How are distributions from a US partnership taxed in Belgium ?

In the US, **state law** regulates the internal governance and operations of a partnership. Although there are 50 states, the laws regulating partnerships are **generally quite similar** as they are based on the **same set of rules** (i.e. *UPA, RUPA* and *ULPA*). A partnership can be established by formal decision but can also exist due to the **mere undertaking of carrying on a business or trade** with another person. There are **different types** of partnerships that depend on the **various degrees of liability protection** afforded to the partners (e.g. *general partnership, limited partnership, limited liability partnership (LLP) or limited liability company (LLC)*). An LLC with **at least two members** is classified by default as a **'partnership'** for US Federal Tax purposes.

A partnership is a type of **'pass-through'-entity** for US tax purposes and is therefore '**fiscally transparent'**. The partnership is **never separately taxed** on the income it generates. Instead, the individual partners are **taxed on their share** of the partnership profits, **regardless** of when the earnings are distributed. Partnerships are required to report their income on an **annual tax return** (*Form 1065*) and need to provide each partner with a report of their **distributive share of partnership income** (*Schedule K-1*). If the individual partner is a US taxpayer, they need to report **income and self-employment taxes** in the US (*Form 1040*). 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 Belgium, the **tax treatment** will depend on whether the US partnership is **deemed to have legal personality** or not. This requires a **case-by-case study**.

If you are partner in a **US partnership** and you are a **Belgian tax resident**, you obviously want to know how your US earnings will be taxed in Belgium. Except for a few **advance tax rulings**, the authorities provide **little administrative guidance** on the Belgian tax treatment of US partnerships.

If the partnership is '**fiscally transparent**' in Belgium, the earnings are deemed to have been realized directly by each individual partner **in proportion to their share** in the partnership. The Belgian taxman will have to **exempt the income** only to the extent it can be **allocated to the US** (based on the US-BE treaty rules). If it can be **allocated to Belgium**, it will be taxable here.
The US partnership that is considered to be a **separate legal entity** in Belgium, will **not** trigger any **personal** taxation, if the earnings **are reserved and not distributed** to the partner. If the partnership **does make a distribution**, it is generally upheld that the Belgian resident partner is **entitled to claim the US-BE tax treaty benefits**. Only when the partnership earnings have effectively been **taxed in the US**, Belgium must exempt the income. In the absence of a taxation in the US, the partnership distribution may be **taxed in Belgium** instead.

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