

January, 2024

## How is your severance pay taxed in Belgium ?

With the number of **international assignments** increasing year after year, many employees work **in more than one country** during their career. When employment starts, it may continue for some time, but it will logically also end at some point. The reasons can be diverse.

The decision to **terminate employment** can be made by the employee, the employer, or jointly. If you decide to quit your job or your employer has asked you to leave, in both scenarios a **legal notice period** will need to be considered. In Belgium, the duration of this period mainly depends on **when you initially started** employment and the **time you have worked** at the company. The length of the notice period also depends on **who terminates** the contract, the employer, or the employee. For **example**, if it is the latter who resigns after an employment relationship of more than 24 but less than 48 months, the legal notice period will normally be 6 weeks.

The employer and employee can always **agree differently** or **pay a compensation** instead of respecting the notice period. If you are not required to continue working after you have been asked to leave, you are entitled to a **severance payment**. This is a type of compensation paid by the employer **'in lieu of notice'**. The employee will also be required to pay this if they decide to quit and want to leave work immediately.

Severance pay is normally subject to a **separate taxation** at the average rate of the previous tax year in which the taxpayer exercised a 'normal' professional activity and had 'normal' professional income. The **standard progressive income tax rates** (from 25% up to 50%, plus municipal tax) will only apply if they are **more beneficial** than the separate taxation.

If you spent your career working **in different countries**, you probably want to know **which of those countries has the right to tax** the severance pay. This is where the double taxation agreements (DTAs) become relevant. The general approach is that the right to tax should be prorated between the countries where the employee was working **in the last 12 months of their career**. However, many countries do **not** follow this '12 month-rule' if the circumstances show that the severance pay relates to the **entire (international) career** with the company (and not just to the last 12 months). In Belgium, the tax authorities apply a **similar approach**. The right to tax is preferably divided over the different countries where the employee was working throughout their entire international career. Only if this is not possible, can the '12 month-rule' be used. Depending on the circumstances in which the employment is terminated, the employee may not only be entitled to **severance pay**, but to **other payments** as well (e.g. non-compete fee, advance holiday pay, etc.). If termination would result in an employment dispute settled in court, **other types of payments** could be granted as well (e.g. damages, late payment interest, etc.). How exactly these payments are taxed requires a **case-by-case analysis**.

TAXPATRIA® can advise you on the **tax optimization** of your **termination package** and assist with the (international) **tax filing** requirements.