

**Personal & Confidential**

Brussels, March 2022

Dear,

**Subject**                    -        **Belgian income tax return;**  
                                     -        **Income year 2021 - Tax year 2022.**

As every year, you will soon receive your personal income tax return from the Belgian tax authorities in which you need to file your 2021 income.

We would be pleased to assist you with the filing of this tax return. If you would like to receive our assistance, we kindly ask you to send us all necessary information **prior to 10 April 2022** in order to allow us to prepare your tax return in due time.

You can send us the original tax form afterwards if you did not receive it yet at that time. In case you have not received an income tax form on June 1<sup>st</sup>, 2022 at the latest (and you did not file your 2020 tax return via “Tax on Web” – see further), please let us know, in order to enable us to request one with the competent tax authorities.

It will be possible to introduce the data of your tax return directly on the website of the Ministry of Finance. However, we intend to send the tax form by registered mail to the competent tax administration. If you wish to send your tax form through electronic mail, you can still do this based on the tax return we prepare on paper. Please be aware that you will no longer receive a tax return “in paper form” in case you filed your tax return via [www.taxonweb.be](http://www.taxonweb.be) last year.

Please find in attachment a detailed list of the most important types of income and tax deductions, which appear in the 2021 income tax return. Although not all items are relevant for you, with this listing we hope to make it easier for you to collect the necessary information. It is also important to indicate any changes in your civil status (as well as your family on January 1<sup>st</sup>, 2022).

For income year 2021, there have been some modifications to the tax code. An overview of the most important changes can be found in Annex 2.

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Recently, you may have received your tax assessment relating to income year 2020 (tax year 2021). In case the amounts mentioned in your tax bill do not correspond with the ones declared in your 2020 tax return, you will have **6 months** (as from the sending of the tax assessment) to

introduce a tax claim. If requested, we can assist you with the verification of your tax assessment or with a tax claim in case this would be necessary.

Should you have any questions, please do not hesitate to contact us.

Sincerely Yours,

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Enclosure :    1) Listing of the information needed to prepare your 2021 income tax return.  
                  2) Overview of main changes for income year 2021

**DATA NEEDED TO COMPLETE YOUR INDIVIDUAL TAX RETURN  
2021 INCOME**

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**1. REAL ESTATE:**

A. Real estate located in Belgium

Please provide us with (for each spouse individually)

- the non-indexed “*cadastral income*” (i.e. deemed rental value);
- the gross rental income if the lessee is either a company, or an individual who uses the property in whole or in part for business purposes.
- the amount received for the establishment or the transfer of building rights, long lease or a similar immovable right on real estate situated in Belgium;
- the exact date of purchase and sale and the exact purchase and selling price if the immovable property (both land and buildings) was bought or sold in 2021;
- the exact date of its (first) occupation and the modification of the “*cadastral income*” if you rebuilt (or renovated) this immovable property in 2021;
- a list of the real estate used for professional purposes;
- if you possess more than one property in Belgium, the property where you have your primary residence.

B. Real estate located abroad

Please provide us with (for each spouse individually)

- Exact location of the property (including land);
- Current sales value of the property (if available);
- The cadastral income (KI) determined by the Administration of Measurements and Valuations.

**2. INVESTMENT INCOME / MOVABLE PROPERTY:**

Please provide us with (for each spouse individually)

- a detailed list of your income from movable property (dividends and interest) as well as rental income from movable property in or outside Belgium, even if a withholding tax was withheld;
- the issue date of securities which you bought (i.e. which you did not subscribe upon emission);
- date of purchase or sale, issue price and date, expiration date, nominal amount and nominal coupon of fixed-interest bearing securities (debentures or "zero-bonds") which generated interest in 2021 or were sold in 2021;

- precise duration of the disposition of debts, effects of deposit used for your professional activities;
- costs related to the above income from movable property, including the tax paid abroad;
- statements of the life annuities or temporary annuities received (indicating starting and expiration date) as well as the surrendered value;
- detailed list of the income received from copyrights;

