

2021 Budget Memorandum Special

Introduction

On Prince's Day, which this year saw some changes to the usual formalities, the government presented the 2021 Budget Memorandum and 2021 Tax Plan. The measures set out in the 2021 Tax Plan have been influenced greatly by the coronavirus crisis.

This document outlines proposals by the government that will be debated in Parliament over the forthcoming period. Unless indicated otherwise, the proposed measures will enter into force with effect from 1 January 2021.

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1 Rates

A number of changes to rates, tax credits and the imputed return (box 3: savings and investments) will leave many people a little better off in 2021. Corporation tax is also being reduced slightly. As the rate in box 2 (substantial shareholdings) will increase in 2021, it may make sense to make an (extra) dividend payment this year. In this section we have presented the rates for you in handy tables.

Two-band system: rate in first band to be reduced

Since 2020 there have been just two bands for income tax purposes. This year (2020) the rate of income tax in the first band of box 1 stands at 37.35% and will be reduced slightly in 2021. The rate applicable in the second band will remain at 49.5%.

Income tax rate/national insurance contributions for 2021			
	Taxable income of more than (€)	but no more than (€)	Rate for 2021 (%)
1 st band	-	68,507	37.10
2 nd band	68,507	-	49.50

The aim is to make only a small adjustment to the rate in the first band in 2022.

Income tax rate/national insurance contributions Aim for 2022			
	Taxable income of more than (€)	but no more than (€)	Rate for 2022 (%)
1 st band	-	68,507	37.07
2 nd band	68,507	-	49.50

Overview of changes to tax credits

Everyone is entitled to a general tax credit – a credit against income tax. This credit is dependent on your income: the lower your income, the higher the credit. The general tax credit will be increased in 2021.

Tax credits	2020 (€)	2021 (€)
Maximum general tax credit (< state pension age)	2,711	2,837
Employed person's tax credit (maximum)	3,819	4,205
Young disabled person's tax credit	749	761
Maximum income-dependent combination tax credit	2,881	2,815
Elderly person's tax credit (maximum)	1,622	1,703
Single parent's tax credit	436	443

Rate applicable to substantial shareholdings in box 2

The rate in box 2 is currently 26.25%. It had already been decided last year that this rate would increase to 26.9% with effect from 2021. There will be no changes to this plan. The rate of 26.9% will apply to benefits from substantial shareholdings, such as dividends that are paid by a private limited company to a shareholder (director/major shareholder) and become part of his private assets, and capital gains on the sale of shares.

Tip:

Due to the increase in the rate, it may be advantageous to distribute a dividend in 2020. Are you considering making a dividend payment in 2020? If you have benefited from coronavirus support measures, pay close attention to the relevant regulations, as under some of these measures you are prohibited from distributing a dividend.

Adjustment of rate in box 3

To help smaller savers and investors, the legislative proposal relating to the ‘Adjustment of box 3 Act’ proposes a change to the tax on imputed return on investment in box 3.

The system used to determine returns will not change in 2021. The tax payable will therefore continue to be calculated on the basis of three bands. However, the tax-free allowance per person will be increased from € 30,846 in 2020 to € 50,000 in 2021.

In 2021 the bands will be as follows:

- Band 1 will run from € 50,000 to € 100,000 (2020: € 30,849 to € 103,643).
- Band 2 will run from € 100,000 to € 1,000,000 (2020: € 103,643 to € 1,036,418).
- Band 3 will start from € 1,000,000 (2020: from € 1,036,418).

The rate in box 3 will increase to 31% (currently 30%).

Please note:

The increase in the tax allowance will not affect your entitlement to allowances, such as care allowance, housing allowance or the child-based budget. An asset threshold of € 31,430 (2021) will apply to these allowances.

For some time now bringing the tax on imputed return on investment more closely into line with the actual return achieved has been considered a desirable step. At the moment an external study is therefore being prepared to look into the practicalities of introducing a tax that is aligned with the actual return on assets. The government aims to have the results available in the spring of 2021.

Change to corporation tax rates

With effect from 1 January 2020 the lower rate of corporation tax was cut from 19% to 16.5%. The higher rate remained at 25%. These rates were due to be reduced further to 15% and 21.7% respectively with effect from 1 January 2021. However, it was recently decided that the higher rate will not be cut. This will therefore remain at 25%, although the lower rate will still be reduced to 15%.

