

Consistent with 2020, employees who use the temporary flat rate method do not need to track expenses, perform workspace calculations, or keep receipts. You also don't need to obtain Form T2200 or T2200S.

2. The Detailed Method

Before the temporary flat rate method was introduced, the detailed method was the usual way in which employees claimed home office expenses. Due to COVID-19, eligibility for this method has been broadened for the 2020, 2021, and 2022 tax years.

Who is eligible to use the detailed method?

As an employee, you are eligible for this method if:

- You worked from home in 2021 due to COVID-19 (if you were not required to work from home but your employer provided you with the choice to work at home because of the pandemic, the CRA will consider you to have worked from home due to COVID-19), or were required to work from home by your employer
- You were required to pay for expenses related to the workspace in your home
- Your workspace is where you worked more than 50% of the time for a period of at least four consecutive weeks in the year, or you only use your workspace to earn employment income and it is used regularly and continually for meeting clients, or other people for work

- Your expenses are used directly in your work; and
- You obtain a signed Form T2200 or T2200S from your employer.

How to calculate your deduction

The detailed method allows eligible employees to claim the employment portion of actual deductible expenses paid.

To calculate your deduction using the detailed method, you need to determine the proportional size of your workspace compared to the total finished areas within your home, and the amount of time that your workspace is used for work, in order to calculate your workspace in home deduction.

As these calculations can be tedious, the CRA has provided examples and an online calculator to assist.

Form T2200S or T2200

You will need to obtain the signed T2200S or T2200 from your employer to make a claim under the detailed method.

The T2200S, which was introduced for 2020, is a shortened version of the T2200 that employers should prepare for their employees who worked from home due to COVID-19 and wish to claim home office expenses under the detailed method.

Please note that you cannot use the T2200S if you are also making a claim for other employment expenses, such as motor vehicle expenses, and the T2200 should be used instead.

The relevant Form T2200 or T2200S should be kept on file but does not need to be submitted with your tax return.

Which home office expense claim method is right for me?

If your work or home situation has changed since you filed your 2020 return, you may want to estimate the deduction under both methods to see if the detailed method gives you a higher deduction, provided you meet the eligibility requirements.

The detailed method typically yields a higher deduction for employees who rent their home. There are also additional deductible expenses like electricity, heat, and home internet access fees that can be included in your calculation under the detailed method.

However, if you worked in a common space instead of a designated workspace, such as your dining table, then you would need to further prorate the deduction based on your work hours.

Keep in mind that if you choose the detailed method, you need to obtain a signed T2200S or T2200 from your employer and track your expenses and receipts.

How to make a home office expense deduction claim

The CRA has released Form T777S, Statement of Employment Expenses for Working at

Home Due to COVID-19 for 2021, which is a shortened version of the T777. You need to complete this form and file it with your 2021 tax return to claim a home office expense deduction. It can be used for either the temporary flat rate method or the detailed method of claiming home office expenses.

Please note that you can only use the T777S if you are not claiming any other types of employment expenses such as motor vehicle expenses.

Claiming home office expenses with Revenu Québec

On its COVID-19: FAQ for Individuals webpage, Revenu Québec (RQ) confirmed it would continue to parallel the federal measures to simplify the process for employees deducting their home office expenses incurred during COVID-19 for 2021. Employees can choose between the temporary flat rate method (maximum deduction of \$500) or the detailed method.

Consistent with 2020, employees need to obtain form TP-64.3-V, General Employment Conditions from their employer when using the detailed method. This is Quebec's version of the federal Form T2200.

Although there is no simplified TP-64.3-V, the form indicates that only certain questions need to be answered for employees who worked from home because of the pandemic.

BDO Comment

Many Canadians worked from home in 2021, potentially making them eligible to claim the home office expense deduction. Employers will need to provide their employees with a completed and signed Form T2200S (or Form T2200) where applicable, and TP-64.3-V for Quebec purposes where applicable.

Completing multiple forms requires a significant amount of resources and time, which is compounded by the many employees who worked from home in 2021. If you are experiencing resource constraints or could benefit from a more streamlined process, please seek professional assistance.

