

# *Budget Day 2015*

## *Dutch Tax Plan*



22 December 2015

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## Foreword



*The 2016 Tax Plan was adopted by the Senate on Tuesday 22 December following a great deal of political upheaval, difficult negotiations and adjustments.*

Following acceptance of the Tax Plan by the House of Representatives on 18 November, it became clear that the government could not count on a majority in the Senate, not even with the support of opposition party CDA. In the end it took a rectification to amend the Tax Plan to secure the support of opposition party D66 in the Senate in order to obtain a majority of the votes. With the rectification to amend the legislative proposal, the labour rebate reduction percentage will be reduced at a slower pace than in the original Tax Plan and more money will be made available for the elderly deduction. Furthermore, the tax-exempt amount for box 3 assets will be increased with EUR 3,000.

In addition to the measures included in the rectification to amend the legislative proposal, the government promised to implement several other measures. In 2016, the government will make an additional EUR 100 million available as an incentive for homeowners to take extra energy conservation measures. Also, as from 2017 the government will structurally intensify the childcare allowance with an additional EUR 100 million. Another, remarkable promise is that the government will present a preliminary draft of a legislative proposal before the summer of 2016, which will provide municipalities with more room for levying taxes. This is how the government wishes to realise a shift of EUR 4 billion in income tax to the municipal taxes as from 2019. This is therefore a shift in the long term. Considering the elections in 2017, we wonder how the political

choices concerning a tax reform will develop in the years to come. This will determine in part how realistic this plan is.



In 2016, we will continue to participate in the debate concerning the reform of the Dutch tax system. We will also keep you informed of the developments that could have an impact on your tax policy. This publication is a fully updated version of our traditional 'Budget Day Special', which includes all changes and legislative proposals that were submitted later. We have also included changes in the publication that do not form part of the Tax Plan in a formal sense, but which could be relevant for you. The measures that have not yet been accepted by the Senate on 22 December 2015 have been indicated with an asterisk.

Our publication focuses on what the measures mean for you and what action you can take. The icons allow you to see the impact of each measure at a glance.

Amsterdam, 22 December 2015

Sytso Boonstra  
Chairman of PricewaterhouseCoopers  
Belastingadviseurs N.V.

**The icons show the impact of each measure at a glance**

-  **Structure**  
This change may cause you to want to set up processes and structures differently.
-  **Administration**  
This change must be implemented in your administrative handling.
-  **Finances**  
This change may have a financial impact on you or your business.
-  **Policy**  
A policy change that does not require adjustment from you or your business.



The amounts referred to in various provisions of payroll and income tax are adjusted for inflation each year. Our publication was published before the inflation adjustment decree was announced. It may therefore be the case that several amounts will change slightly.



# Business



*Many businesses benefited from improved domestic and foreign demand over the past year. Improved demand is partially attributable to the low euro exchange rate and decreasing production costs have improved price competitiveness. Industrial production and business investments have also been on the rise for a while now and sentiment amongst producers is positive. Economic recovery will continue in 2016 according to the CPB. For the years 2015 and 2016, the CPB predicts an increase in production of 2.8 per cent and 2.7 per cent respectively. Business investments will also improve in this period.*

-  Structure
-  Administration
-  Finances
-  Policy

## 'Tax entity via a foreign country' made legally possible\*



**Action:** Check whether the legislative proposal has an impact on your request or your tax entity

The law makes it possible to form a single tax entity for corporate income tax purposes between Dutch companies that are affiliated with each other via an EU (intermediary) link. This possibility already existed in practice after the State Secretary made this possible by issuing a decree at the end of last year, such pursuant to case law of the Court of Justice of the European Union (CJEU). The legislative proposal is closely in line with this decree, but it also clarifies several conditions and contains additional measures including anti-abuse measures. These measures are intended to counter the unintended effects of the 'tax entity via a foreign country' and to prevent a tax entity from taking the same loss into account twice. The legislative proposal brings Dutch legislation in line with European law.

**To be determined - no end date**

## Participation exemption and participation credit system adjusted in line with changes to the Parent-Subsidiary Directive



**Action:** Check whether you are still eligible for the participation exemption

The participation exemption and participation credit system will no longer be available for benefits or payments derived from a participation anywhere in the world if those benefits or payments are deductible for profit tax purposes at the level of the participation. This means that the Netherlands has now implemented the changes to the European Parent-Subsidiary Directive. Moreover, to the extent that the benefits and payments referred to above are deducted from the acquisition price of the participation, these benefits and payments also qualify as taxable income. Before the corporate income tax return can be filed, it must be established whether the foreign participation is eligible for the deduction referred to above.

**1 January 2016 – no end date**



## Substantial shareholding regime amended



**Action:** Analyse whether the substance requirements are met

The substantial shareholding regime is changed to implement the general anti-abuse rule of the Parent-Subsidiary Directive. An entity resident outside the Netherlands that holds a substantial shareholding, in general at least 5 per cent of the interest, in a Dutch resident company will be subject to corporate income tax if the company is held with tax avoidance as one of the main purposes and it is not put into place for valid commercial reasons which reflect economic reality. Such valid reasons may exist if the entity conducts business activities and the substantial shareholding is attributable to that business, if the entity is the ultimate holding company or if the entity is an intermediate holding company that acts as a link between the ultimate holding company and the business, and the entity meets the substance requirements.

This legislative amendment may have consequences for existing Advance Tax Rulings (ATR's) concerning the regulation pertaining to foreign substantial shareholdings. The ATR will lapse if the new requirements are not satisfied on 1 January 2016. However, taxpayers may be given until 1 April 2016 to comply as yet, but such will be subject to strict conditions. The ATR will be maintained in such cases. Benefits obtained in the period between 1 January 2016 and the time at which the substance requirements have been satisfied do come under the new regulation.