### **3. PROFESSIONAL INCOME:**

Please provide us with (for each spouse individually)

- source of income (from paid employment, from self-employed activities, as a member of the board of directors of a company, pension income, unemployment income, etc.);
- a detailed list of all income and benefits (company car (with mention of the list price and CO2 emission), disposal of a residence, provided electricity and heating, PC, awarded stock options before or after 1 January 1999, reimbursement of commuting cost, etc.) received in Belgium or abroad;
- a detailed list of all state and private pension income and any such allowances, as well as annuities, capital and the surrendered value of life insurance policies or savings insurance (with copies of the pension slips and insurance policies);
- a copy of the Belgian and/or foreign salary statement and the individual annual report (281.10, 281.11, 281.14, 281.20 or 281.50, etc.);
- a detailed list of all expenditures made or incurred during 2021 with a view to acquiring or preserving taxable income (in case you do not choose for the lump-sum deduction);
- car expenses, including the distance between your home and place of work, number of working days, purchase price, fuel, financing, mobile phone;
- social security contributions paid by you as a self-employed person (copy of the statement from the payroll office - included certificate of the additional premiums paid by you in Belgium for health care insurance, occupational disability or additional pension - with attestation from the insurer or “mutualité” );
- the amount of the special contribution for the social security paid by your employer if you don't have your Belgian salary statement;
- the certificate relating to the advance tax payments made as a self-employed person;
- the “*cadastral income*” and the gross rental value of immovable property fully or partially let to a company in which you are a director;
- detailed list of social contributions and taxes paid on your income from activities performed abroad.

### **4. MISCELLANEOUS INCOME:**

Please provide us with (for each spouse individually)

- profits or benefits from any service, operation or speculation;
- received alimony payments;
- income from a sublease or transfer of lease of real property;

- gains realised on the transfer of land situated in Belgium or of certain real property rights relating thereto (e.g. usufruct) if the property was sold less than eight years after the acquisition;
- gains realised on the transfer of buildings if the property was sold less than 5 years after the acquisition;
- private capital gains (gains realised by an individual through selling the shares of the private company to a new holding company set up by the shareholder for this purpose only);

## 5. TAX DEDUCTIBLE EXPENSES:

Please provide us with (for each spouse individually)

- bank certificates relating to the interest paid on mortgage contracted to buy or build a house (please indicate whether the house was new at the time of acquisition);
- alimony payments (indicating name and address of the beneficiary);
- the amount paid for building rights or long lease;
- interest on loans contracted to subscribe or to acquire stock in a European company in which you are a director and the start date of the loan;
- Expenses for a charging station for electric cars.

## 6. TAX CREDIT:

Please provide us with (for each spouse individually)

- certificates relating to gifts to recognised organisations;
- certificates relating to day nursery expenses incurred for children (childcare and activities during the vacation) and paid to recognised persons and institutions;
- remuneration paid to (registered) domestic servants;
- (1) tax certificates for the premiums paid in respect of an individual life insurance, (2) tax certificates for premiums paid to a pension savings plan, (3) the sums paid to acquire stock of the company by which you are employed, (4) bank certificates relating to the instalments of a (mortgage) loan (including proof of capital payments);
- in case of re-financing your mortgage, (1) the amount of your first loan and your new loan, (2) the balance and (3) the instalments of your first and new loan ;
- the contributions made to the spouse who helps you as a self-employed person,
- also the tax certificates relating to :
  - the benefit for services paid by means of service-cheques;
  - the purchase of shares of companies, suffering from turnover losses due to the COVID-19 pandemic;
  - the contract of a Flemish ‘winwinloan’, Brussels Proxi loan and Walloon “coup de pouce”- loan;
  - the renovation of a rented house (with low rental income);
  - for energy friendly houses (still apply but only in exceptional cases);
  - for loans contracted for financing energy saving investments in a residence;
  - tax credit for loan contracts concluded for the renovation of a residence ( only for roof insulation);

- the purchase of an electric vehicle (motorcycles, tricycles and quadricycles) and motorcycle ( cars are not included).
- Expenses for a charging station for electric cars;
- Written agreement on rent remission, in the context of the Covid measures.

