

Crowdlending: circular letter provides more insights

When you grant a loan to a small company, you can obtain a tax advantage. E.g. there are regional tax credits for the win-win loan (Flanders) and the Coup de Pouce (Wallonia). Next to this a federal advantage is in place: you do not pay tax on the interests received for loans granted to start-up companies through a crowdfunding platform. Officially this exists as of mid 2015. Since additional legal rules were to be developed, the system could really start for loans granted as from 1 February 2017.

The tax exemption for interests received is only part of a set of measures to encourage investments in (starting) small companies (think also of the tax reduction when buying shares from a starting company).

Loan through a crowdfunding platform

While the win-win loan/Coup de Pouce is a loan directly granted by the creditor to the company, we here consider loans granted through a **recognized crowdfunding platform**. That is why the scheme could only start at 1 February 2017: it took until then to obtain recognition of the crowdfunding platforms (the legal framework was only fully set end 2016).

Crowdfunding is broader than **crowdlending**. We use the term crowdlending if loans are concerned. Crowdfunding is also possible in other ways, e.g. by investing in the risk-bearing capital of a company.

To a starter

A starter is a company which has been registered with the Crossroad Bank for Enterprises no longer than four years. The circular letter adds that a company is not considered as a starter if an existing activity of a company is transferred to another company or when an individual contributes his activity in a company. Unless the initial activity in the first company or by the individual has been performed for a period shorter than four years.

Use of the loaned money

The company should use the collected money in order to develop new projects. What that exactly means is not further explained in the circular letter.

The law and the circular letter do not clearly determine where the money cannot be used for.

The loan

The loan should have a duration of four years. This is a **minimum** and a **maximum** at the same time, since the interests are exempt only during the first four years.

The interest can be paid monthly, quarterly, bi-annually or annually.

Tax advantage: no taxation of the interest received

Only interests for the **first bracket of 15.000 EUR** are exempt. In order to calculate this bracket, all loans granted during the previous four years are taken into consideration.

This amount can be granted in one or in multiple loans, to one or more starters.

When the total amount of loans granted exceeds the 15.000 EUR threshold, only the first 15.000 EUR qualifies. The tax authorities consider that the exemption applies for the loan which is granted the first. The tax payer cannot choose for which loan he wants to obtain the advantage.

Interest related to loans exceeding the threshold is considered normal taxable movable income. This is collected through the withholding tax (RV). The starting entrepreneur will have to deal with this. He will pay the interest and transfers - when necessary - the withholding tax to the Treasury. It is sufficient for the entrepreneur to only look at the loans he has granted himself to the tax payer. In case his loan(s) do not exceed the threshold, no tax has to be withheld.

Example

Jean granted a loan to bvba Marc for 15.000 EUR. To nv Derijck he has granted a loan for 12.000 EUR. In total, he granted loans for 27.000 EUR. He only has right to the tax exemption for the first 15.000 EUR. Therefore, nv Derijck should withhold the withholding tax when paying the interests. However, nv Derijck should not consider the loan between Jean and bvba Marc. Therefore, none of the two companies will have to withhold any withholding tax. Watch out: Jean will ultimately will have to pay tax on the interest of the 12.000 EUR loan. He should report these interests in his personal tax return.

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