



# BUDGET DAY SPECIAL

TAX PLAN 2024

19 September 2023



*In this Budget Day special, the main proposals from the Tax Plan 2024 and additional bills are listed for you. Many proposals were announced earlier, for example in the Spring Memorandum 2023.*

**The special is divided into the following topics:**

## CONTENT

<b>3</b>	<b>COMPANIES</b>
<b>6</b>	<b>BUSINESS SUCCESSION ALLOWANCES</b>
<b>8</b>	<b>EMPLOYER</b>
<b>9</b>	<b>VAT &amp; EXCISE DUTIES</b>
<b>10</b>	<b>REAL ESTATE</b>
<b>12</b>	<b>CAR &amp; MOBILITY</b>
<b>14</b>	<b>(HIGH NET WORTH) INDIVIDUALS</b>
<b>18</b>	<b>INTERNATIONAL SITUATIONS</b>
<b>19</b>	<b>BES ISLANDS</b>
<b>20</b>	<b>ENERGY &amp; ENVIRONMENT</b>
<b>22</b>	<b>OTHER MEASURES</b>

The proposed measures will take effect from 1 January 2024,  
unless otherwise stated.

The information contained in this special is of a general nature and does not relate to the specific circumstances of any particular individual or entity. Although the greatest possible care has been taken in compiling this special, we cannot guarantee that the information contained therein is correct and complete on the date of receipt or that it will remain so in the future. No action should be taken on the basis of this information without adequate professional advice after a thorough investigation of the specifically applicable situation.

## COMPANIES

### INVESTMENT FACILITIES

To encourage energy investments and investments in environmentally friendly assets, various investment allowances are available. The energy investment deduction (EIA), the environmental investment deduction and the random depreciation for environmental investments were due to end on 1 January 2024. However, these schemes will now be extended until 31 December 2028. In doing so, the percentage of the EIA will be reduced from 45.5% to 40%.

**Tip:**

Take advantage of the EIA where 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 the taxable profit. If the company incurs a loss, the SME profit exemption reduces the tax loss.

**Tip:**

Bring forward profits, release provisions and make the most of the current 14% rate.

### BV CAN NO LONGER DEDUCT DONATIONS

In 2023, BVs can deduct donations to charitable organisations within certain limits. From 1 January 2024, a simplification of donations through the BV to charities will take place. In that context, the gift deduction in corporate income tax will lapse. However, donations made through the BV will in principle also not be regarded by the tax authorities as taxed dividends.

**Tip:**

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

### ON GOVERNMENT INTERVENTION WIDER HIR

Through the reinvestment reserve (HIR), taxation on a book profit can be deferred under conditions. A widening of the conditions will take place after 2024. This will allow an IB entrepreneur to also form an HIR in another, pre-existing company after a government-enforced partial cessation of one company. The reinvestment intention requirement will remain.

**Tip:**

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

### LESS INTEREST DEDUCTION FOR BANKS

Banks and insurers face a specific interest deduction limitation, the minimum capital rule. Roughly speaking, interest payable is not deductible to the extent that debt exceeds 91% of the total assets. This limit is reduced to 89.4% for financial years starting on or after 1 January 2024. Banks and insurers will therefore face the interest deduction limitation sooner.

### PROVISIONAL ASSESSMENT EXCESSIVE BORROWING

Upon emigration, a provisional assessment may be imposed to secure a tax claim that arose in the Netherlands. If a shareholder emigrates, receives a provisional assessment with deferral of payment and borrows excessively from a new foreign company after emigration, this may terminate the deferral of payment. It is proposed to amend the law accordingly, with the aim that recovery of the provisional assessment will only take place if and insofar as excessive borrowing from a company to which the provisional

assessment relates and the debt increase has not already terminated the deferral of payment.

**Note!**

Recovery of the provisional tax assessment may be made to the extent that excessive borrowing from companies in respect of which the shareholder has been granted a conservatory tax assessment with deferral of payment.

**LOSSES ON SILENT RETURN**

If it is decided to operate the company of a BV from an IB company from now on, this can be done without direct taxation (silent return) under certain conditions. Offsettable losses from the BV can then be taken to the IB company. To prevent the offsettable losses at the IB company from resulting in a greater tax advantage due to differences in rates, the amount of losses to be carried forward is calculated on a lump sum basis. By mistake, this was not correctly included in the 2023 Act. A decree dated 6 July 2023 has already provided that, in anticipation of the change in the law, this will be adjusted retroactively to 1 January 2023. It is now proposed to adjust this in the law.

**Tip:**

Regularly assess whether the BV is still the right legal form for the company from a tax and liability perspective.

**NEW CONDITION FOR FGR**

For a joint account fund (fgr) to remain independently taxable for corporation tax purposes, it will have to meet a new condition from 1 January 2025. Namely, it will then have to be a qualifying investment fund or fund for collective investment in securities. The shareholding must be evidenced by negotiable certificates of shareholding.

