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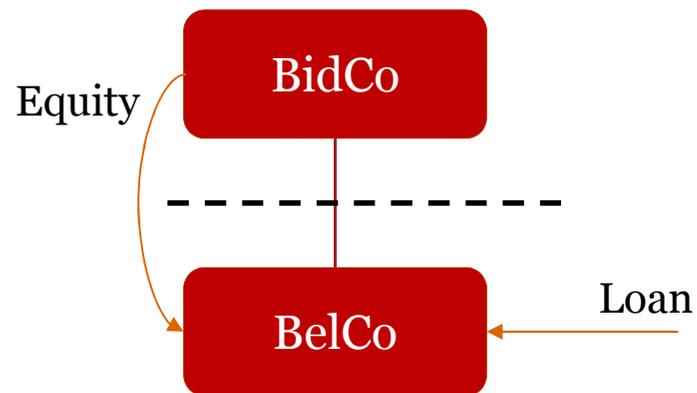
Doing business in Belgium

Belgian tax highlights
6 December 2016

Key features of the Belgian tax regime

| | | | |
|-----------------------------------|----------------------------------|---|---|
| 33.99% CIT rate | Investment via company or branch | Low set-up costs | Flexible financing regime |
| Various R&D incentives | Broad WHT exemptions | Tax shift reducing the cost of labor | No CFC regime |
| TP Documentation (BEPS Action 13) | Notional interest deduction | Wide treaty network & access to EU Directives | VAT unity / various VAT & customs deferrals |
| Expatriate regime | Belgium – Turkey Tax Treaty | Knowledgeable ruling/APA practice | Reform of CIT regime announced |

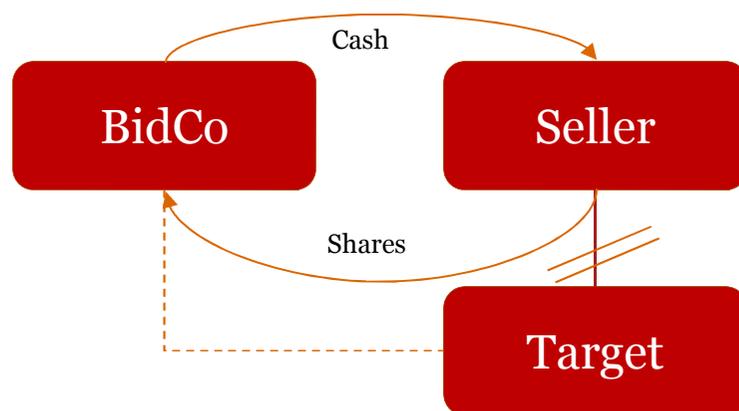
Doing deals in Belgium



- Structured and professional sales process
- Shareholder-friendly tax regime:
 - No stamp duties upon acquisition
 - WHT exemption on dividend distributions from BelCo to EU and DTT countries (conditions)
 - No Belgian capital gains tax when selling BelCo
- BelCo:
 - Flexible additional financing: limitation of 5/1 debt-equity only for group financing
 - Broad WHT exemptions for interest and royalty payments by BelCo
 - Notional interest deduction
 - Double Tax Treaty btwn Belgium & Turkey
 - R&D Incentives

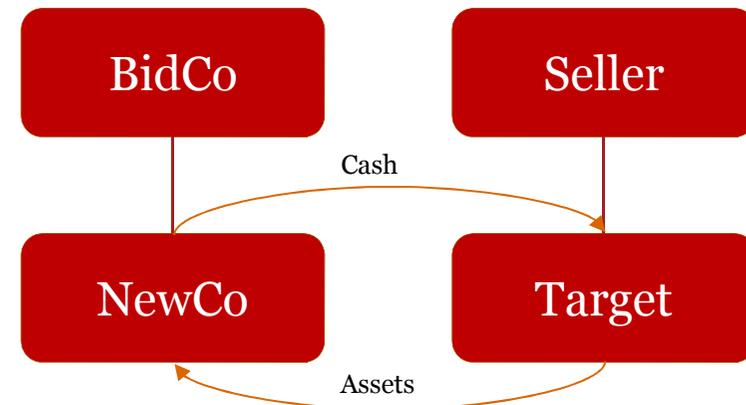
Doing deals in Belgium – share deal vs asset deal

