Budget Day Special 2019

Tax Plan 2020

Many of the measures included in the Tax Plan 2020 had already leaked out to a greater or lesser extent or had already been announced by the Cabinet. That being the case, the Tax Plan contains the measures deemed necessary in the Fiscal Policy Agenda 2019. The Budget Memorandum states that the Cabinet is advocating a substantial reduction in tax and social insurance contributions paid by private individuals, part of which will need to be covered by the business sector.

Having read the documentation, we have inferred that the Cabinet is definitely adopting a less friendly approach towards entrepreneurs and business owners. On the one hand, this is apparent due to the inclusion of measures intended to combat tax avoidance on the part of multinationals. A good example of this is the announcement of adjustments to the liquidation loss scheme and the discontinuation loss scheme. A further example is the introduction of taxation at source on interest and royalty payments to low-tax jurisdictions and in cases constituting an abuse of the tax system. These proposals come on top of recently published draft laws, such as The Mandatory Disclosure Directive and the Anti Tax Avoidance Directive 2 (ATAD 2),which is a legislative proposal to prevent companies operating internationally from taking advantage of the differences between the corporate income tax systems of individual countries. These final two draft bills do not form part of the package of legislation envisaged in the Tax Plan 2020, but will follow the same legislative process schedule as the Tax Plan 2020.   In view of the fact that the approach towards tax avoidance and tax evasion is one of the policy priorities of the current Cabinet, it is clear where these draft bills have originated.

On the other hand, the Tax Plan also includes measures that will affect SMEs. One of the most striking of these is the reduction in the tax allowance for self-employed persons. What is more, and contrary to previous announcements, the high rate of corporate income tax is not going to be reduced in 2020. From 2021 onwards, that high rate will be reduced however, to 21.7%. However, this reduction is lower than was announced in the Business Sector Act (Wet bedrijfsleven) 2019. Originally, it was intended that the high rate would be reduced to 20.5%. The good news for SMEs is that the planned reduction in the low rate of corporate income tax has not been changed. With effect from 1 January 2021 onwards, that rate will change to 15%.

The increase in tax and social contributions payable by the business sector will be of benefit to private individuals. The Tax Plan 2020 contains a variety of measures to reduce income tax and to make working (or working more) a more financially rewarding activity. One of the measures is the accelerated introduction of the dual-band system (from four to two tax rate brackets). This is to be implemented in 2020, instead of in 2021. The employed person’s tax credit and the general tax credit will also be increased further.

The Cabinet is also taking further steps to promote a greener and more sustainable economy, including by means of the Climate Agreement Tax Measures Act.

Below, we have set out the most important topics for you and have provided our comment about each one. If you have any questions or require any additional information, please contact your usual adviser at PKF Wallast.

Jeroen van Strien

Head of Professional Tax Practice at PKF Wallast

Labour market measures

The Tax Plan 2020 contains a number of measures relating to the labour market. We have examined each of those measure and have set them out for you. In addition to the measures that form part of the Tax Plan 2020, we will also look at a number of draft bills relating to the labour market that have been announced, are currently in process or have already been adopted.

Work-related expenses scheme

The work-related expenses scheme makes it easier for employers to provide their employees with certain allowances and provisions tax-free. The adjustment to the work-related expenses scheme aims to expand the discretionary margin available. This discretionary margin currently amounts to 1.2% of an employee's total salary. Under the new arrangement, the discretionary margin will be governed by a dual-band system, in which a percentage of 1.7% will be used for salary amounts up to €400,000 and a percentage of 1.2% will continue to apply to the amount of the salary in excess of €400,000. In addition, the allowance paid by employers to their employees to enable them to apply for a Certificate of Good Conduct (VOG) or a comparable declaration from another country will change. In future, the allowance provided for that purpose will benefit from a targeted exemption, so that it is no longer deducted from the discretionary margin.

Furthermore, a small administrative change will be carried out that will make it easier to implement the work-related expenses scheme. At the moment , for the purpose of a final levy, if the discretionary margin is exceeded the excess amount ultimately must be declared when submitting a tax return for the first period for the subsequent tax year. In practice, however, employers have found that deadline to be too short. For that reason, it is proposed that the deadline be extended by a further month, so that employers will have more time to establish the excess amount for the purpose of this final levy. For the majority of employers, this will mean that the final levy will be included in the tax return for February, which must be submitted by 31 March at the latest.

Comment by PKF Wallast

The expansion of the discretionary margin within the work-related expenses scheme is especially directed towards employers in SMEs. Relatively speaking, they are likely to derive the greatest benefit from the expansion, due to the introduction of the dual-band system. Despite the fact that the deadline for declaring the final tax amount owing in cases where the discretionary margin is exceeded is being extended by one month, employers in SMEs may still feel that that deadline is too short.

Valuation of products from the employer's own company

Current legislation does not contain any stipulation governing the valuation of products from an employer's own company that are provided to employees. It is possible that as far as this is concerned, the values used are related to the amount that would be charged to third parties. With regard to the provision of products from an employer's own company, the work-related expenses scheme operates a targeted exemption up to an amount not exceeding 20% of the *market value* of those products, and no more than €500 per employee per year. In view of the fact that this reduction scheme makes use of the term "market value", it is proposed that when determining the value of goods produced by the employer's own company, the value will be determined in future based on the market value of those products. In most cases, the market value of products from the employer's own company will equal the price paid by consumers.

Adjustment relating to penalties imposed under administrative law

A limitation has been proposed with regard to the reimbursement of employees for penalties and monetary amounts payable in the context of an administrative penalty decision or comparable penalties and monetary amounts payable imposed in another country. This limitation is associated with the restriction regarding the deduction of such penalties and monetary amounts for income tax purposes. Based on the current wording of the law, the employer is able to appoint salary components of that type as a final levy component, so that the employee is not required to pay tax on them. It is proposed that from 2020 onwards, it will no longer be possible for such salary components to be appointed as final levy components and that as a result, employers will be obliged to include them in the amount of salary paid to the employer, on which tax must be paid. The proposed limitation will be applied for the first time to any administrative penalty decision issued after 31 December 2019 and penalties incurred after 31 December 2019.

Exemption from insurance tax for self-insurers

It is proposed that an exemption from insurance tax applies to insurance premiums paid by self-insurers for Return to Work of Partially Disabled Persons (WGA) and under the Sickness Benefits Act (ZW). Based on the letter of the current law, those types of insurance policy are not included under the exemption that applies to insurance policies against accidents, invalidity or incapacity for work, even though the public insurance schemes of the Social Security Agency (UWV) under the Partial Capability for Work Act and the Sickness Benefits Act are in fact eligible for that exemption. In practice, the exemption had already been applied to private insurance policies. By putting forward this proposal, the law will be brought back in line with the lawmakers' original intention and with current practice.

Indexation scheme for voluntary workers

From 1 January 2019 onwards, all persons working as volunteers who receive reimbursements and provisions up to a total of €170 per month and €1,700 per calendar year will not be required to pay any tax or social security contributions on those amounts. The organisation for which such volunteers are working will not be owed any premiums under employee insurance schemes. It is proposed that these amounts be subjected to annual indexation, in which they will be arithmetically rounded off to a multiple of €100. On a practical level, this will mean that the maximum amounts will not change every year.

Legislation already announced

New legislation governing the hiring self employed workers

The Tax Plan 2020 provides almost no new insights with regard to the new legislation relating to the hiring of self employed workers. The Cabinet is currently preparing new legislation and it is intended that these measures will commence with effect from 1 January 2021. Until then a business working with self-employed staff ('clients') will, in principle, not be subjected to any additional wage tax assessments, except in the case of bad faith where companies intentionally allow situations constituting pseudo self-employment to arise or to continue to exist. The new legislation will consist of three main elements:

- First of all, examining the independent contractor's statement (zelfstandigenverklaring) will make it possible to determine with certainty that the client and contractor have not entered into an employment relationship. This is a measure that will apply at the top end of the labour market. In essence, the effect of this measure is that stipulations under labour law, the taxation of salaries and the payment of employee's social security contributions can be avoided, if the parties concerned sign an independent contractor's statement. Subject to certain conditions, pensions and collective labour agreements can also be declared inapplicable.
- In addition to the independent contractor's statement, the client declaration (opdrachtgeversverklaring) must still be completed. This takes the form of an online questionnaire that determines whether or not an employment relationship exists and provides a sufficient degree of certainty that no payroll tax needs to be withheld or employee's insurance contributions deducted. If the web module concludes that the situation qualifies as an employment relationship, no client declaration will be issued. This does not mean, however, that the absence of an employment relationship cannot be demonstrated in some other way, such as by means of the outcome of a prior consultation with the Dutch Tax Authorities.

- Finally, it will not be made compulsory to enter into an employment relationship, but a minimum rate of 16 euros will be introduced in order to prevent pseudo self-employment and competition based on terms and conditions of employment.

Other bills already adopted or still ongoing

Amendment to the measures governing the State pension age and the incentive allowance for employers providing employment to low-income workers

In the coming years, the State pension age will be increased more slowly. By adopting this policy, the Cabinet is responding to the demands made by the trade unions. In 2020 and 2021, the State pension age will continue to be 66 years and 4 months. In 2022, the State pension age will rise by 3 months and by 2024, will be 67 years. After that, the State pension age will not increase by one year for every year we live longer, but by 8 months. In this way, the State pension age will remain linked to life expectancy, but to a lesser degree.
This slowing of the rise in the State pension age will be financed partly by reducing the incentive allowance for employers providing employment to low-income workers and the incentive allowance for employers providing employment to young low-income workers. From 2020 onwards, employers with employees between 18 and 21 years of age will receive a reduced contribution and the allowance will disappear altogether from 2024 onwards. Furthermore, the allowance paid to employers for employing those with an average salary of between 100% and 110% of the statutory minimum wage will be reduced. A maximum allowance of €1,000 per annum per employee in this category will be available, instead of the current allowance of €2,000.