**7. DID YOU (OR A FAMILY MEMBER) HOLD A BANK ACCOUNT ABROAD IN 2021 ?:**

Please provide us with:

- the name of the holder of the account and the bank account number ;
- the name of the bank, foreign exchange, credit or savings institution ;
- the BIC code of the institution ;
- if the institution does not have a BIC code, the address of the registered office of the institution ;
- the country where the account was opened ;
- the oldest taxable period during which the account existed (between 2014 and 2021) ;
- possible date of closure of the account ;

If you have already submitted a notification of your foreign bank accounts at the Central Point of contact of the National Bank of Belgium, we just need to have the information on bank accounts which were opened in 2021, and the updated information of already reported bank accounts if changes have occurred in 2021.

**8. DID YOU (OR A FAMILY MEMBER) HOLD A LIFE INSURANCE CONTRACT ABROAD IN 2021 ?:**

Please provide us with:

- the name of the policy holder of the life insurance contract;
- the country from where the premiums were paid.
- the country where the insurance company is established.

**9. WERE YOU (OR A FAMILY MEMBER) THE FOUNDER OR (POTENTIAL) BENEFICIAIRY OF A LOW OR NON-TAXED FOREIGN LEGAL ENTITY IN 2021 ?:**

Please provide us with:

- the name(s) of the founder or the (potential) beneficiaries of the low or non-taxed foreign legal entity;
- full name of the legal entity, legal status, address of the registered office and the identification number;
- name and address of the manager of the legal entity;

- any income that might have been received by the legal entity in 2021 (We can provide you with a memorandum concerning the Transparency Tax).

**10. SECURITIES ACCOUNT:**

- All securities held in the securities account, with a value of at least one million euro, are eligible (shares, bonds, units in investment funds and investment companies), but also derivatives (such as index trackers turbos and real estate certificates) and foreign securities accounts;
- A securities account held by a Belgian insurance company in the context of a branch 23 life insurance policy.

Vandendijk & Partners  
March 2022

[www.vandendijk-taxlaw.be](http://www.vandendijk-taxlaw.be)

## OVERVIEW OF IMPORTANT CHANGES

### INCOME YEAR 2021

#### 1. Reform of the deduction of car expenses

The deduction of car expenses has been determined since 2021, both in the corporate tax and the personal income tax, according to the following formula:

$$120 - [0.5\% \times \text{fuel coefficient} \times \text{CO2 emission in g/km}] = \text{percentage deduction}$$

With a maximum of 100% and a minimum of 50%.

exception: if the CO2 emission is higher than or equal to 200 g/km, a deduction of only 40% applies. According to the law, the percentage of 40% (for CO2 > or = 200 g/km) is absolute and also applies to passenger cars purchased before 2018. If no CO2 emission data about the car are known, the deduction percentage of 40% also applies.

- As from Assessment year 2022

Tax residents are required to communicate to the tax administration all information necessary to determine the impact of the reform on the benefit in kind and the professional costs of company cars, on excise duties and on VAT. The modalities of this data communication are still to be determined by royal decree.

Costs of charging stations (=charging stations and charging points) are no longer subject to the deduction limitation for car expenses (according to the above formula), but are fully deductible insofar as they are used professionally.

When an employer or a company makes a company car available to its employee or manager for personal use, the costs thereof are 'car expenses' subject to the deduction limitation according to the above formula, except for the amount of the benefit in kind including the possible personal contribution of the employee/manager to that benefit. This settles the discussion on whether the personal contribution is a salary cost or a car cost. As of assessment year 2022, it will no longer be possible to fully deduct the costs of a company car that has been made available to the employee and that is only used for private use and not for 'other professional travel'.

#### 2. Cadastral income (CI) for foreign real estate

The (minimum) taxable base of a real estate property located abroad is, as from AY 2022, like Belgian real estate, determined on the basis of a cadastral income (deemed rental value), which is indexed and possibly increased by 40%.