Share deal



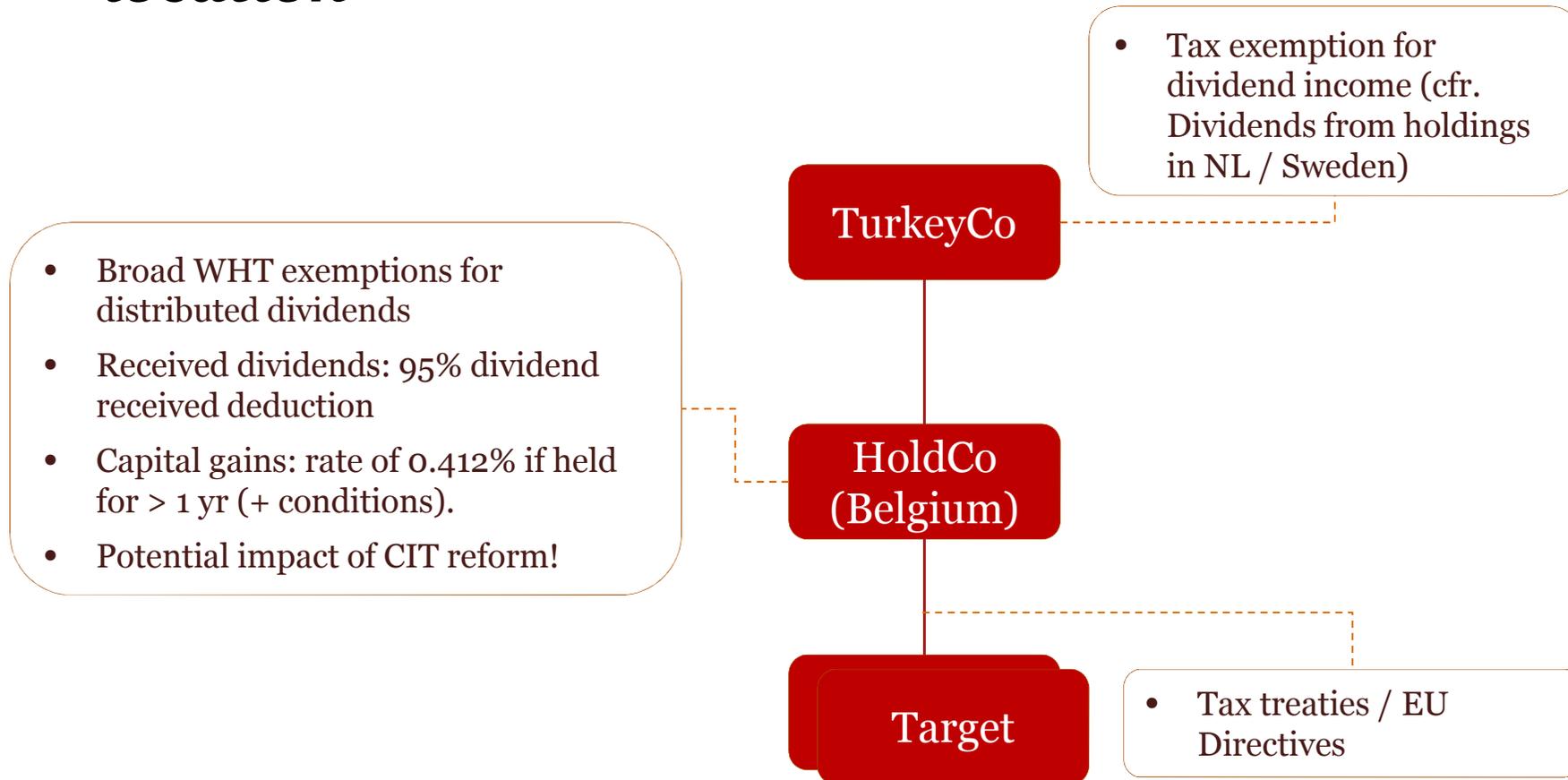
- Take-over of entire company incl. historic risks
 - Risk-focused due diligence and SPA wording are crucial!
- No step-up
- Usually tax-free capital gain for Seller
- Financing at BidCo level

