

September 2020

Budget Day



Now, for tomorrow





Budget Day 2020

As a result of the corona crisis, Budget Day 2020 was exceptional in many ways. Breaking with tradition, the King was not taken to the Hall of Knights in the Dutch royal carriage. Instead, his official speech, the Troonrede, took place in the Great Church in The Hague.

In keeping with tradition, Minister of Finance Wopke Hoekstra did however present the Budget Plan and Budget Memorandum to the House of Representatives. As in previous years, Baker Tilly has compiled an overview of the (fiscal) measures presented by the Cabinet.

Overview of key proposals and measures

The Cabinet's plans are aimed at stimulating the Dutch economy, which is under tremendous pressure due to the corona crisis.

It is noted that many of the Budget Day plans concern previously presented proposals, or the formalisation of specific measures. An example of the latter is the formalisation of aid measures for businesses that have been seriously affected by corona. We have made a selection of the measures that may be important to you.

Questions? Please contact us!

We understand that the information about the new measures will not provide you with full insight into the consequences for you or your organisation. Would you like to know more? Or do you have any questions about the measures? If so, please contact your tax advisor at Baker Tilly or call [one of our offices in your area](#).

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Be aware

- We emphasise that the above is not a comprehensive overview. More information about all the measures that were presented on Budget Day can be found on the website of [the Dutch government](#) (in Dutch).
- The measures and changes are legislative proposals, unless mentioned otherwise. The proposals have yet to be approved by the House of Representatives and the Senate. Please note: the proposals may still be subject to changes.



General measures (for everyone)

The Cabinet's Budget Day proposals contain a number of general measures that are potentially relevant for everyone. The measures will improve the access of so-called 'starters' to the housing market. Furthermore, the tax burden on, amongst others, people with savings and small investors will be reduced by increasing the asset exemption limit. Employees and self-employed individuals can benefit from an increased labour tax credit. Read more about the developments in our overview of general measures.

Box 3 exemption limit increased: far-reaching consequences

The 2021 Tax Plan includes a proposal to raise the exemption limit (heffingvrij vermogen) in Box 3. As this will have far-reaching consequences (including budgetary ones), additional measures will be taken. This proposal departs from an idea launched in September 2019, which aimed to bring taxation in Box 3 more in line with the actual income from assets (savings, investments and debts). The current approach (the taxation of a notional return on assets) remains unchanged in the short term.

Exemption limit for assets

The exemption limit will be raised to € 50,000 (€ 100,000 for fiscal partners). In 2020, the exemption limit is € 30,846 (€ 61,692). This measure will lead to a decrease in the number of taxpayers paying income tax in Box 3, by around 900,000.

Tax rate

To compensate for the raised limit from a budgetary perspective, the tax rate in Box 3 will be increased from 30% to 31%. The combination of the raised exemption limit and the increased tax rate, means that taxpayers with net assets totalling

between € 50,000 and around € 220,000 (€ 100,000 and around € 440,000 for fiscal partners) will pay less tax. By contrast, taxpayers with higher net assets will pay more tax.

Consequences for means-tested schemes

The increase of the exemption limit may affect a number of (income-tested or means-tested) schemes that may depend on an assessment of net assets. Under the current legislation, such schemes may be based on the taxable base for savings and investments as defined by the Box 3 rules. This taxable base consists of the total net assets in Box 3 (rendementsgrondslag) minus the exemption limit. If the exemption limit is raised, the testable assets for the means-tested schemes decrease. In that case, more taxpayers would become eligible for such schemes (e.g. the care allowance and the child-related budget), or they would be entitled to a higher allowance. This would also affect the personal contribution concerning the Long-term Care Act (Wet langdurige zorg).

General measures (for everyone)

This outcome is considered to be undesirable. It has therefore been proposed that the assessment of assets for the purpose of these schemes should, from 2021 onwards, be based on the total net assets in Box 3 (instead of the aforementioned taxable base). In this way, the impact of the increase of the exemption limit on means-tested and asset-tested schemes, should be limited.

