



Year-end pointers for entrepreneurs & businesses

Now that we are nearing the end of the year, we would like to provide you with some insight into the points of attention for 2023 with our Year-end pointers. As a number of the legislative changes proposed in the [2024 Tax Plan](#) will enter into force on 1 January 2024, it is important to consider the tax consequences of these plans on time. Which new obligations will apply next year? And what should you take into account before the end of this present year?

Read more about the key fiscal points of attention for director-major shareholders, entrepreneurs and businesses. [Your advisor](#) would be happy to discuss which pointers are of particular importance for you.

Please note: *the Dutch Senate has yet to approve a number of proposals. It is possible that certain measures will be implemented in a revised form, or not at all.*

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Pointers for all businesses (personal income tax and corporate income tax)

Form a provision for large expenditures

If you already know that you will have a large expenditure in 2024 or later, you can under certain circumstances form a provision in 2023. A contribution made to that provision would reduce your taxable profit in 2023. Please note that the future expenditure must stem from facts and circumstances occurring in or before 2023. Furthermore, it must also be reasonably certain that the future expenditure will in fact occur. Examples include a transitional payment ('transitievergoeding') which will be due next year, or a claim for damages which arose in the past year and which will likely need to be paid in the next year. Your advisor can discuss the conditions and necessary documentation with you.

Form and utilise a reinvestment reserve

Have you realised a fiscal profit from the sale of a business asset? Do you intend to replace that asset, and have you already formed a reinvestment reserve ('herinvesteringsreserve' or 'HIR') in order to do so? If so, make sure that you document your intention for reinvestment (annually), in writing and including the relevant substantiation. The HIR must be used within a period of three years.



Pointer: Has the purchase of a new business asset been delayed due to special circumstances, and are you approaching the three-year term? You can ask your tax inspector to extend the period providing you have already started with the reinvestment.

Use the deduction for small-scale investments

If you invest in a business asset, you can under certain conditions make use of the small-scale investment deduction ('kleinschaligheidsinvesteringsaftrek' or 'KIA'). Depending on the investment amount, this tax benefit allows you to reduce the fiscal profit in the year in which you enter into the obligation (e.g. by signing a contract of sale or by accepting a proposal). Will you not start using the business asset in 2023? In that case, the KIA is limited to the amount of the downpayment made in 2023. Please note: if the total amount of the investments exceeds EUR 353,973, the amount of the KIA is nil. If you risk exceeding this amount at the end of the year, it may be prudent to postpone an intended investment until 2024.



Pointer 1: Did you not make use of the KIA in a previous year even though you would have qualified for this option? In that case, you can ask your tax inspector for an ex-officio reduction of your tax assessment of that year. This also applies with regard to the Energy Investment Deduction (EIA) and the Environment Investment Deduction (MIA), if and to the extent that you meet the relevant requirements. In 2023, the oldest year for which you can request an ex-officio reduction is 2018.

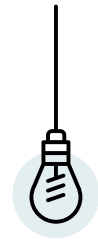
Pointer 2: If you sell, within a five-year period, a business asset for which you have previously claimed an investment deduction, an additional taxable benefit for de-investment may apply. Effectively, this involves repaying (part of) the previously received investment deduction. Do you want to sell such a business asset, which was purchased in 2019? If so, consider postponing the sale until 2024.

Pay attention to the MIA, EIA and Vamil

The Environment Investment Deduction ('milieu-investeringsaftrek' or 'MIA') and the Energy Investment Deduction ('energie-investeringsaftrek' or EIA) were set to end as of 1 January 2024. However, both schemes have been extended until 31 December 2028. As of 1 January 2024, there will be a decrease of the percentage of the EIA, from 45.5% (2023) to 40%. If possible, it may be prudent to carry out your energy investment in 2023.

Please note: if you have invested in a business asset which is included on the Environment List 2023 or on the Energy List 2023, you may qualify for the MIA, the

EIA or the accelerated depreciation for environmental investments (Vamil). In order to do so, you must notify the investment to the Netherlands Enterprise Agency (RVO) within three months of entering into the investment obligation, generally the moment of the signing of the proposal or order confirmation.



