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BUDGET DAY SPECIAL – 2024 TAX PLAN

September 2023

This Budget Day Special outlines important proposals in the 2024 Tax Plan and additional legislative proposals. Many proposals have already been announced, for example in the 2023 Spring Memorandum.

This 'Special' has been divided in the following topics:

- measures for companies;
- measures for business succession facilities,
- measures for employers;
- measures for VAT & excise duties;
- measures for property;
- measures for cars & mobility;
- measures for (wealthy) individuals;
- measures for international situations;
- measures for BES islands,
- measures for energy & environment;
- other measures.

The proposed measures will enter into force on 1 January 2024, unless stated otherwise.

This publication is for informational purposes only. It is recommended that you check with your RSM advisor tofor the most current status of the legislation.

COMPANIES

Investment facilities

In order to encourage energy investments and investments in environmentally-friendly business assets, various investment facilities are available. The energy-saving investment credit (EIA), the environmental investment credit and the discretionary depreciation for environmental investments would end on 1 January 2024. However, these schemes have now been extended to 31 December 2028. The percentage of the EIA will be reduced from 45.5% to 40%.

Tip!

Make use of the EIA wherever possible in 2023!

Reduction of SME profit exemption

The government wants to reduce the SME profit exemption from 14% to 12.7%. The SME profit exemption reduces taxable profits. If your business suffers a loss, the SME profit exemption will reduce the fiscal loss.

Tip!

Bring profits forward, free up provisions and make the best possible use of the current 14% rate.

BV can no longer deduct donations

In 2023, BVs are still able to deduct donations made to charitable organisations within certain limits. As of 1 January 2024, a simplification will take place of donations to charities through the BV. In this respect, the deduction for gifts ceases to apply in corporation taxation. However, in principle, the Tax Administration will neither qualify gifts that take place through the BV as a taxable dividend.

Tip!

A gift through a BV to a qualifying charitable organisation remains exempt from gift tax.

Higher reinvestment reserve on government intervention

Through the reinvestment reserve (herinvesteringsreserve, HIR), taxation of a book profit can be deferred under certain conditions. An easing of the conditions will take place after 2024. As a result, after a partial discontinuation compelled by the State of the one company, an entrepreneur subject to income tax rules may also create a reinvestment reserve in another already existing company. The requirement of the reinvestment plan remains.

Tip!

The entrepreneur can also transfer the tax claim to a new company.

Reduced interest deduction for banks

Banks and insurance companies face a specific interest deduction restriction, the minimum capital rule.



Roughly speaking, the interest due is not deductible insofar as the loan capital exceeds 91% of the balance sheet total. This limit will be reduced to 89.4% for financial years starting on or after 1 January 2024. Thus, banks and insurance companies are more likely to be affected by the interest deduction restriction.

Protective assessment excessive borrowing

In the event of emigration, a protective assessment can be imposed to secure a tax claim that has arisen in the Netherlands. If a director and major shareholder emigrates, receives a protective assessment with deferral of payment and borrows excessively from a new foreign company after emigration, this may discontinue the deferral of payment. It is proposed to amend the law on this, with the aim of ensuring that collection of the protective assessment is only carried out if and to the extent that excessive borrowing occurs from a company to which the protective assessment relates and that the increase in debt has not previously discontinued the deferral of payment.

Take note!

Collection of the protective tax assessment may take place insofar as was excessively borrowed from companies in respect of which the director and major shareholder had been granted a protective tax assessment deferral of payment.

Losses on tax-neutral return

If a decision is taken to run the enterprise of a BV in future from a company subject to income tax rules, this can be done under conditions without direct taxation (tax-neutral return). Deductible losses of the BV can then be carried over to the company subject to income tax rules. In order to avoid that the deductible losses of the company subject to income tax rules give rise to a greater tax advantage due to differences in tax rates, the amount of losses to be taken into account is calculated on a flat-rate basis. Mistakenly, this was not correctly codified in Dutch tax law for 2023. By decree of 6 July 2023, it was stipulated that this, in anticipation of the change in the law, would be adapted retroactively to 1 January 2023. It is now proposed to amend this in Dutch tax law.

Tip!

Regularly assess whether the BV is still the appropriate legal form for the company from a tax and liability point of view.

New condition for fund for joint account

If a fund for joint account (fonds voor gemene rekening, FGR) wants to remain independently taxable for corporation tax purposes, it must fulfil a new condition as of 1 January 2025. It will then have to be a qualifying investment fund or a fund for collective investment in securities. The participation must be deemed to be negotiable certificates of participation.

Take note!

Family funds are no longer considered as FGR under the new condition.

Stricter conditions for exempt investment institutions

As of 1 January 2025, only investment funds and institutions for collective investment in securities may be exempt investment institutions (vrijgestelde beleggingsinstellingen, VBI) in accordance with the Financial Supervision Act (Wet op het financieel toezicht, Wft). The exempt investment institution may only offer participation to a wide public or to institutional investors. This discontinues the possibility to use the exempt investment institution regime when investing private assets.

