

Tax Newsletter

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Author's rights: tax framework

- Qualifying author's rights income is derived from the cession or licensing of a protected author's right pursuant to art. XI.165 Economic Law Code. The acquirer or licensee must exploit this original work of literature or art or use it for own purposes.
- On 16.05.2024, the Constitutional Court has ruled that the exclusion of software developers is justified, despite heavy criticism from practitioners.
- A person transferring author's rights must dispose of an art certificate or must transfer these rights for public communication, execution or reproduction. An audience of 15-200 persons should do (Decision 2023.0698). Marketing related functions creating digital or printed content and producing graphic designs (logos, ads, videos, etc.) seem to score well. Preferably, they use 'no code' graphic design software (Decision 2023.0936).
- Up till a certain ceiling, author's rights compensations always qualify as 'movable income'. If the transfer of author's rights goes along with rendering a service (e.g. promotion), the threshold is 50% (income 2023), 40% (income 2024) or 30% (as of income 2025) of the 'financial envelop'. There is an absolute maximum of EUR 73.070 (income 2024). The excess amount is generally treated as 'business income', subject to progressive tax rates and with possible deduction of actual business expenses (Court of Brabant-Wallon, 16.05.2022). However, the Ruling Commission often still applies a 25% threshold. The 'financial envelop' is the gross employee salary before deduction of social security contributions which is taken into P&L (Decision 2023.0888). The Ruling Commission further reduces the ceiling in function of non-creative time spent by the employee, e.g. project management, training, etc.
- Be careful: if the average author's rights compensation over the last 4 years exceeds EUR 73.070, the total compensation is treated as 'business income'.
- Such 'movable income' is taxed at a 15% personal tax rate, reduced by a lump-sum cost of max. 50%. The effective personal tax rate is thus min. 7,5%. This income must be reported in the personal tax return. The debtor issues an income statement 281.45.
- Independent freelancers (Decision 2024.0302) and Directors also benefit from this tax regime. The Director of a management company did not have to apply the 30% limit, lacking any supplementary performance of services (Decision 2023.0799).
- Borne author's rights compensations can be immediately taken into P&L and are tax-deductible. However, if they are durably used for business purposes, they should be activated on B/S and straight-line amortized over at least 5 years (Decision 2023.0888).
- If conditions are satisfied, a social security exemption applies whilst this personal tax regime does not impact the applicable vat rate (Decision 2023.0829).