**Note!**

Family funds no longer qualify as fgr due to the new condition.

**TIGHTER CONDITIONS FOR VBI**

From 1 January 2025, only investment institutions and

undertakings for collective investments in securities may be exempt investment institutions (vbi's) in accordance with the Financial Supervision Act. VBIs may only offer units to the general public or institutional investors. This removes the possibility of using the vbi regime when investing private assets.

**Note!**

Bodies that do not meet these new conditions will lose their vbi-status on 1 January 2025, even if the financial year differs from the calendar year.

**TRANSITIONAL LAW ON LOSS OF FGR STATUS**

Does the new definition of a mutual fund (fgr) make it no longer independently taxable? If so, without further legislation, the fund would have to pay tax on the resulting notional profit. To avoid acute taxation, there will be transitional law. A pass-through facility will be introduced to defer taxation. If the carry-over facility cannot be applied, a payment facility may be used. The payment can then be spread over a ten-year period.

**Tip!**

The transitional law also includes a share merger facility for certain shareholders and a temporary exemption from real estate transfer tax.

**ATR REMAINS PARTLY INTACT**

The introduction of the new definition of common account fund (fgr) on 1 January 2025 may be reason for the Tax Authorities to terminate a settlement agreement (ATR). Often, such an ATR also covers other issues not affected by the new definition of the fgr. For those aspects, the ATR remains in place. One does not have to request this in writing.

**QUALIFICATION OF LEGAL FORMS**

Treating legal forms differently in the Netherlands than abroad can lead to undesirable situations such as double taxation or double deduction. To avoid those situations as much as possible, (foreign) legal forms are in principle

assessed on the basis of the legal form comparison method. This will now be laid down by law. Under this method, certain civil law features of foreign legal forms are compared with those of Dutch legal forms in order to subsequently treat those foreign legal forms in the same way for Dutch taxation purposes. There will be new rules for non-comparable foreign legal forms.

### **EXPIRED TAX LIABILITY OPEN CV**

Now, a limited partnership (CV) can be open or closed. If all partners have to give their consent to the entry or replacement of a limited partner, it is a closed limited partnership and the result is taxed at the partners. In all other cases, it is an open limited partnership and the result is taxed at the limited partnership with corporate income tax. This distinction is not in line with legislation in other countries and will therefore be dropped: from 1 January 2025, open CVs will, in principle, no longer be subject to independent tax, but the result will be taxed at the partners of that CV.

#### **Note!**

Transitional law has been announced to avoid unwanted tax consequences of this change. This transitional law does not apply to open CVs established after the publication of this bill.



## BUSINESS SUCCESSION ALLOWANCES

### **BOR**

If business assets are transferred by gift or inheritance, this may result in the levying of gift or inheritance tax. To prevent the continuity of a business from being jeopardised as a result, the business succession regime (BOR) can be used. As a result, no or less inheritance or gift tax is due.

### **PASS-THROUGH ARRANGEMENTS**

The transfer of business assets often results in the levying of income tax. There are various carry-forward arrangements (DSR) that ensure that this levy is deferred in certain situations so that the continuity of the business is not jeopardised. One such pass-through scheme specifically targets the gift of a substantial interest (the DSR ab). A substantial interest is, simply put, an interest representing at least 5% of the shares in a company.

### **NO FACILITY FOR LEASED PROPERTY**

In principle, only business assets are eligible for the BOR and the DSR ab. This leads to many discussions, especially with leased property: is it investment or business assets? From 2024, leased property will always be investment property for the purposes of the BOR and the DSR ab. This also applies to couple purchases that are currently still regarded as business assets. Leased property will henceforth be defined as property actually made available to third parties. If this is not the case at the time of transfer, but the property is intended for that purpose, it will also be regarded as investment property.

### **Note!**

Short-term lettings, such as hotel rooms, are not covered by the proposed measure. This also applies to cultivation leases.

### **Note!**

A time-proportional approach applies to property that is used in the own business for part of the year and rented out for the other part of the year.

### **ABOLISH EFFICIENCY MARGIN**

The BOR and the DSR ab contain an efficiency margin: in the case of companies subject to corporate income tax, investment assets amounting to a maximum of 5% of the business assets are regarded as business assets. As a result, the BOR and DSR ab can still be used for part of the investment assets. It has been proposed to abolish the efficiency margin for the BOR as of 1 January 2025. The margin will also be abolished for the DSR ab, but this can only be realised later. The timing is still to be determined.

### **PRIVATE AND BUSINESS USE**

For the BOR and the DSR ab, a business asset is deemed to be a business asset if it is a compulsory business asset (as a rule, max. 10% private use) or a discretionary asset designated as a business asset (business use between 10% and 90%). Currently, in such a case, the entire amount of the optional assets is regarded as business assets for the purposes of the BOR and the DSR ab. It has been proposed that from now on only the part of the business asset that is used for business purposes will be regarded as business assets for the purposes of the BOR and the DSR ab. The intended effective date of this amendment is 1 January 2025.

