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Federal Public Service Finance

UNIQUE TAX INCENTIVES in BELGIUM

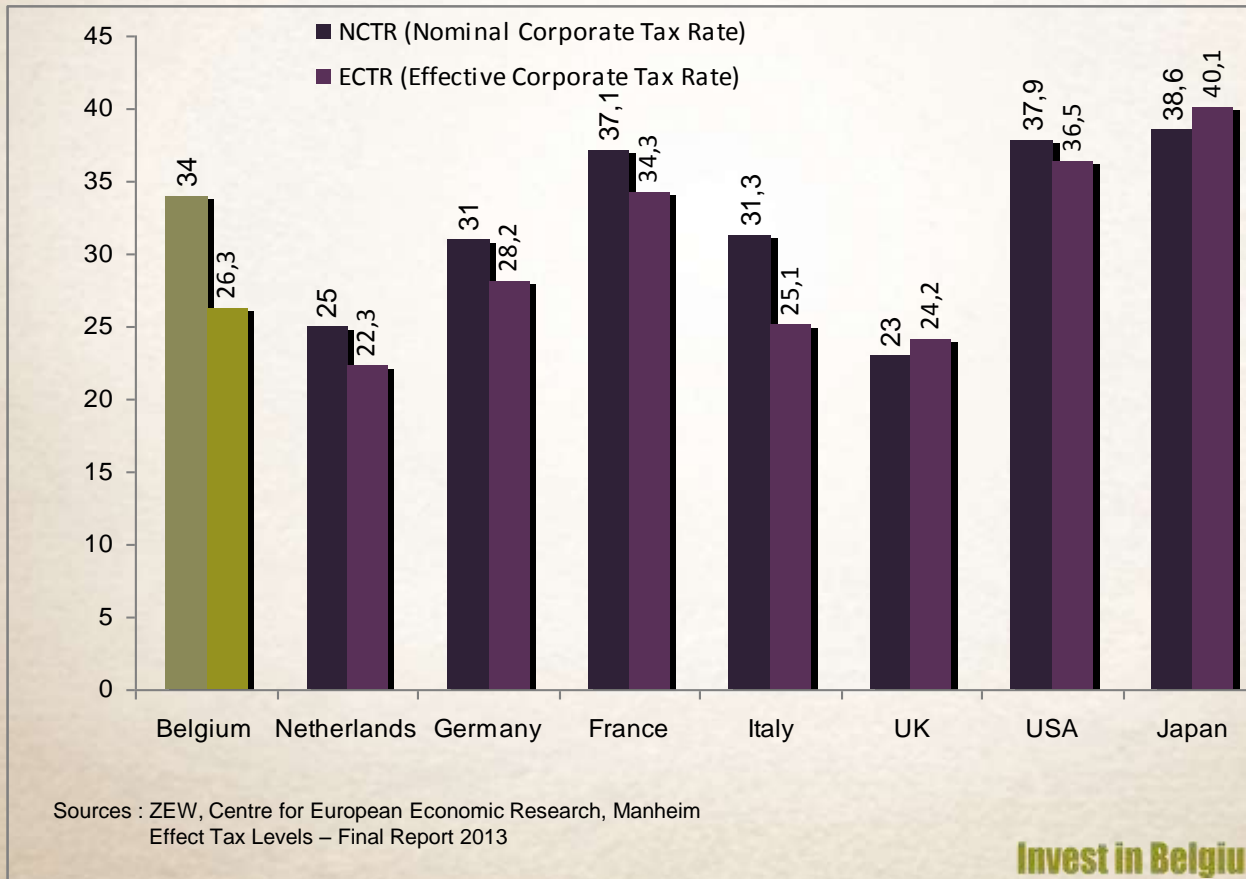
2014

Fiscal Department for Foreign Investments

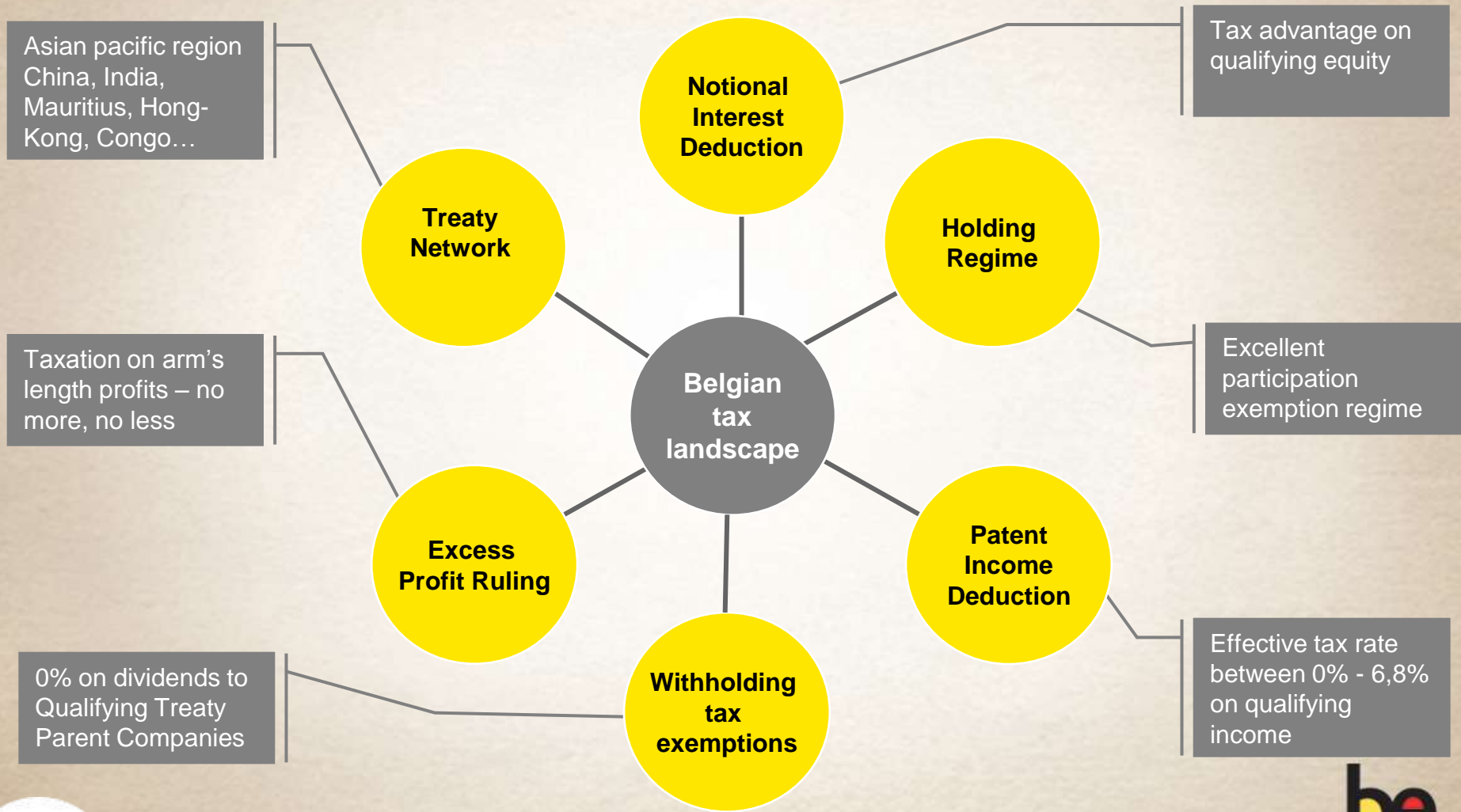


Effective (Average) Corporate Tax Rate (ECTR) 2013*

Especially in Belgium, the ECTR is considerably below statutory tax rates (-7,7%)

