

Belgium

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What's new?

Summary of updates/Changes to R&D and government incentives from 1 January 2019 through 31 October 2020

The grandfathering provisions of the patent income deduction (PID) will expire on 30 June 2021, from which date the transition to the new innovation income deduction (IID) regime will be mandatory.

The partial withholding tax exemption for researchers holding a bachelor's degree increased to 80% (from 40%) as from 1 January 2020. The cap on the exemption that may be claimed for bachelor degrees of 25% of the total withholding tax exemption for R&D activities claimed by the company for researchers holding a qualifying master's degree or PhD, remains unchanged.

Featured government incentives

Incentive name	Description	Maximum percentage	Qualification standards	Key exclusions or issues
IID	Net qualifying IP income is 85% deductible from the corporate taxable base	85%	The deduction applies on income, not on expenditure Qualifying income includes IP income from patents, copyrighted software, plant variety rights, orphan drugs, data, or market exclusivity	IP that did not generate income after 1 July 2016 is excluded Know-how is not a qualifying IP right The OECD nexus approach applies
Partial exemption of withholding tax for researchers	A withholding tax exemption (i.e., an immediate cash benefit) is granted to a company for wages paid to qualifying researchers working on R&D projects	80%	Wages of researchers holding specific degrees	Degrees in business engineering and masters' degrees in management are not qualifying degrees
R&D tax credit	A taxpayer may elect a 13.5% one-time additional deduction of all R&D investments recorded on the balance sheet, or a 20.5% additional deduction of the total depreciation amount for the same R&D investments	13.5%/20.5%	R&D costs capitalized	Development costs must be booked as assets of the company Specific rules apply for booking research costs

Industries most often affected by government incentives in country

Technology, Media & Telecom	Financial Services
● Telecom, Media & Entertainment	● Banking & Capital Markets
● Technology	● Insurance
Consumer	● Investment Management
● Consumer Products	● Real Estate
● Retail, Wholesale & Distribution	Life Sciences & Health Care
● Automotive	● Health Care
● Transportation, Hospitality & Services	● Life Sciences
Energy, Resources & Industrial	Government & Public Services
● Power & Utilities	Health & Social Care
● Mining & Metals	Defense, Security & Justice
● Oil, Gas, & Chemicals	Civil Government
● Industrial Products & Construction	International Donor Organizations
	Transport

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Type	National incentive?	State, provincial, regional or local incentives? ¹	Filing deadlines imposed?	Is the claim made in advance or arrears? ²	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Innovation							
Research & development (R&D)	●	●	● ³ ● ⁴	Arrears	R&D tax credit and super deduction on qualifying R&D CAPEX WHT exemption in respect of employees with specific qualifications involved in R&D activities	R&D tax credit from 13.5% to 20.5% of super deduction on qualifying R&D CAPEX WHT exemption: 80% of exemption of withholding tax paid by the company in respect of employees with specific qualifications involved in R&D activities	R&D tax credit from 13.5% to 20.5% of super deduction on qualifying R&D CAPEX WHT exemption: 80% of exemption of withholding tax paid by the company in respect of employees with specific qualifications involved in R&D activities
Patent box	●	●	● ⁵ ●	Arrears	85% tax exemption on net revenue generated from qualifying IP rights	Reduced tax rate of 3.75% (from 25%)	Reduced tax rate of 3.75% (from 25%)
R&D grant: (National or EU)	●	●	● ●	Advance	Cash grant	Up to 100% of qualifying project cost	Up to 100% of qualifying project cost
R&D grant: State/Province	●	●	● ●	Advance	Cash grant	Depends on the region	Depends on the region
Investment							
Capex	●	●	● ●	Advance	Support for investments in the framework of a transformation, with a bonus where significant additional employment is created	8% funding for investments, with a bonus where significant additional employment is created. Maximum subsidy EUR 1 million over three-year period. Large companies are eligible only if they invest in a "regional development zone"	8% funding for investments, with a bonus where significant additional employment is created. Maximum subsidy EUR 1 million over three-year period

