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The Government presents tax measures for 2020 on Budget Day

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On Budget Day, September 17, 2019, the government presented the 2020 Tax Plan package to the Lower House. It contains the following bills:

- 2020 Tax Plan;
- Other 2020 Tax Measures;
- National Climate Agreement (Tax Measures) Act;
- The Withholding Tax Act 2021;
- Education Expenses Tax Deduction (Abolition) Act;
- Bill implementing Directive regarding the harmonization and simplification of trade between Member States.

The proposed tax measures focus on lower labor costs, combating tax avoidance and tax evasion, an attractive business climate for economic activities of substance and further environmental measures. Many of the proposed measures will take effect on January 1, 2020. This memorandum outlines the main features. Where possible and relevant, we have included in the individual topics other tax measures and developments related to those topics, but have indicated that these are not part of the 2020 Tax Plan package. Please refer to the last section for other tax developments.

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1 Corporate income tax

1.1 Partial reduction of corporate income tax rates

The corporate income tax rates will be reduced. However, the regular tax rate for profit in excess of EUR 200,000 will be reduced later and less than originally intended in the previous Tax Plan. It will remain at 25% in 2020 and be reduced to 21.7% in 2021, instead of to 22.55% in 2020 and 20.5% in 2021. The reduction of the 'SME rate' for profit up to and including EUR 200,000 will however proceed as planned: from 19% to 16.5% in 2020 and ultimately to 15% in 2021. For the combined rate (corporate income tax plus Box 2), please refer to the section 'Increase in Box 2 rate' under Personal Income Tax.

1.2 Introduction of interest deduction limitation (thin cap rule) for banks and insurers

The government wishes to facilitate the use of equity to carry on a business by limiting the tax benefits for debt. This has resulted in the introduction of a generic interest deduction limitation (earnings stripping measure) ensuring that the amount of net payable interest that can be deducted will be limited as of January 1, 2019. Because businesses in the financial sector, such as banks and insurers, (at the fiscal unity level) usually, on balance, receive interest, they will not be affected by this general deduction limitation. That is why the introduction of a thin cap rule for banks and insurers as of January 1, 2020 has been proposed.

For banks this means, briefly, that the interest deduction is excluded if and insofar as a bank's debt exceeds 92% (debt ratio). The total assets on the balance sheet are not used for this, but rather the uniform regulatory framework for banks. Thus, for banks, the leverage ratio appearing in the capital requirements regulation will be used. In short, this leverage ratio reflects the ratio between the Tier 1 capital and the total risk exposure of a bank.

The uniform regulatory framework, the Solvency II Regulation, will be used for insurers. This Regulation is based on the equity compared to the total assets on the balance sheet (equity ratio). Other than is the case with banks, this measure affects equity and the interest deduction is limited if equity is less than 8%.

The measure applies to banks and insurers with a head office in the Netherlands, but also to banks and insurers with a head office outside the Netherlands that are active in the Netherlands through a subsidiary or permanent establishment.

1.3 Revised definition of permanent establishment as response to multilateral instrument against international tax evasion

At the beginning of 2019 the Dutch Parliament adopted the bill approving the Multilateral Treaty for the implementation of tax treaty-related measures to prevent base erosion and profit shifting. This Multilateral Instrument (MLI) is one of the results of the OECD's BEPS project, which aims to combat tax evasion by multinationals through their use of base erosion and profit shifting.

One of the opportunities for tax evasion that the MLI focuses on is that of an artificial circumvention of the qualification of permanent establishment, one of the starting points for states to proceed with taxation. The government now proposes to bring the national definition of the term ‘permanent establishment’ as used for personal income tax, payroll tax and corporate income tax purposes in line with the definition in the applicable tax treaty. This will, for example, prevent the power to tax under a tax treaty, which results from the application of the MLI, not being able to be exercised, because it was not provided for in national legislation. For non-treaty situations, the most recent definition of ‘permanent establishment’ appearing in the OECD Model Convention will be used. As a result of the proposed changes, it is expected that a permanent establishment will be present in more situations.