Take note!

Entities that do not meet these new conditions will lose their exempt investment institution status on 1 January 2025, even if the financial year differs from the calendar year.

Transitory law on loss of FGR status

If a fund for joint account (FGR) were no longer independently liable to pay tax as a result of the new definition of the FGR, without further legislation the fund would then have to pay tax on the fictitious profits this would generate. To avoid immediate taxation, transitory law will be introduced. A transfer facility will be introduced to defer taxation. If the transfer facility cannot be applied, then use may possibly be made of a payment facility. The payment can then be spread over a period of ten years.

Tip!

The transitory law also includes a share merger facility for certain shareholders and a temporary exemption of transfer tax.

Advance tax ruling remains partially intact

The introduction of the new definition of the fund for joint account (FGR) on 1 January 2025 may be a reason for the Tax Administration to discontinue an advance tax ruling (ATR). Often, such an ATR also includes other aspects that are not affected by the new definition of the FGR. It is for those aspect that the ATR remains upheld. There is no need to request this in writing.

Qualification of legal forms

If legal forms are treated differently in the Netherlands than abroad, this can lead to undesirable situations such as double taxation or double deduction. To avoid such situations as far as possible, legal forms and foreign legal forms, in principle, are assessed based on the legal form comparison method. This will now be laid down by law. According to this method, certain civil-law characteristics of foreign legal forms are compared with those of Dutch legal forms in order to treat those foreign legal forms in the same way for Dutch taxation. New rules will be introduced for non-comparable foreign legal forms.

Discontinued tax liability of open-ended limited partnership

A Dutch limited partnership (commanditaire vennootschap, CV) can now be open-ended or closed. If all the partners have to give their consent to the accession or substitution of a limited partner, there is a closed limited partnership and the partners are liable for the tax on the results. In all other cases, there is an open-ended limited partnership and the results are subject to corporation tax. This distinction is not in line with legislation in other countries and will therefore be discontinued: as of 1 January 2025, open-ended limited partnerships, in principle, are no longer independently liable for taxation, but the result is subject to tax by the partners of that limited partnership.

Take note!

Transitory law has been announced to avoid undesirable tax consequences of this change. This transitory law does not apply to open-ended limited partnerships established after publication of this legislative proposal.

BUSINESS SUCCESSION FACILITIES

Business succession scheme

The transfer of business assets by donation or succession, may result in the levying of gift or inheritance tax. To avoid that the continuity of a company is jeopardized by this, the business succession scheme (bedrijfsopvolgingsregeling, BOR) can be used. As a result, no or less inheritance tax or gift tax is due.

Transfer facility

The transfer of business assets often leads to the levying of income tax. There are various transfer facilities (doorschuifregelingen, DSR) which ensure that this levy is deferred in certain situations, so as not to jeopardize the continuity of the company. One of those transfer facilities is specifically aimed at granting a substantial interest (doorschuifregeling aanmerkelijk belang, DSR ab). A substantial interest is, simply put, an interest that represents at least 5% of the shares in a company.

No rented property facility

In principle, only business assets are eligible for the BOR and DSR ab. This leads to a great deal of discussion, especially on rented property: whether it is investment equity capital or business asset. From 2024 onwards, rented property is always investment equity capital for the BOR and DSR ab. This also applies to tie-in purchases that are still currently classified as business assets. Rented property is now defined as property actually made available to third parties. If this is not the case at the time of transfer, but if the property is intended for that purpose, then it is also considered investment equity capital.

Take note!

Short-term provisions, like for hotel rooms, are not covered by the proposed measure. This also applies to seasonal lease agreements.

Take note!

There is a time-proportional approach to property that is used for part of the year in the own company and is rented for the other part of the year.

Discontinue efficiency margin

The BOR and DSR ab contain an efficiency margin: for companies subject to corporation tax, the investment equity capital of up to 5% of the business assets is considered to be business assets. This will allow use to be made of the BOR and DSR ab for part of the investment equity capital. It is proposed to discontinue the efficiency margin for the BOR as of 1 January 2025. The margin will also be discontinued for the DSR ab, but this can only be implemented later. The timing is still to be determined.

Used for personal and business purposes

For the BOR and DSR ab, assets classify as business assets if a fixed asset is a mandatory business asset (usually up to 10% private use) or a free choice asset that is classified as a business asset (business use between 10% and 90%). In such a case, the free choice asset as a whole is currently considered to be a business asset for the BOR and DSR ab. It is now proposed that only the part of the fixed asset that is used commercially should be considered as business assets for the BOR and DSR ab. The envisaged effective date of this change to enter into force is 1 January 2025.

Tip!

The measure is limited to fixed assets with an economic value of at least €100,000 and non-business usage of more than 10%.

Take note!

This means that the percentage of non-business usage must be determined for various fixed assets. This will result in additional costs in the event of a business transfer.

Discontinued DSR ab employment requirement

The DSR ab can only be applied at present if the business successor has been employed for at least thirty-six (36) months by the company whose shares are being donated. It has been proposed that this employment requirement should be discontinued as from 2025.