Adjustments will also be made to the bands. In 2021 the 25% rate will only apply to profits in excess of € 245,000 and in 2022 to profits of more than € 395,000.

The corporation tax rates in 2021 and 2022 will be as follows:

Corporation tax	2020	2021	2022
Profit	16.5%	15.0%	15.0%
	Up to € 200,000	Up to € 245,000	Up to € 395,000
Profit above these thresholds	25.0%	25.0%	25.0%

Innovation box

At present, profits resulting from innovative activities are taxed at 7% for corporation tax purposes, subject to certain conditions. This rate is increasing to 9% in 2021. The innovation box was introduced as a tax incentive to encourage entrepreneurs to carry out innovative research. To be eligible for the innovation box, you need R&D declarations, which you can apply for at RVO.nl for research and development work.

2 Property

Property and home ownership are something of a recurring theme in the government's tax plans. This year is no exception. The accelerated reduction in mortgage interest relief will continue gradually, while the changes to transfer tax are expected to have a significant impact. First-time buyers (up to the age of 35) will be completely exempt from this tax and purchases by investors will be taxed at a higher rate.

Accelerated reduction in mortgage interest relief on own home

Since 2014 the tax advantage available in the form of mortgage interest relief has been gradually reduced, if the interest is deducted at the highest income tax rate in box 1. In 2020 it is still possible to deduct mortgage interest at a rate of 46%. In 2021 the maximum rate of the deduction will be 43% and in 2022 40%. A further reduction will be applied in 2023, with the result that mortgage interest will be deductible at a definitive maximum rate of 37.07%. This percentage corresponds to the rate in the first income tax band.

Please note:

This rate reduction does not apply to the addition to taxable income for the notional rental value of your own home. This addition is therefore taxed at the maximum rate of 49.5%.

Notional rental value to be reduced, but to increase under secondment scheme

The notional rental value is a percentage of the WOZ value (value for the purposes of the Valuation of Immovable Property Act) of your home and is added to your income. This percentage will be reduced in 2021 from 0.6% to 0.5% for homes with a WOZ value of between € 75,000 and € 1,110,000. The own home deductible item will therefore increase. This reduction is intended to compensate for the scaling back of mortgage interest relief.

In 2020 the notional rental value has also been reduced for workers who have been posted to a different location and are taking advantage of the secondment scheme ('uitzendregeling'). This reduction will be reversed with effect from 2021. The secondment scheme allows you to continue to designate your home as your main residence for tax purposes if you are temporarily posted to another location and are therefore not living in your home. In such a case it is still possible to deduct mortgage interest, subject to certain conditions.

Increase in transfer tax on residential properties that are rented out and non-residential properties

At present, transfer tax is charged at a rate of 2% on residential properties and 6% on non-residential properties. In the case of non-residential properties, such as commercial buildings and business premises, this tax was due to rise to 7% from 1 January 2021. This change will not come into effect.

Instead, the general rate will be increased to 8% from 2021. This rate applies to purchases of non-residential properties, such as commercial premises, as well as to purchases of residential properties that are not used as a main residence, e.g. houses that are rented out and holiday homes.

From 1 January 2021 the purchase of residential properties by non-natural persons (e.g. companies, housing associations, etc.) will therefore always be subject to transfer tax at a rate of 8%.

Tip:

Do you want to invest in property and would you like to take advantage of the lower rate of transfer tax while this still applies? If so, the property must have been transferred to you by 31 December 2020!

Exemption from transfer tax for first-time buyers

From 1 January 2021 first-time buyers will no longer have to pay transfer tax when buying a home.

The conditions that apply to this exemption are as follows:

- the buyer is aged between 18 and 35,
- the buyer will live in the purchased home him/herself and this will be his/her main residence,
- and he/she has not previously benefited from the exemption.

The buyer must declare in writing that he/she fulfils these conditions. This declaration is required by the notary for the transfer tax return.

If a couple buy a house together, e.g. on a 50/50 basis, it is necessary to assess for each buyer whether the exemption can be applied. It is therefore possible that one buyer will qualify for the exemption, while the other has to pay 2% transfer tax on his/her share in the property.