Asset deal

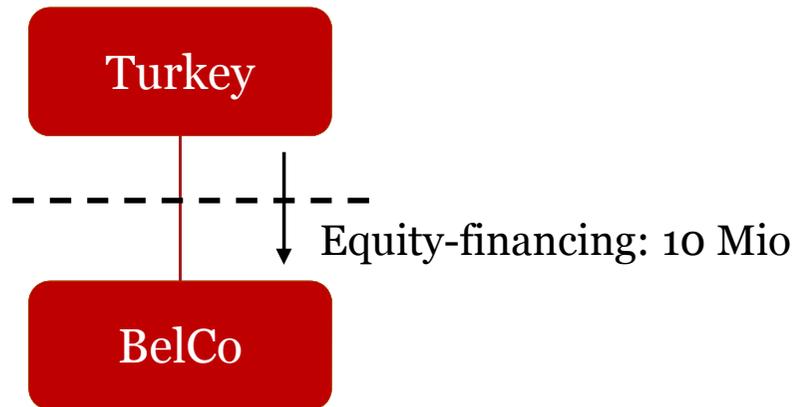


- Take-over of specific assets
- No transfer of historic risks if properly structured
- Stepped-up amortization basis for NewCo
- Usually taxable transaction for Target (use of tax attributes, such as NOLs)
- Financing at NewCo level

Doing deals in Belgium – Belgium as holding location



Notional interest deduction: how does it work?