Take note!

There is also a transfer facility for the transfer of a company for income tax purposes inter vivos (during lifetime). Such a transfer facility also has an employment requirement, but this will not be discontinued.

Minimum age of recipient on donation

It has been proposed to introduce a minimum age for the recipient of a donated enterprise. Only if the recipient is at least twenty-one (21) years old can the BOR and DSR be applied. The aim is to prevent unintended use of the schemes. Introduction of the minimum age is planned for 1 January 2025.

Take note!

The minimum age will not apply to business succession as a consequence of a death, because unintended use is not often relevant.

Adaptation of exemption for business succession scheme

The business succession scheme (BOR) now exempts 100% of the economic value of the company on continued operation up to an amount of €1,205,871 per company (which amount is indexed annually). If the value is higher, an exemption of 83% applies for the exceeding part. From 2025 onwards, on continued operation 100% of the value will be exempted up to an amount of €1,500,000. For the exceeding part, only a 70% exemption applies.

Restriction on qualifying substantial interests

The BOR and DSR apply to substantial interests. These are interests of at least 5% of ordinary shares in a company, but also other smaller interests. From 1 January 2026, it is proposed to restrict the schemes mainly to ordinary shares with a minimum share of 5% in the subscribed capital, so that the scheme is more targeted at family businesses.

However, the schemes continue to apply to preference shares issued in the context of a business succession and to certain diluted interests.

Take note!

This measure will further be developed in the 2025 Tax Plan.

Holding and continuation requirement of business succession scheme

The business succession scheme (BOR) can only be applied if the testator or grantor had already owned the company for a certain period of time and the company is continued by the recipient for a certain period of time. It is proposed to ease the holding and continuation requirement. It is being examined how a reduction in the five-year period can be detailed. This proposal will further be developed in the 2025 Tax Plan. The envisaged effective date is 1 January 2026.

Approach to business succession scheme constructions

The 2025 Tax Plan will elaborate a proposal to deal with abuse of the business succession scheme (BOR) by means of constructions. This includes, for example, the conversion of non-business assets into business assets for the sole purpose of advantageous transfer of such assets. This envisaged effective date for these measures is 1 January 2026.

EMPLOYER

Discretionary margin of work-related expenses scheme

In 2023, the discretionary margin for the work-related expenses scheme amounts to 3% of the taxable wage sum up to €400,000. For the part of the taxable wage sum that is higher than €400,000, the discretionary margin is 1.18%.



The law mistakenly states that the maximum amount of discretionary margin in the first tax bracket in 2023 is €6,800 (instead of €12,000). This will be restored retroactively to 1 January 2023, which means that the maximum amount in the first tax bracket will be equal to 3% of €400,000. From 2024 onwards, the percentage of discretionary margin will be reduced from 3% to 1.92% on a taxable wage sum up to €400,000.

Tip!

Make sure that the discretionary margin within the work-related expenses scheme is used to the best effect this year.

Public transport subscriptions and off-peak discount passes

There is a proposal to specifically exempt the private use of public transport subscriptions or off-peak discount passes that are reimbursed or issued. This means that employers can always offer them tax-free, as long as it is likely that they will also be used for business travel, such as commuting.

Tip!

Employers would no longer need to keep records of private and business use in order to benefit from the exemption.

VAT AND EXCISE DUTIES

VAT rate on agricultural goods and services

Certain agricultural goods such as straw, seeds and propagating material are taxed at the reduced VAT rate. In view of the discontinuation of the agricultural scheme, the government proposes that the general rate should also be applied to the supply of certain agricultural goods as of 1 January 2025.

Increase in excise duty on alcohol

The government proposes to increase the rates of excise duty on alcoholic products by 16.2%. This applies to beer, wine and other beverages. The aim is to generate additional revenue and to encourage the reduction of alcohol consumption.

Diesel fuel-replacing heating oil

The government proposes to discourage the use of diesel fuel-replacing heating oil and to eliminate the tax advantage by equating the rates of excise duty with that of diesel fuel. This is an increase in the rate of excise duty from €41.31 to €595.57 per 1,000 litres of heating oil as of 1 January 2024.

Increase in tobacco duty

The government proposes an additional increase in the excise duty on cigarettes and smoking tobacco by 1 April 2024, with €0.60 per packet of 20 cigarettes and €3.60 per packet of 50 grams of fine-cut tobacco respectively.

Filling the tank is becoming even more expensive. On 1 April 2022, the government introduced a temporary reduction in excise duty to compensate for the sharp rise in fuel prices. This compensation ultimately continued until 1 July 2023. As of that date, the changes in excise duty have partially been reversed. The plan is to end the remaining part of the 2022 excise duty reduction by 1 January 2024.

