BUDGET DAY SPECIAL – 2023 TAX PLAN

September 2022

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

This special is divided into the following topics:

- measures for businesses;
- measures for employers;
- measures for VAT and excise duties;
- measures on immovable property;
- measures for vehicles & mobility;
- measures in income tax box 3;
- measures for (wealthy) individuals;
- measures for international situations;
- other measures.

The proposed measures will enter into force on 1 January 2023, unless stated otherwise.

This publication is exclusively intended to communicate news. We advise you to contact your RSM consultant to obtain information about the most current status of the legislation.

MEASURES FOR BUSINESSES

Lowest corporation tax rate (vpb) from 15% to 19%

The government has proposed to increase the Dutch corporate income tax ("CIT") rate for the lowest tax bracket from 15% to 19%. It also proposed to decrease the lowest tax bracket from € 395,000 to € 200,000. As a result, the high corporate income tax rate of 25.8% already applies to taxable amounts exceeding € 200,000.

> **Tip!**
> Taxpayers may be able to obtain a benefit in FY 2022 by releasing provisions in order to utilize the lower CIT rate and tax bracket that still apply in FY 2022. Anticipating on FY 2023 it may be possible to postpone investments until 2023 so that the costs may be deductible from the taxable amount at a rate of max. 25.8%.
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> Where you have terminated the Dutch fiscal unity in anticipation on the high tax bracket of € 395,000 for which a low Dutch CIT rate applied of 15%, you may want to obtain a good understanding of the future tax position of your Dutch group companies. Please feel free to reach out to us to discuss this into more detail.

Two tax brackets in box 2

Box 2 levies taxes on income from a substantial interest, such as dividends paid to a director and major shareholder from their private limited liability company (BV). Currently, a single tax rate of 26.9% applies. As from 2024, two tax brackets will be included in the box 2 rate. The rate becomes progressive (the more income, the higher the rate). The proposal is as follows:

2024 Income tax rate for taxation box 2

Box 2 rate	Tax income	2024 rate
Low rate	≤ € 67,000	24.50%
High rate	> € 67,000	31.00%

> **Tip!**
> In the event of varying profits, distribute dividend payments over the years so as to remain in the lowest tax bracket as much as possible. This could include the possibility of dividing income from a substantial interest among the partners in a tax partnership. In 2024, the lowest rate is 2.4 percentage points lower than the rate in 2022. Make use of this difference by paying dividends up to € 67,000 in 2024. Partners can even gain double benefits.

Phasing out of Tax-Deferred Retirement Reserve (FOR)

An entrepreneur for income tax purposes (e.g. a partner in a commercial partnership) can reserve part of his profit to form a tax-deferred retirement reserve (FOR). This is used later to purchase an annuity which ensures that the entrepreneur still has income at a later age. Taxation is then deferred until annuity payments are received. As the tax-deferred retirement reserve (FOR) has not always been used as intended, this FOR-concept is being phased out. This means that amounts may no longer be added to the retirement reserve (FOR) with effect from 2023.

Tip!
An existing tax-deferred retirement reserve (FOR) may still be settled in the usual manner in the coming years.

Accelerated scale down of self-employed deduction
The self-employed deduction is being scaled down accelerated by € 1,280 per annum (including the previously announced scale-down based on the 2020 Tax Plan and the 2021 Tax Plan). The self-employed deduction is incrementally being reduced from € 6,310 in 2022 to € 900 in 2027. For 2023, the self-employed deduction amounts to € 5,030.

Tip!
The increased self-employed deduction for starters (the relief for new businesses) remains unchanged for the time being (€ 2,123).

Take note!
The tax schemes for entrepreneurs, including the self-employed deduction and relief for new businesses, will be reviewed in 2023.

Increased Environmental Investment Credit (MIA) and Energy-saving Investment Credit (EIA)
The government announced that budgets for the Environmental Investment Credit (MIA) and Energy-saving Investment Credit (EIA) will be increased, to give companies additional support and because of the growing number of applications. The budget for these investment schemes will be increased structurally by € 100 million (MIA) and € 50 million (EIA) per annum as from 2023.

No business succession scheme (BOR) for rented property
The government wants to tackle tax constructions and revise certain tax regulations further. A subsequent proposal is that rented property which constitutes a business should no longer be eligible for the business succession scheme (BOR) within the inheritance and gift tax law nor the rollover facility within the personal income tax law. As a result, rented property can no longer be transferred in a tax-advantaged manner. This proposal, which is still being elaborated upon in more detail, was announced in the 2023 Budget Memorandum. When this measure will take effect is still unclear.

