

Firmly on course for 2014

Tax tips for private
clients and (family)
businesses

November 2013



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Foreword

The end of the year is fast approaching. Now is the time to determine your fiscal strategy for 2014. In this publication *'Firmly on course for 2014 – Tax tips for private clients and (family) businesses'*, PwC's advisors outline the most important tax tips and points to note, so that you can check whether you need to take action before 1 January 2014. This is valuable information for the people in and behind (family) businesses, as well as private clients and the financial expert(s) within an organisation.

Our tax tips and points to note are based on the current Dutch legislation and case law. We also write in anticipation of the measures proposed in the 2014 Tax Package, which has been approved by the House of Representatives on 19 November 2013.

Because the Senate has not yet approved the 2014 Tax Package, it remains to be seen which of the proposals will eventually become law. The same is true for other proposed legislation included in this publication. Content based on such legislation is marked with an asterisk (*).

This publication is also available at www.pwc.nl/goed-op-weg-naar-2014.

This is an interactive document; using the table of contents, you can easily click on the links to your chosen topic.

Should you have any questions regarding this publication, please contact your PwC advisor.

Rotterdam, the Netherlands, 19 November 2013



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Private clients

Current developments

*Extended exemption for home acquisition gift**

Would you like to make use of the extended exemption for a home acquisition gift?

If so, bear in mind that future mortgage interest relief will be restricted, as the home equity reserve will increase if you, as the recipient, use the gift to redeem home acquisition debt. From 1 October 2013 to 31 December 2014 inclusive, regardless of your age or relationship with the giver, under certain conditions you can receive a gift of up to EUR 100,000 free of tax for your own home.

*Extension of measure reinstating interest relief after temporary rental of principal residence offered for sale**

Are you considering ending the rental of your home before 1 January 2014?

The measure permitting reinstatement of interest relief after temporary rental of your principal residence that is being offered for sale, is being extended by one year to 1 January 2015. If you were intending to terminate the rental of your home before 1 January 2014 due to the previously envisaged ending of this measure, you may wish to reconsider that decision.

*Extension of three-year term measure for principal residence relocation schemes**

Is your home, vacant since 2011, still not sold, or are you not yet living in the home you bought in 2011?

The temporary measure of the three-year term (instead of a two-year term) for the relocation schemes on the sale and purchase of a vacant home is being extended until 1 January 2015. This means that if your home has been vacant since 2011 and is destined for sale, in 2014 it will still be regarded as your principal residence and will thus qualify for mortgage interest relief. If you bought a home in 2011 or it has been under construction since then, you can still enjoy mortgage interest relief provided that you take up occupation of the home as your principal residence in 2014 at the latest.

Transitional period for conversion of box 3 endowment insurance

Did you submit a written request for conversion to your insurer, bank or intermediary before 1 April 2013?

If so, an extended transitional period applies until 31 December 2013 for conversion into mortgage-linked endowment insurance (KEW), a tax-efficient savings account for mortgage repayment (SEW) or a tax-efficient investment account for mortgage repayment (BEW).

Relevant once again

Intention to let your own home

Are you intending to let your own home?

If the mortgage loan is regarded as home acquisition debt on 31 December 2013 and you are not going to rent out the home until after 1 January 2014, you can avoid a box 3 levy on the home in 2014. This applies not only to regular rental situations but also to a home being offered for sale that you are renting out on a temporary basis.

Advance payment of mortgage interest

Are you expecting a (much) lower income in box 1 in 2014 than in 2013?

If so, because relief is at a higher progressive rate, under certain conditions it may be wise to pay your mortgage interest for the first half of 2014 in advance in 2013.

Redemption of home acquisition debt

Do you have only a small interest-bearing loan outstanding on your home?

If so, in 2014 you can take full advantage of the allowance for little or no outstanding home acquisition debt by paying off this loan in full before 1 January 2014.

Making a gift

Would you like to make a gift?

If so, consider making the gift before 1 January 2014; a gift reduces your box 3 assets and increases the box 3 assets of the recipient.

Use of asterisk ()*

We have marked some tips with an asterisk (*). These tips are based on the measures proposed in the 2014 Tax Package, which has been approved by the House of Representatives on 19 November 2013. Because the Senate has not yet approved the 2014 Tax Package, it remains to be seen which of the proposals will eventually become law. The content of the tips may therefore be subject to change.

Paying tax debts

Do you still need to pay a tax assessment?

It may be wise to pay your outstanding (final) tax assessments this year, the reason being that unpaid tax debts cannot be deducted in box 3, with the exception of gift tax and inheritance tax due.

Did you make an online or written request before 6 November 2013 for a (further) provisional assessment? What if this assessment is not made before 31 December 2013, such that you cannot pay it before the end of 2013?

If so, on 1 January 2014 you may, nonetheless, deduct an amount equal to the tax assessment made and paid after 31 December 2013 from the taxed assets in box 3.

Have you, on 31 December 2013, not yet received an assessment for a tax claim submitted before 2 October 2013?

In this case you may also, nonetheless, deduct an amount equal to the tax assessment made and paid after 31 December 2013 from the taxed assets in box 3 on 1 January 2014.

Business

Current developments

Accelerated depreciation

Have you, as an entrepreneur, invested in new business assets in 2013, or do you intend to do so?

If so, it may be advisable to consider a new temporary facility for accelerated depreciation. Entrepreneurs may be eligible to use this corporate/personal income tax facility that allows for accelerated depreciation of investments made in new business assets between 1 July 2013 and 31 December 2013 inclusive. If the conditions are satisfied, accelerated depreciation of up to 50 per cent of the investment costs is possible immediately. The business asset must be taken into commission before 1 January 2016.

Energy-efficient and environmentally-friendly business assets*

Are you, as an entrepreneur, considering investing in new energy-efficient or environmentally-friendly business assets?