For the sake of completeness, we would like to point out that countries can register which bilateral tax treaties they wish the MLI to apply to (covered tax treaties) with the OECD. The MLI offers the possibility of making certain reservations/electing certain options with regard to the various measures. The MLI only applies to a bilateral tax treaty if both treaty parties have reported the bilateral tax treaty to the OECD as a covered tax treaty and insofar as they have elected the same options. In addition, countries must have ratified the MLI and have also notified the OECD of this. More than 20 treaty partners of the Netherlands have now done this, including Canada, France, India, Japan, Luxembourg, Russia, the United Kingdom and Sweden, so that the MLI will already impact the tax treaties with, for example, these countries, as of January 1, 2020.

1.4 Introduction of possibility to revise earnings stripping decision.

As of January 1, 2019 an earnings stripping measure was introduced for corporate income tax purposes. This measure limits the deductibility of a taxpayer’s balance of interest under the EBITDA, in short: the gross operating result for tax purposes. The part that is non-deductible in any one year may be carried forward in full. The carried-forward interest balance is determined in a decision open to objection. To improve the feasibility and legal certainty of the earnings stripping measure, some procedural changes have been proposed relating to the above carry-forward possibility.

Firstly, it is proposed that the aforementioned decision may be revised if there is a new fact, bad faith or an error the taxpayer should realistically have been aware of. The deadline for revising the decision is the same as the deadline for imposing additional assessments in the case of undercharged tax.

In addition to this, it is proposed that a decision will be issued if the carried-forward interest balance of an earlier year can be deducted when determining the profit of a later year.

Both measures also apply to decisions that were issued before these measures take effect, so that current and new decisions will be treated the same.

1.5 Increase of Innovation Box rate (2021, not part of the 2020 Tax Plan package)

The government intends to increase the effective rate in the Innovation Box from 7% to 9% as of 2021. This intention is not yet part of the bills that were presented to the Lower House on Budget Day.

1.6 Payment discount abolished (2021, not part of the 2020 Tax Plan package)

The government intends to abolish, as of 2021, the payment discount that is currently granted for the prompt payment, in full, of any corporate income tax payable (instead of in installments). This intention is not yet part of the bills that were presented to the Lower House on Budget Day.

1.7 Limitation of the liquidation and cessation loss scheme (2021, not part of the 2020 Tax Plan package)

The government intends to amend the liquidation and cessation loss scheme for corporate income tax purposes as of 2021, to prevent improper use and to widen the tax base. When working out the further details – the intention is not yet part of the bills presented to the Lower House on Budget Day – the government would like to use the draft private members' bill presented by some of the Opposition parties and which was opened for public consultation, as starting point as much as possible. What this will precisely mean has not yet been announced. However, it was indicated that the amendment is intended to no longer make it possible to incur a liquidation and cessation loss on participations and permanent establishments outside the European Union and the European Economic Area and to limit the freedom to plan of the liquidation and cessation loss. More information about the draft private members' bill can be found in our previous memorandum about this.

1.8 Act implementing the second EU Anti-Tax Avoidance Directive (ATAD2, not part of the 2020 Tax Plan package)

On July 2, 2019, the bill to implement the amendment to the EU Anti-Tax Avoidance Directive (ATAD2) was presented to the Lower House. As a result of this amendment, the Directive now combats both hybrid mismatches among EU Member States and between EU Member States and third countries. This implementation will, among other things, end the attractiveness of CV/BV arrangements. The bill presented to the Lower House is in line with the draft bill that was opened for public consultation in October 2018. Most of the measures in the bill will take effect as of January 1, 2020 and will apply for the first time to financial years starting on or after that date.

