BELGIUM MAKES PROGRESS ON ITS LONG-AWAITED TAX REFORM

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BACKGROUND

With a new coalition government in office for 19 months, Belgium is making progress on the implementation of the ambitious tax reform that was announced on January 31, 2025, when the new government was about to be sworn in on February 3, 2025. Although progress is real, it is taking shape piece by piece instead of one massive overhaul. This is largely due to the composition of the coalition government, which is dominated by two political parties of the fiscal and economic right but needs the support of three smaller parties of the center-left side of the political spectrum who have a surprisingly strong bargaining position. More recently, the Belgian parliament adopted the Act of July 15, 2026, on the Reform of Personal Income Tax, which was gazetted on July 29, 2026. It includes several significant tax measures.

This article focuses on the most salient tax reform measures relevant to international tax advisers and their clients.

INTRODUCTION OF A BROAD CAPITAL GAINS TAX ON FINANCIAL ASSETS FOR BELGIAN INDIVIDUAL TAXPAYERS

If there is one single tax measure that keeps Belgian taxpayers, tax practitioners, financial institutions as well as the trade press awake at night, it is the new capital gains tax on financial assets for Belgian individual taxpayers. The relevant Act was adopted by parliament on April 2, 2026, signed into law by the King of the Belgians on April 6, 2026, and published on April 21, 2026. It is effective as of January 1, 2026, subject to several exceptions.

The Explanatory Memorandum that was submitted to the House consisted of no less than 78 pages and the act of April 6, 2026, itself consists of 35 articles, many of which contain several paragraphs and subparagraphs. The extremely complex and technical capital gains tax is expected to generate an annual €500 million in additional tax revenue as of 2029. Just before finalizing this article, it was announced that already one request for annulment against several provisions of the Act of April 6, 2026, had been submitted to the Constitutional Court.

For international tax advisers, the new tax initially seems to be of little interest, except that the taxation of capital gains on shares is often a stumbling block for M&A transactions. In the past, Belgian individual taxpayers rarely suffered capital gains tax when selling shares of a Belgian corporation to a foreign acquiror, provided they were adequately advised. Except in the rare case where a private individual would sell shares of a Belgian corporation that were part of his professional wealth, prior to January 1, 2026, capital gains were taxed only when (i) a more than a 25%

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participation in a Belgian corporation was sold to a corporate buyer established outside the European Economic Area ("E.E.A.") or (ii) the sale involved what is commonly referred to as a "speculative transaction." Although the Belgian Revenue Service challenged quite a few transactions for being speculative, they rarely succeeded in court.

Tax Rates

The new capital gains tax is meant to "plug the hole in the bucket" where none of the existing capital gains taxes apply. Under the pre-2026 regime, a Belgian individual who sold a substantial interest – meaning more than 25% of the shares in a Belgian company, held alone or with close family at any time during the preceding five years – was taxed at 16.5% if the shares were transferred to a non-E.E.A. corporate buyer. A buyer could help the seller to sidestep the charge simply by making the acquisition through an E.E.A.-based acquisition vehicle, so that the direct transferee was an E.E.A. legal person. The new regime removes that escape route.

The default rate of the new capital gains tax is 10%, and the taxable amount is the capital gain, *i.e.*, the difference between the tax basis (see immediately below) and the price at which the relevant assets are sold or otherwise disposed of. However, in the event of a sale or transfer by a "substantial shareholder," the tax rate follows a staggered schedule:

Taxable Amount Range	Tax Rate	Tax on Full Tranche	Cumulative Total Tax
€0 – 1.0 million	Exemption (0%)	€0	€0
€1.0 million – 2.5 million	1.25%	€18,750	€18,750
€2.5 million – 5.0 million	2.50%	€62,500	€81,250
€5.0 million – 10.0 million	5.00%	€250,000	€331,250
> €10.0 million	10.00%	Varies by amount	Progressive

The first €1.0 million of capital gain is exempt but this exemption operates on a rolling five-year basis. The exempt tranche is reduced by the amount of exemption already used during the four preceding taxable periods.