### **Tip:**

The measure will be limited to business assets with a market value of at least €100,000 and a non-business use of more than 10%.



**Note!**

This means that for various business assets, the percentage of use for non-business purposes must be determined. This incurs additional costs on a business transfer.

**EXPIRED EMPLOYMENT REQUIREMENT DSR AB**

The DSR ab can currently only be applied if the business successor has already been employed by the company whose shares are being gifted for at least 36 months. It has been proposed to drop this employment requirement with effect from 2025.

**Note!**

There is also a DSR for the transfer of a business for income tax purposes while alive. That DSR also has an employment requirement, but it does not lapse.

**MINIMUM AGE OF TRANSFEREE ON DONATION**

It has been proposed to introduce a minimum age for the transferee who is gifted a company. Only if the transferee is at least 21 the DSR ab and the BOR can be applied. This aims to prevent unintended use of the schemes. The introduction of the minimum age is planned for 1 January 2025.

**Note!**

The minimum age is not going to apply to business successions due to death, as this is not likely to involve unintended use.

**ADJUSTMENT EXEMPTION BOR**

The BOR now exempts 100% of the fair market value of the company upon continuation up to an amount of €1,205,871 per company (that amount is indexed annually). If the value is higher, an 83% exemption applies to the excess. From 2025, 100% of the value will be exempt in case of continuation up to an amount of €1,500,000. For the excess, only a 70% exemption will then apply.

**LIMITATION OF QUALIFYING INTERESTS**

The BOR and the DSR ab apply to substantial interests. These include interests of at least 5% of regular shares in a company, as well as other, smaller interests. It has been proposed to limit the schemes, with effect from 1 January 2026, mainly to regular shares with a minimum interest of 5% in the issued capital, so that the scheme will be more focused on family businesses. However, the schemes will continue to apply to preference shares issued as part of a business succession and to certain diluted interests.

**Note!**

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

**POSSESSION AND CONTINUATION REQUIREMENT BOR**

The BOR can only be applied if the testator or donor had already owned the company for a certain time and the company is continued by the transferee for a certain time. It is proposed to relax the possession and continuation requirements. A study is under way on how a shortening of the five-year period can be designed. The Tax Plan 2025 will elaborate on this proposal. The target effective date is 1 January 2026.

**APPROACH TO CONSTRUCTIONS BOR**

The Tax Plan 2025 includes a proposal to tackle abuse of the BOR through constructions. These include, for example, converting non-enterprise assets into business assets for the sole purpose of being able to transfer these assets advantageously. The intended entry into force date of these measures is 1 January 2026.



## EMPLOYER

### FREE SPACE WORKING COSTS SCHEME

In 2023, the free margin for the work-related costs scheme will be 3% of the taxable wage bill up to €400,000. On the part of the wage bill for tax purposes that exceeds €400,000, the free margin is 1.18%. The law erroneously stated that the maximum amount of the free space in the first bracket in 2023 is €6,800 (instead of €12,000). This will be rectified retroactively to 1 January 2023, as a result of which the maximum amount in the first bracket will be equal to 3% of €400,000. From 2024, the percentage of the free allowance will be reduced from 3% to 1.92% over a taxable wage bill up to €400,000.

**Tip:**

This year, make sure you make optimal use of the free space within the work-related costs scheme.

### PUBLIC TRANSPORT SEASON TICKETS AND DISCOUNT RAILCARDS

There is a proposal to specifically exempt the private use of public transport season tickets or benefit-hours cards that are reimbursed or provided. 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 then no longer need to keep records of private and business use to qualify for the exemption.





## VAT & EXCISE DUTIES

### VAT RATE ON AGRICULTURAL GOODS AND SERVICES

Certain agricultural goods are taxed at the reduced VAT rate, such as straw, seeds and seed stock. Due to the expiry of the agricultural scheme, the government proposes to also apply the general rate to the supply of certain agricultural goods from 1 January 2025.

### INCREASE EXCISE DUTY ON ALCOHOL

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

### DIESEL REPLACEMENT FUEL OIL

The government proposes to discourage the use of diesel substitute fuel oil and remove the tax advantage by making the excise duty rate equal to that of diesel. This involves increasing the excise duty rate from €41.31 to €595.57 per 1,000 litres of fuel oil from 1 January 2024.

### TOBACCO TAX INCREASE

The government proposes to additionally increase tobacco excise duty on cigarettes and smoking tobacco from 1 April 2024, by €0.60 per packet of 20-ounce cigarettes and €3.60 per packet of 50-gram tobacco, respectively.