New State pension ages

Year	**The State pension age was**	**The State pension age will become**
2019	66 years and 4 months	66 years and 4 months
2020	66 years and 8 months	66 years and 4 months
2021	67 years	66 years and 4 months
2022	67 years and 3 months	66 years and 7 months
2023	67 years and 3 months	66 years and 10 months
2024	67 years and 3 months	67 years

State pension age for persons born on a specific date

Year	State pension age	Applies to persons born
2020	66 years and 4 months	After 31 August 1953, but before 1 September 1954
2021	66 years and 4 months	After 31 August 1954, but before 1 September 1955
2022	66 years and 7 months	After 31 August 1955, but before 1 June 1956
2023	66 years and 10 months	After 31 May 1956, but before 1 March 1957
2024	67 years	After 28 February 1957, but before 1 January 1958

The Balanced Labour Market Act

The Balanced Labour Market Act (Wet arbeidsmarkt in balans – Wab), which will enter into force on 1 January 2020, includes, amongst other things, the following changes for employees and employers:

Dismissal

- Under the Act, it will become possible for an employer to request the termination of employment based on a combination of two or more grounds for dismissal that have not been committed in full. In such cases, the employment contract will be terminated on grounds of cumulation, otherwise known as the “i grounds”. This will make it easier for an employer to dismiss an employee.
- But it may turn out more costly. The consequence of a request to terminate on grounds of cumulation is that the employee may possibly receive up to a maximum of one half of his/her transition payment extra. The court will determine the amount of that additional payment.

Transition payment (severance package)

- With effect from 1 January 2020, employees will be entitled to a transition allowance from the first day of employment onwards, which therefore falls during their probationary period. Today, they are only eligible to receive a transition allowance once they have been employed for 24 months.
- The composition of the transition allowance is also going to change. The transition allowance will in future be made up of one third of the employee’s monthly salary for each year of service. The higher transition allowance for employees aged 50 years or over, or for employees in service for a long period, will be abolished.
- Though it does not form part of the Balanced Labour Market Act, the transition allowance compensation scheme is nevertheless related to that Act. The scheme makes it possible for employers to be compensated for transition allowances paid in cases involving employees who have suffered incapacity for work for a long period. Obviously the use of this scheme is subject to a number of conditions. The scheme is expected to enter into force on 1 April 2020. Employers who have paid such transition allowances for long term illness in the period from 1 July 2015 to 1 April 2020 will also be eligible to receive compensation.

The provisions governing a succession of fixed-term employment contracts

- The provisions governing a succession of fixed-term employment contracts will be extended from 2 to 3 years. This means that during any 3-year period, employers will be permitted to issue no more than 3 temporary contracts to their employees. In a short time from now, if that period of 3 years is exceeded, the employee’s contract will automatically become a permanent contract. These new provisions governing a succession of fixed-term employment contracts will enter into force with immediate effect on 1 January 2020. It will not matter whether the employment contract was entered into before or after 1 January 2020.

- The period of six months in which a succession of temporary contracts may be interrupted will remain the same. The Balanced Labour Market Act does make it possible for that period to be reduced to three months, under the terms of a Collective Labour Agreement. This will only be possible, however, in the case of recurring, temporary work that can be performed for a maximum of nine months each year. An exception from the provisions governing a succession of fixed-term employment contracts will also apply in the case of temporary staff in primary school, who are providing cover for a member of staff who is sick.

Payrolling

- As a minimum, staff employed via a payrolling company will receive the same terms and conditions of employment as employees in the service of the employer, with effect from 1 January 2020. In the case of companies that make use of payrolling companies, payrolling will offer fewer financial benefits and will simply provide a means by which to outsource the administrative tasks associated with employing personnel. Individuals employed under payrolling schemes will be entitled to an “adequate pension scheme”. The principles underlying what constitutes an adequate pension will be included in a separate decree that will enter into force on 1 January 2021.

On-call agreement

- An employer is required to call upon the services of an on-call employee at least 4 days in advance. On-call employees retain the right to salary for the hours for which they are called up if a company cancels that work less than 4 days in advance. Agreements may be laid down in a collective labour agreement to reduce that period of 4 days to 1 day. These regulations will enter into force on 1 January 2020.
- Furthermore, an employer must offer an on-call employee a contract for a fixed number of hours, once he/she has been employed under an on-call agreement for a period of 12 months. That offer must be for the same number of hours as the average number of hours that the employee has worked during the preceding 12 months. This regulation will enter into force immediately on 1 January 2020. Employees who, on or after 1 January 2020, have been in service for longer than 12 months under an on-call agreement must receive an offer for a fixed number of hours.

Unemployment insurance contribution

- Employers will pay lower unemployment insurance contributions for employees appointed on a permanent contract. From 1 January 2020 onwards, the unemployment insurance contribution will depend on the type of contract, namely, whether that contract is for a fixed term or an indefinite term. The unemployment insurance premium for permanent contracts will be five percentage points lower than it will be in the case of flexible employees. The actual sector in which an employer is active will no longer have any effect on the level of unemployment insurance premiums.

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Measures for businesses

In the Budget Day documents, the necessary tax measures have been announced that may be relevant to you as a business owner. We have subdivided those measures under different headings for each type of tax revenue and have provided a brief explanation of each one.

Reduction in the rate of corporate incometax

In 2019, the rate of corporate income tax was reduced by means of the Business Sector Act 2019 (Wet bedrijfsleven 2019). In 2019, the low rate on profits of up to €200,000 was reduced from 20% to 19%. The high rate for profits of €200,000 or above remained at 25%, but was intended to be reduced in subsequent years. In the Tax Plan 2020, it is now being announced that contrary to previous announcements, the high rate will not be reduced in 2020. In addition, the Cabinet is proposing to reduce the high rate of corporate income tax in the structural situation by 1.2 percentage points less. From 2021 onwards, the high rate will become 21.7%, instead of the 20.5% previously announced. The low rate will fall to 16.5% in 2020 and to 15% in 2021. The picture that arises is therefore as follows:

Year	Taxable amount	Rate	Taxable amount	Rate
2019	€0 – €200,000	19.0%	> €200,000	25.0%
2020	€0 – €200,000	16.5%	> €200,000	25.0%
2021	€0 – €200,000	15.0%	> €200,000	21.7%

Comment by PKF Wallast

The phased reduction in the rate of corporate income *tax means that it may be attractive to postpone profits and bring costs forward (while remaining within the parameters of the tax system, of course).*

The changes may also affect the tax position in the annual accounts for 2019.

Increase of rate applicable to box 2

In order to ensure that the taxation of businesses is the same overall, the reduction of the rate of corporate income tax will be accompanied by an increase in the rate in box 2, namely of the so-called substantial interest levy. This levy is still set at 25% in 2019 and applies to directors-major shareholders (DGAs) with a substantial interest, that is, a shareholding of 5% or more. In 2020, the rate in box 2 will be increased to 26.25%, rising further to 26.9% in 2021.

Year	Rate
2019	25.0%
2020	26.25%
2021	26.9%

This measure was already announced in the Tax Plan 2019.

Comment by PKF Wallast

Now that 2019 is the final year before the rate is set to be increased, it may be beneficial from a tax perspective to pay out a dividend before the end of the year. For that reason, always discuss with your adviser before the end of the year, to determine whether paying out a dividend would be desirable in your situation.

Revision of the earning stripping order

In short, the earning stripping order is a generic interest deduction restriction that forms part of corporate income tax, which, in principle for all taxpayers, limits the ability to deduct the overall interest payable on balance – that is, the difference between interest payable and interest received from loans and comparable agreements – in so far as that overall interest amount is more than 30% of the EBITDA for tax purposes or a threshold of €1 million. This measure was introduced with effect from 1 January 2019.

The application of the earning stripping measure may lead to a situation in which part of the interest payable on balance in a given year may not be deductible when determining the amount of taxable profit for that year. Any non-deductible interest can however be carried forward without restriction. In short, the non-deductible balance of interest will be deducted the following year, assuming that once the earning stripping measure has been applied to the balance of interest for that year, scope for deduction still remains. The tax inspector will determine the balance of interest that is non-deductible/to be carried forward in the form of a decision against which an objection may be lodged. In that regard, two amendments are now being proposed that will make implementing this measure more feasible for the Dutch Tax Authorities.

1. A decision about the balance of interest to be carried forward can be revised if any new information becomes available, in cases of bad faith or in the event that an error is made that the taxpayer can reasonably be expected to recognise. The deadline that applies in this regard will be same as the one that applies for the provision of an additional tax assessment in the event that too little tax has been levied.
2. A decision will also be issued in the event that the balance of interest carried forward from a previous year is deducted when determining the profit in a later year.

Comment by PKF Wallast

As a result of these changes, the Cabinet is logically seeking to ensure that the system more closely resembles the one that applies for the offsetting of losses.
N.B. The measures proposed also apply to decisions relating to interest balances that have already been given at the time that the measures enter into force.
N.B. Even in the case of deconsolidation interest – in relation to disbanding a fiscal unity – provisions will be included that revision is possible if any new information becomes available, in cases of bad faith or in the event that an error is made that the taxpayer can reasonably be expected to recognise.

Legislation already adopted: measure governing the trade in interest-bearing entities

With effect from 1 January 2019, a measure has been introduced that restricts the deduction of interest to 30% of income for interest, tax and depreciations (the EBITDA for tax purposes) or up to a maximum of €1 million if that is higher than 30% of the EBITDA for tax purposes. In principle, this non-deductible interest can be carried forward to the subsequent year, however in order to combat trading in such interest-bearing entities, a measure has been introduced that will enter into force on 1 January 2020. That measure stipulates that the deduction of interest carried forward is not permitted if the shareholding in the taxable entity has changed to a significant degree (namely greater than 30%). An exemption will apply in genuine cases in which no improper use of this facility has been made.