If you do not fulfil these conditions when buying a home, you will have to pay 2% transfer tax. You are only entitled to this lower rate if you will be living in the home yourself. Otherwise the new rate of 8% will apply.

Tip:

Are you aged between 18 and 35 and already have your own home, but want to buy a new home from 1 January 2021? If so, you still qualify for the exemption from transfer tax for first-time buyers, as you have not previously benefited from this exemption.

3 Entrepreneurs and businesses

From adjustments to the work-related expenses scheme and a further reduction in the self-employed person's allowance through to changes to corporation tax, the changes announced in the 2021 Tax Plan also have various consequences for businesses. Find out what you need to be aware of as an entrepreneur below.

Gradual reduction in self-employed person's allowance

The self-employed person's allowance is being reduced further. This will be compensated for by an increase in the employed person's tax credit and a cut in income tax.

In 2021 the maximum self-employed person's allowance will be € 6,670 (2020: € 7,030). From 2021 onwards this allowance will be reduced more quickly than had been announced in the 2020 Tax Plan. It will be lowered in eight steps of € 360, one step of € 390 and eight steps of € 110 to ultimately stand at € 3,240 in 2036.

The self-employed person's allowance is an amount that entrepreneurs can deduct from their profit for income tax purposes, provided that they have worked as an entrepreneur for at least 1,225 hours in a calendar year and have dedicated 50% of their working time to the business. It reduces the amount on which you have to pay income tax. This means that, on balance, you need to pay over less income tax to the Tax and Customs Administration.

Offsetting of losses restricted for corporation tax

At present, a loss can be carried back one year and carried forward six years. From 2022 the intention is to allow losses to be carried forward without any time limit. It will be possible to offset losses (carried forward and back) against up to € 1,000,000 of taxable profit. If the profit is higher, losses can only be offset against up to 50% of the profit above € 1,000,000 in any one year.

Please note:

A legislative proposal still has to be submitted.

Job-related investment tax credit (BIK)

From 2021 a job-related investment tax credit (BIK) will make it more attractive for companies to make investments. If companies invest in operating assets, they will be allowed to deduct a percentage of these investments from the payroll tax/national insurance contributions they have to pay. Further details will be announced by the government at a later date.

Work-related expenses scheme

Restriction of fixed budget for wage bills from € 400,000

Since 1 January 2020 a two-band system has applied to the fixed budget under the work-related expenses scheme (WKR):

- Up to a wage bill of € 400,000 the fixed budget is 1.7% (in 2020 this is temporarily 3%).
- From € 400,001 a fixed budget of 1.2% applies.

This percentage will be lowered from 1.2% to 1.18% with effect from 2021. The rate applicable in the first band will remain at 1.7%.

If the allowances and benefits in kind exceed the fixed budget, a final levy of 80% is payable.

Tip:

Is it possible that the allowances and benefits in kind you grant will exceed the fixed budget next year (wage bill of more than € 400,000) and are you in a position to bring them forward? If so, you can save tax by applying the 1.2% rate this year instead of 1.18% in 2021.

Specific exemption for retraining

As a result of the current crisis, the government is placing an even greater emphasis on the importance of training. From 2021 the specific exemption for training will also apply to allowances and benefits in kind granted for training arising from previous employment. This means that from 2021 onwards employers will be able to reimburse the training costs of former employees free of tax. Training costs are currently regarded as a wage from earlier employment and the employer is required to pay payroll tax on them. This relaxation of the rules will apply to allowances and benefits in kind granted for the purpose of following a training programme or course of study with a view to generating income.

Clarification of method used to calculate small-scale investment tax credit (KIA)

The small-scale investment tax credit (KIA or investment tax credit) is intended to promote investments that are relatively small in scale. The level of the investment tax credit depends on the annual investment amount. Since 2010 this tax credit has not always been a percentage of the investment amount; a fixed ceiling has applied for some investment amounts. At present, the text of the Act incorporating the investment tax credit does not make sufficiently clear how it should be calculated in the case of a business that is run by means of a collaborative arrangement, such as a partnership or general partnership.