### REFUELLING GETS EVEN MORE EXPENSIVE

On 1 April 2022, the government implemented a temporary excise duty reduction to compensate for soaring fuel prices. This compensation eventually ran until 1 July 2023. As of that date, the excise duty changes were partially reversed. The plan is to also end the remaining part of the 2022 excise duty reduction on 1 January 2024.



## REAL ESTATE

### BUILDING DEPRECIATION LIMITATION IN PERSONAL INCOME TAX

Entrepreneurs, profit-earners and legal entities may only depreciate buildings up to a certain value; the so-called base value. The amount of the base value is currently different for personal income tax and corporate income tax and also depends on how the building is used (in own use or for investment). Currently, a broader depreciation option applies to buildings in own use in the personal income tax than in the corporate income tax. The government wants to eliminate this distinction by setting the base value for all buildings at the WOZ value.

#### Note!

This significantly limits the depreciation options for buildings in own use in personal income tax, as well as - if applicable - the application of the reinvestment reserve.

### CONCURRENCE EXEMPTION FOR SHARE TRANSACTIONS

In practice, immovable property is regularly transferred via a share transaction to avoid VAT or real estate transfer tax. The government proposes to amend the so-called concurrence exemption in transfer tax as of 1 January 2025 so that at least 4% transfer tax is levied when:

- it concerns new property for VAT purposes;
- which are operated for less than 90% VAT taxed; or
- that this occurs within two years from the time of acquisition.

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

### JOINT PURCHASE OF OWN HOME

Under current legislation, if partners decide to buy a jointly

owned home first and only then sell the home of one of the two partners, this could result in the deduction of (mortgage) interest being limited. It is proposed to amend the law with retroactive effect to 1 January 2022 to avoid this unwanted interest deduction limitation.

#### Tip:

This situation may have already occurred in the 2022 income tax return. In that case, file an objection or ex officio reduction request and refer to the 2024 Tax Plan.

### FBI REGIME WHEN INVESTING IN REAL ESTATE

From 1 January 2025, a body that invests directly in real estate will no longer be eligible to apply the fiscal investment institution (fbi) regime (0% corporate income tax). The profits of such a body will therefore be taxed at the regular corporate tax rate.

#### Tip!

If investors in fbi's with Dutch real estate want to continue investing in a tax-neutral manner, there is the option of restructuring. One way to do this is to transfer the real estate to an entity that is transparent for Dutch tax purposes.

#### Note!

The introduction of the new definition of fbi on 1 January 2025 may be grounds for the Inland Revenue to terminate an agreement of arrangement (ATR). The ATR will remain in place for subjects not affected by the new definition of fbi.



## TEMPORARY EXEMPTION OVB

There will be a conditional real estate transfer tax (OVB) exemption linked to the end of the application of the fiscal investment institution (fbi) regime to entities investing directly in real estate. The conditional exemption will apply from 1 January 2024 to 1 January 2025 and only in case of a prescribed restructuring for the acquisition of beneficial ownership of real estate.

### **Note!**

The exemption only applies if the fbi sets up a transparent entity, acquires the securities therein, contributes the beneficial ownership of the property therein and then transfers the securities to the shareholders.



## CAR & MOBILITY

### INCREASE IN UNTAXED TRAVEL ALLOWANCE

An employer may grant its employees an untaxed travel allowance of up to €0.21 per business kilometre (including commuting) in 2023. This maximum untaxed allowance will be increased to €0.23 per kilometre from 1 January 2024. The increase will also apply for personal income tax purposes, allowing entrepreneurs and result recipients to deduct €0.23 per kilometre from their result for each business kilometre they drive on their private means of transport (car, motorbike or bicycle).

#### Tip:

You may count commuting kilometres as business kilometres.

### INCREASE FIXED BASE BPM

The bpm has two parts: the fixed base and a variable part. The variable part will be based on CO2 emissions. The government proposes to increase the fixed base in the bpm by €200 from 2025.

### TERMINATE BPM CASH TRANSPORT REFUND

The government proposes to end the bpm refund on cash transport vehicles from 1 January 2026.

### MRB CHANGES

Motor vehicle tax (MRB) is subject to a number of nil or reduced rates.

The cabinet proposes to:

- Abolish the zero or lower rate of MRB for cars and vans registered with the fuel type LPG, CNG and LNG from 1 January 2026.
- Abolish the zero rate MRB public transport buses on

autogas from 1 January 2030.

- Easing the camper van MRB rate from a quarter rate to a half rate from 1 January 2026.
- End the quarter rate in the MRB for horse transport (horse trailer) to the regular rate from 1 January 2026.
- Reduce the after-tax period for motor vehicles with foreign registration plates from a maximum of five years to a maximum of 12 months. The burden of proof will be put on par with other after-taxes.
- Introduce a clarification in the situation where an after-tax MRB is possible due to a change to the motor vehicle. Think of converting a van into a passenger car. It does not matter whether the change was made by the previous or current owner.
- Reduce the fine from 12 to 3 months if the driver cannot produce a trader's registration certificate when stopped.
- To clarify that the exemption in the MRB for a test drive under the General Periodic Inspection (MOT) applies only on the day of the MOT.