Modification tax interest on corporate income tax assessments

The Cabinet wishes to abolish the ability to charge interest on tax to a taxpayer that has submitted its tax return in time. At the moment, tax on interest can be charged if a tax return is submitted correctly and in time, (usually) between the dates of 1 April and 1 June. For that reason, it is proposed that the tax interest scheme be amended with regard to that particular point, so that no tax interest is charged if the corporate income tax return is submitted before the first day of the sixth month following the period in which the tax is levied (usually 1 June) and the tax assessment is determined in accordance with the return that was submitted.

Exemptions for public-sector enterprises

Public-sector enterprises have been subject to corporate income tax since 1 January 2016, notwithstanding a number of exemptions. In the case of three of those exemptions, it has been found upon closer inspection that the form of these is too restrictive and that they unintentionally lead to tax being levied in certain situations.

- The **exemption for the education sector** (for education and research) applies to bodies that exclusively or almost exclusively deliver publicly funded education. This is the case if the education concerned is primarily financed from public funds or from specifically defined contributions, such as statutory tuition fees or statutory school fees. In that regard, it was found that insufficient account had been taken of the method of funding that applies in the case of government-funded schools with an international department. The compulsory parental contributions to be admitted to the international department of a school will be granted the same status as statutory tuition fees and statutory school fees. This means that institutions with an international department will also fulfil the funding requirement and will be able to benefit from the exemption.
- In certain cases, the exemption that applies to **internal activities** and the **quasi-internal procurement exemption** was not applied due to the legal structure of certain government departments. If a legal entity under public law outsources tasks to a legal entity under private law (such as a fully owned subsidiary), the activity can be exempted from corporate income tax. Strangely, however, if that task is carried out by another legal entity under public law, that exemption does not apply. The proposed amendment to the law will rectify that unintentional difference.

The amendments will apply retroactively, as from the date on which corporate income tax for publicly funded enterprises was introduced in 2016.

Minimum capital rules for banks and insurers

The minimum capital rule (minimumkapitaalregel) for banks and insurers is a highly technical and complex measure that applies only to designated banks and insurers. This measure is not relevant to other taxpayers.

The Cabinet wishes to facilitate a more equal treatment of equity capital and loan capital from a tax perspective, and is attempting to achieve this by restricting the tax deductibility of interest. In that context, a minimum capital rule is being introduced for banks and insurers. This is because banks and insurers are hardly affected, if at all, by already existing interest deduction restrictions, such as the earnings stripping measure (see above). In the case of banks and insurers, there is often no interest due on balance at the tax group level. This is why they are normally not affected by the earnings stripping measure.

In order to limit the tax advantage of debt financing for banks and insurers, this bill proposes a minimum capital rule for banks and insurers that limits the deduction of the interest due in cases where the loan capital amounts to more than 92% of the balance sheet total. In this case, the Cabinet has decided not to relate the percentage to the commercial balance sheet total, but to seek to link it to the uniform supervisory frameworks for banks and insurers. This measure is expected to come into effect on 1 January 2020.

Who will the measure apply to?
The minimum capital rule will apply specifically to banks and insurers. In order to define the banks and insurers falling under the proposed minimum capital rule, use will be made of the admission system under the Financial Supervision Act (Wft). In short, the measure will thus apply to domestic and foreign taxable bodies with a permit or a copy of a notice for conducting the business of a bank or insurer in the Netherlands. This means that the minimum capital rule will also apply to banks and insurers that have their registered office outside the Netherlands and are active in the Netherlands by means of a permanent establishment.

What will the deduction restriction apply to?
The restriction will operate as follows. In so far as the leverage ratio or capital ratio on 31 December of the previous year is less than 8%, the interest due and cost of loans in the previous year will be excluded from deduction. It is therefore clear that this is an 'in so far' provision; not all interest will be excluded from deduction. In this case, the concept of interest in respect of loans is in principle based on the definitions used in the context of the earnings stripping measure, with only the interest in respect of received loans being relevant for the application of the minimum capital rule.

N.B. Unlike in the case of the earnings stripping measure, currency results (on the interest) in respect of loans and results on hedges of interest and currency results (on the interest) in respect of loans are not covered by the definition of interest in this context.
N.B. The minimum capital scheme could conceivably overlap with the earnings stripping measure. In order to prevent an overlap, a prevention measure applies in those situations whereby, if the deduction of interest in respect of loans is restricted on the basis of the earnings stripping measure, the interest deduction restriction arising from the minimum capital rule will be reduced in line with the restriction arising from the application of the earnings stripping measure.

Measure combating excessive borrowing by directors and major shareholders (DGA)

The Cabinet wishes to combat excessive borrowing by directors and major shareholders from their own private limited companies (BV). This measure will be elaborated on in the Excessive Borrowing from Own Company Bill (wetsvoorstel excessief lenen bij de eigen vennootschap). The measure entails that directors and major shareholders can borrow up to €500,000 from their own companies. The excess will be designated as a notional dividend payment and thus taxed at the applicable rate for the substantial interest levy. The measures applies to all types of loans from the individual's own company, with the exception of loans taken out for the purpose of owner-occupied property. With this measure, the Cabinet intends to discourage the deferral and avoidance of box 2 personal income tax.

Comment by PKF Wallast

The legislative proposal is currently expected to be submitted in the fourth quarter of 2019. The proposal has not yet been included in the Tax Plan 2020, which was presented on Budget Day.

Company car addition

The percentages added for the private use of a company car will be further adjusted in 2020. For an explanation of this topic, please see the 'car measures' in the greening section.

Company bicycle addition

In 2020, an arrangement will come into force that will govern the addition for the private use of a bicycle. This arrangement will apply to both employees and entrepreneurs subject to income tax. The arrangement is explained in further detail under 'bicycle' in the greening section.

Excluding the deduction of penalties

The Cabinet proposes to exclude the costs and charges associated with administrative penalties from the deduction of the profits with effect from 2020. As part of this arrangement, fines imposed by way of a penalty order will also no longer be deductible. By scrapping this deduction, all fines and penalties will no longer be deductible from profit in their entirety.

This proposal relates both to entrepreneurs subject to income tax and to companies that are subject to corporate income tax.

Comment by PKF Wallast

Up to and including 2019, some penalties imposed by administrative bodies were deductible from the taxable profit. In principle, it is only possible to deduct costs incurred from a business point of view from the profit. An administrative penalty is of a different nature to a fine, meaning that an administrative penalty can in some cases be seen as a business expense, as a result of which it could be deducted from the taxable profit. This is because an administrative penalty is not intended as a punishment but merely to prevent infringements. Fines imposed as punishment were already excluded from deduction.

The Cabinet sees the ability to deduct such penalties from the profit as undesirable. In practice, it may be decided to accept the penalty as the amount can be deducted from the profit. By excluding the deduction of these penalties, the Cabinet is also signalling that socially undesirable behaviour needs to be reduced.

Reducing the difference between entrepreneurs subject to income tax and employees

There is currently a considerable difference in the tax treatment of employees and entrepreneurs. An entrepreneur (generally) owes less income tax than an employee. The Cabinet's proposal is to reduce this difference in order to combat the unfair competition on working conditions between employees and entrepreneurs (self-employed individuals). By this means, the Cabinet is also attempting to combat 'pseudo self-employment' on the part of entrepreneurs. This is when someone presents themselves as an entrepreneur but in fact has a (pseudo) employment relationship with the client. In order to reduce the difference in the tax treatment of entrepreneurs and employees, it is proposed to increase the employed person's tax credit and phase out the tax allowance for self-employed persons.

Increase in employed person's tax credit

The proposal envisages increasing the employed person's tax credit over the coming years. In 2020, the maximum employed person's tax credit will be €3,819 and in 2021 this will reach €4,143.

Phase-out of tax allowance for self-employed persons

Every entrepreneur subject to income tax is entitled to tax allowance for self-employed persons under certain conditions. One of the conditions, for example, is that the entrepreneur spends 1,225 hours on the undertaking. The tax allowance for self-employed persons is an item that is deductible from the profit. This lowers the tax base and thus generates a tax benefit.

Starting in 2020, the tax allowance for self-employed persons will be lowered in eight yearly steps of €250 and one of €280. In 2020, the tax allowance for self-employed persons will be €7,030 and in 2028 it will eventually end up at €5,000.

Adjustment of the tonnage tax scheme

The tonnage tax scheme (tonnageregeling) is a tax incentive for the shipping industry. As part of this scheme, the profit from shipping may (under certain conditions) be determined on a flat-rate basis for the purpose of income tax or corporate income tax using the shipping tonnage (which in practice leads to a much lower tax base). At the insistence of the European Commission, the tonnage tax scheme will be amended and/or tightened in respect of the following points as of 1 January 2020:

1. There will be an additional condition for vessels operated on a time or voyage charter. This condition relates to the maximum permitted annual share (of 75%) in the net daily tonnages of

the vessels operated on time or voyage charters that do not carry the flag of an EU/EEA country compared with all vessels that (potentially) fall within the scope of the tonnage tax scheme (the 75% ceiling).

2. The so-called flag requirement will be adjusted in two respects. As of 1 January 2020, it will be verified when a vessel is commissioned whether at least one of the taxpayer's vessels qualifying for the tonnage tax scheme carries the flag of an EU/EEA country. Also as of 1 January 2020, so-called ship managers will be required to demonstrate that the vessels they manage meet the (amended) flag requirement. Both amendments will be subject to a transitional provision, entailing that the new requirements will only apply in relation to financial years starting on or after 1 January 2020. For vessels that are already making use of the tonnage tax scheme on 31 December 2019, the new requirements will not apply during the period lasting until the end of the first financial year starting on or after 1 January 2029.
3. The third and final amendment relates to restricting the scope for profit attributable to non-transport activities to be covered by the tonnage tax scheme. The profit arising from non-transport activities may not amount to more than 50% of the total annual profit achieved through exploiting a vessel intended for the transport of goods and persons in international traffic over sea (profit ceiling).

