TAXES IN EUROPE

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Netherlands

Capital city: Amsterdam

Area: 41,530 km^2

Population: 17,193,228

Language: Dutch

Political system: Constitutional monarchy

GDP/capita 2021: USD 53,800

Currency: Euro

ISO Code: NLD

Telephone code: +31

National day: 27 April

Netherlands

The most important tax changes in 2022 are:

Corporate income tax

- Change of the loss relief rules:

As of 1 January 2022 losses may be carried forward indefinitely. However, the amount that may be set off is subject to certain restrictions.

- Threshold for lower tax rate:

The threshold for the lower rate in the corporate income tax has been increased. The first EUR 395,000 is now taxed at a rate of 15%, up from EUR 245,000 in 2021.

VAT
One-Stop Shop:

The VAT for various EU countries for many supplies to consumers can also now be filed on a single VAT return under the One-Stop Shop arrangements.

Personal income tax
Income from net assets:

The Dutch Supreme Court has decided a case in respect of the tax on the notional return on net assets (the so-called 'Box 3'), and has stated that the tax rate can be a violation of fundamental rights.

1. Corporate taxation

1.1 Taxes on entities

Legal entities are subject to corporate income tax on their worldwide income. There is no capital duty, net worth tax or branch profits tax. Foundations (in Duch: "stichtingen") are basically exempt from corporate income tax, except if they conduct a business.

1.2 Residence and non-residence

Resident entities include companies and other incorporated entities, and these are liable to corporate income tax on their worldwide income. A company is re sident if it is incorporated under Dutch law or if its main management is within the Netherlands.

Non-resident entities are liable to Dutch corporate income tax on certain Dutch source income. The most important sources are income from a permanent establishment in the Netherlands and income from Dutch real estate.

1.3 Tax year and filing

The tax year in the Netherlands is the calendar year. However, a company may file a return based on its own financial year.

Generally, a corporate income tax return must be filed electronically within six months after the end of its tax year. Postponement for filing the return can be obtained. After filing a return, a tax assessment is received which must be paid. Provisional assessments are used which are payable in the course of the year. Such assessments are later offset against the final tax charge.

The final assessment must be issued within three years after the ultimate date for filing the tax return. The Tax Authorities may revise the final assessment within five years (for foreign income twelve years) after this date if such a revision is based on information that was not available to them when issuing the original final assessment.

1.4 Types of income

The taxable profit is based on the accounting profit subject to certain adjustments. In addition, there are limited deductions for certain gifts.

Profits include capital gains.

Expenses relating to the business are generally deductible, although the deduction of certain expenses which may have a mixed character can be limited. Furthermore, there are extensive rules limiting the deduction of interest paid although there is no debt equity requirement.

A provision can be made for bad and doubtful debts on a specific or general basis.

There is a small investment deduction ranging from EUR 672 to EUR 16,784 for investments up to EUR 328,721.

1.5 Group income and grouping arrangements

A Dutch resident company can form a consolidation (fiscal unity) for tax purposes with 95% owned subsidiaries provided this ownership gives right to at least 95% of the statutory voting rights. All member companies need to have the same financial year and need to be subject to the same tax rules (e.g. no or only tax exemptions apply for all). The grouping can commence at any time during the year.

In certain cases, indirect holdings and fellow subsidiaries may be members of a fiscal unity.

1.6 Capital gains

Apart from the participation exemption (see exemptions) capital gains are treated as ordinary income.

1.7 Losses

Losses may be carried back one year and carried forward indefinitely. Losses up to EUR 1.000.000 are fully deductible. However, losses exceeding EUR 1.000.000 are only deductible up to 50% of the net operating profit of the year. Losses may lapse on a change of shareholders and a change of the business.

1.8 Exemptions

There is a participation exemption in respect of dividends received by Dutch companies from a company in which a holding of 5% or more is held. Capital gains on a disposal of such a holding are also exempt from corporate tax. The exemption is based on the principle that proceeds of profits that have already been subject to corporation tax should not be taxed again. If the dividends received by the Dutch company are deducted for tax purposes by the company in which the shares are held then the participation exemption does not apply.

The exemption applies provided the company in which the shares are held does not have at least 50% excess passive assets or, if it does, it is subject to a tax at a reasonable rate, basically 10%. For these purposes real estate is not considered a passive investment asset.