1.9 New group scheme for corporate income tax purposes (not part of the 2020 Tax Plan package)

A public internet consultation on an options document with four principal solutions for a group scheme for corporate income tax purposes took place between June 17, 2019 and July 29, 2019. Interest groups, businesses, advisors, academics and other stakeholders were invited to submit a response. The desire to create a future-proof group regime has its origins in the EU-law vulnerability of the current fiscal unity regime, as evidenced by the judgment of the Court of Justice of the European Union on February 22, 2018 and the final judgment of the Supreme Court on October 19, 2018 concerning the per-element approach. In connection with this, a number of elements of the legislation have been amended. Please refer to the Fiscal Unity Emergency Repair Act that was adopted by the Upper House on April 23, 2019. However, with regard to other elements, the risks under European law have not (or may not have) entirely disappeared. The aim therefore is to draft a new group rule. More information about the consultation can be found in our previous memorandum about this. On the basis of these responses, the Deputy Minister indicated that a framework letter, containing an outline of the proposed tax group scheme, will be sent to the Lower House in the autumn of 2019.

2 Withholding taxes

2.1 Bill implementing a withholding tax on interest and royalties as of 2021

Background

The government does not want the Netherlands to be used any longer as a gateway to low-taxed countries, and wants to lessen the risk of tax evasion by shifting the Dutch tax base to low-taxed countries. It has therefore been proposed to introduce a withholding tax on interest and royalties as of January 1, 2021.

In a nutshell

In short, this withholding tax will apply to interest and royalty payments made by an entity established in the Netherlands to an affiliated entity established in a low-taxed country and in abuse situations. The term 'entity' does not only refer to capital companies, such as BVs (private limited liability companies) and NVs (public limited companies), but also to cooperatives (*coöperaties*), foundations (*stichtingen*), associations (*verenigingen*), mutual funds (*fondsen voor gemene rekening*), etc. Payments made from the Dutch permanent establishments of foreign entities will also be subject to the withholding tax.

Affiliated entities

Payments to affiliated entities entail payments to both parent/grandparent, subsidiary/sub-subsidiary and sister companies. In short, affiliation is present if either indirectly or directly such influence can be exercised on the decision-making that this can determine the activities of the other entity; this will in any case be present if the interest represents more than 50% of the authorized voting rights. In the case of a cooperating group of entities, the interests of the group members are added together.

Low-taxed countries

Low-taxed countries are designated countries with a corporate profit tax rate of less than 9%, and designated countries appearing on the EU list of non-cooperative jurisdictions. A three-year transitional period applies to treaty countries, to give the Netherlands and treaty partners the chance to start negotiations before the position of taxpayers change. The withholding tax only applies to payments to affiliated entities established in treaty states, after three calendar years have passed since the first designation.

No exception for substance in the Netherlands

The fact that the paying entity has substance in the Netherlands or that the recipient entity that is entitled to the interest or royalties has substance in the low-taxed country, is irrelevant for the purposes of the withholding tax. The tax is thus not only payable if the paying company is a letterbox company.

Payments to hybrid entities; artificial arrangements

The withholding tax is primarily aimed at direct payments to affiliated entities established in a low-taxed country. Furthermore, the withholding tax is payable in the following cases:

- The recipient of the interest or royalties is not established in a low-taxed country, but the interest and royalty payments are attributed to a permanent establishment that the recipient has in a low-taxed country;

- The recipient of the interest or royalties is an entity that is regarded as transparent for Dutch tax purposes, but is regarded as a non-transparent entity by the country of establishment of the underlying participant (in that case a rebuttal provision applies in the event the entity is taxed in its country of establishment, not being a low-taxed country);
- The recipient of the interest or royalties is an entity that is regarded as transparent by its country of establishment (in that case a rebuttal provision applies in the event each underlying participant of that entity is taxed on the benefits in their country or residence or establishment, and to which the withholding tax would be applied on direct payments to those participants);
- To artificial arrangements intended to avoid Dutch withholding tax (e.g. where the interest or royalties are not paid directly to an entity established in a low-taxed country, but indirectly via an entity established in a non-low taxed country and that was interposed artificially).

