BUDGET DAY SPECIAL – 2023 TAX PLAN [1/8]

This Budget Day Special outlines the most relevant proposals in the 2023 Tax Plan and additional legislative proposals. Many of the proposals have already been announced earlier. This special is divided into the following topics:

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

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

COMPANIES

Lower bracket corporate income tax rate from 15% to 19%

The government wants to increase the lower bracket corporate income tax rate from 15% to 19%. It also wants to reduce the lower bracket from €395,000 of taxable amount to €200,000 of taxable amount. As a result, the high corporate income tax rate of 25.8% already applies to taxable amounts exceeding €200,000.

Tip!
Bring taxable profits forward, release provisions and optimally use the lower corporate income tax bracket of €395,000 in 2022. Deferring costs or investments to 2023 may also increase costs potentially being tax deductible at the maximum rate of 25.8%.

Two tax brackets in box 2

Box 2 levies taxes on income from a substantial interest (e.g. a 5% or more shareholding in a company), such as dividends paid to a shareholder from his or her private limited liability company (BV). Currently, a single tax rate of 26.9% applies. As from 2024, two tax brackets will be introduced in box 2. The tax rate becomes progressive. The proposal is as follows:

2024 box 2 income tax rate			
Box 2 tax rate	Taxable income more than (€)	but not more than (€)	2024 rate (%)
Low rate		67,000	24.5%
High rate	67,000		31.00%

Tip!
In case of fluctuating profits, spread dividends over the years to optimize use of the lowest tax bracket as much as possible. This may also include the option to divide box 2 income between tax partners. In 2024, the lowest rate is 2.4 percentage points lower than the rate in 2022. Use this difference by paying dividends up to a maximum of €67,000 in 2024. Tax partners may even have a double benefit.

Phase out of Tax-Deferred Retirement Reserve (FOR)

Self-employed business owners (e.g. a partner in a commercial partnership) can reserve part of their profit in a tax-deferred retirement reserve (FOR). This can be used at a later point in time to purchase an annuity which ensures that the entrepreneur still has income at a later age. In such case taxation is deferred until annuity payments are received. As the FOR is not always used as intended, it will be phased out. As of 2023 no additional amounts can be contributed to the FOR.

Tip!
An existing 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 scaled down quicker by €1,280 per annum (including the scale-down announced in the 2020 Tax Plan and the 2021 Tax Plan). The self-employed deduction is gradually scaled down from €6,310 in 2022 to €900 in 2027. For 2023, the self-employed deduction amounts to €5,030.

Tip!
The increase of the self-employed deduction for starting companies remains unchanged for now (€2,123).

Note!
The tax relief schemes for self-employed business owners, including the self-employed deduction and increase thereof for starting companies, will be reviewed in 2023.

Increase of Environmental Investment Allowance (MIA) and Energy Investment Allowance (EIA)

The government announced that budgets for the Environmental Investment Allowance (MIA) and Energy-saving Investment Allowance (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 (EIA) and €50 million (MIA) per annum as from 2023.

No business succession scheme (BOR) for rented property

The government wants to further tackle tax arrangements. One proposal is that property rented to third parties should no longer be eligible for the business succession scheme (BOR) and carry over facility. As a result, rented property can no longer be transferred in a tax-efficient manner using the BOR. This proposal, still to be worked out in more detail, is announced in the 2023 Budget Memorandum.

EMPLOYER

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 easing 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

Shareholders that own 5% or more of the shares in a company are obliged to award themselves a salary if they perform employment activities for that 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. Currently the 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 that the effectiveness margin be discontinued so that shareholders should award themselves a higher salary.

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 shareholders of innovative start-ups

In the case of innovative start-ups, the customary salary of the shareholder may be set to minimum wage for a maximum of three years without consultation with the Dutch tax authorities. This scheme will be discontinued as of 2023 for new cases.

Tip!

Consult with the Dutch tax authorities 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. Transitional rules are established for incoming employees in respect of 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, unless they change employers before this date. From 2023 onwards, employers will additionally have to make a choice each calendar year for incoming and seconded employees, to apply the 30% facility or to reimburse the actual extraterritorial costs. A more flexible approach is applicable in the first year of using the 30%-ruling.

Tip!

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

VAT AND EXCISE DUTIES

Zero-rate VAT on solar panels

Currently, the supply and installation of solar panels is charged with 21% VAT. The government wants to apply a zero-rate VAT to the supply and installation of solar panels for homes as from 1 January 2023. The purchase of solar panels will no longer be subject to

VAT. If the annual turnover of the supply of electricity remains below €1,800, the private owner of solar panels will no longer need to report to the Dutch tax authorities.

Note!
The 0% VAT rate only applies to the supply and installation of solar panels for homes.

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

Sale of nitrous oxide (laughing gas) subject to 21% VAT
The general VAT rate (21%) will be applicable to the supply of nitrous oxide (laughing gas cartridges) per 2023.

Note!
The reduced VAT rate (9%) can be applied if the nitrous oxide qualifies as a medicinal product.

