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Well prepared for 2016

Tax tips for private clients and businesses

October 2015

pwc

Contents

Foreword

The end of the year is fast approaching. Now is the time to determine your fiscal strategy. In this publication '*Well prepared for 2016 – Tax tips for private clients and 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 2016. 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 2016 Tax Plan, the memorandum of amendments and other proposed legislation.

Because the House of Representatives and the Senate have not yet approved the 2016 Tax Plan, 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 (*). Whether the House of Representatives and the Senate accept the 2016 Tax Plan will become clear in mid-December 2015.

This publication is also available at http://www.pwc.nl/nl/publicaties/goed-voorbereid-op-2016.html

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, 20 October 2015

Diederik van Dommelen
Partner Tax

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 you intend to make a gift related to the financing of a private home (or expect to receive such a gift), it may be fiscally advantageous to wait until 1 January 2017. From that date - irrespective of your relationship with the recipient - you can, under certain conditions, make such a gift of up to EUR 100,000 free of tax. One of the conditions is that the recipient (or the recipient's fiscal partner) be aged between 18 and 40. You should bear in mind that the recipient's future mortgage interest relief could be restricted. This is because his home equity reserve will be increased if the gift is used to redeem the home acquisition debt.

Temporary rental of your private home

Do you ever rent out your private home on a temporary basis, for example via AirBnB or when you are on holiday?

In that case you must report 70 per cent of the rental income as income in box 1. The costs directly related to the rental, such as gas, water and electricity consumption by the tenants can be deducted from this income. Temporary rental does not have any consequences for your mortgage interest relief.

Renting out your private home temporarily also has consequences for VAT (short-term rental is subject to VAT) and tourist tax. What is more, local regulations in your town or city may apply (for example a maximum rental period of two months applies in Amsterdam). Lastly, it is advisable to check with your (household) insurer and mortgage lender as to whether the temporary rental is not contrary to the applicable terms and conditions.

*Child maintenance**

Do you have to pay child maintenance?

If so, you can include a debt for the child maintenance in box 3 in 2015 and 2016. The related entitlement to child maintenance used to be excepted from box 3 and, as of 1 January 2017, the same exception will apply in box 3 for child maintenance obligations. You can calculate the amount of your child maintenance obligation (calculate present value of your obligatory future child maintenance payments) and you can, therefore, include a debt for that amount in box 3 in 2015 and 2016. In 2014 this was not yet possible because child maintenance payments were considered a personal deductible item.

*Commutation of an annuity**

Do you wish to commute an annuity for which the premiums paid exceed the benefits?

This might be the case with so-called profiteering policies. If so, it may be more advantageous to do so after 1 January 2016. Premiums paid for an annuity insurance, life annuity investment scheme or life annuity savings scheme as compensation for a pension deficit are deductible for box 1 tax purposes. Any benefits paid in respect of these products will subsequently be taxed as box 1 income. As from 2016, only the actual commutation amount paid in the event of the commutation of an annuity policy for which the premiums paid exceed the benefits paid is subject to tax instead of the total of the premiums deducted in the past using the minimum valuation rule (‘*minimumwaarderingsregel*’). If you are considering such a commutation of an annuity, it may be advisable to postpone this until after 1 January 2016. In anticipation of this amendment, transitional rules apply where the term for a reduction at the inspector's discretion has not yet expired. In such cases, relief may be available for commutations effected before 1 January 2016.

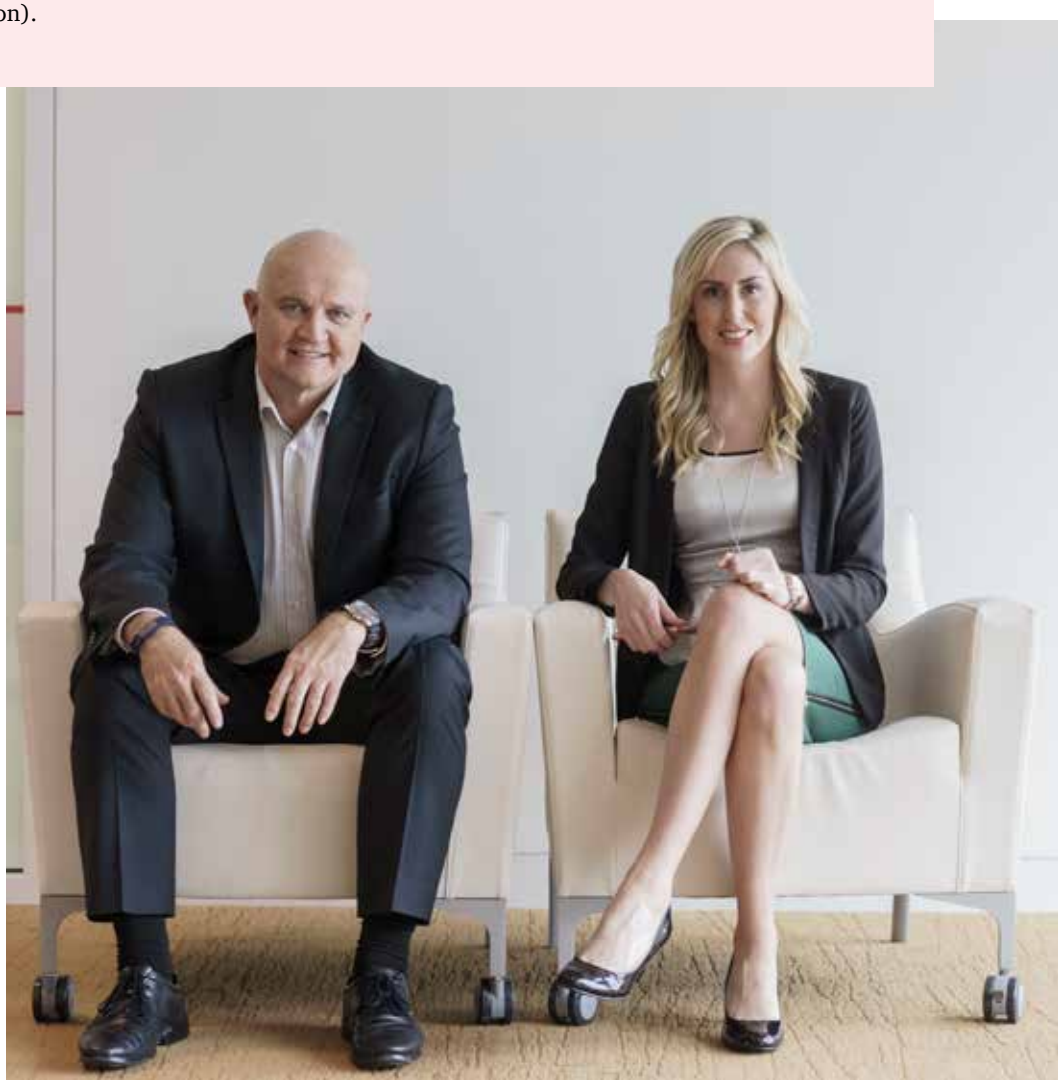
Use of asterisk (*)

We have marked some tips with an asterisk (*). These tips are based on the measures proposed in the 2016 Tax Plan and other proposed legislation up to and including the memorandum of amendments. Because the House of Representatives and the Senate have not yet approved the proposals, it remains to be seen which of the proposals will eventually become law. The content of the tips may therefore be subject to change.

Refund of dividend tax withheld

Are you a non-resident taxpayer and do you receive dividend from a Dutch company?

Then you may be entitled to a partial refund of dividend tax withheld. As a non-resident taxpayer you may in principle not be treated worse than a resident taxpayer. The European Court of Justice has recently decided that a non-resident taxpayer for Dutch dividend tax purposes is in fact treated worse in certain situations dealing with dividend from a shareholding of less than 5 per cent (portfolio dividends). If the tax burden on your dividends is indeed higher than it would have been if you had been a resident taxpayer, then you are entitled to a refund of the difference. When determining the tax burden on dividends, the dividend tax levy and personal income tax levy of resident taxpayers have to be taken into account concerning all shares in Dutch companies during the calendar year as well as the tax-free threshold (in a box 3 situation).



Relevant once again

Three-year term for private home relocation schemes

Has your vacant home still not been sold, or are you not yet living in the home you bought?

In that case, you are entitled to the so-called relocation schemes for a period of three years. This means, for example, that if your private home has been vacant since 2013 and is destined for sale, it will still be regarded as your private home in 2016 and therefore qualify for mortgage interest relief. If you bought a home in 2013 or if it has been under construction since then, you can still claim mortgage interest relief in 2016 provided you take up occupation of the home as your principal residence in 2016 at the latest.

If you rent out your private home in the meantime (on a more than temporary basis), you will no longer be eligible for the relocation schemes from the moment of rental. At that point, the home will have become a box 3 asset.

Intention to let your private home

Are you intending to let your private home?

If the mortgage loan is regarded as home acquisition debt on 31 December 2015 and you are not going to rent out the home until after 1 January 2016, you can avoid a box 3 levy on the home in 2016. 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 2016 than in 2015?

If so it may, under certain conditions, be wise to pay your mortgage interest for the first half of 2016 in advance in 2015 because relief is at a higher progressive rate.