Tax base, tax rate and method of taxation

The withholding tax will be levied on gross benefits in the form of interest and royalties. The arm's length principle will be used (so that an arm's length interest or royalties will be calculated if conditions are agreed that differ from the commercial conditions that independent parties would agree). It is proposed that the withholding tax rate be the same as the highest corporate income tax rate. Under the current proposals, this will be 21.7% in 2021. The withholding tax will be levied by having the paying entity deduct it from their interest or royalty payments.

No exception for interest deduction limitation

There is deliberately no provision for an exception in cases where the relevant interest or royalty payments are also subject to a current or future deduction limitation for corporate income tax purposes.

Formal provisions

A possibility to impose additional tax assessments has been specifically proposed for the withholding tax, under which the tax inspector can choose on whom to impose the additional withholding tax assessment: on the withholding agent or on the taxpayer. The current information obligations of the withholding agent and the taxpayer will also be expanded. Lastly, a new liability provision is proposed for the withholding tax. This provision can, for example, apply if the withholding tax payable is not correctly withheld and remitted and subsequently any additional withholding tax assessments cannot be collected. Under the new liability provision, the directors/managers of the withholding agent and the taxpayer may be held jointly and severally liable for the withholding tax. The bill offers directors/managers the opportunity to provide rebuttal evidence to avoid being held liable.

2.2 Substance requirements for the purposes of dividend withholding tax exemption, foreign substantial interest rules and Controlled Foreign Companies (CFC)

The Netherlands has implemented the general anti-abuse provision in the EU Parent-Subsidiary Directive in the withholding exemption for dividend withholding tax purposes and in the tax liability for entities established outside the Netherlands that hold a substantial interest in a Dutch company. At present, these provisions are subject to a number of conditions in the form of substance requirements. If a conduit intermediate holding company meets these requirements, there is by definition no abuse ('safe harbor'). In response to judgments by the Court of Justice of the European Union in February 2019, is has however been proposed that as of January 1, 2020 these substance requirements will only play a role in the division of the burden of proof (also in those cases where the intermediate company is not an intermediate company with a conduit function). This change applies to both intermediate companies that are established elsewhere in the EU and intermediate companies in third countries. If the substance requirements are met, the tax inspector can thus still convincingly demonstrate that there is abuse.

Furthermore, the additional Controlled Foreign Companies (CFC) rules do not apply if a CFC performs an economic activity of substance. Other than is currently the case, it is proposed that also for this rule the substance requirements should no longer act as a safe harbor as of January 1, 2020.

3 Personal and corporate income tax

3.1 Extension of amendment of tonnage regime for seagoing vessels

Pursuant to EU State aid rules, the European Commission has granted approval for the Dutch tonnage regime for seagoing vessels to be extended to December 31, 2028. To obtain the Commission's approval for an extension, the government committed itself to amending the tonnage regime in respect of (i) vessels that are held for time and voyage charter, (ii) the flag requirement, and (iii) the imposition of a maximum of 50% of the income from activities that are regarded as secondary activities for maritime transport.

The under (i) intended change means, in short, that the annual total of the net day tonnages of the ships held by a taxpayer for time or voyage charter in any one year, which do not fly the flag of an EU/EEA country, will not exceed 75% of the annual total of the net day tonnages of all the taxpayer’s vessels that are eligible for the tonnage regime. In calculating this 75% cap, the tonnage of a vessel of which the taxpayer is co-owner, is only taken into account in proportion to the ratio of their co-ownership.

The change mentioned under (ii) results in two adjustments. Firstly, in order to be eligible for a legal exception to the flag requirement, a taxpayer must sail at least one of its vessels that qualify for the tonnage regime under a flag of an EU/EEA country. Secondly, the flag requirement will also apply to vessel managers in respect of vessels which they manage on behalf of another party.

The change mentioned under (iii) means that the part of the profit arising from non-transportation activities may not exceed 50% of the total annual profit. If in any one year this profit cap is exceeded, the part of the profit that must be attributed to the non-transportation activities is not eligible for the tonnage regime, which means that this part of the profit will be taxed pursuant to the regular profit determination rules.