A specific MRB scheme applies to vintage cars. Vehicles 40 years or older are exempt from MRB. The government proposes to scale down the old-timer exemption in MRB for cars aged 40 years and above to motor vehicles built before 1988 (with a date of first admission before 1 January 1988) with effect from 2028.

### DEPRECIATION BPM IMPORT VEHICLE

The depreciation of a used motor vehicle for bpm can be determined using a commonly used trade price list. If an import vehicle assessed by make, model, transmission, fuel, power, bodywork and version does not match a vehicle from the price list (leaving aside a slight deviation in CO2 emissions), then for the purpose of determining the correct



depreciation, the trade purchase value can be determined on request based on an individual valuation (appraisal report). This was ruled by the Supreme Court in 2023 and is now incorporated into law.

### **RATE CHANGE BPM**

A rate change for bpm applies to a new motor vehicle that is registered at that time and whose first registration of the motor vehicle occurs two months or later than the time of the rate change. If the first registration takes place within two months of the rate change, the old rate will apply. To avoid discriminatory elements in this scheme, it has already been 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 to incorporate this arrangement into law.



## (HIGH NET WORTH) INDIVIDUALS

### RATES PERSONAL INCOME TAX 2024 NON-AOW WORKER

Taxpayers who have not reached the state pension age at the beginning of 2024 are expected to face the following rate brackets in 2024.

Personal income tax 2024			
Box 1 tarief	Tax. income more than (€)	But not More than (€)	Rate 2024 (%)
Disc low rate		75,624	36.97%
Disc high rate	75,624		49.50%

Personal income tax 2023			
Box 1 tarief	Tax. income more than (€)	But not More than (€)	Rate 2023 (%)
Disc low rate		73,031	36.93%
Disc high rate	73,031		49.50%

These rates include national insurance contributions. A different rate structure applies to those who are subject to fewer or no national insurance contributions.

### RATES PERSONAL INCOME TAX 2024 STATE PENSION

Taxpayers who have reached the state pension age at the beginning of 2024 and were born after 1946 are expected to face the following rate brackets in 2024.

Personal income tax 2024 (state pensioners)			
Box 1 tarief	Tax. income more than (€)	But not more than (€)	Rate 2024 (%)
Rate disc 1		38,139*	19.07%
Rate disc 2	38,139	75,624	36.97%
Rate disc 3	75,624		49.50%

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

Personal income tax 2023 (state pensioners)			
Box 1 tarief	Tax. income more than (€)	But not more than (€)	Rate 2023 (%)
Rate disc 1		37,149*	19.03%
Rate disc 2	37,149	73,031	36.93%
Rate disc 3	73,031		49.50%

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

These rates include national insurance contributions. For those subject to other national insurance contributions, a different rate structure applies.

## MODIFIED TAX CREDITS

Below are the changes to tax credits as mentioned in the Explanatory Memorandum of the Tax Plan 2024. These concern taxpayers younger than the state pension age. Lower ceilings apply to people older than the state pension age.

Tax credits	2024 (€)	2023 (€)
General tax credit maximum	3.374	3.070
Labour discount maximum	5.553	5.052
Income-dependent combination discount max	2.961	2.694
Youth disability discount	902	820

## BOX 3 RATE INCREASE TO 34%

The government proposes to increase the rate in box 3 by two percentage points to 34%. In 2025, the rate in box 3 will then remain unchanged. In addition, the cabinet proposes not to index the tax-free capital in box 3 from 1 January 2024, which means that a tax-free capital of €57,000 per person (€114,000 for tax partners) will also apply in 2024.

### Note!

A new box 3 system has been delayed until 2027.

### Tip:

If the actual return from savings and investments is lower than the standard return, object to the assessment.

## VVE SHARE AND TRUST ACCOUNT FUNDS

A temporary regime for the Box 3 levy came into force from 1 January 2023, with the aim of bringing the flat rate returns more in line with actual returns. Assets can fall into the category of bank deposits (lump sum return in 2023 provisionally 0.36%) or other assets (lump sum return in 2023 6.17%). The government proposes to include membership rights in a VvE and funds in a trust account in the (lower taxed) category of bank assets with retroactive effect to 1 January 2023.

## MUTUAL RECEIVABLES AND PAYABLES

From 1 January 2023, a higher flat rate of return (6.17%) will apply to receivables than to debts (provisionally in 2023, 2.46%). This results in higher box 3 income for mutual claims and debts between tax partners and between parents and minor children than under the rule that applied until 1 January 2023. To prevent this, the government proposes to disregard (defiscalise) these claims and debts for box 3 with retroactive effect from 1 January 2023.