Pointer: Do you want to invest in a business asset which is not included on the Environment List in 2024, but which in your view should be on the Environment List 2024? From 1 January 2024 onwards, you can submit a proposal in this regard to the RVO. Contact your advisor for more on the conditions and requirements.

Request the tax credit for research and development 2024!

Will you carry out research and development activities in 2024 and do you have employees? The Act Promotion of Research and Development ('Wet Bevordering Speur- en Ontwikkelingswerk' or 'WBSO') may offer opportunities for lowering your (wage) costs. The deadline for requesting an allowance based on the WBSO for entrepreneurs with employees is 20 December 2023.

VAT Pointers for entrepreneurs

Include VAT refund on uncollectible debts in your VAT return

Have you issued an invoice including VAT, but is this debt now uncollectible? If a customer does not pay your invoice (entirely), you can (partly) claim a refund of the VAT that you have already paid, from the Dutch Tax Authorities. You must do this within one year after the payment of the relevant debt has become due

(or earlier if it has definitively been established that the debt is uncollectible).

You do not need to submit a separate request to the tax inspector: you can include the amount of the refund in your periodic VAT return. Make sure that you reclaim the VAT in the correct period and under the correct heading in the tax return. If the correct period has already lapsed, you may need to file a supplementary VAT return.

If it becomes apparent at a later stage that the debt can be collected after all, you must pay back all of the refunded VAT to the Dutch Tax Authorities through a supplementary tax return.

Check whether you are exceeding the threshold for distance sales

Do you sell and ship products to consumers in other EU countries? If so, you are in principle subject to the local VAT rules in each of these countries. This may mean that you must submit VAT returns and pay VAT in several countries.

If you are based in the Netherlands, Dutch VAT must be charged and paid, up to the threshold of EUR 10,000. If you exceed that amount of EUR 10,000 in a particular year, you will be liable for VAT in the EU country of destination, from that moment onwards. In that case, it is possible to register the sales and VAT owed using the One Stop Shop (OSS). This allows you to prevent VAT registration from being needed in every EU country where goods are supplied. Do you expect that you will exceed the threshold of EUR 10,000 before the end of the calendar year? If so, don't forget to register for the OSS on time and to adjust your systems and prices, where needed.

Please note: the scheme only has very limited retroactive effect. It is important that you are fully aware of your VAT obligations upfront and take timely action, where needed. Our advisors would be happy to inform you about the VAT consequences of cross-border trade.

Pay attention to the consequences of DAC7 for trading on digital platforms

Since 1 January 2023 online platforms must provide the Dutch Tax Authorities with certain data on payments and information regarding sellers on their online marketplace every year. This leads to more extensive due diligence and administrative obligation for these platforms. If you operate a platform, make sure you are aware of these new [DAC7-rules](#) and make sure you file the required annual report on time.

Please note: the deadline for filing the data regarding the 2023 calendar year is 31 January 2024.

Pay attention to supplies between a head office and a fixed establishment for VAT purposes

The VAT treatment of supplies between the head office and VAT fixed establishments (FE) is set to change. At the moment, such supplies are excluded from VAT in the Netherlands. However, this will change as of 1 January 2024: from then on, in certain situations where supplies are performed between the head office and an FE, they may constitute a supply or service relevant for VAT purposes. This is the case if the head office and/or VAT fixed establishment is/are included in a VAT group in their respective EU country (or EU countries) of residence. For businesses with one or more VAT FEs, where the head office and/or an FE are part of a VAT group, it is important to assess the VAT treatment of supplies between these parties, on time.



Read more about the changed VAT treatment of supplies between a head office and a fixed establishment for VAT purposes.

Revise car-related VAT in the final VAT return of the book year

VAT on the purchase, maintenance and use of business cars is in principle deductible, if the car is used for activities that are subject to VAT. However, if a car is also used for private purposes, a correction must be processed in the final VAT return of the book year. Unless you have kept records of the actual private use, this correction amounts to 2.7% of the list price (including VAT and motor vehicle tax). For certain cars, such as cars that have been in use in the business for more than five years, a lower percentage of 1.5% of the list price may apply.



Pointer: Keep track of which cars fall under the lower percentage and check this before filing the return.

Remember to file a supplementary VAT return on time

If it follows from your administration that too much or too little VAT has been paid, this should be corrected by means of a supplementary VAT return, if the total over- or underpayment is more than EUR 1,000 per period.