Redemption of home acquisition debt

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

If so, in 2016 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 2016. The deduction due to little or no outstanding home acquisition debt is equal to the deemed rental value, insofar as this amount is higher than the deductible costs.

Duty to disclose information in connection with a home loan

Did you purchase a home in 2015 and finance it with a loan from your own private limited liability company (bv) or a private individual?

In that case you must provide certain information about this debt to the Tax Authorities using a standard form which can be downloaded from www.belastingdienst.nl. If you do not submit this information on time, you may (temporarily) not be allowed to deduct mortgage interest. This duty to disclose no longer applies as from 1 January 2016. From then on, you only have to provide information about your home loan in your tax return.

Making a gift

Would you like to make a gift?

If so, consider making the gift before 1 January 2016; a gift reduces your box 3 assets, which can result in a saving of 1.2 per cent deemed yield levy. Do bear in mind that this gift subsequently increases the box 3 assets of the recipient and consequently may result in the recipient being subject to the deemed yield levy, unless he uses the gift for consumer purposes before 1 January 2016. Incidentally, depending on the person to whom you are making a gift, you may give a certain amount per year free of gift tax.

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 in order to reduce your box 3 assets. This is because unpaid tax debts cannot be deducted in box 3, with the exception of payable inheritance tax.

Did you make a written or digital request before 5 November 2015 for a (further) provisional assessment? What if this assessment is not made before 31 December 2015, such that you cannot pay it before the end of 2015?

If so, on 1 January 2016 you may, nonetheless, deduct an amount equal to the tax assessment made and paid after 31 December 2015 from the taxed assets in box 3.

Have you, on 31 December 2015, not yet received an assessment for a tax claim submitted before 1 October 2015?

In this case, on 1 January 2016, you can still deduct an amount equal to the tax assessment imposed and paid after 31 December 2015 from the taxed assets in box 3.

Business

Current developments

*Participations**

Does a company expect to receive dividend from a participation?

As from 1 January 2016 the participation exemption and settlement are no longer applicable to benefits such as dividends on account of a participation if those payments can be deducted from the participation for a profit tax. This could occur in instances of hybrid financing. It might be beneficial to receive a dividend payment planned for the future in 2015 instead. Before the end of the calendar year you should assess whether you can still continue to claim the participation exemption or settlement in 2016.

*Foreign tax obligation of foreign entities**

Does an entity residing outside the Netherlands hold shares in a Dutch company?

An entity resident outside the Netherlands that holds a substantial shareholding in a Dutch company will be assessed as of 1 January 2016 as to whether the main purpose - or one of the main purposes - of the shareholding is to avoid paying Dutch income and dividend tax. If, additionally, there are no valid commercial reasons which affect economic reality, the foreign entity will be liable to pay corporate income tax for income from this substantial shareholding. An assessment and an administrative record should be made as to whether there is sufficient 'substance'. Thus, companies can prepare for the tax obligation in the period ahead, if and as necessary.

*Obligation of cooperative to pay dividend withholding tax**

Is a cooperative intending to make a profit distribution?

As of 1 January 2016 a cooperative residing in the Netherlands will be obliged to pay dividend withholding tax if dividend tax avoid-ance is its main purpose or one of its main purposes and the arrangement was not put into place for valid commercial reasons which reflect economic reality. An assessment should be made and an administrative record made as to whether there is sufficient 'substance'. Thus, cooperatives can prepare for the tax withholding obligation in the period ahead, if and as necessary.

*Existing ATRs**

Does a body with a foreign substantial interest or cooperative not yet fulfil the new requirements and has an Advance Tax Ruling (ATR) been arranged?

If so, you should make sure that the new requirements are fulfilled before 1 January 2016 so that the ATR that has already been agreed does not lapse. Subject to certain conditions, the ATR can also continue to exist if the interested parties inform the Tax Authorities, this calendar year, that they still intend to fulfil the substance conditions before 1 April 2016. Acting on time can prevent the unnecessary lapsing of an existing ATR.

*RDA**

Is your business involved in research and development work?

As from 1 January 2016 the Research & Development Deduction (RDA) and the tax reduction for research and development (R&D) are to be combined to form a single scheme. By way of a contribution to R&D costs, a reduction in the wage tax payment and premium for the national insurance contributions (WBSO) will apply as of that date. The fact that the RDA will continue to be set off against the profits until 2016, while the new tax reduction will be set off against the payroll tax, means it might be beneficial to incur certain costs in 2015, or indeed postpone them until 2016. The latter applies particularly because the current ceiling is being abolished.

*Fixed amount for new R&D facility**

Is your business involved in research and development work?

Under the new scheme for R&D costs, the choice can be made every year to enter a fixed amount per R&D hour instead of the actual R&D costs. The choice that a company makes at the first WBSO application for 2016 applies for the whole calendar year. It is therefore important to assess on time whether your company can gain from claiming the fixed amount or the actual R&D costs.

*Research and Development Promotion Act (WBSO) application**

Does your company intend to commence R&D activities as of 1 January 2016?

The required '*Wet Bevordering Speur- en Ontwikkelingswerk*' (WBSO) application has to be submitted on time. Depending on the type of business your company has, the application must be submitted by no later than 30 November or 31 December 2015. It is important to keep a close eye on these deadlines.

*Fiscal unity via a foreign intermediary**

Does your group include a number of Dutch companies that are linked via a foreign company?

If so it may be a good idea to investigate whether a fiscal unity can be arranged in connection with the corporate income tax. To do this, you should assess how the proposed statutory requirements and conditions affect your group.

'Wet meldplicht datalekken en uitbreiding bestuurlijke boetebevoegdheid CBP' (Dutch Data Breach Notification and Data Protection Administrative Fines Act)

Are you aware of the consequences of this Act for your business?

The Dutch Data Breach Notification and Data Protection Administrative Fines Act will become effective on 1 January 2016. As from that date companies and government authorities must report data breaches to the Dutch Data Protection Authority (CBP) and possibly to all persons affected. Whether or not a data breach must be reported to the CBP depends on the extent to which the breach may have seriously adverse implications for the protection of the personal data. If the data breach is likely to have adverse consequences for the privacy of the affected persons, they must also be informed of the data breach. The CBP will soon issue guidelines to help you determine whether or not the privacy of the persons involved is 'likely to have been adversely impacted'. A data breach must be reported using a form which will be available for download from the CBP website as from 2016.

Have you wrongfully failed to report a data breach to the CBP and person involved?

If the answer to the above question is yes, you may be fined up to EUR 810,000 or up to ten per cent of the worldwide annual turnover of the legal entity. Companies and authorities that process personal data are required to secure these data in accordance with the '*Wet bescherming persoonsgegevens*' (Dutch Personal Data Protection Act, WBP). Your organisation must deploy adequate technical means and take adequate organisational measures to ensure an appropriate level of protection. Furthermore, personal data protection must be a permanent priority in your organisation.

Do you offer electronic means of communication?

If so, you are already obliged to report data breaches under the '*Telecommunicatiewet*' (Dutch Telecommunications Act). You will still be required to report data breaches under this act. However, starting 2016, data breaches must be reported to the CBP instead of to the '*Autoriteit Consument en Markt*' (Dutch Authority for Consumers and Markets, ACM).

Relevant once again

Deconsolidation from fiscal unity on request

Are you planning to deconsolidate one or more companies from an existing fiscal unity as per 1 January 2016?

If so, make sure that you submit your request for deconsolidation by 31 December 2015 at the latest. Consolidation of a company at the beginning of the year may, for example, be useful if you expect to sell the company during the course of 2016.

Deduction of interest related to an acquisition

Are you considering to make 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. The right structuring and an adequate financing ratio may enable you to avoid interest falling under the deduction restrictions unnecessarily.

Financing participations

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

If a company holds participations and has debt, interest deduction restrictions might apply. There are various exceptions to this rule. For example, if there are expansion investments, the interest can indeed be deducted under certain circumstances. If you assess the applicability of the interest deduction restrictions in good time, you will be able to act in anticipation of such. By using the right struc-turing and an adequate financing ratio, you can avoid the deduction restrictions.

Possibility of loss compensation

Does your company have tax losses and will 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. You may be able to avoid losing the possibility to offset losses by taking timely measures, for example by realising hidden reserves.

s your company unable to carry back losses?
In that case it may, in fact, be more favourable for you to prevent and postpone any fiscal losses wherever possible in connection with the limited period for carrying losses forward of nine years. In this respect, you will be required to observe the rules of sound business practice.

Reinvestment reserve

Did you create a reinvestment reserve in 2012 for the profit made from the sale of a business asset?
If so, if you do not make a reinvestment before the end of 2015, the amount of the reserve will in principle be added to the taxable profit. In exceptional circumstances, the period for holding a reinvestment reserve can be extended. In the case of reinvestment re-serves created since 2013 it is important that evidence be produced that an intention to reinvest still exists at the end of 2015, for example by recording such in the board meeting minutes.

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 the additional investment deduction, it may be advisable to defer the sale of the business asset until the beginning of 2016.

Small-scale investment allowance

Are you planning to make investments in your business this year, or have you already done so?
If so, you should not forget that the right to investment allowance lapses in its entirety if you exceed the maximum investment amount of EUR 309,693. If it looks as if you might exceed this maximum amount, it may be advisable to postpone investments (in part) until 2016.