This lack of clarity resulted in legal proceedings, in which the Supreme Court ultimately delivered a ruling. The Supreme Court ruled that, first of all, the amount of the investment tax credit must be calculated on the basis of the total amount of the investments. The entrepreneur is then entitled to a share of this investment tax credit in proportion to his/her share in the total investment amount.

However, the Supreme Court highlighted one exception to this calculation method. If the investment tax credit calculated on the basis of the total amount of the investments equals the fixed ceiling, the entrepreneur is entitled to this maximum amount. In such a case, therefore, there is no pro-rata recalculation of the investment tax credit. The government considers this to be undesirable and is changing the investment tax credit in such a way that the pro-rata recalculation will still take place. This is worked out in figures in the example below.

Example

An entrepreneur belongs to a general partnership and is entitled to 50% of the surplus profit. He also has non-partnership assets. Over the course of a year the general partnership invested € 40,000. The entrepreneur therefore invested € 20,000 (50% of € 40,000) in the business. In addition, the entrepreneur invested € 60,000 in his non-partnership assets. The total investment amount is therefore € 100,000. The fixed ceiling of € 16,307 of investment tax credit applies. According to the Supreme Court's ruling, the entrepreneur would be able to claim this amount in the form of investment tax credit. On the basis of the proposed change to the law, this amount will be recalculated as follows: $(50\% \times € 40,000 + € 60,000) / € 100,000 \times € 16,307 = € 13,046$

Lastly, the legislator has made clear that – contrary to the Supreme Court's view – the investment tax credit must be calculated per *business* and not per *entrepreneur*. This has consequences for an entrepreneur who runs more than one business. In figures, the proposed change to the law works out as follows:

Example

An entrepreneur runs two businesses: a bicycle shop and a horse riding centre. Over the course of a year he invests € 40,000 in both businesses, resulting in a total investment amount of € 80,000. In this case, in the Supreme Court's view, the investment tax credit would amount to the set ceiling of € 16,307. According to the legislator, the investment tax credit has to be determined per business. The investment tax credit per business is $28\% \times € 40,000 = € 11,200$. In total, the entrepreneur can therefore claim $2 \times € 11,200 = € 22,400$ in the form of investment tax credit.

Tip:

Investing in your business or businesses can affect the level of the investment tax credit. This means it may be worthwhile to bring forward or postpone investments. You should therefore plan your investments carefully and get advice on how to proceed.

4 International

In some cases the new tax measures proposed in the Dutch Budget Memorandum and 2021 Tax Plan also affect the tax burden on international companies (or companies' international activities). It is therefore worth taking note of the proposals.

Restriction of interest relief on loans from related persons to be expanded

If a company receives a loan from a related entity or a related natural person (such as a shareholder), under certain circumstances the interest payable on it is not deductible. Such debts with non-deductible interest are known as 'qualifying debts'.

There are two situations in which interest can be deducted:

- if the borrowing company can demonstrate that the debt was entered into on commercial terms.
- if the recipient of the interest pays tax of at least 10% on the interest paid and the interest is not used to offset losses or for other claims for reduced taxation. Costs and exchange results relating to the loan also fall under 'interest'.

At present, to determine the level of the excluded interest, all qualifying debts are added together. Interest paid and exchange losses result in a lower profit, while interest received and exchange gains result in a higher profit. If the interest received is higher than the interest paid, this increases the profit. This is the case, for example, if the exchange gain on loan 1 exceeds the interest payable on loans 1 and 2 together. If the deduction of interest is excluded in this case, the company would actually have an exemption for the positive balance.

Under the current legislative proposal it is no longer possible for the restriction of interest relief on the basis of the Corporation Tax Act to result in a lower profit. For each qualifying debt it is necessary to assess whether excluding interest relief results in a lower profit. If the balance of the qualifying debt is positive, no restriction of interest relief applies to this debt and it is therefore left out of the calculation of the combined balance of all qualifying debts. The exemption for the positive balance therefore ceases to apply.

Offsetting of advance corporation tax

Dividend tax and gambling tax are forms of advance corporation tax. You can offset these against the corporation tax payable on your corporation tax return. If your taxable profit is zero or negative, the dividend and/or gambling tax paid will be refunded to you.