### Note!

Mutual claims and debts can occur, for example, due to a settlement clause included in the prenuptial agreement.



## IACK STRICTER FOR CO-PARENTING

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

### Tip:

The requirement of 156 days applies per calendar year, but it is still possible to recalculate this limit according to time in the year that co-parenting starts or ends. The condition is that the co-parenting lasts at least six months in that year.

## ABOLITION OF PERSONAL INCOME TAX PAYMENT DISCOUNT

The tax authorities grant a payment discount for certain provisional personal income tax assessments if the entire assessment minus the payment discount is paid no later than the first due date. This arrangement will be abolished. It will still be possible to pay a provisional personal income tax assessment in a lump sum, but this will no longer result in a payment discount from 2024.

## LUCRATIVE INTEREST

Asset rights acquired (in part) as remuneration for work may constitute a lucrative interest. Income from these is taxed in box 1 (maximum 49.5% in 2023). This is the case if the capital rights are economically comparable to subordinated type shares that in total represent less than 10% of the total issued capital in the company. This includes share premium and informal capital. With effect from 26 June 2023, the government proposes that a shareholder loan that does not constitute informal capital, but which contributes to a reward for work, should also count for this assessment. This is in response to Supreme Court case law and had already been announced in a letter on 26 June 2023.

### Note!

This proposal is retroactive to 26 June 2023.

## CORRECTING TAX RETURNS

The government proposes to simplify the correction of an already filed personal income tax return. This will be done by considering a revised digital income tax return form as a request for an ex officio reduction. This should save communication between taxpayers and the tax authorities. However, a taxpayer's right to object or appeal is explicitly not affected.

### Tip:

Do you file both a (digital) tax return form and a written notice of objection against your personal income tax assessment? And do you refer to your tax return form in your notice of objection? If so, the inspector will have to treat these notices jointly as an objection.

## LOWERING BASE RENT FOR RENT ALLOWANCE

From 2024, there will be an annual reduction in the base rent, after first a surcharge under the Rent Supplement Act. The base rent is that part of the rent, which remains entirely the responsibility of the tenant. The 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 PHASING OUT OF TAX CREDIT

From January 2012, the general tax credit (AHK) will be phased out in the benefit level of welfare and welfare-related benefits (excluding AOW). This is done by reducing the double AHK in the calculation of the reference minimum wage to once the AHK. This phase-out is delayed. As a result, 1.575 times the AHK will be taken into account when calculating the reference minimum wage as of 1 January 2024 and 1 July 2024. From 1 January 2025, the AHK will be reduced by 2.5 percentage points every six months until it reaches 1 times the AHK on 1 January 2036. As a result, welfare and related benefits will be slightly higher.

## CHANGE IN CHILD BUDGET

From 1 January 2024, the following changes to the calculation of the child-related budget will take place after a policy adjustment and indexation.

Amendment sees:	Increase/ decrease?	Bedrag per jaar in €
maximum amount for the first child	increase	750
maximum amount for second and subsequent child	increase	883
additional child budget for children aged 12 to 16	increase	400
additional child budget for children aged 16 and 17	increase	400
additional child budget for single parents	reduction	619
income phase-out limit	reduction	11.111



## INTERNATIONAL SITUATIONS

### STATE AID, DATA AND TRANSPARENCY

State aid may only be provided under conditions. One of the conditions is the transparency obligation through the 'Transparency Aid Module (TAM)'. Various data must be included in the TAM. To collect and process this data, it is proposed to introduce an obligation to provide this data. The obligation consists of annual active data provision for energy taxpayers and passive data provision for beneficiaries. Consider, for example, data related to reduced rates for greenhouse horticulture, charging stations and shore power. An order under penalty may be imposed if the obligation is not complied with.

#### **Tip:**

For the postcode scheme, this is not an issue as the benefits are below the threshold amounts.

### EVIDENCE POSITION ON DIVIDEND STRIPPING

Dividend stripping limits or even prevents the levying of dividend tax. To offset, reclaim or reduce dividend tax, the recipient of the dividend must be the beneficial owner. With dividend stripping, it is difficult for the tax authorities to determine whether this is met. In order to improve the tax authorities' evidential position, it has been proposed that the person claiming set-off, refund or reduction must make a plausible case that the conditions are met. This only applies from an amount of €1,000 of dividend tax levied on an annual basis (efficiency margin).

#### **Note!**

Alternative measures to dividend stripping are under ongoing investigation. Also on how to deal with dividend stripping on participation dividends.

### POST-COLLECTION RECOVERY PERIOD FOR IMPORT DUTIES

Under current law, import duties can be reclaimed up to five years back if there is an incorrect or incomplete customs declaration. It is proposed to reduce this retrospective period to three years in the absence of intent. This retrospective period of three years applies to incorrect and incomplete declarations as well as failure to provide, incorrect or incomplete information or data. In addition, it is proposed to replace the criminal penalty with an administrative fine as of 1 July 2024 if there is no intent.