Transfer pricing

Current developments

*Group records and local records**

Consolidated group sales in excess of EUR 50 million in financial year 2015

If your consolidated group turnover exceeds EUR 50 million in the financial year preceding the current financial year, your administration has to include group records as well as local records as from the financial year 2016. These records have to be included in the administration prior to the deadline for the submission of your corporate income tax return. Failure to comply with these requirements may result in an administrative penalty, criminal sanctions and/or a reversal of the burden of proof.

Consolidated group sales in excess of EUR 750 million in the 2015 financial year

If the parent company of your company is domiciled in the Netherlands, you have to, in addition to group and local records, submit a country report to the tax inspector within twelve months of the end of the financial year. In exceptional cases, Dutch companies that are part of a multinational group, the ultimate parent company which is not domiciled in the Netherlands, may also be required to submit such a country report. Failure to comply with this requirement may result in an administrative penalty and/or criminal sanctions.

Relevant once again

Transfer Pricing Rules

Is your company operating in multiple countries?

If your company is operating in multiple countries, you will be faced with transfer pricing rules. All transactions between affiliates need to be at arm's length. This means that the prices charged by affiliated companies have to be the same as the prices that would be charged by two independent companies.

The significance of TP

Is TP already on your agenda?

If so, please bear in mind that inspection by the Tax Authorities, especially abroad, can be stricter than it used to be in the past. This is due to Tax Authorities exchanging more information more quickly regarding cross-border transactions between affiliated entities. TP is now so high on the agenda of the Dutch Tax Authorities that they are training a large number of new employees to take part in transfer pricing audits.

Transparency and consistency

Is your TP policy consistent, and can you be transparent about it?

Many initiatives are currently being developed, under the pressure of public opinion, to prevent erosion of the corporate tax base and profit shifting. The most influential initiative is the OECD's BEPS project. 'BEPS' stands for 'Base Erosion and Profit Shifting.' As part of this project, reports have been issued which contain recommendations for the proper adoption of TP-principles, with particular emphasis on transparency. In addition, it is important that legal rules and concepts be interpreted consistently.

Tax follows the business

In which country do you have to report your profit?

If TP rules are applied properly, profit is allocated to those jurisdictions where a company conducts its operations and where the risks and assets of the enterprise are managed: *tax has to follow the business*. If a company deliberately upsets this balance, it is embarking on a slippery slope as regards tax. This is why it is very important to describe and substantiate the economic principles upon which the attribution of profits is based, such as a functional and industry analysis and the TP policies applied, in the TP documentation. In addition to tax information, this could also provide you with interesting management information for your enterprise.

Arm's length character of inter-company loans

Have intra-group loans been contracted within your group?

If intra-group loans have been entered into between various entities that are part of the same group, bear in mind that these loans have to meet certain requirements relating to the arm's length character of the loan. This means that an independent third party would have been able to grant the same loan. To determine whether or not a loan is at arm's length, the conditions under which a loan has been granted, the amount of the principal, and the interest rate are decisive.

Arm's length nature of transactions

Does your company have one or more entities or branches abroad?

If so, please bear in mind that, under international TP agreements, the various entities and branches in the Netherlands and abroad are required to do business with each other at arm's length. This requirement applies not only to the supply of goods and services but also to the provision of knowledge, brand names and trade mark rights, as well as to group loans. Please note that, if a company does not meet this requirement, this can give rise to questions from the Tax Authorities and may lead to double taxation and tax penalties.

Documentation requirement

Does your company have one or more entities or branches abroad?

If so, you must have TP documentation at your disposal. Such documentation - such as a TP report or TP policy - has to demonstrate that the prices and conditions between affiliated parties are at arm's length. If a company does not comply with this documentation requirement, this can result in a reversal of the burden of proof (for example in the Netherlands) and tax adjustments and penalties.

Management fees

Do you charge your international affiliates a management fee?

If so, bear in mind that such a management fee has to meet certain requirements in order to be tax deductible for the recipient of the services. What the applicable requirements are, and how strictly these are implemented, can vary from country to country. Moreover, from the perspective of the service provider - in so far as a third party could have supplied similar services - a surcharge has to be added.

Start-up losses

Have you set up a foreign entity and are you confronted with start-up losses?

If so, in principle these start-up losses (or start-up costs) from and for the new foreign enterprise might be deductible in the Netherlands. If the 'entrepreneur' of the group resides in the Netherlands and takes the decision to start up abroad, then under the arm's length principle the costs and risks involved are borne by the entrepreneur.

Losses

Is one of your group companies structurally loss-making?

Keep in mind that this may attract the attention of the Tax Authorities. If such a company continues to operate as part of an international group, this may be a warning that the transfer prices used are not at arm's length. Consequently, the Tax Authorities may decide to investigate whether the transfer prices used are indeed at arm's length.

Director/substantial shareholder

Current developments

*Emigration**

Do you plan to emigrate?

Do not forget to investigate the fiscal consequences of your emigration. From 15 September 2015 onwards it is above all important when emigrating to check whether you run any risk of double taxation in the future. The regulations governing precautionary tax assessments have been radically changed. Precautionary tax assessments are no longer waived ten years after emigration. If you pay out dividend after emigration, the Dutch Tax Authorities will take measures to collect the precautionary tax assessment for an amount equal to 25 per cent of the dividend distribution. The tax levied in the foreign country in question will be deducted from this amount.

Disclosure obligation for home acquisition debt financed with a loan from your own bv before 2013

Are you considering borrowing money from your own private limited liability company (bv) or a family member to purchase or improve your private home?

If so, please note that, with effect from 2013, interest on this home acquisition debt is only deductible if - in addition to the regular conditions - you provide the Tax Authorities with the basic details of this loan correctly and in time. You can do so using the model form which can be downloaded from the website of the Tax Authorities, www.belastingdienst.nl. These details must be provided no later than 31 December of the year following the year in which the loan was entered into. As from 1 January 2016 you no longer have to submit these details to the Tax Authorities. It is sufficient to fill in the requested details on your income tax return. Please note that, if you are entering into or amending a home acquisition debt in 2015 with your bv or a family member, you still have to submit the necessary details.

Employee insurance obligation

Are you a company director and shareholder?

In the past year the Order on the Designation of a director/substantial shareholder (‘*Regeling aanwijzing directeur-grootaandeelhouder*’) 2016 was published, which is going to come into effect on 1 January 2016. The employee insurance obligation (WW/WIA) for you as director/substantial shareholder may change in the event of equality of you and your fellow directors. As a result, you may be obliged to have employee insurance. It is therefore a good idea to check the ratios of share ownership in order to determine whether this rule has any consequences for you personally.

Relevant once again

Exempted investment institution (VBI)

Do you have a 'Vrijgestelde beleggingsinstelling' (VBI) and have you not yet paid out any dividend this year?

If so, it may be advisable to do so before year-end. Each year, a fixed yield of four per cent over the fair market value of the VBI (as of 1 January of the concerning year) is taken into account for income tax (box 2). This applies irrespective of whether you do actually pay out any dividend. The fixed yield (of four per cent) will be set off against any dividend that has actually been paid out. A box 2 levy of 25 per cent applies to the fixed yield or the actual dividend.

If you pay out a dividend which is equal to the fixed yield of four per cent, this will therefore not result in a higher box 2 levy. However, it will lower the fixed yield in box 2 for next year. After all, it will reduce the fair market value of your VBI, which is the basis for the fixed yield. The paid out dividend will then be part of your capital base for box 3. We would also like to refer to our tip for private clients under 'Paying tax debts' (page 7).

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.

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 2015, a maximum of 52 per cent personal income tax is being levied on additional wages, while a combined personal income and corporate income tax burden of between 37.60 and 43.75 per cent applies to dividend distribution. Note that a change to your wage amount can have consequences for your pension build-up.

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 2016, as this will save you a full year's box 3 levy on the redemption sum.

Earlier publication of the annual accounts

Are you involved in a bv in which all shareholders are also directors?

If so, please note that, as of 1 October 2012, the signing of the annual accounts by the board of directors results in those accounts being immediately adopted. The law provides that annual accounts must be drawn up and signed by the board of directors within 11 months of the end of the financial year. Also, the annual accounts must be published within 8 days of their adoption. This legal provision results in a reduction in the period for publication. Whilst the deadline for lodging annual accounts at the Chamber of Commerce is normally 13 months after the end of the financial year, immediate adoption of the annual accounts has the undesired effect of ending the period for publication 11 months and 8 days after the end of the financial year, instead of after 13 months. You can depart from this legal provision, but in that case the departure must be laid down in the bv's articles of association.

Timing of liquidity test important for dividend distributions

Are you a director of a bv that is intending to distribute a dividend?

