

Asset declarations

<https://oswiadczeniamajatkowe.cba.gov.pl/ome/legal-status-of-asset-declarat/joint-assets/1175,Joint-assets.html>
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Joint assets

The scope of asset declarations encompasses the personal property of the individual required to submit the declaration as well as matrimonial assets, *ie* those shared with their spouse. Importantly, the declaration includes neither the personal property of the spouse of the person submitting the declaration, nor the property of his or her family (children, parents, siblings) or cohabitant. It is worth noting that at the moment of entering into marriage commonality of assets between the spouses is created in law and this includes property acquired during the marriage by both or one of the spouses. Assets not covered by statutory commonality of property remain the personal property of the respective spouse.

The regulatory provisions related to commonality of property, *ie* joint property subject to disclosure in asset declarations, are contained in the Act of 25 February 1964. *The Family and Guardianship Code* (Journal of Laws of 2023, item 2809, as amended), hereinafter referred to as the Family and Guardianship Code (Kro).

Pursuant to Article 31 § 2 of the Kro, the joint property includes:

- remuneration for work and income from other gainful activity of each spouse,
- income from joint property, as well as from the personal property of each spouse,
- funds accumulated in open or employee pension funds of each spouse.

By contrast, personal property includes:

- property items acquired before commonality of property was established,
- property items acquired by inheritance, bequest or donation, unless the testator or donor decided otherwise,
- items obtained as compensation for bodily injury or causing health disorder or as compensation for harm suffered,
- debts resulting from unpaid remuneration for work or other gainful activity of the respective spouse,

- property items obtained as a reward for personal achievements of one of the spouses,
- copyright and similar, industrial property rights and other rights of the creator,
- property items acquired in exchange for personal property, unless a specific provision provides otherwise.

In the absence of instructions for filling in asset declarations it is often difficult for persons performing public functions properly to determine the joint property needing to be reported. It is common practice, for example, not to report income from the rental of a dwelling constituting the personal property of the spouse of the person submitting the declaration. Another example may be a situation in which the spouse of a person performing a public function purchased a passenger car. The purchase was made from

a bank account belonging to the spouse and in both the sales agreement and the registration certificate the spouse is listed as the owner. Furthermore, the person who fills in the declaration has their own car and has never even driven the vehicle bought by the spouse. In this person's opinion, it is "the wife's or husband's car". However, according to the provisions of the Kro, the vehicle is considered as joint property and as such is subject to disclosure in the declaration of assets. There are many analogous examples.