Dutch Tax Plan 2023

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20 September 2022

On September 20, 2022, the Dutch government presented its Tax Plan 2023 and other important tax measures for the coming years. In this Tax Alert we will highlight the most important proposals and their potential impact on corporations and individuals. We will also address other Dutch tax changes that have already been adopted as well as some proposals that were announced earlier.

Corporate income tax

Increase of corporate income tax rates

The lower corporate income tax rate will be increased from 15% to 19%. Furthermore, the tax bracket of the lower rate will be reduced from €395,000 to €200,000. The standard upper rate in the corporate income tax remains at 25.8% for the excess of taxable profits over € 200,000.

	2022	2023
First bracket	15%	19%
Second bracket	25.8%	25.8%
First bracket limit	€395,000	€200,000

Announcement abolishment of the FII regime for real estate investments

The government has announced that it will amend the Fiscal Investments Institution (*fiscale beleggingsinstelling*) (FII) regime on the basis of which FIIs are no longer allowed to invest directly in real estate as of January 1, 2024. The so-called financing limitation for real estate investment will be abolished accordingly. The current financing limitation entails that financing of real estate with debt may not exceed 60% of the book value of the real estate property. This requirement will expire. This means that the financing of investments with debt is limited to at least 20% of the book value of those investments. Finally, the extension of the definition of investments which are related to real estate investments will be abolished for the FII-regime. The announced amendments to the FII-regime will be included in the Tax Plan 2024 (expected in September 2023). As a result of the proposed measure the profits of real estate FBIs will be taxed at the normal corporate income tax rate from January 1, 2024.

Personal income tax

Box 1

Income from work and primary residence

Decrease of tax rates

The top rate for personal income tax will remain at 49.5%. The basic rate for income up to €3,031 will be reduced from 37.07% to 36.93% as of January 1, 2023.

Box 2

Income from substantial interest

Two-bracket system as of 2024

The tax rate for income from a substantial interest (i.e., a shareholding of five percent or more) remains 26.9% in 2023. However, the government has proposed introducing a two-bracket system as of 2024. Box 2 will then have two brackets with a basic rate of 24.5% for income up to and including € 67,000 and a rate of 31% for the excess.

Box 3

Income from savings and investments

Increase of tax rate

The tax rate for income from savings and investments will be gradually increased as follows.

Year	Tax rate
2022	31%
2023	32%
2024	33%
2025	34%

Increase of tax-free allowance

The tax-free allowance for income from savings and investments will increase from €50,650 to €57,000.

Changes in Box 3 regime

In December 2021, the Dutch Supreme Court ruled that the taxation of savings and investments in Box 3 violated the fundamental rights of taxpayers. As a result, a new Box 3 system will be introduced as of 2026 in which taxation will be based on actual income instead of a notional income.

On Budget Day, transitional legislation was introduced to tax the savings and investments in Box 3 for the years 2023, 2024 and 2025. Under the transitional legislation the taxation in Box 3 is determined on basis of the actual composition of the assets of the taxpayer instead of an assumed composition of assets. These assets are divided into three categories, namely (i) bank deposits, (ii) other assets and (iii) debts. A fixed rate of return will be determined yearly per asset category to determine the taxable income in Box 3. To prevent assets from being artificially shifted between the three asset categories, a tainted transaction period from October 1 until 31 March of the next year is introduced to determine the actual composition of the assets on 1 January of the calendar year.

Furthermore, the government announced that only objectors for the excessively high Box 3 levy in the years 2017 to 2021 will receive compensation.

Wage tax

Abolishment efficiency margin customary salary for director-major shareholders

Director-major shareholders (i.e., a shareholding of five percent or more) are deemed to receive a salary which may not deviate more than 25% (the efficiency margin) from the salary from "the most similar employment", with a minimum salary of at least €48,000 (2022), unless the director-major shareholder can demonstrate that a lower salary is customary in the relevant industry. The government has proposed to abolish the efficiency margin as of January 1, 2023, which will likely result in directors or major shareholders having to pay more tax in Box 1.

Introduction of Salary cap for 30% ruling

The 30%-ruling is a tax benefit for highly skilled expats with specific expertise recruited from outside the Netherlands. The 30%-ruling allows expats to receive 30% of their gross salary tax-free. The government has proposed limiting the application of the 30%-ruling to a maximum income of € 216,000. This means that the tax rate is 34.65% (49,5% over 70%) for income up to and including € 216,000 and 49.5% for income above € 216,000. The cap will apply as from January 1, 2024, for expats with a 30%-ruling issued in and after 2023 and as from January 1, 2026, for expats with an existing 30%-ruling.