Tip!
When there is rented property, you are of the opinion that it constitutes a business (the activities exceed standard active asset management) and a business succession is intended, it might be recommendable (from a tax perspective) to bring the transfer forward.

MEASURES FOR EMPLOYERS

Increased work-related expenses scheme
Employers may make use of the discretionary margin of the work-related expenses scheme to compensate for and provide tax-exempt benefits to their employees. The current discretionary margin for each employer amounts to 1.7% of the first € 400,000 of the wage sum and 1.18% of amounts in excess thereof. Due to inflation, it is proposed that the discretionary margin should (only) be increased over the first € 400,000 of the wage sum by 0.22%. This is a maximum of € 880 additional discretionary margin per employer.

Tip!
The extending of the discretionary margin in the work-related expenses scheme allows employers to provide an additional tax-exempt benefit for employees.

Effectiveness margin on customary salary
Directors and major shareholders are obliged to award themselves a salary from their own private limited liability company. The minimum amount of such salary is determined based on the customary salary scheme, which also takes the salary of the most comparable employment into account. The director and major shareholder's salary may be up to 25% lower than this salary. This 25% is known as the effectiveness margin. It has now been proposed to abolish the effectiveness margin so that directors and major shareholders should award themselves a higher salary.

Take note!
An adjustment of salary is not necessary in all cases. The current salary may already be in line with the new proposal.

Higher salary for director and major shareholder of innovative start-ups
In the case of innovative start-ups, the customary salary of the director and major shareholder may be set to the minimum rate of pay for a maximum of three years without consultation with the Tax and Customs Administration. This scheme will be abolished as of 2023 for new cases.

Tip!
Consult with the Tax and Customs Administration to establish a customary salary that takes account of the financial position of the company.

Limitation of the 30% facility
As of 1 January 2024, the 30% facility for incoming employees will be limited to what is known as the Balkenende standard (remuneration standard for senior civil servants, currently € 216,000). The 30% allowance will then be capped if the tax base is higher than this amount. A transitional arrangement is hereby established for incoming employees for whom the 30% facility is applied in the last

payroll period of 2022. For them, the capping will only apply as from 1 January 2026. From 2023 onwards, employers will additionally have to make a choice each calendar year for incoming and seconded employees, to reimburse extraterritorial costs based on the 30% facility or on a reimbursement basis.

Tip!
For newly incoming employees with an annual salary of more than € 216,000, it may be attractive to have the employment started by December 2022 at the latest. The transitional arrangement can then be used for a further two years.

MEASURES FOR VAT AND EXCISE DUTIES

Zero-rate VAT on solar panels
Currently, the supply and installation of solar panels is subject to the 21% VAT rate. As of 1 January 2023, the supply and installation of solar panels to homes will be subject to 0% VAT, provided that strict conditions are met. In addition, the intra-Community acquisitions as well as the import of solar panels will be subject to the 0% VAT rate. In order to mitigate the administrative burden for private individuals, no VAT compliance obligations exists, provided that the annual turnover of the supply of electricity remains below € 1,800.

Tip!
The housing function of a building can be checked in the Key Register of Addresses and Buildings (BAG).

Nitrous oxide charged at 21% VAT
In principle, the general VAT rate (21%) remains applicable to the supply of nitrous oxide (also known as laughing gas).

Take note!
The reduced VAT rate (9%) can only be applied when nitrous oxide qualifies as a medicine.

Increase in consumption tax on nonalcoholic beverages
As of 2023, consumption tax on nonalcoholic beverages increases by € 11.37 to € 20.20 per 100 litres. In 2024, this increases further to € 22.67 per 100 litres. In addition, mineral water is exempted from consumption tax on nonalcoholic beverages as of 1 January 2024. To ensure that light beers remain at least at the same rate as for soft drinks, the lowest rate of excise duty on beer will be increased with effect from 2023 and 2024 by the same amounts.

Tip!
By exempting mineral water from consumption tax, this healthy alternative to soft drinks will be relatively cheaper.

Increase in tobacco duty
Tobacco duty is increasing so that the average selling price for a pack of 20 cigarettes will be approximately € 10 in 2024. This is being done in two equal, successive increments as of 1 April 2023 and 1 April 2024. Excise duty on tobacco and cigars will also increase with effect from the same date. Aside from the expected behavioural effects, an increase in tobacco duty leads to additional revenue.