On the basis of recent European case-law, failure to refund Dutch dividend and gambling tax to foreign companies may be in breach of European law. That is because foreign entities that are not subject to corporation tax in the Netherlands, but do have to pay Dutch dividend or gambling tax, are not able to offset or reclaim these taxes.

For this reason, from 1 January 2022 the government wants the offsetting of dividend and gambling tax to be limited, in the case of Dutch companies, to the corporation tax owed. It will then no longer be possible to have these taxes refunded.

To prevent a potential conflict with EU law, a policy decision will be published shortly approving the entitlement of foreign entities to a refund of dividend and gambling tax, under certain conditions. This policy decision will be valid until the Act is amended in 2022.

Please note:

Is a foreign entity (e.g. within your group) not subject to corporation tax in the Netherlands, but has it paid dividend and/or gambling tax in the Netherlands in 2020 or previous years? If so, ask your advisor to request a refund of these taxes on your behalf.

Change to arm's length principle to tackle informal capital structures

Companies that do business with each other within the same group must conduct these transactions on commercial terms that would be employed by independent third parties. Here we are talking about a commercial interest rate on a loan between companies or a commercial (transfer) price for products purchased, for example. This is referred to as the arm's length principle.

In international contexts in particular the arm's length principle is important to prevent profit shifting to countries with low corporation tax rates. The Netherlands is planning to tighten up the arm's length principle to tackle informal capital structures. A separate legislative proposal on this matter will be published by the government in the spring of 2021.

Conditional Withholding Tax on Dividends Act

The Withholding Tax Act 2021 will apply from 1 January 2021. This will be supplemented by the 'Conditional Withholding Tax on Dividends Act', which will enter into force from 1 January 2024. Alongside the existing dividend tax, which the government has now definitively decided not to abolish, from 2024 the Netherlands will deduct a withholding tax on dividends paid out within a group to low-tax jurisdictions. A legislative proposal on this matter will also be published in the spring of 2021.

Introduction of Withholding Tax Act 2021

At present the Netherlands does not levy any withholding tax on outgoing interest and royalty flows. As a result, Dutch companies can be used as a conduit to low-tax jurisdictions. The government intends to counter this form of tax avoidance with the proposed introduction of the 'Withholding Tax Act 2021'.

If a company is based in a low-tax jurisdiction and receives interest or royalties from an affiliated Dutch party, the receiving company is subject to tax under the Withholding Tax Act 2021. A country is regarded as a low-tax jurisdiction if its tax on profits is lower than 9% of if the country is on the current EU list of non-cooperative jurisdictions for tax purposes.

The rate of the withholding tax will be the highest applicable corporation tax rate: 25% from 2021.

The company with a qualifying holding in the low-taxed subsidiary is the withholding entity for withholding tax purposes. From 1 January 2021 it must declare the interest and royalties paid to this subsidiary and pay over the withholding tax (by no later than 31 January 2022 for interest and royalties paid in 2021). The Withholding Tax Act will apply in the same way to a foreign branch of a company (a so-called permanent establishment).

Please note:

Contrary to what was announced last year, the general rate of corporation tax will remain at 25% instead of being cut to 21.7%.

5 Transport and sustainability

The government is keen to promote sustainability and is proposing various changes to environmental legislation. These will affect the addition to taxable income for electric cars and energy tax, for example. The proposals and changes in the area of taxation presented by the third Rutte cabinet on Prince's Day this year in relation to transport and sustainability are presented below.

Increase in addition to taxable income for electric car

Last year it was already announced that the addition to taxable income for the private use of electric cars would be increased incrementally. With effect from 1 January 2021 the addition to taxable income for the private use of electric cars will be 12% (2020: 8%) on a maximum value of € 40,000 (2020: € 45,000). Is the list price of the vehicle more than € 40,000? In that case the normal addition of 22% will apply on the amount above this figure.

Example

If a Tesla Model X with a list price of € 110,000 is first registered in 2020, the gross monthly addition will be € 1,492. If this car is not registered until 2021, the gross monthly addition on the same car will be € 1,683.

Over the coming years the addition will be increased further, rising to 16% in 2022 and 17% in 2025. The maximum list price up to which the lower addition is applicable will not be raised and will remain at € 40,000.

