28 April 2020

Global Tax Alert

Dutch Government announces new tax measures in response to COVID-19

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On 24 April 2020, the Dutch Government announced six new tax measures in response to COVID-19.

This Alert provides an overview of the measures.

Reduction of normal wage

Individual business owners who perform activities for their company are expected to receive a certain normal wage (*gebruikelijk loon*). The new measures allow such businesses to temporarily apply a lower wage for 2020 – in proportion to the decrease in turnover – if there is a large loss of turnover due to the COVID-19 crisis. The decrease in turnover is determined by comparing the applicable time period of the year 2020 to the same 2019 time period. The Government will release the specifics of this measure at a later date.

Measures for self-employed workers: relaxation of the hours criterion

Entrepreneurs who are liable to income tax can, under certain conditions, claim various entrepreneurial facilities. Some of these entrepreneurial facilities, such as the self-employed tax deduction (*zelfstandigenaftrek*), can only be claimed if the "hours criterion" is met. This "hours criterion" is met when the entrepreneur spends at least 1225 hours per calendar year on activities for his business. To prevent entrepreneurs from losing the right to claim these facilities, the Dutch

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tax authorities will assume that these entrepreneurs have spent at least 24 hours a week on their business during the period 1 March 2020 to 31 May 2020, even if they did not actually spend those hours. In line with this measure, the (reduced) hours criterion of 800 hours per calendar year that is required for the start-up tax deduction (*startersaftrek*) for incapacitated workers is relaxed in such a way that these entrepreneurs are deemed to have spent at least 16 hours per week on their business. An additional measure is taken for entrepreneurs who have seasonal work, such as in the catering or festival industry. The Dutch tax authorities will assume that, during the period 1 March 2020 to 31 May 2020, they have spent the same number of hours as they normally do in other years during the same period.

More tax-free work-related costs budget

Employers can give untaxed benefits and benefits to employees through the tax-free work-related costs budget (*werkkostenregeling*). The budget is increased from 1.7% to 3.0% on the first €400,000 of the total wage expense. This is an extra amount of up to €5,200 per employer. For large employers this measure may not be helpful, however for smaller employers the measure may be an attractive way of broadening the ability to provide tax benefits to employees who work from home.

"Corona-reserve" for Dutch corporate income tax purposes

In determining the taxable profit for 2019, companies (which are subject to Dutch corporate income tax) will be able to take into account the losses that companies expect to incur in 2020. The State Secretary explains that this loss compensation can normally only take place upon filing the 2020 Dutch corporate income tax return, which will be no earlier than early 2021. The Dutch Government will make it possible for companies to deduct the expected loss due to the COVID-19 crisis for the year 2020 from the taxable profit for 2019 as a "fiscal corona-reserve." The corona-reserve may not exceed the 2019 profit before considering the reserve. In addition, the corona-reserve may not exceed the expected loss as a result of the COVID-19 crisis in 2020. According to the State Secretary, this implements the two motions on broadening the loss adjustment.

Postponement of implementation legislative proposal on excessive borrowing from "own" company

The legislative proposal on excessive borrowing from one's "own" company (*Wet excessief lenen bij eigen vennootschap*) will be postponed for one year until 1 January 2023. The proposal addresses the taxation of the debts of an individual business owner owed to its "own" company that are higher than €500,000 (excluding owner-occupied home debt). By postponing the entry into force by one year until 1 January 2023, individual business owners will have until 31 December 2023 (first reference date) to prepare for the legislative proposal.

Payment deferral for mortgage obligations

Lenders such as banks want to offer customers the option of deferring the payment of interest and repayment of the principal amount for up to six months, if those customers are temporarily unable to meet their payment obligations during the COVID-19 crisis. The specifics of any catch-up payment regulation are important for retaining the right to deduct interest on the mortgage. Under current legislation, mortgages that are subject to a tax repayment obligation must be repaid by 2021 at the latest if a deferral of payment was provided in 2020. The State Secretary intends to arrange for the following two matters:

1. The repayment arrears can be (directly) spread over the remaining term of the mortgage (of a maximum 360 months).
2. Alternatively, a customer can choose to split his remaining loan. This means that the maximum of six months in repayment arrears does not necessarily have to be spread over the full remaining term. Instead, the repayment can be made within, for example, five years.

The State Secretary also notes that it will be examined as to how and under what conditions the measure may also apply to loans for which the tax repayment obligation does not apply and for loans that have been provided by a person other than a creditor with a documentation obligation, such as a loan from an one's "own" BV or a family member.

Legal basis and policy decisions

The State Secretary indicates that he intends to include the measures that require further legal basis in the 2021 Budget Day proposals as a separate legislative proposal. Where necessary, he will elaborate on the measures in a decree in advance of publication of legislation. The State Secretary further notes that measures that do not require a further legal basis will be detailed in a decree as soon as possible.

Further reading

EY has prepared an overview of policy and stimulus responses to COVID-19 by country. The overview now covers 128 countries and is updated daily.

EY also has a Global Mobility: Immigration Alert with an overview of measures to prevent spread in a large number of countries.

On EY's global website more information can be found about the impact of COVID-19 on companies:

- Responding to COVID-19
- How companies can reshape results and plan for a COVID-19 recovery
- Ten ways to enhance firmwide resilience

For additional information with respect to this Alert, please contact the following:

Ernst & Young Belastingadviseurs LLP, International Tax and Transaction Services, Amsterdam

- Danny Oosterhoff danny.oosterhoff@nl.ey.com
- Dirk Stalenhoef dirk.stalenhoef@nl.ey.com

Ernst & Young Belastingadviseurs LLP, International Tax and Transaction Services, Rotterdam

- Michiel Swets michiel.swets@nl.ey.com

Ernst & Young LLP (United States), Netherlands Tax Desk, New York

- Simone Admiraal simone.admiraal1@ey.com
- Rik Jansen rik.jansen@ey.com
- Tim Clappers tim.clappers@ey.com
- Annelien Dessauvagie annelien.dessauvagie@ey.com
- Max t Hart max.t.hart1@ey.com

Ernst & Young LLP (United States), Netherlands Tax Desk, Chicago

- Sebastiaan Boers sebastiaan.boers1@ey.com
- Martijn Bons martijn.bons2@ey.com

Ernst & Young LLP (United States), Netherlands Tax Desk, San Jose/San Francisco

- Dirk-Jan (DJ) Sloof dirkjan.sloof@ey.com
- Laura Katsma laura.katsma2@ey.com

Ernst & Young (China) Advisory Limited, Netherlands Tax Desk, Beijing

- Yee Man Tang yeeman.tang@cn.ey.com

Ernst & Young Tax Services Limited, Netherlands Tax Desk, Hong Kong

- Miranda Baas miranda.baas@hk.ey.com
- Joost Huisman joost.huisman@hk.ey.com

Ernst & Young LLP (United Kingdom), Netherlands Tax Desk, London

- Randall Hornberger randall.hornberger@uk.ey.com
- Celeste Krens celeste.johanna.krens@uk.ey.com

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EYG no. 002608-20Gbl

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