The distribution of dividend by a bv is subject to several conditions. For example, reserves required by law and the articles of associa-tion must not be used for dividend distributions, and shareholders have to obtain approval for distribution from the board of directors. The board of directors may only refuse to approve a dividend resolution passed by the shareholder(s) if the result of the so-called liquidity test, which has to be performed by the board of directors, is negative. This test involves the board of directors determining whether the bv will still be able to meet its debts and obligations following the dividend distribution. If it subsequently turns out that the bv can no longer fulfil its obligations after the dividend distribution, and that the board of directors could have foreseen this, then the board will be liable for the deficit resulting from the dividend distribution. The time to which the liquidity test pertains is the moment when the company distributes the dividend to the shareholder(s). If a dividend resolution has already been passed, it is important that you recheck that the result of the liquidity test is positive at the time that the distribution is to be made. Should it subsequently turn out that the test result was not positive when the distribution was made, then you, as a director, run the risk of having to repay the deficit that resulted from the dividend distribution to the company.

Self-administered pension

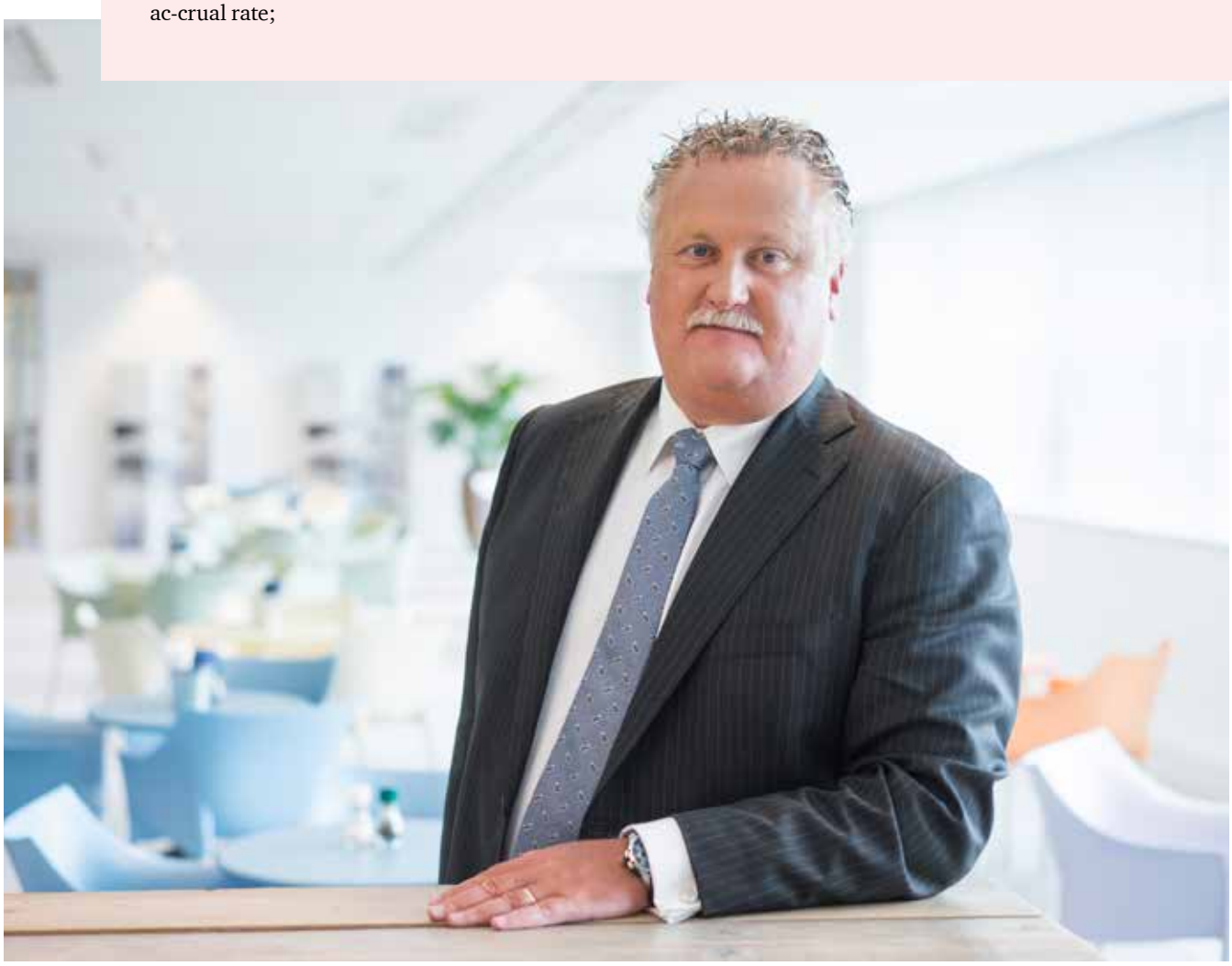
Current developments

The future of self-administered pensions

Are you aware that the Dutch State Secretary of Finance is contemplating alternatives to and even an abolition of the current system?

It is advisable to take action as soon as we have a better idea of the final details. We expect these details to become known towards the end of this year. Two alternatives to the current system were put forward in the past few months. At present there are three proposals:

- To abolish the tax relief for self-administered old-age provisions, combined with the possibility of commutation; only 80 per cent of the commutation value for tax purposes will be subject to personal income tax at the progressive box 1 rate in the hands of directors/substantial shareholders (DGAs) and 20 per cent may be received tax-free.
- Designated old-age reserve . This alternative is a fiscal reserve on the balance sheet of the company (bv);
- Self-administered old-age saving. This savings product is a variation of a defined contribution plan with a fixed interest ac-crual rate;



Relevant once again

Dividends distributed or to be distributed

Have you considered any commercial pension arrangements upon a distribution of dividends?

Do you wish to distribute dividends? Have you paid any dividends in the past seven years? When you calculated the reserves available for free distribution, did you take any commercial pension provisions into account? If not enough reserves were available for free distribution at the time it was decided to pay a dividend, the Tax Authorities may argue that pension benefits have been waived or have already been received. This may result in progressive taxation of the fair value of the accrued pension benefits at the rate of 52 per cent, and the payment of a revisionary interest of 20 per cent as well. The fair value substantially exceeds the tax reserve; the tax to be paid may therefore be equal to or exceed the assets owned. We advise you to make a calculation before distributing a dividend.

Private pension company cover ratio

Have you recently calculated the funding ratio of your private pension company?

It is wise to regularly calculate the funding ratio of your private pension company, as the Tax Authorities may argue that you have surrendered your pension if your funding ratio is too low, with all its tax consequences. The same applies with respect to the question as to whether the return profile of the assets is still in line with the current and future commercial pension provisions.

Is the funding ratio of the pension rights insufficient?

If so, you may reduce the pension rights. Provided certain conditions are met, pension rights may be reduced if the funding ratio falls below 75 per cent taking into account the tax value of the pension provision and the fair value of all other assets and liabilities. In this respect, any dividends paid in the last seven years become relevant.

Did your pension become payable on 1 January 2013?

If so, pension rights may be reduced up to and including 31 December 2015.

Does the highest personal income tax bracket apply to your pension entitlement?

Does the prorated accrued pension entitlement exceed EUR 57,585 on 31 December 2015?

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 57,585 or more (partly dependent on your deductible expenses, including mortgage interest). It will then 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 were to waive the future pension accrual without receiving some form of compensation from the employer.

Compliance with private pension company requirements

Is your pension scheme administered by a private pension company ?

If so, the pension provision is not or no longer administered by a company of the employer. In that case a financing agreement between the employer and the pension provider is required. A result of that is, for instance, that a commercial premium must be charged to the pension provider since 1 January 2011. Furthermore, it may be wise to change the legal structure, so that any adverse tax consequences and the administrative burden can be mitigated.

Employer and employee

Current developments

*Abolition of Declaration of Independent Contractor Status (VAR)**

Are there any independent contractors working at your company?

If so, it is important to you to know that the Declaration of Independent Contractor Status (‘*Verklaring arbeidsrelatie*’, VAR) is expected to be abolished as of 1 April 2016 and, with that, the protective effect of the VAR. As from that date, the Tax Authorities will assess the employment relationship between an enterprise and a contractor first and foremost on the basis of the contract under which they work. Moreover, there is an implementation period as a result of which enterprises and contractors have until 1 January 2017 to change their working methods based on the methods included in an example or model agreement.

Do you as a commissioning authority want to remain exempt from payroll taxes deductions as from 1 April 2016?

If a contractor performs work for your enterprise on the basis of an approved (model) agreement, you will be exempt from the payroll taxes deductions as from 1 April 2016. The Tax Authorities published a large number of these model agreements on their website over the past few months and will probably continue to do so. In order to be exempt for the deduction of payroll taxes, you can use these approved contracts with independent contractors. You can also submit your own contracts to the Tax Authorities after which they will assess the employment relationship between you and your contractors (to determine whether or not there is an employment relationship).

*Staff loan for private home**

Do you offer your employees staff loans in order to purchase or improve their private homes?

If so, any interest benefit that the employee receives must be taxed as wages from 1 January 2016 onwards. However, the interest benefit and the costs relating to the staff loan may not be included in the work-related expenses budget. We recommend to inform your employees about this effect in time. Up until 2016 the interest benefit of an employee deriving from a staff loan for their private home may be valued at zero under certain conditions. Incidentally, the zero valuation of the interest benefit for staff loans granted for the purchase of a bicycle, electric bicycle or electric scooter remains unchanged.

Unemployment benefit changes

Are you aware what impact the unemployment benefit changes will have on your employees?

As of 1 January 2016 the maximum term of unemployment benefit will be reduced in phases. As from 2019, the maximum public unemployment benefit will be 24 months.