Please note: the Dutch Tax Authorities can compare the VAT paid with the corresponding item in the corporate income tax return. Make sure any necessary supplementary returns are filed (and paid after receipt of the additional assessment) on time.



Pointer: If the amount of the correction is less than EUR 1,000 VAT in a given period, you may include the correction in the next VAT return, instead of filing a supplementary return.

Process BUA-correction in the final VAT return of the book year

If you have deducted VAT on promotional gifts or gifts for employees, you may have to correct this. If the total amount (excluding VAT) per employee or business relation exceeds EUR 227 in any year, a so-called 'BUA-correction' must be applied for that particular employee or relation.



Pointer: Baker Tilly has developed a useful tool for determining the amount of a potential BUA-correction. Please reach out to our [VAT experts](#) for more information.

Provide 90%-declaration within 4 weeks of the end of the book year

Have you acquired real estate in 2022, and did you and the seller jointly opt for a VAT-taxed sale? If so, you must provide the seller and the Dutch Tax Authorities with a so-called 90%-declaration before 28 January 2024, assuming your book year matches the calendar year. By doing so, you confirm that the real estate was used for activities for which you had at least a 90% right to deduct VAT. If you do not meet this 90%-criterion in the first or second book year following the year of sale, the supply of the property is retroactively seen as VAT-exempt. This may have significant consequences for the seller's right to VAT deduction. A provision on this matter will often have been included in the sales agreement.

If desirable, request VAT exemption for small businesses (KOR)

If your annual turnover does not exceed EUR 20,000 (excluding VAT) you may make use of the VAT exemption for small businesses ('kleineondernemersregeling' or 'KOR'). By applying the KOR, you are exempt from charging VAT to customers, whereas you yourself lose your right to deduct VAT. If you wish to apply for the KOR in 2024, be sure to register with the Dutch Tax Authorities on time. Bear in mind that there is a processing time of at least 4 weeks; to apply the KOR as of 1 January 2024, you should therefore send the relevant information to the Dutch Tax Authorities before 1 December 2023 at the latest.

Pointer 1: When deciding whether or not to use the KOR, you should carefully weigh all of the relevant factors. This may include considering the impact on your customers' right to deduct VAT, as they may prefer a regular invoice including VAT.

Pointer 2: As of 1 January 2025, it will be possible for small businesses in the Netherlands to apply the KOR in other EU countries, too. This may prevent possible VAT obligations in other EU countries. Discuss with your advisor whether you are eligible for this scheme.

Special pointers for entrepreneurs subject to personal income tax

Pay attention to the hours criterion!

For the purpose of the personal income tax, entrepreneurs

can make use of several fiscal measures which can reduce the taxable profit. One example is the deduction for entrepreneurs. To qualify for this, the entrepreneur will need to have spent at least 1,225 hours on his business (and be able to demonstrate this, for example by keeping a register of the hours). Check whether you meet the hours criterion in 2023.

Offset a 2014 business loss for personal income tax

If your business has a loss for personal income tax purposes from 2014, which has not yet been offset, 2023 is the last year in which this loss can be utilised. After 2023, the loss will expire and you will no longer be able to offset it against future profits.

Special pointers for businesses subject to corporate income tax

→ [Click here to go directly to special pointers for director-substantial shareholders](#)

Request a preliminary corporate income tax assessment on time

If a corporate income tax assessment is issued more than six months after the end of the tax year (generally speaking this is on 1 July), the Dutch Tax Authorities impose legal interest. Since 1 January 2022, the applicable interest rate is 8%. By requesting a preliminary corporate income tax assessment, you can pay the taxes owed in an earlier stage and prevent or reduce the amount of legal interest. Your tax advisor can discuss with you whether it is necessary to request an (adjusted) preliminary assessment for 2022 or for earlier (outstanding) years.



Pointer: Can you already estimate the taxable profit for the tax year 2023 in early 2024? If so, consider requesting a preliminary assessment. If the estimated amount of tax turns out to be too high or too low, you can always request that the preliminary assessment be adjusted.