PROPERTY

Restriction on amortisation of buildings in income tax

Entrepreneurs, recipients of income from other activities and legal persons may amortise buildings only up to a certain value; what is known as the minimum value. The level of the minimum value is currently different for both income tax and corporation tax and also depends on the way the building is occupied (own occupancy or for investment). At present, income taxation has a wider option for amortising buildings for own occupancy than in corporation taxation. The government wants to eliminate this distinction by determining the minimum value for all buildings in accordance with the WOZ value (value for purposes of the Valuation of Immovable Property Act).

Take note!

This significantly limits the options for amortising buildings for own occupancy and, if relevant, application of the reinvestment reserve.

Concurrence exemption on share transactions

In practice, immovable property is regularly transferred through a share transaction to preclude VAT or transfer tax. The government proposes to amend what is known as the concurrence exemption in transfer tax as of 1 January 2025 so that at least 4% transfer tax is levied when:

- it concerns new immovable property for VAT;
- it is exploited for less than 90% subject to VAT; or
- this occurs within two years of the date of acquisition.

This is achieved by excluding the application of concurrence exemption in those cases.

Joint purchase of owner-occupied dwelling

If partners decide to buy their first jointly owner-occupied dwelling and then to sell the dwelling of one of the two partners, under current legislation this may lead to a limitation of the deduction of mortgage interest. It is proposed to amend the law retroactively to 1 January 2022 to avoid this undesirable interest deduction restriction.

Tip!

It is possible that this situation has already occurred in the 2022 income tax return. In that case, lodge an objection or request an ex officio reduction and make reference to the 2024 Tax Plan.



Regime of fiscal investment institution on investments in property

As of 1 January 2025, an entity that invests directly in property is no longer eligible for application of the regime for fiscal investment institutions (0% corporation tax). The profits of such an entity are therefore taxed at the normal corporation tax rate.

Tip!

If investors in fiscal investment institutions want to continue to invest in Dutch property in a tax neutral manner, there is the option to restructure. This can be done, among other things, by placing the property in an entity that is transparent for Dutch tax purposes.

Take note!

The introduction of the new definition of fiscal investment institutions on 1 January 2025 may be a reason for the Tax Administration to discontinue an advance tax ruling (ATR). The ATR will remain in place for aspects that are not affected by the new definition of the fiscal investment institutions.

Temporary transfer tax exemption

There will be a conditional transfer tax (overdrachtsbelasting, OVB) exemption that relates to the regime no longer being applicable for fiscal investment institutions on entities investing directly in property. The conditional exemption applies from 1 January 2024 until 1 January 2025 and only in the case of a prescribed restructuring for the acquisition of beneficial ownership of property.

Take note!

The exemption applies only if the fiscal investment institutions establishes a transparent entity, acquires the participation in it, transfers the beneficial ownership of the property and then transfers the certificates of participation to the shareholders.

CARS & MOBILITY

Increase in untaxed travel allowance

In 2023, an employer may grant its employees an untaxed travel allowance of up to €0.21 per business kilometre (including commuting). This maximum untaxed allowance will be increased to €0.23 per kilometre as of 1 January 2024. The increase also applies for income taxation, so that entrepreneurs and recipients of income from other activities can deduct €0.23 per kilometre from their profits for each business kilometre they drive using their private means of transportation (car, motorcycle or bicycle).

Tip!

Commuting kilometres can be counted as business kilometres.

Flat-rate increase on tax on passenger cars and motorcycles

The tax on passenger cars and motorcycles (BPM) comprises two parts: the flat-rate and a variable part. The variable part is based on carbon emissions. The government proposes to increase the BPM's flat-rate by €200 as from 2025.

Discontinue refund of BPM for cash-in-transit vehicles

The government proposes to discontinue the BPM refund on CIT vehicles as of 1 January 2026.

Changes in motor vehicle taxes

Motor vehicle taxes (motorrijtuigenbelasting, MRB) are subject to a number of zero or reduced rates.

The government proposes to:

- Abolish the zero or lower MRB rate for registered passenger cars and vans using LPG, CNG and LNG fuel as of 1 January 2026.
- Abolish the zero MRB rate on public transport buses powered by autogas as of 1 January 2030.
- To change the MRB rate for campers from a quarter rate to a half rate as of 1 January 2026.
- To discontinue and revert the quarter MRB rate for the transportation of horses (horse trailer) to the normal rate as of 1 January 2026.
- To shorten the additional tax assessment period for motor vehicles with a foreign license plates from a maximum of 5 years to a maximum of 12 months. The burden of proof will be the same as for other additional tax assessments.
- To clarify the situation that an additional tax assessment for the MRB is possible due to a change in the motor vehicle. This includes converting a van into a passenger car. It does not matter whether the change was made by the previous or the current owner.
- Reducing the additional tax assessment from 12 to 3 months if the driver cannot produce a trade plate in the event of being stopped and questioned.
- To clarify, the MRB exemption for a test run in the context of the periodic vehicle inspection (algemene periodieke keuring, APK) only applies on the date of the APK.

