

What are the tax consequences when my current account shows a debit position?

A current account is a balance sheet account on which you book amounts you owe to your company and amounts which your company owes to you. If the current account is negative (shows a debit position), this means that you have more debts to your company than receivables. If the current account is positive (credit position), you have more receivables than debts. Both situations have their specific tax consequences, for you and for your company. In this contribution we focus on the tax consequences for the director when the current account shows a debit position.

Debit the current account when ...

In the following situations, amongst others, the current account should be debited:

- if you make a transfer from the bank account of your company to your bank account;
- if amounts for the company are transferred to your account;
- if you take cash amounts out of the till;
- if your company pays for private expenditure;
- if you have received more money than you are entitled to (e.g. because your gross salary was paid instead of your net salary).

When these transfers are not compensated by costs for the company (e.g. your salary, rent for the building which is rented to the company), your company will have a receivable on you.

Are you taxed on this?

The amounts you take from the current account are no taxable income. The repayment of these amounts afterwards is no taxable income in the hands of the company either.

But you do have a debt towards the company. The debit position of a current account is considered as a 'non-mortgage loan with no specific maturity period'. If you do not pay any interest (an interest-free loan), you obtain a benefit in kind from your company. Such benefit in kind is part of your income and consequently taxable.

In order to determine how much tax you should pay, the benefit in kind should first be valued. Specific rules apply (article 18 Royal Decree to the Income Tax Code). The benefit in kind is calculated on the basis of the difference between the referential interest rate and the interest rate actually charged (in case of an interest-free loan the latter is 0). Note that not only for an interest-free loan, but also for a loan with a beneficial rate a benefit in kind is withheld.

Example

You are the director of company AB. On 1 January 2012 you take an amount of 90.000€. You do not pay any interest. The difference between the referential interest rate (9,5%) and the actually charged interest (0%) amounts to 9,5%. The benefit in kind you receive is 9,5% of 90.000€ = 8.550€. You will actually be taxed, not on the 90.000€, but on the benefit in kind of 8.550€. How much will you be taxed: If we assume that you are taxed in the highest progressive tax rate of 50% and on top of that you have to pay 7% supplementary communal taxes, you will pay: 4.574,25€ tax.

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Of course you can also pay interest at market rate. Then you will not have a benefit in kind. In this case it is advisable to draft a written agreement. Proof is then much easier.

Also your company should do something

Your company should report the benefits in kind on the form 281.20 (form for directors) and the accompanying summary form.

It should also withhold professional withholding taxes on your salary and on your benefits in kind.