Then as an entrepreneur from a corporate/personal income tax perspective you may find it worthwhile to consider whether a proposed investment should be made before the end of 2013. The minimum investment amount for the energy investment allowance (EIA) is being increased to EUR 2,500 per investment with effect from 1 January 2014. This also applies to the environmental investment tax scheme for businesses (MIA). For access to investment facilities, it is important that you observe any applicable reporting deadlines.

Investing in highly fuel-efficient cars*

Are you, as an entrepreneur, considering investing in highly fuel-efficient cars?

If so, then please keep in mind that several incentive measures will expire or be moderated in 2014. As of 1 January 2014 the small-scale investment discount (KIA) expires for cars with low CO₂ emissions. Also from that date onwards, the environmental investment tax scheme for businesses (MIA) will probably be aimed more at (semi-)zero-emission-cars. The conditions will be listed in the "Milieulijst 2014", which is expected to be published by the end of December 2013. It could be beneficial for you as an entrepreneur from a corporate/personal income tax perspective, to make your planned investment in highly fuel-efficient cars in 2013.

Research and development work*

Do you, as an entrepreneur, intend to begin performing research and development work yourself?

Since 2012, entrepreneurs with costs - other than wages - and expenditure directly attributable to research and development work (R&D work) that they perform themselves, may be eligible for the research and development work allowance (RDA) for corporate/personal income tax purposes. With effect from 1 January 2014, the rate of this supplementary allowable deduction will very likely increase from 54 per cent to around 60 per cent. Therefore, you may find it beneficial to take this increase into account by incurring the costs and expenditure in 2014. The RDA rate is expected to be definitely set in December 2013.

Financing participations

Does your company hold interests qualifying as 'participations' and has it incurred debt?

If a company holds participations and has debt, interest deduction restrictions might apply. Expansion investments may possibly constitute an exception. It may be advisable to consider whether the interest deduction restriction applies and whether the impact can be reduced, for example by adjusting the structuring.

Relevant once again

Group loans (thin capitalisation)

Have group loans been contracted in your group?

In case of a split financial year that started in 2012, the interest deduction restriction may be applicable under the thin capitalisation rules. You may be able to avoid application by adjusting the level of shareholders' equity and/or loan capital before the end of the financial year. The thin capitalisation rules do not apply to financial years beginning on or after 1 January 2013.

Deconsolidation from fiscal unity on request

Are you planning to deconsolidate one or more companies from an existing fiscal unity as per 1 January 2014?

If so, make sure that you submit your request for deconsolidation by 31 December 2013 at the latest.

Deduction of interest related to an acquisition

Are you considering making an acquisition, or is the acquisition already in progress?

If so, note that the interest paid on a loan for acquiring another company may not be fully deductible, as various regulations apply to corporate income tax that restrict interest deductions. Adequate structuring may avoid interest falling under the deduction restrictions unnecessarily.

Accelerated loss recognition

Did your company suffer losses in the tax years 2009, 2010 and/or 2011 and are the final assessments yet to be issued?

A temporary measure applies in respect of those years: you may elect to extend the period for carrying back losses from one year to three years. However, such election does entail that the period for carrying losses forward is shortened from nine years to six years. Moreover, for every additional set-off year, you can carry back a maximum loss of EUR 10 million.

Is loss carry-back not possible?

In that case, in view of the limited carry-forward period of nine years, you may find it more tax-efficient to prevent incurring tax losses as much as possible and defer them instead. In this respect, you will be required to observe the rules of sound business practice.

Possibility of loss compensation

Does your company have tax losses and does the entitlement to loss compensation expire soon?

As a general rule, losses can be carried forward for nine years, after which they can no longer be offset. Losing the possibility to offset losses may be avoided by taking measures in good time.

Reinvestment reserve

Did you form a reinvestment reserve in 2010 as a result of the sale of a business asset?

If so, if you do not make a reinvestment before the end of 2013, in principle the amount of the reserve will be added to the taxable profit. In exceptional circumstances, the maximum period for holding a reinvestment reserve can be extended.

Recapture of the additional investment deduction

Did you purchase a business asset less than five years ago and are you planning to sell it?

To prevent recapture of additional investment deductions made in previous years, it may be advisable to defer the sale of the business asset until the beginning of 2014.

Small-scale investment allowance

Are you planning to make investments in your business this year, or have you already done so?

If so, note that the right to the additional small-scale investment deduction lapses in its entirety if you exceed the maximum investment amount of EUR 306,931. If it looks as if you might exceed this maximum amount, it may be advisable to postpone investments (in part) until 2014.

Director/substantial shareholder

Current developments

Temporary reduction of box 2 rate to 22 per cent*

Are you intending to distribute dividends in the near future?

If so, postpone the dividend distribution until after 1 January 2014. This is because in 2014 a one-off reduction of the box 2 rate of 22 per cent applies, to the extent that the taxable income from a substantial interest is not higher than EUR 250,000. This yields a rate advantage of 3 per cent. In addition, if the dividend distribution takes place after 1 January 2014, the sums obtained in 2014 will not fall under the capital yield base in box 3, due to the box 3 reference date being 1 January. Thus, that also means a tax saving of 1.2 per cent of the dividend distributed for the year 2014. Partners for tax purposes are each entitled to the decreased rate of 22 per cent on the first EUR 250,000 of income in box 2. This means that in 2014 they can receive a total amount of EUR 500,000 in dividends under the reduced box 2 rate of 22 per cent.

Do you plan to sell your substantial interest shares in the near future?

In that case, consider postponing the sale of the substantial interest shares until after 1 January 2014. If the sale takes place after this date, a rate advantage of 3 per cent of the sale proceeds in box 2 and a tax advantage of 1.2 per cent of the capital gain in box 3 can also be achieved. Partners for tax purposes are each entitled to the decreased rate of 22 per cent on the first EUR 250,000 of income in box 2.

Extended exemption for home acquisition gift via own bv*

Would you like to make use of the extended exemption for a home acquisition gift but do you not have sufficient private funds?

If so, you may borrow the sum for the maximum untaxed gift from your bv. From 1 October 2013 to 31 December 2013 inclusive, under certain conditions you can gift up to EUR 100,000 free of tax for the principal residence of another person.

