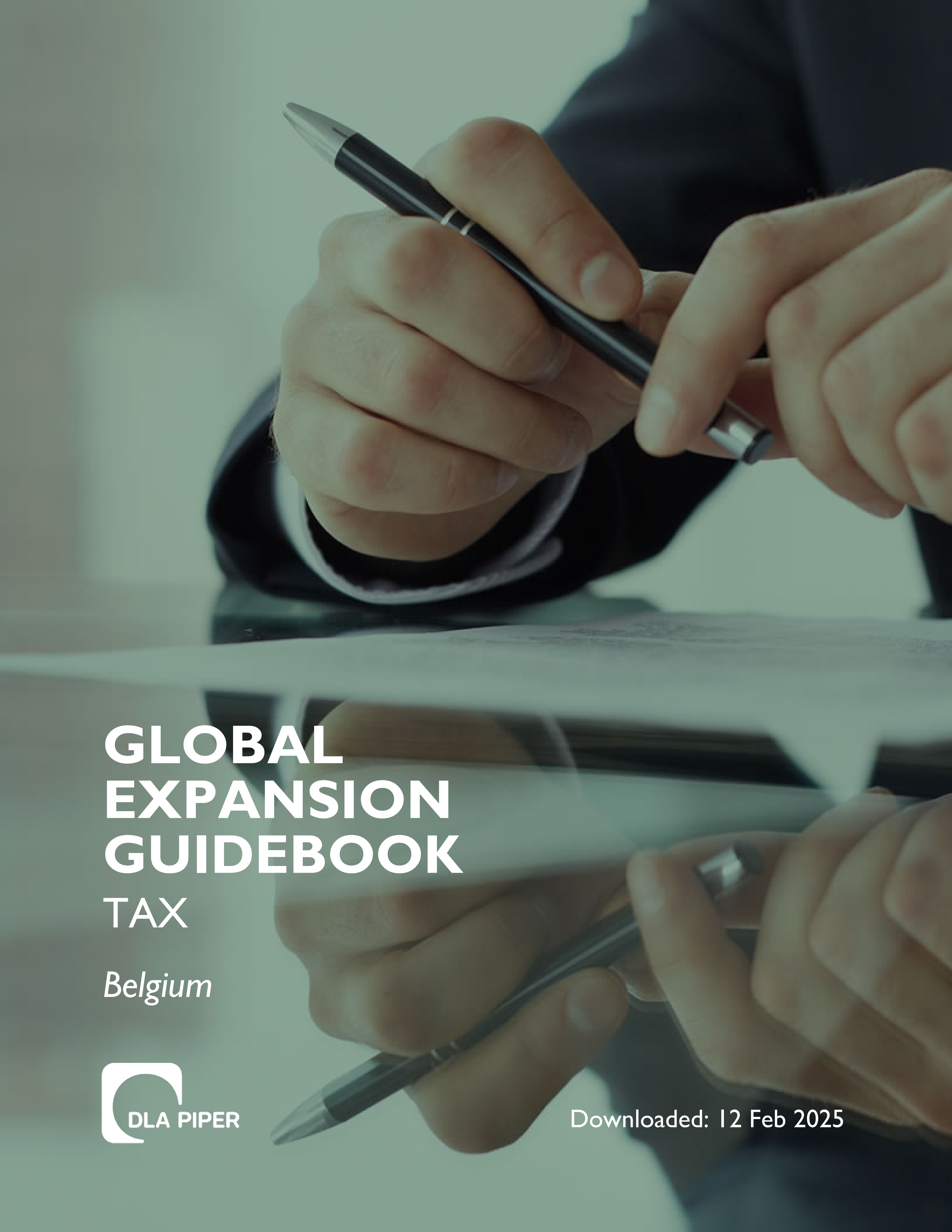

GLOBAL EXPANSION GUIDEBOOK

TAX

Belgium

DLA PIPER

INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Tax*.

GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics companies need to know.

The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, intellectual property and technology, global equity and tax laws in key jurisdictions around the world.

TAX

Multinational companies continue to expand globally at an ever faster pace. Successful expansion depends, in part, on strategic and effective tax planning and compliance. This guide, brought to you by DLA Piper's Tax group summarizes the key features of tax laws in 41 popular jurisdictions.

