KPMG Meijburg & Co Tax & Legal

Dutch supreme court: interest on tax due rate for corporate income tax must be reduced

On 16 January 2026 the Dutch Supreme Court rendered judgment in the interest on tax due proceedings of a client of KPMG Meijburg & Co. The Supreme Court ruled that the interest on tax due rate for corporate income tax payable in 2022 and 2023 is contrary to the principle of proportionality and must be reduced. The Supreme Court also commented on the broader implications of this judgment for the years from 2024 and for other taxes.

The Supreme Court ruled that charging corporate income taxpayers a higher rate cannot be justified and that this interest on tax due rate must be the same as the lower interest on tax due rate for other taxes. It also ruled that this lower interest on tax due rate is proportionate.

Below we discuss the run-up to the judgment, the ruling by the Supreme Court and the practical implications.

Facts and District Court judgment

The judgment relates to a provisional corporate income tax assessment for the year 2021, in particular the interest on tax due charged for the period 1 July 2022 through 26 August 2023. The interest was set at 8% of the tax payable, in accordance with the Decree on Interest on Tax Due and Late Payment Interest.

On 7 November 2024 the Noord-Nederland District Court ruled that the interest on tax due rate of 8% for any corporate income tax payable is contrary to the principle of proportionality. The court therefore declared the relevant provision in the Decree non-binding and set the interest on tax due at 4% of the tax payable. The District Court judgment was discussed in more detail in a previous memorandum. A leapfrogging appeal (*sprongcassatie*) against this judgment was lodged with the Dutch Supreme Court.

Dutch Supreme Court judgment

Interest on tax due is payable if an amount in tax is payable and a provisional tax assessment was not requested on time, a tax return was not filed on time, or a tax return that had been filed on time is deviated from. Until 1 January 2024 the interest on tax due for corporate income tax purposes was 8% of the tax payable. That rate is so high because it was linked to the statutory interest rate for commercial transactions. Since 1 January 2024 interest on tax due is no longer linked to the statutory interest for commercial transactions but to the ECB interest rate.

The Supreme Court followed the District Court and the Opinion issued by the Advocate General by ruling that the relevant provision in the Decree on Interest on Tax Due and Late Payment Interest (Article 1(b)) must be declared non-binding since it is contrary to the principle of proportionality. There are no reasonable justification grounds for charging corporate income taxpayers higher interest on tax due. The Dutch Supreme

Court therefore ruled that the percentage applying for other taxes, such as personal income tax and VAT, must be used.

The Supreme Court ruled for the sake of completeness that this also applies for years as of 2024. It also subsequently ruled that the interest on tax due charged on other taxes is not disproportionately high and is thus in accordance with the principle of proportionality. This means the following interest on tax due rates apply for all taxpayers (with the higher rate having been declared non-binding):

Period	Rate	Non-binding declared higher rate
As of 1-1-2026	5	7.5
1-1-2025 through 31-12-2025	6.5	9
1-1-2024 through 31-12-2024	7.5	10
1-7-2023 through 31-12-2023	6	8
1-1-2022 through 30-06-2023	4	8

Class action proceedings

The present Supreme Court judgment has implications for the notices of objection submitted in respect of the higher interest on tax due rate that have been classified as a class action. These notices of objection will be settled along the lines of the judgment. In light of the Supreme Court judgment, these notices of objection will be accepted and the interest on tax due rate will have to be reduced to a rate in accordance with the above table.

The Supreme Court also noted for the sake of completeness that the interest on tax due for the other taxes is not contrary to general principles of law or European law. Therefore, that interest on tax due will not be reduced. This means that:

- the notices of objection against the higher interest on tax due rate must be upheld and, depending on the relevant period covered by the interest on tax due, the rate must be adjusted downward in line with the above table.

- the notices of objection against the interest on tax due for the other taxes must be declared groundless and will not lead to a reduced rate.

What if you haven't yet submitted a notice of objection?

If a notice of objection has not yet been submitted against the interest on tax due charged on tax assessments already imposed, we recommend checking whether it is still possible to do so. For final tax assessments and additional tax assessments, a six-week deadline for submitting a notice of objection applies. If interest on tax due has been charged on a provisional corporate income tax assessment, a request to revise this can be submitted up to six weeks after the date of the final tax assessment.

If you would like to know more, feel free to contact us or your usual Meijburg tax advisor.

KPMG Meijburg & Co
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