In addition to the general 10% rate and the staggered schedule for substantial shareholders, the Act of April 6, 2026, confirms the tax regimes of two other pre-existing categories of capital gains.

- The first is the so-called "internal capital gains," where the purchaser is an entity controlled by the seller entity controlled by the seller. Such gains are taxed at a flat rate of 33%, with no exemption. The Belgian Revenue Service previously treated internal capital gains as being subject to the 33% rate, but taxpayers regularly contested the tax and sometimes won their cases in court.

- The second is where a substantial shareholder sells shares in a Belgian resident corporation to a non-E.E.A. legal entity. Such gains are taxed at a flat rate of 16.5 percent. Although this rule was in existence prior to January 1, 2026, the discussion now focuses on whether the shareholder is eligible for the first tranche of €1.0 million. A substantial shareholder is any shareholder

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who owns 20% or more of the shares of a corporation. The ownership by two or more shareholders is not combined or aggregated in determining whether the 20% ownership trigger is breached, even if the shareholders are related.

Step-up in Basis

As for the tax base, the law provides for a step-up in basis as at December 31, 2025, the day before the effective date of the new capital gains tax. The value on this date is often referred to as the "snapshot."

The determination of the value of financial assets as at December 31, 2025, is subject to a strict hierarchy.

- For listed financial assets, the value is the last closing price of 2025.
- For unlisted financial assets, the law takes the highest of
  - the value used in an arm's length transaction or capital increase in the course of 2025;
  - the value resulting from a valuation formula in a contract or put option agreement in force on January 1, 2026; or
  - for shares and similar instruments, the net equity plus four times the E.B.I.T.D.A. of the last financial year closed before January 1, 2026. Alternatively, a valuation report may be established by a certified accountant or auditor other than the company's habitual auditor and prepared not later than December 31, 2027.
- For disposals before December 31, 2030, the taxpayer may opt to use the historical acquisition value if it exceeds the value as of December 31, 2025.

"The determination of the value of financial assets as at December 31, 2025, is subject to a strict hierarchy."

Other Rules

Not only shares are subject to the new capital gains tax. Derivate products such as options, warrants and regular or convertible bonds are in scope. For shares that are replicated by so-called certificates through the interposition of a tax transparent entity (typically a foundation), the capital gains tax applies in the event of a sale or transfer of the certificates.

For capital gains on financial assets other than shares disposed of by a substantial shareholder, there is a *de minimis* threshold of €10,000 *per annum* (indexed for inflation) of which not more than €1,000 *per annum* can be carried forward for up to five years if not used in the tax year itself.

Capital losses can only offset capital gains realized during the same year and within the same category as the loss. The categories are internal capital gains, substantial shareholder gains. Unused capital losses cannot be carried forward.

Circular Letter Providing Administrative Guidance

After the adoption of the Act of July 15, 2026, many uncertainties remained concerning the practical application of the new capital gains tax. To address some of open issues, the Belgian Revenue Service issued Circular No. 2026/C/74 on July 22, 2026, in which it provided several useful comments:

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- **Share-for-share exchanges:** Capital gains crystallizing on a share-for-share exchange in the course of a reorganization are in principle a taxable realization. Nonetheless, gain is deferred for (i) contributions of shares and (ii) exchanges falling within the E.U. Merger Directive. The original acquisition value – tax basis – is carried over to the shares received.

- **Tax emigration:** Residents who relocated abroad prior to May 1, 2026, are exempt from the capital gains tax. Those relocating on or after May 1, 2026, are subject to the new tax as well as the corresponding exit tax, discussed below.

- **Nonresidents:** As a general rule, capital gains tax does not apply to nonresidents.

- **Internal capital gains:** Additional guidance is provided regarding the increased 33% tax rate applied to share transfers made to a controlled personal holding company.

- **Earn-out clauses:** For transactions involving a deferred purchase price, the tax is levied at the time of the transaction, unless deferred price has not yet been determined.