This guide addresses common tax questions, by jurisdiction, including:

- Taxation of resident companies and non-resident companies
- Availability of tax holidays, rulings, and favorable tax regimes
- Ability to use losses to offset income
- Anti-deferral (ie CFC) rules
- Withholding taxes
- Employment tax issues

With more than 300 tax lawyers and economists in offices throughout the Americas, Europe and Asia Pacific, DLA Piper's global tax advisory services help multinational companies address the complex challenges of international commerce and business operations as well as manage and resolve tax audits. Our global tax group also assists clients in structuring a wide range of transactions, from private equity deals to corporate acquisitions and disposals. We provide these tax services across our global platform, while at the same time offering clients the benefits of the attorney-client and work-product privileges.

The information in this guide is an accessible, high-level summary of the tax laws in each jurisdiction. This is not a substitute for legal or tax advice. If you have specific questions or require detailed advice, we encourage you to contact one of the attorneys listed in the contributors section of this guide.

We hope that you find this guide valuable and we welcome your feedback.

This publication is provided to you as a courtesy, and it does not establish a client relationship between DLA Piper and you, or any other person or entity that receives it.

This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

DLA Piper and any contributing law firms accept no liability for errors or omissions appearing in this publication and, in addition, DLA Piper accepts no liability at all for the content provided by the other contributing law firms. Please note that tax law is dynamic, and the legal regime in the countries surveyed could change.

BELGIUM

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RESIDENCE AND BASIS FOR TAXATION

Domestic

According to Belgian tax law, a corporation is resident of Belgium if it has its main establishment or place of effective management in Belgium. If a company's registered office is in Belgium, it is presumed to be a resident of Belgium. This presumption can be rebutted.

Foreign

Non-resident entities can be subject to Belgian non-resident income tax if they realize income that is sourced in Belgium or income that is connected with a Belgian establishment (or a permanent establishment in case a double tax treaty is in place).

TAXABLE INCOME

Domestic

The taxable income of a corporation includes its worldwide income, less allowable deductions. For Belgian corporate tax purposes, taxable income is determined on the basis of the approved Belgian GAAP annual accounts, subject to certain adjustments in accordance with the Belgian Income Tax Code.

At the end of 2023, Belgium implemented the Council Directive (EU) 2022/2523 of December 15, 2022, ensuring a global minimum level of taxation for groups of multinational enterprises and large domestic groups in the European Union. These rules introduce a coordinated system to ensure that large groups with a consolidated revenue exceeding EUR750 million for at least 2 of the 4 previous years, are subject to a minimum effective tax rate of 15 percent. The global minimum tax rules in Belgium will be applicable to financial years beginning on or after December 31, 2023

Foreign

Non-resident entities can be liable to pay Belgian non-resident income tax on specific types of income. Computation of the taxable base is generally subject to the same rules that apply to the corporate income tax for resident companies (including the global minimum tax rules).

TAX RATES

Resident companies are subject to a standard corporate income tax rate of 25 percent. The first income band of EUR100,000 of small companies is subject to a lower rate of 20 percent, provided that certain conditions are met.

TAX COMPLIANCE

In principle, domestic corporate income tax returns must be submitted to the tax authorities by the date mentioned on the official tax return form. In general, corporate income tax returns should be filed within 7 months following the financial year-end closing date.

ALTERNATIVE MINIMUM TAX

Belgian legislation does not provide for alternative minimum tax.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

Certainty over the application of Belgian tax laws to a specific transaction or situation can be obtained by means of a formal ruling involving the agreement of the Advance Ruling Commission (*Service des Décisions Anticipées en matières fiscales / Dienst Voorafgaande Beslissingen in fiscale zaken*).

Tax incentives

Subject to certain conditions, a company may benefit from investment, IP and R&D related tax incentives (innovation income deduction, R&D payroll tax deduction, etc).

CONSOLIDATION

Pursuant to the latest corporate tax reform, a corporate income tax consolidation regime has been introduced as of January 1, 2019 (assessment year 2020).

PARTICIPATION EXEMPTION

Dividend income received by a Belgian company is subject to corporate tax at the standard rate. The Belgian participation exemption regime, however, allows for a deduction of 100 percent of the received dividend amount if certain conditions are met.

CAPITAL GAIN

Capital gains realized on the disposal of business assets are treated as business income. Standard corporate tax rates apply in such case. Subject to reinvestment of the sales proceeds in qualifying assets and certain other conditions, the taxation of the capital gain realized on business assets may be deferred.