Anti-Sham Arrangements Act ('Wet Aanpak Schijnconstructies', WAS)

As an employer, are you in compliance with legal requirements where your payroll records are concerned?

The WAS, which became partially effective on 1 July 2015, will enter into full effect on 1 January 2016. The WAS seeks to prevent unfair competition between businesses, strengthen the legal position of employees and to combat the underpayment of workers. The following measures become effective on 1 January 2016:

- The payslip must specify all elements of pay. Any allowances for expenses and/or holiday allowance must be stated separately on the payslip.
- The minimum wage must be paid by electronic funds transfer. A holiday allowance does not have to be paid by funds transfer. Also, any amounts in excess of minimum wage may be paid in cash.
- To guarantee that every employee indeed receives the minimum wage, no amounts may be set off against or withheld or deducted from the statutory minimum wage. This does not apply to any wage advances paid as agreed with the employee.

What if your payroll administration is not WAS-proof?

You may have to pay an administrative fine. Also, you must still pay any amounts wrongfully set off, withheld or deducted to the employee subject to an incremental penalty payment.

Relevant once again

Mandatory work-related expenses scheme since 1 January 2015

What kind of effect has the mandatory work-related expenses scheme had on your company during the past year?

It is a good idea to reflect on this question. For example, you could check whether the payments and allowances you made to employees in 2015 have been processed by this time, and whether you assigned these as desired. After all, you cannot (any longer) assign any payments and allowances once the year has ended. It is also a good opportunity to assess whether you have to take account of extra work-related costs compared to the past year.

Do you still have to submit a tax return for the 80 per cent final levy for the work-related expenses scheme?

If the payments and allowances you have allocated exceed the available discretionary margin ('the 1.2 per cent budget') for 2015 you, as employer, will be subject to the 80 per cent final levy. Although the payroll taxes return in January 2016 is the last return in which you can indicate this levy, you can, of course, also do so during the 2015 calendar year. If you have to pay the final levy because you exceeded the budget, this may be reason to change the employment conditions or regulations in order to prevent or limit any exceeding of the budget in 2016.

Check differentiated contribution to the Resumption of Work Fund

Are you, as an employer, not a self-insurer for the purposes of the Resumption of Work (Partially Disabled Persons) Regulation ('Regeling werkhervatting gedeeltelijk arbeidsgeschikten', WGA)?

In that case you will receive the decision on your differentiated WGA contribution from the Tax Authorities around this time. In view of the relatively short timescale for filing objections, we recommend that you check this decision soon. A proper check could result in contribution savings.

Pension for employer and employee

Current developments

Significant increase in pension contribution if pension scheme is extended

Do you have an insured final salary or career average salary pension scheme?

If so it may be advisable to analyse now what the impact could be of a decreasing interest rate and increasing life expectancy on your future pension costs. It is also a good idea to adapt your pension strategy and scheme accordingly before it is too late. When concluding a new insurance contract, you may be confronted with a substantial increase in pension contribution due to a combination of a significantly lower actuarial interest rate and increased life expectancy.

Such a substantial increase in your annual pension costs can be avoided by switching from your final salary or career average salary scheme to a new pension scheme, for example a defined contribution scheme. Normally, the significant increase in your pension costs in the event of continuation of your final salary or career average salary scheme only becomes clear when the insurer proposes extending the pension contract. This is usually between three and six months before the end of your insurance contract. By then it could be too late to change your pension scheme, for example into a defined contribution scheme, as these processes usually take between nine and twelve months. For that reason it is advisable to perform an analysis now.

Accommodating net pension scheme contributions in the work-related expenses scheme

Have you considered designating the contributions for your net pension scheme as a final levy element?

If so it may be advisable to investigate the possibilities of doing so soon. Numerous new restrictions were introduced into the fiscal framework for pension build-up on 1 January 2015. One of these was the capping of the pensionable salary at EUR 100,000. One method used in the practice to compensate for this cap is the commitment to a net pension for salary over and above EUR 100,000. In certain circumstances it is possible to designate net pension contributions as a final levy element for the work-related expenses scheme. The advantage of this is that the net pension contributions no longer have to be recorded in the payroll administration for each individual employee and, if the 1.2 per cent budget under the work related cost scheme is exceeded, the net pension contributions are taxed at a final levy rate of 80 per cent. If designation is possible in conjunction with an assessment of the standard practice criterion (‘*gebruikelijkheidscriterium*’), it may be advisable - with a view to a stable procedure - to stipulate this as explicitly as possible in your terms and conditions of employment and administrative processes.

*Temporary pension wallet possibility in the case of contribution and capital agreements**

Are any of your employees going to retire before 1 January 2017?

If so, it may be a good idea to inform these employees about the temporary option of the split-annuity concept. This wallet gives em-ployees who are going to retire before 1 January 2017 the option of purchasing their pension benefit in two instalments rather than all in one go. On the retirement date the accrued capital can be used for a temporary pension benefit with immediate effects. This temporary benefit must end by 1 July 2017 at the latest. This split-annuity concept is a temporary allowance. In order to make pension less dependent on market developments at the time of the pension purchase, a bill is being prepared which is intended to offer employees the option of having pension benefits fluctuate in line with investment results and life expectancy developments. This bill is not expected to become law before 2017. For that reason, the split-annuity concept has been temporarily reintroduced as an interim solution.

Social security

Relevant once again

Foreign contributions

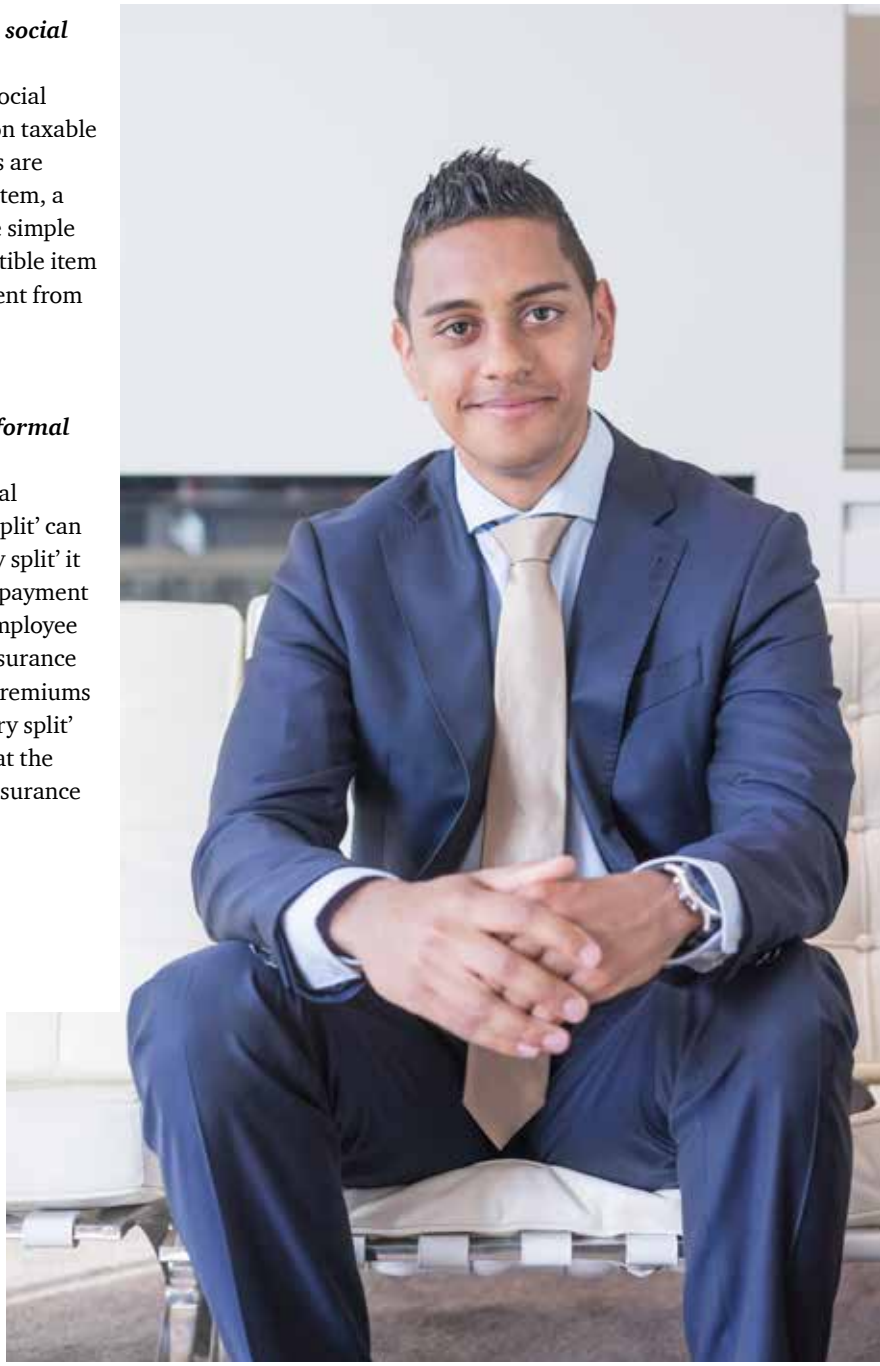
Do you have employees who are subject to foreign social security?