File your annual accounts on time

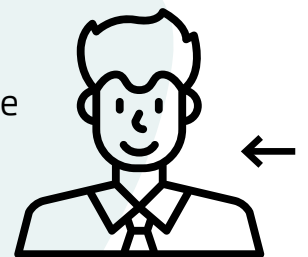
The annual accounts of a limited liability company ('BV') must be filed within eight days after the formalisation of those annual accounts. In any case, the annual accounts must be filed ultimately 12 months after the end of the book year, at the latest. This means that the ultimate filing date for the annual accounts for the book year 1 January - 31 December 2022, is 31 December 2023.



Pointer: If there is a risk of bankruptcy, the timely filing of the annual accounts is of particular importance. Failure to do so can result in personal liability for the director, for debts of the company which cannot be paid through the liquidation.

Preliminary assessment

By requesting a preliminary corporate income tax assessment, you can pay the taxes owed in an earlier stage and prevent or reduce the amount of legal interest.



Check transfer prices and transfer pricing obligations

Affiliated parties must take into account at arm's length prices when doing business with each other. This applies both to internal domestic situations and to cross-border ones. Depending on the amount of revenue of a group with international operations, [additional documentation and reporting obligations](#) may apply. Your advisor can discuss with you whether this is the case for your company or group.

Pointer 1: If a Dutch company is a part of an international group with a consolidated group revenue of EUR 750 million or more, a Country-by-Country Report ('CbCR') must be submitted. The Dutch BV can be faced with this obligation. In the case of normal book years, this report must be filed by 31 December of the subsequent year, at the latest.

Pointer 2: If a Dutch company is part of an international group with a consolidated group revenue of EUR 750 million or more, a Country-by-Country notification needs to be submitted. Among other things, this notification must state which entity will submit the CbCR. This notification obligation falls upon every Dutch BV that belongs to such a group, but the notification can be submitted jointly. This notification must be submitted on the last day of the book year of the parent company of the international group, at the latest.

Please note: *the book year of the parent company may differ from the book year of the Dutch BV. Take this into account when determining the notification deadline.*

Pointer 3: *It is possible that a foreign group entity applies a different transfer pricing methodology than the Dutch BV. This means that the profit reported by the foreign group entity may differ from the profit reported by the Dutch BV. In some cases, the Dutch tax inspector will not permit a reduction of the Dutch fiscal profit based on the Dutch transfer pricing methodology. This is the case if there is no corresponding increase in the tax base in a different country. It is therefore important to analyse and document this issue.*

Prepare your business for Pillar 2 if required

New and far-reaching legislation will come into effect on 1 January 2024 for enterprises that operate internationally. Additional top-up tax may be charged at several levels if an effective tax rate of less than 15% applies in another jurisdiction. Since Minimum Tax Rate Act 2024, also known as Pillar Two legislation, is expected to be implemented worldwide, it is very important to determine the implications of the new rules for your taxation, reporting and business model.

Although Pillar Two focuses primarily on large multinationals, it could certainly also affect (smaller) group companies and large-scale domestic groups. The Dutch legislation uses the consolidated (worldwide) group revenue as a basis for determining the scope. If the consolidated group revenue is € 750 million or more, all individual group entities are, in principle, subject to this legislation. This means that even relatively small Dutch companies that are part of a corporate group could potentially be affected by this legislation. [Read more here about Pillar 2 and how to prepare for it.](#)

Pay attention to new dividend stripping rules

Avoiding dividend tax by means of dividend stripping is not permitted, but at the same time it is difficult for the Dutch Tax Authorities to recognise. Dividend stripping is combatted by means of a condition for the credit, refund or reduction of dividend tax: the receiver of the dividend must be the ultimate beneficiary. In the case of dividend stripping, it is difficult for the Dutch Tax Authorities to determine whether this condition has been met. It has therefore been proposed that, as of 1 January 2024, the party requesting the credit, refund or reduction of dividend tax must demonstrate that the conditions are met. This will improve the evidentiary position of the Dutch Tax Authorities. Bear in mind that you may need to keep more extensive records of your (or your shareholders') ultimate beneficial ownership of the dividends.

Please note: *in principle, this rule only applies from a total annual dividend tax levy of EUR 1,000 or more.*

Request to file tax return in a foreign currency on time

In some cases, it can be helpful to file a Dutch tax return in a currency other than the euro. This could for example be the case if a Dutch company belongs to an international group. In order to do this from 2024 onwards, you must submit a request to the tax inspector on the basis of the 'Regeling functionele valuta ('Functional currency regulation') before 1 January 2024.

