

FB-tax

Dummy manual to Belgian stamp duties

Stamp duties are in part regional taxes: for pointed out stamp duties the regions are competent to determine the tariff, the taxable base and the exemptions, which are the predominant aspects of the tax from a taxpayer's perspective. Other aspects of the taxation remain federal, as well as some stamp duties.

The 3 regional tariffs are mentioned below. Only what we think are the most relevant stamp duties are dealt with.

A stamp duty is levied upon registration of a notarial or private deed. Both notarial and private deeds (i.e., other than a notarial deed) are accepted for stamp duty purposes.

A notarial deed is a type of public deed. It has to be registered. A notarial deed may record an agreement or contract (sale, mortgage, marriage or cohabitation contract, gift, lease, ...) but also a will. A notarial deed allows the immediate forced execution of the obligations in the deed. Some contracts (a marriage contract e.g.) require a notarial deed.

Contracts may also be recorded in a private deed. A private deed does not allow an immediate forced execution if that would be necessary (a judgement must be obtained). If there is no legal obligation however to choose the form of a notarial deed or insofar forced execution is not decisive for the matter at hand, the private deed is the common form to record an agreement or contract in Belgium. Most private deeds do not have to be registered. Some contracts, if recorded in a private deed, require registration. A common example are lease contracts of real estate (see hereunder).

All documents of whatever kind (contract, deed, ...) may be registered. Registration might trigger a stamp duty. If there is no specific tariff, a fixed fee of 50 EUR applies. The purpose of registration is that it confirms the date of the document, which may be in particular relevant for private deeds. To have a 'certain date' might be important, also for tax purposes.

Sometimes the registration is free (for lease contracts for a habitation e.g. there is no stamp duty).

Although the transfer tax on real estate is a regional tax, for Brussels and Wallonia the federal tax administration collects it for now (on behalf of the respective regions). The Flemish Region has given this assignment to the Flemish tax administration.

- Information on ownership of real estate and mortgages

A contract regarding the transfer of real estate only becomes opposable to third parties at the point in time where the notarial deed is registered with the competent federal tax authority. This registration has an informative purpose regarding ownership of property and mortgages in Belgium. The federal tax administration is competent. Private deeds are not accepted for this purpose, a notarial deed (or a judgment) is necessary. A private deed regarding the transfer of real estate contains therefore in principle only obligations for the parties to it.