Key: ● = PERMANENT INCENTIVE ■ = TEMPORARY INCENTIVE ■ = NEGOTIABLE ● = NO ● = LIMITED APPLICABILITY ● = NOT APPLICABLE

Notes:

- Green means that this incentive is currently in effect. Yellow means that the incentive has limited applicability, i.e., the requirements for this incentive limit its value to most companies. Red means that there is no incentive.
- If the response is advance, this means that the government must approve the award of the incentive prior to the commencement/completion of the project/activity. If the response is arrears, this means that the award of the incentive is determined at the end of the tax period or after the completion of the qualifying project or activity. Most tax incentives are considered to be claimed in arrears because they are reported on tax returns.
- R&D tax credit: Form 275U to be filed with the tax return. WHT exemption: 31 August of the year following the R&D activities
- R&D tax credit: Local certificate must be filed in Brussels and Wallonia by 31 March of the year following the capitalization (no deadline in Flanders). Claim for deduction must be made in appendix to tax return due three months after the closing of the books
- Form 275INNO to be filed with the tax return

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Investment (continued)							
Training	●	●	● ●	Advance	Support for training in the framework of a transformation, with a bonus where significant additional employment is created	20% funding for training, with a bonus where significant additional employment is created. Maximum subsidy EUR 1 million over three-year period. Large companies are eligible only if they invest in a "regional development zone"	20% funding for training, with a bonus where significant additional employment is created. Maximum subsidy EUR 1 million over three-year period
Environmental Sustainability							
Call Flemish Energy Agency	●	●	● ●	Advance	Yearly call(s) to support new projects related to residual heat, biomethane production, green heat (geothermal heat), or heating grids	Maximum subsidy EUR 1 million or EUR 2 million depending on project	Maximum subsidy EUR 1 million or EUR 2 million depending on project
Energy investment deduction	●	●	● ● ⁶	Arrears	Super deduction for energy saving investments	113.5% super deduction on qualifying CAPEX	113.5% super deduction on qualifying CAPEX
Excise duties for energy products	●	●	● ●	Arrears	Reduction/reimbursement of excise duties on energy products and electricity	Full amount of excise duties paid on qualifying expenditure	Full amount of excise duties paid on qualifying expenditure
Ecology support	●	●	● ●	Advance	Financial support for ecology investments that either are unique or included on a specific list	15% to 55% of the investment. Maximum funding is EUR 1 million over a three-year period	15% to 55% of the investment. Maximum funding is EUR 1 million over a three-year period
Carbon leakage	●	●	● ● ⁷	Arrears	Compensation for indirect emission costs for electricity-intensive industries	Full amount of qualifying costs	Full amount of qualifying costs
Energy transition fund	●	●	● ⁸	Advance	Grant from national fund to support the energy transition	Between EUR 100,000 and EUR 5 million per project	Between EUR 100,000 and EUR 5 million per project

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Notes:

6. National incentive implemented at regional level. Local certificate must be filed by 31 March of the year following the capitalization

7. 31 March

8. Varies annually after calls are published

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Country background

The general corporate tax rate in Belgium is 25%.

Innovation Incentives

Research & Development (R&D)

Nature of incentives

R&D super deduction/refundable tax credit

A taxpayer may elect a 13.5% one-time additional deduction of all R&D investments recorded on the balance sheet (tangible and intangible assets, and acquired patents) or a 20.5% additional deduction of the total depreciation amount for the same R&D investments (i.e., the taxpayer calculates the depreciation and multiplies that amount by 20.5%). This deduction is granted in addition to the standard depreciation deduction for such expenses, resulting in a super deduction of 120.5% of the amount of depreciation for R&D investments in tangible and intangible assets. The government reviews the rates annually.