Relevant once again

Disclosure obligation for home acquisition debt contracted at own bv before 2013

Are you considering borrowing money from your bv or a family member to purchase or improve your principal residence?

If so, please note that, with effect from 2013, interest on this home acquisition debt is only deductible if - in addition to the normal conditions - you provide the Tax Authorities with the basic details of this loan correctly and in good time. These details must be provided no later than 31 December of the year following the year in which the loan was entered into.

Refinancing of home acquisition debt at own bv ***Are you intending to refinance your existing home acquisition debt at your own bv?***

If so, please note that, since 2013 - given unchanged circumstances and under certain conditions - interest is also deductible if a home acquisition debt is partially refinanced. The disclosure obligation also applies in this case.

Avoid the 16 per cent employer levy

Will your (customary) wages exceed EUR 150,000 in 2013?

If so, it may be wise to look into whether the wages can be reduced, for example by making additional pension allocations. This is because your employer is required to pay 16 per cent tax on the excess, in addition to the 52 per cent payroll tax already withheld. This facility also applies to director/substantial shareholders who receive wages from a bv in which they hold a substantial interest.

Dividend instead of wages

Are you intending to pay yourself additional wages this year?

If so, opting for a dividend distribution would be a more tax efficient alternative. In 2013, a maximum of 52 per cent income tax is being levied on additional wages, while a combined income and corporate tax burden of between 40 and 43.75 per cent applies to dividend distributions charged to the current annual profit. Consult your PwC advisor about the possible consequences for your pension accrual.

Redemption or sale of debts taxed in box 1

Are you considering redeeming or selling a debt taxed in box 1 that is owed by your own bv?

If so, make sure that you postpone the redemption or sale until after 1 January 2014, as this will save you a full year's box 3 levy on the redemption sum.

Self-administered pension

Current developments

Amend Director/substantial shareholder's pension letter before 1 January 2014

Have you already adjusted your pension scheme to the Raising of the State Pension Age and Standard Pension Retirement Age Act (VAP Act)? Have you already made a choice between the various options?

Your pension scheme must satisfy the VAP Act as from 1 January 2014. The standard pension retirement age is being raised to 67 years and, in conjunction with this change, the maximum accrual rate is being reduced (1.9 per cent at the age of 67 for final pay schemes). You may continue to opt to retire before the age of 67, in which case the accrual rate must be further reduced. Your pension letter must be amended accordingly. At the same time you might want to make sure that your pension scheme still suits your wishes. Perhaps it is advisable to switch to a defined contribution scheme. In that case, in principle there are no restrictions on dividend payments (see next tax tip). You might even want to completely stop accruing pension, in which case you should bear your usual pay in mind.

Relevant once again

Dividends distributed or to be distributed

Are you intending to distribute a dividend, for example based on the temporarily reduced substantial-interest rate in 2014? Or have you distributed dividends in the last seven years? And did you take commercial pension provisions into account when determining the freely distributable reserves?*

If the freely distributable reserves are insufficient on the date on which it is resolved to distribute the dividend, the Tax Authorities may take the view that the pension has been waived or that the pension has already been received. This may lead to the (market) value of the pension entitlements accrued being taxed progressively at 52 per cent, with a revisionary interest rate of 20 per cent also being payable. The market value is considerably higher than the provision for taxes, such that the tax owed may be equal to or even in excess of the assets available. We recommend that you arrange for a calculation to be made before you distribute a dividend.

Weighing-up sources of income after pension commencement date

Are you aware of the various sources of income that may be available after your pension commencement date? And have you assessed which source(s) of income would be most suitable in terms of an optimal tax burden?

You can save for your old age provision in boxes 1, 2 and 3. Each income scheme has its own tax treatment.

Private pension company cover ratio

Have you recently assessed the cover ratio of the private pension company?

It may be wise to contact your asset manager regarding the assets to be held for coverage of the pension provision. This is because the Tax Authorities may take the view that, where a cover ratio is too low, the pension has been waived. This would have various tax consequences. This also applies to the question whether the investment return profile of the assets is still in line with the scope of the present and future commercial pension provision.

In certain circumstances, you may reduce (write down) pension entitlements when the cover ratio is inadequate. Under certain conditions, this would be possible if the cover ratio is lower than 75 per cent, taking account of the tax value of the pension provision and the market value of all other assets and liabilities. For example, the dividend distributed in the last seven years would be relevant.

Postponement of pension commencement date

Has your pension already commenced or are you retiring in the near future and planning to postpone your pension commencement date?

If you continue working after your retirement date, you can postpone your pension. If you were born before 1 January 1950, you may postpone your pension to the state pension age without continuing to work. The postponement of the pension commencement date must be formally recorded before the retirement date is reached (in the minutes of the General Meeting and in an addendum to the most recent pension agreement). In that event, the pension entitlements must also be actuarially recalculated. This recalculation will result in an increase in the annual payment.

Pension entitlement more than EUR 55,991 (2013 threshold)

Does your accrued pension entitlement amount to more than EUR 55,991 as of 31 December 2013?

If so, it may be desirable to discontinue future pension accrual. In the future, 52 per cent tax will be paid on taxable income of EUR 55,991 or more (partly dependent on your deductible expenses, including mortgage interest). In due course, it would be more advantageous from a tax perspective to supplement your income by means of an annual dividend (taxed at a maximum of 43.75 per cent). However, if you discontinue pension accrual, you need to ensure that the total payment is at arm's length. Discontinuation of future pension accrual generally has to be adjusted by an increase in the total gross payment. After all, an employee would not be acting at arm's length if he waives the future pension accrual without receiving some form of compensation from the employer.

Employee contribution for pension accrual

Do you pay an employee contribution to a self-administered pension scheme?