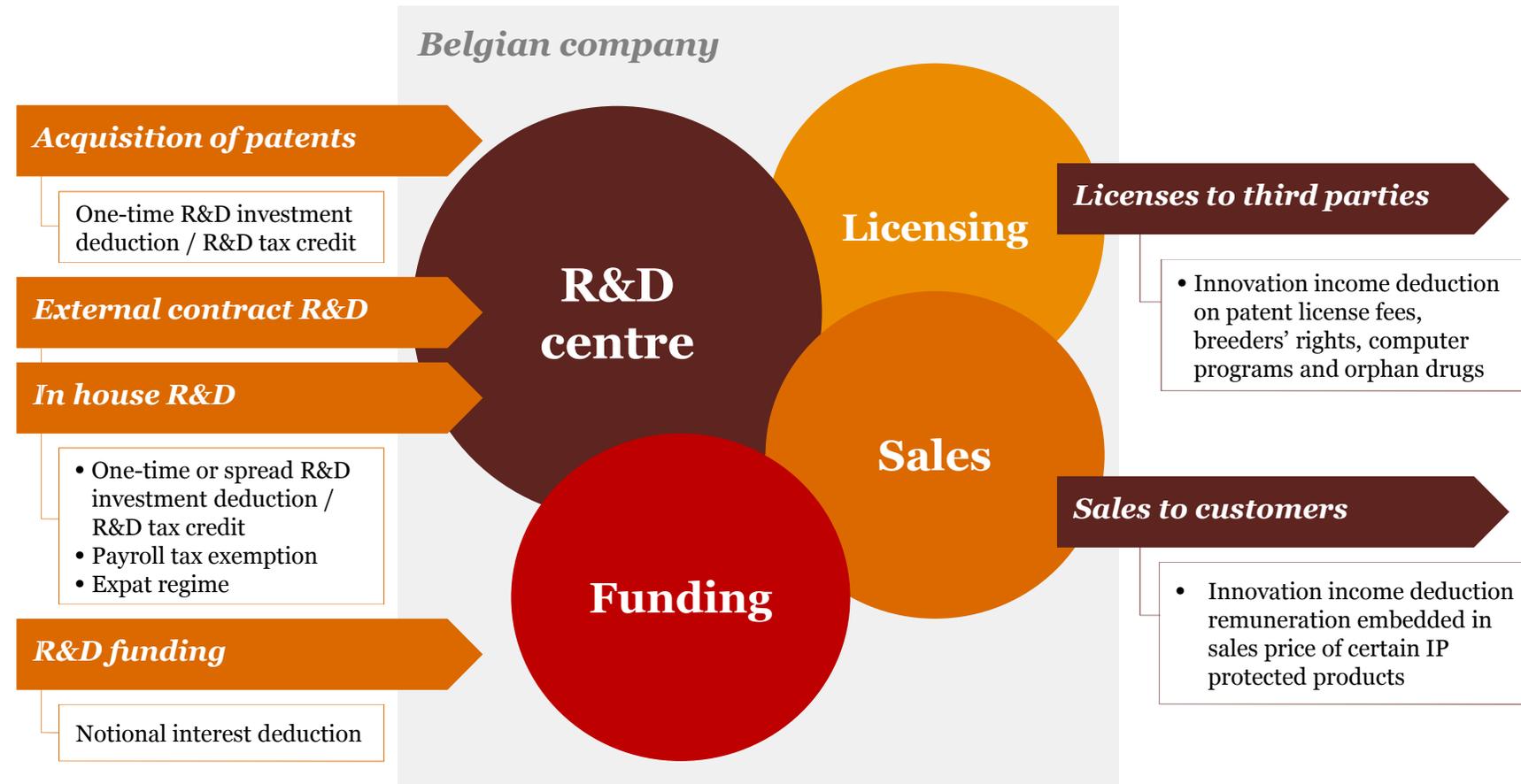


| Assets | | Liabilities | |
|---------|--------|-------------|--------|
| Various | 10 Mio | Equity | 10 Mio |

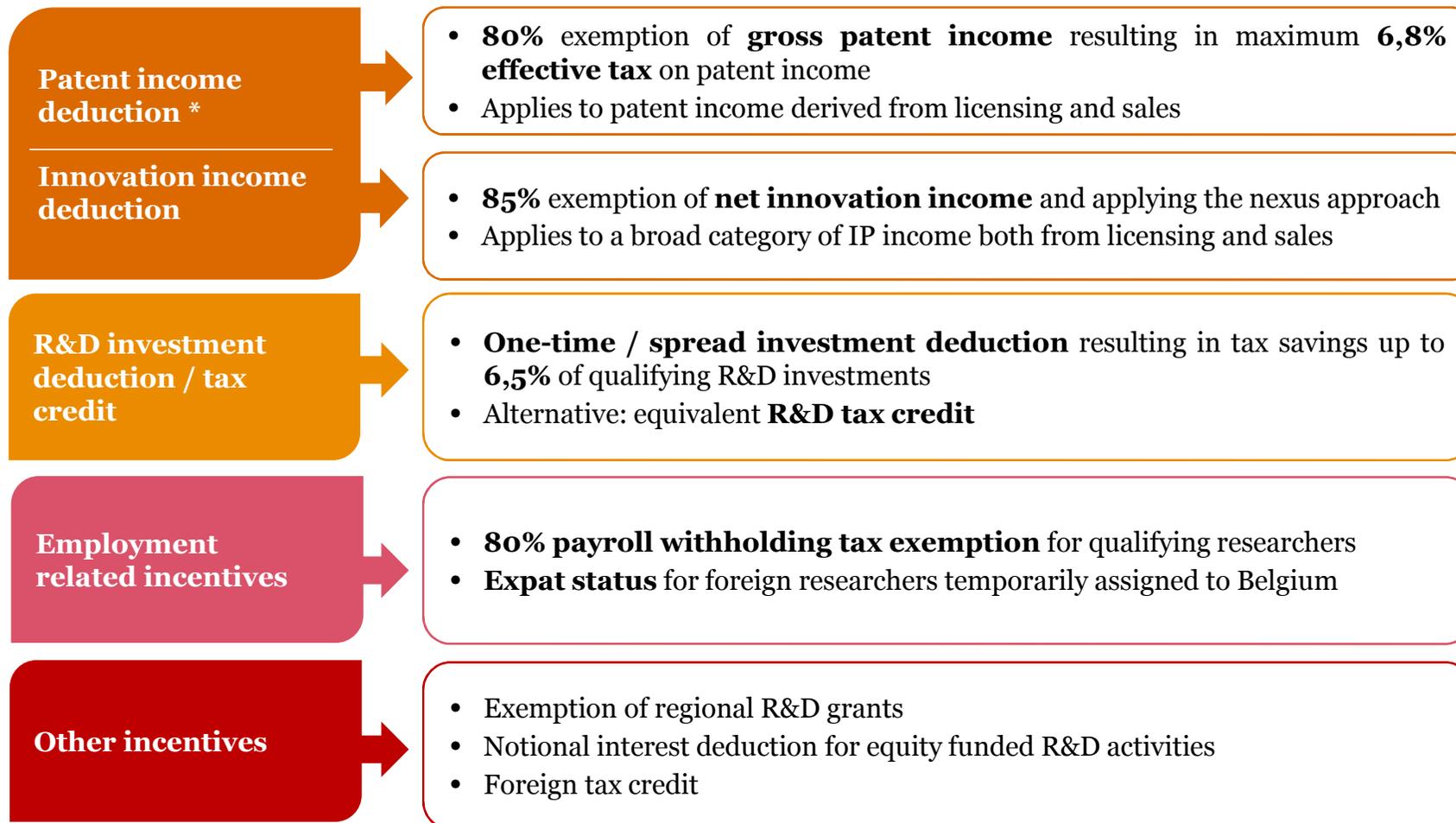
- Deemed interest deduction on invested equity
- Available to all companies and branches
- NID rate fixed annually (max. 3%)
- Automatic application - No need for a ruling

