

## Tax position of the assisting spouse

An assisting spouse is a spouse helping an independent with his activity. The tax payer can allocate part of his income to the assisting spouse. Here we take a brief look at the specific rules for the assisting spouse.

### Maximum and minimum position

Since 2005 assisting spouses have a separate social position. Tax consequence is that they now in principle always fall within the maximum position. This means that their income is taxed as own professional income. This scheme stays in place if the assisting spouse also has a limited own income from an independent activity (not exceeding 3.000,00 EUR).

Only assisting spouses which are born before 1956 fall under the minimum position. They can however opt for the maximum position.

### Conditions

Income can only be allocated if there is an actual collaboration by the spouse.

Additionally the assisting spouse can during the taxable year obtain maximum 13.360,00 EUR (tax year 2017) of own net professional income from another own professional activity. Net professional income means gross professional income less professional expenditure and losses.

In order to calculate the 13.360,00 EUR threshold the following items are not taken into consideration:

- arrears and dismissing fees;
- separately taxed professional income;
- profit from an independent professional activity from the time before the taxable period;
- pensions, interest and other allowances;
- capital received as compensation for loss of professional income and capital from certain individual life insurances and which are converted into fictitious annuities.

### Amount

The assisted spouse can allocate maximum 30% of the income of the professional income to the assisting spouse. If the activity of the assisting spouse deserves a higher percentage, it is allowed to allocate more than 30%. However the amount is always limited to 13.360,00 EUR (for tax year 2017).

Moreover the allocated amount cannot exceed the normal pay for the actually performed services by the assisting spouse.

The allocated income keeps its own tax character of profits and gains and will not be seen as salary. Depending of the origin of the part allocated to the assisting spouse, this will be Belgian or foreign income.

The assisting spouse can deduct professional expenses for 5% or choose to prove and deduct the real professional expenditure.

The assisted spouse should not withhold nor pay professional withholding tax on the allocated income. On the other hand the assisting spouse should make prepayments in order to avoid any tax increase. In case the assisted spouse has made too much prepayments, these can be used to avoid the increase with the assisting spouse.

**Note: does not lead to higher tax**

If the application of this scheme would lead to a higher taxation, it will not be applied.