**1 January 2016 – no end date**



### Extension obligation Cooperative to withholding dividend tax



**Action:** Analyse whether the requirements are fulfilled

A Cooperative resident in the Netherlands will be obliged to withhold dividend withholding tax on dividends distributed to its members if tax avoidance is one of the main purposes of the arrangements and the arrangement is not put into place for valid commercial reasons which reflect economic reality. Such valid commercial reasons for example may exist if the Cooperative has a meaningful economic relevance. The place of residence of the Cooperative members is irrelevant.

This legislative amendment may have consequences for existing Advance Tax Rulings (ATR's) concerning the withholding obligation of cooperatives. The ATR will lapse if the new requirements are not satisfied on 1 January 2016. However, taxpayers may be given until 1 April 2016 to comply as yet, but such will be subject to strict conditions. The ATR will be maintained in such cases. Benefits obtained in the period between 1 January 2016 and the time at which the substance requirements have been satisfied do come under the new regulation.

**1 January 2016 – no end date**

### New obligations for transfer pricing documentation



**Action:** Make sure your documentation meets the new requirements

Taxpayers must submit the following documents to the Tax Authorities or have these documents in their files.

#### Country-by-country report

Multinational groups with a Dutch resident parent company and with a consolidated turnover of at least EUR 750 million are obliged to submit a country-by-country report with the tax inspector annually. This report contains an overview per country of several prescribed indicators, such as turnover, profit, paid taxes and employees. In exceptional cases Dutch group companies of multinational groups where the ultimate parent company is not a Dutch resident company, must also submit the country-by-country report.

#### Master file

The master file contains an overview of the business of the multinational group, including a description of the nature of the business activities, the general transfer pricing policy and the worldwide allocation of income and economic activities. This master file is mandatory for groups with a consolidated turnover of at least EUR 50 million.

#### Local file

The local file contains information relevant for the transfer pricing analysis in relation to intercompany transactions, where the Dutch taxpayer is involved.

This local file is also mandatory for groups with a consolidated turnover of at least EUR 50 million.

Further rules concerning shape and substance of the country-by-country report, the master file and the local file will follow by the end of December 2015.

Not meeting the proposed documentation obligations may lead to administrative or punitive sanctions and/or a reversal of the burden of proof.

**1 January 2016 – no end date**

### Step-up dividend withholding tax in case of cross-border mergers and demergers



**Action:** No action required

A step-up will be introduced in respect of cross-border mergers and demergers. The step-up should prevent that profit reserves of foreign merging or demerging companies will be brought under a Dutch dividend withholding tax claim.

In principle only the contributed capital on shares that existed before the merger or demerger are acknowledged for dividend withholding tax purposes. However, for cross-border mergers and demergers a step-up will now become applicable, in order to avoid that a Dutch dividend withholding tax claim is created in respect of profit reserves of a foreign nature.

The new step-up rules will amongst others apply to the following situations: a foreign company merges into a Dutch company, or a foreign company demerges into a Dutch company. According to the new step-up rules the amount of the contributed capital that is to be acknowledged amounts to the fair market value of the shares of the merging or demerging company. An exception to this step-up rule applies insofar the merging or demerging foreign company holds shares of a Dutch subsidiary. Furthermore, there is a general anti-abuse rule by which no step-up will be granted, if the merger or demerger is predominantly aimed at tax evasion or delay.

**1 January 2016 – no end date**

### *Profits limited partner in limited partnership taxable*



**Action:** Check whether the foundation, association or government enterprise is subject to tax

Foundations, associations and government enterprises will have to pay tax on benefits from an interest as a limited partner in a limited partnership. This measure seeks to stop such entities from escaping taxation of profits by sheltering business activities in a limited partnership.

**1 January 2016 – no end date**

### *Introduction of reorganisation exemption for government enterprises*



**Action:** No action required

The profit resulting from a reorganisation of government enterprises is exempt. Government enterprises sometimes are sometimes reorganised as well. Municipalities may be joined or duties may be transferred. This may result in directly taxable reorganisation profit as would be the case in the 'ordinary' world of business. A reorganisation exemption is now also enacted for administrative reorganisations or restructuring of government enterprises as is the case in the 'ordinary' world of business.

**1 January 2016 – no end date**

### *The Netherlands implements 'Common Reporting Standard'*



**Action:** Prepare your company for collecting the required data

Financial institutions are obliged to collect certain financial data and to provide this to the Tax Authorities. The Tax Authorities will then automatically exchange this data with the Tax Authorities of other countries for whom the data is relevant. The data that must be provided concern inter alia data about the person or entity to be reported and data concerning his or her account such as the balance. The exchange of information is intended to provide insight into the countries where certain persons are liable to pay tax. This legislative amendment includes the mandatory implementation of the EU directive on the Common Reporting Standard. This is how the EU obliges its Member States to comply with the exchange of information as prescribed by the OECD.





**1 January 2016 – no end date**



# Employer and employee



*The Dutch labour market showed a further recovery in the first three quarters of 2015. The expected production growth in business will contribute to a further increase of labour productivity and employment in the near future. As labour supply continues to improve, unemployment will gradually decrease over the coming months as well. According to the government, the accepted measures that are focused on easing the tax and premium burden on employers and employees, will increase employment. However, it remains the question whether a reduction in rates and taxes will really improve employment structurally.*

-  Structure
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-  Policy

## Clarification of the customary criterion for the work related cost scheme



**Action:** Re-assess your processes for reimbursements / allowances provided

Under the work related cost scheme the so-called 'customary criterion' applies. This is a discretionary criterion to determine if a reimbursement / allowance qualifies to be paid tax free to the employee, provided certain conditions are met. The customary criterion will be adjusted to make it easier for the Tax Authorities to act against tariff arbitration. Whether or not the provided reimbursements or allowances can qualify as an element of your final levy should be based in line with common practice (and not only the actual amount of the reimbursement or allowance itself is decisive).

