

Corporate tax return 2015: the novelties

As is the case every year, the corporate tax return has been modified due to legal changes and new measures. We take a look at what has been changed.

Liquidation reserve: 10% taxation

Since the start of this year SME's can reserve a part of their profit as liquidation reserve. From an accounting perspective this is done by entering an amount on one or more separate passive accounts (e.g. disposable reserve or legal reserve).

Since a separate taxation of 10% is due when booking the reserve, the booked reserve should be mentioned separately in the corporate tax return. Therefore a new rubric has been foreseen on the tax form: rubric 'liquidation reserve', code 1012.

Secret commissions

As from tax year 2015 the rules for secret commissions have changed significantly. The special taxation is now only applied as *ultimum remedium*. It is no longer applied if the recipient of the commissions has reported the amounts on its personal tax return. Moreover, it is sufficient that the beneficiary can be unambiguously identified. Furthermore the taxation is no longer a sanction, but merely a compensation. As a consequence the rate is decreased from 309% to 50% (when the beneficiary is subject to the corporate tax or when secret profits are incorporated in the capital of the company) or 100% (if the beneficiary is a private individual).

These changes have a double effect on the tax return:

- under the header of the *non-allowed expenses*, a technical adjustment is made, which in fact comes down to the name change of the rubric: the line 'non-justified expenses of the recipient of the taxation' is renamed into 'non-justified expenses' (code 1225). The expenses can still be rejected since they do not comply with the base article for deductibility of professional expenses (article 49 Income Tax Code 92: costs to obtain or keep professional income for which amount and authenticity are proven);
- naturally the rubric of the *separate taxations* itself should be adapted, specially what the changed rate is concerned. The old code 1501 is being split in two codes: 1506 (for the taxation of 50%) and 1507 (for the taxation of 100%).

Tax shelter

Also the tax shelter regime for whom invests in audiovisual work has been changed importantly. It is no longer required that the investment is made in a Belgian audiovisual work, but in an *European work*. This also requires a technical modification in the tax return, again limited to a small change of the definitions used in code 1862: 'recognised Belgian audiovisual work' became 'recognised audiovisual work'.

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Tax attachments

We can also make some remarks concerning the tax attachments. Watch out: for corporate tax the electronic tax return through BizTax is obligatory since previous tax year. This means that all attachments should be filed together and properly filled out. If not, the system will give an error message and the tax return cannot be filed.

Attachment 275C: deduction for risk capital

Since tax year 2013 the notional interest deduction is no longer transferable. The stock of notional interest deduction which has been built up until 2012 can still be used, however there are two limitations: (i) limitation in time until the next seven taxable periods and (ii) 60% limitation for the part above 1 million euro.

The part of the stock of notional interest deduction that will be definitively lost because of one of these limitations, will now be explicitly expressed in attachment 275C, by introduction of two new rubrics:

- new rubric 8081: previously and at the latest in tax year 2012 formed exemptions for risk capital which was not deducted during the previous tax years and which is not deducted in the current tax year due to the 60% limitation;
- new rubric 8082: amount of the part of the previously and at the latest in tax year 2012 formed exemptions for risk capital which is not deducted during the previous and current tax year and after seven taxable periods, will definitely be lost.

New attachments 275A: Liquidation reserve

For the creation of the liquidation reserve a new attachment was created: the reserved amount for the taxable period should be mentioned in fiscal attachment 275A.