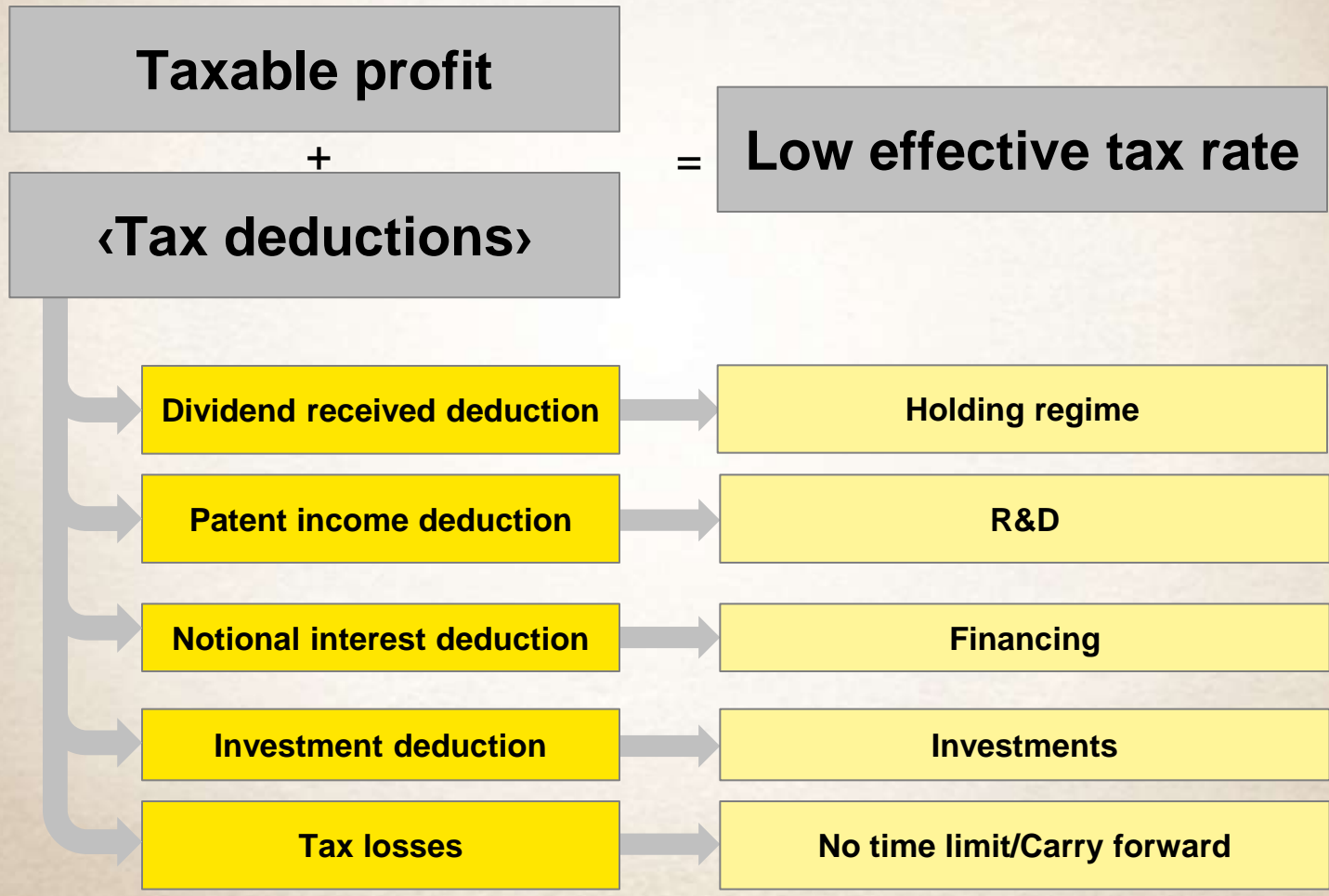


Belgian tax landscape

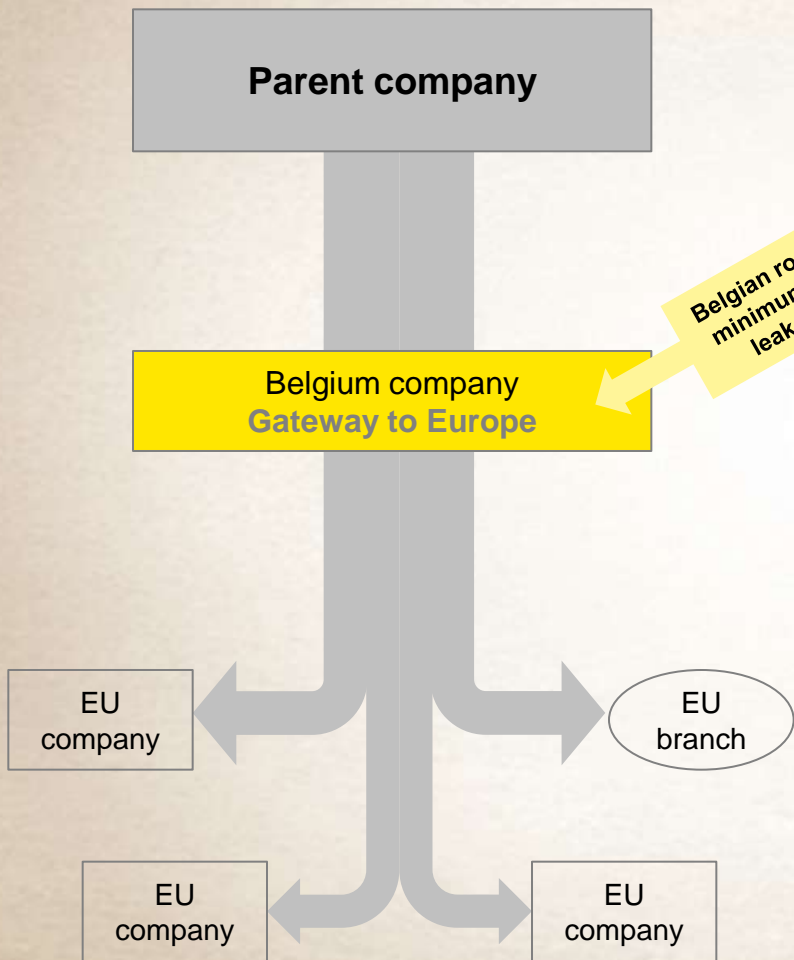


Low effective tax rate

Tax deductions



Belgium as your preferred location for Europe



Belgian route: minimum tax leakage

- Low effective tax rate
- Holding regime
- How to repatriate cash to Turkey ?
- How to finance activities in Belgium?
- Ruling practice

INVEST IN BELGIUM

www.invest.belgium.be

1. **Notional Interest Deduction**
2. **Tax Ruling**
3. **Unique tax features for R & D**
4. **Dividend withholding tax exemption**
5. **Holding regime**
6. **Expatriate status**
7. **General employment incentive**

1. Notional Interest Deduction

What is it?

- A notional interest calculated and deducted yearly from the taxable basis
- used to off-set operational or financial income (thus lowering effective tax rate)

1. Notional Interest Deduction

Who?

Companies subjected to

- Corporate tax
- Non-residents / Corporate Tax

Notional Interest Deduction

How does it work ?

Annual Tax Deduction

=

EQUITY (in the opening balance sheet of the taxable period)

X RATE (10-year OLO)

1. Notional Interest Deduction

« *Qualifying* » equity

- Equity = total equity as defined under Belgian GAAP (includes retained earnings)
- in the opening balance sheet of the taxable period
