

# HR & Tax Alert

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## Belgium – LIMOSA Requirements

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### Executive summary

As part of its endeavour to reduce bureaucracy, the Belgian government is making efforts to simplify the administrative formalities associated with the employment of foreign citizens on Belgian territory. At the same time, the government is setting up tracking mechanisms to capture foreign business presence in Belgium and by doing so, facilitating the control of cross border movements by the various Belgian agencies in charge of those movements.

In this respect, the Belgian government and Parliament has recently approved a series of measures which are jointly referred to as the ‘LIMOSA’ legislation (which happens to be the name of a migrant bird).

### The long term objective

In the long run, the LIMOSA project is designed to simplify the Belgian business environment by setting up a web enabled platform designed as a “one stop shop” for foreign citizens assigned to Belgium. In the final stage of the LIMOSA project, this portal set up by the LIMOSA legislation will be the single access point to apply for a work permit, a visa or a professional card.

### The near future: additional tracking mechanism

Although businesses will welcome the long term aim of simplification of the processes for bringing an employee to Belgium, the initial start up phase of the LIMOSA legislation creates an additional administrative burden for foreign employees assigned

to Belgium or self employed individuals temporarily working in Belgium. Once the legislation enters into force, all assignments to Belgium will need to be disclosed to the Belgian social security authorities prior to the start of the assignment. This new disclosure requirement is imposed on both posted workers (including “trainees”) and self employed individuals.

The disclosure requirement should normally be satisfied by the foreign posting employer (and posted employee) through a web based electronic platform. The disclosure will be confirmed by a receipt which the posted worker and his posting employer should share with the receiving entity at the Belgian end. If the latter is not provided with the receipt proving the satisfaction of the pre-assignment disclosure requirement, the Belgian receiving party will be obliged to satisfy the disclosure requirement in lieu of the sending party.

The pre-assignment disclosure requirement is therefore primarily imposed on foreign entities but if the latter fails to meet his/her obligation, there is a notification duty imposed upon the Belgian end-user. This new disclosure requirement is in principle imposed upon any type of assignment, irrespective of the length of the assignment and will therefore apply to short term assignments or even business trips. However, we expect the legislation to be fine tuned in order to include a “de minimis” threshold whereby the disclosure would not be imposed upon real short term business trip visitors. We anticipate the “de

minimis” provision to exclude business trips of less than 5 days per month but this is yet to be confirmed.

Provided that the application decrees are released in due time the legislation is due to enter into force from 1 April 2007. However, although the Law has been published in the Belgian Gazette, a Royal Decree still needs to be published in order to clarify the practical side of the new disclosure requirement.

### **Conclusion**

By setting up such a central database fed by both the foreign citizen assigned to Belgium as well as by end

users located in Belgium, the LIMOSA legislation will provide a simplified business environment when all the features of the project are up and running while at the same time providing a powerful tool for all inspection services dealing with cross border movements.

We must stress that Belgium is not isolated in its attempt to improve the monitoring and tracking of every form of professional activity performed by foreign based individuals within its territory since there are other jurisdictions considering similar developments.

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