Are you taxed twice if there is no tax treaty with Belgium ?

If you receive **foreign earnings or own assets abroad, and you are a Belgian tax resident**, you want to avoid paying tax on them both in Belgium and abroad. For this reason, **double taxation agreements (DTAs)** have been put in place to avoid that **companies and private individuals** pay tax twice on the same source of income. These bilateral agreements have been signed between many countries in the world with the purpose of **avoiding international double taxation**. The DTAs also aim to **eliminate unintended double non-taxation**, to **stop tax discrimination**, and to **combat tax evasion** in general.

Belgium has currently agreed to **more than 100 DTAs,** some 10 of which have been signed, but still need to be ratified. However, when a taxpayer receives income from a country **that has no DTA with Belgium**, the question rises how in that case **double taxation can be avoided**. If there is no DTA in place between Belgium and the source country, Belgium **does grant tax relief to avoid the negative effect of being taxed in two countries.** This is also known as the '50% rule'.

Article 156 of the Belgian Income Tax Code of 1992 (ITC92) provides for **unilateral relief** to mitigate the negative financial impact. In general, **relief is subject to two conditions**. Relief is only granted if the **income** (i) **was 'earned abroad' and** (ii) was **also 'taxed abroad'**. Belgium will only have to apply the tax reduction if **the taxpayer can demonstrate** that the foreign income **has been subject to taxation abroad**. This **does not mean** that the income must have effectively been taxed. The reduction applies even if the foreign system results in the income **being exempt from tax**. The **type of foreign tax due** is not relevant either.

It should be noted that tax relief only applies to **foreign real estate, professional earnings and pensions, miscellaneous income and financial support**, but not, for example, to investment income such as dividends or interest. If you have received **dividend income** from a country that has no DTA with Belgium, you will effectively be subject to **double taxation**.

An important element is that, in general, the **burden of proof** that **the income was taxed abroad**, lies with the **taxpayer**. If the latter cannot demonstrate that the foreign earnings have been subject to the **standard taxation regime abroad**, or that it has been reported to the foreign tax authorities to begin with, the Belgian authorities will **likely reject** the benefit of Article 156 ITC92.

However, the tax authorities are of the opinion that, in practice, for **foreign real estate income** or **salary that has been paid by a foreign employer**, the taxpayer is **<u>not</u> required to demonstrate** the fact that the earnings have been subject to a foreign tax regime (*Com.IB., Nr. 155/21*). In other words, if your salary **has not been taxed abroad** and **there is no DTA in place**, you would – at least in theory – have the right to claim tax relief in Belgium under the '50% rule'.

TAXPATRIA® can help you with your **personal income tax filing** to avoid potential double taxation and assist you with your **tax refund claim**, both **in Belgium and abroad**.

© Taxpatria 2010-2021