| | |
|---|--------|
| RoE (4%) | 400k |
| Minus: notional interest deduction (@ 1.13% for FY16) | (113k) |
| CIT basis | 287k |
| CIT (@33.99%) | 97k |
| ETR | 24.25% |

R&D in Belgium



R&D in Belgium – Tax measures



* Abolished as from 1/7/2016 but transition period applies. IID to apply as from 1/7/2016

R&D in Belgium – Innovation income deduction

- *Abolition of the current PID system as of 1 July 2016*
- *Transitional regime allows taxpayers to still apply the PID system on patent income obtained until 30 June 2021 for patents requested or acquired before 1 July 2016*
- Replacement by the Innovation Income Deduction as from 1 July 2016
 - **85% deduction on net innovation income after application of modified nexus limitation**
 - Broader scope of qualifying IP:
 - including IP of copyrighted software as from 1 July 2016
 - Income may include capital gains on qualifying innovation intangibles (reinvestment condition)
 - Broadening of timing effect

R&D in Belgium – Innovation income deduction

- BEPS Action Plan 5: Modified nexus approach:

$$\frac{\text{Qualifying expenditure incurred to develop IP asset}}{\text{Overall expenditures incurred to develop IP asset}} \times \text{Overall income from IP asset} = \text{Income receiving tax benefits}$$

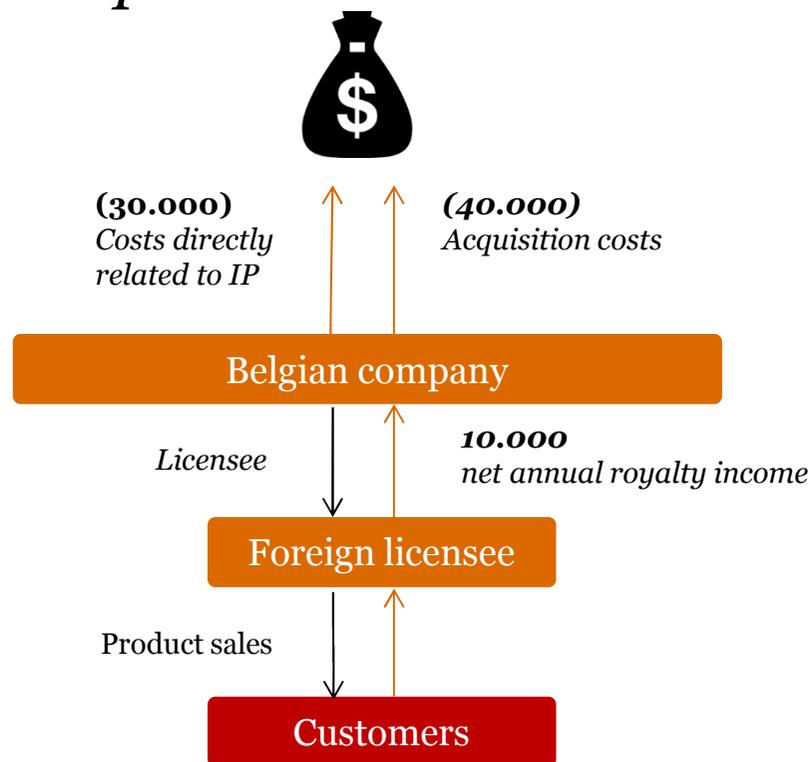
85% of the resulting net innovation income can be deducted from the tax base.