One new regulation being introduced this year is that the maximum price will not apply to solar cars powered by integrated solar panels. The government's intention here is to anticipate developments on the automotive market.

The addition percentage will be fixed for a five-year period, from the first day of the month following that in which the vehicle first enters use.

Tip:

Do you intend to purchase an electric car? If so, make sure it is first registered in 2020. In that way you will make sure you benefit from the lower addition for private use of the car for five years.

Taxable event for private vehicle and motorcycle tax brought forward to time of registration

The main taxable event for purposes of private vehicle and motorcycle tax (bpm) is currently the time when a motor vehicle is entered in the vehicle licence plate register. This covers both the entry of a motor vehicle in this register and its registration in the owner's name.

The general rule at present is that the private vehicle and motorcycle tax return must be filed and the payment made before the motor vehicle is entered in the vehicle licence plate register. However, the condition of the motor vehicle at the time of registration determines the level of tax payable.

To simplify the levying of this tax, in future the government wants the taxable event to relate to a single moment in time: the time when the motor vehicle is entered in the vehicle licence plate register.

This proposal should also result in the domestic trade and import trade being treated equally for tax purposes.

Stricter CO₂ thresholds, rates and diesel surcharge for private vehicle and motorcycle tax

The CO₂ thresholds for private vehicle and motorcycle tax are being lowered by 4.2%. The rates, i.e. the tax payable per g/km of CO₂ emissions (excluding the flat-rate charge), will first be indexed and then increased by 4.38%. In 2021 a stricter CO₂ threshold of 77 g/km (2020: 80 g/km) will be introduced for the diesel surcharge. Above this threshold of 77 g/km the rate of the diesel surcharge will rise from € 78.82 to € 83.59 per gram of CO₂ emissions.

By taking these measures, the government is aiming to bring the tax base into line with the latest technological developments, which are resulting in ever more efficient and 'greener' vehicles.

Reduced rate for public charging points extended

At present, in the area of energy tax a reduced rate applies to electricity supplied via public charging points. In the case of electricity supplied to a charging point for electric vehicles that have an independent connection, the renewable energy and climate transition surcharge (ODE) has been set at zero (Renewable Energy and Climate Transition Surcharge Act). These two tax facilities were due to be withdrawn at the end of 2020, but have been extended to the end of 2022. With this measure the government's aim is to stimulate growth of the national charging point network.

Introduction of CO₂ levy on industry

The government is proposing to introduce a CO₂ levy with effect from 2021. This will apply to large industrial companies that fall under the European emissions trading system (EU ETS) and to waste incineration plants and companies that emit large quantities of nitrous oxide. If these companies' CO₂ emissions exceed the exempted amount set for purposes of the levy, they will pay tax on the portion above this threshold. The levy will be increased up to 2030 and the exempted amount will decrease at the same time. In this way the government hopes to encourage companies to make their production more CO₂-efficient. A number of specific sectors, including horticulture, will be exempt from the CO₂ levy. Alternative agreements will be made with these sectors, the details of which are yet to be announced.

Increase in ODE rates

Via the renewable energy and climate transition surcharge (ODE) both households and companies contribute to investments in renewable energy through their energy bill. The ODE serves as the source of funding for spending under the Renewable Energy Transition Incentive Scheme (SDE). In 2021 and 2022 the rates set for the ODE will increase.

The new rates are presented in the infographic below.

Natural gas in cents/m ³	Rates 2020	Rates 2021	Rates 2022
0-170,000 m ³	7.75	8.51	8.65
170,000-1,000,000 m ³	2.14	2.35	2.39
1,000,000-10,000,000 m ³	2.12	2.32	2.36
> 10,000,000 m ³	2.12	2.32	2.36

Natural gas for horticulture in cents/m ³			
Natural gas in cents/m ³	Rates 2020	Rates 2021	Rates 2022
0-170,000 m ³	1.24	1.37	1.39
170,000-1,000,000 m ³	0.81	0.89	0.90
1,000,000-10,000,000 m ³	2.12	2.32	2.36
> 10,000,000 m ³	2.12	2.32	2.36

Electricity in cents/kWh			
0-10,000 kWh	2.73	3.00	3.05
10,000-50,000 kWh	3.75	4.11	4.18
50,000-10,000,000 kWh	2.05	2.25	2.29
>= 10,000,000 kWh	0.04	0.04	0.05

Taxes on energy consist of the ODE and energy tax. In 2021 the tax portion of an energy bill is not expected to increase for a household with average consumption.