## BES ISLANDS

### REVENUE TAX ESTABLISHMENT FICTION

The government proposes to change the conditions of a residence fiction for the application of yield tax for holding companies. The qualifying percentage will be reduced from 95% to 50% from 1 January 2024. To prevent abuse, no more than 50% of the activities may involve investments, participations, liquidities or assets whose use is made available outside the BES islands.

### ABOLISH INTEGRATION TAX

The government proposes to abolish the integration tax in the general spending tax. This will prevent accumulation of tax when there is self-manufacturing of goods. It also increases the turnover limit of the small business scheme.

### DEFINITION OF PASSENGER CARS

There are different definitions of the term (passenger) car in BES taxes. The government proposes to unify the concept of (passenger) car as of 1 January 2024. For the General Expenditure Tax, this means that single-cab pick-ups and delivery vans will fall under the high rate as of 1 January 2024 and additional taxable benefit will apply in case of private use.

### FORMAL TAX RULES

A number of formal tax rules are proposed to be adjusted, such as the deadlines for imposing an additional assessment, enabling (in time) the filing of a tax return digitally, introducing a notification requirement for property tax if a property owner has not received an assessment and a new penalty provision.

### MINIMUM TAX

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



## ENERGY & ENVIRONMENT

### ENERGY TAX ADJUSTMENT

The government proposes to split the first gas and electricity tranches in the energy tax and set the tranche limit at 1,000 m<sup>3</sup>.

### BLOCK HEATING AND ENERGY TAX

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

### UPDATING RENEWABLE HEAT SOURCES

There is a proposal to update the list of renewable heat sources in the district heating scheme within the energy tax. This includes addition of plants using mainly aquathermy, air-water heat pumps, gaseous biomass or electric boilers. This removes the difference in tax treatment of similar heat sources. With this, the choice of these sustainable techniques will not be driven by taxation, but by which technique is best suited to the situation. This will improve the effectiveness and efficiency of the scheme.

#### **Note!**

According to the tax authorities, the introduction of the measure is not feasible until 1 January 2025.

### GREENHOUSE HORTICULTURE: REDUCED GAS RATE

The energy tax has reduced rates on natural gas for the greenhouse sector. These reduced rates will be phased out

between 2025 and 2030. This abolition supports the energy transition and brings more money to the state treasury.

#### **Note!**

The European Commission must approve the phasing out of reduced gas tariffs. Otherwise, the reduced rates will be abolished by 2025.

### LIMIT ELECTRICITY GENERATION EXEMPTION

The energy tax has an input exemption for the use of natural gas and electricity to generate electricity. This exemption will be gradually reduced. The output exemption for electricity will be partially abolished. Operators of medium-sized plants will be treated differently so that they will not be subject to compulsory taxation. All changes will take effect from 2025.

### GREENHOUSE HORTICULTURE: INTRODUCE CO<sub>2</sub> LEVY

A CO<sub>2</sub> levy will be introduced for greenhouse horticulture companies from 1 January 2025. The amount of CO<sub>2</sub> emissions will be determined based on the number of cubic metres of natural gas burned and a standard CO<sub>2</sub> emission factor set annually by the Minister of Economic Affairs and Climate. The rate will increase from €1.35 per tonne CO<sub>2</sub> in 2025 to €6.80 per tonnes CO<sub>2</sub> in 2030.

### INDUSTRY AND ENERGY TAXATION

From 1 January 2025, certain energy tax exemptions will expire, namely for metallurgical and mineralogical processes. This proposal will remove a benefit on fossil energy use from 1 January 2025 for, among others, the iron and steel industry, the non-ferrous metal industry (including aluminium and zinc production), the metal products industry and mineralogical

industry (including glass, tile, brick and limestone production). The exemption will be retained for hydrogen production by electrolysis.

### **COAL TAX ADJUSTMENT**

Companies that import, transport or store coal have to pay coal tax. The government proposes to abolish exemptions for dual use of coal and non-energy use of coal by 2028. This will put an additional price on CO2 emissions and emissions of other air pollutants from coal use.

### **MINIMUM PRICE CO2 EMISSIONS**

The minimum price for CO2 emissions for the electricity sector and industry will be increased. The aim is to encourage Dutch companies to consider the climate impact of greenhouse gas emissions in their investment choices.



## OTHER MEASURES

### CO-PARENTING BENEFITS

From 1 January 2024, there will be a simplification in the way one determines whether co-parenting exists for benefits purposes. It is no longer necessary for there to be equal sharing at any time during the year. It is sufficient if, on a calendar year basis, the child's stay in both households is almost equal. This is in any case the case if the child spends 156 days (3 days times 52 weeks) per calculation year with each of the two parents.