It does not matter how long the shares are held. Certain other conditions can apply.

1.9 Rates

Corporate income tax is levied at a national level. The first EUR 395,000 is taxed at a rate of 15% and amounts in excess of EUR 395,000 are taxed at 25.8%.

In order to stimulate innovation in the Netherlands there is a special rate for qualifying intellectual property income which is effectively 9% (the so-called innovation box).

Qualifying intellectual property income needs to relate to a patent (or certain other similar qualifying knowhow) which has been developed by the company concerned, although the actual work may under certain conditions be carried out by third parties on a contract basis. The effective 7% tax rate will only apply once losses related to the innovative activity have been offset.

In addition, a reduction on wage tax and social security contributions is available for employees that are designated to research and development.

1.10 Double tax relief

A credit is given for withholding taxes on dividends, interest and royalties. Other foreign source income is generally exempt from tax in the Netherlands.

2. Personal income taxation

2.1 Taxes on income

The most important taxes are income tax and wage tax, the latter being levied at source from wages and salaries. Wage tax is offsettable against income tax.

There are also social security contributions which are mainly paid by the employee.

2.2 Residence and non-residence

Residence is determined “according to the circumstances”. Major factors include having a home at one’s disposal, location of family and work and physical presence. A person who arrives in the Netherlands would be considered a resident from the date of arrival if he intends to stay. A person who leaves the Netherands and returns within a year without having been resident elsewhere will be considered a resident for the entire period.

A person who is a resident in the Netherlands is subject to income tax on his or her worldwide income.

Non-residents are subject to income tax on income from certain sources in the Netherlands, in particular income from Dutch real estate, from a significant interest in a Dutch company and from a Dutch business.

2.3 Tax year and filing

The tax year is the calendar year.

Taxpayers who are invited by the tax authorities to file a tax return are obliged to do so. Individuals who have to pay additional income tax are obliged to request and file a tax return form.

In general, a tax return should be filed by 1 May after the end of the tax year concerned but postponement for filing may be given.

After filing a return an assessment is received. Provisional assessments are used which are payable in the course of the year. Such assessments are later offset against the final tax charge.

2.4 Types of income

Income is divided into three boxes:

1. Box 1 for income from work and main residence

Box 1 includes employment income (including directors’ fees) which is generally also subject to wage tax at source. Benefits in kind are taxable but an employer may pay up to 1.7% of the first EUR 400,000 of the total wage bill and 1,18% over the excess as tax free benefits. Specific tax-free items may also be paid for without deduction of tax. There are deductions for pen- sion contributions to an approved fund. Travel expenses to and from work are exempt within certain limits. Business income is also subject to tax in box 1.

2. Box 2 income from a substantial interest in a company

Box 2 covers income from (basically) a shareholding of 5% or more in a company. This includes dividends and capital gains.

3. Box 3 income from net assets

Income from net assets is generally taxed in box 3 on the basis of a notional return which is then taxed at 31%. The notional income varies from 1.81% to

5.53% depending on the value of assets less liabilities. In effect this means that there is a tax on the value of the net assets of a maximum of 1.71%. This tax is intended to cover both passive income and capital gains. However, it applies also to assets which make no income and no relief is given for losses. The application of this tax to a notional return is subject to court appeal.

2.5 Capital Gains

Capital gains are taxed according to the rules of the box in which they fall.

2.6 Losses

Generally, losses can be offset only against income from the same box.

Losses in box 1 are treated as follows:

- 3 years carry back and 9 years carry forward

Losses in box 2 are treated as follows:

- 1 year carry back and 6 years carry forward

Losses in box 3 are not deductible.

2.7 Exemptions

There are no major exemptions in respect of personal income taxation.

2.8 Allowances and rates

In box 1 a basic tax credit ranging from EUR 0 to EUR 2,888 is granted for persons with a salary up to roughly EUR 69,398. There are certain other extra reductions in tax for people in certain circumstances. A part year resident is entitled to the full credit. There are certain extra deductions for a business. There is a personal allowance for box 3 of EUR 50,650 of net assets. Rates, which include certain social security contributions, are 37.07% for income up to EUR 69,398 and 49.5% on the excess. Individuals who have reached state pension age are subject to a somewhat lower rate.