Increase in consumption tax on non-alcoholic beverages
As at 2023, consumption tax on non-alcoholic beverages increases by €11.37 to €20.20 per 100 liters. In 2024, this increases further to €22.67 per 100 liters. In addition, mineral water is exempt from consumption tax on non-alcoholic beverages as of 1 January 2024. To ensure that non-alcoholic (0.0) 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 done in two equal successive increments as at 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 tax revenues.

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.

REAL ESTATE

Vacancy value ratio to 100%
The value of rented housing subject to rent control is determined by multiplying the municipal real estate value (WOZ value) by the vacancy value ratio. This is relevant for gift and inheritance tax purposes and box 3 (personal income tax) purposes. It is proposed to apply a ratio of 100% as from 2023 to temporary rental contracts and for leasing to related parties. This in fact eliminates the vacancy value ratio reduction in these cases.

Real estate transfer tax increased to 10.4%
The general rate of real estate transfer tax is increased again. The non-residential real estate transfer tax and real estate transfer tax for residences in which the buyers will not personally be living for a longer period, is increased from 8% to 10.4%.

Real estate property outside scope of the regime of fiscal investment institution
The government has announced a corporate income tax measure that will prevent fiscal investment institutions (so-called 'FBI') from investing directly in real estate property and qualifying as an FBI. This measure is intended to ensure that profits gained on real estate property is taxed at the regular corporate income rate in all cases. Reason is that Dutch corporate income tax may otherwise be avoided in certain cases involving foreign investors and real estate property in the Netherlands owned by an FBI. The measure is expected to enter into force on 1 January 2024.

VEHICLES & MOBILITY

Tax-exempt travel allowance
An employer may pay its employees a tax-exempt travel allowance of up to €0.19 per kilo-

metre for business kilometres (including commuting). The maximum tax-exempt 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 income tax purposes, so that entrepreneurs, recipients of income from other activities, and alike can also benefit from it.

Note!
The Dutch tax authorities' systems may possibly not be able to adapt in time for the increase as of January 1, 2023. The correct amount is taken into account in the final tax assessment.

Private use tax benefit 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 tax deductible vehicle costs. For new zero-emission vehicles such as fully electric cars, only 16% on a maximum amount of €35,000 is considered additional taxable benefit in 2022 (22% is added of the difference between the catalogue value and the maximum amount of € 35,000). In 2023 and 2024, this will be 16% on a maximum amount of €30,000. In 2025, the additional taxable benefit will be 17% on a maximum of €30,000 and the lower taxable benefit for electric cars will disappear as from 2026. The additional taxable benefit will then be equal to the default additional taxable benefit (22%). This had been proposed in previous tax plans.

Tip!
For hydrogen-powered vehicles and electric cars with integrated solar panels, the maximized lower additional taxable benefit 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 discontinued 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.

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 vans of entrepreneurs. In 2025, this concerns an increase of 15%, followed by a further increase of 6.96% in 2026.

BOX 3

Box 3 - Christmas Eve judgment
In December 2021, the Supreme Court of the Netherlands ruled in the renowned Christmas Eve judgment that, in certain cases, the 'Dutch box 3 income tax system' is in conflict with European law, which conflict 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 the tax assessment is not already irrevocably established.

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 tax base in box 3, gains from savings and investments are based on the actual composition of the capital. Three categories are distinguished: bank account balances, liabilities and other assets. For each 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
Income in box 3 has 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 balances (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 amount 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 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 amount.

Allocation of combined tax base

Since the level of the combined income components may have changed by the judicial remedy and the allocation as a result of the judicial remedy – by following the allocation chosen by the tax partners – deviates from current legislation and this may possibly be unfavourable to the taxpayer, the proposed legislative text allows tax partners to still choose a different allocation in respect of the additional deduction. To this end, they may file a request for an ex-officio reduction, or – for the years 2021 and 2022 – submit a new tax return in which they make their joint choice known.

Transitional Box 3 Income Tax Act

In line with the box 3 judicial remedy, for box 3 taxation in the years 2023 to 2025, the actual composition of the assets is used. For every category (bank account credit balances, other assets and debts), a separate fixed capital yield rate applies. These percentages are only calculated and published after the end of the calendar year to approximate the actual average yield percentages as best as possible.

Note!

The term bank account balance follows the definition of a deposit. An exception applies for cash, which follows the tax treatment of a bank account balance. This exception is a deviation from the judicial remedy.

Note!

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

Exemption of green investments is maintained

The new Dutch box 3 income tax system will also exempt green investments up to a certain maximum amount. Green investments on bank account balances are distinguished from other green investments. The exemption must first be allocated as much as possible to other green investments.

Note!

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

Reference date arbitrage

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

Tip!

The anti-abuse measure does not apply if the taxpayer makes plausible that he has 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.

Note!

The government does not expect many people to transfer assets from box 3 to box 2. Yet, box 2 is also adapted not to make it more attractive than box 3.

Increase of tax-free amount

The box 3 tax-free amount is increased from €50,650 to €57,000. For partners, the tax-free amount is increased from €101,300 to €114,000.