Measures for private individuals

Once again, the tax plans for 2020 contain the necessary measures for private individuals. We will be looking at these in detail under the heading "Measures for private individuals". Among other things, the dual-band rate system in the income tax regime will be introduced in 2020 instead of 2021. Due to their importance, we will be looking at the proposed changes to the system for levying box 3 taxes, even though they are not part of the Tax Plan. These will certainly have the required impact. The training tax allowance will be abolished and replaced by the budget incentivising measures to improve an employee's labour market position (STAP-budget).

Introduction of the dual-band system for income tax rates brought forward

As you will be aware, the Cabinet is aiming to introduce a dual-band system for the income tax rates and social security contributions. The introduction of the dual-band system will lead to a more proportional levying of income tax and social security contributions, a so-called social flat tax, with a joint basic rate for income up to €68,507 and a top rate for income above €68,507. According to the new proposal, the introduction, which had originally been planned for 1 January 2021, will now be taking place on 1 January 2020.

In the income tax regime, a rate system with two bands will be introduced in 2020 for income from work and residential property:

	Band range	**Rate**
First band	€0 – €68,507	37.35% incl. social insurance contributions (basic rate)
Second band	€68,507 and above	49.50% incl. social insurance contributions (top rate)

As is currently the case, persons entitled to an old-age pension under the General Old Age Pensions Act (AOW) will pay no AOW contribution.

Increase in the general tax credit and employed person's tax credit

In order to meet the needs of households with lower incomes, the Cabinet already proposed in 2019 to gradually increase the maximum general tax credit in 2019, 2020 and 2021. It is now being proposed to increase this slightly further. There will also be a slightly higher increase in the employed person's tax credit.

Tax credits	2019 (€)	2020 (€)
General tax credit maximum (< state pension age)	2,477	2,711
Employed person's tax credit max.	3,399	3,595
Income-related combination tax credit max.	2,835	2,881
Young disabled person's tax credit	737	749

Reduction of deduction rate

As of 1 January 2019, items in the second band are only deductible at a rate of 49.5%. By a gradual process, deductible items in box 1 in the income tax regime will eventually (as of 2023) only be deductible at the low rate of 37.05%. For entrepreneurs, this means that the rate at which deductions can be made will steadily decrease for the following deductible items:

- The tax allowance for self-employed persons;
- The allowance for research and development work;
- The co-working partner's relief;

- The relief for new businesses in case of incapacity for work; and
- The SME profit exemption.

The percentage at which a deductible item can be repaid at the maximum amount will develop as follows in the coming years. The Cabinet is committed to this table, meaning that there will be a maximum deduction rate of 46% in 2020.

Year	Rate for deductible items
2020	46.0%
2021	43.0%
2022	40.0%
2023	37.05%

Change to box 3 system announced

The Secretary of State has announced a reform of the box 3 levy. This is not part of the Tax Plan 2020, but in a letter dated 6 September he outlined the contours of the new scheme and announced that he would be making a legislative proposal before the summer of 2020 to completely reform the box 3 levy. The intention is for the change to come into force on 1 January 2022.

The contours of the proposed scheme are as follows. First of all, it is determined whether the property on the reference date (which is also 1 January, as it is now) exceeds the tax-free allowance for each tax partner. If that is the case, it is then established how high the proportion of savings is within the assets. The remaining portion of the property is classed as value of other property. Finally, it is determined how high the amount of debt is. The income is then determined separately using the fixed yields for savings, other property and debts,subsequently added together. The proposal is based on the following fixed percentages, starting from 2020:

- For the savings balance, it is proposed to take into account a fixed savings yield of 0.09%.
- For the other property, it is proposed to take into account a fixed investment yield of 5.33%.
- For the fixed debit interest on the debt, it is proposed to take into account 3.03%, based on the average mortgage interest rate.

For the total of the income from these assets, a tax-free income of €400 per tax partner will apply. The rate will be increased from 30% to around 33%.

In the letter mentioned above, the Secretary of State provides the following overview:

Box 3 now	Box 3 in future
Assets (property minus debts) - less than tax-free allowance of €30,846: box 3 does not apply - more than tax-free allowance of €30,846: box 3 does apply (on the assets exceeding €30,846)	Property - less than threshold of €30,846: box 3 does not apply - more than threshold of €30,846: box 3 does apply (to the entire assets)
Fixed yield on capital yield tax base (assets minus tax-free allowance of €30,846): a) from €0 to €72,797: 1.80% b) from €72,797 to €1,005,572: 4.22% c) more than €1,005,572: 5.33% a + b + c = box 3 yield	Fixed yield on assets: a) value of all the savings: 0.09% b) value of other property: 5.33% c) value of debts: 3.03% a + b – c = box 3 income
Box 3 yield = box 3 taxable income	Box 3 income minus tax-free income = box 3 taxable income
Rate: 30%	Rate: 33%
Reference date arbitration within box 3: not possible	Reference date arbitration within box 3: discouraged by legislation

In order to define the savings, the term 'deposit' will be used as defined in section 1:1 of the Financial Supervision Act (Wft). As is currently the case, the fixed interest on savings will be based on the most recent available (average) interest on savings accounts. According to the Secretary of State, this offers advantages compared to a levy on the actual interest on savings, both for taxpayers and for those carrying out the levy. For other property and debts, the yield percentages will remain fixed.

Comment by PKF Wallast

With this proposal, the Secretary of State is mainly attempting to meet the needs of taxpayers with (only) savings. Roughly speaking, no box 3 levy will be paid on approximately the first €440,000 of savings (fixed yield of 0.09% and a tax-free income of €400 leads to a threshold of €440,000). This applies to each partner, so for tax partners this amount will be double. It should be noted that the amount of €440,000 depends on the fixed yield for savings and the tax-free income; however, this may be different when it is introduced in 2022.
This proposal may severely worsen the situation for taxpayers who predominantly have investments and/or immovable property. This will be even worse if the investments and/or immovable property are financed by loans. It should be noted that, in the proposed system, debts can no longer be directly offset against the property in the tax base, but are only considered at 3.03% – and the investments or immovable property at 5.33% (these percentages are also expected to change on introduction in 2022).
The Secretary of State considers it necessary to increase the rate from 30% to 33% so that the reform of box 3 is carried out on a budget-neutral basis.

Transitional provision for hybrid annuities

For hybrid annuities from before 2001, the Income Tax Act 2001 (Wet IB 2001) contains a transitional provision for annuities in respect of which the premiums were entirely non-deductible and annuities in respect of which the premiums were only partially non-deductible. The latter category constitutes the hybrid annuities. As of January 2021, the transitional provision to current legislation will cease to apply, which means that tax will once again be payable in box 1 on the value of the annuities. In terms of the hybrid annuities, the Cabinet wishes to continue the transitional provision beyond 2020. In that case, leaving the transitional provision in place would mean that taxes continue to be levied on the benefits in box 1 as soon as they are received, with application of the balancing method. As part of this arrangement, the obligation to settle the matter with the tax authority will also no longer apply as of 31 December 2020.

Comment by PKF Wallast

This solves a problem in practice and for taxpayers. Leaving the obligation to settle the matter with the tax authority unchanged would give rise to significant problems of a practical nature. After all, the obligation to settle the matter with the tax authority only applies to that part of the annuity, the premiums of which have not been deducted for tax purposes. This would have meant that hybrid annuities had to be split into a box 1 part and a box 3 part after the expiry of the transitional provision; easier said than done.

Optional scheme for electronic communications

Some citizens would rather communicate with the Dutch Tax Authorities in paper form and some in digital form. On the basis of the Dutch Tax Authorities Online Messaging and Data Interchange Act (Wet elektronisch berichtenverkeer Belastingdienst), the relevant laws contain the general rule that correspondence between citizens and the Dutch Tax Authority is sent exclusively online. There is currently no option to choose to receive messages only in paper form or only in digital form.
The legislative proposal that has been submitted would introduce an optional scheme allowing citizens to choose whether they receive messages from the Dutch Tax Authorities in digital form or by post. This relates to messages sent to the citizens by the Dutch Tax Authorities. The option applies in principle to all outgoing messages (tax levy, tax collection, allowances). It is therefore not possible to choose the form of delivery per type of communication, for example digital for assessments and paper form for allowances. Nevertheless, it is quite a flexible option. Citizens are not tied to the choice that they make, but can in principle change their choice as often as they like without needing to explain this to the Dutch Tax Authorities.
It should be noted, however, that citizens who are also entrepreneurs do not have the right to choose when it comes to income tax, turnover tax and payroll tax. These communications will remain digital.

Comment by PKF Wallast

It is good that citizens will be given a statutory right to choose how they communicate with the Dutch Tax Authorities*. Although the future is digital, there are still many citizens (and not just older people) who prefer paper to digital. It is good that the government is taking into account the wishes of all of its citizens.*

Adjustment of the interest on inheritance tax

As of 1 January 2019, individuals who request a provisional assessment or file an inheritance tax return before the first day of the ninth month following the death are not charged any interest on tax if the (provisional or final) inheritance tax assessment is determined in accordance with that request or return. This will now also apply in respect of inheritance tax assessments in the case of which the time period for filing the return starts at a different time than on the date of death or is suspended. This includes situations where, as a result of pregnancy, there is uncertainty regarding the individual who is the heir, or situations resulting from the fulfilment of a condition.