- “adjusted” to avoid double use and abuse.

1. Notional Interest Deduction

Interest Rate

- RATE = annual average of the monthly published rates of the long term Belgian Government Bonds (10-year OLO) of the months July, August and September of the penultimate year prior to the tax year
- Fixed yearly
for 2014 (Tax Year 2015):
 - 2,63% (3,13% SME's)

1. Notional Interest Deduction

EXAMPLE 1:

(Return on Equity: 3%)

P&L Account	Assets	Liabilities
	Group Financing 100 000	Share Capital 100 000
	Before N.I.D.	After N.I.D.
Profit before tax	3000	3000
N.I.D. (2,63%)	/	- 2630
Taxable	3000	370
Corporate Tax (33,99 %)	1020	126
Effective Tax Rate	33,99 %	4,2 %

1. Notional Interest Deduction

EXAMPLE 2:

	Assets	Liabilities
	Business Assets 100 000	Share Capital 100 000
Net Result (Return on Equity)	Effective Tax Rate	
≤ 2,63 %	0 %	
4 %	11,6 %	
5 %	16,1 %	
6 %	19 %	

1. Notional Interest Deduction

Other particularities

- For SME's: + 0,5% → Rate = 3,13%
- Permanent measure
- Carry forward of 7 years abolished as of 1/1/2012
- No ruling nor agreement is needed
- Suppression of the 0,5% capital duty as of 1/1/2006
- EU compliant

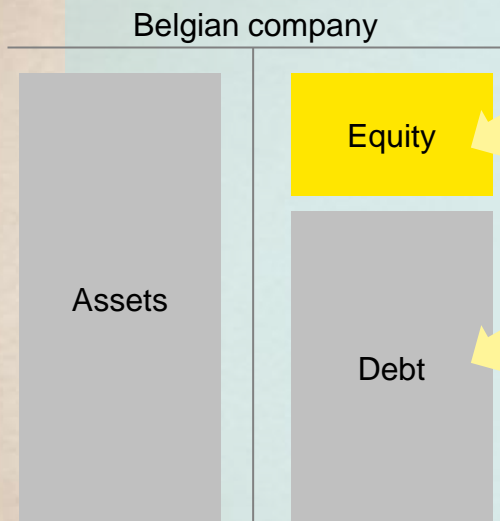


Advantageous business environment



How to finance activities in Belgium?