- **Qualifying expenditure (over the lifetime of the IP):**
 - Expenditure directly connected to the IP-asset incurred by the company itself or the compensation for the expenses of non-related companies of outsourced R&D activities
 - Uplift of max. 30%
- **Overall expenditure (over the lifetime of the IP):**
 - Qualifying expenditure + expenditure for related party outsourcing and acquisition costs for the qualifying intangibles

R&D in Belgium – Innovation income deduction

Example



Innovation income: **(10.000)**
 Qualifying expenditure: **(30.000)**
 Overall expenditure: **(70.000)**

Calculation of basis for IID in the hands of the Belgian company

1. Qualifying expenditure + uplift

| | |
|------------------------|--------------|
| Qualifying expenditure | 30.000 |
| + 30% uplift | <u>9.000</u> |
| | 39.000 |

2. Overall expenditure

| | |
|---|---------------|
| Qualifying expenditure | 30.000 |
| + expenditure for related party outsourcing | 0 |
| + acquisition costs | <u>40.000</u> |
| | 70.000 |

3. Overall income from the IP asset

| | |
|---------------------------|--------|
| Net annual royalty income | 10.000 |
|---------------------------|--------|

4. Innovation income deduction

$$\frac{39.000}{70.000} \times 10.000 \times 85\% = 4.736 \text{ (ETR of 18\%)}$$

R&D in Belgium – Investment deduction

One-off investment deduction

- The one-time investment deduction is equal to **13,5% of the acquisition value** of qualifying R&D investments .

Spread investment deduction

- The spread investment deduction is equal to **20,5% of the depreciation** on qualifying R&D investments.

Qualifying R&D investments

- Tangible and intangible fixed assets used in the company's R&D centre, such as equipment, buildings and capitalized R&D expenses.
- Acquired patents (only one-off) investment deduction.

Other

- Requirement of an R&D Centre
- Special rates and categories apply for SMEs
- Can be converted into a tax credit
- Can be combined with Innovation Income Deduction

R&D in Belgium – Employment cost reduction

Partial exemption of wage WHT

- For researchers who are holding a qualifying degree and who are engaged in R&D activities, **80% of the payroll tax** can be retained by the company and should not be remitted to the Belgian treasury. This results in a **significant cash tax saving**.
- Can be partial
- Formalities to be fulfilled

Expat status for researchers

- Foreign researchers temporarily assigned to Belgium can benefit from the special expat regime.
- Conditions apply.
- Taxation is limited to Belgian-source income. Furthermore, tax free expat allowances and a travel exclusion apply.

R&D in Belgium – Belgium vs NL vs Germany

| |  Belgium |  The Netherlands |  Germany |
|-------------------------------------|---|---|---|
| New Patent Box regimes | <ul style="list-style-type: none"> • “Innovation Income Deduction” • Qualifying IP: Patents, supplementary patent certificates; breeders’ rights, orphan rights and copyrighted software • Qualifying income: Net income multiplied by 85% (resulting in 5% ETR) • Modified nexus approach • Grandfathering | <ul style="list-style-type: none"> • “Innovation box” • Qualifying IP: Patents, utility models, breeders’ rights, orphan drug and supplementary protection certificate, software or other assets that are not common and/or novelty items. • Qualifying income: Net income subject to 5% ETR • Modified nexus approach • Grandfathering | No intention to introduce a patent box regime |
| Investment deduction regimes | <ul style="list-style-type: none"> • One-time: 13,5% of the acquisition value. • Spread: 20,5% of the depreciation on qualifying R&D investments. • Alternative: R&D tax credit with an equivalent tax advantage | <ul style="list-style-type: none"> • <u>As from 2016:</u> WBSO (= previous RDA and WBSO): R&D withholding tax credit (‘WBSO’): 32% (expenses up to EUR 350k) and 16% for remaining expenses. | N/A |
| Wage tax incentives | 80% Payroll tax exemption for researchers | <ul style="list-style-type: none"> • <u>As from 2016:</u> WBSO (= previous RDA and WBSO) | N/A |

