

Consultation launched on changes to participation exemption and currency hedging instruments

The 2026 Budget Memorandum announced the intention to amend the participation exemption as regards the tax treatment of currency results on hedging instruments. At the time it also stated that this measure would first be presented to the public for comment via an internet consultation. On Monday, March 2, 2026 [the internet consultation](#) was launched.

The draft bill

The draft bill now open for public consultation consists of two proposals:

1. The proposal to, as of financial years commencing on or after January 1, 2027, only have the participation exemption apply to unpriced currency results on a currency hedging instrument that serves to hedge any currency risk run with a participation.
2. The proposal to remove several implementation problems of a more formal nature in respect of the participation exemption and currency hedging instruments.

Participation exemption only for unpriced currency results

An gain or loss arising from a currency risk that a taxpayer runs with a participation falls under the participation exemption. However, these currency risks can be hedged via hedging instruments, such as a loan or a forward currency contract. Results on these hedging instruments do not fall under the participation exemption. This creates an imbalance for which tax relief is provided. A taxpayer can request to have the results on the currency hedging instrument fall under the participation exemption. In that case, the results realized with this (both positive and negative) do not affect the taxpayer's profit for tax purposes.

The result on currency hedging instruments consists in part of projected price trends, which are factored into the price, for example, because a foreign currency loan has a higher or lower interest rate than the interest rate on a euro loan, and in part of unexpected price trends.

The draft bill now open for public consultation proposes that, as of financial years commencing on or after January 1, 2027, the participation exemption may only be applied to 'unpriced' gains or losses, provided a request to do so has been submitted by the taxpayer and a positive decision has been issued on that request. The consultation addresses two types of hedging instruments, i.e. loans and forward currency contracts.

Hedging instrument in the form of a loan

In hedging instruments where principal is made available (a loan), the priced-in currency result manifests itself in the difference in interest between the interest rate on the principal of the hedging instrument and the interest rate if the principal had been raised in euros (being the functional currency). The unpriced currency result is then the currency result realized on the loan, less the cumulative difference in interest between the interest rate on the principal of the foreign currency hedging instrument and the

interest rate on the principal of a similar hedging instrument in euros, determined at the time the hedging instrument was taken out.

Example

BV X holds a participation on which a currency risk is run on the weak currency Y. This currency risk is hedged by means of taking out a Y 100 million loan at an interest rate of 8%. The term of the loan is 1 year. The interest rate on a EUR 100 million loan taken out under identical terms and conditions is 3%. The exchange rate at the time the loan was taken out was EUR 1 = Y 1.

The difference in interest rate of 5 percentage points means that at the time the loan was taken out the market expected the exchange rate of currency Y compared to the euro to fall by 5% (rounded-off) during the term of the loan. The projected exchange rate of currency Y at the repayment date is determined based on the interest rate parity condition. This is an economic theory under which, as a result of arbitration proceedings, the difference in interest rates between two currencies must be the same as the ratio between the relevant spot and forward exchange rates. This theory means that the expected exchange rate at the end of the term of the loan is (1.08/1.03), thus EUR 1 = Y 1.0485.

Price trend meet expectations

If the price trend meets expectations, then the following example shows what this will mean under the new measure.

- Upon repayment of the principal, the currency gain on the loan is EUR 4.63 million (100 million / 1.0485 = EUR 95.37 million compared to EUR 100 million when the loan was taken out).
- The unpriced currency result is then EUR 4.63 million less EUR 4.63 million = EUR 0.
- No unpriced currency result is therefore present, so nothing can be brought under the participation exemption.

Exchange rate falls more than expected

If the exchange rate falls more than expected, let's say EUR 1 = Y 1.0582, then the following example shows what this will mean under the new measure.

- Upon repayment of the principal the currency gain on the loan is EUR 5.5 million (100 million / 1.0582 = EUR 94.5 million compared to EUR 100 million when the loan was taken out).
- The unpriced currency result is then EUR 5.5 million less EUR 4.63 million = EUR 870,000. Under the proposed measure only the unpriced currency result of EUR 870,000 falls under the scope of the participation exemption and is therefore untaxed.

Exchange rate falls less than expected

If the exchange rate falls less than expected, let's say EUR 1 = Y 1.0416, then the following example shows what this will mean under the new measure.

- Upon repayment of the principal the currency gain on the loan is EUR 4 million (100 million / 1.0416 = EUR 96 million compared to EUR 100 million when the loan was taken out).
- The unpriced currency result is then EUR 4 million less EUR 4.63 million = minus EUR 630,000. Under the proposed measure only the unpriced currency result of minus EUR 630,000 falls under the scope of the participation exemption. This currency loss is therefore non-deductible and increases the profit for tax purposes.