- Which foreign properties receive a cadastral income?

A cadastral income (CI) is established for real estate located abroad owned by a Belgian resident (private person) subject to personal income tax.

A foreign immovable property of which a Belgian resident (private person) is holding the freehold, is not assessed and no CI is granted.

Not only immovable property used for private purposes, but also immovable property used for professional purposes (e.g. commercial property, shop, industrial building or agricultural building) must be assigned a CI.

- How is the cadastral income for foreign real estate determined?

See our memo on our website "NEW : taxation of foreign real estate in Belgium".

- Communication of cadastral income

The cadastral income (CI) is determined by the Administration of Measurements and Valuations which communicates the cadastral income to the tax resident. In principle, the cadastral income will be available by 1 March 2022, so that every taxpayer involved can process the CI in his tax return in time. This will happen for the first time in the AY 2022 tax return.

The notification of the CI opens a two-month period in which the taxpayer can lodge a claim by means of a registered letter stating a new amount of cadastral income.

If no CI has been served for a particular property or if that property does not appear in the 'My property' section on the [www.myminf.be](http://www.myminf.be) website, the taxpayer must inform the Administration of Measurements and Valuations (Foreign CI Unit) as soon as possible in order to correct the situation.

### **3. Tax reduction for charging stations of electric cars**

As of AY 2022, a new tax reduction will apply for the cost of a charging station for electric cars.

In addition to an increased investment deduction for investments in emission-free trucks and their infrastructure for charging electricity and refuelling hydrogen and an increased cost deduction (or double depreciation) for expenditure on publicly accessible charging stations made by companies and the self-employed, this is a new and temporary tax reduction intended for private individuals who have a charging station installed at home.

- For which beneficiaries?

The new tax reduction is a federal reduction that applies to private persons. It is applicable in the personal income tax.

- What is it for?

The tax reduction is granted for expenses made for the installation of a charging station for electric cars in or near the residence where the taxpayer has established his/her residence.

- Expenses

This includes the expenses (including VAT) for the purchase of a charging station in new condition, for the placement of the charging station and for the inspection of the installation (art. 145/50 §1 (2) CIT92). Installation and inspection by an installer are mandatory.

The expenditure for the installation and/or inspection of a charging station alone, without the taxpayer also purchasing the charging station itself, is not eligible for tax reduction.

The expenses must have been paid in the period from 1 September 2021 to 31 August 2024 inclusive. The intervention of an employer in the costs of a charging station, which is taxed as a benefit in kind (an electric company car is not also made available by the employer), can be considered as an expense paid by the taxable employee himself that can give right to tax reduction.

- In or near the house

The charging station must be placed in, on or in the immediate vicinity of the house.

The installation of a charging station at a second residence, where the taxpayer is not domiciled for tax purposes, does not qualify for the tax reduction.

- Smart and green

The charging station must (at the latest on 1 January 2023) be linked digitally by means of a standardised protocol\* (software) to a management system that controls the charging times and capacity.

The charging station may, on 1 January of the assessment year (linked to the taxable period during which the expenditure was made), only use power generated from renewable energy sources that is either supplied by a 100 per cent green power supplier, or generated from its own renewable energy sources.

- One-off

The tax reduction is granted for the year in which the expenditure was actually paid, but it is only granted for one taxable period.

- Nature and amount of the reduction

This is a federal tax credit and NOT a refundable federal tax credit.

The reduction is federal and is therefore also taken into account to determine the average tax rate applicable to, e.g., arrears and severance payments.

The tax reduction cannot be combined, for the same expense, with the deduction for “actual professional expenses”.

- The investment deduction

It concerns only the reimbursement of that expenditure by the employer or the enterprise as ‘costs of the employer or the enterprise’.

When the tax reduction for charging stations has been granted for a certain taxable period and the charging station is used professionally from a subsequent taxable period onwards, the professional costs related to this charging station are deductible from this taxable period onwards. The tax reduction granted then remains acquired.

