

Belgium Clarifies Conditions for Alimony Deduction by Non-Residents

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Belgium published, in the Official Gazette of 26 July 2023, the Royal Decree of 17 July 2023 on the conditions for claiming alimony deduction by non-residents earning less than 75% of their professional income in Belgium.

The taxpayers concerned must submit an income declaration from the tax authorities of their residence state with the following data:

- confirmation that the taxpayer is a tax resident of the state concerned;
- confirmation that the state of residence grants - in principle - an advantage for alimony;
- confirmation that the taxpayer (and possibly his/her spouse) cannot benefit from the tax advantage for alimony for the year of income in question due to the low level of his/their taxable income in the state of residence;
- confirmation that the tax advantage for alimony in the state of residence cannot be carried forward to a subsequent year of income;
- the amount of alimony paid during the income year; and
- the amount of alimony to which no tax advantage applies in the state of residence due to the low amount of income.

Note: To implement the decision [Commission v. Belgium \(Déduction des rentes alimentaires\) \(Case C-60/21\)](#), from assessment year 2023, non-residents earning less than 75% of their professional income in Belgium can deduct alimony payments if the following cumulative conditions are met:

- the taxpayer is a resident of an EEA state;
- the taxpayer derives taxable professional income in Belgium, which is subject to the tax for non-residents;
- the taxpayer does not invoke the [Schumacker \(Case C-279/93\)](#) doctrine in another EEA state;
- alimony payments are not deducted in the residence state of the taxpayer;
- the taxpayer proves that they cannot (fully) benefit from the alimony deduction in their state of residence due to low taxable income there. This proof must be provided by means of an official declaration from the tax administration of their state of residence; and
- the taxpayer does not carry forward the non-deductible alimony in the residence state.

Alimony paid by the taxpayer's spouse who does not derive taxable income in Belgium is not deductible.

The full text of the Royal Decree is available [here](#) (in Dutch) and [here](#) (in French).

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