Educational tax allowance replaced by STAP budget

The tax allowance for educational expenses in the income tax regime is set to be abolished. This tax allowance will be replaced by a learning and development budget financed by the government, known as the STAP budget (budget incentivising measures to improve an employee's labour market position). The STAP budget is likely to be in the form of an annual personal budget of €1,000 for everyone in the Dutch labour force. It will be possible to claim from the budget via a digital portal, with a participant indicating the type of eductation that he or she wishes to use the budget for.

The scheme is part of a broader policy of lifelong development (Leven Lang Ontwikkelen, LLO) that aims to give Dutch people more control over their personal development throughout their careers. The replacement of the tax allowance is the result of an evaluation study into effectiveness and efficiency. The following effects are expected to be achieved by the new scheme:

1. The tax allowance is mainly used by highly educated people, often in paid employment, while the STAP budget is much more suitable and offers an advantage to less highly educated people on low incomes.
2. In contrast to the tax allowance, the STAP budget does not require any pre-funding by the participant.
3. The use of resources is set to become far more effective due to replacing the tax allowance with the STAP budget. The CPB Netherlands Bureau for Economic Policy Analysis has calculated that 73%-100% of the tax allowance does not lead to extra training or education.
4. There will be less of an administrative burden for both citizens and the Dutch Tax Authorities due to the fact that the STAP budget is a simpler scheme.

It will not take effect on 1 January 2020. It has already been indicated that this is not feasible. The tax allowance will only be abolished once the STAP budget has come into effect, so as to avoid a period where there is no financial incentive at all for education, training and development.
In the event of subsequent payments or repayment of training expenses after the system has been changed, these can still be processed in the income tax regime on the basis of a transitional provision.

VAT measures

Entrepreneurs involved in international trade can expect radical changes to VAT. The rate of VAT for digital publications will also be reduced. There will also be changes to transfer tax and insurance premium tax.

Quick fixes for international trade

At the end of 2018, the European Council adopted the proposals for four so-called ‘quick fixes’ aimed at simplifying VAT for international trade.

With the *Act implementing the Directive as regards harmonising and simplifying trade between Member States*, the Cabinet now intends to implement these quick fixes. The quick fixes relate to:

- Cross-border call-off stock arrangements in the EU
- Intra-Community supplies of goods in the case of chain transactions
- Proof for application of the zero rate in the case of intra-Community supplies
- Reinforcing the status of the VAT identification number

The quick fixes will have a considerable impact on entrepreneurs involved in international transactions in goods.

Quick fix 1 – Simplifying cross-border call-off stock arrangements in the EU

The first quick fix involves implementing an EU-wide scheme whereby entrepreneurs with call-off stock at the premises of a customer in another EU Member State can refrain from registering for VAT in that country, under certain conditions.

In order to reduce delivery times, entrepreneurs often store their stock at the customer’s premises. The goods remain the property of the entrepreneur until they are picked up from the stock by the customer. In domestic situations, this does not result in an excessive administrative burden for VAT purposes. However, in situations where the entrepreneur and its customer are not residing in the same EU Member State, such transactions require a great deal of administration under the current rules. For instance, the supplier needs to report the transfer of its own goods to the EU Member State of the customer. In order to comply with this, the supplier needs a VAT registration in the EU Member State of storage.

Although many EU Member States, including the Netherlands, already have simplification arrangements for call-off stock, these differ by country. This is the reasoning behind introducing the EU-wide arrangement to replace the individual arrangements in the EU Member States.

Under the new rules, an intra-Community supply is deemed to take place only when a) the final customer is entitled to take ownership of the goods, b) the supplier has no business location or permanent establishment in the Member State of arrival, c) the customer has a VAT identification number in the host Member State and d) the supplier records the transfer of the goods in the register and in the intra-Community supplies statement (ICS Statement). In this situation, the sender does not need a VAT identification number in the Member State of arrival. An additional condition is that the customer in the Member State of arrival must have picked up the goods from the stock within 12 months after the transfer of the goods.

Comment by PKF Wallast

We advise entrepreneurs that deal with call-off stock to review their current call-off stock arrangements and check whether, as a result of the new rules:

- changes are needed to existing call-off stock arrangements
- simplifications can be made

* existing VAT registrations can be cancelled

Quick fix 2 – A scheme for attributing the intra-Community supply in the case of chain transactions

The second quick fix involves implementing an EU-wide scheme relating to cross-border chain transactions in the EU.

In the case of chain transactions, the same goods are dealt with by three or more parties in consecutive supplies and the goods are sent directly to the address of the final party. In cross-border situations, this often raises the question of which link is the intra-Community transaction.

The quick fix aims to create clarity for situations where the intermediary in chain transactions arranges the transport (or has this arranged). In those situations, entrepreneurs can rely on the VAT identification number provided by the intermediary when declaring chain transactions. Depending on the VAT identification number it provides, the intra-Community transaction is attributed to the relevant link:

* If the intermediary provides a VAT identification number of the Member State of departure, the supply ***by*** the intermediary is deemed the intra-Community transaction.
* If the intermediary gives the VAT identification number of another Member State, the supply ***to*** the intermediary is deemed the intra-Community transaction.

Comment by PKF Wallast

We advise entrepreneurs trading in goods within the EU to investigate:

* the extent to which they are affected by chain transactions in the EU
* whether existing arrangements need to be adapted in light of the new rules
* whether existing VAT registrations can be cancelled

Quick fix 3 – Proof for application of zero rate to intra-Community supplies

The third quick fix involves implementing an EU-wide scheme governing the proof required to apply the zero rate to intra-Community supplies.

In order to be able to apply the zero rate to intra-Community supplies, the entrepreneur must be able to demonstrate that the goods were dispatched to another Member State. In practice, Member States still have divergent approaches. The new scheme intends to put an end to this and introduces a rebuttable presumption if there are two non-contradictory evidential documents from two non-dependent parties (for example an invoice from the shipper and a signed consignment note).

Comment by PKF Wallast

We advise entrepreneurs trading in goods within the EU to investigate:

* whether their current processes for managing and archiving documentation in the context of cross-border goods transactions within the EU are sufficient
* where necessary, to revise agreements with suppliers and/or customers

Quick fix 4 – Reinforcing the status of the VAT identification number

The fourth quick fix involves implementing an EU-wide scheme under which having a valid VAT identification number is regarded as a material requirement for the application of the zero rate to intra-Community supplies.

As a result of the new scheme, entrepreneurs will no longer be able to apply the zero rate if they do not have a valid VAT identification number, meaning that the domestic rate would need to be applied.

However, there is an option for redress. The actual form this will take will be further explained in the VAT Act Implementation Decree 1968 (Uitvoeringsbesluit 1968), which is to be amended.

Comment by PKF Wallast

We advise entrepreneurs to investigate whether their:

- systems are adapted to this new requirement
- customer details are complete and correct
- processes require a check in the VAT Information Exchange System (VIES)

VAT rate to be lowered on e-books, newspapers and magazines

As of 1 January 2020, 'books, newspapers and magazines delivered by electronic means' will fall under the reduced VAT rate (9%).

From 1 January 2020 onwards, the reduced VAT rate will apply to books, newspapers and magazines delivered by electronic means. From this point on, it will no longer matter in terms of VAT treatment whether a book is delivered on paper or on a CD, for example, or whether the digitised content of a book is offered via electronic means. This will remove the unequal treatment of physical publications, on the one hand, and electronic publications, on the other.

In addition, the reduced VAT rate will also apply to the granting of access to news websites (as well as apps), such as those of daily and weekly newspapers and magazines. It should be noted that in order to apply the reduced VAT rate, the electronic publications and news websites cannot consist exclusively or mainly of advertising material, video content or listenable music.

To determine whether a publication is delivered via electronic means, it must be checked whether the publication is comparable with a physical publication to which the reduced VAT applies. This comparability has to be assessed in terms of the content and use of the publication provided via electronic means, based on social attitudes (seen from the point of view of the average consumer).

It should be noted that the application of the reduced VAT rate depends on whether the publication is intended to form a book, daily or weekly newspaper, or magazine in its entirety. An electronic publication consisting of an individual chapter from a book or a selection of (news) articles is therefore not covered by this.

The reduced VAT rate also does not apply to user options associated with an electronic publication that are not related to the functional accessibility of the publication (such as navigation via a contents page, a search function, adjusting the view by increasing and decreasing the size of the text and adjusting the light intensity). These include dynamic and technological elements, such as interactive maps, reviews, reactions, games and communication options. This is because such electronic services are not considered to be comparable with a physical publication, the content of which has a scope that is determined in advance and the use of which relates to accessing this content for the purpose of reading it.

Comment by PKF Wallast

We advise entrepreneurs to investigate:

- how their current range of products relates to the new scheme and, when selling in foreign countries, the way in which this has been implemented by other EU Member States
- what they have on hand to substantiate the correct application of the rate (for example substantiation based on usage statistics)
- to coordinate with suppliers and/or customers where necessary

Transfer tax measures

It is proposed to increase the transfer tax for non-residential properties by 1%, from 6% to 7%, with effect from 2021. Non-residential properties include industrial buildings, business premises, residential building plots, hotels and guest houses. For residential properties, the transfer tax will remain at 2%.

Comment by PKF Wallast

The importance of a clear distinction between residential and non-residential properties will become (even) more important due to this rate increase. At the time of writing, we are awaiting a judgment of the Supreme Court relating to the issue of whether or not the transfer of an old industrial building that is in the process of being converted to one or more residential properties is taxed at the reduced rate of 2%. This judgment will increase even further in significance with the increase in the regular rate as of 2021.

Insurance premium tax measures

In 2020, the 21% insurance premium tax will no longer apply to insurance policies that fully or partially cover potential financial obligations that an employer has in relation to the obligation to continue paying the salary of an employee in the event of sickness or if self-insurers themselves bear the risk of paying sick pay, benefits under the WGA and death benefits.