Vintage cars are subject to a specific MRB scheme. Vehicles that are 40-years old or older are exempted from MRB. The government proposes that the vintage car exemption in the MRB, for cars aged 40 years and older, should be reduced from 2028 to vehicles manufactured before 1988 (with a date of first registration being before 1 January 1988).

Depreciation of BPM on imported vehicles

Depreciation of a used motor vehicle subject to the BPM can be determined using a generally used trade price list. If an imported vehicle, as assessed by make, model, transmission, fuel, power, bodywork and design does not correspond to a vehicle on the price list (excluding a slight variation in carbon emissions), then the trade purchase value can be determined on request based on an individual valuation (valuation report) for determining the correct depreciation.

In 2023, this was decided by the Supreme Court and is now being codified in Dutch tax law.

Rate change on tax on passenger cars and motorcycles

A rate change of the tax on passenger cars and motorcycles (BPM) applies to a new motor vehicle which is currently registered and of which the first registration of the motor vehicle takes place two months or later than the time of the rate change. If the first registration occurs within two months of the rate change, the old rate applies. To avoid discriminatory elements in this scheme, it was already approved on 12 December 2022 that this scheme also applies to the registration of a new motor vehicle in another Member State of the European Union. It is proposed that this scheme should be codified in Dutch tax law.

(WEALTHY) INDIVIDUALS

2024 Income tax rates for taxpayers below statutory retirement age

Taxpayers who have not reached the statutory retirement age (AOW) at the beginning of 2024, are expecting the following tax brackets to be applied in 2024.

2024 Income tax rate			
Box 1- rate	Tax.inc. more than (€)	but not more than (€)	2024 rate (%)
Low rate bracket		75,624	
High rate bracket	75,624		49.50%

2023 Income tax rate			
Box 1 rate	Tax.inc. more than (€)	but not more than (€)	2023 rate (%)
Low rate bracket		73,031	36.93%
High rate bracket	73,031		49.50%

These percentages include national social insurance contributions. A different rate structure applies for those who qualify for fewer or no national insurance contributions.

2024 Income tax rates for old-age pensioners

Taxpayers who have reached the statutory retirement age (AOW) at the beginning of 2024 and were born after 1946, are expected to have the following tax brackets applied in 2024.

2024 Income tax rate (old-age pensioners)

Box 1 rate	Tax.inc. more than (€)	but not more than (€)	2024 rate (%)
Tax bracket 1		38,139*	19.07%
Tax bracket 2	38,139	75,624	36.97%
	75,624		49.50%

*Born before 1946: tax bracket 1 up to €40,077

2023 Income tax rate (old-age pensioners)

Box 1 rate	Tax.inc. more than (€)	but not more than (€)	2023 rate (%)
Tax bracket 1		37,149*	19.03%
Tax bracket 2	37,149	73,031	36.93%
	73,031		49.50%

*Born before 1946: tax bracket 1 up to €38,703

These percentages include national social insurance contributions. A different rate structure applies for those who qualify for other national insurance contributions.

Changed tax credits

Below are the changes in tax credits as mentioned in the Explanatory Memorandum of the 2024 Tax Plan. These relate to taxpayers who are below the statutory retirement age (AOW). For people older than the statutory retirement age, lower limits apply.

Tax credits	2024 (€)	2023 (€)
General tax credit max.	3,374	3,070
Employed person's tax credit max.	5,553	5,052
Income-dependent combination tax credit max.	2,961	2,694
Young disabled person's tax credit	902	820

Increase in rate of box 3 to 34%

The government proposes to raise the rate in box 3 by two percentage points to 34%. In 2025 the rate in box 3 will remain unchanged. In addition, the government proposes not to index the tax-free assets in box 3 as of 1 January 2024, which means that in 2024 the tax-free assets will stay at €57,000 per person (€114,000 for tax partners).

Take note!

A new box 3 system has been postponed to 2027.

Tip!

If the actual yield on savings and investments is lower than the flat rate yield, lodge an objection against the tax assessment.

Homeowner's Association share and clients' funds account

On 1 January 2023, a temporary box 3 levy scheme entered into force with the aim of bringing flat rate yields closer to actual yields. Assets can fall into the category of bank credits (flat rate yield in 2023 provisionally 0.36%) or other assets (flat rate yield in 2023 of 6.17%). The government proposes to include membership rights in a Homeowner's Association (vereniging van eigenaren, VvE) and funds in a clients' funds account to the (lower-taxed) category of bank credits retroactively from 1 January 2023.

Mutual claims and debts

As of 1 January 2023, claims will be subject to a higher flat rate yield (6.17%) than for debts (provisionally 2.46% in 2023). This results in higher box 3 income for mutual claims and debts between tax partners and between parents and minor children than applicable under the scheme until 1 January 2023. To avoid this, the government proposes to exclude these claims and debts from box 3 retroactively as of 1 January 2023 (tax-exempt).

Take note!

Mutual claims and debts may, for example, arise through a setoff clause included in the antenuptial agreement.