Property transfer tax: starters' exemption and increased tax rate

The Cabinet proposes a temporary starters' exemption per 1 January 2021. This measure is aimed at buyers between the ages of 18 and 35 ('starters'). Under this exemption, which can be applied only once per taxpayer, starters can buy an owner-occupied home without incurring property transfer tax. The 2% tax rate remains applicable for buyers of an owner-occupied home, who do not meet these conditions.

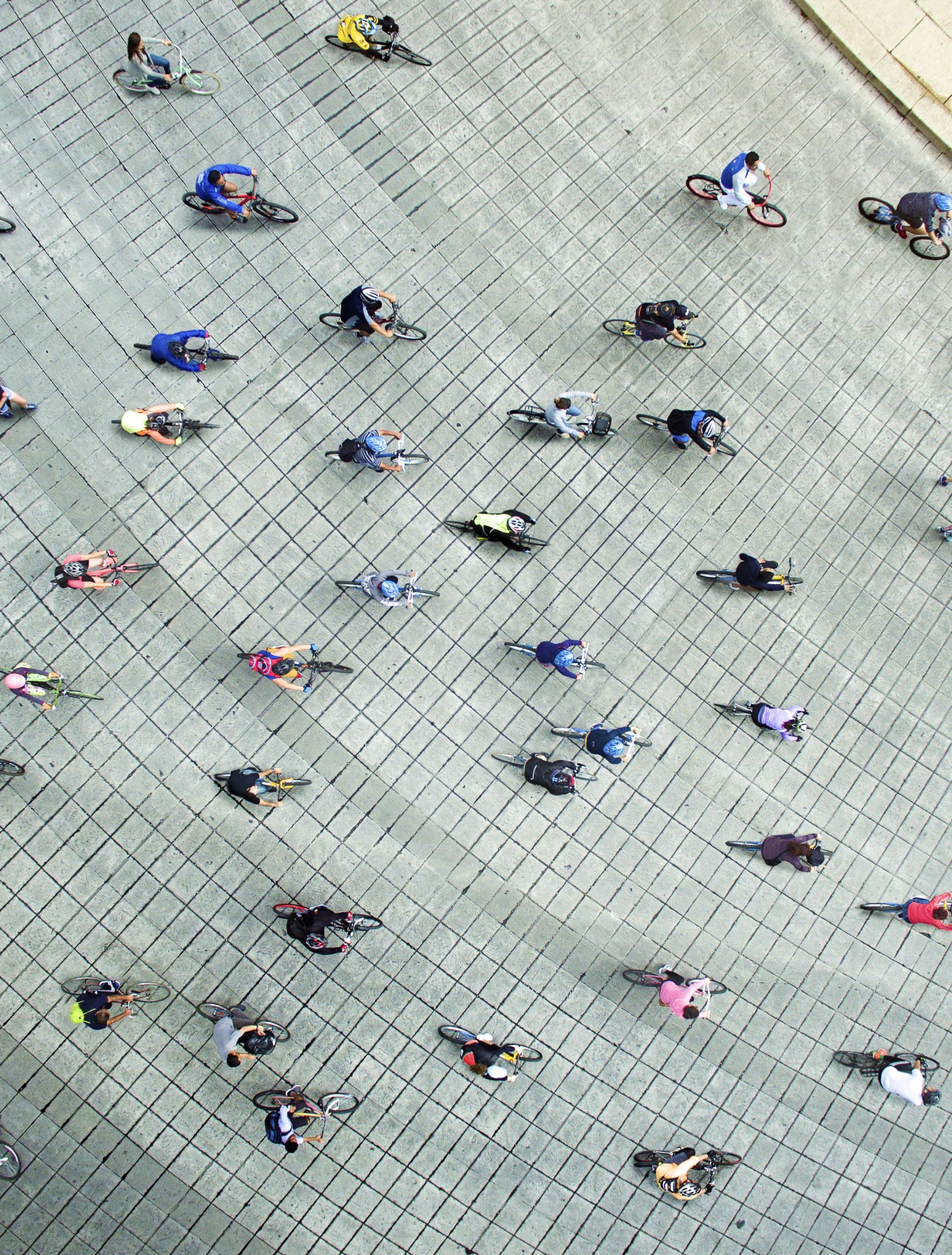
Additionally, the Cabinet intends to raise the general property transfer tax rate from 6% to 8%, per 1 January 2021. From then onwards, the general rate will apply to all properties that do not serve as an owner-occupied home for the buyer. This means among other things that the acquisition of residential investment properties and residential properties by housing associations will no longer be subject to the 2% rate.

