

## Change in the end date of the financial year of companies

When new legislation is due to arrive a number of companies tend to adapt their financial year. By doing so they want to benefit longer from the old rules and postpone the application of the new, more severe rules. In order to avoid this the tax legislator more often adds anti-abuse provisions, so that the change of the financial year has no further effect on the application of the new rules.

### Modification end date financial year

A company can change its financial year end date for several reasons and can lengthen or shorten its financial year. By doing so a shortened financial year will end e.g. on 30 September instead of 31 December and will fall within tax year 2018 and not in tax year 2019.

Such lengthening/shortening is tax driven when ...

- A company wants to benefit longer from old arrangements, when the tax legislator has announced less beneficial rules;
- A company wants to benefit sooner from new positive arrangements.

### The tax authorities don't like it

The tax authorities do not like that companies want to by-pass (temporarily) tax legislation. As a consequence, tax laws more often contain anti-abuse measures in order to avoid these schemes. The default formula is that every change of the end date of the financial year decided after a certain date will have no effect with respect to the new provisions.

This means that the changes can be ignored by the tax authorities. The tax authorities will apply the new rules as if the company did not change the end date of its financial year.

Also in case the change of the end date was not tax driven, the anti-abuse measures are applied.

In case the change of the end date was decided earlier, there is no issue.

#### Example

*The NV Succes decides on 10 September to change the end date of the current financial year to 30 October. On 15 October, the Official Journal publishes a new tax law stating that every change on the end date of the financial year decided as from 27 September will remain without consequence for the application of the new legal provisions. The change of the end date by NV Succes is not in scope. The tax authorities will respect the new end date.*

### Involuntary change of end date

What if the company does not choose for a change of the end date of the financial year?

#### *Example*

*The financial year of the bvba Nix is the same as a calendar year. In 2018 the company goes bankrupt. The liquidation is finalized in the course of 2018 (e.g. on 25 October). The shortened financial year will fall within tax year 2018 and not within 2019. The end date is different from other years, but the company did not choose to do so.*

The minister of Finance confirms that in such case the anti-abuse provision fully applies.

### Complex consequences

The consequences of these rules are far-reaching and complex. This provision is also included in the legislation reforming the corporate income tax. But this reform does not contain one single rule, but a number of provisions relating to the tax rate, the taxable amount, ...