Other items to keep in mind

- Tax Shift:
 - reduction of employer social security tax contributions to 25%
 - Specific exemptions of social security tax contributions
- Increased spread investment deduction for high-tech products
- CIT reform announced

Potential CIT reform in Belgium *

2017

2018

2019

Positive / simplification measures

CIT rate 31%

CIT rate 27%

CIT rate 23% - 25%

New IID regime**

- 100% dividend received deduction
- Gains on shares: 0%

Compensatory measures

- NID : 0% rate
- No Excess profit ruling
- Limitation on carry forward of tax attributes

- Borrowing costs limit
- Limit. of tax-exempt provisions for risks and charges
- Change to the tax depreciation regime
- DRD : more stringent conditions
- Deduction of costs related to participation management limited
- Abolition of high tech ID

- Anti tax avoidance directive measures
- Limitation of the deduction of business expenses
- Min. director fee of €40k

* Under political negotiation – subject to change

**Already as from 1/7/2016

Thank you!



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Appendix

The Belgian ruling / APA practice

Personal tax & social security tax: Expat regime and 2016 update

VAT / Customs in a nutshell

Useful links

The Belgian ruling / APA practice

Principle

- Upfront agreement with the tax authorities
- Confirmation of application of the tax laws to a particular situation
- Legally binding for the Belgian tax authorities
- Possibility of a pre-filing meeting

Examples

- Transfer pricing
- Taxable presence
- Financing
- Restructuring
- R&D incentives
- Withholding tax
- VAT unity
- Customs
- ...

Personal tax: The expat regime

Main features:

- Non-resident taxation
- Tax free allowances
 - Limited allowances (EUR 11.250 standard limit)
 - Unlimited allowances (e.g. schooling)
- Foreign business travel exclusion

Scope

- Non-Belgian nationals
- Who exercises activities which are those of an executive or which require a special knowledge and responsibility
- And who works temporarily in Belgium

Example

| | <u>Expat</u> | <u>Belgian</u> |
|-------------------------|---------------|----------------|
| Gross Salary | 40.000 | 40.000 |
| Tax free Allowances | -10.355 | N/A |
| Social security | <u>-3.706</u> | <u>-5.202</u> |
| Subtotal | 25.939 | 34.798 |
| Travel exclusion(10%) | <u>-2.594</u> | N/A |
| Taxable income | 23.345 | 34.798 |
| Belgian income taxes | <u>-4.422</u> | -9.780 |
| Special social security | - 77 | -346 |
| Net remuneration | 31.795 | 24.672 |