Depending on your salary level, it may be advantageous to implement a (higher) employee contribution for the self-administered pension scheme, which would reduce your gross taxable income and allow you to save up to 52 per cent tax. However, the (higher) employee contribution would result in a lower allowable deduction for the private limited company (25 per cent maximum). In that case, in combination with a dividend distribution, the tax burden would amount to a maximum of 43.75 per cent. Depending on your personal situation, implementing a (higher) employee contribution may result in a permanent tax advantage of 8.25 per cent.

Consequences of the raised standard pension retirement age

Do you think that accruing pension will still be interesting for you once the standard pension retirement age has been adjusted as of 1 January 2014?

If not - because, for example, you have reached the threshold of EUR 55,991 - amending the pension agreement in line with the new legislation may not be the obvious choice. In your situation, it may be wise to convert your current final pay scheme into a defined contribution scheme in the future.

Compliance with private pension company requirements

Are your pension commitments administered by a holding company or a separate private pension company?

If so, you must comply with certain rules, including those in the Decree of 3 July 2008, no. CPP2008/447M. For example, pursuant to this order, a commercial premium contribution must be passed on since 1 January 2011. The financing agreement must also comply with the order of 3 July 2008 and must be drafted afresh. It may be wise to modify the legal structure so as to limit the consequences of and the administrative burden caused by the order of 3 July 2008.

Minimum of 10 per cent (indirect) control in employer bv

Do you (directly or indirectly) own less than 10 per cent of both the beneficial entitlement to and the legal control over the shares in the private limited company (bv) that has awarded your pension?

If so, you cannot accrue any further self-administered pension. If you wish to do so nonetheless, it would be advisable to take action. Please note: since the introduction of the flex bv legislation, it is relevant that, for self-administered pension accrual, you must own 10 per cent of the shares with voting rights.

Post indexation of pension

Has the pension already commenced but has the annual post indexation awarded yet to be performed?

If so, the Tax Authorities may take the view that pension has been waived, which would lead to undesirable tax consequences. We recommend that you obtain proper information about the action to be taken.

Employer and employee

Current developments

“Stamrecht” exemption still applicable in 2013 only*

Were you dismissed as an employee by your employer in 2013?

If so, this year you may still utilise the “stamrecht” exemption. This means that under certain conditions, your severance payment may be placed with a “stamrecht” bv, bank, investment institution or insurer without payroll tax being deducted. Because this option no longer applies to new situations taking effect from 1 January 2014, it is important for you to convert your severance pay into a “stamrecht”. In practice, this means that the “stamrecht”-agreement has to be signed before 1 January 2014, that this agreement has to meet the conditions that apply to the “stamrecht”-exemption and that the actual date of dismissal has to be set before 31 December 2013. Please note that the date of dismissal does not have to be before 1 January 2014, but it should be set within a reasonable time after that date, i.e. before 1 July 2014.

Existing “stamrecht” may be fully withdrawn in 2014*

Do you have a “stamrecht” placed with a “stamrecht” bv, bank, investment institution or insurer?

If so, in 2014 you have the option of, for example, taking out your existing “stamrecht” in its entirety exempt from 20 per cent revisionary tax. In that case, in principle only 80 per cent of this capital is taxed at the progressive rate in box 1 and 20 per cent remains untaxed. This 20 per cent tax reduction applies only for the year 2014 AND under the condition that the employer has transferred the purchase price for financing the “stamrecht” to the (qualified) administrator before 15 November 2013.

Applying the “stamrecht” exemption in 2013 and withdrawing the entire amount in 2014*

Were you dismissed as an employee by your employer in 2013 and do you not want to deposit your severance payment for a longer period of time?

If so, you have the option of utilising the “stamrecht” exemption in 2013 and subsequently utilising the allowance in 2014 of taking out the entire “stamrecht” existing in 2014. In that case as well, you will not owe 20 per cent revisionary tax and, under certain conditions, only 80 per cent of this capital is taxed at the progressive rate in box 1 and 20 per cent remains untaxed. The applicable condition is that the employer has transferred the purchase price for financing the “stamrecht” to the (qualified) administrator before 15 November 2013. If the employer administers the “stamrecht” entitlement itself, the 20 per cent tax reduction applies if the employer has undertaken the obligation to act as the insurer of that entitlement before 15 November 2013.

Mandatory implementation of work-related expenses scheme postponed for one year*

Have you not yet made the switch to the work-related expenses scheme as per 1 January 2014?

The transitional regime for the work-related expenses scheme is being extended for one year. No substantive changes have been made to the scheme. Have you not yet made the switch to the work-related expenses scheme and are you not planning to switch as per 1 January 2014? If so, don't forget to start implementing this new scheme in good time in the coming year, as its application by all employers is mandatory with effect from 1 January 2015.

The switch will require efforts by both your payroll administration and your accounting department, and it may also be necessary or desirable to make amendments to employment conditions. PwC has a lot of experience with implementation projects of this type. We would be glad to help you with the choices to be made in your organisation.

One-off 16 per cent employer's levy also applicable in 2014*

Do you have employees whose salary will exceed EUR 150,000 in 2013?

If so, a 16 per cent final levy might be owed in 2014 on part of the salary received by these employees in 2013. This ‘crisis levy’ can be avoided by limiting the salary of the relevant employees in 2013.

Premium discount young employees*

Are you considering employing a young adult who is currently on unemployment benefits?

If so, you could consider postponing this until 1 January 2014. From this date onwards, a temporary premium discount for young employees who used to be on benefits will be introduced. In case of a six month contract of at least 32 hours a week, you can qualify for a EUR 1,750 discount on the employee insurance costs per (almost) full-time young employee. In 2015 this discount may increase to EUR 3,500.

Relevant once again

Check your Return to Work (Partially Disabled Persons) Regulations (WGA) decision

Are you, as an employer, not a self-insurer for WGA purposes?