Improving the practicability of allowances

The Netherlands provides a number of allowances (toeslagen): the care allowance, the rent allowance, the childcare allowance and the child-related budget. These allowances are designed to support citizens financially, but have led to uncertainty, unpredictability and caused serious problems for some citizens. A proposal has been made, aimed at more focus on tailoring to people's needs, and improving the legal protection of citizens. Furthermore, it is aimed at preventing egregious cases where allowances are lost as the result of (fiscal) partnership.

Dutch tax authorities and electronic attachment by garnishment

As of 1 January 2021, a revision of the garnishment and execution laws will come into effect. This change is based on the Act of 3 June 2020. If the subject of the garnishment procedure (for example an employer) has provided an electronic address to the Royal Professional Organization of Judicial Officers (Koninklijke Beroepsorganisatie van Gerechtsdeurwaarders), where notices can be served, the bailiff is obliged, from 1 January 2021 onwards, to serve notices electronically. The Dutch tax authorities are exempt from this obligation until at least 2023, as it is not currently possible for the Dutch tax authorities to comply with this obligation.





Measures for businesses subject to corporate income tax

Stimulating economic growth is the central theme of the 2021 Tax Plan. At the same time, the Cabinet will continue with reforms. Read more about the (fiscal) measures for businesses subject to corporate income tax.

Substantial shareholder borrowing from own company

On 19 June 2020, the legislative proposal Excessive Borrowing from Own Company (Wet excessief lenen bij eigen vennootschap) was submitted. The proposal had already been announced in the summer of 2018. Broadly speaking, the proposal amounts to the following. If a taxpayer and/or his fiscal partner have a debt to their company (besloten vennootschap or similar legal entity) in excess of € 500,000 on 31 December 2023, the excess is taxed as regular income in Box 2 (comparable to the taxation of dividends). In principle, this includes all types of debts, with the exception of the so-called 'owner-occupied home debt' (eigenwoningschuld). In order to qualify for this exception, owner-occupied home debts incurred from 1 January 2022 onwards, will need to include a right of mortgage.

A taxable gain may also arise if an associated person owes a debt to the company of over € 500,000. If the associated person holds a substantial interest in the company, the excess debt is regarded as his taxable income. If the associated person does not hold a substantial interest, the income is taxed at the level of the holder of the substantial shareholder. The following persons qualify as an 'associated person':
a relation of the shareholder or his partner by blood

or marriage, in the direct line (e.g. (grand)parents and (grand)children and their spouse or registered partner).

If you (or your partner) own a company and have debts as mentioned above, please discuss with your tax advisor whether the debts can be settled.

Reimbursement of Fixed Costs for loss of turnover due to corona

The Reimbursement of Fixed Costs (Tegemoetkoming Vaste Lasten or TVL) is a subsidy for businesses that have suffered a significant loss of turnover due to the corona measures, and that have recurring fixed costs. The amount of the TVL subsidy depends on the extent of the fixed costs and the loss of turnover. The maximum subsidy over the period from June up to and including September, is 50% of the fixed costs to a maximum of € 50,000. The subsidy can be requested up to and including 30 October 2020. The TVL will be extended three times by three months. Consequently, the measure will run until 30 June 2021. From October 2021 onwards, the subsidy is capped at € 90,000 per period. A business must reapply for the subsidy per period.