4 Personal income tax

4.1 Two bracket regime Box 1

The Cabinet proposes to accelerate the introduction of the two-bracket regime. The new proposal provides for the introduction, initially scheduled for January 2021, to be implemented as early as January 1, 2020. As a result, the top rate will already be 49.5% in 2020. The basic rate (including national insurance contributions) will be 37.35% in 2020 and 37.10% in 2021. This basic rate will apply to income through to EUR 68,507. For state pension beneficiaries, a rate of 19.45% will apply in 2020 up to an income of roughly EUR 35,000 and a rate of 19.20% in 2021.

4.2 Deductible items in Box 1 gradually reduced to the basic rate (not part of the 2020 Tax Plan package)

With effect from January 1, 2020, there will be an accelerated reduction of the rate at which deductible items in Box 1 can be taken into account. This concerns:

- the deductible expenses relating to the principal residence (such as mortgage interest deduction);
- the entrepreneur’s allowance;
- the SME profit exemption;
- the exemption in the regime for making assets available;
- the personal tax credit (partner alimony, expenditure on specific healthcare costs, weekend expenses for the disabled, education expenses, deductible donations and – under transitional rules – losses on investments in venture capital).

These deductible items, insofar as they are in the highest bracket, can only be deducted at 46% (instead of 49.5%) in 2020. In 2021, the deduction will be reduced to 43%, in 2022 to 40% and finally in 2023 to 37.10%, the new basic rate that will apply from 2021.

4.3 Increase in Box 2 rate (not part of the 2020 Tax Plan package)

As a measure that was already related to the originally planned reduction in corporate income tax rates, the Box 2 personal income tax rate will be increased to 26.25% in 2020 and to 26.9% as of 2021. The increased rate will also apply to existing substantial interest claims. On the basis of the current proposals, the combined rate (corporate income tax plus Box 2) will fluctuate between 37.87% and 42.76% from 2021, depending in particular on the size of the company’s profits.

4.4 Measure to counter excessive borrowing from own business (2022, not part of the 2020 Tax Plan package)

The internet consultation on the draft bill on Excessive Borrowing from Own Companies Act took place during the period March 4, 2019 through April 1, 2019. This proposal had already been announced on Budget Day in September 2018. It has been proposed to have a deemed benefit be taken into account as income from a substantial interest in respect of holders of a substantial interest who borrow from their company, insofar as the total amount of such loans, with the exception of home acquisition debt, exceeds EUR 500,000. The measure will apply for the first time to the 2022 calendar year. The bill itself has not yet been submitted and is still expected this year.

4.5 Amendment to Box 3 (2022, not part of the 2020 Tax Plan package)

On September 6, 2019, the Deputy Minister of Finance announced that before the summer of 2020, a bill would be drafted to amend the tax on income from savings and investments in Box 3. A fixed interest rate is then calculated on the savings, which is in line with the most recently available (average) interest on savings and is therefore many times lower than the assumed return on investments. According to the current calculations, taxpayers with only savings up to approximately EUR 440,000 will effectively no longer pay tax on these. Furthermore, investors with capital of less than approximately EUR 30,000 who do not currently pay tax will not have to do so in the future. For those who do have to pay tax, the rate will be around 33%. However, the new system is more sensitive to tax evasion. Therefore, measures will be included in the announced bill to combat this. These still have to be developed in detail. The aim is for the new system to enter into force on January 1, 2022.

5 Payroll taxes

5.1 Relaxation of the work-related costs rules

Four changes are proposed with regard to the work-related costs rules:

1. The fixed exemption will be increased to 1.7% of the payroll up to EUR 400,000. For the payroll above this, the fixed exemption remains at 1.2%.
2. There will be a specific exemption for statements of good conduct (*Verklaring Omtrent het Gedrag*; VOG). The costs of these statements will therefore no longer have to be deducted from the fixed exemption.
3. The period for determining the final levy payable as a result of exceeding the fixed exemption will be extended by one month to no later than the second tax return period of the following calendar year.
4. The value of a company’s own products will be set at fair value instead of the amount charged by the employer to a third party.