Reduction in fuel excise duty
Since 1 April 2022, the government has substantially reduced the rates of excise duty on unleaded petrol, diesel and LPG to mitigate rising energy prices. The measure applies until the end of 2022 and will be extended until 30 June 2023. The annual indexation prescribed by law and the increase in the rate of excise duty on diesel included in the Climate Agreement Tax Measures Act have been postponed until 1 July 2023.

Tip!
Monitor that the financial benefit of the reduction in excise duty depends on a number of factors. Decisive factors for this are the number of vehicles, the type of vehicles (including fuel type and efficiency) and the annual mileage.

MEASURES ON IMMOVABLE PROPERTY

Vacant value ratio to 100%
The value of rented housing with security of tenure is determined by multiplying the property value according to the Valuation of Immovable Property Act (WOZ value) with the so-called: "vacant value ratio". This is important for the gift and inheritance tax and box 3 for purposes of income tax. It is proposed that as from 2023 a ratio of up to 100% is applied to housing let on the basis of temporary tenancy agreements and for letting to related parties. This practically means that 100% of the value of the WOZ is taken into account (i.e. the vacant value ratio of 100%).

Take note!
Real estate let with security of tenure and financed by a loan will be more quickly included for the box 3 income. The debts are taken into account for a lower amount than the value of the debt. Due to the increase in the vacant value ratio, the full value (100%) of real estate will probably be used in box 3 for the total asset calculation.

Transfer tax increased to 10.4%
The general rate of transfer tax is being increased again. The non-residential transfer tax and transfer tax for residences in which the buyers will not personally be living permanently, is being increased from 8% to 10.4%.

Tip!

Keep account of the increase in the general rate of the transfer tax to 10.4% as from 2023. If possible, ensure that real estate transfers are done by 2022; this saves on transfer tax.

Property outside the regime for fiscal investment institutions

The government has announced a corporation tax measure that will prevent fiscal investment institutions (FIIs) from investing directly in property. This measure is intended to ensure that profits gained on property can be taxed in all cases. It has been shown that in situations with foreign investors and property in the Netherlands owned by FIIs, the Dutch levying of corporation tax may be frustrated. The measure is expected to enter into force on 1 January 2024.

Business Succession Scheme

This measure will probably not come into effect on the 1st of January 2023, but in the fourth quarter of 2022 the government will investigate the possibilities of keeping rented property out of the Business Succession Scheme. As a result, the leased real estate will no longer be able to pass to the next generation through the fiscally favourable Business Succession Scheme measure. Although we think there is only a small change this rule will come into effect, there is a possibility that the government will allow this tightening to take effect as of 2023.

Excessive borrowing law

From the end of 2023, you will be allowed to loan a maximum amount of € 700,000 from your own company. What exceeds the limit of € 700,000 will be taxed by means of a (fictitious) dividend payment.

Take note!

Real estate in box 3 can be financed with a loan from one's own company. Look at the options for (partially) repaying this loan before 2024, as the box 2 rates will be increased in 2024.

MEASURES FOR VEHICLES & MOBILITY

Tax-exempt travel allowance

An employer may pay its employees a tax-exempt travel allowance of up to € 0.19 per kilometre for business kilometres (including commuting). The maximum tax-exempted allowance will be increased to a maximum of € 0.21 as from 1 January 2023 and to a maximum of € 0.22 per kilometre as from 1 January 2024. The increases also apply for purposes of income tax, so that entrepreneurs, recipients of income from other activities, and suchlike can also benefit from it.

Take note!

The Tax and Customs Administration's systems may possibly not be able to adapt in time for the increase as of 1 January 2023. The correct amount will be incorporated in the final income tax assessment.

Additional tax liability for electric vehicles

By default, 22% of the catalogue value is added to the employee's salary for the private use of a company car. For entrepreneurs, this 22% is deducted from deductible vehicle costs. For new zero-emission vehicles such as fully electric cars, only 16% additional tax liability applies on a maximum amount of € 35,000 in 2022. In 2023, this will be 16% on a maximum amount of € 30,000, as well as in 2024. In 2025, the additional tax liability will be 17% on a maximum of € 30,000 and the benefit for electric cars will disappear as from 2026. The additional tax liability will then be equal to the default additional tax liability (22%). This had been proposed in previous tax plans.

Tip!

For hydrogen-powered vehicles and electric cars with integrated solar panels, the lower additional tax liability will not apply for the time being.