Several factors will be of importance to confirm whether the customary criterion is satisfied. As a starting point, the nature of the reimbursement or allowance will be important. Furthermore, the actual amount of the reimbursement or the value of an allowance plays a role in the assessment. In this respect, it might also be necessary to examine all reimbursements and allowances provided to an employee in a year that were brought under the final levy.

The safe haven of EUR 2,400 per employee

that has been applied so far will continue to exist. The Tax Authorities will continue to apply this efficiency threshold after the criterion has been tightened. The exact relationship with the tightening of the criterion and the context in which this amount can be applied has not been clarified.

**1 January 2016 – no end date**

## Amendment wage tax levy for special payments



**Action:** No action required

The possibility to add a one-off / special payment (e.g. bonus or holiday allowance) to the other wages paid in the same wage tax period to calculate the withholding required will be abolished. This creates a better connection between the systems of wage tax and personal income tax. Also, per 1 January 2016 the income related build up of the labour rebate will be included in the wage tax tables for special payments. This will impact employees with an income up to EUR 20,000 per year and for whom tax withholding is also (partially) determined via the table for special payments. As a consequence, they will no longer be required to file a personal income tax return to (fully) benefit from the labour rebate they are entitled to.

**1 January 2016 – no end date**





### Phased introduction of labour cost subsidy for specific groups



**Action:** Check whether you meet the conditions. As from 2017 you might be eligible for a labour cost subsidy for your employees who are in the possession of a specific declaration ('doelgroepverklaring'), or for employees with low income (up to 120 percent of the minimum wage).

The low income benefit ('LIV'), to be introduced per 1 January 2017, will amount to EUR 2,000 at most (up to 110 per cent of the minimum wage) or EUR 1,000 (up to 120 per cent of the minimum wage) per annum per employee.

The labour cost subsidy ('LKV'), to be introduced per 1 January 2018, is available for employees with a specific declaration (older individuals receiving social benefits / employees with a labour handicap). Employers will receive a maximum amount of EUR 6,000 per annum per employee for a period up to three years. The current system in which a reduction is available on the premiums for employee's insurance, will be abolished.

The benefits ('LKV' and 'LIV') will be based on the hours reported in the employer's wage tax returns over the full calendar year. The reference date is the first of May of the subsequent calendar year. The Tax Authorities will reimburse the benefits within a period

of six weeks upon receipt of the assessment which will be imposed before the first of August.

An online tool will become available as from January 2016 in order to increase awareness of the new regulation. The aim of the rules tool is to provide entrepreneurs with clear insight into the rules that will apply. The result is a list of instruments (premium reduction, labour cost subsidy ('LKV') or low income benefit ('LIV') that apply to the employee.

The current reduction of premiums for marginal labour will be abolished upon the date that the 'LKV' enters into force (1 January 2018).





**1 January 2017 / 1 January 2018 – no end date**



# Director/substantial shareholder



*Family businesses play an important role in the Dutch economy. They represent well over 70 per cent of all Dutch businesses and ensure jobs for more than half of the national work force. Due to ageing population, most family businesses will have to find a solution for the succession of their business in the next few years. In the past State Secretary Wiebes hinted at less generous tax facilities for business succession. Should this become a reality, it will have a strong adverse effect on the continuity of family businesses and hence the Dutch economy. We recommend that the current tax facilities be continued.*

-  Structure
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## Measures against emigrating director/substantial shareholders



**Action:** Reconsider emigration plans

The legislator takes measures against emigrating director/substantial shareholders who aim to avoid the Dutch personal income tax on share interests in their private companies.

Based on current legislation, an emigrating director/substantial shareholder who also moves the place of effective management of his company to another country, shakes off the tax claim in respect of his share interest by satisfying the ten years waiting period. The tax legislator finds this undesirable and takes the following measures:

- The ten years waiting period for the release of the precautionary tax assessment will be abolished. This means that the precautionary tax assessment will remain in force without a time limitation.
- Any distribution of profit (dividend) will immediately lead to the (partial) collection of the precautionary tax assessment, to an amount of 25 per cent of the amount of the distribution. Up until now, it was possible to distribute up to 90 per cent of the company's reserves without triggering

collection of the precautionary tax assessment.

- After moving the place of effective management of the company to another country, the company will, under certain conditions, still be considered to be based in the Netherlands, as long as the precautionary tax assessment is still (partly) in force. Because of this, the Netherlands will retain its legal power to levy personal income tax in respect of dividend distributions even after the transfer of the place of effective management of the company.
- In order to prevent double taxation, the precautionary tax assessment is not claimed if a dividend distribution is actually taxed in the Netherlands or abroad.
- If a tax treaty does not include a 'step up' for the acquisition price of substantial shareholding shares (on the basis of what is known as the substantial shareholding reservation) and the treaty country levies tax upon disposal, the Netherlands will grant a unilateral convention so that there is no double taxation.
- And finally, an additional measure has been introduced to close an emigration leak that still existed with respect to

persons with substantial shareholdings. The measure means that in case of disposal or distribution in respect of newly issued shares or profit-sharing certificates, which are directly or indirectly related to the increase in value of a substantial shareholding during the period the holder of the substantial shareholding was liable for tax in the Netherlands, the postponement of payment (pro rata) lapses.

