



Individual tax alert Belgium

Occupational pensions: clarification on the notion of “payment or attribution”



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The Program Law of 22 June 2012 changed the flat tax rates applicable on pension lump sums and surrender values (funded via employer contributions) that are *paid or attributed* to an individual as of a certain age.

This change entered into force for payments or attributions made as of 1 July 2013 and can be summarised as follows:

Payment / attribution at the age of	Till 30 June 2013 Applicable flat tax rate	As of 1 July 2013 Applicable flat tax rate
60	16,5%	20%
61		18%
62		16,5%
65	10%*	10%*

* The 10% rate can only apply upon the condition that the individual remained effectively active up until the age of 65.

Under Belgian tax law, pensions constitute taxable income upon payment or attribution. Pensions are deemed to be attributed the moment upon which the individual acquires a definitive and irrevocable right over the pension and thus can freely dispose of it.

In order to determine the applicable flat tax rate, it is thus essential to determine when payment or attribution of the pension lump sums and/or surrender values occurs. The notion '*payment or attribution*' is now further clarified in the circular letter of 9 September 2014 (nr. 37/2014 - nr. Ci.RH.244/628.304) for the application of the above changes. The notions are clarified by a number of examples:

Not considered an *attribution* of the pension

- The mere fact of reaching the contractual end date of the pension commitment;
- The issuance by the pension institution of the mandatory information form towards the beneficiary stating the amount of the pension and the possible payment methods;
- The issuance of the acquittance ("*vereffeningskwijtschrift*" / "*la quittance de liquidation*") (which is contrary to what is mentioned in the administrative commentaries on the Belgian Income Tax Code).

Considered an *attribution* of the pension

- The assets are wired into the bank account of the beneficiary;
- The pension lump sum is converted into annuities at the request of the beneficiary;

- The pension lump sum is transferred at the request of the beneficiary.

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