

Estate planning and investments: Belgian Civil Company





Introduction

Managing personal wealth has become an increasingly complex process. Global opportunities and changing economic and regulatory environments have created the need for constant evaluation and sophisticated solutions.

As a result, having a service provider that understands the intricacies and challenges of effective wealth management is absolutely critical.

TMF Group creates and administers a range of solutions that can manage your cross-border assets, navigate tax and regulatory issues, provide for estate and business succession planning and facilitate effective investments both now and for the future.





Belgian Civil Company

One of the most effective tools in respect of estate planning and the acquisition of an investment portfolio is the Belgian Civil Company.

This is a tax transparent entity which, for global investors, could provide excellent tax benefits and an alternative to typical tax-exempt vehicles.

The main advantages of using a Belgian Civil Company are:

- There are no registration formalities in respect of the incorporation.
- There are no publication or filing requirements in Belgium.
- Belgium is not considered as a tax haven or a black-listed jurisdiction.
- Under the check-the-box legislation it is possible to treat the Civil Company as a corporation for US tax purposes. This way US estate taxes can be avoided.

Incorporation and other requirements

A Belgian Civil Company is a type of legal entity that is not treated as a corporation in Belgium. It is looked upon as a contract and as long as it does not engage in commercial activities, it is a tax transparent and see-through entity. In this respect, the assets, liabilities and income of the Civil Company are considered to be those of the partners.

A Civil Company can be formed by private deed or notary deed executed by at least two partners. This deed does not need to be filed with any public authority.

If required it is possible to obtain a certificate of legal existence from a Belgian lawyer.

In most cases the deed of incorporation stipulates amongst others:

- Who the partners of the Civil Company are.
- What their contribution is.
- What the purpose of the Civil Company is.
- Who will take care of its management (this can be handled by the partners themselves or can be delegated to a managing director).
- What happens if one of the partners dies (usually his partnership interest passes to the legal heirs).

Although there is not much regulation in respect of the civil company in Belgian law, it is essential that there are at least two partners and that each partner is entitled to the profits of the civil company.

A Civil Company that is engaged in non-commercial portfolio investments outside of Belgium with partners that are individuals or non-commercial entities that are not resident or active in Belgium will not be subject to withholding tax in Belgium.

In addition, the Civil Company will be treated as a corporation in the US under the check-the-box legislation, which may avoid estate tax. The check-the-box regulation is only relevant if the Civil Company owns assets in the US. By checking the box, the Civil Company is regarded as a corporation in the US, thereby avoiding US estate tax.

Furthermore the Civil Company provides excellent estate planning benefits with the ability to put in place plans for the distribution and management of your estate following your death whilst retaining control of the assets transferred to the Company during your lifetime.

Provided that all assets are not held or located in Belgium and provided that the partners and their heirs are non-Belgian residents, the contribution and shares of the Civil Company does not trigger any gift or inheritance tax.



Services provided by TMF Group

We offer a wide range of services to clients who wish to incorporate a Belgian Civil Company such as:

- Incorporation of the Civil Company.
- Obtaining a certificate of legal existence.
- Liquidation of the Civil Company.
- Changes in partners or in the capital structure.
- Providing a registered office.
- Forwarding of mail.
- Acting as Managing Director.
- Executing payments.

TMF Group is also a member of the Belgian Institute of Chartered Accountants and Tax Consultants so we can take care of the preparation of financial statements or any analytical performance reporting. In addition, it is advisable to hold annual meetings to discuss the structure and its investments.

We offer a single point of contact for all clients wherever they are doing business. We will work with you to gain an in-depth understanding of your objectives and plans and will ensure that these are fully communicated to our local professionals and acted upon in full.

TMF Group is independent which means that we are free to work with your banks, advisors or other professional partners without you having to worry about corporate governance or local regulator restrictions.

We are committed to constantly improving our service so that you are assured of world-class standards.



Contact

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