Personal tax & social security: 2016 update

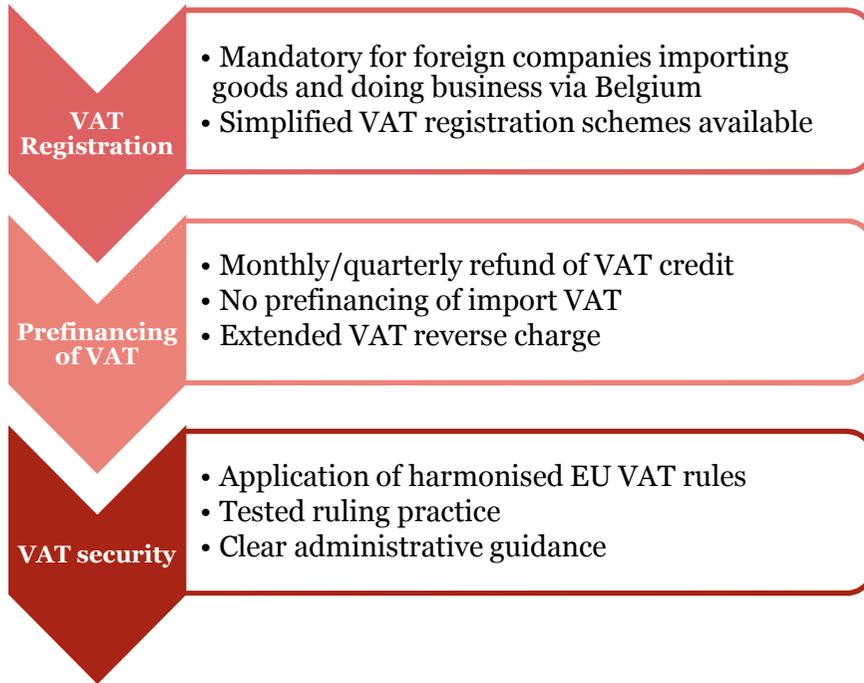
Personal tax

- A. Expat regime (reduced wage cost) for certain foreign executives or researchers
- B. R&D: partial exemption from payment of wage tax for researchers
- C. Increase of the tax free bracket, of the employment bonus and of the professional costs lump sum deduction : decrease of the tax burden for individuals
- D. New progressive tax brackets : tax bracket of 30% has been narrowed in favour of the 25% bracket. marginal tax rate reached as of EUR 38.080
- E. Dividends are (under conditions) taxed at 15% or 20% (instead of 27%)
- F. Author rights are taxed at 15% (instead of 27%)
- G. Income generated by saving accounts are taxed at 15% (instead of 27%)
- H. Upcoming changes : as of 01/01/2017 => general increase of the withholding taxes on movable income from 27% to 30%

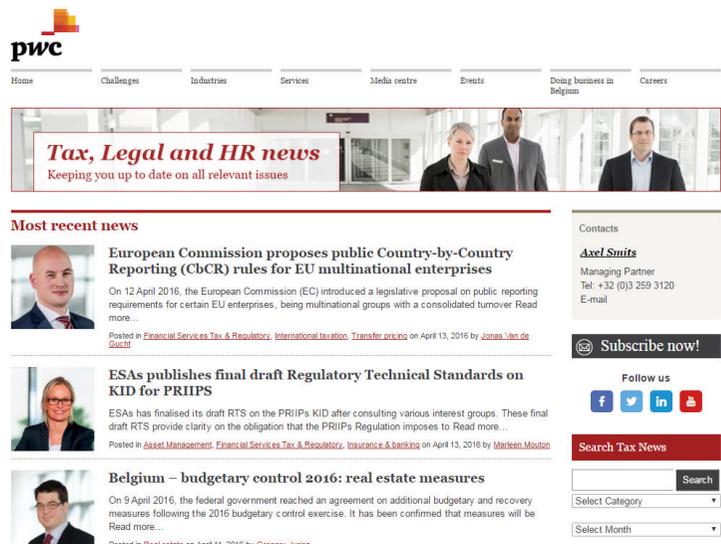
Social security updates

- A. Employer social security contributions will decrease from 35% to 25% (progressive decrease as of 2016). Currently the employer social security contributions have decreased to 30%.
- B. Exoneration of social security contributions for the first employee of a new employer (under some conditions) and advantageous rates for the 2nd - 6th employees (final regime foreseen in 2020)
- C. Decrease of the social security contributions for self-employed persons (progressive decrease as of 2016)

VAT/Customs in a nutshell



Useful links



The screenshot shows the PwC website's news section. At the top left is the PwC logo. Below it is a navigation menu with links for Home, Challenges, Industries, Services, Media centre, Events, Doing business in Belgium, and Careers. A banner for 'Tax, Legal and HR news' is displayed, with the tagline 'Keeping you up to date on all relevant issues'. The main content area is titled 'Most recent news' and features three news items, each with a small portrait of the author and a 'Read more...' link. The first item is 'European Commission proposes public Country-by-Country Reporting (CbCR) rules for EU multinational enterprises' by Jonna Van de Gucht. The second is 'ESAs publishes final draft Regulatory Technical Standards on KID for PRIIPs' by Madsen Moudon. The third is 'Belgium – budgetary control 2016: real estate measures' by Gregory Jurion. On the right side of the news section, there is a 'Contacts' box for Axel Smits, a 'Subscribe now!' button, and social media icons for Facebook, Twitter, LinkedIn, and YouTube. Below these is a 'Search Tax News' box with a search input field, a 'Search' button, and dropdown menus for 'Select Category' and 'Select Month'.

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