- **Bonds issued below par:** The difference between the purchase price and a greater nominal value at maturity is classified as a taxable capital gain.

Payment Options

Several options exist as to the payment of the tax. If a Belgian financial institution is involved in the settlement, a taxpayer may opt in to a procedure under which the financial institution will withhold the capital gains tax on a stand-alone basis, as if the taxpayer had no other transactions for the same year. The taxpayer must report the capital gain in a personal income tax return and may obtain a refund, if applicable. If the taxpayer opts out of the procedure, no withholding will take place, and the financial institution simply notify the Belgian Revenue Service and the taxpayer of the amount involved. It is then up to the taxpayer to report the right amount in an annual tax return and to pay the tax due upon assessment. If no Belgian financial institution is involved, it is entirely up to the taxpayer to report the gain in his personal income tax return and pay the applicable tax upon assessment.

STRICTER RULES FOR DIVIDENDS

Dividends Received Deduction

The Program Law of July 18, 2025, introduced stricter rules for the Dividends Received Deduction ("D.R.D.") to apply. Under Belgian tax law, when a corporation is entitled to receive dividends from shares of stock in which it has invested, double taxation is mitigated through a deduction of qualifying dividends from the taxable income of the shareholder corporation. In order to qualify for the D.R.D., the shareholder corporation must have owned a stake of 10% or more in the distributing corporation for an uninterrupted period of at least one year and the distributing corporation must meet a relatively complex subject-to-tax test. However, if the participation is less than ten percent, the D.R.D. is still available if the participation has a tax book value of €2.5 million or greater in the books of the shareholder corporation.

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The Program Law added one additional test to the D.R.D. designed to remove portfolio shares from the scope of the D.R.D. With the exception of a corporation that is a "small corporation," a corporation that has (i) a stake of less than 10% in the shares of distributing corporation and (ii) a tax book value in that stake of at least €2.5 million must book the shares as fixed financial assets in its commercial books. By doing so, it eliminates dividends on those shares from qualifying for the D.R.D.

This additional test first applies for tax assessment year 2026. For Belgian corporations, whose financial year coincides with the calendar year, this means that dividends received in the course of 2025 are in scope.

Dividend Withholding Tax Exemption

When a Belgian corporation distributes a dividend to a nonresident corporate shareholder, an exemption from Belgian dividend withholding tax ("D.W.T.") is available subject to conditions similar to those discussed above regarding the D.R.D. Here, too, it is possible to enjoy an exemption from Belgian D.W.T. if the nonresident corporate shareholder holds a stake of less than 10% but has a book value of €2.5 million or greater. Belgium introduced this exemption in 2017 to comply with the *Tate & Lyle Investments Ltd*. judgment of the European Court of Justice ("E.C.J.").[1]

Going forward, the nonresident corporate shareholder will be required to corroborate that the shares in the Belgian corporation are reported as fixed financial assets, rather than portfolio shares, to eliminate application of the 30% D.W.T. under Belgian domestic law. Note that if a treaty applies to the foreign shareholder, the rate of D.W.T. under the treaty may be available.

Improvement of D.R.D. Regime

The Law of December 18, 2025, has improved the Belgian D.R.D. regime, to comply with the *John Cockerill* ruling of the E.C.J.[2] This is a very technical amendment which results when a Belgian corporate taxpayer (i) is part of a qualifying group, (ii) reports a tax loss for the taxable period on a stand-alone basis, and (iii) receives a group contribution from a related Belgian corporation for the same taxable period. In that fact pattern, the recipient corporation is allowed to offset any D.R.D. capacity of the same taxable period against any portion of the Group Contribution exceeding the stand-alone loss of the year ("Excess Group Contribution"). Prior to this amendment. such Excess Group Contribution was subject to a 25% Corporate Income Tax ("C.I.T.") at the level of the recipient. The D.R.D. that could not be used during the taxable period for lack of sufficient taxable income had to be carried forward.