Co-parenting subject to tighter income-dependent combination tax credit

The income-dependent combination tax credit (IACK) is a tax credit for singles or least-earning partners who combine work and care for a child. In co-parenting, care for the child must be shared equally by the co-parents. By a ruling of the Supreme Court, this was already the case in caring for the child for 78 days in a calendar year by one of the co-parents. As of 1 January 2024, co-parents must each take care of the child at least 156 days of the calendar year.

Tip!

The 156-day requirement applies per calendar year, but it remains possible to recalculate that threshold in proportion to the time elapsed in the year that co-parenting begins or ends. The condition for this is that co-parenting lasts for at least six months in that year.

Abolition of early payment discount for income tax payments

The Tax Administration provides an early payment discount for certain provisional income tax assessments if the entire assessment amount minus the early payment discount is paid no later than the first due date. This scheme will be abolished. It remains possible to pay a provisional income tax assessment as a lump-sum payment, but that will no longer have an early payment discount from 2024 onwards.

Lucrative interest

Property rights wholly or partially acquired as remuneration for work may constitute a lucrative interest. Revenues from this are taxed in box 1 (max. of 49.5% in 2023). This is the case if the property rights are economically comparable to subordinated shares which make up less than 10% of the total subscribed capital in the company. This includes premium and informal capital, too. The government proposes that with effect from 26 June 2023, a shareholder's loan which does not constitute informal capital but which does contribute to remuneration for work, should also be taken into account for this assessment. This is a response to court rulings by the Supreme Court and was already announced in a letter dated 26 June 2023.

Take note!

This proposal has retroactive effect from 26 June 2023.

Rectification of tax returns

The government proposes to simplify the rectification of an already submitted income tax return. This is done by a revised digital income tax return form as an application for ex officio reduction. This should make a difference in communications between taxpayers and the Tax Administration. However, the right of a taxpayer to lodge an objection or appeal is explicitly not affected.

Tip!

If both a digital tax return form and a written notice of objection to an income tax assessment are submitted, and reference is made in the notice of objection to the tax return form, then the tax inspector will have to treat these notices collectively as one objection.

Reduction of basic rent for housing benefit

From 2024 onwards, the basic rent will be reduced annually, after a surcharge based on the Housing Allowance Act (Wet op de huurtoeslag, WHT) has taken place. The basic rent is that part of the rent, which is fully for the account of the tenant. Reductions are shown in the table below.

Year	Annual reduction (€)
2024	34.67
2025	34.09
2026	33.52
2027	32.94
2028	32.36
2029 and beyond	31.79

Delayed scale down of tax credit

Since January 2012, the general tax credit (algemene heffingskorting, AHK) in the benefit level of social assistance benefit and benefits related to social assistance (excluding the old-age pension, AOW) has been scaled down. This has been done by scaling down twice the AHK in the calculation of the reference minimum wage to once the AHK. This scale down is being delayed. As a result, when calculating the reference minimum wage as of 1 January 2024 and 1 July 2024, the AHK is taken into account 1.575 times.

As of 1 January 2025, the AHK will be reduced by 2.5 percentage points every six months until it reaches once the AHK on 1 January 2036. The consequence is that the social assistance benefit and the benefits related to social assistance increase slightly.

Change in child-related budget

As of 1 January 2024, the following changes will be made in calculating the child-related budget, after a policy-related adjustment and an indexation have taken place.

Change concerns:	Increase/decrease?	Amount per year in €
max. amount for first child	increase	750
max. amount for second and next child	increase	883
additional child-related budget for children aged 12 to 16	increase	400
additional child-related budget for children aged 16 and 17	increase	400
additional child-related budget for single parents	decrease	619
income phase-out threshold	decrease	11,111

INTERNATIONAL SITUATIONS

State aid, data and transparency

State aid may be granted only under certain conditions. One of the conditions is the obligation of transparency through the Transparency Aid Module (TAM). The TAM must include various data. In order to collect and process this data, it is proposed to introduce an obligation to provide this data. The obligation consists of an annual active provision of data for energy tax payers and a passive provision of data for beneficiaries. Take for example, data related to reduced rates for greenhouse horticulture, EV charging stations and shore-based power. An order for incremental penalty payments can be imposed if the obligation is not complied with.

Tip!

This does not apply to the postal code rose scheme, as the benefits remain below the threshold amounts.

Case in proving dividend stripping

Dividend stripping confines or even prevents the levying of dividend withholding tax. To offset, request a refund of, or reduce dividend withholding tax, the recipient of the dividend must be the beneficial owner. In the case of dividend stripping, it is difficult for the Tax Administration to determine whether this condition is complied with. To improve the Tax Administration's case, it has been proposed that the person claiming an offset, requesting a refund, or reduction, must make it plausible that the conditions have been complied with. This only applies for amounts upwards of €1,000 in levied dividend withholding tax annually (efficiency margin).

Take note!

Alternative measures to counter dividend stripping are under ongoing investigation. This includes the tackling of dividend stripping for intercompany dividends.