These changes in respect of the precautionary tax assessment become applicable directly following the publication of this proposal (that is on 15 September 2015 at 15:15). In respect of director/substantial shareholders who have already emigrated, the previous legislation will remain applicable as it was. **15 September 2015 at 15:15 – no end date**

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Director/substantial  
shareholder



# Private clients



*Private consumption has been increasing again since September 2014. Consumer confidence is clearly up as well. Consumer spending will be boosted in 2016 by a growth in real wages and the proposed tax cuts to be implemented in 2016. These tax cuts include a higher employed person's tax credit, elderly person's tax credit and income-related combination tax credit, lower rates in the second and third tax bracket, and an extended third tax bracket in Dutch income tax. Various allowances will be more generous as well. Higher pension premiums and rising inflation cause buying power to be out of step with consumption in 2016.*

-  Structure
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## Substantial changes to taxation of Box 3 income



**Action:** No action required

As from 1 January 2017 the notional return on box 3 assets is calculated on the basis of ascending fixed percentages:

- 2.9 per cent on assets with a total value of EUR 25,000 to EUR 100,000.
- 4.7 per cent on assets with a total value of EUR 100,000 to EUR 1,000,000 .
- 5.5 per cent on assets with a total value exceeding EUR 1,000,000.

The notional return on assets is currently four per cent (taxed at a rate of 30 per cent) which means an effective rate of 1.2 per cent on the assets.

As from 1 January 2017 assets with a value not exceeding EUR 25,000 (currently: EUR 21,330) will be exempt from box 3 taxation.

Tax partners may allocate their joint box 3 assets (after deduction of the tax-exempt assets of EUR 50,000) to their partner. This allocation may affect the box 3 tax burden due to this ascending notional return.

Each year the percentages will be determined on the basis of relevant market information on interest and investment results. This method seeks to align box 3 taxation to actual yields. The asset mix is evaluated three years after the new regulation enters into effect and thereafter every five years.

As from 1 January 2006, in anticipation of these new regulations, the tax exempt amount increases with EUR 3,000 to an amount of EUR 24,437.

**1 January 2016 / 1 January 2017 – no end date**

## Adjustments to the second and third tax bracket in the personal income/wage tax



**Action:** No action required

The combined tax rate of the personal income/wage tax and the social security contributions is reduced by 1.60 per cent for income within the second and third tax bracket. The resulting combined tax rate in the second and third tax bracket is 40.40 per cent. The range of the third tax bracket is expanded for an amount of EUR 8,836.

As from 1 January 2016, the combined tax rates in Box 1 of the income tax will be:

Income from	until	%
	€ 19,922	36.55
€ 19,922	€ 34,027	40.40
€ 34,027	€ 66,421	40.40
€ 66,421		52

Please note that for taxpayers who have reached their pensionable age, a reduced tax rate applies in the first and second tax bracket. The tax rates in the second and third tax bracket will increase each year step by step to a rate.

**1 January 2016 – no end date**

### Additional reduction of the general levy rebate



**Action:** No action required

Income tax payable and social security contributions may be reduced by several rebates, including the general levy rebate. The amount of this general levy rebate reduces in proportion to the increase of income. The percentage of the reduction increases to 4.796 per cent in 2016. The general levy rebate will be EUR 2,242 at maximum and EUR 0 at minimum in 2016.

**1 January 2016 – unknown**

### Increase in the labour rebate



**Action:** No action required

If you receive income from labour, you are often entitled to a labour rebate that reduces tax and social security contributions. Normally, your employer takes this rebate into consideration when determining the tax deductions from your salary. As from a certain income, the amount of the tax rebate reduces in proportion to the increase of income. The income where this reduction starts will decrease to EUR 34,015 in 2016, but the maximum rebate amount increases. As a result, the labour rebate is EUR 3,103 at maximum and EUR 0 at minimum in 2016. On average, employees – with the exception of individuals with a higher income – will benefit from an increase in the amount of labour rebate they are entitled to.

As from 1 January 2017 the income dependent decrease of the labour rebate will change in so far that the decreased percentage is lowered from 4 per cent to 3.6 per cent, applicable for an income level of about EUR 35,000 to about EUR 125,000.

**1 January 2016 – unknown**

### Increase of income related combination levy rebate



**Action:** No action required

If you have employment income or qualify for the deduction for self-employed persons, and you have a child under the age of twelve, you may be eligible for the income related combination levy rebate. The maximum benefit of the income related combination levy rebate will increase per 1 January 2016 with EUR 617 to an amount of EUR 2,769 per year. The accrual percentage will increase from 4 to 6.159 per cent. Qualifying individuals with an income of EUR 4,881 are eligible for the minimum rebate of EUR 1,039 and this amount increases to the maximum amount available at an income of EUR 32,970.

**1 January 2016 – no end date**

### Elderly deduction increases



**Action:** No action required

In order to avoid a decrease in the purchasing power of individuals who have reached the pensionable age, the elderly deduction is increased with an amount of EUR 222 at a maximum for 2016. Only individuals with an income of approximately EUR 35,800

will benefit from this. In the 2015 Tax Plan a decrease in the elderly deduction for 2016 of EUR 83 was announced. For 2016, the elderly deduction amounts to EUR 1,187 at a maximum (2015: EUR 1,042). From 1 January 2017 onwards extra budget of EUR 200 million is made available for the elderly deduction. As a consequence, for 2017 the expected amount of the elderly deduction is EUR 1,094 at a maximum.

**1 January 2016 – no end date**

### Fixed yield tax-exempt investment institutions (vbi's) increased



**Action:** No action required

The fixed benefit from a substantial shareholding in a tax-exempt investment institution ('vbi') is increased from 4 per cent to 5.5 per cent of the market value of the shares or profit-sharing certificates at the start of the year. This measure makes it less attractive for investors in box 3 to switch to investment via tax-exempt investment institutions ('vbi's').