This improvement of the D.R.D. regime entered into effect as of tax assessment year 2026 (financial years closed on or after December 31, 2025).

EXIT TAX FOR CORPORATIONS

For many years, the migration of a corporation from Belgium to any other jurisdiction was treated as a liquidation for purposes of the migrating corporation's corporate tax position in Belgium. The valuation method for all assets and liabilities was required to be switched from that of a going concern to liquidation mode. Any gains resulting

1 Case C-384/11 dated July 12, 2012.

2 Case C-135/24 dated March 13, 2025.

from the switch in valuation mode were added to the corporation's tax base when filing its final corporate tax return in Belgium. An exception applied to the extent the liquidation gain was effectively connected with any remaining operations conducted in Belgium through a Belgian permanent establishment. The deemed liquidation gain was not taxed as a distribution to the shareholders of the migrating corporation. In standard situations there is indeed no actual distribution to shareholders on the occasion of the migration.

Although the Belgian Revenue Service tried several times to tax a deemed dividend in the hands of the shareholders of the migrating corporation, the Belgian Tax Ruling Committee consistently rejected that view in advance tax rulings and tax courts have overruled the Belgian Revenue Service.[3]

The Program Law of July 18, 2025, introduced the taxation of what is usually referred to in Belgium as the "Liquidation Bonus," in the hands of the shareholders. Although no D.W.T. will be imposed on the migrating corporation, individuals who are shareholders of the migrating corporation are required to report their share of the Liquidation Bonus in their Belgian income tax return. The migrating corporation is required to establish pay slips and file these with the Belgian Revenue Service, with a copy to each of the individual shareholders, to enable the Belgian Revenue Service to audit and enforce the tax reporting obligation of the shareholders.

The viability of the taxation of the Liquidation Bonus is being challenged. The Council of State as well as tax experts are of the view that it constitutes an infringement of E.U. law as well as of the relevant tax treaties entered into by Belgium.

SPECIAL TAX REGIME FOR CARRIED INTEREST

The same Program Law of July 18, 2025, introduced a special tax regime for income from carried interest earned by (i) a Belgian resident individual who is a qualifying Fund Manager (ii) from a Belgian or foreign carried interest vehicle. The income derived from the carried interest is taxed as passive income and subject to a flat rate of 25%. Because it is passive income, it is not subject local surcharge, municipal surcharge, or social security contributions. The is collected through withholding by the carried interest vehicle or by the Belgian financial intermediary making the payment. The withholding tax is the final tax. Consequently, it is not reported on the recipient's personal income tax return.

Carried interest income is defined as the disproportionate return, *i.e.*, any income that exceeds the normal return that a passive investor would make on the same investment, regardless of the legal form, such as capital gain, profit share, redemption gain, or recurring income. Moreover, the income must be granted by an Alternative Investment Fund ("A.I.F.") established in Belgium, an E.U. member state or an equivalent non-E.U. jurisdiction. Included are private equity funds, venture capital funds, hedge funds, and real estate investment funds.

Gains resulting from the exercise of a Qualifying Stock Option ("Q.S.O.") are out of scope, provided the arrangement satisfies the conditions for beneficial tax treatment under the Law of March 26, 1999. Q.S.O.'s are taxed as earned income at progressive income tax rates of up to 50% at the time of grant and the taxable amount is

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3 See for example: Advanced Tax Rulings No. 2020.0054, No. 2020.0106 and No. 2020.2115; Court of Brabant Wallon, February 3, 2023.

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a fraction of the Fair Market Value ("F.M.V.") of the underlying shares at the time of grant, usually 18% or 9%. The notional income resulting from the grant of a Q.S.O. is exempt from social security contributions borne by the employer (25%) and the employee (13.07%). Ordinarily, no additional tax is due upon exercise of a Q.S.O. Capital gains on the disposal of the shares received upon exercise of a Q.S.O. are subject to the new capital gains tax. They benefit from the step-up in basis to F.M.V. on the day of exercise.