Passenger motor vehicle and motorcycle tax (BPM) exemption for commercial vans discontinued

The passenger motor vehicle and motorcycle tax (BPM) exemption for commercial vans will be abolished as of 1 January 2025. This also shifts the tax liability of the holder of the registration certificate to the applicant of the van registration in the vehicle registration system. As from 1 January 2025, the applicant, who is usually the importer or dealer, must pay the passenger motor vehicle and motorcycle tax (BPM). The passenger motor vehicle and motorcycle tax (BPM) exemption for zero-emission vans remains in place.

Take note!

Until 31 December 2024, entrepreneurs can use the passenger motor vehicle and motorcycle tax (BPM) exemption for a van and continue to do so as long as they meet the conditions.

Increase in motor vehicle tax for vans

The motor vehicle tax rate (MRB) is increasing for the vans of entrepreneurs. In 2025, this concerns an increase of 15%, followed by a further increase of 6.96% in 2026.

MEASURES IN INCOME TAX BOX 3

Box 3 – Christmas ruling

In December 2021, the Supreme Court of the Netherlands ruled in the renowned Christmas ruling that, in certain cases, the 'Dutch box 3 income tax system' is contrary to European law, which must be remedied. In this, a distinction is made between the past (2017 to 2022), the transitional period (2023 to 2025) and the future (2026 and later years).

Limitation of judicial remedy of box 3

The proposed Judicial Remedy of Box 3 Act applies to assessments for income tax/national insurance contributions for the years 2017 to 2022, provided that they are not irrevocably established.

Take note!
The tax inspector is not allowed to apply the Judicial Remedy of Box 3 Act if this means the taxable person is required to pay more income tax.

New capital yield tax base

In the new calculation of the capital yield tax base in box 3, gains from savings and investments are based on the actual composition of the capital. Three categories of assets are distinguished: bank account credit balances, other assets and liabilities. For each asset category, a specific fixed capital yield rate is proposed that is as close as possible to the actual yield.

Calculation of new gains from savings and investments

Yields to be calculated by multiplying the applicable fixed capital yield rate by the value of the assets in the relevant category (after deduction of the debts threshold) on the 1 January reference date.

Capital yield rates for the new calculation by category:

	Bank a/c cr.bal. (I)	Other assets (II)	Debts (III)
2017	0.25%	5.39%	3.43%
2018	0.12%	5.38%	3.20%
2019	0.08%	5.59%	3.00%
2020	0.04%	5.28%	2.74%
2021	0.01%	5.69%	2.46%
2022	*	5.53%	*

* The rates for categories I and III for 2022 are not yet known.

The tax-free assets of the current 'Dutch box 3 income tax system' remains in place. Since the new calculation is based on an actual (instead of a fixed capital yield) assets mix, the question arises as to which asset components the tax-free assets should be deducted from. It is therefore proposed to multiply the effective fixed capital yield rate in the three asset categories by the capital yield tax base, to determine the new gains from savings and investments, after it has been reduced by the tax-free assets.

Distribution of combined tax base

Since the level of the combined income components may have been altered by the judicial remedy and the method of distribution as a result of the judicial remedy – by corresponding with the distribution chosen by the tax partners – may deviate from current legislation, and this may possibly be unfavourable for the taxpayer, the proposed legislative text allows tax partners to choose a different distribution in respect of the additional deduction. To this end, they may apply to the tax inspector for an official reduction, or – for the years 2021 and 2022 – submit a new tax return in which they make their joint choice known.

Transitional Income Tax Box 3 Act

In line with the box 3 judicial remedy, for taxation in the years 2023 to 2025, the actual composition of the assets is used. For every asset category (bank account credit balances, other assets and debts), a separate fixed capital yield rate applies.

Take note!
For the concept of bank account credit balance, one can use the definition deposit. An exception applies for cash, which also counts as a bank account credit balance. This exception constitutes a deviation from the judicial remedy.

Box 3 fixed capital yield rates known for 2023

In 2023, a fixed capital yield of 0.01% will be applied for bank account credit balances. For other assets, this fixed capital yield rate will be 5.69%. The fixed capital yield rate on debts will be negative 2.46%.

Take note!
The total capital yield in box 3 amounts to at least nil.