Tax efficient financing



Notional interest deduction

Real interest deduction

- Tax effective financing through equity and debt
- Notional interest deduction (NID)
 - NID = 2,63% x qualifying net equity (TY 15)
 - Applies automatically, no ruling required
 - Goal achieved: lower effective tax rate
 - Unique tax measure
- Deduction financial cost
 - Market interest rate
 - Favorable thin cap for I/C financing: 5/1
 - EU directive: 0% WHT within EU (25%/1 year)

Notional interest deduction

Low effective tax rate

Broad and flexible application

Low maintenance



2. Tax Ruling

- Advanced decisions or ruling is about creating **CONFIDENCE** to invest in Belgium;
- The investor describes the facts, allowing the tax administration to determine, in advance, how the tax laws are to be applied on a **CASE BY CASE BASIS**
- It ensures a **LEGALLY BINDING ACCURATE FORECAST** of all the tax implications of your investment project

2. Tax Ruling

Unlimited application field for ruling:

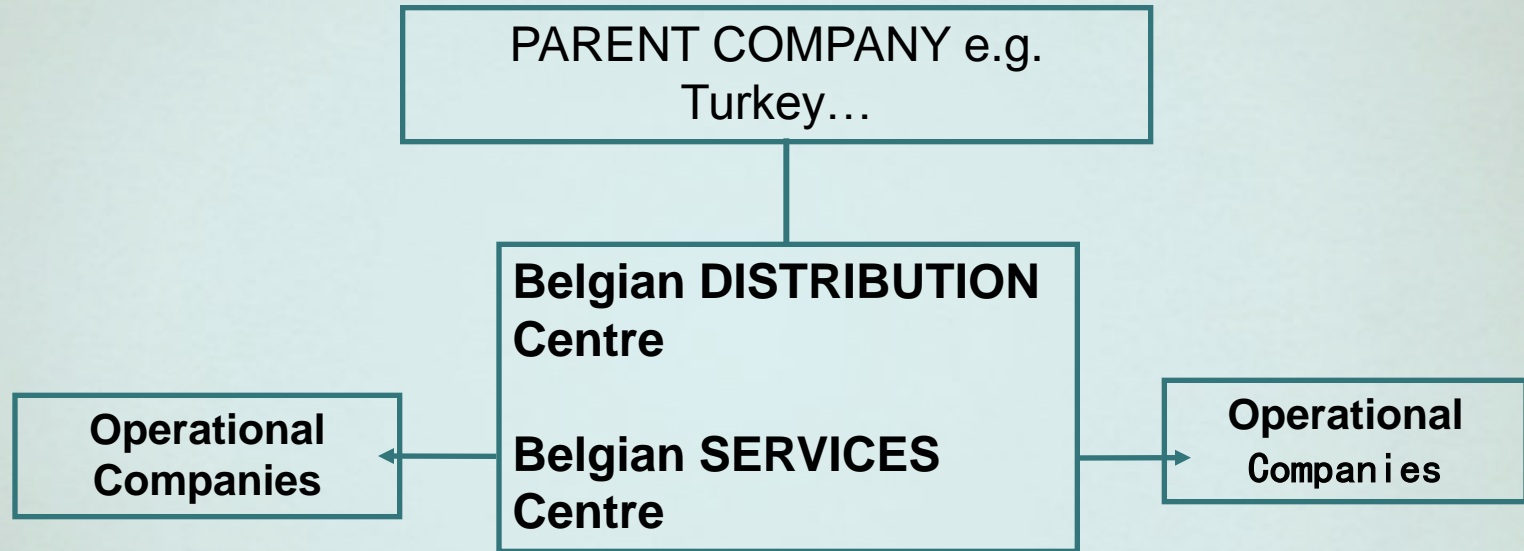
- Transfer pricing
- Business Restructuring
- Deductible expenses
- Financing
- Branches
- Bonded warehouses, etc.

2. Tax Ruling

Characteristics of the Belgian ruling

- Ruling on all kind of taxes (Corporate, Personal, VAT,..)
- Case-by-case ruling in a new open culture
- Legal certainty for investors
- In accordance with international rules
- Open to potential AND existing investors
- Legally binding for a 5 year renewable period
- Economic “substance” required

2. Tax Ruling



Cost plus % case-by-case ruling *

* *OECD accepted norm: arm's length standard*

2. Tax Ruling

Examples of matters that can be cleared in advance:

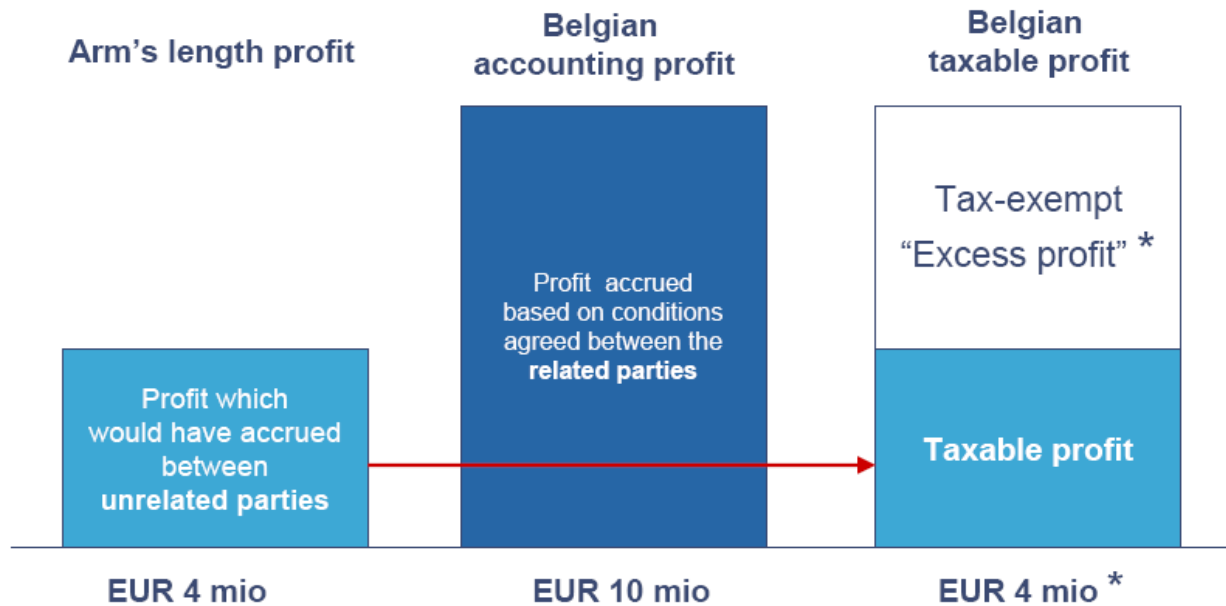
- Transfer pricing issues
 - ✓ Cost plus 3 to 4% ruling for European Distribution Center (EDC)
 - ✓ Cost plus 4 to 5% ruling for Service Sharing Center (SSC)
 - ✓ Excess profit ruling determining the amount of “excess” profit that can be excluded from the Belgian taxable profit
- Taxable presence or not in Belgium ?
 - ✓ In the hands of the foreign principal of a Belgian manufacturer or sales function
 - ✓ In the hands of the service recipients of a EDC or SSC
- Personal tax issues
 - ✓ Amount of tax-free lump sum allowances for personnel
- VAT issues
- “Tonnage” tax regime for shipping