Subject to certain conditions, capital gains realized on the disposal of shares may be tax exempt. Capital losses may be deductible depending on the underlying asset.

DISTRIBUTIONS

Distributions paid by a corporation to its shareholders are treated as dividends. The repayment of capital is exempt from tax in Belgium. However, there is a fiction in order to tackle the abusive practice of artificially increasing the paid-up capital. According to this fiction, capital decreases by way of repayment of capital are deemed to relate proportionally to the paid-up capital on the one hand and the taxed reserves and the certain untaxed reserves on the other hand.

LOSS UTILIZATION

Losses may be carried forward indefinitely, but their use in a given tax year is limited to EUR1 million plus 70 percent of the taxable basis in excess of EUR1 million. Any carried-forward tax losses that cannot be used due to this limitation may be further carried forward indefinitely. The remaining 30 percent of the taxable basis in excess of EUR1 million will be subject to normal corporate income tax rates.

As of income year 2023 (assessment year 2024), the 70 percent threshold was reduced to 40 percent to increase the minimal taxable basis to 60 percent instead of 30 percent. This measure was temporary, as regulators intended to abolish this measure as soon as the global minimum tax rules (OECD Pillar Two) enter into force in Belgium.

At the end of 2023, Belgium implemented the Council Directive (EU) 2022/2523 of December 15, 2022, ensuring a global minimum level of taxation for groups of multinational enterprises and large domestic groups in the European Union. These rules introduce a coordinated system to ensure that large groups with a consolidated revenue exceeding EUR750 million for at least 2 of the 4 previous years, are subject to a minimum effective tax rate of 15 percent. The global minimum tax rules in Belgium will be applicable to financial years beginning on or after December 31, 2023. With the introduction of the global minimum taxation rules, the 40 percent threshold was increased back to 70 percent as of assessment year 2025.

TAX-FREE REORGANIZATIONS

Qualifying reorganizations (merger, demerger, partial demerger, contribution of a universality of goods or a business line) involve the direct transfer of all assets and liabilities from the transferor to the receiving company.

Subject to certain conditions, national and EU cross-border reorganizations can be performed under a tax-neutral regime under which capital gains would not be taxed. The regime provides for restrictions on the transferability of certain deductions (*eg*, tax losses) from the transferor to the receiving company and on the use by the receiving company of its tax losses and other carried-forward deductions after reorganization.

ANTI-DEFERRAL RULES

CFC

A CFC-regime (Model B) has been introduced as of January 1, 2019 (assessment year 2020) in compliance with the EU Anti-Tax Avoidance Directive 2016/1164 of July 12, 2016. Belgium switched to the Model A CFC-regime as of assessment year 2025.

Under the entity approach (Model A) member states are required to directly attribute certain predefined categories of passive income to the taxpayer, while under the transactional approach (Model B) member states are only required to directly attribute to the taxpayer the undistributed profit resulting from non-genuine arrangements that have been put in place for the essential purpose of tax avoidance or tax evasion.

The change to the Model A CFC-regime is expected to have a substantial impact in practice.

FOREIGN TAX CREDITS

Foreign tax credits are available for foreign taxes paid, subject to limitations.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Certain real property fund structures benefit from a favorable tax regime in Belgium.

TRANSFER PRICING

Belgium generally adheres to the OECD transfer pricing guidelines. The arm's-length principle therefore constitutes a basic transfer pricing principle in Belgium. Advance pricing agreements (whether unilateral, bilateral or multilateral) may be obtained.

WITHHOLDING TAX

Dividends, royalties, interest, etc.

A 30 percent withholding tax applies to the payment of dividends, royalties and interest. Domestic law provides for reduced rates and exemptions in certain circumstances. The applicable rate may further also be reduced under an applicable double taxation treaty.

Service fees

Withholding tax may, under specific conditions, apply to service fees paid to non-residents, subject to certain conditions.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

There is no capital duty. Share transfers are not subject to stamp duty or transfer tax. Stamp duties and transfer taxes may, however, be imposed on other transactions (*eg*, transfer of real estate).

EMPLOYMENT TAXES

Employers must withhold federal income tax on the salaries paid to their employees. Employers must also pay social security contributions on such salaries. Such social security contributions are tax deductible in the hands of the employers.

OTHER TAX CONSIDERATIONS

Not applicable for this jurisdiction.

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