

## Professional withholding tax: starters should not deposit the full amount

The program law of 10 August 2015 contained a number of incentives for starting companies. Two of those especially want to encourage investments in start-ups: a tax reduction for who participates in equity and an exemption for who grants credit to a starter. Also the starting company itself is concerned: it obtains a partial exemption of the deposit obligation of the professional withholding tax.

### General rule: withhold the professional withholding tax and deposit it to the Treasury

All companies and institutions paying wages to their employees, should withhold professional withholding tax. This withheld professional withholding tax should consequently be deposited to the Treasury.

### Exception: withhold professional withholding tax but no full deposit

Several employers are partially exempt and can keep a part of the withheld professional withholding tax, e.g. research institutions, universities and Young Innovative Companies as far as the wages for the researchers are concerned.

Also starting companies have right to a partial exemption as from this summer.

Note that these institutions and companies should indeed actually withhold the professional withholding tax. They are only exempt of the deposit obligation. This rule is in essence advantageous for the employer, and not directly for the employee.

### Partial exemption for starters

While often conditions have to be met by the employees (e.g. employee should be a 'researcher', should hold a PhD), in this case only conditions have to be met by the employer. In other words, the exemption applies for the wages of all employees, irrespective of their diploma or function.

For the employer a double condition applies. The employer should be (i) a starter and (ii) a micro-company or a small company.

A starter here means that the entrepreneur can be registered in the "KBO" (the business database) for a period of maximum 4 years. A business which is transferred in another kind of company (e.g. from independent to a corporation) is no starter. The scheme looks at the moment when the actual activity was started.

Moreover the company should be a small company or a micro-company.

When complying with both conditions, the company has a right to a deposit exemption of 10% of the professional withholding tax withheld on the wages of the employees, for a period of 48 months. The so-called micro-companies have an exemption of 20%.

Finally:

- the exemption applies to wages which are paid or granted as from 1 August 2015;
- this exemption can be combined with other exemption from depositing professional withholding tax (for overtime, shift work, scientific research, ...) which the company uses.