## Tax advantages for sme's

Sme's are often called the engine of our economy. Also the 'tax legislator' is conscience of that. That's why sme's have a special regime in our tax system. Several tax provisions foresee in a derogative and more advantageous treatment for sme's than for 'big companies'. Due to the ever changing legislation it is not easy to keep an overview. Here we list the tax advantages as they currently exists and provide some explanation.

### What is a small company?

The advantages explained below apply to 'small' companies. The definition of a small company is found in article 15 of the Company Law Code. This definition also applies in tax law.

It concerns companies which during the two last accounting years did not exceed more than one of the following criteria:

- Total balance sheet: 3.650.000€;
- Turnover (ex VAT): 7.3000.000€;
- Number of employees: 50.

If the annual average of employees exceeds 100, the company is considered as a 'big' company.

Big companies cannot be artificially split up in 'small' companies. For affiliated companies the criteria are considered for the whole group.

### Reduced increasing company tax rate

Small companies are not always subject to the standard company tax rate of 33%, but can under certain conditions benefit from the reduced increasing company tax rate. The taxable income cannot exceed 322.500€. The tax rate then amounts to:

- 24,35% for 0 to 25.000€;
- 31% for 25.000€ to 90.000€;
- 34,50% for 90.000 to 322.500€.

### Reduced withholding tax for dividend from new shares

Since beginning 2013 a general withholding tax rate of 25% applies to all dividends.

Since investing in sme's is encouraged, a special withholding tax rate applies as from 1 July 2013 to dividends from new shares emitted at the occasion of an establishment of a capital increase of an sme. On these dividends a rate of 20% or 15% applies depending on whether they are paid during the second year (20%) or the third year (15%) upon the investment (establishment or capital increase).

Some conditions have to be fulfilled, the most important being (1) the investment should be made in cash, (2) new 'named' shares should be emitted, (3) the shares should continuously be in full ownership of the investor and (4) the shares cannot be preferential shares.



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## Capital gains on shares

Big companies will as from 1 January 2013 be taxed when they realise capital gains on shares, even when they have had the shares in full ownership during more than one year. The taxation amounts to 0,4%.

Small companies are not subject to this taxation. They are taxed (as is the case for big companies) on the capital gains (25%) when they do not keep the shares for an uninterrupted period of more than one year.

## Fairness tax

The famous fairness tax only applies to big companies and not to small companies.

## Freezing of reserves: shorter holding period

In order to avoid the increased withholding tax on liquidation bonuses, companies can 'freeze' their taxed reserves at a rate of 10%. This means transferring them into placed capital, which can be distributed afterwards tax free to the shareholders.

The company should then wait for eight years before being able to do a capital decrease and remits the capital tax free to the shareholders. A small company has to wait only for four years.

## Notional interest deduction

Sme's have right to a higher notional interest deduction (standard rate + 0,5%). For 2014 (tax year 2015) the deduction for sme's amounts to: 3,130%.

## Prepayments

Sme's should not make any prepayments during the first three accounting years upon their establishment.

## Amortisation

Sme's should not apply their first amortisation pro rata temporis (in the year of purchase/investment). This can be clarified with an example: an sme buys a machine on 1 July 2013 for an amount of 50.000, to be amortised over a period of 5 years, being 10.000€ per year. An sme can already amortise 10.000€ in 2013. Big companies should amortise pro rata temporis: this means that the machine is only used for 6 months during 2013 (from July until December), so only half of the amortisation applies to the normal annual amortisation for the first year: 5.000€.

Next to this sme's can amortise the costs related to the purchase as they want.

## Tax-free funding of an investment reserve

Sme's can create a tax-free investment reserve.



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## Investment in security

Small companies have right to an investment deduction for investments in security (which does not apply for big companies).

Expenditure of sme's actually made for security are 120% tax deductible. Which is more than the actual cost.

## Exemption for additional personnel

Sme's have right to an additional tax exemption of 5.600€ for each additional employee (with a certain maximum salary) they engage.


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