KPMG Meijburg & Co
Tax & Legal

Budget Day 2020

Presentation for the French Chamber of Commerce in the Netherlands

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Introduction

KPMG Meijburg & Co Tax Lawyers

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Agenda

- Corporate income tax rate
- Further limitation of interest deduction
- Limitation loss set-off rules
- Limitation liquidation loss scheme
- Corona tax reserve
- Job-related Investment Allowance (Corona)
- Other (CIT) developments / potential future measures
- Dividend Withholding tax developments
- Personal income tax
- Real estate transfer tax (if there is time)
- CO_2 tax on industrial emissions / climate tax measures (if there is time)

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Corporate income tax rate

Different reduction CIT rates than in 2020 Tax Plan

- General rate remains at 25% (instead of 21.7% announced last year)
- Lower tax rate

  2020: 16.5% on taxable amount < EUR 200,000
  2021: 15% on taxable amount < EUR 245,000
  2022: 15% on taxable amount < EUR 395,000

- Tax accounting: as long as the amendment of the CIT rate has not been substantively enacted (i.e. late December 2020), the deferred tax position (assets and liabilities) calculation based on 21.7%
- Substantively enacted means that the updated tax rate applies when the proposal has been accepted by the Dutch Senate ('Eerste Kamer') which is different under US GAAP that requires 'enacted' meaning that all formal steps have to be completed (publication National Newspaper)
- Increased effective tax rate Innovation Box from 7% to 9%

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Further limitation of interest deduction

- “Section 10a” interest deduction limitation > no longer exemption positive FX result / negative interest expenses
- Clarification of possible concurrence between hybrid mismatch measures (ATAD 2) and certain interest deduction limitations
- Future (no draft bill yet): more equal tax treatment debt and equity -> potential tightening earnings stripping measure (currently 30% EBIDTA rule, might be 20% or 25% EBIDTA rule) / introduction of ‘net equity allowance’ (in Dutch: *vermogensaftrek*) is considered

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Limitation loss set-off rules

- Currently (2020): basically only timing limitations (1 year carry back and 6 years carry forward)
- As of 2022: losses exceeding EUR 1 million only to be set-off up to 50% of taxable profit (both for carry back and carry forward)
- As of 2022: <u>unlimited</u> carry forward

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Limitation liquidation loss scheme

As of 2021, the liquidation loss scheme will be amended in such a way that a liquidation loss will only be deductible if the liquidation is completed within three years of ceasing the activities or the decision to do so (Temporary limitation)

Insofar the liquidation loss exceeds EUR 5 million, this additional liquidation loss will only be deductible if two extra requirements are also fulfilled (next to the temporary limitation). These are (in short):

1) a qualifying interest is held (decisive control, 50% or more of shares or voting rights) in an
2) EU/EEA resident entity

Cessation losses of foreign permanent establishment will only be deductible in EU/EEA situations

Action required before end of this year in respect of non-EU/EER participations / non-EU/EER permanent establishments

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Corona tax reserve

Corona reserve: a corona-related loss in FY 2020 in the FY 2019 CIT return (thus cash flow benefit)

- Timing difference: release corona reserve in 2020 CIT return. Deferred tax liability!
- Maximum addition to corona reserve is corona-related tax loss in 2020
- Only possible if in FY 2020 an overall loss is / will be realized
- As a result of addition corona reserve, no tax loss in FY 2019 (hence: no carry-back to FY 2018)

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Job-related Investment Allowance (BIK)

- Introduction of *Baangerelateerde Investerings Korting* (BIK). Budget: 2 billion!!
- Reduction of the wage tax. Cash flow benefit
- Temporary measure: 2021 and 2022
- Further details will be disclosed once the Bill has been sent to Parliament (expected in October)

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Other (CIT) developments / potential future measures

- Informal capital structures – Transfer Pricing (2022)
- Other international CIT aspects of Ter Haar Advisory Committee on taxation of multinationals
- New group regime (2025 at the earliest?)

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Personal Income Tax

Box 1: slight reduction (from 37.35% to 37.1%)

Box 2: slight increase from 26.25% to 26.9%

Box 3 (income from savings and investments)

- Increase of the tax-free allowance from EUR 30,846 to EUR 50,000 per person (EUR 100,000 for tax partners)
- Above that amount, the Box 3 levy will be increased (rate from 30% to 31%)
- Deemed return on investments (after application tax-free allowance):

  Between EUR 50,000 and EUR 100,000: 1.9%

  Between EUR 100,000 and EUR 1,000,000: 4.5%

  More than EUR 1,000,000: 5.69%
- Overall effect: anyone with savings or investments of up to EUR 220,000 (or EUR 440,000 if they have a tax partner) will pay less tax on them

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Real estate transfer tax

- RETT tax rate will be 8% (was 6%)

>> second homes, commercial real estate and real estate investors

- RETT rate remains 2% only for homes used as own residency

- However: first-time buyers (aged 18 to 35) entering the housing market: no RETT. Purpose: more access to the housing market

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CO_2 tax on industrial emissions / climate tax measures

- Under the National Climate Agreement, industrial companies will be encouraged to invest in cutting their CO_2 emissions
- Companies that do not sufficiently reduce their emissions will pay a CO_2 tax
- As things currently stand, companies that fail to achieve the agreed reduction in CO_2 emissions risk paying EUR 125 in 2030 for each excess tonne of CO_2 emitted
- Other climate tax measures
  - Limitations vehicle taxes
  - Ships encouraged to use greener shore-side electricity (instead of their own generators) by reducing the applicable tax rate

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Questions?

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