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Summary of the
2008 Tax Package



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2008 Tax Package announced on Budget day

The two bills that were published on Budget day, 18 September 2007, as part of the 2008 Tax Package, were adopted by the Dutch Lower House of Parliament on 22 November 2007. In mid-December, the Dutch Senate will also deal with the legislative proposals. The Senate does not have authority to change the proposals, only to accept or reject them. Most proposals included in the 2008 Tax Package are set to take effect on 1 January 2008. Proposals entering into force at a later date are specifically addressed.

We have summarised the most significant changes that were published in the two bills. The changes that follow from various government memorandums of amendment and parliamentary amendments to the bills are marked in a different colour.

Extension of Dutch corporate income tax brackets

The Dutch corporate income tax rate is determined based on taxable income brackets. Based on present law the corporate tax rate amounts to 20% if the taxable income does not exceed 25,000 euro. The upper limit of the 20% bracket will be extended to a taxable amount of 40,000 euro. Presently, a rate of 23.5% is applied in the second tax bracket, which covers taxable income between 25,000 euro and 60,000 euro. The upper limit of the second tax bracket will be extended to 200,000 euro, while the tax rate in this bracket will be lowered by half a percentage point to 23%. To the extent that the taxable amount exceeds 200,000 euro, the corporate tax rate remains 25.5%. The adjustments enter into force as of 1 January 2008 (the 2007 and 2008 rates apply proportionally in case of a fiscal year 2007/2008).

Amendment of the base-erosion rules on interest

In article 10a of the Dutch Corporate Income Tax Act (Wet op de vennootschapsbelasting 1969) some provisions are laid down to dissuade taxpayers from eroding the Dutch taxable base in a more or less arbitrary way by the "creation" of inter-company loans and corresponding interest payments. Interest payments on inter-company loans are not tax deductible if the loan is related to one of the transactions as defined in law. Roughly speaking, the deductibility of the interest is currently not restricted if the interest is effectively subjected to tax at the level of the group company that has granted the loan and the taxation is considered to be reasonable by Dutch standards. This implies, roughly speaking a tax rate of at least 10%. In this way it is still possible to obtain a tax advantage for the group of companies as a whole. The legislator fears that this possibility may lead to adverse budgetary consequences. Accordingly, a change of law will be introduced in those situations that the taxpayer 'creates' interest payments that are tax deductible in the Netherlands by means of a construction that is primarily aimed at obtaining tax savings. In situations that the taxpayer makes a reasonable case that the interest is taxable at a tax rate of at least 10%, the tax inspector will nevertheless have the possibility to substantiate that either the liability or the corresponding transaction is not based on sound business reasons. One example of such a 'construction' is specifically mentioned. It regards a capital contribution into a subsidiary in Ireland or Cyprus immediately followed by a loan of these funds to the capital contributing company in the Netherlands. The tax inspector will also have the possibility to substantiate that the liability is incurred in order to compensate losses or other rights which were formed in that year or that will be formed shortly.

The amendment will apply as of 1 January 2008. As a result, the tax inspector will also have the possibility to subject existing loans to further investigation as of that date. Accordingly, the deductibility of all interest payments on inter-company loans will need to be verified as soon as possible. Irrespective of this proposal the deduction of interest is not restricted if the taxpayer makes a reasonable case that both the liability and the corresponding transaction (as defined in law) are considerably founded on sound business reasons, even if the interest received by the creditor is not taxed at an adequate tax rate (of at least 10%).





Dividend withholding tax relief for redemption of shares

Under certain conditions, the law provides for a dividend withholding tax relief for redemption of shares by companies quoted on the stock exchange. Currently, when the maximum exempted amount is exceeded, the exemption is entirely denied. As of 1 January 2008, the conditions for this tax relief are relaxed, to the extent that when the maximum is exceeded, the exemption will only be denied with regard to the excess. In addition, the maximum exempted amount will be doubled.

Liberalisation of the patent box

As from 1 January 2007 companies have the possibility to opt for the application of the so-called patent box. The advantage of this patent box is that income which is derived from (certain) intangible assets is subject to an effective tax rate of 10%. However, to qualify for such favourable treatment a patent should have been granted to the taxpayer. It is currently proposed to liberalise this measure in a substantial way. Companies which have incurred (certain qualified) research and development cost, but to which company no patent was granted, will also be entitled to the favourable effective tax rate. The extension of the scope is subject to the condition that these (qualified) research and development assets will only form part of the company's assets after 31 December 2007.

Environmental charges on airline tickets and packaging

As of 1 July 2008, a surtax on airline tickets will be introduced on flights within the European Union and for flights to other countries within a distance of 2,500 km of 11.25 euro per ticket. In all other cases the surtax will be 45 euro per ticket. An exception is made for transfer passengers. Furthermore, a levy on packaging will be introduced as of 1 January 2008.

Increase/decrease of taxation of company cars

Another measure involves wage taxes on cars provided by the employer and used for private purposes. When the company car provided by the employer is used for private purposes more than 500 km, a percentage of 22% of the catalogue price of the company car is currently added to employment income. This amount is subject to wage tax. As of 1 January 2008, this taxation on company cars will increase from 22% to 25%. For environmentally clean and efficient cars (cars with a low level of CO₂ emission) the taxation will be reduced to 14%. The Dutch Parliament has requested the government to present new proposals before 1 May 2008 allowing for more differentiation in this taxation based on the absolute CO₂ emission.

Higher taxable income of personal dwelling for expensive homes

Owners of homes with an officially determined fair market value ("WOZ-waarde") of 1 million euro or more will have to include a higher amount of fictitious taxable income of their personal dwelling. Instead of the current percentage of 0.55 of the "WOZ-waarde" of the home, the percentage will be increased in seven equal steps from 2010 to 2016, so that the percentage will amount up to 2.35% in 2016. However, the increased percentage applies only to the part of the value ("WOZ-waarde") that exceeds 1 million euro. Also, from 2009 the current maximum amount of the fictitious taxable income of the personal dwelling of 9,150 euro (in 2008: 9,300 euro) will be dropped.

Increase of value-added tax (VAT)

The main VAT tariff will rise from 19% to 20% as of 1 January 2009.

Exemption of pension claims restricted

As of 1 January 2009, the current unlimited exemption of pension claims will be restricted for pension claims based on wages exceeding 185,000 euro. It must be noted that the Dutch Parliament has requested the government to replace this measure by one or several other measures that are aimed at excessive wage elements and generate the same revenue. It is expected that further proposals thereto are to be made in the course of 2008, undoing this pension measure.



More information

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