

Status of new box 3 regime after plenary debate in Upper House of Dutch Parliament

On 30 June 2026, the Upper House of the Dutch Parliament held a plenary debate on the proposed new box 3 regime, which should take effect from 2028 and replace the current system: the bill on the Actual Return on Investment in Box 3 Act (*Wet werkelijk rendement box 3*; WWR). See also our previous reporting on this bill in [January 2025](#) (letter about the alternatives considered by the government, in Dutch), [May 2025](#) (government sends the bill to the Lower House of Parliament) and [February 2026](#) (Lower House adopts the bill). It is clear that the government parties in the Upper House have difficulty with the capital growth tax that is part of the new regime. That is why the Upper House wants to wait for the adjustments to be included by the cabinet in an amending Act, and only decide this autumn. Many members of the Upper House want the bill to be withdrawn anyway, so that the current regime would continue to apply until a full capital gains tax can be introduced. Four motions were proposed during the plenary debate. The Upper House will vote on those motions on July 7, 2026. In this news item, we present the latest state of affairs with regard to the new box 3 regime.

The dual system in force

The WWR bill pending before the Upper House is intended to replace the current dual system. In that system, the levy in box 3 is calculated as a general rule on the basis of flat-rate percentages. The Supreme Court ruled in the so-called Christmas judgment that this flat-rate system is in violation of the European Convention on Human Rights. As a result of that judgment, a taxpayer who makes it plausible that his actual return is lower than the flat-rate return, is taxed for that lower return. It should be noted, however, that when determining the actual return in the context of this 'restoration of rights', in principle, no costs are deducted (only financing costs). In simple terms, it is therefore a question of whether the gross income is lower than the flat-rate income.

This regime has now been in place for more than three years, with three systems even applying side by side in the period 2017-2022. The possibility of providing evidence to the contrary is laborious for the Tax and Customs Administration and, according to the Deputy Minister, costs the treasury € 2.4 billion annually in tax revenue.

The new regime

From 2028, according to the proposal now pending before the Upper House, box 3 would consist of a levy on actual income derived from assets. Taxes are then levied on the actual income and capital gains. Costs are also deductible. With regard to capital gains, in principle, unrealised capital gains (capital growth) are also levied annually. Only for real estate and shares or profit participation certificates in start-ups and scale-ups, tax only has to be paid upon realisation (capital gain). In the Upper House and society, there is a lot of resistance to taxing unrealised increases in value (the so-called 'profit on paper only'). The Upper House fears that some taxpayers may run into payment problems as a result if no funds are available to pay the tax on this 'profit on paper only'. Deputy Minister for Finance Eerenberg indicated that this will hardly be a problem in practice; only 0.4% of taxpayers in box 3. Be that as it may, the capital gains tax does not have that disadvantage.

Full Capital Gains Tax

At the insistence of the Upper House, the government is now investigating the possibility of further developing the hybrid system of both a capital growth tax and a capital gains tax to a full capital gains tax for all assets. During the plenary debate, there was extensive discussion about an important disadvantage of the capital gains tax. Taxpayers then have the option of deferring taxation by not realising assets (the profits contained therein). This lock-in effect can lead to disappointing tax revenues in the first years after introduction. Deputy Minister Eerenberg has noted that when a capital gains tax is introduced, flanking measures are also being examined to counteract this effect, without becoming concrete. But the Lower House has made suggestions, such as the introduction of a progressive rate, an advance tax, better alignment of tax rates, preventing assets from shifting to box 2 and limiting the (standard) box 2 regime to real businesses. Moreover, a full capital gains tax is not automatically simpler. Taxpayers must then be able to determine and keep track of the acquisition price or book value of their assets. Providing the necessary data to the Tax and Customs Administration can also become more complex for the 'cooperating partners', such as banks.

Deputy Minister Eerenberg has not yet given a precise timetable for the further development towards a full capital gains tax, but did mention a period of at least another four to five years. According to recent reports, it would cost the treasury € 22 billion if the current WWR bill does not pass and a full capital gains tax was not introduced until 2032. The Deputy Minister sees the WWR as an intermediate step towards the introduction of a capital gains tax. He also said that with the introduction of a full capital gains tax, a few major political debates will have to be held about the conditions.

Adjustments

Already in the run-up to the plenary debate, it became clear that the Upper House has difficulty with the capital growth tax. On 19 June 2026, Deputy Minister Eerenberg therefore sent a 'menu' to the Upper House with options to adjust the WWR. It is not yet clear which of these will end up in the announced amending Act. Of the list below, the introduction of a one-year loss carry-back and a transfer facility in the event of marriage and divorce seem to be the most concrete. Other components are still being investigated and depend in part on budgetary coverage and feasibility. These are the options:

1. Introduction of the possibility of loss carry-back of one year.
2. Introduction of a transfer facility in the event of marriage and divorce.
3. Adjustments for green investments.
4. Adjustments for startups and scale-ups.
5. Adjustment of the tax rate and the tax-free result.
6. Adjustments for NSW estates.
7. Reintroduction of partial foreign taxpayer status.
8. Introduction of a so-called 'Win-win loan' based on the Flemish model