**1 January 2017 – no end date**

### *Child maintenance no longer a box 3 debt*



**Action:** Do not include child maintenance obligations in your personal income tax return

Obligations to specific relations by blood or affinity that arise directly from family law no longer qualify as box 3 debts. The right to child maintenance was already excluded from box 3, but the obligation qualified as a box 3 debt as from 1 January 2015. This imbalance is now removed, which means that both the obligation to pay child maintenance and the right to receive child maintenance can no longer be included in box 3.

**1 January 2017 – no end date**

### *Concept of partner limited in relief situations*



**Action:** No action required

Persons in relief situations who qualify as partners for tax purposes and for rent/health care allowance purposes because they are registered at the same address, are no longer considered as such by the Tax Authorities. This applies from the moment they are registered at the address of the relief centre until they have themselves deregistered. If one of the partners moves, the partnership will be reconsidered.

**1 January 2015 – no end date**

### *Stepchild not treated as a partner for tax purposes and for rent/health care allowance purposes upon request*



**Action:** No action required

Following a joint request of a stepchild under the age of 27 and his or her stepparent, a stepchild will not be qualified as a partner for tax and rent/health care allowance purposes.

This is relevant in the situation in which a stepchild continues to live with its stepparent following a divorce of his own parent and his or her stepparent. This request will remain valid until both persons have reached the age of 27 years or older at the start of the calendar year. Once the request has been filed, it cannot be withdrawn.

A similar arrangement already applies to a non-stepchild. From now on a child and stepchild will be equal for fiscal partnership definition purposes.

**1 January 2016 – no end date**



### Childcare allowance and child benefit increased



**Action:** No action required

The childcare allowance will be increased by 5.8 per cent for nearly all parents in 2016. A maximum allowance of 93 per cent (first child) and 94 per cent (second and next child) applies for parents with a low income. As from 2016, the minimum allowance percentage amounts to 23.8 per cent (first child) and 64 per cent (second and next child). This means that the allowance increases by more than EUR 100 a month for average-income families who have two children who attend childcare facilities for three full days a week. The allowance increases by approximately EUR 70 if the children are in day care for two full days a week. A further structural intensification of childcare allowance of EUR 200 million will also be implemented as from 2017.

The budget for child benefit will be increased by EUR 100 million. How this measure is translated into actual regulations will be announced in the course of 2016.

**1 January 2016 – no end date**

### Changes in several allowances and the child-related budget



**Action:** No action required

The maximum annual health care benefit increases by approximately EUR 70 for single-person households and EUR 140 for multi-person households. This increase largely compensates the higher nominal premium payable in 2016.

The cutbacks that were announced for housing benefits are postponed for the time being. For 2016, as a consequence, no or a very limited positive income effect is expected for households receiving rent allowance.

Last but not least, the child-related budget is increased. The amount for the second child is increased once in 2016 by EUR 33 up to EUR 824 a year. The amount for the third child and each subsequent child is structurally increased to EUR 238 per child per year.

**1 January 2016 – no end date**

### Suspensory effect appeals in case of tax allowances



**Action:** No action required

The filing of an appeal will have suspensory effect in respect of the payment of tax allowances. After the court's decision the Dutch Tax Authorities now have to execute that decision, regardless whether they file an appeal against that court's decision or not. This new rule aims to prevent the situation that the Tax Authorities will have to recover the allowance payments, should they eventually win their appeal.

**1 January 2016 – no end date**

### Surrendering a life annuity sometimes treated more favourably



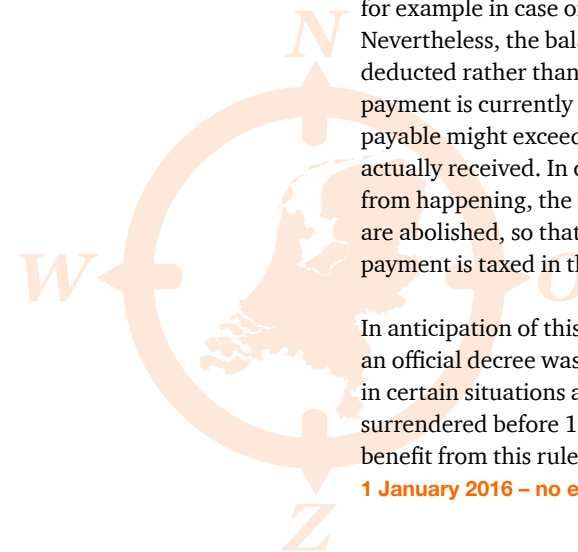
**Action:** Upon the surrender of an annuity, check the amount paid in premiums

When surrendering a life annuity, the lump-sum payment is taxed instead of the premiums deducted in the past.

Premiums paid for a life annuity insurance, annuity investment account or annuity savings account to compensate for a shortfall of pension, qualify as a deduction for tax purposes in box 1. The (future) payments are taxable in box 1. When surrendering such an annuity, it may happen that the amount paid out is lower than the premiums deducted, for example in case of a profiteering policy. Nevertheless, the balance of the premiums deducted rather than the actual lump-sum payment is currently taxed. As a result, the tax payable might exceed the lump-sum payment actually received. In order to prevent this from happening, the minimum valuation rules are abolished, so that the actual lump-sum payment is taxed in the future.

In anticipation of this legislative change, an official decree was issued to ensure that in certain situations annuities that were surrendered before 1 January 2016 can also benefit from this rule.