Taxpayers can obtain a refund if the excess deductions are not utilized after five years, by converting them to a refundable tax credit equal to the deduction, multiplied by the corporate tax rate. For 2020, the tax credit amounts to 3.375% of all R&D investments recorded on the balance sheet, or 5.125% of the total depreciation amount for the same R&D investments, depending on the election.

To apply this incentive, the taxpayer must obtain a certificate from a regional authority attesting that the R&D activities do not have a negative effect on the environment. The certificate must be requested according to the rules applicable in the region in which the R&D activities are conducted.

Partial wage tax exemption for R&D

A withholding tax exemption is granted to a company for wages paid to qualifying researchers working on R&D projects. The exemption rate is 80% for researchers with specific masters' and bachelors' degrees. For employees with bachelors' degrees, a cap of 25% of

the amount exempted for employees with masters' degrees applies. This incentive allows for a 20%-25% decrease of the salary costs for a researcher dedicated to working on qualifying R&D activities. Qualifying employees must have a bachelor or master degree (or a higher scientific degree) from a list published by the authorities. The diploma requirements do not apply in certain circumstances (i.e., where a young innovation company is the employer or the individual is working under a university research agreement). Special regimes apply for expatriates working in R&D.

A company may be granted temporary "innovation premiums" for its employees, thus eliminating tax and social security withholding requirements.

The company must report its R&D activities to the Belgian Science Policy Office (BELSPO) before claiming this incentive.

Eligible industries and qualifying costs

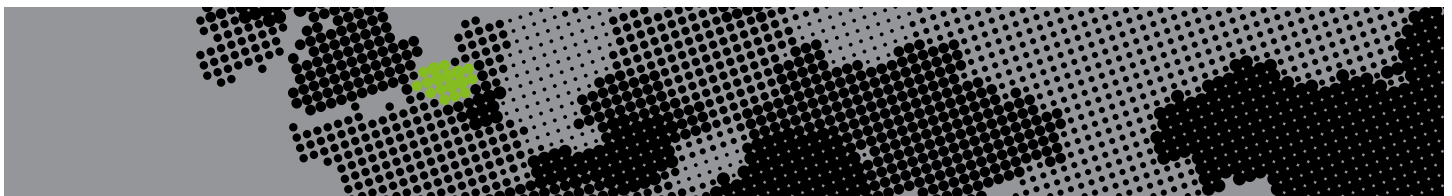
Eligibility is broad and is not limited to particular industries. To receive the deduction or to claim the benefit, the taxpayer must certify that the R&D investment aims to develop products and services that are:

- Innovative in the Belgian market; and
- Will not have a negative effect on the environment (or, if there is an environmental impact, the taxpayer has taken steps to mitigate that impact).

Qualifying costs include salaries and wages, direct costs, subcontracting costs, overheads, and depreciation.

IP and jurisdictional restrictions

The R&D super deduction/tax credit may be claimed for R&D work performed outside Belgium, but the claimant must retain some associated IP in Belgium to receive the tax benefit. There is no IP ownership requirement for the partial wage tax exemption.



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PID

The PID allows taxpayers to claim a deduction on their tax return of 80% of their qualifying patent income, which results in a 5% maximum effective tax rate on patent income for 2020. The PID was repealed on 1 July 2016, but continues to be available for a transition period ending on 30 June 2021 (for patent requests filed before 1 July 2016). The IID described below replaces the PID; taxpayers can elect the PID or IID during the transition period.

IID

The IID law became effective on 20 February 2017 and applies retroactively as from 1 July 2016 (the date the PID was repealed). The IID allows taxpayers to deduct from their taxable income on their tax returns 85% of the net qualifying IP income, i.e., resulting for 2020 in a 3.75% effective tax rate on qualifying net income. If the deduction cannot be utilized, the unused portion may be carried forward. The main differences between the PID and IID regimes are that under the IID: (i) the deduction is computed on net "IP income;" (ii) a nexus ratio (based on historical costs) is used; (iii) the deduction is increased to 85%; and (iv) the scope of "qualifying IP" is expanded, e.g., it covers copyrights on software commercialized after 1 July 2016, plant breeders' rights, orphan drugs income, and market exclusivity income.