Measures for businesses subject to corporate income tax

The main requirements for a business to qualify for the TVL are:

- No more than 250 employees;
- The SBI code of the business is included in [the list of specified SBI codes](#) (this includes businesses in the hospitality sector, recreation, events, fairs, venues and theaters);
- The business has a loss of turnover of at least 30%. For the period of 1 January 2021 - 31 March 2021, the loss of turnover should be at least 40%. For 1 April 2021 - 30 June 2021 the minimum loss of turnover is 45%;
- The fixed costs amount to at least € 4,000 per period. The fixed costs are calculated based on the actual turnover and the average fixed costs for the sector, as determined by the Dutch statistical bureau (CBS).

The TVL subsidy is considered to be income for the recipient business, and in principle constitutes taxable profit. The Cabinet considers this to be undesirable, and will formalise the exemption from tax which had already been announced. Consequently, no personal or corporate income tax is due over the TVL subsidy.

Cashflow advantage with corona reserve

The corona reserve, which was announced by the Cabinet in May of this year, has been formalised in the 2021 Tax Plan. Businesses expecting a loss in 2020 as a result of the corona crisis, may form a so-called 'corona reserve' in their 2019 corporate income tax return. The corona reserve shifts the loss from 2020 to 2019, which means that less corporate income tax is payable over the book year 2019. This provides a cashflow advantage.

The maximum amount of the corona reserve is the total loss that the taxpayer anticipates in book year 2020, as a result of the corona crisis. The corona reserve is capped at the profit that would have been realised in 2019, had the corona reserve not been applicable. The corona reserve is released in the tax return of the 2020 book year, and therefore increases the profit of 2020.

Adjustment of CIT rate

The reduction of the corporate income tax rate for large businesses (from 25% to 21.7%), which was announced last year, has been cancelled. The corresponding budgetary savings will in part benefit small and medium sized businesses. The tax rate in the lower tax bracket of the corporate income tax, will be reduced from 16.5% to 15%. The upper limit of this bracket will be raised in two steps. The corporate income tax rate and bracket limits for the coming years will be as follows:

Year	2020	2021	2022
Taxable amount up to € 200,000	16.5%		
Taxable amount exceeding € 200,000	25%		
Taxable amount up to € 245,000		15%	
Taxable amount exceeding € 245,000		25%	
Taxable amount up to € 395,000			15%
Taxable amount exceeding € 395,000			25%

Measures for businesses subject to corporate income tax

Increase of effective tax rate of the innovation box

Businesses that perform research and development (R&D) activities may, under certain conditions, apply the so-called 'innovation box' to profits stemming from these R&D activities. The innovation box leads to a lower effective tax rate on R&D profits. The current effective tax rate is 7%. In September 2019, the Cabinet announced that the effective rate of the innovation box would be increased from 7% to 9% per 1 January 2021. This announcement will now be formalised in the 2021 Tax Plan.

Loss relief - expansion and restriction

The Cabinet intends to change the rules on the use of losses, from 1 January 2022 onwards. Losses can currently be offset against profits arising in the year directly preceding the year in which the losses were incurred ('carry back') and in the six subsequent years ('carry forward'). Any losses which have not been offset in this period, expire.

A change to loss utilisation has been announced. In future, there will be no temporal restriction for carry-forward losses. At the same time, however, the carry forward will be capped at € 1 million per annum. If a taxpayer wishes to offset more than € 1 million in a particular year, only half over the exceeding amount of profit can be offset against losses. The remaining 50% of profit above € 1 million, is taxed. These rules will require refinement.

Adjustment of Article 10a Dutch CITA: limitation of interest deduction

Article 10a Dutch CITA (Wet op de vennootschapsbelasting 1969) limits the deduction of interest on debts to associated companies and associated individuals. This restriction applies if such a debt is connected to certain 'tainted' transactions (e.g. a dividend distribution, a repayment of capital, or acquiring or expanding an interest in another associated company).

The objective of the limitation of interest deduction is to increase the taxable profits of a company. However, an unwanted side effect of the current regulation is that, if a company realises negative interest or currency exchange results on such a loan, this 'profit' may be exempt from tax as a result of the limitation of interest deduction. In such a case, the limitation would in fact reduce the taxable profits.

