



How are distributions from a single-member US LLC taxed in Belgium ?

In the US, a *Limited Liability Company* (LLC) with **at least two members** is classified as a **'partnership'** for federal tax purposes. However, an LLC with **only one member** is treated as an entity **disregarded as separate from its owner**. An LLC's tax classification can subsequently change under certain conditions, for example, when it elects to be **treated as a corporation** under the US **'check the box'** regulations.

The US authorities treat a disregarded entity as **'fiscally transparent'**. If the owner is a **US tax resident**, the single-member LLC's activities (e.g. income, deductions, gains, losses, and credits) should be reported on the individual's federal tax return. The owner will **not be considered an employee** of the LLC but **will be self-employed** in the same manner as a sole proprietorship. Any distribution from a disregarded entity will have **no corporate tax implications in the US** because the assets transferred are deemed the owner's assets for tax purposes.

Because countries take **different views** as to when an entity is fiscally transparent, international tax issues may arise. Generally, a fiscally transparent entity is not entitled to claim tax treaty benefits, which can result in either **double taxation or double non-taxation** when earnings are distributed to a beneficiary abroad. For Belgian tax purposes, there is a standard practice of treating US LLCs **as companies**, rather than as transparent entities.

If you are the owner of an LLC classified by default as a **disregarded entity** and you are a **Belgian tax resident**, you will obviously want to know how your LLC's earnings (as a 'hybrid' entity) will be treated for tax purposes. Except for a few Belgian tax rulings, there are **no administrative guidelines or tax court decisions** which specifically address US LLCs.

Because a US LLC is considered a **separate legal entity** in Belgium, the Belgian tax office **will not tax** any of the LLC's earnings if **they are reserved and not distributed** to the owner. If the LLC **does make a distribution**, it is generally upheld that the Belgian resident owner is **entitled to the US-BE tax treaty benefits**. If the LLC's earnings are **taxable in the US**, Belgium must exempt the income (under the 'exemption with progression' method). In the opposite situation, when the LLC's earnings are **considered taxable in Belgium**, such earnings would be subject to the Belgian Income Tax for **Non-Resident Companies**. The Belgian resident beneficial owner should **not be taxed individually** on these earnings.

As the difference in approach might also result in **income qualification issues**, the Belgian Ruling Commission has decided that Belgium is **bound by the qualification** given to the income by the **state of source** (US). If it is a dividend in the US, it will be treated as such in Belgium, and so on. It also needs to be mentioned that if you are a member of a US LLC, you **must report this** 'legal structure' in your **Belgian tax return** in view of the so-called 'Cayman tax'.

TAXPATRIA® can assist you with analyzing the **Belgian tax liability of your US LLC** and make sure you are **fully compliant** with local regulations.