...

2. Tax Ruling

Art. 185, §2, b) BITC

“Downward” profit adjustment



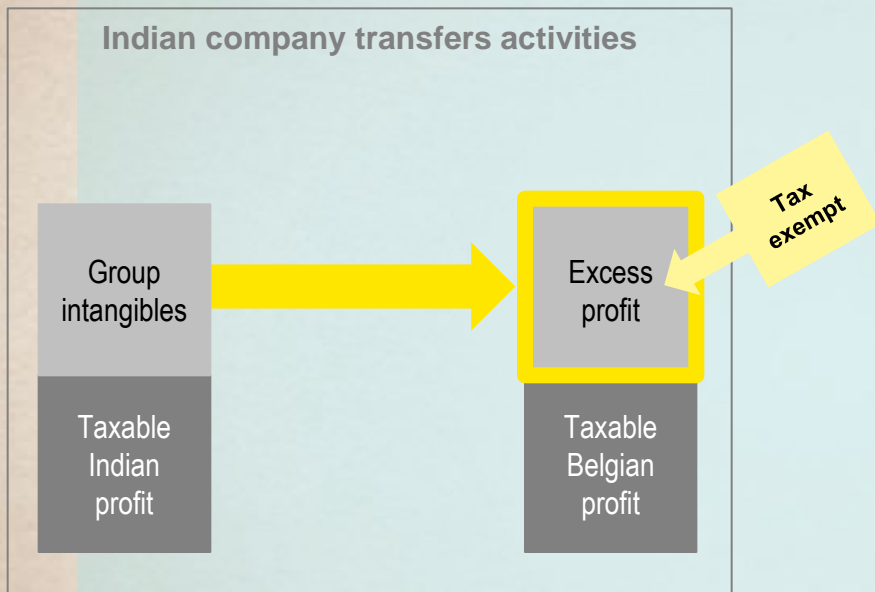


Advantageous business environment



Ruling practice

Transfer activities to Belgium



- Tax ruling practice:
 - Advance certainty in tax matters: provides a competitive advantage for Belgian inbound investors
 - Business minded tax professionals
 - Local tax inspectors bound by rulings
- Example: excess profit ruling
 - Transfer and centralization business in Belgium
 - Exemption of profits that would not have been realized in a stand-alone situation
 - Low effective tax rate can be achieved

Excess profit rulings

Powerful instrument: low effective tax rate

No controversy, certainty through ruling

Combination with other tax deductions



INVEST IN BELGIUM



2. Tax Ruling

“Excess profit” ruling

Art. 185 &2, b) Income Tax Code

- Exclusion of «excess profits» from Belgian taxable basis:
 - Belgian Company may exclude from its taxable income those profits would not have been realized in a «stand alone» situation;
 - Cost structure and profit potential of group member is different from a stand-alone entity

- Use of intangibles of the group:
 - Profit differential comes from the use of intangibles of the group:
 - «Excess profits» may be generated by synergies (economies of scale) and/or the benefit of intangibles: management skills, access to new markets, clients and suppliers network, reputation,.....,
 - which are free for disposal to the Belgian entity

3. Unique tax features for R & D

1/ Patent income deduction

What is it ?

Deduction of 80% of the income from patents from the taxable basis, resulting in an effective tax rate of maximum 6,8% on this income

Who can benefit ?

Belgian companies and Belgian establishments of foreign companies

3. Unique tax features for R & D

1/ Patent income deduction

Example

Patent income:	100
Deduction:	<u>(80)</u>
Taxable basis:	20
Corporate Tax (33,99%)	<u>(6,8)</u>
Net income after tax:	93,2
→ Effective Tax rate:	6,8 %

3. Unique tax features for R & D

1/ Patent income deduction

Patents concerned

- self-developed or co-developed by a Belgian company or branch;
- acquired by a Belgian company or branch provided they are being further developed in Belgium or abroad (by acquisition, or license,...)
- Large companies must have in-house R&D activities in a R&D center that qualifies as branch of activity
- As of 1 January 2013 SME's are exempted from the R&D center requirement