Exemption on green investments is maintained

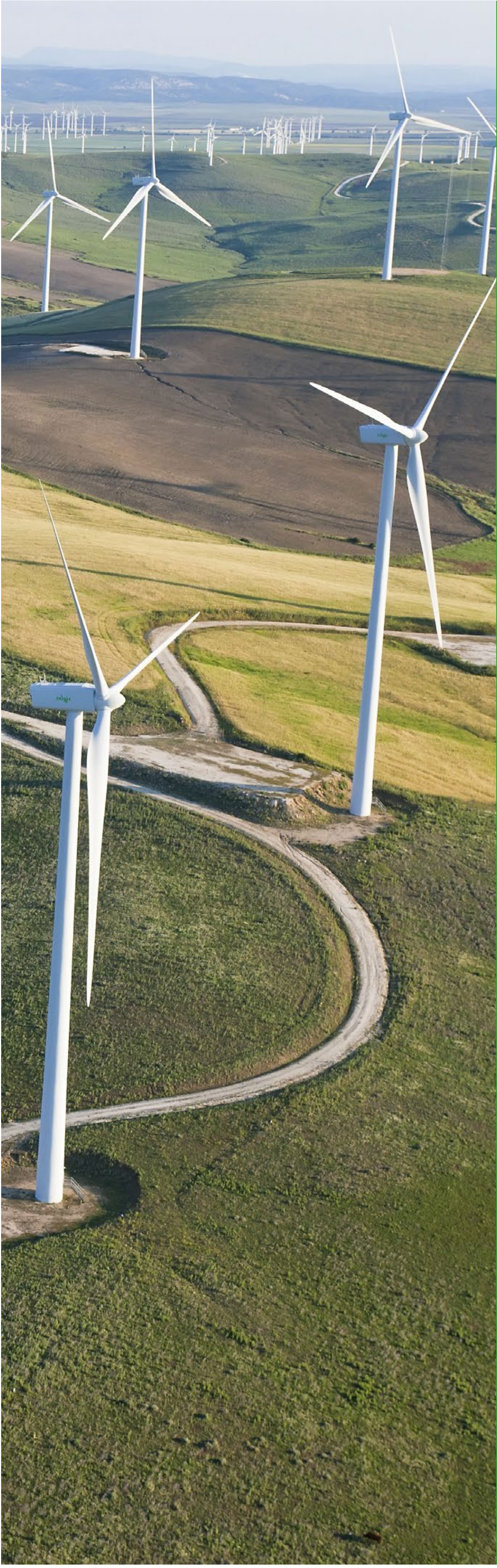
The new 'Dutch box 3 income tax system' will also exempt green investments up to a certain maximum amount. In doing so, a separation must be made between green investments on bank account credit balances and other green investments. The exemption must first be allocated as much as possible to other green investments.

Take note!
The allocation of the exemption to other green investments is favourable, since bank account credit balances are subject to a much lower fixed capital yield.

Reference date arbitrage

Without further measures, taxation in Box 3 under the Transitional Income Tax Box 3 Act can be easily reduced by selling investments just before the reference date. The proceeds are then temporarily deposited into a bank account. It is for this reason that such a sale is ignored if it occurs in a connected three-month period starting before and ending after the reference date.

Tip!
The measure does not apply if the taxpayer makes it plausible that they have acted for commercial, non-fiscal reasons.



Rate increase
From 2023 to 2025, the Box 3 rate will increase by 1 percentage point annually. The rate will therefore be 32% in 2023, 33% in 2024, and 34% in 2025.

Take note!
The government does not expect many people to transfer assets from box 3 to box 2. Yet, box 2 has also been adapted to make it no more attractive than box 3.

Increase in tax-free assets
Tax-free assets are being increased from € 50,650 to € 57,000. For partners, tax-free assets are being increased from € 101,300 to € 114,000.

MEASURES FOR (WEALTHY) INDIVIDUALS

2023 Income tax rates for taxpayers below statutory retirement age
Taxpayers who have not reached the statutory retirement age (AOW) at the beginning of 2023, are expected to apply the following tax brackets in 2023.

2023 Income tax rate

Box 1-rate	Tax income	2023 rate
Low-rate bracket	≤ € 73,031	36.93%
High-rate bracket	> € 73,031	49.50%

2022 Income tax rate

Box 1-rate	Tax Income	2022 rate
Low-rate bracket	≤ € 69,398	37.07%
High-rate bracket	> € 68,398	49.50%

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

2023 Income tax rates for old-age pensioners
Taxpayers who have reached the statutory retirement age (AOW) at the beginning of 2023 and were born after 1946, are expected to have the following tax brackets applied in 2023.

2023 Income tax rate (old-age pensioners)

Box 1-rate	Tax Income	2023 rate
Tax bracket 1	≤ € 37,149	19.03%
Tax bracket 2	> € 37,149 – ≤ 73,031	36.93%
Tax bracket 3	> € 73,031	49.50%

2022 Income tax rate (old-age pensioners)

Box 1-rate	Tax income	2022 rate
Tax bracket 1	≤ € 35,472	19.17%
Tax bracket 2	> € 35,472 – ≤ 69,398	37.07%
Tax bracket 3	> € 69,398	49.50%

These percentages include national 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 2023 Tax Plan. These relate to taxpayers who are below the statutory retirement age (AOW). For persons entitled to an old-age pension, in principle, lower maximum amounts apply.

