Expatriate delights

For most of us, end of spring is tax return season. The brown envelopes drop in the letterboxes during the spring and they need to be completed and filed by the end of June. Or July, or August, … All too often the Ministry is late in printing the returns, and inevitably the deadline is pushed further and further. This year, the official deadline was 31 August. If your tax adviser filed your tax return via tax-on-web, it could even be as late as 30 October. And to push the irony, the Ministry confirmed on 9 November that electronic tax returns filed by the following day would still be on time.

There is one category of taxpayers for who the deadline keeps being delayed a bit more every year. Non residents are supposed to file their tax returns by the end of June as well, but not many tax advisers remember the days when that was the case. For over a decade now, the deadline has been pushed back to October, November, December. And this year non residents will not even file a tax return. The 2005 tax returns (that is for 2004 income) will probably have to be filed in February.

Non residents are people who reside outside Belgium but have received income from someone in Belgium. That usually means earnings, because as a rule, for dividends, interest and royalties, the tax withheld by the bank is the final tax. The beneficiary does not have to declare this income and pay any further tax.

Having your residence abroad generally means that you do not live in Belgium and for many non-residents that is the case. I think of the company director living in the U.K. who receives a fee from a Belgian company, a French employee seconded for a couple of months to Belgium, or a Dutch physician who has a practice across the Belgian border.

In Belgium, half of the 40.000 non-residents are non-resident under the "tax regime for foreign executives temporarily seconded to Belgium". This is a concession for foreign executives who live and work temporarily in Belgium, but are treated by the taxman as if they are not living here.

It may sound contradictory but the Tax Authorities will give them a letter confirming that they are not to be taxed as Belgian residents. They can claim the 'expatriate tax status' if they can show that they have kept the centre of his their economic interests outside Belgium. That means that their husband or wife and/or the children still live abroad, if they have kept a family home abroad, if their children go to school there, if they have savings accounts and/or life insurance policies abroad, or if they continue to pay social security abroad,

The benefit in this tax status is double. First, they are entitled to some tax free allowances or deductions against taxable income based to cover the higher cost of living in Belgium. In the year they arrive in Belgium and in the year they leave, they can claim allowances to cover moving costs, the loss made on the sale of the house abroad, the cost of furnishing the new home in Belgium, etc.

More important are the annual allowances. A *cost of living allowance* (because they will make the mistake of shopping in the more expensive shops), a *housing allowance* (because rent is supposedly more expensive here, particularly if you do not speak the language), a *tax equalization allowance* (because Belgian tax is higher) and a travel allowance to go home once a year.

These allowances are calculated on the basis of criteria agreed with the tax man. They are capped at € 11,250 per year (€ 29,750 for employees in a coordination centre or in a research lab). On top of that the employer can also reimburse the school fees for the expatriate's children without any limitation. None of these allowances are taxable.

The second part of the tax benefit results from their non-resident status in Belgium. Because they are deemed to live outside, Belgium only taxes the earnings they receive for their work in Belgium. If they spend half of their working week outside Belgium, they only pay tax in Belgium on half of their earnings (after the deductions and allowances). Many expatriates have discovered that it makes sense to work outside Belgium as much as possible. And as a non-resident they do not need to declare their investment income in Belgium.

This 'expatriate tax status' has existed for 22 years now, and over that time tax advisers have developed spreadsheets and fine-tuned computer programmes to assist in calculating the days outside Belgium and the allowances. That may be a chore, calculating the difference in tax levels can be a real nightmare. What complicates things further is that this tax regime has been set up as a means to keep Belgium attractive for multinational companies. This means that it must keep the employment cost low for the employer. And to do that, many employers have set up intricate schemes to ensure just that.

Rare are the taxpayers who can file let alone understand their tax return. Their employers usually outsource that work to their tax advisers. They have the know-how and usually they have advised the employer on the schemes to minimise the employment cost. It has become an entire industry, where tax returns are completed at a group rate per return. Unfortunately, this means that little attention can be given to the particular situation of the taxpayer if it does not follow the standard pattern. It's no wonder that many expatriates start looking elsewhere for advice.

And when you are on the ski slopes in January, spare a moment for the legions of young tax advisers burning the midnight oil to finish all these tax returns. Like most of us, non-residents like to wait until the last moment to fill out their tax returns.

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