

# HOW TO HIRE MY FIRST EMPLOYEE IN BELGIUM

## MAIN LEGAL STEPS TO FOLLOW TO HIRE A FIRST EMPLOYEE

Employees who work in Belgium are in principle covered by the Belgian social security system.

An undertaking established in Belgium that wants to hire its first local employee in Belgium must comply with various formalities on different levels such as labor law, social security law, tax law, etc.

In a nutshell, the following main legal steps must be followed enabling an undertaking to hire a first employee liable to Belgian social security for employees.

### Social law formalities

A company wishing to hire a first employee liable to social security in Belgium must first of all register itself as an employer in Belgium. Hereto, the employer will receive an specific identification number.

In addition, the employer must subscribe to a family allowances fund, set up an internal accident prevention and protection at work department, register with a holiday pay fund, take out insurance against labor accidents, inform the taxation office, ensure that the employee is affiliated with a sickness fund and is granted a pension number, etc.

Subsequently, the employer formally informs the Belgian social security administration for employees of the employment of the employee before starting the activities in Belgium (so-called "DIMONA notification"). This upfront notification is done electronically.

The aforesaid formalities are generally handled and done by an officially recognised social secretariat chosen by the employer. Note that the employer is liable to severe civil and/or criminal penalties in case of non-compliance of these formalities.

In addition, the employer also will need to appoint a "social representative" and draw up social documents (e.g. work regulations, individual payroll accounts, etc) that must be kept for several years.

Employers currently pay approximately 35% (25% in the future) of the gross salary of the employees. Employees pay 13,07% of their salary.

Under certain conditions, the employer will be able to benefit from reduced employer's social security contributions for a considerable period of time when hiring a first, second and/or third employee.

## DESIGN AND CONTENTS OF AN EMPLOYMENT CONTRACT

### Labor law formalities

The company and the employee should conclude an employment contract in which the terms and conditions of the employment are set out.

The employment contract is a contract by which the employee works under the employer's authority in exchange for a salary. This differs from a self-employed relationship whereby there is no employer's authority between parties.

Please bear in mind that the employer must comply in Belgium with the labour, social security and wage conditions as laid down in Belgian law and collective bargaining agreements.

An employment contract for an indefinite duration must in principle not be stated in writing. Any other employment contracts and contractual clauses must however be stated in writing.

Overtime is in principle forbidden in Belgium, although many legal exceptions are foreseen.

In principle, the working hours may not last longer than 8 hours per day and 38 hours per week. Different exceptions apply.

### Taxation

Withholding taxes are deducted by the employer at source every month. This means that the employee is paying as (s)he earns and the sum accrued acts as a deposit on his/her annual tax bill.

## **CAN SOMEBODY DO BUSINESS FOR ME AND NOT BE AN EMPLOYEE?**

Without entering into detail, in Belgium, an undertaking established in Belgium or abroad can do business with another company by providing services to them on a self-employed basis.

In the latter case, parties do not enter into an employee relationship but work together a self-employed basis. It is important to stress that a service level agreement must be concluded between parties in this respect in which all terms and conditions are stipulated.

Please bear in mind that in such case, each company is solely responsible for completion of its formalities (and its employees). The putting at disposal of employees to a third party is only under strict conditions allowed.

Please finally note that Belgian law foresees severe sanctions in case of a false self-employed relationship between parties (in particular many social inspections occur in the construction sector, cleaning sector, transport sector and security sector).