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TAX INSIGHTS

Tax saving tip 1: Make use of the Small Business Corporation Tax Regime

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If your company, close corporation, or co-operative qualifies as a Small Business Corporation (SBC) for tax purposes, it will enjoy beneficial tax treatment.

Tax benefits

First, the SBC will be taxed on a graded scale, up to R 550 000 of its taxable income. This is a good deal more favourable than the 28% flat rate of tax that companies (including close corporations) are normally subject to.

The SBC tax rates for financial years ending between 1 April 2021 and 31 March 2022 are:

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Taxable Income (R)	Rate of Tax (R)
1 - 87 300	0% of taxable income
87 301 - 365 000	7% of taxable income above 87 300
365 001 - 550 000	19 439 + 21% of taxable income above 365 000
550 001 and above	58 289 + 28% of the amount above 550 000

Based on the above table, the SBC will not pay **any tax** on its **first R 87 300** of taxable income. Furthermore, on its **first R550 000 of taxable income**, the SBC will pay **R 95 000 less tax** than a company or close corporation that does not qualify as SBC.

Second, the SBC will be **allowed to write off the full cost of certain fixed assets much sooner** than a non-qualifying company or corporation would. More specifically, an SBC can claim the following deductions in respect of movable assets brought into use for the first time by the SBC:

- Assets used directly in a process of manufacture or similar process: 100% of the cost in the year of assessment in which the asset is first brought into use.
- Other qualifying assets (for example office furniture, computer equipment): 50% of the cost in the year of assessment in which the asset is first brought into use, 30% in the first succeeding year, and 20% in the second succeeding year.

Qualification requirements

To qualify for the abovementioned special tax treatment, the SBC must meet the following requirements:

- Corporate entity:

  Only close corporations, co-operatives, private companies, and personal liability companies – as per the Companies Act – qualify for the SBC tax regime.

- Natural person shareholders:

  Shareholders of the SBC must be natural persons throughout the year of assessment.

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- **R20 million gross income cap:**

  The SBC's gross income for the year of assessment may not exceed R20 million.

- **Restrictions on shareholders**

  None of the SBC shareholders or members may, at any time during the year of assessment, hold any share or interest in the equity of another company, close corporation, or co-operative, with certain exceptions, most notably:

  - **listed companies;**
  - **collective investment schemes;**
  - **venture capital companies;**
  - **companies, close corporations, or co-operatives which have never carried on any trade and never owned any assets with a total market value exceeding R5 000; and**
  - **companies, close corporations, or co-operatives in the process of liquidation.**

- **20% caps on investment income and on income from rendering of a personal service**

  No more than 20% of the SBC's total receipts and accruals may collectively consist of *investment* income and income from the rendering of a *personal service*. In this regard:

  - ***Investment income* includes dividends, foreign dividends, royalties, rental in respect of immovable property, annuities or income of a similar nature, interest and proceeds from investment or trading in financial instruments, marketable securities, or immovable property.**
  - ***Personal service* includes services performed in a broad range of fields where the service is performed personally by any person holding an interest in the SBC or by a connected person in relation to a person who holds an interest in the SBC. Services are not considered personal services if the SBC throughout the year of assessment employs three or more full-time employees who on a full-time basis are engaged in the SBC's business of rendering the service (except shareholders or members of the SBC or connected persons in relation to them).**

    Note that because of the wide array of services that constitute personal services, taxpayers may need to apply for a SARS ruling to determine whether the service they perform through the company, close corporation or cooperative is deemed to be a personal service, thereby disqualifying the entity from being a SBC.

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- **Personal service provider exclusion:**

  The SBC may not be a *personal service provider*. A company is a *personal service provider* if a connected person in relation to the company performs services on behalf of the company and

  - the person would otherwise have been regarded as an employee of the company's client;
  - or the client exercises control or supervision over the manner in which the duties are performed in cases where the duties must be performed mainly at the premises of the client;
  - or more than 80% of the company's income from services for the year of assessment consists of or is likely to consist of amounts received directly or indirectly from any one client or an associated institution in relation to a client.

  Note that a company will not be considered a personal service provider if it (throughout the year of assessment) employs three or more full-time employees who are engaged in the company's business of rendering the service on a full-time basis (other than shareholders of the company or connected persons in relation to them).

Conclusion

As illustrated above, qualification as a SBC certainly has a number of tax benefits for companies, close corporations, and co-operatives. As discussed above, however, there are a number of criteria that need to be met to take advantage of the favourable SBC tax treatment . Taxpayers are therefore advised to consult a tax professional for assistance in determining eligibility for the SBC tax benefits.

Caveat: This article is intended for general information purposes only and does not constitute tax advice or a tax opinion