

# Dutch government introduces legislative proposal to implement an air passenger and air freight tax

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## Summary

On May 14, 2019, the Dutch government introduced a legislative proposal to implement an air passenger and air freight tax, starting 1 January 2021.

An air passenger tax of €7 will be levied regarding each passenger that departs from the six largest airports in the Netherlands: Amsterdam-Schiphol airport, Rotterdam Airport, Eindhoven Airport, Maastricht-Aachen Airport, Groningen Airport Eelde and Lelystad Airport. The departure of passengers is exempt, if the arrival and subsequent departure is part of one transport agreement, the transfer is the primary reason to make use of the airport and the passenger does not leave the restricted area of the airport for longer than 24 hours (so called transfer passengers).

An air freight tax will be levied regarding the departure of a flight of which the sole purpose is to transport freight (including airmail) from the abovementioned airports. This means that freight included in the cargo hold of passenger aircraft and so called combi aircraft are not included in the air freight tax. This tax amounts to €1.925 or €3.85 (depending on the noise production level of the aircraft) calculated over every 1,000 kilograms of the aircraft's maximum takeoff weight (MTOW).

The air passenger and air freight tax only applies if the aircraft has an MTOW of more than 8,616 kg. Flights with helicopters are explicitly excluded from the scope of this tax. The abovementioned amounts will be adjusted to the price level every year, meaning that the amounts are expected to be slightly higher in 2021.

The tax will be levied from the airport operators. The airport operators must submit a tax return and pay the amount of tax on a quarterly basis. Airlines (or anyone who has registered an aircraft on their name in the nationality register) are obliged to pay the tax charged to them by the airport operator insofar it relates to passengers or freight flying with their aircraft.

## Our comments

The proposed air passenger and air freight tax comes as part of a wider initiative of the Dutch government to combat aviation carbon emissions. The Dutch government believes taxing aviation and pricing carbon emissions in this sector is a much needed method to put a price to the environmental costs of air transport. The Dutch government organizes a high level conference on carbon pricing in aviation and aviation tax at the end of June 2019, to, amongst others, promote that these matters will be regulated at the EU level. Other reasons for the air passenger and air freight tax are: diminishing the competition advantage air transport has compared to other modalities and increasing tax revenue. The Dutch government aims to collect approximately €200m in revenue with this tax.

The rate of the proposed air passenger tax is comparable to similar taxes currently in force in other EU countries. It is

less complex, as it does not differentiate between economy or business class or distance.

In line with the air passenger taxes of other EU countries is the exemption for transfer passengers, included to avoid double taxation. If the journey does not start in the Netherlands, it is not targeted by this tax. The wording of this transfer exemption was also included in the previous iteration of the Dutch air passenger tax. At the time (2008) this exemption was challenged by low cost carriers on the grounds that the exemption constitutes state aid for national flagship carriers that operate a hub and spoke business model, because those airlines could benefit relatively more from this exemption. The European Commission decided that this exemption for transfer passengers does not constitute state aid (SA.25254).

The proposed air freight tax will be levied on a per flight basis. Currently, a tax on a per flight basis has never been introduced before. It will be interesting to see whether such a tax can be upheld within the framework of the ICAO convention and other international agreements.

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