The PID and the IID generally are applicable to patents developed by the Belgian entity and to improvements to existing patents owned by

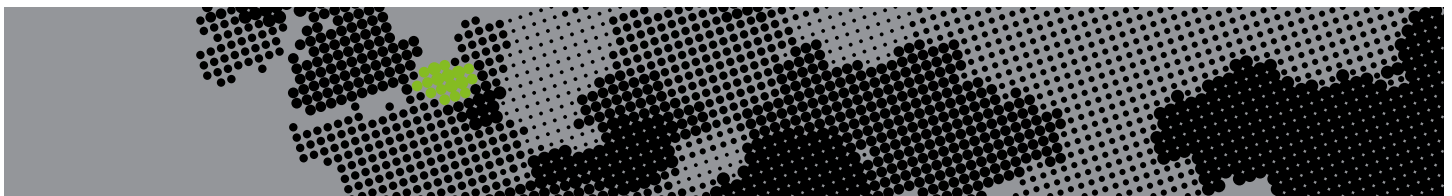
other legal entities.

Regional grants for R&D

The regional governments may offer cash grants for R&D-intensive entities, which can cover up to 80% of total project expenditure depending on the location of the project, the type of R&D activities, and the type of funding instrument. Regional cash grants generally are not taxable.

Examples of specific grant programs offered in each of Belgium's three regions include:

- The Strategic Transformation Support program in Flanders region provides support to small and medium-sized enterprises (SMEs) or multinational companies that make significant commercial investments in the region. Support programs exist for investments (8% funding) and training (20% funding) in the framework of a transformation, with a bonus for the creation of significant additional employment. Large companies are only eligible for investment support if they invest in a "regional development zone." A maximum subsidy of EUR 1 million is available over a period of three years
- The Industrial R&D Funding Program in the Walloon region funds SMEs and multinational companies through cash grants and/or reimbursable loans. This type of grant can be combined with the tax incentives described above.



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Regional R&D grants are available (see “Regional grants for R&D,” above).

Environmental Sustainability Incentives

Energy Saving Investment Deduction

A taxpayer may elect a 13.5% one-time additional deduction for all qualifying energy-saving investments recorded on the balance sheet (tangible and intangible). This deduction is granted in addition to the standard depreciation deduction for such expenses, resulting in a super deduction of 113.5% of the amount of depreciation for tangible and intangible energy-saving investments. The government reviews the rates annually.

The deduction for energy saving investments cannot be converted to a refundable credit, but may be carried forward without limitation. Taxpayers must obtain a certificate from the region where the energy saving investment is made, and submit the certificate with the tax return.

Excise duties for energy products

Companies may apply for a reduction/reimbursement of excise duties on energy products and electricity if certain requirements are met, such as the taxpayer must possess an “agreement or authorization environmental goals” referring to an energy convention, and it must obtain an authorization for energy products and electricity.

Carbon leakage

Compensation of indirect emission costs can be obtained by companies operating in electricity-intensive industries. Different criteria apply in the Brussels, Flanders, and Wallonia regions.

Ecology support (Flanders)

A subsidy of up to 40% (30% for large enterprises) is possible for ecology-oriented investments, provided the technology is included on a specific list, such as environmental investments, investments in energy-saving technology, or investments in renewable energy sources or co-generation.

Energy Transition Fund

This fund supports projects in one of the following fields:

- Renewable energy in the territorial sea area of the North Sea (e.g., offshore wind farms) and biofuels;
- Nuclear energy; and
- Security of the energy supply and “net balance” (e.g., energy storage, smart networks, interconnections.)

The budget is set annually and amounts to EUR 30 million for the 2019 calls. The budget for 2020 had yet to be announced as at September 2020. Funding is between EUR 100,000 and EUR 5 million per project.