In many cases, correct fiscal processing of foreign social security contributions results in a deductible item on taxable wage in the Netherlands. For example, if employees are subject to the Belgian or German social security system, a deductible item can be attained by means of a quite simple payroll administration adjustment. A similar deductible item is possible for various countries, based on a statement from the Tax Authorities.

Health Insurance Act Contribution

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

A 'salary split' is when an employee works for several employers in various different countries. A 'salary split' can be formal or material. In the case of a formal 'salary split' it is important that you fulfil the registration and tax payment obligations for each separate formal job that this employee has. After all, you are required to pay the Health Insurance Act contribution and employee insurance scheme premiums for each separate job. In the case of a material 'salary split' there will be just one formal employer, meaning that the Health Insurance Act contribution and employee insurance scheme premiums only have to be withheld once.



Cross-border employment

Current developments

New Netherlands/Germany Tax Treaty

Do the changes in the new tax treaty with Germany affect you?

The new tax treaty with Germany will be applicable as from 1 January 2016. Under the new treaty the rights to tax certain income, for example executive pay and retirement benefits, have been reallocated. A compensation scheme (‘*compensatieregeling*’) has been agreed to compensate net income losses on the part of cross-border workers residing in the Netherlands if working in Germany turns out to be more expensive from a personal taxation perspective, in comparison with solely working in the Netherlands. The year 2016 will function as a general transition year, in which employees may opt to apply the existing treaty instead of the new one for that year alone, should this be more advantageous to him or her.

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?

Do you have university-educated employees who turned thirty this year, 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. For 2015, the default salary standard is set at EUR 36,705 taxable income per annum, and the reduced salary standard is EUR 27,901 per annum. Where appropriate, you could consider reducing the tax free amount under the 30 per cent ruling so that the salary standard is still met.

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 personal income tax rates in the payroll tax return. In that case, the obligation to submit a personal income tax return for these employees will no longer apply.

Foreign working days

Do you have employees who have foreign working days and for whom you withhold Dutch payroll tax on their full income?

If so, it is important to determine, based on international tax rules, whether the Netherlands is entitled to levy tax on the employee's full employment income. In the event that tax on (part of) the employment income is allocated to another country under a treaty for the avoidance of double taxation, you can take that into account in the Dutch payroll administration. In that case, you can limit the withholding of Dutch payroll tax to the portion of the employment income that is allocated to the Netherlands. This is also relevant when determining the level of the discretionary margin of 1.2 per cent (2015) under the work-related costs scheme and any final levy of 80 per cent that may be owed. For the purposes of this exclusion of income, it is important that the employee keeps an up-to-date record of his working days in the Netherlands and abroad.

Qualifying foreign taxpayers

Do you live outside of the Netherlands and do you earn 90 per cent of your income in the Netherlands?

In that case you may be eligible for certain tax deductions and relief available to domestic taxpayers. On 1 January 2015, the old scheme ('*keuzeregeling*'), under which one could opt to be taxed as a resident taxpayer, was replaced by the qualifying foreign taxpayer scheme. Under the new scheme, you will only be eligible for tax deductions and relief in the same way as a domestic taxpayer if 90 per cent of your worldwide income is earned in the Netherlands and if you live either in a EU Member State, Liechtenstein, Norway, Iceland, Switzerland, Bonaire, Sint Eustatius or Saba.

Pension accrual on allowances and benefits provided to your employees

Do you employ any persons who are accruing a pension and to whom the 30 per cent ruling has been granted?

According to the work-related expenses scheme, all payments and benefits, including the 30 per cent allowance, are in principle con-sidered wages for final levy purposes and hence taxable pay. This means that the amount paid under the 30 per cent ruling is pensionable pay. No further conditions have to be complied with.

Gifts and inheritances

Current developments

*Extended exemption for home acquisition gift**

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

As from 1 January 2017, you can, under certain conditions, gift up to EUR 100,000 free of tax to someone else for their private home. This also applies to redemption of an old residual debt incurred before 29 October 2012. The home in question can also be in a country other than the Netherlands. The donor and the recipient do not have to be family. However, the recipient must be aged between 18 and 40 and, within the framework of the relationship between donor and recipient, is only allowed to claim this increased exemption on a one-off basis. If the donor dies within 180 days of the gift being made, the recipient does not have to pay any inheritance tax on the EUR 100,000.

Are you going to use the private home increased exemption in 2015 or 2016 in connection with a gift made by your parents?

If so, your parents can supplement this gift up to an amount of EUR 100,000s on a tax-free basis in 2017 or in 2018 only. You should not forget that the exempted supplement is a maximum of EUR 100,000 less the exemption that applied in the supplementation year (2017 or 2018). It is irrelevant whether the exemption was fully used in the gift year (2015 or 2016).

Have you already used the private home increased exemption between 2010 and 2015 in connection with a gift made by your parents?

If so, you can no longer benefit from this expanded scheme, even if the exemption was not fully used at that time.

Classification of foreign country estate for the Nature Conservation Act ('Natuurschoonwet') 1928

Do you have a country estate located outside the Netherlands?

If so you may, subject to certain conditions, be eligible for fiscal benefits as regards gift and inheritance tax and transfer tax. One of those conditions is that the country estate located abroad is regarded as Dutch cultural heritage.

Relevant once again

Tax return deadline for gifts

Have you received a gift in 2015?

If so, do not forget to file your tax return before 1 March 2016. This applies to all gifts subject to tax (to the extent that the amount given exceeds the yearly exemption) and to gifts for which the one-off (additional) increased exemption has been invoked in 2015. 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.

Tax return deadline for inheritance tax

Have you received something from an inheritance in 2015?

If so, the executor must file a return within eight months of the death of the testator. If the testator has not appointed an executor in his will, you must file a return within the stated period as beneficiary. This applies to all taxable acquisitions under inheritance law (in so far as these exceed the exemption). You can request a return form from the Tax Authorities. You may also request postponement for filing the return, but with effect from eight months after the death the beneficiaries have to pay interest on the amount of the assessment. This is regardless whether the assessment has already been imposed.

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 2015 calendar year, an amount of up to EUR 5,277 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 2015;
- if you gift an amount greater than EUR 5,277, you can make use of two exemptions in two calendar years by splitting the gift into two parts: one in 2015 and the other on or after 1 January 2016;
- 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; and
- 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 2015.

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 his/her partner) aged between 18 and 40, an increased exemption from gift tax on a one-off basis (up to EUR 25,322 for 2015) can be used;
- subject to certain conditions, this one-off exemption is as much as EUR 52,752 for a child's expensive course of study or own home;
- 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 gifts to your grandchild or a third party?

If so, an exemption from gift tax of EUR 2,111 applies in 2015, 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 a year, there are ways to rectify this, subject to certain conditions.

Interest-free or low-interest-bearing loans payable on demand

In 2015, have you granted (a child, for example) an interest-free or low-interest-bearing loan payable upon demand?

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 for the future by amending the conditions of the loan so that it is no longer payable on demand and bears an arm's length interest rate. An alternative is to arrange for your child to pay you interest at 6 per cent after all.

Remission of inheritance tax in exchange for art and cultural assets

Do you want to pay inheritance tax with artworks or cultural assets from your inheritance?

If so, you can submit a request for remission of inheritance tax. The remission can be up to 120 per cent of the value of the objects that you want to transfer to the State, but must not be more than the tax and interest on tax owed. To this end, an advisory committee first determines whether the cultural assets offered to it for assessment from estates have sufficient significance in terms of national artistic or cultural heritage. Another possibility is that, prior to his death, a testator asks whether objects in his estate meet the conditions. The Tax Authorities recently decided also to approve the giving in payment of qualifying artworks subject to shared ownership from estates.

Charities

Current developments

Donating to a public benefit organisation (ANBI) via your own bv

Do you want to donate to an ANBI via your bv?

If so, the donation by your bv resulting from your personal philanthropy as major shareholder may, under certain circumstances, be eligible for the corporate income tax deduction for gifts. One of the conditions is that you, as shareholder, must not have conclusive authority as regards the ANBI as the recipient of your donation. This would jeopardise the recipient's ANBI status, which is required for the tax deduction for gifts. The deduction will not exceed 50 per cent of the profit up to a maximum of EUR 100,000. All gifts and inheritances acquired by ANBIs are also exempt from gift tax and inheritance tax under certain conditions.

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 personal income tax deduction for gifts, subject to a maximum of EUR 1,250.

Do you want to donate to a cultural organisation via your bv?

If so, your donation may be multiplied by 1.50 in respect of the corporate income tax deduction for gifts, subject to a maximum of EUR 2,500.

The multiplier for donations to cultural organisations is expected to be discontinued as from 31 December 2017. You can therefore benefit from the multiplier for an additional three years if you record your (regular) donation to a cultural organisation before the end of 2015.

Relevant once again

Regular donations

Are you considering making a regular donation?

With effect from 1 January 2014, a notarial deed is no longer required for tax-deductible regular donations to ANBIs (public benefit organisations) and associations with more than 25 members. A private agreement will suffice and a model can be downloaded from the website of the Tax Authorities. Both the recipient organisation and the donor must save a copy of the signed agreement as proof. In the case of more complex donations, such as a valuable work of art, it may be a good idea to record the donation in a notarial deed.

