

# Tax Newsletter

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## **Are you a 'small company' eligible for Belgium tax benefits, and since when?**

Company law provides for criteria to ascertain which companies qualify as 'small and medium-sized enterprises' ("SME"). For financial years commencing as of 1 January 2024 the **criteria have been increased** as follows:

Criteria	Until 31/12/2023	As of 1/1/2024
Headcount	50	50
Turnover, VAT excl.	EUR 9.000.000	EUR 11.250.000
Balance-sheet total	EUR 4.500.000	EUR 6.000.000

A company is a SME if it exceeds maximum one criterium per year-end date of the most recently closed financial year. This test needs to be ran on a **consolidated basis** and thus also applies to consortia.

Since the criteria have been increased, **a company qualifies sooner as SME!** Be careful: the mere fact that your company no longer exceeds the criteria does not entail that it immediately becomes a SME. That is, a company should (not) exceed the criteria during 2 consecutive financial years in order to become 'big' or 'small' pursuant to the **consistency principle**.

According to a decision of 19 September 2023 of the Ghent Court of Appeal, the **'think small first' – principle** prevails when a company leaves a group : the rule is that a company is 'small' (and thus a SME), whilst it is only exceptionally 'big'. Based on a fiction, the SME criteria can even be tested on a non-consolidated basis when being applied to the year-end dates of the 2 financial years preceding the financial year of exit.

Tax-wise a company has all interest to be a SME as it can thus be eligible for various **Belgium tax benefits**, including:

- Only 20% (and no 25%) corporate tax is due on the 1st fraction of EUR 100.000 of the taxable basis.
- No tax increase (9% for tax year 2025) in case the company made insufficient advance tax payments during the first 3 financial years.
- Application of the 'standard' (currently 8%) investment deduction.
- Application of 15% (and no 30%) withholding tax to distributed dividends.
- Possibility to record a liquidation reserve.
- Etc.