**1 January 2016 – no end date**



# Private home



*The housing market continued to recover in the past year, which was largely attributable to low mortgage interest rates. In the first eleven months of 2015 the number of properties sold according to the Netherlands' Cadastre increased by 22 per cent compared to last year. Housing prices have been looking up for quite a while as well. As house prices recovered, less people found themselves in a negative equity situation ('under water'). The increase of the gift tax exemption will positively affect the housing market as from 2017.*

-  Structure
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## Gift tax exemption private home more generous



**Action:** Plan your gifts in line with the new tax rules

A gift intended for the purchase of a private home is exempted up to EUR 100,000. The recipient of the gift must be between the ages of eighteen and forty and the exemption applies only once in the relationship between giver and the recipient. The increased gift tax exemption for a private home can then be spread over three consecutive calendar years after it has been claimed once. The exemption applies within and outside the family relationship.

The increased exemption applicable to a gift for a private home up to EUR 100,000 also applies for a gift intended for repayment of an old residual debt that dates from before 29 October 2012. This means that the private home can also be located outside the Netherlands.

If you will be using the exemption applicable to a gift from your parents for a private home in 2015 or 2016, a tax-exempt supplement in 2017 or 2018 is still possible up to an amount of at most EUR 100,000, reduced by the exempted amount that applies in the year of the supplement (2017 or 2018). The above is irrespective of whether the exemption was fully used in 2015 or 2016.

Until 2017, only parents are allowed to make a single tax-exempt gift (2015: EUR 52,752 and 2016: EUR 53,016) to their own children provided it is used for a private home or specific costly studies.

**1 January 2017 – no end date**

## Mortgage interest tax relief after catching up on arrears



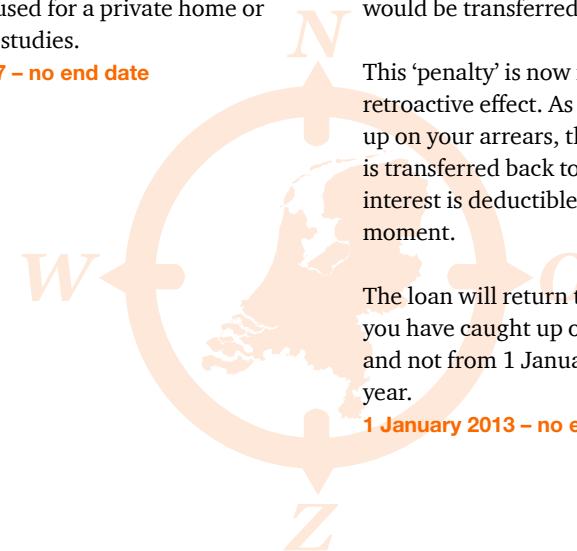
**Action:** Check whether you are eligible again for mortgage interest tax relief

Since 2013, mortgage interest paid on homeowner loans is only deductible for income tax purposes, in box 1, in the event of minimum repayment in equal instalments. If you fail to meet this repayment requirement for a period exceeding one year, any mortgage interest paid is no longer deductible. The existing loan or a subsequent loan for the same amount would be transferred to box 3.

This 'penalty' is now mitigated with retroactive effect. As soon as you are caught up on your arrears, the existing or new loan is transferred back to box 1 and mortgage interest is deductible again as from that moment.

The loan will return to box 1 at the moment you have caught up on the repayment arrears and not from 1 January of the next calendar year.

**1 January 2013 – no end date**





### Easing of double partner exemption endowment insurance



**Action:** No action required

The terms of the so called 'Brede Herwaardering' capital insurance, mortgage-linked endowment insurance ('KEW'), tax-efficient savings account for mortgage repayment ('SEW') and tax-efficient investment account for mortgage repayment ('BEW') are no longer required to contain double patronage.

If double patronage was included, so that tax partners are mutually entitled to the payments or capital-sum, both could apply the one-time exemption. Because many policies and regulations stem from a time when this requirement was not in force, double patronage is often missing. In order to qualify for the exemption, an update of the conditions was necessary in order for the benefit to apply both in life and death. This could usually be done without adverse tax consequences.

This update is no longer required. When filing their tax return, tax partners can make a joint request to be allocated half of the payments or capital-sum each. Double partner exemption may also apply to mortgage-linked endowment insurance.

Apart from this, the measure adjusts various other regulations to fit them better to current law. These adjustments are meant to ensure that the remaining amount of the one-time

exemption is reduced (by imputation) with each application of the exemption. You can use the amount of the one-time exemption only once.

**1 January 2016 – no end date**

### Proposal to expand the right to be heard in objection proceedings withdrawn



**Action:** No action required

The opposing interests measure concerning the value for the purposes of the Valuation of Immovable Property Act has been withdrawn. The State Secretary strives to present a new proposal next year. The proposal that has now been withdrawn granted all stakeholders the opportunity to be heard during the handling of objection proceedings relating to the value for the purposes of the Valuation of Immovable Property Act.

**no start date – no end date**

### Rules relating to information provision private homes relaxed



**Action:** No action required

The duty to disclose information in respect of private home loans from a privately-owned company or private individual (such as a family member) is relaxed.

If you borrow from, or make changes to a

loan from a privately-owned company or private individual, the current law requires you to disclose certain information on this debt to the Tax Authorities. To this end, a standard form must be used (downloadable from [www.belastingdienst.nl](http://www.belastingdienst.nl)). If you fail to supply this information in time, you may not deduct the mortgage interest temporarily. The information about these private home loans must also be disclosed in your income tax return annually.

From now on it suffices to disclose information applicable to 2016 (and later years) in your income tax return starting in 2016. It is no longer required to file standard forms when you enter into or make changes to such a loan. By filing an income tax return and claiming a deduction for mortgage interest paid, you comply with your duty to disclose.

If you enter into or make changes to a loan for a private home involving your own company or a private individual in 2015, you will still be required to complete the standard form.