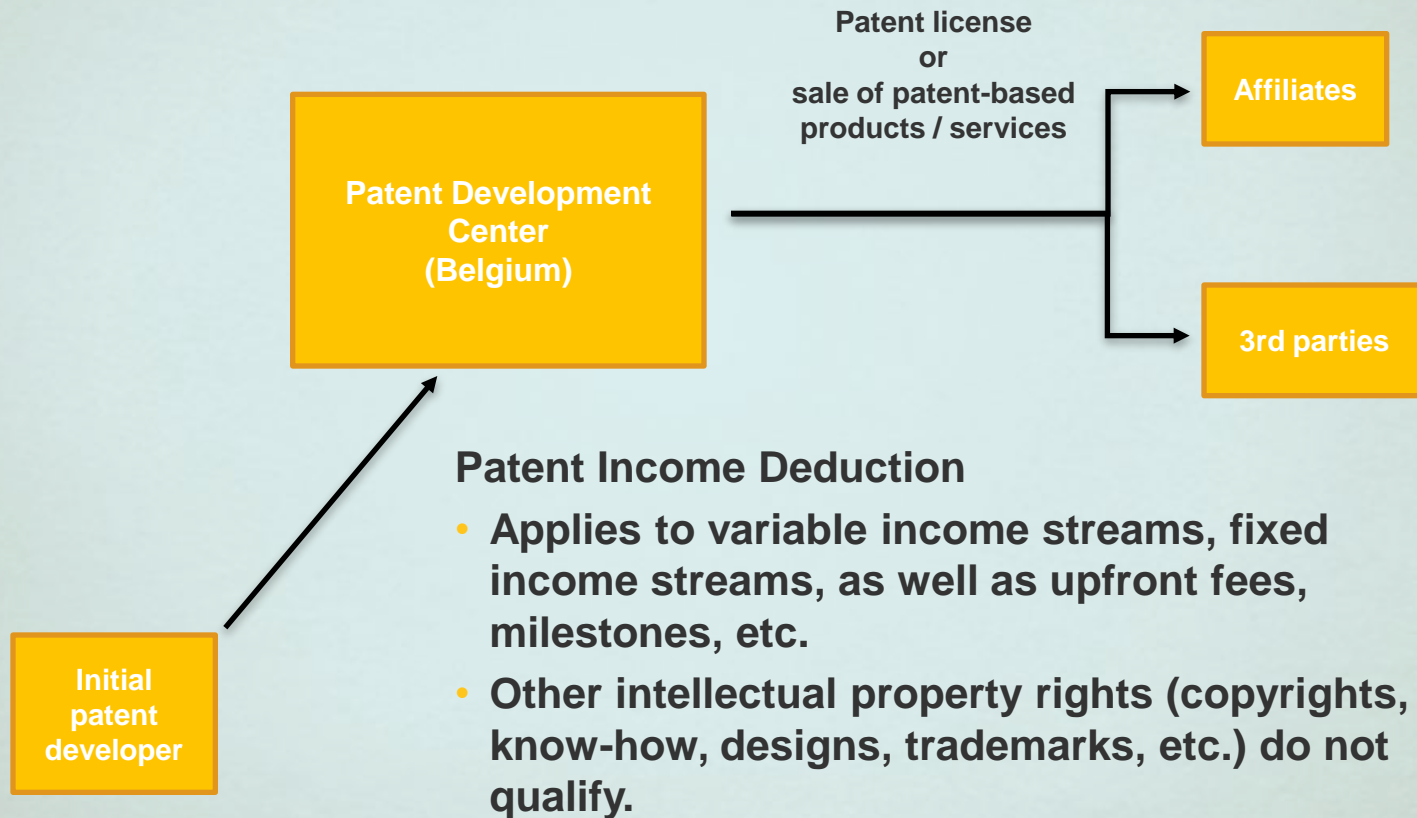
3. Unique tax features for R & D

1/ Patent Income Deduction

Calculation of the deduction

- For patents that are licensed: 80% of the patent income received, to the extent the income is at arm's length
- For patents that are used in the production process: deemed deduction of 80% of the at arm's length royalty that would have been received had the patents been licensed to unrelated third parties

Schematic overview



3. Unique tax features for R & D

1/ Patent Income Deduction

Highly competitive measure

- Very low effective tax rate of maximum 6,8% and absence of any capping rules;
- Tax deduction in addition to normal tax-deductibility of R&D related expenses;
- Investment deduction for R&D related investments and patents;
- Can be combined with Notional Interest Deduction for invested equity, etc.

3. Unique tax features for R & D

2/ Investment deduction for R&D related inv. and patents

- Investment deduction for R&D related investments:
for assets which aim to promote R&D of new products and advanced technologies which are environment-friendly :
→ deduction of 13,5% on the investment value (in one shot)
OR 20,5% on the annual depreciation (spread deduction)
- Investment deduction in patents
acquired or self-developed by the company
→ deduction of 13,5% on the investment value

NB: In case of insufficient profits, deduction carried forward for an unlimited period .

3. Unique tax features for R & D

3/ Exemption from withholding tax on the remunerations of researchers, in favour of employers