Tax credits	2023	2022
Max. general tax credit	€ 3,070	€ 2,888
Max. employed person's tax credit	€ 5,052	€ 4,260
Max. income-related combination tax credit	€ 2,694	€ 2,534
Young disabled person's credit	€ 820	€ 771

Phasing out of Income-dependent Combination Tax Credit
The Income-dependent Combination Tax Credit (IACK) for working parents with one or more children up to 12 years of age will be discontinued as of 2025. This does not apply to parents with (one or more) children born before 1 January 2025. A fundamental revision has been announced of the childcare allowance (KOT). The government has opted for an income-independent compensation of 96% (up to the maximum hourly rate) for working parents. This high compensation contributes to the affordability of childcare. This makes it more attractive for parents to combine work and care for young children.

High marginal pressure on middle-income earners
If someone earns more income they pay more income tax and contributions and they receive fewer benefits and allowances. The difference between the gross additional income and the net additional income is called marginal pressure. Specific tables for this have been added to the tax plans. Above a gross income of approximately € 23,000, there is a very high marginal pressure of up to 87% for people who are entitled to a healthcare and housing allowance. As the maximum healthcare allowance and maximum housing allowance have been increased, the group of people affected by this has increased.

Take note!
To determine a person's take-home pay with additional income, a reduced entitlement to benefits and allowances must also be taken into account.

In 2025, the aggregate income determines the general tax credit
In 2022, the maximum general tax credit (AHK) of € 2,888 decreases by 6.007% of income from work and home, provided that such income exceeds € 21,317. In 2025, this scale-down will depend on the aggregate income.

Take Note!
This measure entails that the scale-down is based not only on income from work and home, but also income from a substantial interest, and income from gains from savings and investments. This would for example mean that any dividend distributions in box 2 could have an impact on the amount of the general tax credit.

Joyous tax-free lump sum discontinued
The extended gift tax exemption of € 106,671 (2022), designated to buy an own home or to repay a home acquisition debt, will be abolished as of 2024. In anticipation of this, this exemption will already be reduced to € 28,947 in 2023. The possibility of spreading will also be ablished on 1 January 2024. In concrete terms this means that the part of the maximum exemption in 2022 that remains unused can only be used for a donation in 2023, but no longer for a donation in 2024.

Tip!
When your children (or other beneficiaries) in the age of 18-40 years intend to buy a house (residence) on short notice (or renovate their current home or redeem part of their mortgage) and you would like to help them by means of a gift, make sure you either pay the full amount of the exemption this year or pay part of the amount in 2022 and the remainder in 2023. By doing so you could prevent taxation on some € 80.000.

Apply compulsory old-age provision (ODV) for annuity
Previously, directors and major shareholders could accrue a pension provision within their own private limited liability company. When this was abolished, part of the pension could be converted into a compulsory old-age provision (ODV). Prior to the payout of a compulsory old-age provision (ODV), the director and major shareholder can use this to purchase an annuity. As there was a preference – in practice – to buy an annuity after the start of the ODV payouts (even if five years have passed since the end of the calendar year in which the taxpayer reaches the statutory retirement age (AOW)), approval was issued for this purpose. These approvals, including the terms and conditions set out therein, are now laid down in law.

Tip!
If a private limited liability company is only maintained because of a compulsory old-age provision (ODV), the private limited liability company may be terminated after purchasing an annuity.

Reparation of transitional rule for training allowance
Since 1 January 2022, the tax allowance for training expenses for income tax purposes was abolished. Since then, there has only been a transitional provision for training expenses up to and including the academic year 2014/2015. This transitional rule was intended to apply until 1 January 2031. However, the way in which the transitional provision was incorporated into the law was incorrect, so it has now been decided to retroactively repair this with effect from 1 January 2022. As a result, the law is consistent with its intention.

Restriction of periodic deduction for gifts
Periodic gifts are gifts made annually for a minimum of five years. Under certain conditions, such gifts are currently fully deductible for income tax purposes. It has been proposed to introduce a maximum deductible amount for periodic gifts. Gifts of more than € 250,000 (per household) may no longer be offset against income.