5.2 R&D remittance deduction adjusted

The system for submitting a research and development (R&D) application and awarding a certificate will be simplified and shortened. The number of times per year when an R&D certificate can be applied for is increased from three to four. The deadline for submitting an application will be changed to the last day prior to the period covered by that application. Currently, an application must be submitted at least one month prior to that period. For applications for periods starting on January 1 of a calendar year, the final application date will be December 20 of the previous calendar year. In addition, rules are included to make it excusable for the deadline to be exceeded in certain cases.

5.3 Definition of permanent establishment

The definition of the terms 'permanent establishment' and 'permanent representative' for the purposes of payroll and personal income tax is brought into line with corporate income tax. In addition, the definition of the North Sea extraction area for the purposes of payroll and personal income tax are brought in line with the definition in corporate income tax. See also the section entitled 'Revised definition of permanent establishment as a response to multilateral instrument against international tax evasion' under Corporate Income Tax.

6 VAT

6.1 'VAT quick fixes' to simplify international trade

On January 1, 2020, the four 'VAT quick fixes' to simplify international trade will enter into force. As stated previously, the four measures have a significant impact on businesses that trade in international goods. This concerns the following four changes:

1. Simplified treatment for call-off stock. The transfer of goods to the call-off stock in another EU Member State no longer qualifies as a deemed intra-Community supply and a deemed acquisition. When the customer removes the goods from stock, the supplier makes a direct intra-Community supply to the customer. Provided that the supplier and customer meet all conditions, the supplier's VAT registration in the EU Member State of arrival of the goods is then not required. In the Intra-Community Sales Listing ('EC Sales List'), the supplier must include the movement of the goods to the stock as well as the subsequent sale. This means an amendment to the EC Sales List, which will be introduced on April 1, 2020.

2. Uniform rules to simplify chain transactions. In practice, it is sometimes difficult to determine at which stage of a series of chain transactions the intra-Community supply takes place. The new rules determine the party to whom the intra-Community transport must be allocated. The other links in the chain then form, as a starting point, domestic supplies, which in principle are subject to local VAT. Additional practical examples have been included in the Tax Plan that provide insight into the operation of the new allocation rules, for example in combination with the application of the simplified A-B-C rules.

3. Mandatory VAT identification number to apply the zero VAT rate. From January 1, 2020, the zero VAT rate can only be applied to intra-Community supplies if a supplier provides a valid VAT identification number of the customer on the invoice. Furthermore, as a condition for applying the zero VAT rate the supplier must file a correct EC Sales List. If these conditions are not met, there is still a possibility of rectification. For example, by providing the tax authorities with the customer's correct VAT identification number within a certain period of time. More information about this will be included in the VAT Implementation Decree.

4. Simplified proof of intra-Community supplies of goods. According to the new rules, there is a rebuttable presumption of transport to another EU Member State if the supplier can provide at least two evidential documents described in the VAT Implementing Regulation that were prepared independently from one another. These supporting documents must not be contradictory. The new evidentiary presumption of transport is explicitly referred to as an *alternative* to the existing practice, which also allows the intra-Community transport of goods to be proven by other means.

6.2 Reduced VAT rate to apply to electronic books, newspapers and magazines

From January 1, 2020, the supply and lending of both physical and electronic books, newspapers and magazines will be taxed at the reduced VAT rate of 9%. The application of the reduced rate of VAT will therefore no longer be limited to the supply and lending of physical publications. Downloadable audio books, sheet music and teaching materials will also be subject to the lower rate of VAT in the future.

In addition, providing access to online media such as news websites of newspapers, magazines or journalistic research platforms also falls under the reduced VAT rate. In order to prevent abuse, publications on these online media may not consist primarily or exclusively of advertising material, videos or music. This expansion in the reduced VAT rate will make it possible to reduce the cost of books, newspapers and periodicals supplied electronically.