In 2020, the 21% insurance premium tax will also no longer apply to large-scale insurance against bad weather. This incentive is intended to make it more attractive for farmers to insure their crops against the effects of extreme weather.

Innovation measures

Entrepreneurs with R&D activities will be incentivised in the development phase with a subsidy on payroll tax and in the exploitation phase with a reduced rate of corporate income tax. These schemes are known as WBSO (Promotion of Research and Development Act) and Innovation box. Below, we set out the changes to these schemes that were announced on Budget Day.

WBSO subsidy (payroll tax)

In April 2019, the evaluation report on the effect of the subsidy scheme for research and development work (WBSO) was sent to the Lower House of the Dutch Parliament (Tweede Kamer). The evaluation of the 2011-2017 period has shown that some of the users of the scheme believe that the current system is not sufficiently in line with the way these users work. The amount of time taken to deal with an application and the fact that an application can be made no more than three times per year are seen as particular sticking points. The Cabinet responded to the report by indicating that it would look at simplifying the application system, but with the basics remaining the same. The legislative proposal that has now been presented extends the number of application opportunities from three to four. The deadline for submitting an application is also set at one day before the period to which the application relates. Currently, the deadline is still a month before the period begins. However, an application relating to a period that starts on 1 January of a new year must be submitted no later than 20 December of the preceding year. Finally, there is now a legal provision relating to an exemption for exceeded deadlines in certain cases. In practice, the Netherlands Enterprise Agency (RVO) was already used to dealing with exceeded deadlines in an accommodating way in the event of disruptions to the digital service point. This relates to deadlines for the WBSO application itself, for the declaration of social security numbers (BSN) and the subsequent notification of R&D hours worked and actual fees and expenses. The proposed statutory provision will provide more legal certainty for individuals who are entitled to WBSO in situations where a disturbance occurs.

Comment by PKF Wallast

From our experience with WBSO applications, we welcome these changes to the scheme. Particularly for undertakings with short innovation cycles, the current waiting period of a month between the application and the start of a project is an inconvenient obstacle. In software development and innovation driven by client demand, for example, the time between identifying and starting an R&D project is often less than a month. However, we would have also liked to see a reduction in the time taken to process WBSO applications. It seems that this will remain at three months, meaning that a situation could arise where a project period has already expired before the WBSO decision has even been issued. However, there will be no increase in the capacity of the Netherlands Enterprise Agency (RVO), so this and a number of other desires for the WBSO will remain on our wish list.
However, the financial impact of the WBSO (subsidised labour costs) can be so significant that it is well worth the effort of applying for innovation in your undertaking. Since 2017, a WBSO decision – regardless of the size of the subsidy – has also been one of the set conditions for applying the innovation box regime to corporate income tax (reducing the rate of profit tax).

Innovation box (corporate income tax)

The Budget Day documents refer to a proposal of the Cabinet to increase the effective corporate income tax rate for the innovation box regime from 7% to 9%. The increase would be set to come into effect in 2021.

Comment by PKF Wallast

The innovation box rate is the rate of corporate income tax that is applied to profit associated with qualifying (meaning: WBSO-subsidised) innovation instead of the regular rate, which is currently still 25%. The proposed increase in the rate in 2021 would reduce the financial benefit of the innovation box. We have no reason to assume that the methods toattribute profit to the innovation box will also be changed. However, it is our experience in practice that this part of the innovation box regime is being looked at more strict every year.

Housing market measures

The housing market is undergoing a period of change (on several fronts). The increase in housing demand, the insufficient levels of residential construction and the desire for (further) greening are all examples of this. Below we elaborate on the most important tax plans relating to the housing market.

Adjustment of landlord levy

As a result of the high demand for housing and insufficient residential construction, the shortage of housing has drastically increased in recent years. In order to reduce the shortfall, two incentive measures are proposed in the context of the landlord levy with effect from 2020: (1) a structural reduction in the landlord levy for new buildings in areas of scarcity and (2) a temporary exemption from landlord levy for temporary housing. The landlord levy applies to landlords – whether natural or legal persons – who rent out at least fifty social housing properties.

Structural reduction

The proposed structural reduction in the landlord levy amounts to €25,000 (one-off) for each new home, with it being necessary to meet the following (cumulative) requirements:

- The new home is situated in a so-called area of scarcity (schaarste gebied). These are the areas where homes have the highest average value for the purposes of the Valuation of Immovable Property Act (WOZ)[1] or that form part of a region with which the government has concluded a so-called housing deal.
- The new home has a rental price below the lowest capping limit in the housing allowance (in 2019 this limit is €607.46).
- The minimum investment costs of the new home are €62,500.
- The construction of the new home must have started on or after 1 January 2020 and also be completed within five years.

The reduction in the landlord levy is formalised in an investment declaration issued by the Netherlands Enterprise Agency (RVO) at the request of the landlord. If all conditions are met, the investing landlord can apply the tax credit to the total landlord levy that he or she owes in that year. If the credit is higher than the levy for that year, the difference can be deferred to a subsequent year, under certain conditions. As of 2020, €100 million will be made available each year for this reduction in the levy. The budget will be adjusted upwards or downwards depending on the number of applications.

Temporary exemption for temporary housing

A temporary exemption from the landlord levy is also proposed for temporary housing. This must relate to temporary housing completed in the period 2020-2024. The temporary nature of the housing must be reflected in the integrated environmental permit issued by the municipality. This must stipulate that the permit holder is obliged to restore the situation existing before the granting of the integrated environmental permit after the expiry of a certain deadline (maximum 15 years).

Comment by PKF Wallast

The measures mentioned above may potentially be a form of (illegal) state aid. However, the Cabinet believes that this form of state aid can be justified.

Increase in transfer tax for non-residential properties

It is proposed to increase the transfer tax for non-residential properties by 1%, from 6% to 7%, with effect from 2021. Non-residential properties include industrial buildings, business premises,

[1] Examples are the entire province of Utrecht, the east of North Brabant, the Betuwe and Veluwe in Gelderland, a large part of central and southern North Holland, and Leiden and the Bollenstreek in South Holland.

residential building plots, hotels and guest houses. For residential properties, the transfer tax will remain at 2%.

Comment by PKF Wallast

The importance of a clear distinction between residential and non-residential properties will become (even) more important due to this rate increase. At the time of writing, we are awaiting a judgment of the Supreme Court relating to the issue of whether or not the transfer of an old industrial building that is in the process of being converted to one or more residential properties is taxed at the reduced rate of 2%. This judgment will increase even further in significance with the increase in the regular rate as of 2021.

Greening measures

The Climate Agreement contains various greening measures, including measures that (indirectly) relate to the housing market. In this context, we refer to the 'Greening measures' section.

International and European measures

The most important international measures are the limitations to the liquidation loss scheme and the introduction of a withholding tax on low-taxed interest and royalty payments. Although the measures will not take effect until 1 January 2021, they are worth your attention now.

Adjustments to liquidation and discontinuation loss scheme

On 16 April 2019, member of the Lower House Snels (GroenLinks) presented a draft private member's bill for consultation. Taxpayers in the corporate income tax regime can currently – under certain conditions – still limitless deduct losses which result from the dissolution of a subsidiary or the discontinuation of a business activity abroad from the profits they generate in the Netherlands. The proposal is to adjust this so-called liquidation and discontinuation loss scheme in such a way that companies are able to deduct such losses in fewer cases. The aim of these adjustments is to ensure that it is no longer possible to take liquidation and discontinuation losses on participating interests and permanent establishments outside the European Union and the European Economic Area.
For the liquidation and discontinuation losses that are deductible, it is proposed that deduction is only possible if the liquidation is completed no later than in the third calendar year following the calendar year in which the undertaking is fully or substantially fully discontinued by the dissolved body or the decision to do so is taken. This means that it is no longer possible to defer deduction of the losses over the long term by carrying out the liquidation only at a time when the business can use the deductible item, for example because the offsettable losses have been used.

Comment by PKF Wallast

In the letter accompanying the Tax Plan 2020, the Cabinet indicated that the draft private member's bill will be further developed. The accompanying letter mentions the budgetary revenues as of 2021, so it is evidently the intention for the changes to come into effect on 1 January 2021.
If you have incurred losses abroad and have discontinued those activities, or if you intend to discontinue those activities, it is important to discuss the steps to be taken with your advisor as soon as possible.

Changes to the definition of permanent establishment

If natural or legal persons live or are established in one country and have business premises in another country that have sufficient facilities to function as an independent enterprise, they may have a so-called permanent establishment in that other country. A permanent establishment can lead to income tax liability in the other country. If there is a permanent establishment in another country, the profit generated in that country is generally exempt in the country of residence or establishment on the basis of tax treaties or national arrangements, in order to avoid double taxation.
It has become apparent that different definitions may be used, as a result of which national legislation stipulates that there is no permanent establishment in the country where the activities are performed, while the tax treaty states that profit generated in the other country is indeed exempt in the country of residence or establishment. In cases such as this, tax is not paid anywhere. To combat these situations, as of 1 January 2020 reference will be made to the tax treaty concluded between the Netherlands and the country where the relevant natural or legal person lives or is established for the definition of 'permanent establishment' for the purposes of income tax, corporate income tax and payroll tax. For cross-border situations involving a country with which the Netherlands has not concluded a tax treaty, the Personal Income Tax Act (Wet op de inkomstenbelasting), Corporate Income Tax Act (Wet op de vennootschapsbelasting) and Wages and Salaries Tax Act (Wet op de loonbelasting) will be amended to include the criteria for the existence of a permanent establishment.
In general, activities of a preparatory or auxiliary character will not be considered as a permanent establishment. Building sites or construction or installation activities will normally also not be considered permanent establishments if they are of short duration. It has become clear that activities are sometimes distributed across various related parties, or that building projects or construction or installation activities are divided up into short-term projects in order to avoid the tax levied on permanent establishments. As of 1 January 2020, a so-called anti-fragmentation provision will ensure

that such activities and projects are combined and are jointly assessed against the criteria for the existence of a permanent establishment.
The lawmakers expect that this measure will result in the recognition of more permanent establishments in the Netherlands.