Correction of deduction for gifts multiplier
The multiplier for income tax purposes means that the amount of deductible gifts to cultural public benefit organisations (ANBI) will be increased by 25%, but at most by € 1,250. In practice, it has always been assumed that the maximum amount of € 1,250 applies jointly to both partners. Based on current legal text, the increase for tax partners should at most be double (€ 2,500). The law has been adapted to align with practice. The maximum increase for tax partners jointly will also remain at € 1,250.

Average scheme abolished
It is proposed to abolish the average scheme. The average scheme was used to recalculate the tax on income from work and home over a continuous period of three calendar years (the averaging period) to the tax over an average income over this averaging period. If the recalculated tax was lower than the levied tax, then the difference will be refunded after deducting a threshold of € 545. The period 2022–2023–2024 is the last period that can be used as a basis to apply the average scheme.

Tip!
A request for applying the average scheme must be submitted within 36 months of the final assessment.

Flight tax to be increased
Flight tax is being increased by € 17.95. As the current flight tax of € 7.947 is indexed annually, the new rate including indexation and increase amounts to € 26.43 per departing passenger. Short-distance flights are therefore discouraged because the flight tax on these flights is relatively more expensive.

Increase in healthcare and housing allowance
The maximum housing allowance and the maximum healthcare allowance have respectively been increased by approximately € 35 and approximately € 17 per month to support the most vulnerable households. As the healthcare allowance increases and the phase-out percentage remains the same, more households will be entitled to healthcare allowance in 2023.

Sheltered, displaced Ukrainian is not a partner in terms of allowances
The government is amending the law to ensure that a sheltered, displaced Ukrainian does not count as a partner

for benefits and allowances. Without this amendment, the sheltering of Ukrainians would limit or jeopardise entitlement to an allowance.

Take note!
Anyone who gets married to or has a child by a Ukrainian, should consider this Ukrainian partner as an allowance partner.

Tip!
This amendment will have retroactive effect from 24 February 2022.

Violent partner to be excluded as an allowance partner
If there is a threat of domestic violence a partner can be sheltered, but the partner left behind does continue to be the allowance partner. It will be possible for the sheltered partner to request that the partner left behind should no longer be regarded as an allowance partner for the duration of the sheltering. The partner in the shelter does not have to wait until divorce proceedings have been instituted to independently obtain entitlement to benefits. This measure only applies to allowances and not to the tax partnership for income tax purposes.

Take note!
When sheltering is discontinued, the allowance partnership with the partner will be revived from that moment onwards, but that is not applied retroactively.

MEASURES FOR INTERNATIONAL SITUATIONS

Increased personal tax allowance in the Caribbean Netherlands
As a measure to increase purchasing power, the government wants to raise the personal tax allowance by US$500 for salary and income taxes purposes in the Caribbean Netherlands. In addition, the personal tax allowance will also rise due to the annual inflation adjustment as of 1 January 2023.

Decreased excise duty on petrol in Caribbean Netherlands to last longer
On 1 April 2022, the government temporarily reduced the excise duty on petrol in the Caribbean Netherlands by US$0.16 per litre. The government intends to extend the temporary reduction until 30 June 2023. The temporary reduction will be reversed in two equal steps of US$0.08 per litre on 1 July 2023 and on 1 January 2024. Excise duty is not levied on diesel and LPG in the Caribbean Netherlands.

Other relevant developments
The Dutch State Secretary of Finance has announced complementary measures that are targeting dividendstripping. In short, with dividendstripping a dividend withholding tax advantage is obtained through for example the (temporary) separation of the economic and legal ownership of the shares.

In addition it is expected that a new Dutch Decree on the qualification of foreign entities for Dutch tax purposes will enter into force. One of the aims of this Decree is to further prevent mismatches in the qualifications of entities between jurisdictions which result in hybrid entities. In this respect it has amongst others been proposed to qualify a Dutch Limited Partnership (CV) and foreign limited partnerships comparable to a CV, as transparent entities for Dutch tax purposes. Consequently, this may therefore specifically, but not exclusively, be relevant where Cayman or Delaware LP's are holding shares in a Dutch entity; either a BV or a (non-holding) Cooperative. Due to the transparency of the LP for Dutch tax purposes the underlying participants may become liable to Dutch (corporate) income tax on its shareholding in the Dutch BV/ Cooperative. It is expected that the Dutch Government will publish the new Decree in the Spring of 2023.

Pillar II – Minimum taxation
On September 9, 2022 the Netherlands, Germany, Italy, Spain and France have published a joint statement confirming the commitment to implement the global minimum effective taxation in 2023 by any possible legal means. Despite the joint statement, no legislative proposal was published as part of the 2023 Tax Plan.