Revised tax assessment of import duties

Current law stipulates that revised assessments on import duties may be imposed retroactively up to five years in the event of an incorrect or incomplete customs declaration. It is proposed to reduce this retroactive period to three years if a situation would exist of an intentional act. That three-year retroactive period applies to incorrect and incomplete customs declarations, but also to the non-disclosure, inaccurate or incomplete supply of information or data. In addition, if it is not an intentional act, it is proposed to replace the criminal sanction with an administrative fine as of 1 July 2024.

BES ISLANDS

Revenue tax notional place of business

The government proposes to change the conditions of a notional place of business for the application of revenue tax for holding companies. The qualified percentage will be reduced from 95% to 50% as of 1 January 2024. To prevent misuse, the activities may not exceed 50% of investments, participating interests, liquidity or assets of which use is made available outside the BES Islands.

Discontinuation of adjustment payments

The government proposes to discontinue the adjustment payments in the general expenditure tax. This would avoid a cumulation of taxes where it concerns the personal manufacturing of goods. The turnover limit of the small business scheme (kleineondernemingsregeling, KOR) will also be increased.

Definition of passenger cars

Various definitions of the concept of a passenger car are used in BES taxation. The government proposes to achieve uniformity in the concept of passenger cars as from 1 January 2024. For the general expenditure tax, this means that pick-ups with a single cabin and vans will be subject to the high rate as of 1 January 2024 and private use will be subject to an additional tax liability.

Formal tax rules

It is proposed to adapt a number of formal tax rules, such as deadlines for imposing the revised tax assessment, making it possible (in the long term) to submit a digital tax return, the introduction of an obligation to notify real estate tax if a property owner has not received a tax assessment and a new penalty stipulation.

Minimum tax

The government is introducing a minimum tax of 15% for the BES islands. This levy will apply to financial years under review starting on or after 31 December 2023.

ENERGY & ENVIRONMENT

Adjustment of energy tax

The government proposes to break up the first gas and electricity tax brackets for energy taxation and to set the tax bracket limit at 1,000 m³.

Block heating and energy tax

Further legislative changes are necessary to be able to reduce the future new first gas tax bracket rate compared to the new second gas tax bracket rate. An important change is the introduction of a flat-rate refund scheme for block heating. This ensures that consumers of block heating do not pay more energy tax for consumption in the new first tax bracket than consumers who have an individual gas connection.

Updating renewable heat sources

There is a proposal to update the list of renewable heat sources in the district heating scheme for energy taxation. This includes adding installations that mainly use aquathermal energy, air-water heat pumps, gaseous biomass or electric boilers. This eliminates the difference in tax treatment of similar heat sources. In this way, the choice for these renewable techniques is not driven by taxation, but by which technique being most suitable for the situation. This will improve the effectiveness and efficiency of the scheme.

Take note!

According to the Tax Administration, the introduction of the measure is only feasible for introduction as of 1 January 2025.



Greenhouse horticulture: reduced gas tax rate

Energy taxation makes use of reduced rates for natural gas for the greenhouse horticulture sector. These reduced rates will gradually be phased out between 2025 and 2030. This phase-out supports the energy transition and earns more revenue for the treasury

Take note!

The European Commission must approve the phasing-out of the reduced gas tax rate, otherwise the reduced rates will be abolished as of 2025.

Limit exemption of electricity generation

Energy taxation makes use of an input exemption for the use of natural gas and electricity for the generation of electricity. This exemption will be incrementally limited. The output exemption for electricity has partly been discontinued. Operators of medium-sized installations are dealt with differently so that they do not become subject to compulsory taxation. All changes will take effect as of 2025.

Greenhouse horticulture: introduction of CO2 tax

A CO2 tax will be introduced for greenhouse horticulture farms as of 1 January 2025. The volume of carbon emissions is determined based on the number of cubic meters of natural gas combusted and a standard carbon emission factor set annually by the Minister of Economic Affairs and Climate. The rate will increase from €1.35 per ton of carbon emissions in 2025 to €6.80 per ton of carbon emissions in 2030.

Industry and energy tax

As of 1 January 2025, certain exemptions of energy tax will be discontinued, namely for metallurgical and mineralogical processes. Due to this proposal, as from 1 January 2025 an advantage on fossil fuel energy consumption will be discontinued for the iron and steel industry, the non-ferrous metal industry (including aluminium and zinc production), the metal products industry and mineralogical industry (including glass, tiles, bricks and lime-sandstone production). The exemption will remain for the production of hydrogen by means of electrolysis.

Coal tax adjustment

Companies importing, transporting or storing coal must pay coal tax. The government proposes to discontinue the exemptions for dual use of coal and the non-energy efficient usage of coal by 2028. This puts an additional cost on carbon emissions and on emissions of other air pollutants due to coal usage.

Minimum carbon emission price

The minimum price for carbon emissions for the electricity sector and industry will be increased. The aim is to encourage Dutch companies to take account of the climate impact of greenhouse gas emissions in their investment choices.