CHINA

Extension of PRC Individual Income Tax ("IIT") Preferential Treatment on Annual Bonus, Benefit-in-kind Allowances and Equity Incentive Income

The Ministry of Finance and the State Administration of Taxation announced an extension to the preferential tax treatment applying on annual bonuses, benefit-in-kind allowances and equity incentive income. The rules applying to annual bonuses and benefit-in-kind allowances will now be valid until 31 December 2023 whilst the current rules applying to equity incentive income will expire on 1 January 2023.

Annual Bonus Income

Under current PRC IIT law and regulations, individuals who receive an annual bonus income could be assessed on a separate basis outside of their monthly income. However, individuals can select the more beneficial treatment based on their actual situation.

The calculation formula is different for Chinese tax residents and non-Chinese tax resident individuals as follows:

- China tax resident individuals
IIT payable on annual bonus = Total annual bonus * Tax rate – Quick deduction
** Monthly tax rate table should be applied.*
- Non-China tax resident individuals
IIT payable on annual bonus = [(Total annual bonus/6)* Tax rate – Quick deduction] * 6
** Applicable monthly tax rate and quick deduction is determined by the total annual bonus amount which is divided by 6.*

Benefit-in-Kind Allowances

Preferential tax treatment on the following benefit-in-kind allowances paid to foreign individuals working in China will continue until 31 December 2023:

- Housing rental expenses
- Children education expenses
- Home leave airfare expenses
- Language training expenses
- Meal and laundry expenses
- Relocation expenses.

Equity Incentive Income

From 31 December 2022, individuals who participate in qualified equity incentive plans implemented by foreign and Chinese listed companies could enjoy tax benefit treatment on such income in China. Equity incentive income could be treated as a separate income without combining it with an individual's regular monthly employment income for IIT calculation purpose. The calculation formula for both Chinese tax residents and non-Chinese tax residents is:

- China tax resident individuals
IIT payable on equity incentive income = Total taxable equity incentive income * Tax rate – Quick deduction
** Annual tax rate table should be applied.*
- Non-China tax resident individuals
IIT payable on equity incentive income = [(Total taxable equity incentive income / 6) * Tax rate – Quick deduction] * 6
** Applicable monthly tax rate and quick deduction is determined by the total annual bonus amount which is divided by 6.*

In addition, the Chinese national tax government previously announced in October 2021, that tax registration of equity incentive plans was required. Tax registration for Year 2021, needed to be completed by the end of the year. Whilst starting from Year 2022, the initial tax registration needs to be undertaken on implementation of the equity incentive plan and the supplementary registration for new grants/vests is required within 15 days of

the following month. Penalties can apply for any registration failures.

BDO Comment

Companies/withholding agents need to pay more attention to their internal systems and processes to ensure adherence to the new rules. If necessary, it is recommended professional advice be sought to assist on the reporting and tax filing issues to avoid potential non-compliance risks.

ITALY

Budget law for 2022 amendments and favourable implications for individuals

Significant changes in respect to the marginal tax brackets applicable to individual taxpayers have been introduced by the Budget Law for the 2022 fiscal year. The changes affect the income brackets and the number of personal income tax rates have been reduced from five to four.

This amendment will have a major impact on medium income levels. The changes made can be summarised as follows:

Old And New Brackets

2021

Up to 15,000 euro, **23%**
From 15,000.01 to 28,000 euro, **27%**
From 28,000.01 to 55,000 euro, **38%**
From 55,000.01 to 75,000 euro, **41%**
Above 75,000 euro, **43%**

2022

Up to 15,000 euro, **23%**
Above 15,000 euro and up to 28,000 euro, **25%**
Above 28,000 euro and up to 50,000 euro, **35%**
Above 50,000 euro, **43%**

UK

HM Revenue & Customs (HMRC) removes Coronavirus tax relaxation from 5 April 2022

In 2020, HMRC introduced guidance stating non-UK resident employees stranded in the UK because of coronavirus travel restrictions would not be taxed on earnings for duties performed in the UK after their planned departure date, provided they are taxed in their home state. This relation will end on 5 April 2022 as travel restrictions have been largely withdrawn and self-isolation rules were removed in February, meaning it is no longer 'just and reasonable' to treat these duties as performed outside the UK. If an individual is non-UK resident, ordinarily any days they spend working in the UK will be treated as days on which they performed duties in the UK. From 6 April 2022, this will be the case even if they are prevented from leaving the UK as a result of coronavirus related circumstances. Further details are not available at the time of writing but will be issued shortly.

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