

Main tax aspects of the coalition agreement 2017 - 2021 for business community

October 31, 2017

The new Dutch government was officially installed on 26 October 2017. Hereafter we will discuss the main tax aspects of the coalition agreement for the business community.

Abolishment of the Dividend Withholding Tax 2020

Profit distributions by Dutch companies are subject to 15% dividend withholding tax. Dutch resident retail investors can credit this tax against their corporate income tax or personal income tax. For non-resident retail investors, this withholding tax is often a final tax.

For non-resident companies that own an interest of 5% or more in a Dutch company it is often possible to claim an exemption of dividend withholding tax or a reduction to 5 or 10%.

The government proposes to abolish the dividend withholding tax. It however adds thereto that dividend withholding tax will still be levied in case of abuse of law, and in case of dividend payments to investors who are resident in countries with a very low income tax. All in all, it is expected that this is a welcome relief for many Dutch listed companies, investment funds and joint venture companies.

Reduction of Corporate Income Tax Rate 2019 - 2021

The government proposes to reduce the Dutch corporate income tax rate as follows.

Profit / year	2018	2019	2020	2021
Up to and including € 200,000	20%	19%	17,5%	16%
More than € 200,000	25%	24%	22,5%	21%

The earlier proposed extension of the first bracket to €350,000 will be terminated.

For individuals that own an interest in the paid up nominal capital of a company of 5% or more, the personal income tax rate of 25% (Box-2) will be increased to 27.3% in 2020 and 28.5% in 2021.

The two measures mentioned above will be financed through the following extension of the Dutch corporate tax base.

Restriction of Depreciation of Real Estate for Own

Use - 2019

Companies owning Dutch real estate that is used in their own business, can annually depreciate the cost price of the real estate to its residual value, but not more than when the tax book value has reached 50% of its estimated market value. The estimated market value is annually assessed by the municipality where the real estate is located. It is proposed to increase the threshold in 2019 from 50% to 100%, which heavily restricts the possibility to depreciate the real estate for tax purposes. The 100% threshold already applies to Dutch real estate that is rented out to third parties.

Introduction of a General Interest Deduction Limitation – 30% EBITDA – 2019

On basis of the EU Anti-Tax Avoidance Directive, in 2019 the Netherlands must introduce the so-called 30% Earnings Before Interest Tax Depreciation and Amortization (“EBITDA”) interest deduction limitation. An example. Interest income is € 1.5mio, Interest expense is € 3.5mio, the net interest is therefore EUR 2mio. If the Dutch company has a EBITDA of EUR 5mio, it can deduct 30% of € 5mio is € 1.5mio of interest expenses, and € 500.000 may be carried forward. The government proposes to introduce a general allowance of € 1mio, so even if 30% of the EBITDA would be less than such amount. The government does not intend to introduce a group escape.

Introduction of a Thin Cap rule for Banks / Insurance companies 2020

Since banks and insurance companies usually receive more interest than they pay, they will not suffer from the 30% EBITDA rule. The government proposes to limit the deduction of interest expenses that relate to a debt level in excess of 92% of the commercial balance sheet total.

Dutch REIT: No longer Allowed to Directly Own Real Estate - 2020

On basis of the fiscal Real Estate Investment Trust regime, a company is subject to 0% corporate income tax provided it meets certain criteria. One of them is that all income (capital gains excluded) must be distributed to the investors within 8 months following the close of the accounting year. In cross border situations, the Netherlands can usually levy 5-15% dividend withholding tax. Now that the dividend withholding tax will be abolished, Dutch REITs will no longer be allowed to invest in real estate directly.

Introduction of withholding tax on interest and royalty payments to tax havens - 2020

The government states that in connection with the abolishment of the dividend withholding tax in 2020, it plans to introduce a source tax on interest and royalty payments to low tax countries. We understand that this source tax is mainly meant to combat payments to letterbox companies in tax havens. The government does not expect any

revenue from this measure.

Increase of Effective Tax Rate Innovation Box - 2018

Profits realized with respect to certain self-developed intangible properties can qualify for a reduction of the taxable income up to 80% of such profits. As a result, the effective tax rate is currently 5%. The government proposes to reduce the 80% exemption resulting in an increase of the effective tax rate to 7%.

Limitation of Loss Carry Forward Period

Currently, a tax loss can be carried back one year and can be carried forward nine years. It is proposed to shorten the tax loss carry forward period to six years.

Limitation of 30% Expat ruling period - 2019

An employer can pay expats a tax free compensation of up to 30% of their salary, provided certain conditions are met. Such allowance currently applies for a period of 8 years. The government proposes to reduce this period to 5 years starting in 2019.

If you have any questions what these proposals could imply for your structure, please do not hesitate to contact us to discuss these potential consequences and possible measures to mitigate adverse consequences.

Your Key Contacts



Heico Reinoud

Partner, Amsterdam

D +31 20 795 34 14

heico.reinoud@dentons.com



Jurjen Bevers

Partner, Amsterdam

D +31 20 795 34 13

M +31 6 46 40 21 74

jurjen.bevers@dentons.com



Paul Halprin

Partner, Amsterdam

D +31 20 795 34 11

M +31 6 46 29 67 87

paul.halprin@dentons.com



Marnix Veldhuijzen

Partner, Amsterdam

D +31 20 795 34 10

M +31 6 46 23 31 27

Marnix.Veldhuijzen@dentons.com