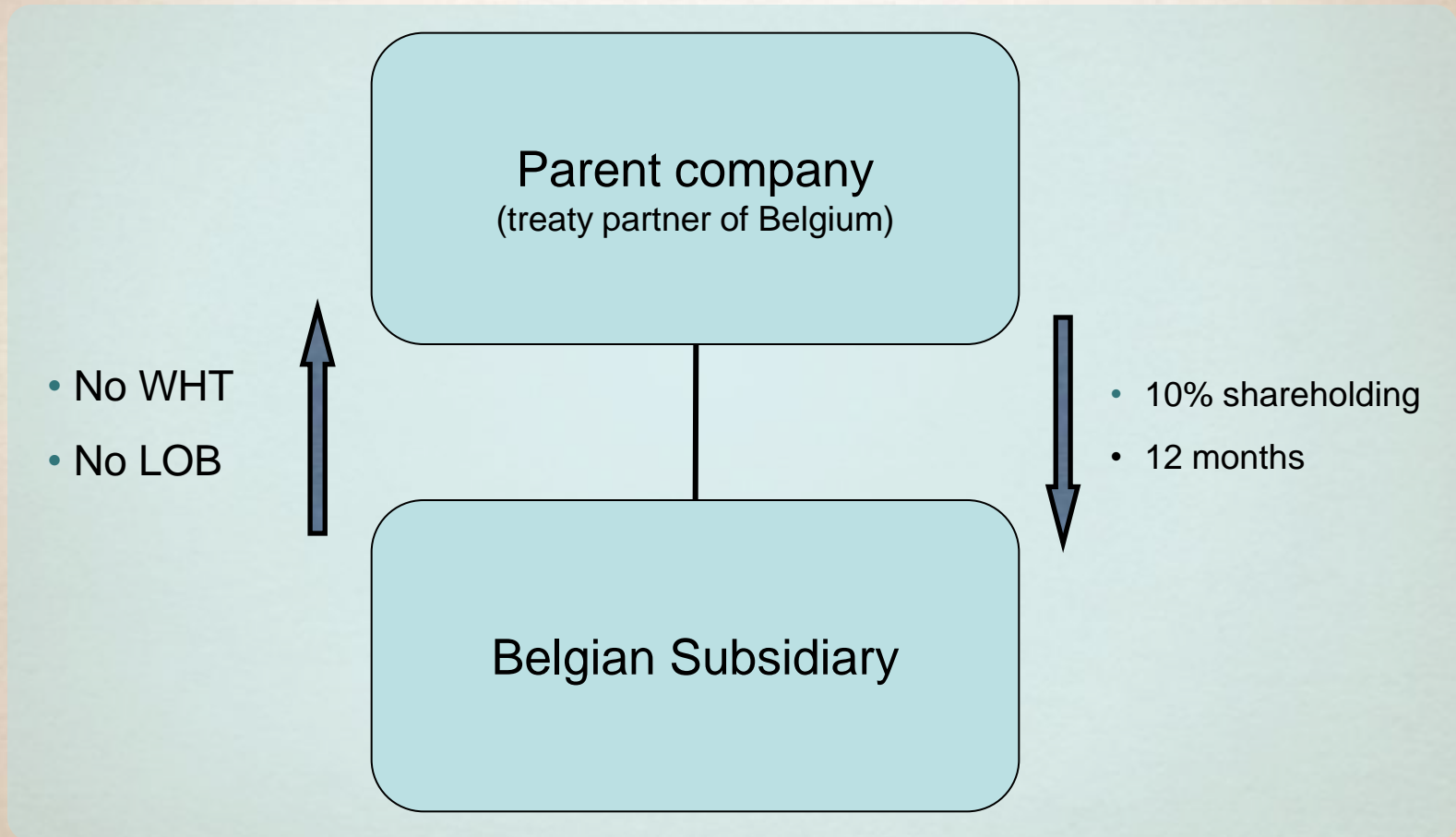
- Principle: the salary withholding tax is normally retained on the remunerations paid to the researcher, but the amount of tax so retained must not be totally paid to the Revenue Collector
(= extra financial means for the employer)
- → 80% exemption
- For researchers with a specific degree, engaged in R&D program (introduction of a reporting obligation as of 1 January 2014)

4. Dividend withholding tax exemption

Conditions to benefit

- be resident in a country with which Belgium has concluded a double tax treaty;
- the beneficiary holds a participation of at least 10% in a Belgian subsidiary, for an uninterrupted period of at least 12 months = **low participation threshold**;