The new carried interest regime entered into effect on July 29, 2025.

TAX REGIME FOR NEWLY ARRIVED EXPATS

"The new carried interest regime entered into effect on July 29, 2025."

The major overhaul of the Expat Regime by the previous government triggered a substantial decline in the number of newly arrived expats. Belgian employers with an international workforce complained about the increased cost of employing expats in Belgium. The current government decided to alleviate several conditions and caps that were imposed by the previous government with a view to making the Expat Regime more attractive for Belgian employers. It did so through the Law of December 18, 2025, gazetted December 30, 2025.

The Expat Regime is a very specific piece of tax legislation that requires careful planning and advice. The most salient improvements are as follows:

- The threshold for the gross salary of employees to be eligible for the amended Expat Regime is now set at €70,000 per annum, down from €75,000 under the predecessor regime.
- The cap on the Tax-Free Allowance for qualifying Incoming Employees is now set at 35% of the expat's gross salary, up from 30%).
- The additional cap of €90,000 per annum for the Tax-Free Allowance has been removed.

The improved Expat Regime entered into effect from January 1, 2025.

REVAMPED INVESTMENT DEDUCTION

For many years, Belgium has had a relatively attractive Investment Deduction regime in place. The Investment Deduction is a tax incentive allowing Belgian businesses to deduct a notional portion of the purchase price or investment cost of qualifying fixed assets made during the year. The Investment Deduction comes on top of the regular depreciation of the same assets. All in, the Investment Deduction helps businesses reduce the cost of capital for investments in qualifying fixed assets in Belgium. Over the years, the Investment Deduction regime has been modified multiple times, and not always for the better.

With the Law of May 12, 2024, and effective January 1, 2025, the previous coalition government enacted a significant reform of the Investment Deduction Regime. The current government adjusted the regime through the Law of December 18, 2025, gazetted December 30, 2025.

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The Increased Thematic Investment Deduction

Since 2025, an Increased Thematic Investment Deduction is available for large enterprises investing in efficient energy consumption, renewable energy, CO2-free transportation, environmentally friendly investments and supporting digital systems. The base rate is 40%.

For 2025, this rate was 30% for large enterprises, meaning companies not qualifying as "small companies" under the Companies and Associations Code. As of 2026 (tax year 2027), this reduction is repealed, meaning that the 40% rate now applies to all enterprises regardless of size.

The Technology Investment Deduction

For investments in Research & Development ("R&D") and environmentally friendly patents, two options are available under the Technology Investment Deduction.

- The first is a one-off deduction of 13.5% applied to the acquisition or investment value of qualifying fixed assets. Any unused portion of this one-off deduction can be carried forward to subsequent taxable periods.
- The second, available only for R&D investments other than patents. It is a spread deduction of 20.5% of the annual depreciation charges on the qualifying assets over their amortization period. The spread deduction also allows the inclusion of capitalized R&D personnel expenses. Qualifying R&D investments are defined as fixed assets promoting the research and development of new products and advanced technologies with no or minimized negative environmental effects. Patents qualify only for the one-off.

Enterprises must elect between the one-off and spread options.

The Law of December 18, 2025, adjusted the reformed Investment Deduction Regime on several additional points:

- **Enhanced Base Deduction for Digital Investments limited to Small and Medium-size Enterprises ("S.M.E.'s"):** S.M.E.'s investing in digital fixed assets benefit from the base deduction rate increased by 10 percentage points (*i.e.*, 20% instead of 10%). This applies to assets acquired or constituted from January 1, 2025. Under the Law of May 12, 2024, it was unclear whether large companies could benefit from this enhanced base deduction. The Law of December 18, 2025, leaves no room for doubt and explicitly excludes large enterprises from the scope of these enhanced deductions.
- **Removal of the Prohibition on Combining the Thematic Investment Deduction with Regional Investment Aid:** The Law of May 12, 2024, provided that the thematic deduction could only be applied to assets for which no regional aid was requested, except in cases determined by Royal Decree. This paragraph was removed for assets acquired as of January 1, 2025, allowing enterprises to combine both incentives.
- **Changes to the Carry-Forward Rules for the Investment Deduction:** The Law of December 18, 2025, also made two important changes to the carry-forward rules for the investment deduction. First, the time limitation on carrying forward the unused base deduction was abolished. Second, the