Increase tax-free travel allowance

The tax-free travel allowance allows employers to pay a tax-free allowance to employees who use their own means of transport to travel to work. The maximum of tax-free travel allowance will be increased from €0.19 per kilometer to €0.21 as of 2023.

VAT

Temporarily lower VAT rate for energy

The temporary VAT rate reduction of 9% on energy will be increased (back) to 21% as of December 31, 2022. The increase in VAT on energy will be compensated with a reduction in energy tax (see below).

0% VAT for solar panels

The supply and installation of solar panels with regard to residential real estate will be subject to a 0% VAT rate as of 2023.

Abolishment landlord levy

The abolishment of the landlord levy is not a part of the Tax Plan 2023. However, it will be abolished on 1 January 2023.

Real estate transfer tax

Increase of the general real estate transfer tax rate to 10.4%

The default real estate transfer tax, which applies e.g., for commercial real estate and real estate that is leased, will be increased from 8% to 10.4%. The rate for residential properties that serve as the principal residence for the private individuals will remain 2% (under conditions a 0% applies for first-time home buyers).

Climate and Energy

Budget EIA / MIA

As of 2023, the annual total budget for the Energy Investment Allowance (EIA) will be increased from €149,000,000 to €199,000,000. The annual total budget of the Environmental Investment Allowance (MIA) will be increased from €144,000,000 (2022 – 2024) to €174,000,000 as of 2025.

CO_2 tax

The Tax Plan 2023 introduces three new measures in order to achieve the climate goals of 2030. The new measures consist of:

- Recalibrate reduction factor based on the new benchmarks used within the European Emissions Trading Scheme (EU ETS);
- Tightening the reduction factor for the CO_2 industry levy which will be reduced to 1,213 in 2023; and
- Recalibration of the rate based on the rate study by the Netherlands Environmental Assessment Agency (PBL), the government has chosen not to change the rate of the CO_2 tax.

Excise duties

The excises on mineral oils will be increased, outside of the yearly index, in multiple phases up to and including 1 January 2024. Excise tariffs on mineral oils will be up to a maximum of 35% higher on 1 January 2024 compared to a year earlier.

Air passenger tax

In 2023, the air passenger tax will be significantly increased from € 7.95 to € 26.43 for passengers flying from the major airports in the Netherlands. The structure of the tax remains unchanged, notably vis-à-vis the exemption for transfer passengers.

Earlier adopted tax measures

Excessive borrowing from own company

On June 17, 2022, the government presented the Bill on Excessive Borrowing from Own Company which introduces an anti-abuse measure with the purpose of creating a disincentive for shareholders that have a 'substantial interest' (i.e., a shareholding of five percent or more) in a company to take up loans from that company in excess of € 700,000 (excluding housing debts). Under this proposal, amounts borrowed in excess of € 700,000 would be treated as a profit distribution to the relevant shareholder. It is intended that the measure will apply as of January 1, 2023. On September 13, 2022, the House of Representatives passed the bill. The bill has now been put forward to the Senate.

Changes to taxation of employee share options

Based on the current Dutch wage tax rules, employees who receive share options in relation to their employment owes payroll tax at the moment of exercising the share options. However, at the time of exercising the share option, the employee may not always have sufficient liquidity available to pay the tax. For this reason, the government has put forward a bill to parliament to adjust the moment of taxation as of January 1, 2023. As a result of the proposal, the moment of taxation will shift to the moment that the shares, which the employee acquires through the share option, become tradeable. The House of Representatives passed the bill on June 28, 2022. The bill has now been put forward to the Senate.

Additional dividend withholding tax to low tax jurisdictions

On January 1, 2021, a withholding tax was introduced on interest and royalty payments to related parties in low-tax or non-cooperative jurisdictions. The tax rate of the Dutch withholding tax is equal to the highest Dutch corporate income tax rate, which is currently 25.8%. As from January 1, 2024, dividend distributions to related parties in low-tax or non-cooperative jurisdictions will also be taxed under this withholding tax.

The withholding tax on dividends will be levied in addition to the already existing Dutch dividend tax (current rate of 15%). Other than the dividend tax, which must be remitted within 30 days following the profit distribution, the source tax will be levied annually. The 15% dividend tax is creditable against the source tax on dividends to avoid double taxation.

Gift and inheritance tax

The one-off gift tax exemption for gifts intended to be spent on owner-occupied homes will be reduced from € 106,671 (2022) to € 28,947 in 2023. The exemption will be abolished as of January 1, 2024.

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CSBrand-99174-Dutch Budget Day-Tax brochure-04 — 23/09/2022