Hedging instrument in the form of a forward currency contract

A currency risk can also be hedged by taking out a forward currency contract with a financial institution, for example a bank. Applying this to the previous example, the taxpayer undertakes to supply Y 100 million to the bank over the course of a year, with the bank undertaking to accept this at EUR 95.37 million. The agreed forward rate is then EUR 1.0485 (based on the interest parity condition). The exchange rate for currency Y at the time the forward currency contract is concluded is EUR 1 = Y 1. This is no different for future contracts, i.e. the same applies as explained above for loans.

Price trend meet expectations

If the actual exchange rate on the settlement date of the forward currency contract is the same as the (expected) forward rate, there is no gain or loss on the forward currency contract (there is no unpriced gain) and under the new measure no amount can be brought under the participation exemption.

Exchange rate falls more than expected

If the exchange rate falls more than expected, let's say EUR 1 = Y 1.0582, a currency gain of EUR 870,000 (the unpriced currency result) will then be realized on the settlement date of the forward currency contract. Under the new measure, the participation exemption will apply to the unpriced gain of EUR 870,000.

Exchange rate falls less than expected

If the exchange rate falls less than expected, let's say EUR 1 = Y 1.0416, then a currency loss of EUR 630,000 will be incurred on the settlement date of the forward currency contract. Under the new measure, the participation exemption will therefore apply to the unpriced loss of EUR 630,000. This unpriced currency loss is therefore non-deductible.

Implementation problems

The government has also proposed removing several practical implementation problems of a more formal nature identified in this respect. The following points have been proposed:

- taxpayers will be given the option to request to have a certain hedging instrument no longer fall under the participation exemption (opt-out);
- the participation exemption will apply as of the moment the transaction is entered into or, if this occurs later, as of the moment the full request is received;

- to clarify that the gain realized by hedging a currency risk run with a participation, can only be brought under the participation exemption if a taxpayer requests this;
- to include that the legal recourse of objection and appeal (against the decision in which the tax inspector determines that a transaction serves to hedge the currency risk run with the participation) can only relate to the requirement that the transaction serves to hedge the currency risk run with the participation. If a taxpayer wishes to challenge the amount of the gain derived from the relevant transaction that is included in the gains realized from the participation, they can only do so by using the legal recourse available for objecting to/appealing the corporate income tax assessment containing the relevant gain;
- to include a delegation provision under which (approval) policy can be codified;
- it is further proposed to arrange that at the time a hedging instrument falls under or outside the scope of the participation exemption, the hedging instrument must be recorded in the balance sheet for tax purposes at its fair market value. The subsequent result is then subject to tax if it arises before the hedging instrument enters the scope of the participation exemption, or is untaxed if it arises before the hedging instrument leaves the scope of the participation exemption.

KPMG Meijburg & Co comments

As a result of the Supreme Court judgment of March 21, 2025 concerning the liquidation loss scheme for corporate income tax purposes, the measure now open for public consultation is connected to a loss of tax revenue. This measure and consultation had already been announced on Budget Day 2025. It was noted at the time that the measure was still being drafted and would be assessed on its feasibility and its impact on the business climate. It was also noted that, should a better alternative emerge during the drafting, the measure would be reconsidered. The fact that the measure is now open for public consultation implies that the measure (i) is feasible, (ii) has been assessed for its impact on the business climate, and (iii) no better alternative emerged during the drafting process.

The proposed measure is based on the assumption that the costs of the hedging instrument are fully deductible, while the projected profit on the hedging instrument will fall under the participation exemption. The measure essentially aims to combat this imbalance. The proposed measure does that in a somewhat unbalanced way, because it does not take account of the situation where the costs of the hedging instrument are non-deductible (for example as a result of Section 10a Corporate Income Tax Act 1969). In those situations, the imbalance does not arise, but then the measure does apply. What also stands out for us is that the examples used are simplified ones. That is understandable, because this provides insight into the conceptual operation of the measure. However, we do wonder whether sufficient account has been taken of the practical aspects. They are more problematic, as a result of which it will probably not always be easy to determine the priced-in currency result.

We also note that the proposed measures are also intended to apply as of January 1, 2027 to hedging instruments taken out before that date. In short, there are no transitional rules or non-retroactive effect for hedging positions already existing at that time. This is to avoid unwanted anticipation effects. That is understandable, but anticipation effects could also have been avoided by providing for a measure that has non-retroactive effect for hedging positions existing on March 2, 2026.

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

KPMG Meijburg & Co
March 4, 2026

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.