Please note: *in principle, this choice is made for a ten-year time period. Be sure to discuss relevant matters such as the additional requirement for the annual accounts, with your advisor.*



Check whether your healthcare institution still meets the requirements for the exemption for healthcare

Under certain conditions, healthcare institutions can make use of the exemption for healthcare. This means that they are not liable for corporate income tax. It is important to monitor whether the activities requirement ('werkzaamhedeneis') and the requirement for the destination of profits ('winstbestemmingseis'), amongst other things, have been met continuously. If a change in the Articles of Association is needed in light of the latter requirement, do so before the end of the calendar year.

Pointers for director-substantial shareholders

Assess dividend distributions in 2023

A new tariff system in Box 2 is expected to be introduced in 2024. At the moment, income from substantial shareholding (including dividends) is subject to personal income tax at a tax rate of 26.9%. However, as of 2024 a rate of 24.5% is applicable to Box 2-income up to EUR 67,000 and a rate of 33% for income above that amount. It may therefore be prudent to postpone a smaller dividend distribution (up to EUR 67,000) to 2024, or to perform a larger distribution before the end of 2023. Your advisor would be happy to discuss what would be wise in your specific situation.

Please note 1: a limited liability company ("BV") may be limited in the amount of dividend that can be distributed. Discuss the possibilities for distributing dividends with your advisor.

Please note 2: a dividend distribution in 2023 may lead to an increased taxation in Box 3 in 2024.

Chart your debts owed to your own company

Do you owe an outstanding (mortgage) debt to your own company? There are a number of reasons why it would be good to reassess and chart these debts. For example, the deduction of mortgage interest will be increasingly restricted in the coming years. In 2023, the interest on a qualifying own-home loan can be deducted at a maximum tax rate of 36.93% in Box 1 of the personal income tax. A non-qualifying own-home loan or other type of debt owed to your company will however fall in Box 3, and therefore have a negative yield of about 2.57% (provisional percentage for 2023).

In addition to this, the [Wet Excessief lenen bij eigen vennootschap](#) ('Act Excessive borrowing from own company') entered into force on 1 January 2023. Director-substantial shareholders who (together with among others their partner) owe a debt exceeding EUR 700,000 to their own company, will be taxed in Box 2 over the amount exceeding that threshold. Mortgage debts owed to the own company for the financing of an own-home, are in principle not taken into account for the purpose of this Act.

Please note: the first reference moment for excessive debts is 31 December 2023. Consider repaying or refinancing these debts before that time. Discuss with your advisor whether it is desirable to decrease your debts, for example by means of a dividend distribution. Bear in mind that it has been proposed to lower the threshold to a maximum of EUR 500,000 in 2024.

Pointer 1: Does your company owe you money? This receivable will often be included in Box 1 of the personal income tax. If your Box 1-receivable is repaid to you before the reference date for Box 3 (1 January of every year), your taxable assets in Box 3 will increase in the following year.

Pointer 2: Do you want to temporarily borrow a sum of money from your company? Consider postponing this until after 31 December 2023 if the new loan leads to your debts exceeding the threshold for the Act Excessive borrowing from own company. Similarly, if you have emigrated and received a payment deferral for a protective assessment, taking out a loan in 2023 may be less favourable than doing so in 2024. Your advisor would be happy to elaborate on this matter.



Assess your customary wages

A director-substantial shareholder who carries out activities for his company, must pay himself wages. Based on the customary wages arrangement, the minimum amount in 2023 is the highest of the following three amounts:

- 100% of the wages that would be paid in the most comparable employment situation;
- the wages of the highest-earning employee of the company or group;
- a minimum amount of EUR 51,000 (2023 amount).

The efficiency margin was abolished as of 1 January 2023 onwards. This means that, for the purpose of determining the three amounts referred to above, 100% of the wages paid in the most comparable employment situation must be taken into account (previously this percentage was 75%). For many director-substantial shareholders this means that their wages will need to be increased in 2023, in comparison with 2022.

