

Are non-residents also subject to a communal tax ?

Belgian residents are automatically subject to **an additional surcharge** on their personal income tax depending on the municipality ('commune') where they live. The **rates vary from 0% to 9%**, but **in general amount to approx. 7%**. Only in a few municipalities at the Belgian Coast, the communal tax rate is currently 0% (i.e. in Knokke-Heist, Koksijde & De Panne). The surcharge is paid every year via the **personal income tax assessment**.

The communal tax is a **mandatory contribution** to cover the general expenses of a city or municipality. Its purpose is **to finance local public services** like law enforcement, social assistance, housing, education and so on. For those **resident taxpayers** that live and work in Belgium, **their worldwide earnings** will be subject to the communal tax. For **example**, if an employee lives in the Brussels-Capital Region and earns a taxable salary of let's say € 50,000 p.a. on which they need to pay an income tax of approx. € 13,000, there will be an additional communal tax due of € 780 (or 6% of € 13,000).

Non-resident taxpayers, on the other hand, are generally only taxable on their **Belgian earnings** originating either from **an activity carried out on Belgian territory**, or from **assets located here**. While some non-residents do live and work in Belgium, a large number of them do not reside here and are often residents in another country. In the **absence of a Belgian domicile**, it would in that case **not be possible** to subject non-resident taxpayers to a communal surcharge.

The Belgian legislator therefore considered it **justifiable and proportionate** that non-residents pay a surcharge like the one due by resident taxpayers. This surcharge is not considered a 'communal' tax, but a **'federal' surcharge** on the Belgian income tax due. The latter currently amounts to a **fixed rate of 7%** and automatically applies, even if the taxpayer **does not live in Belgium**. The federal surcharge itself is **calculated the same way** as the communal (municipal) tax owed by resident taxpayers.

While this approach has been challenged before the **Belgian Constitutional Court**, it was not considered to be discriminatory or in violation of the principle of equal treatment of taxpayers.

The reasoning behind this is that non-residents also benefit from **public installations and services provided by the Belgian authorities** to the extent these enable them to generate Belgian income on which they pay non-resident income tax. The **federal surcharge** thus makes it possible to **finance the different tasks in the public interest** entrusted to the Belgian State.

Both resident and non-resident taxpayers are therefore **equally subject to a surcharge** on their Belgian income tax.

TAXPATRIA® can assist you in determining **your personal tax situation** and help you to better understand the potential tax liability of **living and/or working in Belgium**.