OTHER MEASURES

Co-parenting allowances

As of 1 January 2024, there will be a simplification in the method of determining whether co-parenting is entitled to allowances. There is no longer any need for an equal distribution at any time in the year. On a calendar-year basis, it is sufficient for the child to have an almost similar relationship in both households. This is at least the case if the child stays with each of the parents for 156 days (3 days times 52 weeks) per calculation year.

Tip!

In individual cases, the Benefits Division still has room to offer a customised service.

Review of definition of offender delayed

An offender is subject to an administrative penalty. In 2014, the concept of offender was expanded to include persons who consciously assist others in failing to comply with tax or benefit obligations. It specifically concerns the perpetrator, the instigator and the accomplice. The review of this expansion does not appear to be possible and is therefore postponed until 1 January 2029. After this date, this expansion will automatically lapse unless a supplemental legislative proposal is adopted.

Take note!

This provision makes it possible to impose an administrative penalty on persons who consciously assist others in failing to comply with their tax or benefit obligations.

Interest on benefits

The same scheme of remuneration and payment of tax interest applies for benefits as for income tax and so too the same rate of 6%. With retroactive effect to 1 July 2023, the interest payable by persons entitled to supplementary benefits will be reduced to 4%. If the persons entitled to supplementary benefits is entitled to interest, this will only be reduced from 6% to 4% as of 1 January 2024.

Hardship clause in the Collection of State Taxes Act

At present, there is no possibility of derogating from the rules laid down by law in the event of unforeseeable and very unreasonable consequences for the collection of taxes. It is for this reason that a hardship clause was introduced in the Collection of State Taxes Act (Invorderingswet). This gives the Minister of Finance the authority to accommodate taxpayers in cases where the Collection of State Taxes Act leads to 'extreme unfairness'. In such case, a taxpayer should submit a request for application of the hardship clause.

Take note!

The hardship clause is only intended for special cases or groups of cases where application of the law leads to extremely unreasonable consequences which were not envisaged in the coming about of the legal provision.

Compensation on violation of fundamental right

To determine which tax returns had to be checked manually, the Tax Administration applied a risk selection in which non-tax grounds were also used. This approach has infringed the fundamental rights of taxpayers and must be compensated for, as long as the Tax Administration cannot prove that selection was made on tax grounds. The basic assumption is that those taxpayers do not have to request such compensation themselves. This compensation will be untaxed and will not be offset against any outstanding tax liabilities.

Payment of legal costs

Many notices of objection regarding WOZ and BPM are submitted by authorised representatives on a no cure no pay basis. To reduce the resulting workload, three measures have been proposed. The fees to cover the costs of legal assistance granted for a professional third party will be reduced. The amount of compensation for immaterial damages resulting from exceedance of the reasonable period is also laid down by law. Finally, it is provided that payments resulting from a decision on an objection or a judgment on an appeal will only be made to a bank account in the name of the party concerned.

PREVIOUSLY SUBMITTED LEGISLATION, INCLUDING:

- Reduction of self-employed deduction to €3,750.
- Change of rate structure in box 2: income up to €67,000 at 24.5% and above that at 31%.
- Conversion of loss from a substantial interest into a tax credit: credit reduced to 24.5%.
- Adaptation of the definition of a solar car: from 2024 onwards, a solar car will be considered to be a car with

an integrated array of solar cells, in which the power capacity of that array of solar cells expressed in watt-peak (Wp) divided by the watt-hour (Wh) consumption per kilometre must be at least 7 (seven). In 2025, the addition for a solar car will be adjusted to 17% of the listed value.

- Capping rates of pay for the 30% facility up to the Balkenende standard (€223,000 in 2023). There is a transitional regulation for situations existing at the end of 2022.
- Complete abolition of the gift tax exemption for a beneficiary's own home.
- Increase in the housing value to €510,000 for which (under certain conditions) the low transfer tax rate applies.
- Stricter requirements for deduction for gifts: as of 1 January 2024, for all gifts in kind of €10,000 or more, a valuation report is required to be entitled to the tax deduction. That applies to both income tax as well as corporation tax.
- Change relating to the purchase of annuities without tax penalties in the event of incapacity for work. On exceeding a limit, 20% revisionary interest is no longer due on the full redemption sum but only on what has been excessively redeemed. The Tax Administration already applies this in practice nowadays.
- Improving the legal protection for tax interest rulings in the case of provisional income tax or corporation tax assessments: a period of six weeks to lodge an objection is guaranteed.
- Registration requirement for Payment Service Providers for cross-border payments: an obligation to collect payment data and to submit it to the tax authorities of the Member States concerned.
- Introduction of additional withholding tax: dividends to countries that have a tax rate on profits of less than 9% and to countries listed on the European list of non-cooperative jurisdictions for tax purposes will be subject to withholding tax.
- Change for foreign corporate taxpayers that have a substantial shareholding: the deduction exclusion of withholding tax will now also apply to foreign corporation tax payers with a substantial shareholding in the Netherlands.

If you have any questions as a result of this Budget Day Special, please contact your advisor within one of the RSM offices.

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