In that event, you will soon be receiving the decision on your differentiated WGA contribution from the Tax Authorities. As from 2014, in addition to the current differentiated WGA contribution, the differentiated contribution for the Return to Work Fund will consist of two differentiated contributions for the safety-netters under the Sickness Benefits Act (ZW) (flexible workers under the WGA and flexible workers under the ZW, respectively). In practice, this decision sometimes proves to contain errors. We recommend that you check the decision thoroughly and that you do so in the near future. A proper check could result in contribution savings. PwC can help you with this.

Cross-border employment

Relevant once again

The 150 km boundary in the 30 per cent ruling *Do you have employees from the border regions who utilise the 30 per cent ruling?*

If so, they might lose their 30 per cent ruling in the near future, due to the 150 km boundary in effect since 1 January 2012. If you wish to retain these rights, you can join in the proceedings being conducted by PwC for employees who do not satisfy the 150 km boundary rule.

The salary standard in the 30 per cent ruling

Do your employees already satisfy the salary standard for application of the 30 per cent ruling?

Perhaps you have university-educated employees who are at least thirty years old, or full-time employees who have transferred to part-time work, or employees to whom the new 30 per cent ruling conditions apply after five years. If so, they might not meet the salary standard any longer. We therefore recommend that you check this before the end of the year. Where appropriate, you could consider reducing the 30 per cent allowance in order to meet the salary standard as yet.

Income tax rates in payroll tax return under the 30 per cent ruling

Do you have employees under the 30 per cent ruling without personal allowances or other income?

If so, you can make an appointment with the Tax Authorities regarding the application of the income tax rates in the payroll tax return. In that case, the obligation to submit a tax return for these employees will no longer apply.

16 per cent employer's levy

Do you have employees who are partially taxed abroad?

If so, you can restrict or even prevent the 16 per cent employer's levy if, before 2014, you exclude the employment income pertaining to the wages not taxed in the Netherlands from the payroll accounting. Also bear in mind the benefit from shares awarded and from stock options that vest or have become vested in 2013 and are to be (partly) allocated abroad and thus are not taxed in the Netherlands. Ask your employees to provide their working day calendar so that you can make an estimate and adjust your payroll before the end of the year.

Health Insurance Act Contribution

Do you have employees working on the basis of a formal salary split?

If so, it is important that you satisfy the registration and withholding obligations for each separate formal employment of such employees. In fact, you are required to pay the Health Insurance Act contribution and the employee insurance scheme premiums for each separate employment. You may also consider a material salary split. In that case, there is a single formal employer, which means that the Health Insurance Act contribution and employee insurance scheme premiums (subsequently) only have to be withheld once.

Gifts and inheritances

Current developments

*Extended exemption for home acquisition gift**

Are you considering making a gift for someone's home?

From 1 October 2013 through 31 December 2014, under certain conditions you can gift up to EUR 100,000 free of tax to someone else for the purchase or renovation of their home, as well as for redemption of the mortgage or a residual debt on their sold home. According to the 2014 Tax Plan, old residual debts incurred before 29 October 2012 also qualify. During this period, no further requirements are imposed on the relationship between the giver and the recipient or on the age of the recipient. It is also possible to make use of the regular home acquisition gift exemption up to an amount of EUR 51,407 in 2013, and to supplement this amount to EUR 100,000 in 2014. If the giver dies within 180 days after the gift, the recipient owes no inheritance tax on the EUR 100,000.

Has the increased exemption been used before for a gift from the parents?

If so, the right to an exemption of EUR 100,000 decreased with the amount of the earlier gift still exists. This deduction is only necessary if both gifts are from the parents.

*Temporary reduction of gift and inheritance tax rate boundary**

Are you considering making a gift?

Please note that in the calendar year 2014 the boundary between the rates of the gift and inheritance tax will temporarily be reduced by EUR 3,000. This means that a lower tax rate applies for the first EUR 115,254. In 2013 this lower rate applies for the first EUR 118,254.

Relevant once again

Tax return deadlines for gifts

Have you made a gift in 2013?

If so, do not forget to file your tax return before 1 March 2014. This applies to all gifts subject to tax (to the extent that the amount given exceeds the exemption) and to gifts for which the one-off (additional) increased exemption has been invoked in 2013. You may file your tax return using the official gift tax return form available for download via www.belastingdienst.nl or by writing a letter to the Tax Authorities.

Annual gift tax exemption for children

Are you intending to make gifts to your children (stepchildren, foster children or the widow(er) of your deceased child)?

If so, bear in mind that:

- in the 2013 calendar year, an amount of up to EUR 5,141 per child is exempted, and everything above that is subject to tax;
- whether or not you have exceeded this annual gift tax exemption will be calculated by adding up all gifts you have made to your child in 2013;
- if you gift an amount greater than EUR 5,141, you can make use of two exemptions in two calendar years by splitting the gift into two parts: one in 2013 and the other on or after 1 January 2014;
- gifts of money and securities (amongst other things) do not need to be made in any prescribed form. Nevertheless, it is wise to record such gifts in writing if you wish to include matters such as an exclusion clause (or 'anti-son-in-law' clause);
- if you wish to gift securities to your child, give your bank the transfer order well before the Christmas holidays to ensure that the transfer is effected in 2013.

One-off increased gift tax exemption for children

Are you intending to make gifts to your children (stepchildren, foster children or the widow(er) of your deceased child)?

If so, bear in mind that:

- as regards gifts to a child (or their partner) aged between 18 and 40, an increased exemption from gift tax on a one-off basis (up to EUR 24,676 for 2013) can be used;
- subject to certain conditions, this one-off exemption is as much as EUR 51,407 for a child's expensive course of study;
- you may also apply the one-off increased exemption if your own child is older than 40 but his/her partner is between the ages of 18 and 40.

Gift tax exemption for grandchildren and third parties

Are you intending to make a gift to your grandchild or a third party?

If so, an exemption from gift tax of EUR 2,057 applies in 2013, and everything above that is subject to tax. Please note that, depending on the amount acquired, the rate is between 18 and 36 per cent for a grandchild and 30 to 40 per cent for 'third parties'.

Notarial acknowledgement of indebtedness

Would you like to make a 'gift on paper' without actually transferring assets but by acknowledging indebtedness of a sum to your children in a notarial deed?