Pointer 1: Due to all of the changes to the customary wages arrangement and the tax position of the director-substantial shareholder, it is prudent to pay extra attention to determining (and documenting) the customary wages in 2023. Your advisor can help you determine the customary wages.

Pointer 2: In 2022, the customary wages for innovative start-ups could be set at the level of the minimum wage, for a period of three years. This arrangement ended as of 2023. However, there are transitional rules in place for director-substantial shareholders who already made use of the arrangement in 2022.

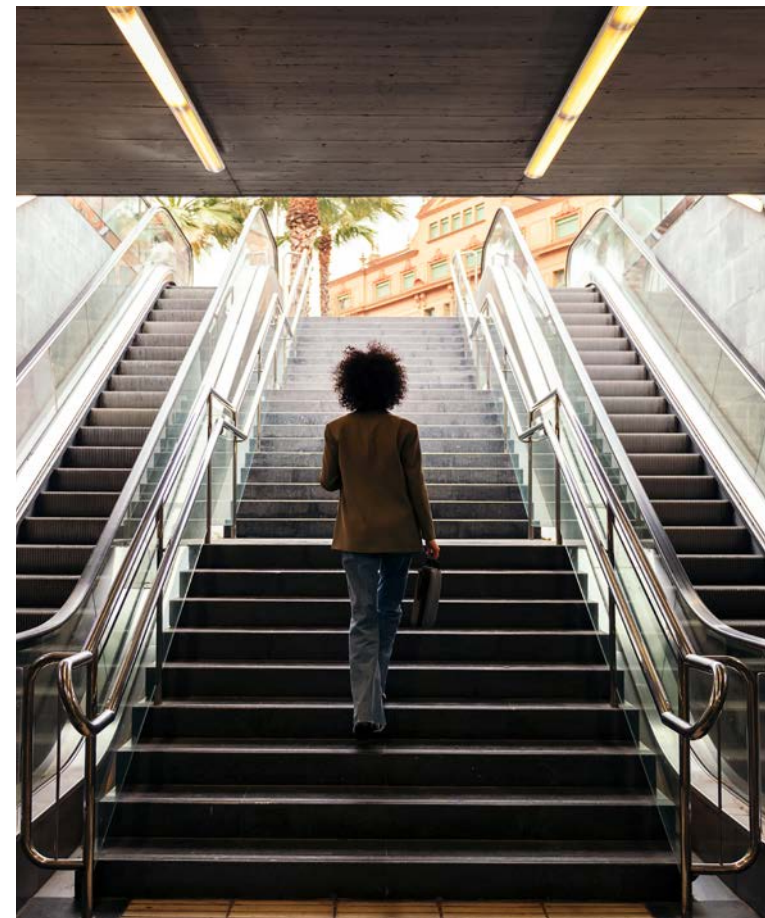
Consider employing your successor

By using the business succession arrangement ('bedrijfsopvolgingsregeling' or 'BOR') you can defer a tax claim as a result of gifting your shares to, for example, your children. This is subject to a number of conditions. One of these is that your successor was employed by the company for at least 36 months at the moment of transfer. This so-called employment requirement ('dienst-betrekkingseis') is expected to be abolished as of 1 January 2025. The employment requirement is to be replaced by the requirement that the recipient is at least 21 years of age at the moment of gifting. Are you considering transferring your shares in your BV to your child, and has the child been employed by the BV for 36 months, but will he or she not reach the age of 19 in 2023? If so, be sure to arrange the gifting before 2025.

→ [Read more about our Year-end pointers for employers and private individuals here.](#)

Make use of tax credit from substantial shareholding before 2024

Did you have an unused loss from a past substantial shareholding, without having a substantial shareholding in 2022 and 2023? If so, you can convert this loss into a tax credit in 2023. The amount of this credit is 26.9% of the unused loss from the substantial shareholding. The credit can be offset against income in Box 1 for the tax years 2023 up to and including 2030.



This overview was written with due care and attention, based on the legislative proceedings until 28 October 2023. This overview is intended to be general in nature and should not be construed as specific advice or a comprehensive overview of all changes. A number of topics, pointers, measures and legislative proposals were not included in this overview. Please note: several measures have not yet been finalised. It is possible that they may be changed during the legislative process. Discuss what the consequences of the proposed changes are for your situation with your advisor.