Donating on the basis of family values

Do you want to donate to your 'own' charity?

If, as a family (business), you are considering investing capital in your 'own' charity, it is advisable to use family values as a starting principle. This will increase the commitment to the charity of your choice and also provide more personal gratification. What is more, it strengthens the family ties, including those between generations, and the bond between the family and business.

ANBI

Do you wish to acquire or retain ANBI status?

If so, ensure that your organisation is in compliance with the electronic disclosure requirements that public benefit organisations (ANBIs) are subject to since 1 January 2014. For example, your financial accounting must be posted on the Internet within six months of the end of the financial year and the names of all directors must be disclosed. A very limited number of organisations 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 '*kerkgenootschap*' are not obliged to publish directors' names either.

Have you lost or will you be losing your ANBI status?

You should remember that former ANBIs are themselves responsible for informing the Tax Authorities annually about donations they have made and details of their capital. If, as a former ANBI, you fail to meet this information obligation in the manner prescribed or fail to meet it in time, this will be considered a violation for which a penalty fine can be imposed. In the event of intent or gross negligence, the penalty fine can be as high as EUR 20,250. The information obligation applies until the capital destined for the purpose for the public benefit has been spent in its entirety.

Are the articles of association ANBI-proof?

In order to acquire or retain ANBI status it is important, among other things, that the articles of 'your' personal charity always fulfil the latest statutory criteria. In practice, however, the articles of ANBIs appear to be inadequate in this regard. One key example is the way in which the liquidation provision is formulated. Organisations which were classified as an ANBI before 22 June 2012 are obliged, when amending their articles after this date, to bring the liquidation provision in their articles in line with the requirements stipulated in the so-called 'Donations Act' ('*Geefwet*').

Do you want to donate to an ANBI?

If so, subject to certain conditions, your donation is deductible for personal income tax purposes. An 'ordinary' donation is subject to other conditions than a regular donation. Depending on your wishes, a variety of structures can be used for donations. All gifts and inheritances acquired by ANBIs are also exempt from gift tax and inheritance tax under certain conditions.

Social benefit organisation (SBBI)

Do you want to donate to an SBBI, 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 personal income tax purposes if it is a regular donation. Subject to certain conditions, a donation or inheritance acquired by 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's anniversary)?

If so, subject to certain conditions, your donation is deductible for personal income tax purposes. Subject to certain conditions, a donation or inheritance acquired by an SBBI supporting foundation is exempt from gift tax and inheritance tax.

Do you want to donate to an SBBI supporting foundation via your bv?

If so, a corporate income tax deduction for gifts applies of up to 50 per cent of profits, subject to a maximum of EUR 100,000. Subject to certain conditions, a donation or inheritance acquired by an SBBI supporting foundation is also exempt from gift tax and inheritance tax.

VAT taxable person

Relevant once again

Negative declaration after purchase or sale of immovable property

Have you (or your buyer) not used a recently bought property principally for VAT taxable activities in 2015?

In the event that a VAT taxable transfer is elected in respect of transfer of immovable property, the buyer has to declare in writing that he will be using the immovable property for purposes for which he is entitled to deduct VAT for at least 90 per cent. If the buyer does not use the property for such activities in the period covering both the financial year of transfer and the subsequent financial year, he must notify the seller in writing within four weeks of expiry of this reference period (sending a copy to the tax inspector). Such declaration may result in the original seller of the immovable property having to pay back VAT deducted at an earlier stage (such as VAT on civil-law notary's expenses, estate agent's expenses and the costs of advice, and any 'adjustment VAT'). We therefore advise sellers to include clauses in their purchase agreements regarding the liability for this VAT loss.

Private use of a company car

Have your staff (or other business relations) had a company car at their disposal in 2015, 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, BPM) 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.

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 com-pany car?

If so, it is highly likely that the VAT (or part of it) deducted from 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 make deductions from 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 de-ducted 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', he must submit a declaration to the lessor and the Tax Authorities within four weeks of the end of the financial year 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 2016.

VAT taxable purchase of immovable property in 2014 or 2015

Did you buy immovable property in 2014 or 2015 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 2014 and 2015 must be provided in January 2016. This may be either a positive or a negative declaration; for a limited number of entrepreneurs, a 70 per cent declaration applies.

Real estate

Current developments

*Acquisition of a freehold subject to a leasehold interest ('erfpachtlease')**

Are you thinking of buying real estate subject to a leasehold title?

Under an '*erfpachtlease*', a property is sold subject to an easement, a right of leasehold or right of superficies. The buyer will be both the freeholder and the leasehold landlord. As from 1 January 2016, the capitalised value of the ground lease will no longer be deducted from the transfer tax base. This new rule will not apply to existing '*erfpachtlease*' arrangements; for these, the deduction will continue to be permitted even after 1 January 2016. Consider the tax consequences of your intended '*erfpachtlease*' transactions in time to determine whether it is advisable to complete such a transaction in this calendar year.

Cars

Current developments

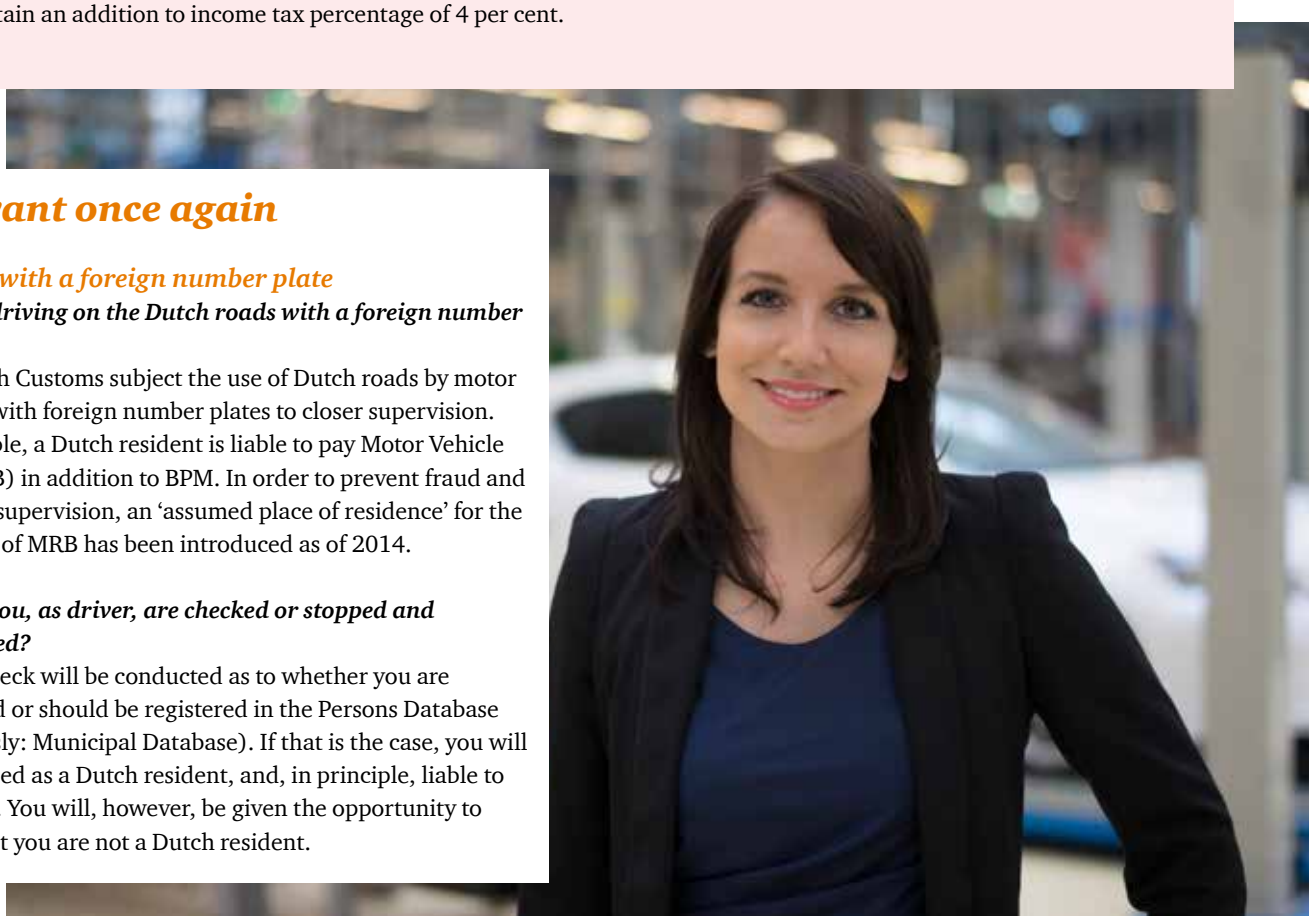
*Purchase of a highly fuel-efficient car or a company car**

Are you planning to purchase a highly fuel-efficient car or a company car in 2016?