Loss carry-back

The bill that is now before the Upper House already provides for the possibility of an unlimited loss carry-forward in time, but no loss carry-back yet. This has the disadvantage that a taxpayer who, for example, makes a large (paper) profit on his investments in 2028 and suffers an equally large (paper) loss in 2029, will still have to pay income tax immediately in 2028 on the increase in value in that year. This is despite the fact that, viewed over the two-year period, there is neither a profit nor a loss. Although loss carry-forward is possible, it is uncertain whether there will be sufficient positive income in box 3 in the future to offset the loss. Especially in the case of strongly fluctuating returns, the introduction of loss carry-back can offer solace. According to the Deputy Minister, the Tax and Customs Administration can currently handle the introduction of one-year loss carry-back by 2029, provided that no other adjustments are made.

Transfer facility in the event of marriage and divorce

Capital gains tax – for real estate and shares or profit participation certificates in start-ups – stipulates that the capital gain must be settled not only at the actual sale, but also at all other times when the asset in question (partially) ceases to form part of the taxpayer's box 3 assets. This applies, for example, in the case of a marriage, if a holiday home in box 3 becomes part of a community of property. This can also be the case in the event of a divorce, if the holiday home is taken over by one of the former spouses. In such situations, income tax would also have to be paid in box 3 for these life events on potentially significant increases in value, while not in all cases a proceeds are actually realised.

It is therefore possible that a transfer facility in the event of marriage and divorce will be included in the amending Act. It is not yet clear exactly how this facility will be designed and what conditions must be met. We note that there are also other situations in which settlement of capital gains can occur, such as in the case of a gift, contribution to a private limited company, emigration and death. For the time being, no transfer arrangements will apply to this.

Adjustment for green investments

There may be another adjustment to retain the tax incentive for green investments in the new box 3 regime, for example through a tax credit.

Adaptation for startups and scale-ups

The government does not want to discourage investments in start-ups from a tax point of view, with a view to maintaining innovative power and the future earning capacity of the Netherlands. Therefore, shares and profit participation certificates in such companies are subject to capital gains tax and not to capital growth tax.

The existing draft text of the WWR already contains a definition of start-up company, but that definition is quite rigid. For example, a start-up company may not be older than five years and may have a maximum turnover of € 30 million. As soon as a company no longer meets the conditions, the shareholding is transferred to capital growth tax. This

can lead to interim tax having to be paid on an increase in value that has not yet been realised.

In an amended definition, hard limits, such as duration of existence and turnover, would be replaced by a substantive test of innovation and scalability. As a result, more real startups and scale-ups could fall under the capital gains tax. The government has already completed an internet consultation on this in the spring of 2026. As it stands, the formal bill will be presented to the Lower House on Budget Day as part of the 2027 Tax Plan package. During the plenary debate, the Deputy Minister noted that the qualification as a start-up or scale-up by RVO (*Rijksdienst voor Ondernemend Nederland*) would apply by decision for eight years, and could be extended for up to an additional 15 years.

Rate and tax-free result

In the bill as it is now before the Upper House, the government proposes a rate of 36% and a tax-free result of € 1,800 per taxpayer. For tax partners, this is € 3,600. The amending Act may propose a rate of 35% and a tax-free result of € 1,900 per taxpayer (€ 3,800 for partners).

NSW estates

Another possible adjustment concerns buildings on estates that are classified under the Nature Conservation Act 1928 (*Natuurschoonwet 1928*; NSW). The Lower House has adopted a motion requesting the government to work out a scheme so that in the event of inheritance or gift, the (paper) increase in value of buildings on NSW estates is not taxed. The letter of 19 June mentions as a possibility the extension of the existing exemption for NSW estates by dropping the exception for built properties. An alternative is the introduction of a transfer facility for capital gains on inheritance and gift.

Partial foreign taxpayer status

Until 1 January 2025, employees who fell under the expat scheme could also make use of the option to be regarded as a foreign taxpayer for box 3. As a result, only real estate located in the Netherlands was actually taxed. However, the partial foreign taxpayer status was abolished by amendment during the parliamentary debate on the 2024 Tax Plan. In the letter of 19 June, Deputy Minister Eerenberg mentions the possibility of reintroducing the option of partial foreign taxpayer status.

Win-win loan

Deputy Minister Eerenberg is also investigating the possibility of a tax incentive scheme for private individuals who provide loans to SMEs. The example of the Flemish Win-win loan is being looked at. In essence, this is a tax facility for subordinated loans that are used for business or professional activities.

What comes next

Because the Houses will go on summer recess at the beginning of July, no major parliamentary developments are likely to be expected in the near future with regard to

the new box 3 regime. As every year, the final decision on the content of the Tax Plan and the other tax bills that will be presented to the Lower House on Budget Day will take place in August. For the WWR, this means that it is then determined which investigated adjustments will actually be included in the amending Act. After Budget Day, we will probably know more about the future of the bill on the Actual Return on Investment in Box 3 Act, the content of the amending Act, the promised investigations and the possible further development towards a full capital gains tax in the longer term.

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

KPMG Meijburg & Co
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