Take note!
On December 22, 2021 a draft directive was already published by the EU. This draft directive has not been accepted yet due to lack of unanimity at the moment of writing. The expectation is that Pillar II will be implemented in the near future. It is important to monitor with your RSM advisor whether your business is in scope of the (draft) rules.

OTHER MEASURES

Tailored approach to interest on overdue tax possible
If a taxpayer does not pay their tax liabilities on time, they also have to pay interest on overdue tax. It has been proposed to broaden the Tax collector's (i.e. the receiver in terms of the Overdue Tax Act) scope not to calculate interest on overdue tax if late payment is not attributable to the taxpayer. This would be the case, for example, if a 2022 provisional income tax assessment did not take the developments regarding box 3 into account. Collection of taxes due on this assessment are then halted. Notwithstanding that taxes need not be paid; the Tax and Customs Administration will still charge interest on overdue tax. That is no longer necessary thanks to this broadened scope.

Increased child-related budget
The government wants to increase the child-related budget over and above the annual inflation adjustment, to focus

on parents undergoing an increased risk of poverty. The government proposes three adjustments: The maximum amount for the third child and upwards is being increased by € 468 per annum. In addition, all amounts for children are being increased pro rata by € 356. Finally, the single-parent supplement has temporarily been increased by € 356.

Discontinuation of old-age pension income support
In addition to regular indexation, the minimum rate of pay will increase by 8.05%. This increase also applies to all linked schemes, including the old-age pension scheme. As this already supports the purchasing power of old-age pensioners, the government has opted to reduce supplementary old-age pension income support payments and then to discontinue them as from 1 January 2025. The income support for people who have reached state pension age (AIO), however, remains in place. The income support for people who have reached state pension age (AIO) is a household-level payment that supplements income to the social minimum level.

Contribution for high energy prices
The government intends to set a maximum rate for electricity and/or gas up to a certain amount of usage. The intention is also to help energy-intensive SMEs with liquidity improvement and sustainability.

Measures due to high energy prices
For the year 2023, the government will take a number of extraordinary measures due to the high energy prices. A few (rate) adjustments will temper the increase in household energy bills. This concerns an extraordinary decrease in the energy tax for natural gas and electricity and a temporary higher tax reduction of energy tax. In addition, a number of simplifications have been introduced in the taxation of energy. The Surcharge for Sustainable Energy and Climate Transition (ODE) rates will be set to zero as of 1 January 2023 and the energy tax will be raised by the same extent as of that date. This means the ODE costs will disappear from the energy bill.

CO_2 levy for industry will be tightened
The CO_2 levy for industry is being tightened. This is particularly true of the dispensation rights, but the rate will remain unchanged for the time being.

Minimum CO_2 price for industry
The government will introduce a minimum CO_2 price as part of the existing CO_2 levy for industry for operating industrial plants. The minimum CO_2 price also applies for waste incineration and nitrous oxide plants. This measure will ensure that a minimum price will apply to that part of emissions that are exempted for industry under the regular CO_2 levy based on dispensation rights. In addition, a relatively high minimum price remains applicable to emissions for which a company has no dispensation rights. This will continue to encourage reductions in emissions that exceed the emission reduction target for industry.

Reporting obligation by CBAM sector
Under European Climate Law, a carbon levy is expected to be introduced at the European external border on 1 January 2026. For importers in the Carbon Border Adjustment Mechanism (CBAM) sectors importing commodities (steel/iron, cement, fertilizer, aluminium and electricity) from outside the EU, a reporting obligation will be introduced during the transitional period from 1 January 2023 to 31 December 2025.

Take note!
In the course of 2022 it will become clear whether the reporting obligation will indeed apply from 1 January 2023.

Legislation already submitted, including:
- The payment discount will only be abolished for provisional corporation tax assessments. The payment discount for provisional income tax assessments remains in place.
- It will be arranged that if an additional tax assessment has been issued in accordance with a request for establishing such an additional tax assessment, the period for which interest on tax is calculated will end no later than ten weeks after the date of receipt of such request.
- A provision has been proposed which makes it possible, in certain situations, where the interest on tax scheme's system is too harsh, to provide a tailor-made solution by reducing interest on tax.
- A measure has been proposed which discourages borrowings by a substantial interest holder from a private limited liability company. If the company's total debt (with the exception of home acquisition debt) exceeds € 700,000 then the excess will be taxed as a benefit in box 2 for income tax purposes. The proposal has now been approved by the Dutch House of Representatives.

For more detailed information and questions, please contact your advisor within one of the RSM-offices:

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