7 2020 Tax Plan miscellanea

7.1 Increase in real estate transfer tax on non-residential property

The government proposes to increase the real estate transfer tax for non-residential property from 6% to 7%. On the basis of the explanatory documents, the entry into force of this increase appears to be scheduled for January 1, 2021. Non-residential buildings include, for example, industrial buildings, business premises, land intended for housing and hotels and guest houses. The rate for the purchase of residential property remains at 2%. The earlier rumors that there might be an exemption for first-time home buyers (*starters*) are therefore not reflected in the tax plans.

8 Other tax developments

There are a number of other relevant tax-related developments that are not part of the 2020 Tax Plan package. We will deal with some of these briefly below.

8.1 Mandatory Disclosure Directive (DAC6)

The EU Directive on the mandatory disclosure of cross-border – potentially aggressive – tax arrangements, obliging financial intermediaries (e.g. tax advisors, lawyers, notaries public or trust offices) to report information about such arrangements to the Dutch tax authorities, came into effect on June 25, 2018. The implementation bill was presented to the Lower House on July 12, 2019.

8.2 Bill on the introduction of a UBO register

Legal persons and other legal entities will soon be obliged to register their ultimate beneficial owners. On April 4, 2019 the bill 'Implementation registration of ultimate beneficial owners of companies and other legal entities' was presented to the Lower House. The bill provides for the implementation of Directive 2018/843 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, in particular the obligation to introduce a register of ultimate beneficial owners ('UBOs') of companies and other legal entities. The implementation of the obligation to register UBOs must ultimately be realized on January 10, 2020. The UBO register will be included in the Trade Register Act 2007 and will be managed by the Chamber of Commerce.

8.3 Revised ruling practice

On June 28, 2019, the Deputy Minister of Finance published a policy statement elaborating on the revised policy for rulings with an international character. This policy statement replaces three previous ruling policy statements (dated June 3, 2014) and took effect on July 1, 2019. The revision is aimed at further safeguarding the quality of the ruling practice for businesses with activities of substance as well as enhancing its robustness. There will be more stringent requirements for issuing rulings and the rules on the issuing of these rulings will also be more transparent. The Deputy Minister had already outlined the main features of the revision of the ruling practice in a letter to the Lower House on November 22, 2018, and a draft of the policy statement was published on April 23, 2019. The final statement is almost identical to the draft.

8.4 Tax Dispute Resolution Mechanisms Act

The Tax Dispute Resolution Mechanisms Act (*Wet fiscale arbitrage*) entered into force on July 16, 2019. This Act implements into Dutch law the Directive concerning mechanisms for resolving tax disputes on double taxation in the EU. The Directive is based on the principle that disputes are resolved by mutual agreement between the competent authorities of the Member States. However, if the Member States fail to reach agreement within a given period, a dispute resolution committee may be set up at the request of the party concerned. The dispute resolution committee is composed of representatives of the Member States, independent persons of standing and a chair. The committee subsequently makes a recommendation for the resolution of the dispute. This may be acted upon by the Member States, or they may jointly deviate from it within a given period of time. There will in any case be a final decision to resolve the dispute. In addition, the Directive provides for a procedure whereby, in certain cases, disputes concerning access to the mutual agreement procedure may be settled by means of arbitration.

8.5 Bill on air passenger tax (2021)

The government aims to introduce an air passenger tax on January 1, 2021, with the preference being for a European tax on aviation. In the event that a European air passenger tax is delayed too long, the Cabinet already submitted a bill on May 13, 2019, in which it is proposed to introduce a national air passenger tax of EUR 7 per departing passenger. Transfer passengers are excluded. This is a rate that will be precisely set in the 2021 Tax Plan, because it will be adjusted for inflation. The proposal also provides for an air freight tax, whereby aircraft that produce less noise are taxed less.

Meijburg & Co
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The information contained in this memorandum is of a general nature and does not address the specific circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.