**1 January 2016 – no end date**

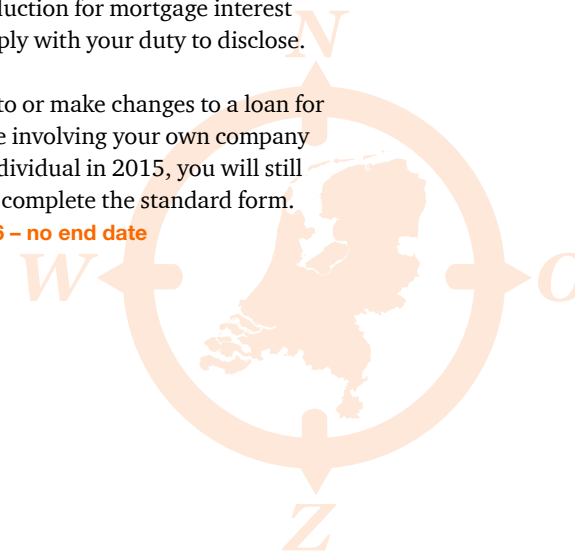
### Incentive energy conservation measures



**Action:** Choose the best moment for your energy conservation investments

In 2016, the government will make an additional EUR 100 million available as an incentive for homeowners to take extra energy conservation measures. This measure comes on top of other incentives such the Nationaal Energiebespaarfonds (National Energy Conservation Fund or NEF).





**Date unknown**



# Real estate



*Commercial real estate investments have increased since the second half of 2013. In the first quarter of 2015 the investment volume lagged a little behind according to ING, also because of a reduced share in large transactions. The volume improved in the second and third quarter. In addition to growing interest of Dutch parties, foreign parties are increasingly interested in Dutch commercial real estate. However, the surplus capacity especially in office and retail property is still substantial. There is less demand for office, retail and also logistics property that does not meet current requirements.*

-  Structure
-  Administration
-  Finances
-  Policy

## Levy base for ground lease no longer reduced



**Action:** Assess planned ground lease transactions for consequences

The levy base for ground lease transactions has changed. With a ground lease transaction, real estate is sold while at the same time an easement or ground lease or building rights is/are established. The buyer then becomes bare owner and at the same time ground lessor of the property in question.

For the levy of transfer tax, the levy base will no longer be decreased with the capitalized value of the ground lease payments or charges. With this change the ground lease transaction is equated with the regular sale-and-lease-back-transactions: the sale of real estate with a parallel rent agreement, where the seller becomes full owner and also lessor. In that case the levy base is not reduced. The change also applies to sub ground lease rights and sub building rights. Further, the change also applies in cases where an internal reorganisation has led to the establishment of a ground lease and less than three years have passed since the reorganisation.

**1 January 2016 – no end date**

## Codification extension deduction of costs relating to listed EU-buildings



**Action:** No action required

The deduction of costs relating to listed buildings situated in the Netherlands, is also available to owners of listed buildings in another EU Member State or another EEA Member State. The listed building has to be a part of the Dutch cultural heritage. The State Secretary had approved of this earlier. The deduction will be codified per 1 January 2016. The regulation has retroactive effect as from 18 December 2014. Under certain conditions such a listed building can also be classified under the Estates Act 1928.




**1 January 2016 – no end date**



# Innovation and investments



*According to the Innovation Union Scoreboard 2015 of the European Commission, the Netherlands is one of so-called ‘innovation followers’. Our country is mainly lagging behind in the area of ‘investment by businesses’. The Rathenau Instituut has calculated that the business sector should increase its R&D investments by four billion euros each year to meet the official target figure of 2.5 per cent of the Gross Domestic Product. The Cabinet set aside an additional EUR 50m in the Budget Memorandum to help start-ups and SMEs. The inclusion of the RDA allowance in the Promotion of Research and Development Act (‘WBSO’) will boost innovation investments.*

-  Structure
-  Administration
-  Finances
-  Policy

## *R&D deduction by integration into WBSO ‘above the line’*



**Action:** No action required

The Research & Development Deduction (RDD) will be integrated into the fiscal scheme WBSO. The WBSO application for R&D will not only include salary costs but also include other costs and expenses related to R&D. The benefit of the fiscal scheme will be awarded in the form of a wage tax reduction as before. The integration will simplify the application procedure.

The benefit will amount to 32 per cent of the first EUR 350,000 of R&D costs (both salary and other costs and expenses). For start-ups this percentage amounts to 40 per cent. For R&D costs above EUR 350,000 the percentage amounts to 16. The current limit is abolished. However, the maximum benefit cannot exceed the total amount of wage tax due. Instead of applying for the real costs and expenses (non-salary costs), the taxpayer may choose to take into account a fixed amount based on R&D hours. The fixed amount is EUR 10 per hour as far as the total R&D hours do not exceed 1,800 and EUR 4 for every hour above.

With this method companies that are not taxable for corporate income tax purpose can also benefit from the fiscal scheme. Another positive effect of this change in the fiscal scheme is that the benefit will now be expressed in the profit before taxes (‘above the line’), which has a direct impact on the company’s EBIT(DA). A group company that is obliged to withhold and has an R&D deduction that cannot be cashed cannot have it cashed by another group company that is obliged to withhold.

**1 January 2016 – no end date**

## *Energy investment tax credit increased considerably*



**Action:** Choose the most favourable moment for your energy investment

On 1 January 2016, the percentage of the energy investment tax credit (‘EIA’) will increase from 41.5 per cent to 58 per cent. That makes it more attractive to invest in energy-efficient business assets. The EIA’s budget will increase by EUR 60 million to EUR 161 million. Consider in time whether it is lucrative to make some costs in 2015 or to postpone them until 2016.