If so, please note that you are required to pay interest at an arm's length rate of 6 per cent per year in respect of the sums still owed. If you do not pay the 6 per cent interest in any particular year, there are ways to rectify this.

Interest-free or low-interest-bearing loans

In 2013, have you granted (a child, for example) an interest-free loan, payable upon demand, or a low-interest-bearing loan?

If so, your child is required to pay gift tax on an annual basis on the difference between 6 per cent interest and the interest rate actually stipulated. You can remedy this with a view to the future by repaying the loan as quickly as possible or by paying the 6 per cent interest as yet.

Charities

Current developments

Disclosure requirements for recognised charities/public benefit organisations (ANBIs)*

Do you wish to acquire or retain ANBI status?

If so, bear in mind that the disclosure requirements for ANBIs (public benefit organisations, in Dutch: *algemeen nut beogende instellingen*) will be tightened with effect from 1 January 2014. A very limited number of endowment funds are exempt from the requirement to disclose the names of directors, because of a realistic threat to personal safety. For privacy reasons, religious organisations using the legal form 'kerkenootschap' are not obliged to publish directors' names, either.

Tightened information obligation for former ANBIs*

Did you lose or will you be losing your ANBI status?

In that event, bear in mind that effective as from 2014, former ANBIs are required to voluntarily submit their annual accounts and annual report with a specified list of donations. If the former ANBI does not meet this information obligation as prescribed or does not do so in good time, this is considered a violation. If this involves intent or gross negligence, a penalty fine of up to EUR 19,500 may be imposed.

Regular donations*

Are you considering making a regular donation?

With effect from 2014, a notarial deed will no longer be required for tax-deductible regular donations to ANBIs and associations with more than 25 members. A private agreement will suffice and a model can be downloaded from the Tax Authorities' website. Both the recipient organisation and the donor must save a copy of the signed agreement as proof in their administrative records.

Cultural organisations*

Do you want to donate to an ANBI that is designated as a cultural organisation?

If so, your donation may be multiplied by 1.25 in respect of the income tax deduction for gifts, subject to a maximum of EUR 1,250.

Do you want to donate to a cultural organisation via your private limited company?

If so, your donation may be multiplied by 1.50 in respect of the corporate tax deduction for gifts, subject to a maximum of EUR 2,500. As regards both income tax and corporate tax, this multiplier may be applied to a maximum of EUR 5,000 for cultural gifts. The European Commission has definitively approved the multiplier for gifts to cultural organisations. The multiplier initially applied for five years (2012-2016), but this period has been extended up to and including the tax return for 2017.

Relevant once again

Public benefit organisations (ANBIs)

Do you want to donate to an ANBI?

If so, subject to certain conditions, your donation is deductible for income tax purposes. Depending on your wishes, a variety of structures can be used for donations.

Do you want to donate to an ANBI via your private limited company?

If so, a corporate tax deduction for gifts applies of up to 50 per cent of profits, subject to a maximum of EUR 100,000. All gifts and inheritances acquired by ANBIs are, under certain conditions, fully exempt from gift tax and inheritance tax.

Social benefit organisation (SBBi)

Do you want to donate to an SBBi (social benefit organisation, in Dutch: sociaal belang behartigende instelling), such as a sports club, community centre or music society?

If so, bear in mind that a donation of this type is only deductible for income tax purposes if it is a regular donation. Subject to certain conditions, a donation to an SBBi is exempt from gift tax and inheritance tax.

SBBi supporting foundations

Do you want to donate to an SBBi supporting foundation (a foundation set up exclusively for the purpose of collecting money for an SBBi)?

If so, subject to certain conditions, your donation is deductible for income tax purposes and exempt from gift tax and inheritance tax.

Do you want to donate to an SBBi supporting foundation via your private limited company?

If so, a corporate tax deduction for gifts applies of up to 50 per cent of profits, subject to a maximum of EUR 100,000. Donations to SBBi supporting foundations are, under certain conditions, exempt from gift tax and inheritance tax.

Negative declaration after purchase or sale of immovable property*

Have you, in 2013, provided or received a negative declaration regarding immovable property purchased or sold with an option for taxable transfer in 2012?

In case of the supply of an immovable property that was purchased or sold with an option for taxable transfer, the buyer has to declare in writing that he will use this immovable property for purposes for which he has the right to deduct VAT for at least 90 per cent. If the buyer fails to use the property for at least 90 per cent for VAT deductible purposes in the book year in which the supply took place or the book year after that, he is required to notify the seller and the Tax Authorities in writing within four weeks after the end of this reference period (a so-called 'negative declaration'). While in the past such declarations resulted in VAT adjustment that had to be paid by the purchaser of the property, this is no longer the case, based on a recent judgment by the European Court of Justice. The amount of adjusted VAT owed that is accountable to activities after 10 October 2013, the date of the aforementioned judgement, can be levied from the original supplier. This also applies for the years to come. We would therefore advise suppliers of real estate to henceforth include clauses in their purchase agreements regarding the liability for this VAT damage.

VAT taxable person

Current developments

Specific self-supply provision no longer applicable*

Will you be occupying new immovable property in 2014 for activities for which you are not (fully) entitled to deduct VAT?

In that event, the first occupation will no longer lead to a specific self-supply subject to VAT; instead, a single adjustment will be applied to the VAT deducted in full earlier in the run-up to the (cancelled) specific self-supply (for example the VAT on all of the costs incurred prior to 1 January 2014). This adjustment may not apply to the VAT on all costs. If you have the option of purchasing land in 2013 with or without VAT, it is advisable to purchase it without VAT. If you must purchase land with VAT, it may be more profitable to do this in 2013, in which case you will enjoy a financing advantage because the VAT need only be fully or partially paid back at the time that the immovable property is occupied.

Relevant once again

Private use of a company car

Have your staff (or other business relations) had a company car at their disposal in 2013, and was this car also used for private purposes (including commuting)?

