



R&D INCENTIVES IN BELGIUM

Since October 2003, Belgian law has recognised the importance of providing tax incentives to stimulate innovative activities in Belgium by allowing (amongst other things):

- Partial exemptions of Belgian payroll withholding tax on **salaries paid to researchers**

Under the terms of section 275/3 Belgian Income Tax Code ("BITC"), this exemption amounts to 25% of the payroll withholding tax, which do not need to be passed on to the Belgian Treasury provided that the company retains 100% of this withholding tax from the employees' salaries. It is possible to raise the exemption to 50% if the employer meets further requirements (universities, scientific institutions or companies with partnership agreement with universities).

This exemption is only applicable to payroll withholding tax on salaries paid within the scope of research projects during the lifetime of those projects and provided that they are linked to effective employment on the research project.

In order to benefit from this withholding tax exemption, the employer is required to provide the Belgian tax authorities with certain documents supporting the effective "scientific" status of the employees.

- Additional partial payroll withholding tax exemptions for eligible **"Young Innovative Companies"** (as from 1 July 2006)

Still under the terms of section 275/3 BITC, the 50% exemption mentioned above is also granted to companies that qualify as "Young Innovative Companies" and that pay salaries to scientific staff.

A *"Young Innovative Company"*:

- is a small company, i.e. a company that does not exceed one of the following limits (i. 50 employees, ii. 7.300.000 EUR annual turnover or iii. 3.650.000 EUR balance sheet's total) except if the total workforce exceeds 100 persons;
 - is less than 10 years old on 1 January of the year during which the withholding tax exemption is granted;
 - was not constituted in the scope of a merger, restructuring, development of pre-existing activity or resumption of such activities;
 - spends a minimum of 15% of the total amount of the preceding tax period's expenses as R&D investments.
- Increased corporate tax relief in the case of qualifying R&D-related investments, the so-called **"Investment Deduction"** (sections 69 & 201 of the BITC)

An investment deduction (*déduction pour investissements/investeringsaftrek*) is a tax relief available for computation of the tax results of industrial, commercial and agricultural enterprises and, under certain conditions, of self-employed individuals.

In order to be eligible for the investment deduction, the investments have to be made in tangible or intangible fixed assets that are new at the time of the acquisition or production and that will be used for business purposes in Belgium. Furthermore, the acquired assets should be depreciable in the year concerned over a period of at least 3 years. Investments in R&D are particularly eligible.

The following rates should be applied to investments qualifying for the investment deduction (tax year 2007):

- For investments in assets used for research and development of new technologies and products (so-called "green investments") : 14.5% ("increased" investment deduction);
- Taxpayers that invest in assets used for research and development into new technologies and products, irrespective of the number of personnel employed on the first day of the financial year in which the investment takes place, can elect to use the "increased spread investment deduction" method. The investment deduction rate amounts to 21.5% of the annual depreciation charge allowed for tax purposes (for tax year 2007).

If in a certain financial period there is insufficient or no tax base, the investment deduction that has not been used for that financial period may be transferred to subsequent financial periods without time limitations. However, the law provides for a maximum deductible amount for each tax year.

- **R&D tax credit**

As an attractive alternative to the investment deduction, a R&D tax credit is granted on qualifying R&D-related investments (in tangible or intangible fixed assets that are new at the time of the acquisition or production and that will be used for business purposes in Belgium) (sections 289*quater* to *novies*, 292*bis* and 530 BITC).

The taxpayer has to opt for one of the 2 methods (R&D tax credit or investment deduction). They cannot be used simultaneously. The R&D tax credit is creditable against Belgian corporate income tax at the standard rate (33.99%). It can be carried forward for a 4-year period where, for instance, the company is in a tax loss position, and is refundable after 5 years (a major advantage over the investment deduction).

- Tax-exempted **investment reserve**

Belgian law (section 194*quater* BITC) also provides for a tax-exempted investment reserve. More specifically, as from tax year 2004, small and medium-sized companies have been allowed to establish a tax-exempt reserve of up to 50% of the taxable accumulated profits or losses before calculation of the reserve for investments. The increase in taxable retained earnings, which is taken into account for calculation of the contribution to the investment reserve, will be limited to EUR 37,500 per taxable period, resulting in a maximum contribution to the investment reserve of EUR 18,750 per taxable period.

- Tax-exemption for **additional scientific staff**

A tax exemption is provided for additional staff appointed to carry out scientific research (sections 67 and 524 BITC). The profits of the company are exempted in an amount of EUR 12,780 or EUR 25,570 (tax year 2007) per employee according to his degree of qualification.

- **Single innovation premium**

As of 2006, businesses may reward their most inventive staff with a bonus exempted from social security contributions (employer's and employee's) and personal income tax over a period of one year. In order to benefit from this incentive, the company merely has to inform the Federal Public Service for Economic Affairs of the criteria and procedure used in selecting eligible projects. Internal communication is also required as well as reporting to the Belgian social security authorities. The bonus may be equal to up to one month's gross salary. However, the number of beneficiaries is limited to 10% of the workforce.

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