4. Dividend withholding tax exemption



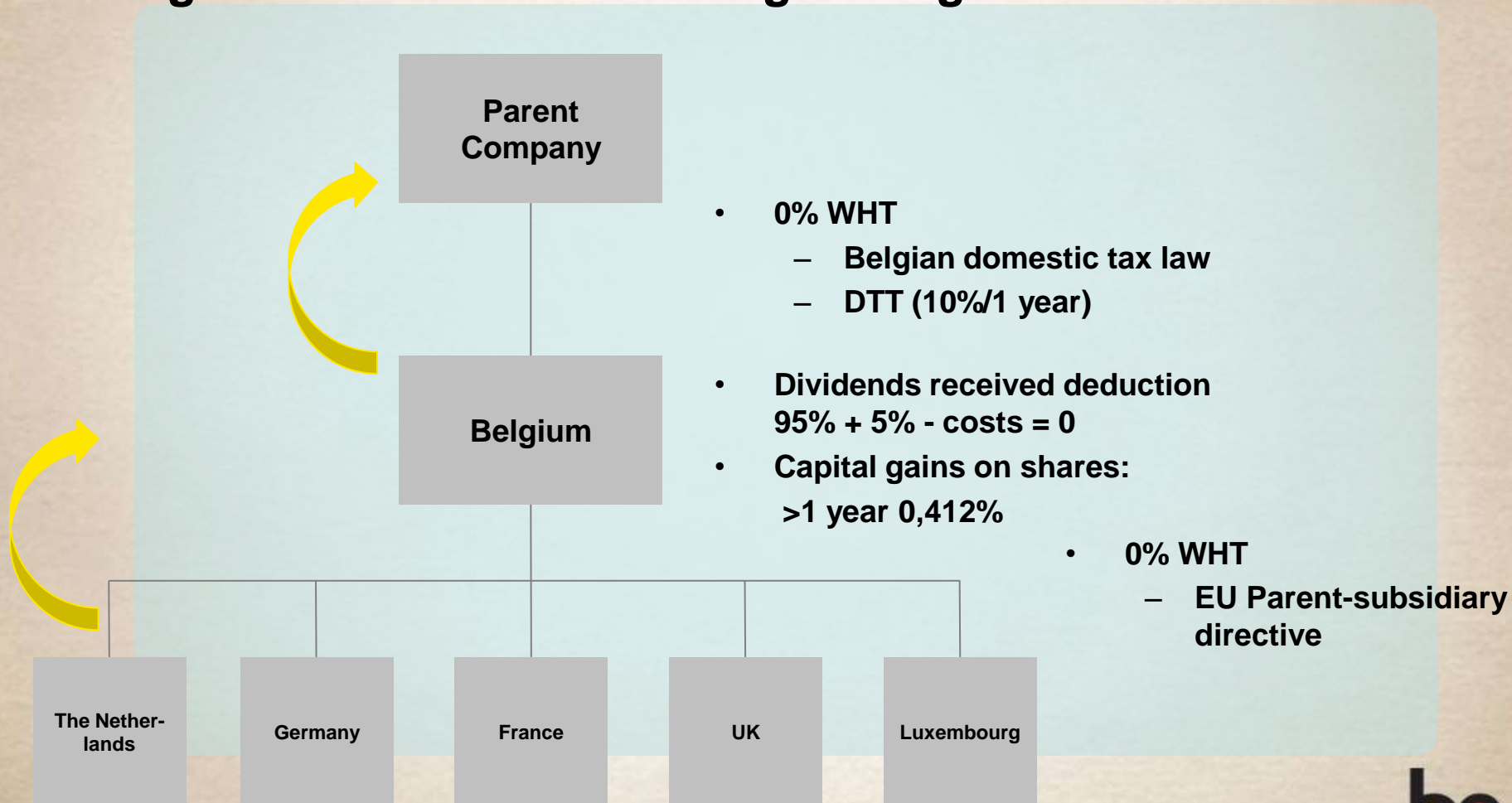


Advantageous business environment



How to repatriate cash?

Belgian beneficial withholding tax regime



5. Holding regime

- Participation exemption
→ dividends received : deduction of 95%
- Deductibility of interest paid to acquire shares
- No capital duty
- Low taxation of 0,412% on realized capital gains on shares if minimum holding period of 12 months is fulfilled



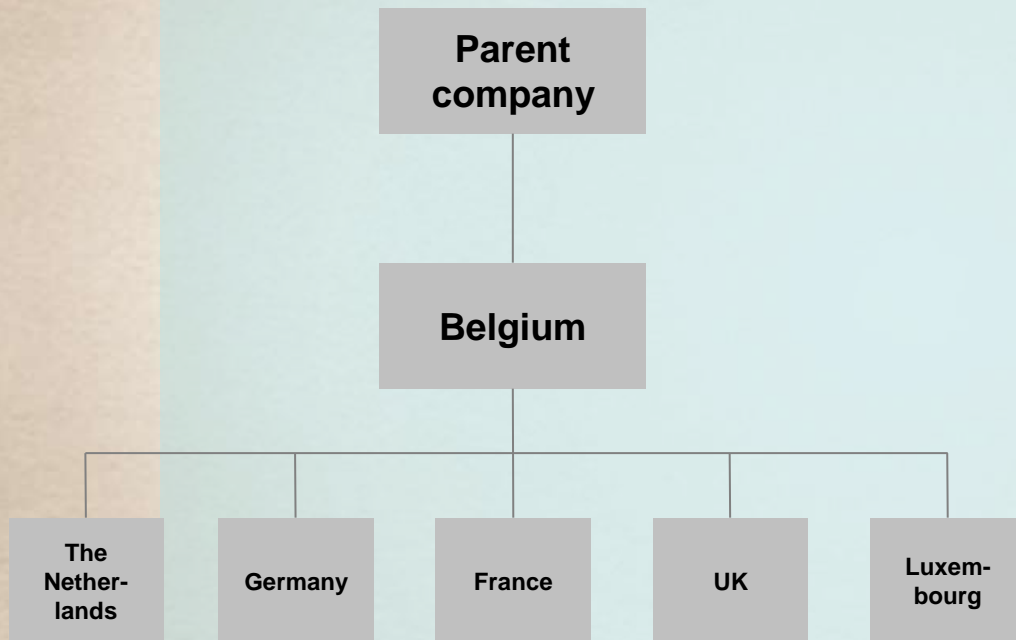
Advantageous business environment



Holding regime

Your gateway to Europe

• Tax relief



– Worldwide treaty network: >90 tax treaties in force

– Favorable holding regime

– Access to EU directives

6. Expatriate status

→ For foreign executives and managers temporarily detached in Belgium :

- Tax free expatriate allowance
(cost of living, cost of housing, tax equalization)
 - operational entity: 11 250 € / an
 - HQ or R&D centre: 29 750 € / an
- Reimbursement of non-repetitive expenses
(installation costs, moving expenses, school fees)
 - unlimited amount tax free
- « Travel exclusion »:
workdays performed outside Belgium
 - tax free in Belgium

6. Expatriate status

→ For employers:

- No tax, no social security contributions on expatriate allowances and reimbursement of expenses
- Deductible from Corporate tax

7. General employment incentive

Partial exemption of payment of the withholding tax on the remunerations of workers in team work or night shifts

- Principle: the withholding tax is normally retained on the monthly remuneration paid to these workers, but the amount of tax so retained must not be totally paid to the Revenue Collector
(= extra financial means for the employer)
- → Exemption of payment of WHT of the taxable remunerations of those workers

6. General employment incentive

→ Exemption of

a. 15,6% in 2014

18,0% in 2015

In case of night work or shiftwork based on a number of teams from 2 upwards

b. 17,8% in 2014

20,2% in 2015

in case of 24/7 continuous shiftworking based on 4 teams upwards



Advantageous
business environment



Summary EU headquarters in Belgium

- **Group structure**

- Favorable holding regime Tax treaties / EU directives

- **Repatriation cash**

- No withholding tax on dividends to Parent company*

*(treaty partner of Belgium)

- **Financing**

- Unique notional interest deduction

- **Ruling**

- Excess profit exempted

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INVEST IN BELGIUM – increase your profits

Need to know more ?

Federal Public Service Finance
Fiscal Department for Foreign Investments
Rue de la Loi, 24 (Parliament Corner)
1000 Brussels - BELGIUM

Email: taxinvest@minfin.fed.be

Tel.: +32 257 938 66

Fax: +32 257 951 12