Comment by PKF Wallast

If you live or have your place of business outside the Netherlands and carry out activities in the Netherlands, it is important to assess whether those activities in the Netherlands, currently or from 1 January 2020, lead to a tax liability in the Netherlands.
If you live or have your place of business in the Netherlands and carry out activities abroad, it is also important to assess where there is a tax liability abroad. In that case, you need to take into account the tax liability abroad and the profit generated abroad will usually be exempt in the Netherlands.

Introduction of withholding tax on interest and royalty payments

As of 1 January 2021, a withholding tax of 21.7% (highest rate of corporate income tax in 2021) will be introduced on interest and royalty payments payable by entities established in the Netherlands to affiliated entities established in low-tax jurisdictions (tax rate of less than 9%) and jurisdictions included in the EU list of non-cooperative jurisdictions for tax purposes. Each year the State Secretary for Finance prepares a list of countries that have low tax regimes or are non-cooperative for tax purposes. This blacklist currently includes:
American Samoa, Anguilla, Bahamas, Bahrain, Belize, Bermuda, British Virgin Islands, Cayman Islands, Guam, Guernsey, Isle of Man, Jersey, Kuwait, Qatar, Samoa, Saudi Arabia, Trinidad and Tobago, Turks and Caicos Islands, Vanuatu, United Arab Emirates and United States Virgin Islands
The withholding tax will also be levied if the interest or royalty payment is non-deductible in the Netherlands. If the withholding tax is not collected or recovered, grossing up will be necessary. If, for example, 100 worth of interest is paid to an affiliated entity in Saudi Arabia and no withholding tax is collected, the Dutch entity would have to pay more than 27.7 in withholding tax (127.7 -/- 21.7% withholding tax = approximately 100 net). For the sake of completeness, it should be noted that the withholding tax is not deductible.
The definition of interest in this regard is broad. It also includes costs relating to loans, such as arrangement fees, financing costs, intermediation costs, costs of preparing the loan agreement, handling fees, underwriting commissions and default interest. If no arm's length interest rate is calculated, the tax will be levied on the adjusted arm's length interest rate. Accumulating interest is also covered by this withholding tax. Financial lease and hire purchase agreements also fall within the scope of the withholding tax.
The term royalty payments includes payments for the use of, or for the right to use, copyright on a literary, artistic or scientific work – including cinema films and software – a patent, an industrial or commercial trade mark, a drawing or design, a plan or a secret formula or process. Payments for information regarding experience in the field of industry, trade or science are also covered by the concept of royalty payments.
A royalty payment will often be in the form of a periodic payment where the amount of the payment depends on the extent of the actual use of the property or rights mentioned above. A one-off payment is also a royalty payment if it applies to the use of the property or rights mentioned above and is not a payment for the acquisition thereof.
The withholding tax applies only to interest and royalty payments payable to affiliated entities established in blacklisted countries.
In this context, affiliated is understood to mean that one entity can – directly or indirectly – exercise such a decision-making influence that this can determine the activities of the other entity. In any event, this is the case if the direct or indirect interest represents more than 50% statutory voting rights. The entities are also affiliated if the Dutch entity and the entity established in a blacklisted country have a joint parent company. If there is a group of companies that, individually speaking, do not have a qualifying interest but that have made a coordinated investment in cooperation with one another, the entity in which the investment was made and the entities forming part of the cooperating group are affiliated.

The tax liability applies primarily to direct payments made to affiliated entities established in blacklisted countries. However, the withholding tax also needs to be levied in the case of payments to entities that are not established in a blacklisted country but which allocate interest or royalty income to a permanent establishment in a blacklisted country. The withholding tax will also need to be collected in the case of artificial structures with intermediaries that are designed to avoid the withholding tax.

Comment by PKF Wallast

Many Dutch companies do business in countries which are on the blacklist even though they are not considered tax havens. This includes countries like Kuwait, Qatar, Saudi Arabia and United Arab Emirates. It is advisable to quickly review the direct or indirect payments to affiliated entities in those countries, in order to avoid the need to deduct a withholding tax of 21.7% as of 1 January 2021.
N.B. The measure also applies if the paying entity and the receiving entity have a real presence – sufficient substance - in the Netherlands and the other country, respectively.

Anti-abuse

Currently, certain anti-abuse provisions in the corporate income tax and dividend tax regimes include so-called substance criteria that function as a safe harbour. It is now proposed to introduce a rebuttal scheme for the inspector in the case of these measures, under the influence of European law. This would mean that the inspector is able to demonstrate that there is indeed abuse even if the substance criteria have been met. The anti-abuse provision will then also apply in these cases. On the other hand, the taxpayer will also be able to demonstrate that there is no abuse even if the substance criteria have not been met. These measures will come into effect on 1 January 2020.

Previously announced tax measures

ATAD 2

In order to combat international tax avoidance, the Cabinet wishes to bring an end to structures that allow businesses to avoid tax by exploiting the differences in the tax systems of various countries, known as hybrid mismatches. Hybrid mismatches mean, for example, that a payment is deductible in one country, but the corresponding amount received in the other country is not taxed, or that a single payment is deductible in several countries. The measures to combat this sort of structure are elaborated in the bill transposing ATAD 2 (EU Anti-Tax Avoidance Directive 2) and will also be introduced in other European countries.

- Most of these measures will enter into force on 1 January 2020.
- The measures apply to hybrid mismatches in affiliated relationships (qualified as interests of at least 25%).
- The proposal applies to relationships between EU Member States, but also between EU Member States and third countries.
- Differences in the application of internal transfer pricing rules will not be affected by ATAD 2.
- Differences in tax treatment other than hybrid mismatches (for example due to differing definitions of tax liability or objective exemption) will not be affected by ATAD 2.
- The Netherlands will also need to introduce a tax liability for entities that currently still qualify as fiscally transparent entities but which qualify as so-called reverse hybrid entities under these measures. This tax liability measure must enter into force by 2022.

If there is a hybrid mismatch, the directive provides a primary and a secondary measure for two situations in order to counteract the effect of the mismatch.

1. On the basis of the primary measure, the payer will follow the tax classification of the recipient. If the payment is not taxed at the level of the recipient, the payment cannot be deducted by the payer. The secondary measure is a safety net in case the primary measure does not work or does not offer a solution. The secondary measure states that if the payment is deductible at the level of the payer, the payment is taxed at the level of the recipient.
2. In the case of an advantage due to double deduction, the primary measure is that deduction must be denied in one of the two countries. Primarily the country from which the payment

originates may allow deduction. If this rule does not work or does not offer a solution, the secondary measure is that the country from which the payment originates must deny the deduction.

In the case of a partial mismatch, the measures should only apply to that part of the payment. Taxpayers will very likely also be obliged to include details in their accounts of why the hybrid mismatch measures do not apply to them and/or which measures have been used to neutralise the advantages (additional documentation requirement).

Comment by PKF Wallast

If group companies within your organisation are subject to different tax classifications in two countries, it is important to discuss the potential impact of ATAD 2 with your advisor as soon as possible. This advice also applies if your organisation has loans between entities in different countries or other financial instruments that are subjected to different tax treatment in two countries. Other topics to be dealt with in a similar way include hybrid situations involving (i) permanent establishments, (ii) transfers and (iii) dual resident situations.

The Mandatory Disclosure Act

On 25 May 2018, the European Council adopted a directive on ‘mandatory disclosure’. In brief, this directive sets down an active reporting obligation for taxpayers and intermediaries such as PKF Wallast in the case of cross-border, potentially aggressive tax arrangements. Member States must implement the directive by 1 January 2020. The bill relating to this directive was submitted to the Lower House on 12 July 2019 by State Secretary Snel (Finance).

As of 1 July 2020, application of the provisions will be mandatory. However, even though the first reports do not need to be made until the end of August 2020, the directive essentially already applies to arrangements in respect of which the first implementation step was taken between **25 June 2018 and 1 July 2020**.

The bill does not contain a strict definition of a reportable cross-border arrangement. An arrangement can be seen as a reportable cross-border arrangement if it involves certain ‘hallmarks’ that will be described in detail. These are the features and elements of arrangements that present a strong indication of tax avoidance. The reporting obligation applies primarily to the intermediary. This is *any person that designs, markets, organises, makes available for implementation or manages the implementation of a reportable cross-border arrangement.* Tax advisors certainly fall under this definition. If an undertaking designs and implements a tax arrangement internally, thus without the involvement of any advisors, the obligation rests with the undertaking itself. Failing to comply with the reporting obligation can lead to a maximum fine of as much as EUR 830,000 or criminal prosecution.

Comment by PKF Wallast

Cross-border arrangements that have been designed and tailored for a specific taxpayer but are ultimately not implemented do not need to be reported. International arrangements that have been implemented – even if the implementation is not yet complete on 1 July 2020 – need to be mapped out. We advise you to assess such arrangements against the reporting obligation rules in consultation with your advisor.

Greening measures

In June 2019, the Cabinet announced the climate agreement, which focussed on greenhouse gas emissions. The Climate Agreement Tax Measures Act set out the climate agreement's policy plans. Implementing measures relating to motorised vehicles and higher taxation of natural gas are just some examples of the plans.

