TAXPATRIA
expatriate tax assistance

compliance guideline

What is the 75% rule for non-resident taxpayers ?

If you come to Belgium temporarily without establishing tax residency here or you have successfully applied for expat tax status, you will be considered a non-resident and are taxable here only on your **Belgian domestic income**. However, in some cases, it can be more interesting to opt for a **standard resident taxation**, as non-residents only have access to certain allowances and deductions if they earn the larger part of their income in Belgium.

This is better known as the so-called **'75% rule'**. It entails that non-resident taxpayers and expats are only entitled to the standard tax allowances if their professional income taxable in Belgium constitutes **at least 75% of their total worldwide income**. The above rule is **applied differently** to residents of EEA (European Economic Area) member states than to residents of non-EEA countries.

The **difference between federal and regional taxation rules** not only increases the overall complexity of our tax system, but also has an impact on the application of the 75% rule. Residents of EEA member states are entitled to the standard deductions determined **at federal, as well as at regional level** (provided they meet the 75% condition), while residents of other countries (who also meet the 75% condition) are **only entitled to the federal tax deductions**, and miss out on the tax deductions at the regional level.

In practice, this means that **residents of non-EEA member states** can benefit, for example, from the personal tax allowance, the dependent spouse allowance, deductions for alimony payments, pension saving, gifts, daycare and business expenses, but **are not entitled** to the (regional) mortgage loan deduction, deduction for 'titres-services', deduction for energy saving expenditures and several other **deductions at the regional level.**

Non-residents who **do not meet the 75% requirement** lose out on the personal tax allowance, the allowance for dependent children, the dependent spouse allowance and certain regional reductions in connection with real estate. Especially for married couples with dependent children, losing the allowance results in a significant tax increase.

For **residents of France, Luxembourg and the Netherlands**, an exception is made in case they do not meet the 75% requirement. These 'privileged' categories of non-residents are entitled to regional tax deductions on a pro rata basis. Locating the taxpayer in the correct region in Belgium (i.e. Brussels, Flanders, or Wallonia) is therefore crucial.

Executives who benefit from the **expat tax regime** are not taxed in Belgium on the salary earned for the days spent working abroad on behalf of their Belgian employer ('foreign travel exclusion'). When such a person **travels abroad more than 25%** of his working time, he will fail to meet the 75% rule, and therefore lose the standard tax deductions. This can lead to the situation in which expats ultimately **owe significantly more in taxes**, compared to resident taxpayers with no special tax status.