**1 January 2016 – no end date**



# Miscellaneous



## Preliminary questions in tax proceedings



**Action:** No action required

In tax proceedings, the courts can submit preliminary questions to the Supreme Court. This allows the court to include the opinion of the Supreme Court concerning a preliminary question in its decision. The procedure for asking preliminary questions will be largely similar to civil-law proceedings where such a possibility has existed for some time. The proposed preliminary questions procedure largely corresponds to the Supreme Court appeal proceedings in tax cases.

**1 January 2016 – no end date**

## Mass appeal procedure simplified



**Action:** No action required

Several aspects of the mass appeal proceedings will be improved. Notices of objection submitted prior to their designation as a mass appeal can be joined. A designation as a mass appeal will no longer be submitted to the House of Representatives either. In addition, the designation and the decision on the mass appeal will be published on the website of the Tax Authorities. Furthermore, a compensation is to be agreed for cases to be brought before the courts. This compensation will also be paid if the tax payer's objection is unsuccessful. What is more, questions of law can only be submitted once in any proceedings. No legal appeal proceedings cost will be reimbursed following a designation as a mass appeal.

**1 January 2016 – no end date**





## Seller liable sooner when cleaning out private limited company (BV)



**Action:** Arrange for security from the buyer for tax liabilities

Under certain conditions, a selling shareholder is liable for corporation tax on hidden and tax reserves of the company. This concerns a shareholder who holds an interest of at least a third in a company of which the assets consist of investments for 30 per cent or more. Practice shows that this liability measure does not function properly. The seller can comply fairly easily with the requirements formulated by the Supreme Court to contest liability successfully (possibility of exculpation). This possibility is now limited and does not apply to the liability for corporation tax that is payable on a reinvestment reserve or a hidden reserve related to assets that are sold within six months after a share transfer. This regulation has retroactive effect. It is effective from 15:15 hours on 15 September 2015.

**15:15 hours on 15 September 2015 – no end date**

-  Structure
-  Administration
-  Finances
-  Policy

### ***Dramatic increase in consumption tax on alcohol-free beverages***



**Action:** No action required

Fruit juices, vegetable juices and mineral waters which are currently subject to the reduced consumption tax rate will now be taxed at the same rate as soft drinks which are subject to the standard consumption tax rate. All these beverages will now be taxed at one and the same rate which is higher than the current (standard) rate for soft drinks, that is EUR 8.83 per 100 litres. This almost doubles the current consumption tax on juices and water. The alcohol duty on beer that is subject to the aforementioned reduced rate is increased to the new consumption tax rate to prevent that certain types of beer are subject to a rate that is below the rate for soft drinks.

**1 January 2016 – no end date**

### ***Excise duty on smoking tobacco significantly increased***



**Action:** No action required

As from 1 April 2016, the minimum amount in excise duty on smoking tobacco will increase by EUR 13.51 per kilogramme and will then amount to at least EUR 99.25 per kilogramme.

**1 April 2016 – no end date**

### ***Energy tax on gas and electricity increased***



**Action:** No action required

The rate of the first bracket of energy tax with respect to natural gas increases by 5.104 cents per cubic metre. The rate of the first bracket for glasshouse agriculture increases by 0.820 cents per cubic metre.

The rate of the first bracket of energy tax with respect to electricity increases by 1.953 cents per kWh.

**1 January 2016 – no end date**

### ***Exemption from coal tax for generating electricity***



**Action:** Assess whether you qualify for the exemption

The exemption from coal tax is reintroduced for the import and release of coal used in installations as fuel for generating electricity. This exemption is not subject to a hard return requirement from a tax perspective, which is contrary to the exemption that applied before 2013. Furthermore, the Dutch government recently announced that it will look into potential scenario's in which (over time) coal fuelled energy plants would be closed.

**1 January 2016 – no end date**



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## Contact details

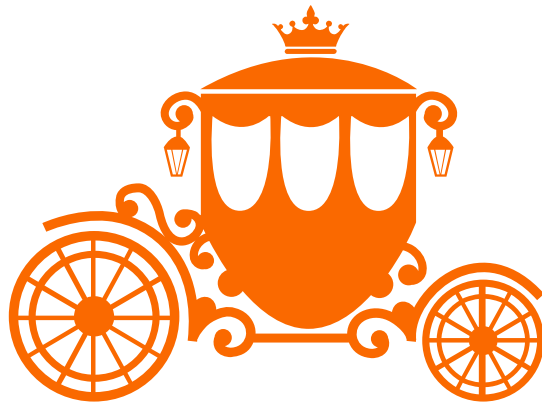
Please visit [www.pwc.nl](http://www.pwc.nl) if you would like to stay informed of the latest developments.

If you have any questions in connection with this publication or if you would like a personal meeting to discuss what these measures mean for you, please contact your PwC tax advisor or the Knowledge Centre Tax & HRS.

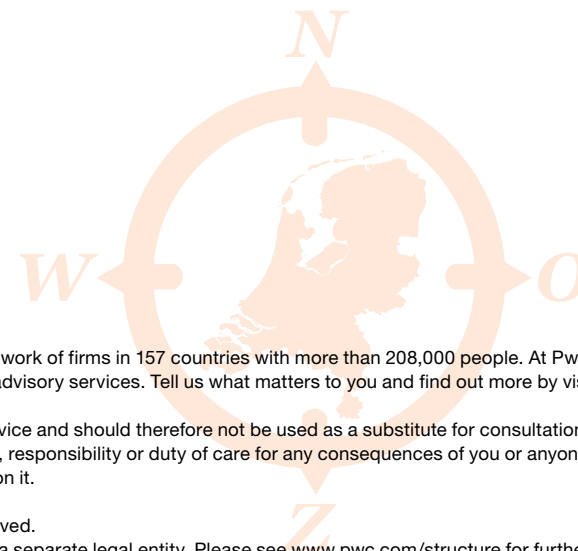
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