The maximum amount of the expense that entitles the tax reduction is EUR 1,500.

- Reduction percentage

The reduction is determined as a percentage of the expenses and amounts to 45% for the expenses paid in 2021 (as of 1 September at the earliest) or in 2022. The tax benefit thus amounts to a maximum of **EUR 675** (1,500 x 45%).

In the case of jointly taxed taxpayers, such as married couples or legal cohabitants, the tax reduction is divided proportionally on the basis of the taxable income, even if the expenditure is paid by only one of them.

#### **4. Increased deduction for charging station for electric cars**

As of AY 2022, a new increased cost deduction will apply to the expenses for a charging station for charging electric cars.

- For whom?

The increased cost deduction applies to any taxpayer who uses a charging station professionally and enters it as a professional expense. This can be a company, but also a private person (e.g. entrepreneur or self-employed person); it is applicable in the company tax, personal tax and non-resident tax, the latter insofar as the costs exclusively affect the professional income that is taxable in Belgium (Article 237 CIT92).

- What is it for?

The increased professional expense deduction applies to charging stations for electric cars acquired or constructed in new condition and accessible to the public and qualifies into a 200% depreciation for investments (in charging stations) made in the period 1 September 2021 to 31 December 2022 or to the extent of 150% with respect to investments made in the period 1 January 2023 to 31 August 2024.

The deductible amount is obtained, per taxable period, by increasing the normal amount of depreciation for that period by 100% or 50%, depending on the situation. The increased deduction applies not only to charging stations that are fully used as business assets.

- New charging station

This includes the expenses for the purchase or manufacture of a charging station in new condition, for the installation of the charging station and for the inspection of the installation. The expenditure must be paid in the period from 1 September 2021 to 31 August 2024. A charging station is either a charging post or a charging point fixed to the wall of a building.

The charging station must be intelligent, i.e. it must be possible to connect digitally via a standardised protocol\* (software-based).

- Publicly accessible

This means that the charging station must be freely accessible (e.g. in the car park of a shop or office) to any third party during the taxpayer's choice of either the normal opening hours or the normal closing hours of the company.

- Legal conditions

The charging station must be depreciated linearly over a period of five years or more. The five years is a minimum. If the estimated economic life of the charging station is more than five years, the depreciation will have to be made over a longer period.

The increased depreciation for the same expense cannot be combined or cumulated with the increased investment deduction for electric charging infrastructure (for emission-free trucks). The increased depreciation does not prevent the application of the ordinary one-off investment deduction.

It is not excluded that a taxpayer can benefit both from the increased deduction and from any subsidies for his/her charging station if the various conditions attached to its granting are met.

The increased depreciation is applicable at the earliest as from the taxable period in which the charging station is operational (and notified to the tax administration) and publicly accessible, and remains applicable as long as the station is so, except if the taxpayer can no longer meet the condition(s) outside of his control, e.g. because of road works, disasters or power cuts. Of course, a charging station that is not accessible to the public can still be written off (at 100%) under the conditions of art. 49 CIT92.

A combination of an increased depreciation (for the taxable period in which the conditions for increased depreciation are met throughout the period) and an ordinary depreciation (for the taxable period in which the conditions are not met throughout the period) is possible.

"The taxpayer has the option to start writing off the investment only at the time it is acquired or created, i.e. when the investment is complete. If the taxpayer wishes to start to make depreciations already in the course of the acquisition or the realisation, as he is allowed under the traditional depreciation rules, he will be able to benefit first from the traditional rate of deduction and (only) from the increased rate as from the moment when the charging station fulfils all the conditions".

The increased depreciation of the charging station (at 150% or 200%) does not affect the amount of any capital gain realised on the charging station that is to be taxed later. That capital gain remains determined on the basis of depreciation at a maximum rate of 100%.

## **5. Tax reduction for waiving rent**

As of the assessment year 2022, a new federal tax reduction will apply to landlords who waived all or part of their tenant's obligation to pay rent. This federal tax reduction for rent waiving was extended for the months of June, July, August and/or September of 2021.