If so, you are required to pay VAT on that private use. This can be done, for example, by paying 2.7 per cent of the list price of the car (including VAT and private motor vehicle tax) when filing your tax return. There are exceptions, such as if you provide a car that is more than five years old, if the user keeps proper mileage records or if you charge the employee a contribution for the use of the car. We advise you to object to the VAT adjustment in a timely manner, as it is debatable. Your PwC advisor can help you with this.

Private use of company goods and services

Have your staff (or other business relations) made use of company goods or services, other than immovable property or a company car?

If so, it is highly likely that (part of) the VAT deducted on the costs of these goods and services will need adjustment. There are various means to this end, the most significant one being the Decree of 1968 concerning exclusion from the right to deduct turnover tax. Under that Decree, all 'supplies' to staff and other business relations are aggregated and, if their value exceeds EUR 227 per person in one year, the VAT on these supplies is not deductible. There is another adjustment mechanism regarding expenditures made for the benefit of the entrepreneur himself: the VAT levy on deemed supplies. For an exact calculation of the VAT to be adjusted in connection with private use, you are advised to contact your PwC advisor. Be sure to bear in mind that other rules for VAT adjustment in connection with private use apply to company cars and real estate.

Change to capital goods used for both taxable and exempt purposes

Are capital goods being used in your company for VAT taxable supplies as well as for VAT exempt supplies, and does the ratio between the taxable use and the exempt use differ at the end of the (financial) year from the ratio applied when the VAT on purchase was deducted?

If so, you may need to adjust the VAT originally deducted based on this difference. Bear in mind that if there has been an increase in exempt use, you may have to repay VAT. If the taxable use has increased, you can still apply for a refund of part of the VAT not deducted earlier.

VAT-taxable lease or let of immovable property

Do you lease or let immovable property with VAT?

If so, bear in mind that during the first year of the lease, the tenant must submit a declaration to the lessor and the Tax Authorities that the '90 per cent requirement' is satisfied. If the tenant proves at the end of the year to no longer meet the '90 per cent requirement', within four weeks after the end of the financial year he must submit a declaration to the lessor and the Tax Authorities that he no longer uses the leased property for at least 90 per cent for activities for which he is entitled to deduct VAT. This 'negative' declaration must therefore be provided, if applicable, in January 2014.

VAT taxable purchase of immovable property in 2012 or 2013

Did you buy immovable property in 2012 or 2013 with an option for taxable transfer?

If so, within four weeks after the end of the year of transfer and the year following the year of purchase you must provide the vendor and your own Tax Authorities with a 90 per cent declaration. This means that the declarations with regard to purchases in 2012 and 2013 must be provided in January 2014. This may be either a positive or a negative declaration; for a limited number of entrepreneurs, a 70 per cent declaration applies.

VAT liability of supervisory directors, non-executive directors and members of supervisory boards

Do you or any of your staff members hold a position as supervisory director, non-executive director or member of a supervisory board?

If so, you are required to charge VAT to the entity for which these activities are performed. You are also obliged to issue VAT invoices in this respect and to account for this in your financial records. Supervisory directors, non-executive directors and members of supervisory boards for whom the amount of VAT payable over a year is below a certain threshold can submit a request to pay no or less VAT (VAT amount less than EUR 1,883) and/or to be relieved of their administrative obligations (VAT amount less than EUR 1,345).

Real estate

Current developments

*Investments in real estate funds**

Do you have an investment in a real estate fund that does not constitute an investment fund within the meaning of the Financial Supervision Act (Wet op het financieel toezicht, Wft)?

If so, note that the tax treatment of this investment may be affected by a change with effect from 1 January 2014. From that date, the levy of Real Estate Transfer Tax (RETT) is being amended for investments via real estate partnerships. If you acquire (or expand) an interest in a partnership, limited partnership or mutual fund (fonds voor gemene rekening), you are required to pay RETT as from next year. This is not the case, however, if you acquire (or expand) an interest of less than one third and the fund qualifies as an investment fund within the meaning of the Wft. Any trade in this interest after 31 December 2013 may thus lead to levy of RETT if the investment vehicle does not qualify as such an investment fund. The tax treatment for legal persons remains unchanged.

Cars

Current developments

*Owner of a highly fuel-efficient car**

Do you have a highly fuel-efficient car?

If so, bear in mind that you may have to pay Motor Vehicle Tax (motorrijtuigenbelasting, 'MRB') with effect from 1 January 2014. This is because, from that date onwards, the MRB exemption for highly fuel-efficient cars will only apply to cars with maximum CO₂ emissions of 50 g/km, regardless of the type of engine. If you have a car with CO₂ emissions of more than 50 g/km but less than 110 g/km (diesel engine) or 95 g/km (other engine), then your exemption will no longer apply as per 1 January 2014.

*Purchase of a highly fuel-efficient car or a company car**

Are you planning to purchase a highly fuel-efficient car or a company car in 2014?

If so, it may be desirable for you to purchase the car and have it registered in your name in 2013. This could result in you paying less Private Motor Vehicle and Motorcycle Tax (belasting op personenauto's en motorrijwielen, 'BPM'), as the BPM CO₂ thresholds are being tightened up once again as per 1 January 2014. This means that a car with a certain CO₂ emission level may fall within a higher category as from 2014, with a higher BPM rate being payable. Moreover, the purchase of a highly fuel-efficient car also gives rise to income tax advantages. Purchase in 2013 means that no addition to income tax will be applied for 60 months, compared with an addition of 4 per cent (zero-emission cars) or 7 per cent (hybrid cars) for 60 months if the purchase is made in 2014.

Are you planning to purchase a highly fuel-efficient car or a company car in 2015?

An additional BPM tax bracket will come into effect as per 1 January 2015. BPM will then be payable for every car on emissions of 1 g/km upwards. As per 2015, only cars without CO₂ emissions (so-called zero-emissions cars) will be BPM exempted.

*Owner of a vintage car**

Do you have a vintage car?