**Tip:**

In individual cases, the Surcharge Department still retains room to offer customisation.

### EVALUATION CONCEPT OF OFFENDER DELAYED

An offender can be imposed an administrative fine. In 2014, the term offender was expanded to include persons who knowingly assist others in failing to comply with tax or benefit obligations. It specifically refers to doers, instigators and accomplices.

Evaluation of this extension does not yet appear to be feasible and is therefore postponed until 1 January 2029. After this date, this extension will automatically expire unless an additional bill is passed.

**Note!**

This provision makes it possible to impose an administrative fine on individuals who knowingly assist others in failing to comply with their tax or benefits obligations.

### INTEREST ON SURCHARGES

Surcharges are subject to the same regime for reimbursement and payment of tax interest as for personal income tax and hence the same rate of 6%. With retrospective effect to 1 July

2023, the interest payable by the allowance recipient will be reduced to 4%. If the entitlement holder is entitled to interest, it will be reduced from 6% to 4% only with effect from 1 January 2024.

### HARDSHIP CLAUSE IN THE RECOVERY ACT

At present, when collecting taxes, there is no possibility to deviate from the rules as laid down in the law in case of unforeseen and very unreasonable consequences. For this reason, a hardship clause will be introduced in the Tax Collection Act. This gives the Minister of Finance the power to accommodate taxpayers in cases where the Collection Act leads to 'grossly unfair consequences'. In such cases, a taxpayer must submit a request for application of the hardship clause.

**Note!**

The hardship clause is intended (only) for special cases or groups of cases where application of the law leads to very unreasonable consequences that were not foreseen when the statutory provision was created.

### COMPENSATION VIOLATION OF FUNDAMENTAL RIGHT

To determine which tax returns had to be manually checked, the Tax Administration applied a risk selection that included non-tax grounds. That procedure violated the fundamental rights of taxpayers and they should be compensated for that, as long as the Tax Administration cannot make it plausible that the selection was made on tax grounds. The starting point is that those taxpayers do not have to request that compensation themselves. This compensation is untaxed and will not be set off against any outstanding tax debts.



## LITIGATION EXPENSES

Many WOZ and BPM objections are filed by no cure no pay attorneys. To reduce the resulting workload, three measures have been proposed. The fees to cover the costs of legal assistance provided by a third party professional will be reduced. The amount of compensation for immaterial damages due to exceeding the reasonable time limit will also be laid down by law. Finally, it is regulated that disbursements resulting from a decision on objection or a ruling in appeal proceedings will only be made to a bank account in the name of the interested party.

## PREVIOUSLY SUBMITTED LEGISLATION, INCLUDING:

- Reduction in self-employment deduction to €3,750.
- Change rate structure box 2: income up to and including €67,000 at 24.5% and more at 31%.
- Convert ab loss into tax credit: discount reduced to 24.5%.
- Adjusting the definition of a solar cell car: from 2024, a solar cell car will be considered a car with integrated solar panels, where the power of those solar panels in watt peak divided by the consumption in watt hours per kilometre must be at least 7. In 2025, the addition for a solar cell car will be adjusted to 17% of the list value.
- Maximum salary for 30% rule up to Balkenende norm (€223,000 in 2023). There is a transitional arrangement for situations existing at the end of 2022.
- Complete abolition of gift tax exemption for owner-occupied housing.
- Increasing the house value to which the low transfer tax rate applies (subject to conditions) to €510,000.
- Stricter requirements for gift deduction: from 1 January 2024, all gifts in kind of €10,000 or more will require an appraisal report to get a deduction. This applies to both personal income tax and corporate income tax.
- Change regarding the surrender of an annuity without tax penalties in case of incapacity for work. If a limit is exceeded, 20% revision interest is no longer payable on the entire surrender amount, but only on that which has been surrendered in excess. In practice, the tax authorities usually already apply this in this way.

- Improving legal protection for tax interest decisions on provisional income tax or corporate tax assessments: a six-week period to file objections will be ensured.
- Registration obligation for payment service providers in cross-border payments: duty to collect and transmit payment data to tax authorities of relevant member states.
- Introduction of additional withholding tax: dividends to countries with profit tax rates below 9% and to countries on the European list of non-cooperative jurisdictions for tax purposes will be subject to withholding tax.
- Change for foreign corporate taxpayers with a substantial interest: the deduction exclusion of withholding tax now also applies to foreign corporate taxpayers with a substantial interest in the Netherlands.





**Aegis Tax Lawyers N.V.**

Schiphol Boulevard 407

WTC Schiphol Airport

F-Tower, 7th Floor

1118 BK SCHIPHOL

T: +31 (0)20 – 8205033

@: [info@aegis-tax.com](mailto:info@aegis-tax.com)

W: [www.aegis-tax.com](http://www.aegis-tax.com)