Car measures

Company car tax (addition for the private use of a company car to taxable income)
Currently, there is a lower additional tax liability of 4% for emission-free cars compared with the higher rate of 22% for cars that emit CO_2. The Cabinet is continuing its tax incentives up to and including 2025. The reduced rate currently applies up to a list price of €50,000, while the higher rate applies to the higher prices. The climate agreement, which was introduced in June 2019, aims for all new cars to be emission-free no later than 2030, and changes are therefore being made to the incentive. The company car tax rate on emission-free cars is gradually increasing up to 2026, when it will be just as high as the rate for other cars. The maximum amount to which the reduced company car tax rate applies is being gradually reduced until it reaches an amount of €40,000 in 2021. This “cap” does not, however, apply to hydrogen and solar cell cars.

	Additional tax liability	**Maximum amount**
2019	4%	€50,000
2020	8%	€45,000
2021	12%	€40,000
2022	16%	€40,000
2023	16%	€40,000
2024	16%	€40,000
2025	17%	€40,000
2026	22%	n/a

New testing method for CO_2 emissions
At EU level, a new testing method has been introduced to determine CO_2 emissions from light vehicles (the Worldwide harmonized Light vehicles Test Procedures, WLTP). With effect from 1 January 2022 this will be the only testing method used to calculate CO_2 emissions. This new testing method is more accurate that the alternative testing methods and results in higher emissions being detected. The greatest impact will be felt on private motor vehicle and motorcycle tax (BPM), now that the tax owed is determined on the basis of CO_2 emissions. In order to prevent the use of a new testing method resulting in higher private motor vehicle and motorcycle tax, the Cabinet is proposing making changes to the private motor vehicle and motorcycle tax tariff schemes in order to keep them as budget-neutral as possible.

Other car measures

- The duty on diesel is being increased. With effect from 1 January 2021, prices will increase by 1 cent per litre. With effect from 1 January 2023, prices will increase once again by 1 cent per litre.
- Emission-free cars are currently exempt from motor vehicle and motorcycle tax. This exemption is to remain in place up to the end of 2024. With effect from 2025, a fixed amount of €360 in motor vehicle and motorcycle tax (BPM) will be charged for these cars.
- Currently, passenger cars and vans powered by a compression ignition engine are subject to a surcharge to offset the duty credit enjoyed by diesel cars. Now that compression ignition engines are also found in petrol cars, there is a proposal to modify the scheme so that the surcharge only applies to diesel cars.
- In 2025, the motor vehicle tax exemption for emission-free cars will be replaced by a payment of 25% of the current rate. From 2026, the exemption will end completely. For cars that emit more than 0 grams, but not more than 50 grams of CO2 per kilometre – the “plug-in hybrids” – the current half-rate will be increased to a three-quarters rate in 2025 in order to entirely eliminate the tariff reduction in 2026.

- Changes are being made to the motor vehicle tax for company vans. The motor vehicle tax rate for light company vans will increase by less than €24 up to the end of 2025, while the rate for heavy van-type vehicles will increase by more than €24.
- Changes are being made to the fine particulate surcharge. The proposal is to also tax diesel cars registered since 1 September 2009, since it cannot be assumed that cars that were manufactured after this date will stay below the fine particulate standard.

Promoting sustainability

In order to promote sustainability, the Cabinet is proposing heavier taxation on natural gas and lower taxation on electricity, in order to make it more attractive to switch to more sustainable heating options. Energy tax for the first bracket will increase by 4 cents per m^3 in 2020 and by 1 cent per m^3 in the six subsequent years. The aim of this is to create a stronger incentive for sustainability, so that investment costs can be recouped more quickly.

In addition to the changes to energy tax, a number of additional measures are being taken to make investing in sustainability more viable, such as a higher energy investment allowance for landlords and a higher sustainable energy investment grant to encourage investment in sustainable and energy-efficient equipment, such as purchasing a heat pump within business premises or residential homes.

Finally, the business sector will contribute more to the levy for storage of sustainable energy (ODE). Two thirds of the total revenue must consist of the total proceeds from contributions from the business sector, rather than half, which is the case currently.

Waste tax

In the Environmental Taxes Act (Wet belastingen op milieugrondslag), a change is being made to one of the taxable events in waste tax. Currently, waste created within an institution (such as standard industrial waste and combustion residues) and removed again within that institution by means of combustion is subject to double taxation, namely at the point of combustion and the point of dumping within the same institution. The proposal is for the removal of combustion residues within the institution itself to be exempt from the waste collection levy.

Furthermore, since 2015 the waste tax has been levied when dumping or incinerating Dutch waste. The proposal is for the waste tax to include foreign waste that is incinerated in the Netherlands. This measure is a result of the Urgenda ruling, according to which the Netherlands had to reduce greenhouse gas emissions by 25% in 2020 compared with 1990.

Large-scale insurance against bad weather

Large-scale insurance against bad weather has been in place since 2010 and is a tool used to cover previously uninsurable weather risks. Currently, 65% of costs are reimbursed. The part that is reimbursed is falling to 63.7%, creating the scope to be able to offer an exemption from insurance premium tax of 21%. Without reducing the fee, this would be above the 70% limit which is intended as the maximum for government aid. After tax, the measure amounts to an increase in aid from 65% to 70%.

Introduction of CO_2 tax for industry postponed

Within the EU, negotiable emission allowances currently apply; companies must possess these allowances in order to be able to emit emissions, with the aim being to bring about a global reduction in CO_2 emissions. The quantity of emission allowances is being gradually reduced. The tradability of these allowances does not, in itself, guarantee that Dutch industry will achieve a reduction in CO_2. For this reason, it was announced in the climate agreement that an additional CO_2 tax would be introduced. However, more time is needed to work out the details, and this has been postponed to next year.

Comment by PKF Wallast

Many of the measures that have already been announced in the climate agreement have been set out in separate legislative proposals. The car measures are the most notable. The tax on emission-free cars will increase gradually until the standard rate of 22% is reached in 2026. In addition, the measures will partly be funded by industry, as can be seen in the levy for storage of sustainable energy, and partly absorbed by the increase in transfer tax for non-residential buildings. For more information, see the housing market section.

Measures already announced

Private use of a company bicycle

Just like for (private use of) company cars, there is a fixed additional tax liability for the private use of a company bicycle. This means that employees have to add 7% of the value of the recommended price of their company bicycle to their income. This scheme will apply with effect from 1 January 2020.

Air passenger tax

In order to discourage citizens and companies from making polluting choices, the Cabinet intends to introduce an air passenger tax as part of the fiscal greening policy. This intention has now been brought before the House of Representatives by way of a separate legislative proposal.

Currently, no VAT or fuel tax is levied on air traffic, while other (less polluting) motorised vehicles are subject to taxation. The rate is expected to be around €7 per passenger (transfer passengers are exempt). For freight transport, the rate will be between €1.925 and €3.85 per 1000 kg of weight, depending on the noise they produce.

The Cabinet indicates that a European approach will have the greatest impact on air traffic, but in the absence of a European air traffic tax, a unilateral scheme will be introduced nationally with effect from 1 January 2021. The current scheme is therefore not certain.

Other measures

Disclosure of negligence penalties imposed on fellow perpetrators who provided professional or business assistance

In the fight against tax evasion, the Cabinet deems it necessary to introduce a more detailed measure against those people who facilitate professional or business tax evasion and the deliberate (conditional) erroneous application for benefits. A tax negligence penalty for fellow perpetrators can be imposed against these practitioners. This appears to apply to a handful of cases each year. The legislative proposal ensures that negligence penalties imposed on professionals that have become irrevocable can be disclosed. This means that the public will be informed and can make better choices when selecting an adviser. The decision to impose the fine will be included in the publication, along with the type of offence, the amount of the fine, when the offence was committed, when the fine was imposed and also where the offence was committed. The information will be able to be viewed on the website of the Dutch Tax Authorities for a period of five years.
The professional shall be given the opportunity to put forward his/her opinion before a decision is made to make it public. Where the impact of disclosure on the professional's private life is disproportionate, disclosure can be prevented.

Comment by PKF Wallast

It is important in this context to mention that this measure pertains to tax evasion and therefore not to tax avoidance. In other words, it involves situations in which professionals, in particular, are deemed to have known that they are acting contrary to the law. As the term implies, a fine for fellow perpetrators is imposed in addition to a fine for the taxpayer him/herself for committing the offence. If your adviser entices you to set up a tax structure which is outside the lines of the law, you may, in the first instance, suffer damage yourself and be subject to a fine or prosecution. The proposed "public pillory" provides the opportunity to select advisers in advance where you would run this risk based on past experience.

Changes to the voluntary disclosure scheme for income from substantial shareholdings

Last year, in 2018, it was announced that voluntary disclosure without penalty could be abolished for situations such as those that emerged in the Panama Papers. Specifically, the proposal currently being made is to eliminate voluntary disclosure without penalty for income from substantial interests. The differentiation between income from abroad and domestic income is also being removed.

Comment by PKF Wallast

Making a false declaration can be punished with the strongest category of tax fines: the tax negligence penalty. Where a taxpayer him/herself corrects the declaration or provides the information needed by the inspector in order to make a correct assessment, a fine may, under certain circumstances, be cancelled in full or in part. Over the past decade, the State Secretary for Finance twice provided a final opportunity to declare foreign savings and investments without a fine being imposed, or with a reduced fine. The door to disclose assets of this kind is now firmly closed. From next year, this may also be the case for domestic savings and investment and income from incorrectly declared substantial shareholdings domestically and abroad. Up until 31 December 2019, it is still possible, under certain circumstances, to declare significant positions and domestic box 3 assets that have not been previously declared or that have been declared incorrectly.

Abolition of corporate income tax payment discount

A proposal for 2021 was also announced in the accompanying letter to the Tax Plan 2020. The Cabinet is planning on abolishing the payment discount for companies that pay their assessment up front in one go. This measure is expected to yield an annual budgetary income of EUR 160 million, with account almost certainly being taken of the low interest rate and the government's decreased interest in receiving the corporate income tax income earlier.