



Is your NATO pension taxable in Belgium ?

If you worked as a **NATO, SHAPE, or IMS official** and you are planning to **stay in Belgium after you retire**, there is a general understanding that your pension from the Organization will be taxable here. Both the tax authorities and tax courts, as well as the Organization itself share this opinion.

As long as you work as an official, the Belgian authorities consider you to be a **non-resident** who retains their tax residency abroad. However, once you stop working for NATO, the Belgian authorities will consider you a **tax resident**. The latter is always taxable **on their worldwide earnings**, including any national (Belgian and foreign) and supranational or intergovernmental pensions that you are entitled to.

The general rule exempting every official and civil servant from Belgian income tax is stipulated in the **Ottawa Agreement** of 20 September 1951: "*Officials of the Organization... shall be exempt from taxation on the **salaries and emoluments** paid to them by the Organization in their capacity as such officials*". In principle, this article only exempts income from **active employment** from taxation and does not extend to pensions.

The typical remuneration of an official includes a **basic salary**, as well as **additional allowances and supplements** ('*emoluments*'). Allowances can be paid for installation, education, cost of living, and so on. Several retired officials have challenged this approach before the Belgian tax courts and claimed that '*emoluments*' **also include NATO pensions**. So far, no Belgian judge has followed this point of view and neither do the Belgian tax authorities.

It has also been argued in the past that a **retired NATO official is still an official** and is therefore still subject to the terms of the Ottawa Agreement, which should result in the pension being exempt. The Court of Appeal in Brussels considered it to be a **too-extensive interpretation of the treaty** if the pensioner should continue to be considered an official after retirement.

The Brussels Court also pointed out that the fact that NATO pension is taxed in Belgium, while this is **not the case in other countries** (e.g. Italy, Turkey, etc.), does not violate the principle of non-discrimination. Nor is there an unequal treatment in case a NATO pension is taxed **after retirement**, whereas no income tax is due if an official terminates their NATO employment **before the pension age**, thereby surrendering their pension rights before maturity.

For those pensions that are subject to a domestic income taxation, the *NATO Civilian Personnel Regulations* also provide for a '**tax adjustment**'. This is an amount paid out on top of the pension to (partially) compensate for the loss of income due to the domestic taxes that are levied. While the Belgian tax authorities have also tried to tax this 'fiscal adjustment' itself, the tax courts generally agree that this amount should be **fully tax-exempt**.

TAXPATRIA® can **advise** on your **pension taxation** and **assist** you with your **personal tax filing**.