The tax reduction is granted to a private person who rents out (whether or not in the context of his professional activity) a built-up property located in Belgium that he owns, usufructuary, long-term leasehold, or superficies to a company that was compulsorily closed down due to the corona crisis, on condition that the lessor pays the rent (and rental benefits) for the months March April and/or May 2021 or, in the rent waiving scheme, for the months of June, July, August and/or September 2021 of the part of the real estate used by the tenant for his business activity.

The waived rent entitles the lessor to a tax reduction.

- Tenant

The tenant has been obliged, with respect to the original rent waiver reduction (for the months of March, April and May), to partially or totally close down the business unit of his company at the rental address by the COVID-19 measures taken since 12 March 2020.

The closure must not have been imposed as a penalty (e.g. compulsory closure as a punishment for a breach of the corona measures), nor must it relate to certain hours.

The tenant must not have rent arrears on 12 March 2020 for the lease in question. Moreover, the tenant must not be a 'business in difficulty' at the time of the rent waiver.

The tax reduction only applies to lessors who do not have too close a family, relational or economic link with the lessee.

- Waiving of rent

The rent can be waived for one, two or three of those months, either completely or partially. If the waiving is partial, at least 40 per cent of the relevant monthly rent for the part of the rented premises used for the business activity must be remitted.

The waiving must be granted voluntarily, definitively and irrevocably by the landlord.

For this reason, the waiving must be laid down in a written agreement, compulsorily concluded between the landlord and the tenant, which must be signed and delivered to the competent department within the tax administration by 15 July 2021 (for the original rent waiving scheme) or by 15 November 2021 (rent waiving bis scheme), electronically or by post.

- Tax reduction

The tax reduction is a federal reduction and amounts to 30 per cent of the waived rent.

The amount of waived rent that entitles to tax relief is capped at:

- 5,000 EUR per month per lease;

- 45,000 EUR per lessor (= absolute limit for all leases together).

The maximum tax reduction is EUR 13,500 (45,000 x 30%) per taxable landlord and per rental waiver scheme. The limit amounts are not indexed.

The tax reduction is not transferable to a subsequent taxable period, nor is it refundable. It cannot be converted into a tax credit.

In the case of jointly taxed taxpayers (spouses or legal cohabitants), the tax reduction is divided on the basis of each one's share in the income taxed at the progressive rate (= the jointly taxed income).

#### **6. New law regarding the tax regime for foreign extra-legal pensions.**

On 28 January 2022, a law was published in the Belgian Official Gazette (Act on various tax provisions dd. 21/1/2022), which provides for the abolition of the exemption for pensions (Art. 39 § 2 CIT.92), i.e. that it can no longer apply to the benefits paid from foreign pension institutions, even if the benefits have been accrued in the individual and definitive benefit of the taxpayer.

The entry into force of this new law is retroactive as from 1 January 2021 (assessment year 2022). This goes against the non-retroactivity principle since the law was published on 28 January 2022.

With this new law, the Belgian legislator tries to tackle the constant jurisprudence on the tax regime in Belgium for Dutch supplementary pensions, by subjecting the benefits (originating from the foreign pension system) to Belgian progressive income taxes. For completeness sake, this law can also be applied to other pension schemes (UK, US, etc...).

It remains unclear whether this new legal provision applies to all files, because the exemption described in article 39 §2 CIT.92 was not always invoked. We need to look at this file by file.

We are of the opinion that, if the accrual on the part of the taxpayer would have been taxed in Belgium as a benefit in kind, if the taxpayer had lived in Belgium, then, by virtue of the general principle of law "non bis in idem", this same income cannot be taxed again as deferred business income (pensions) on the basis of art. 34 CIT. 92. Consequently, the exemption of art. 39, § 2 CIT.92 with regard to art. 34 CIT.92 must not be invoked.

Do not hesitate to contact us if you have any questions.

Vandendijk & Partners  
March 2022

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