(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	Taxable income > than (€)	but not more than (€)	2023 rate (%)
Low-rate bracket		73,031	36.93 %
High-rate bracket	73,031		49.50 %

2022 Income tax rate			
Box 1 - rate	Taxable income > than (€)	but not more than (€)	2022 rate (%)
Low-rate bracket		69,398	37.07 %
High-rate bracket	69,398		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 taxpayers who reached the statutory retirement age

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 (retirement age)			
Box 1 - rate	Taxable income > than (€)	but not more than (€)	2023 rate (%)
Bracket 1		37,149	19.03 %
Bracket 2	37,149	73,031	36.93 %
Bracket 3	73,031		49.50 %

2022 Income tax rate (retirement age)			
Box 1 - rate	Taxable income > than (€)	but not more than (€)	2022 rate (%)
Bracket 1		35,472	19.17 %
Bracket 2	35,472	69,398	37.07 %
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 who have reached statutory retirement age, in principle, lower maximum amounts apply.

Tax credits	2023 (€)	2022 (€)
Maximum general tax credit	3,070	2,888
Maximum employed person's tax credit	5,052	4,260
Maximum income-dependant 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 tax pressure. Specific tables on this topic have been added to the tax plans. In excess of a gross income of approximately €23,000, there is a very high marginal tax 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 as well.

Note!
To determine a person's net earnings in case of additional income, also a reduced entitlement to benefits and allowances should 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, if and to the extent thatsuch income exceeds €21,317. In 2025, this scale-down will depend on the aggregate income.

Note!
The aggregate income is the total of income from work and home (box 1), income from a substantial interest (box 2), and income from savings and investments (box 3).

Gift-tax-free lump sum discontinued
The extended gift tax exemption of €106,671 (2022), introduced for gifts to enable the beneficiary to buy an own home or to repay a personal home acquisition debt, is terminated as of 2024. In anticipation of this termination this exemption is already reduced to €28,947 in 2023. Also the option to spread the gift will terminate as of 1 January 2024. This means that the part of the maximum exemption in 2022 that was not used can only be used for a donation in 2023, but no longer for a donation in 2024.

Apply old-age provision (ODV) for annuity
Previously, directors / major shareholders could accrue a pension provision with their own private limited liability company. When this option was discontinued, 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 / major shareholder can use this to purchase an annuity. As there was a wish 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)), approvals were issued for this purpose. These approvals, including the terms and conditions set out therein, are now codified in legislation.

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 discontinued after purchasing an annuity.

Restriction of deduction for periodic 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 is proposed to introduce a maximum deductible amount for periodic gifts. The deductible amount will be capped at € 250,000 per household for periodic gifts to public benefit organisations (ANBI's) and associations

Correction of multiplier for gift deduction
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 legislation, the increase for tax partners should be double (€2,500) at most. The law is adapted to align with practice. The maximum increase for tax partners will also jointly remain €1,250.

Fiscal averaging scheme discontinued
It is proposed to discontinue the fiscal averaging scheme. Fiscal averaging is used to recalculate the personal income tax charge over a continuous period of three calendar years (averaging period) to a personal income tax charge over the average income during this averaging period. This scheme is usually applied in case of differences between the levels of taxable income during the years included in the averaging period. The period 2022–2023–2024 is the last period that can be used as a basis to apply the fiscal averaging scheme.

OTHER MEASURES

Tailored approach to tax collection interest
If a taxpayer does not pay tax liabilities in time, he also has to pay tax collection interest on overdue tax. It is proposed to increase possibilities for the tax inspector not to calculate tax collection interest if the late payment is not attributable to the taxpayer. This may be the case, for example, if a 2022 provisional income tax assessment did not take into account the

developments with respect to box 3. Tax collection on a tax assessment is then postponed. Notwithstanding that taxes do not yet need to be paid, the Dutch Tax Authorities still charge tax collection interest. Based on the increased possibilities not to calculate tax collection interest, this would no longer be necessary.

Contribution for high energy prices

The government intends to set a maximum rate for electricity and/or gas up to a certain usage. The intention is also to help energy-intensive small-and-medium-sized-enterprises 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 energy tax for natural gas and electricity and a temporary additional tax reduction of energy tax. In addition, a number of simplifications are introduced in the levy of Energy Tax. The Surcharge for Sustainable Energy and Climate Transition (ODE) rates will be set at zero as of 1 January 2023 and the Energy Tax will be raised by the same extent as of that date. This means that the ODE costs will disappear from the energy bill.

Legislation already submitted, including:

- The payment discount will only be discontinued for provisional corporate income tax assessments. The payment discount for provisional income tax assessments remains in place.
- For specific taxes it will be arranged that if an additional tax assessment is imposed in accordance with a request for issuing such tax assessment, the period in respect of which tax levy interest is calculated will end no later than ten weeks after the date of receipt of such request.
- A provision is proposed to allow for a tailor-made reduction of tax levy interest in certain cases where otherwise too much tax levy interest would be calculated.
- A measure is proposed to discourage borrowings by a substantial interest holder from his 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. - This proposal has meanwhile already been approved by the Dutch House of Representatives and will enter into force as per 1 January 2023 with reference date 31 December 2023.