6 Coronavirus support measures to be put into law

Under the Tax Plan numerous coronavirus support measures that have already been announced will be put into law.

Exemption from profit of compensation received under TOGS and TVL schemes

Until 15 June 2020 entrepreneurs in certain sectors who suffered losses as a result of coronavirus measures were able to make a claim under the Contribution for Entrepreneurs in Sectors Affected by COVID-19 scheme (TOGS or € 4,000 scheme). This scheme was succeeded by the Reimbursement of Fixed Costs for SMEs Affected by COVID-19 scheme (TVL).

In principle, the compensation received on the basis of these schemes is part of the company's profit. This is not a desirable situation. For this reason an earlier decision stipulated that such compensation will not be regarded as profit and this is now being laid down in a legislative proposal.

Tax treatment of bonuses paid under COVID-19 Bonus for Healthcare Professionals Subsidy Scheme

Healthcare institutions can award employees and non-employees (e.g. self-employed persons and external cleaning staff who are hired in) a tax-free bonus of € 1,000.

The healthcare institutions must include this bonus in the fixed budget under the work-related expenses scheme and it is regarded as a final-levy component. As a result, no tax is levied on the employee and the payment is made net. This also means that the bonus does not reduce the employee's entitlement to allowances.

In the case of non-employees, however, this approach was not possible. Consequently, under the Tax Plan this option has now been made available to non-employees too. The final-levy rate has been set at 75%. This is the same rate applicable to benefits in kind with a value of more than € 136 granted to non-employees.

The healthcare institution can submit an application for the bonus to the Minister of Health, Welfare and Sport. The bonus, including the final levy payable, will then be refunded to the healthcare institution.

Temporary bridging scheme for flexiworkers

The temporary bridging scheme for flexiworkers is now being put into law. Under this scheme, subject to certain conditions, flexiworkers were able to apply for a contribution of € 550 per month for March, April and May 2020. The bridging scheme was intended for flexiworkers whose income fell in April, compared with their income in February, as a result of the coronavirus crisis.

Temporary increase in fixed budget under work-related expenses scheme in 2020

As a result of the coronavirus crisis, the fixed budget under the work-related expenses scheme has been increased to 3% on the first € 400,000 of the taxable wage bill. This increase has now been included in a legislative proposal and will apply in 2020 only.

Coronavirus reserve

Do you expect your company to post a loss for 2020? And did you make a profit in 2019? If so, it is possible to include a tax reserve in your 2019 corporation tax return. You will then already be able to offset your expected loss for 2020 with your 2019 profit and will therefore pay less tax. However, this is subject to the condition that your loss for 2020 is linked to the consequences of the coronavirus crisis, for example because you had to close your business but still had fixed costs to pay.

The coronavirus tax reserve has been capped at the level of your profit for 2019 without taking this reserve into account. It is compulsory to release the coronavirus reserve in 2020. This measure, which was previously part of a policy decision, is now being included in a legislative proposal.

Please note:

The coronavirus tax reserve is only available to companies that are subject to corporation tax.

7 Other measures and measures previously announced

More human system for allowances to be put in place at Tax and Customs Administration

Numerous changes have already been made in response to the ‘childcare allowance affair’, such as appointing two state secretaries to oversee the Tax and Customs Administration and adopting a hardship scheme.

In the 2021 Tax Plan a proposal for an ‘Act to Improve the Administration of Allowances’ has been added to these. This Act should make it possible, in the short term, to implement a better, more human system and to increase citizens’ legal protection. The most notable measures set out in the legislative proposal are as follows:

- The all-or-nothing nature of childcare allowance has been abandoned. The Tax and Customs Administration will determine your entitlement to childcare allowance based on the proportion of the costs that you, as a parent, have paid to the childcare organisation **on time**. Previously, you had to pay back the entire allowance if you had not paid the full amount to the organisation on time.
- Under specific circumstances the Tax and Customs Administration will claim back a lower amount than that prescribed by law. This is only possible if reclaiming the full amount would be disproportionate.
- Partners are no longer partners for allowance purposes from the moment one of them is admitted to a nursing or care home.
- Interested parties can make their views known to the Tax and Customs Administration early in the process to avoid the need for subsequent objections and appeals.