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numerical cap on the deduction of Carried-Forward Investment Deductions was removed. Previously, the annual deduction of carried-forward amounts was capped, which forced taxpayers to spread the deduction over several years and could result in the taxable base being partially offset by other deductions subject to the so-called "basket limitation." Carried-forward investment deductions can now be used without any time or quantitative limits.

Not all the amendments of the Law of December 18, 2025, have the same effective date.

- The harmonization of the Thematic Deduction at 40% for all enterprises takes effect from tax year 2027 (assets acquired from January 1, 2026). For tax years 2025 and 2026, the 30% rate continues to apply to large enterprises, provided the assets were acquired of or after January 1, 2025. investments predating that date remain subject to the pre-2024 rules.
- The combination with regional aid, the carryforward improvements, and the other clarifications apply to assets acquired or constituted as of January 1, 2025, thereby aligning with the entry into force of the Law of May 12, 2024. This avoids parallel regimes being in force during the start-up phase of the new system.

Because effective date of the legislation is tied to the date of acquisition rather than to the beginning of a tax year, the changes can have retroactive effect for companies whose financial year does not coincide with the calendar year. This may create practical difficulties. To illustrate:

- A corporation with a financial year ending March 31, 2025, that invested in assets for which regional aid was requested could not claim the Thematic Deduction when filing its return, due by October 31, 2025, at the latest. That is because the combination of both incentives was still precluded at that time.
- Now that the combination is permissible with retrospective effect the question arises as to how such taxpayers can claim the investment deduction. Pending further guidance, filing an administrative protest seems to be the most prudent action to take.
- Similarly, the link to the date of acquisition creates two categories of carried-forward investment deductions: (i) pre-2025 deductions remain subject to the former quantitative caps but (ii) post-2025 deductions benefit from unlimited carry-forward. In the absence of statutory rules, taxpayers should be free to optimize the sequence, consistent with the Minister of Finance's earlier position of October 31, 2024.

Ironically, these simplifications generate additional complexity during the transitional phase.

Improved Innovation Income Deduction ("I.I.D.")

The I.I.D., was reformed several years ago to make it compliant with the O.E.C.D.'s B.E.P.S. Action 5 on Patent Box regimes. Under certain conditions, Belgian taxpayers can deduct up to 85% of the income generated from the exploitation of qualifying innovations, reducing the effective C.I.T. rate on such income to 3.75%.

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From Tax Assessment Year 2025 onwards, taxpayers may convert the I.I.D. into a non-refundable tax credit to comply with The O.E.C.D. Pillar Two worldwide minimum tax.

MANDATORY DIGITAL INVOICING

Even though the relevant legislation is not really new, it is good to remember that digital invoicing for domestic B2B transactions between Belgian-established, Belgian V.A.T.-registered enterprises is mandatory in Belgium as of January 1, 2026. Cross-border B2B invoicing, including intra-E.U. transactions, remains outside the scope of the current mandate, but is expected to be in scope as part of a next step.

An invoice on paper or a scanned invoice transmitted by email are no longer valid. They may be used for information purposes, but do not constitute a valid invoice for V.A.T. purposes. After a tolerance period of three months (January-March 2026), the Belgian V.A.T. authorities are now allowed to impose penalties on noncompliant V.A.T. taxpayers. Digital invoices must be transmitted to the recipient through the Peppol® network. The Peppol® ID of the recipient of the goods or services can be found through the Peppol® Directory, which is linked to most of the commercial software applications that are available for digital invoicing, but can also be consulted separately online at https://test-directory.peppol.eu/public.

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