

## How will capital gains on shares be taxed as from 2018?

The corporate tax treatment of capital gains in shares has been changed drastically by the summer agreement. In order to benefit from an exemption, the conditions for the dividend received deduction regime should be fulfilled. The good news is that the separate taxation of 0,412% for big companies is abolished. The rules set out below apply to capital gains on shares obtained by companies.

### Rules for tax years 2019 and 2020

The separate taxation of 0,412% of capital gains on shares obtained by big companies is abolished. This tax was in all cases due by big companies, even when the shares were held for more than one year. By abolishing this tax, big companies can now also benefit from a full exemption.

### Conditions

In order to benefit from the exemption, you should comply with the three dividend received deduction regime conditions:

- the taxation condition: the dividend paying company should be subject to a taxation regime similar as the Belgian corporate tax. In this way, dividends coming from tax havens or countries with a considerable more beneficial tax regime than Belgium are excluded.
- the participation condition: the receiving company should have a minimum share of 10% with a purchase value of 2,5 million euro.
- the permanence condition: the shares should be owned for an uninterrupted period of more than 1 year.

### Non-complying with the conditions

In case the company does not comply with one or more of the above conditions, it will pay tax on the capital gains. How much? That depends on the non-fulfilled condition:

- in case the taxation condition is not fulfilled: then the company will pay the standard corporate tax rate. Currently 29,58%.
- when the taxation condition is fulfilled, but the participation condition isn't: in such case the company will also pay the standard corporate tax rate.
- when the taxation and the participation condition are fulfilled, but not the permanence condition: then the company will pay a separate rate of 25% (+2% additional crisis tax). Small companies benefit from the reduced corporate tax rate of 20% (+2% additional crisis tax) on the capital gains.

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### Rules as from tax year 2021

As from 2021 the standard corporate tax rate will amount to 25%. As from then the above distinction no longer makes sense. In case one of the conditions is not met, the company will have to pay the standard rate of 25% (without additional crisis tax which is abolished by then) on the capital gains.

These changes apply as from tax year 2021, this is for income years starting the soonest at 1 January 2020.

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