If so, make sure that you are fully aware of the BPM, Motor Vehicle Tax and addition to income tax consequences. It may be more advantageous to purchase a car before the end of 2015. The BPM CO2 thresholds in the BPM tax brackets are being tightened up once again as from 1 January 2016. The addition to income tax percentages will also change as from that date. In the case of cars with a CO2 emission of 1 to 50 g/km (for example plug-in hybrid cars) an addition of 15 percent will apply from that date (as a comparison: a 7 percent addition has applied for these types of cars since 1 January 2015). As of 1 January 2016 the exemption from Motor Vehicle Tax ('*motorrijtuigenbelasting*', MRB) for cars with very low CO2 emissions (0 to 50 g/km) will also cease to apply. Instead, such cars will be subject to the half rate for MRB. The MRB exemption will only remain for cars with an electric motor that are fuelled exclusively by a hydrogen-based fuel cell, and for cars with a combustion engine that can be fuelled by hydrogen.

Are you planning to purchase a highly fuel-efficient car or a company car in 2017?

Between 2017 and 2020, the BPM and addition calculations will be determined to a lesser extent by CO2. A fixed basic amount has been included in the bpm which will increase in phases. At the same time, the CO2-dependent portion of the bpm is to be reduced. The addition will gradually increase to a general addition to income tax percentage (of 22 per cent), thereby reducing the distinction based on gram of CO2 emissions. Eventually, only zero-emissions cars will retain an addition to income tax percentage of 4 per cent.



Relevant once again

Driving with a foreign number plate

Are you driving on the Dutch roads with a foreign number plate?

The Dutch Customs subject the use of Dutch roads by motor vehicles with foreign number plates to closer supervision. In principle, a Dutch resident is 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 has been introduced as of 2014.

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

If so, a check will be conducted as to whether you are registered or should be registered in the Persons Database (previously: Municipal Database). If that is the case, you will be regarded as a Dutch resident, and, in principle, liable to pay MRB. You will, however, be given the opportunity to prove that you are not a Dutch resident.

Excise duty and consumption tax

Current developments

*Trade in or production of non-alcoholic drinks**

Do you trade in or produce fruit or vegetable juices or mineral water or lemonade?

You should not forget that the consumption tax on these products is going to be significantly increased as of 1 January 2016. As from that date mineral water, fruit and vegetable juices and lemonade will be subject to one and the same rate of EUR 7.91 per 100 litres. The VAT for these products will also increase, because VAT also has to be paid over the consumption tax. Furthermore, a number of exemptions will no longer apply, for example for fruit or vegetable juices with medicinal purposes or which are used as baby food supplement.

*Trading in or production of excise duty products**

Do you trade or produce beer products?

As a consequence of the increase of the consumption tax on non-alcoholic drinks, the excise on beer products with an extract content of less than 7 degrees Plato will increase as of 1 January 2016. The excise on this (light) beer is to increase by 32 cents to EUR 7.91 per 100 litres. What is more, the VAT on these beer products will increase as of that date because you also have to pay VAT on the excise (increase).

Relevant once again

Trade in or production of liquefied natural gas (LNG)

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

If so, you may be eligible for a refund of the excise duty paid on LNG. This refund consists of a sum of EUR 125 per 1,000 kilograms of LNG. At present, LNG is taxed at the excise duty rate for LPG. The refund is intended to reverse the increase in the excise duty rate for LNG if it is used to power a road vehicle. To encourage the use of LNG as fuel for road traffic, provision has been made for a partial refund of excise duty paid on LNG up to and including 2018.

Customs

Current developments

*New 'Union Customs Code'**

Do you regularly import or export goods to or from the European Union?

The new 'Union Customs Code' (UCC) will enter into effect on 1 May 2016. The UCC is going to replace the current Community Cus-toms Code and introduce some radical changes on a number of points. For example, the provisions relating to customs value are to be changed, and it will for example no longer be possible to determine customs value on the basis of a 'First Sale'. It is advisable to assess in good time what the introduction of the new UCC will mean for your company and what preparations you are going to have to make.

*Free trade agreement between the EU and Canada**

Do you regularly import goods from Canada, or do you regularly export goods to Canada from the EU?

You should then bear in mind that the free trade agreement between the EU and Canada is expected to come into effect in 2016. From that moment onwards, you will be able to import goods that fulfil the treaty's requirements of origin from the EU to Canada and vice versa at a lower rate. In order to take advantage of this opportunity, you will have to determine whether the products you sell or purchase are eligible.

Levy and collection

Current developments

*Selling a company**

Do you intend to sell your company?

If so, you should know that you, as the vendor, are afterwards liable for the corporation tax not paid by the purchaser for the reserves that exist at the time of the sale. Since 15 September 2015, the fact that it is not your fault that the tax has not been paid it is no longer relevant in many cases. Liability can only be prevented in all cases by providing sufficient security (for example a bank guarantee or a mortgage).

*New possibility of efficient collection**

Are you engaged in a discussion with the Tax Authorities regarding the collection of tax?

From 1 January 2016 onwards, it will be legally possible to agree on efficient collection in derogation from the law in consultation with the Tax Authorities. The conditions are that the taxpayer must agree to the deviation from the lawful collection method and that the amount payable by law must be paid in full. This legal provision creates extra scope for the Tax Authorities to conclude a collection discussion satisfactorily for all parties.

Relevant once again

Postponement in the event of payment problems

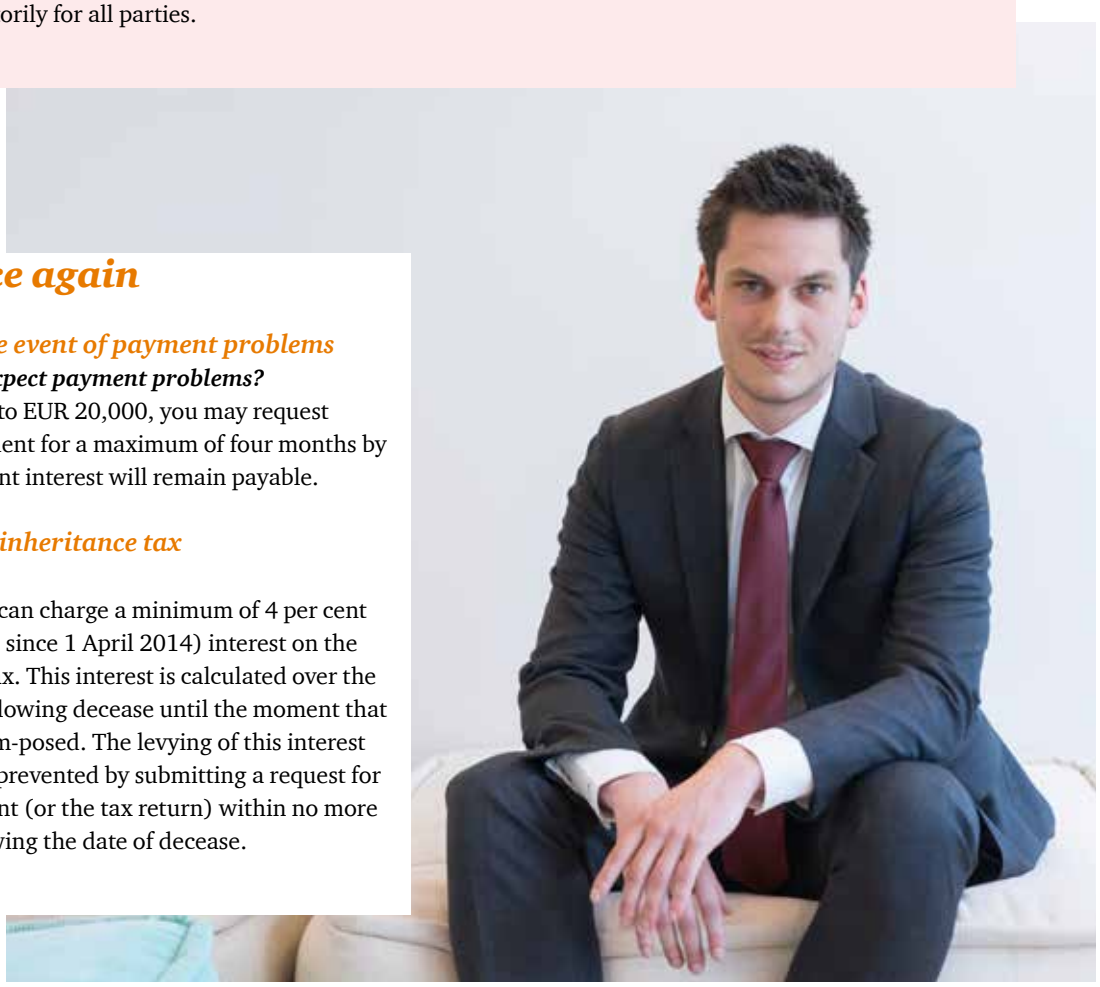
Does your company expect payment problems?

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

Interest on overdue inheritance tax

Are you an heir?

If so, the tax inspector can charge a minimum of 4 per cent (applicable percentage since 1 April 2014) interest on the payable inheri-tance tax. This interest is calculated over the eight month period following decease until the moment that the tax assessment is im-posed. The levying of this interest on the tax can only be prevented by submitting a request for a provisional assessment (or the tax return) within no more than 3.5 months following the date of decease.



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Would you like to know more about these tax tips and how they apply to your situation?
Please contact your PwC advisor, or:

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