If so, you may be faced with a restriction of the MRB exemption in 2014. Motor vehicles that were first put into use at least 30 years ago have been exempt from MRB since 1 January 2012. The date that the car was first permitted on the road is taken as the date that it was first put into use. With effect from 1 January 2014, it is proposed to restrict the MRB exemption for vintage cars to those that are at least 40 years old. A transitional scheme will apply to vintage cars that are between 26 and 40 years old on 1 January 2014. The transitional scheme will not apply to vintage cars that run on diesel or LPG, thus an MRB exemption will no longer apply to this category of vintage cars as per 1 January 2014.

Driving with a foreign number plate*

Will you be driving on the Dutch roads with a foreign number plate in 2014?

With effect from 1 January 2014, the Dutch Customs are going to subject the use of Dutch roads by motor vehicles with foreign number plates to closer supervision. In principle, a Dutch resident would be liable to pay Motor Vehicle Tax (MRB) in addition to BPM. In order to prevent fraud and enhance supervision, an 'assumed place of residence' for the purposes of MRB will be introduced from 2014.

What if you, as driver, are checked or stopped and questioned?

Then a check will be conducted as to whether you are registered or should be registered in the Municipal Database. If that is the case, you will be considered to be a Dutch resident, and, in principle, liable to pay MRB. You may submit evidence to the contrary, to prove that you are not a Dutch resident.

Relevant once again

Intention to buy a car

Are you planning to buy a car?

If so, do be aware that, since 1 January 2013, the calculation of BPM has been based entirely on the CO₂ emissions of the car or motor vehicle. In previous years, the BPM was still partly calculated on the basis of the net list price. This means that BPM will be higher than in previous years.

Excise duty

Current developments

Trade in or production of liquefied natural gas (LNG)*

Do you trade in or produce LNG and do you pay excise duty on this?

Then you may be eligible for a refund of the excise duty paid on LNG. To encourage the use of LNG as fuel for road traffic, a provision has been made for a partial refund of excise duty paid on LNG for the next five years. This refund consists of a fixed sum of EUR 125 per 1000 kilograms of LNG. At present, the fuel is taxed at the excise duty rate for LNG. The refund is intended to reverse the increase in the excise duty rate for LNG (on balance).

Use of mineral oils to generate electricity*

Have you paid excise duty on mineral oils being used for electricity generation?

If so, you might get a refund of the excise duty paid. A refund of excise duty may be requested for mineral oils used for electricity-generating installations if the electricity generated is subject to the energy tax. In that case, the installation's electric power must be a minimum of 60 kilowatts instead of the current threshold of 1 megawatt.

Manufacture or trade in excise duty products*

Do you manufacture or trade in excise duty products?

If so, then bear in mind that the excise duty on certain fuels and alcoholic beverages will be increased as per 1 January 2014.

- The excise duty on diesel will increase by 3 eurocents per litre.
- The excise duty on LPG will increase by 7 eurocents per litre.
- The excise duty on all alcoholic beverages (beer, wine, intermediate goods and other alcoholic beverages) will increase by 5.75 per cent.
- The excise duty on light beer (beer with a content of extract of less than 7 per cent Plato and no more than 0.5 per cent alcohol) and certain beverages with an alcohol content of no more than 1.2 per cent by volume, consisting of a mixture of beer and non-alcoholic beverages, is set at EUR 7.59 per hectolitre. This is a departure from the increase referred to above.
- The proposed increase in excise duty on tobacco products has been postponed for a year. As per 1 January 2015, the increase will consist of 9 eurocents per packet of 19 cigarettes or per 40 gram packet of shag (roll-your-own tobacco).

Manufacture or trade in lemonade, fruit juice or mineral water*

Do you manufacture or trade in lemonade, fruit juice or mineral water?

If so, bear in mind that consumption tax rates will increase as per 1 January 2014.

- Consumption tax on lemonade will increase to 7.59 eurocents per litre.
- Consumption tax on fruit juice and mineral water will increase to 5.7 eurocents per litre.

Manufacture of fruit juice or vegetable juice*

Do you manufacture fruit juice or vegetable juice?

A consumption tax exemption is being introduced for the manufacture of fruit/vegetable juice outside an establishment for consumption tax purposes. You may manufacture up to 12,000 litres of fruit/vegetable juice free of consumption tax if you press the juice yourself. In that case, you are not required to file a tax return.

Do you exceed the 12,000 litre threshold?

If so, consumption tax will only be payable if you exceed this threshold for two consecutive years, in which case you must apply for a permit for an establishment for consumption tax purposes. The permit is granted for a minimum of five years, which means that you are liable to consumption tax for five years.

Relevant once again

Request for refund of excise duty or consumption tax

Are you intending to submit a request for a refund of excise duty or consumption tax?

If so, note that, since 1 July 2013, requests for refunds of excise duty or consumption tax must be made using a new digital (electronic) form.

Late payment interest*

Have you or your company previously been granted postponement of payment of your tax assessment?

Such postponement will be more expensive with effect from 1 April 2014, because late payment interest will then be charged at a minimum rate of 4 per cent. Late payment interest is currently 3 per cent. Consequently, you may find postponement of payment less desirable in future.

Relevant once again

Postponement in the event of payment problems

Does your company expect payment problems?

As regards debts of up to EUR 20,000, you may obtain postponement of payment for a maximum of four months by telephone. Late payment interest will remain payable.

Levy and collection

Current developments

Interest on overdue tax*

Do you expect that you or your company will have to pay tax in 2014?

If so, it is worth pressing for swift handling of your tax return by the tax inspector, because the interest payable on corporate tax will be a minimum of 8 per cent as from 1 April 2014. With effect from that date, a minimum of 4 per cent will apply in respect of other taxes, such as income tax. Currently, interest on overdue tax is 3 per cent for all taxes. As the payment deadline of six weeks from the date of the tax assessment is part of the interest period, the Tax Authorities will effectively apply the changed interest rates to tax assessments dated from 18 February 2014.

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