The rate for box 2 income is 26.90%.

Box 3 income can be allocated between spouses or fiscal partners. The rate is 31%.

2.9 Social security

Social security contributions are levied together with income tax. Social security contributions consist of various types of fund. Some contributions are payable only by employees. The following contributions are only payable by individuals who are subject to box 1 taxation:

- state pension (17.90% of income up to EUR 35,472) ;
- long term care (9.65% of income up to EUR 35,472) ;
- survivor benefits (0.10% of income up to EUR 35,472) ;

The maximum annual amount of social security contributions payable by employees is EUR 9,808.

In addition to social security contributions, every employee is required to be a member of an employee social security scheme. The rate of contribution depends on the occupation.

2.10 Expatriates

For qualifying expatriates coming into the country there is a special facility called the 30% ruling which allows for 30% of the total remuneration to be paid tax free. It is then also possible to opt for partial non-resident status which means that unearned income other than income from Dutch real estate or a substantial interest in a Dutch company is not taxed in the Netherlands. There are conditions for this treatment.

2.11 Options

Personnel options are generally taxed when exercised on the basis of the value of the underlying shares less the exercise price.

2.12 Partnerships

Partnerships are treated as transparent entities and the income is therefore taxed directly in the partners' hands. However, in the so-called open limited partnership the limited partners are treated as shareholders.

2.13 Pensions

Pension contributions are generally not subject to tax. Qualifying pensions received are generally taxed in box 1.

3. Inheritance and gift tax

Gifts and inheritances are subject to tax in the Netherlands, based on the residence or deemed residence of the donor

3.1 Residents and non-residents

Residence is determined "according to the circumstances". Major factors include having a home at one's disposal, location of family and work and physical presence and the centre of economic and social activities.

A Dutch national who lived in the Netherlands and makes a donation or dies within 10 years after leaving the Netherlands is deemed to be a resident. The donation or estate will be subject to gift or inheritance tax.

3.2 Rates

The rates depend on the relationship of the recipient to the donor/deceased and the amount received. For parent-child transfers the rates vary between 10% and 20% while for other transfers the rates normally vary between 20% and 40%.

Donations and inheritances from non-residents are not subject to this tax except in certain cases where a person is a deemed resident.

The main exemptions for inheritance tax are:

- between spouses: EUR 680,645;
- to children: EUR 21,559;
- to parents: EUR 51,053;
- general exemption: EUR 2,274.

The main exemptions for gift tax are:

- general exemption: EUR 2,274;
- to children: EUR 5,677 and once-only EUR 27,231 for children between 18 and 40 without conditions and EUR 106,671 for the purchase of a house or related costs.

4. Value Added Tax

4.1 Rates

VAT is levied at 21% for certain goods. A reduced rate of 9% applies to food, books and certain other necessities. There is a zero rate for the export of goods. Certain medical services, banking services and education are exempt from VAT.

4.2 Distance selling to an individual located in The Netherlands by a company located in the European Union.

In general the supply of goods to individuals located in the Netherlands is subject to VAT in the supplier's country. The VAT for the various EU countries for sales to consumers can be filed on a single return under the One Stop Shop arrangements. Certain goods are exempt from this rule.

5. Other taxes

Other important taxes include:

- transfer tax of 2% on residential property to be used as a main residence by the purchaser, and 8% on other property;
- buyers between 18 and 35 are exempt from transfer tax on a first purchase, subject to certain conditions ("starters' exemption")
- property tax, which is a local tax based on the value of the property, which is determined each year.

There are no provincial or local taxes on income.

There is a withholding tax of 15% on dividends. Dividends paid to corporate shareholders with a shareholding of 5% or more located in a tax treaty country are generally exempt from withholding tax.

Interest and royalties are not subject to withholding tax except where they are paid to a related party in certain specified low tax jurisdictions or in abuse situations. In that case the withholding taxes levied at a rate equal to the highest rate of corporate income tax.

6. Foreign income

The Dutch system for double tax relief is basically the exemption system.

Although there are some exceptions, for box 1 income exemption is generally given subject to progression while in box 3 there is almost a complete exemption and credit is given for withholding taxes.

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