Life-course savings scheme

Until 2012 employees had the option of saving for a life-course savings benefit. When the life-course savings scheme was abolished it was specified that employees with an entitlement under such a scheme exceeding € 3,000 on 31 December 2011 could make use of transitional arrangements. These transitional arrangements will end on 31 December 2021. This means that if the life-course savings benefit has not been paid out in the form of a wage by 1 January 2022, the value of the credit will be taxed.

The transitional arrangements have come up against practical problems and are therefore being amended as follows:

- The institution administering the life-course savings scheme will become the withholding agent for payroll tax at the fictitious moment of payment (the moment when it is assumed that the remaining life-course savings benefit is paid out).
- This fictitious moment of payment is being brought forward. If the benefit has not been paid out in the form of a wage by 1 November 2021, the fictitious moment of payment will be 1 November 2021.
- The institution will not take tax credits into account. These can be claimed by the employee in his/her income tax return. The tax credit for leave under the life-course savings scheme is one of these.

One-off rent reduction for tenants on low incomes

In spite of the fact that housing associations take the level of a person’s income into account when allocating housing, there are people who are paying rent that is too high for their income. From 1 January 2021 eligible tenants will therefore be able to request a one-off rent reduction from their housing association. You qualify for a rent reduction if you rent social housing from a housing association (not private sector) and satisfy the following conditions:

- Your monthly rent exceeds:
 - € 619.01 for a single- or two-person household.
 - € 663.40 for a household of three persons or more.

- Your annual income is no more than:
 - € 23,225 gross per year for a single-person household.
 - € 31,550 gross per year collectively for a multiple-person household.

Please note:

Your income for 2019 is taken as a basis to assess whether you are eligible for the rent reduction.

Cash gifts no longer deductible

From 2021 it will no longer be possible to deduct gifts that are given in cash. In addition, written documents will be required as evidence of gifts.

Excessive loans (€ 500,000 scheme)

In June the legislative proposal on 'Excessive Loans' was submitted. Under this proposal debts of a director/major shareholder (DGA) that exceed € 500,000 will be taxed from 31 December 2023.

If on 31 December 2023 a DGA, together with his/her partner, has a debt to a company in which the DGA (indirectly) holds at least 5% of the shares, the excess amount above € 500,000 will be taxed as fictitious regular income in box 2. It will be taxed at a rate of 26.9%. Debts of children, grandchildren, parents and grandparents will also be taxed if they have a debt exceeding € 500,000. This will apply per family member.

Home acquisition debts for which a mortgage right has been granted to the company or that were entered into before 1 January 2023 will not be taken into account.

Example

On 31 December a DGA has a debt of € 1,000,000 to his company. € 250,000 of this concerns a debt for the purchase of his own home and was entered into before 1 January 2023. The amount of loans to be taken into account for purposes of the excessive loans calculation is therefore € 750,000. The DGA therefore has to pay 26.9% tax on € 250,000 (€ 750,000 -/- € 500,000): € 67,250.

If a dividend is distributed at a later date, this is first offset against the fictitious regular income. This therefore ensures that double taxation is avoided.

Tip:

In 2020 the rate in box 2 is still 26.25%. It may be advantageous to reduce your debts in 2020 by means of a dividend payment.

Tip:

Have you entered into a large amount of debt for property that forms part of your private assets? If so, it may be advantageous to transfer this to a company or your children in 2020 at a transfer tax rate of 2% or 6%.

What was missing from the tax plans?

Various legislative proposals were also missing in relation to a number of issues. These include, for example, a proposal to replace the current Assessment of Employment Relationships (Deregulation) Act to future-proof the labour market. A number of further legislative proposals are expected in the spring!

We have endeavoured to compile these texts as reliably and as carefully as possible. Our organisation cannot be held liable for any inaccuracies they may contain or the consequences thereof.