This will no longer be possible as of 1 January 2021. From that moment onwards, each debt must be assessed on an individual basis. Negative interest or currency exchange results will no longer be exempt from taxation, if the benefits exceed the expenses (such as positive interest, currency exchange losses or expenses) related to that debt.

Clarification of calculation of deduction for small investments (KIA)

The small-scale investment tax deduction (kleinschaligheidsinvesteringsaftrek or KIA) was established in order to stimulate small-scale investments. The amount of the KIA depends on the amount of the investment: the higher the investment, the lower the relative deduction. The Cabinet has clarified the method of calculation of the KIA for taxpayers with multiple businesses, and taxpayers that are a member of a partnership. If a taxpayer has multiple businesses, the KIA is determined for each individual business. If a taxpayer is a member of a partnership, the amount of the KIA depends on the investment made by this partnership. If the taxpayer also has invested in a non-company asset (buitenvennootschappelijk vermogen) that has been allocated to the partnership, this needs to be taken into account when determining the amount of the KIA for that taxpayer.

For a further explanation of this scheme, please contact your [Baker Tilly advisor](#).

One-time rent reduction for lower-income tenants of housing associations

In 2021, housing associations may be obliged to lower the rent for tenants in so-called 'expensive skewed housing' situations (duur scheefwonen). Tenants will be entitled to a reduction of their rent, if their income is lower than the income limit for

appropriate allocation (gepast toewijzen), and providing the rent exceeds a maximum amount which has been set in this regard.

If the rent is higher than this maximum amount (€ 619.01 in 2020), the housing association must ask the Dutch tax authorities for a statement regarding the category of the 2019 household income.

If the income does not exceed the income limit referred to above, the housing association must present a proposal regarding the reduction of the rent to no more than the maximum amount applicable in that particular case. This proposal must be submitted no later than 1 April 2021. The tenant may proactively request a rent reduction if his income was equal to or lower than the applicable income limit in the six months prior to the rent-reduction request.

Overview of applicable rent reduction: see below.

As a concession to the housing association, the rate of the landlord charge (verhuurdersheffing) will be lowered by 0.036%. This means that the Treasury will receive € 138 million less income from landlord charges per year.

Type of household	Income up to income limit (2020 levels)	Rent reduction to (2020 levels)
Single person household	≤ € 23,255	€ 619.01
Elderly single person household	≤ € 23,175	€ 619.01
Multi-person household	≤ € 31,550	€ 619.01 / € 663.40*
Elderly multi-person household	≤ € 31,475	€ 619.01 / € 663.40*

*) € 619.01 for two-person households and € 663.40 for households with three or more persons.

Registration in the UBO register

From 27 September 2020 onwards, companies and other legal entities must register their UBO's with the Dutch Chamber of Commerce (Kamer van Koophandel or KvK). UBO's (Ultimate Beneficial Owners) are persons that are the ultimate owner of, or have the controlling influence over, an organisation. Examples include individuals who have more than 25% of the shares of a company, or a direct or indirect ownership interest of more than 25% in a partnership or general partnership.

The UBO register is based on European regulations, and is aimed at the prevention of the use of the financial system for money laundering and the financing of terrorism. Foreign legal

entities, such as a Ltd or GmbH, and foreign legal entities that only have a branch office in the Netherlands, are not required to register. The Ltd or GmbH must register their UBO's in their country of incorporation.

Later this year, the KvK will send letters to all organisations in the Dutch Commercial Register (Handelsregister), which are required to submit a declaration. This letter will explain how UBO's can be registered. This registration must occur ultimately 27 March 2022. The KvK has stated that the registration will be free of charge.

Specific measures for international activities

On Budget Day 2020, the Cabinet proposed (fiscal) measures which will apply to organisations that operate internationally. Read more about the increase of the effective tax rate of the innovation box, ATAD2, stricter conditions for the deductibility of liquidation losses, and more. We will also talk you through a number of announcements about proposals that have not yet been fully formulated, such as additional rules regarding transfer pricing.

Increase of effective tax rate of the innovation box

Businesses that perform research and development (R&D) activities may, under certain conditions, apply the so-called 'innovation box' to profits stemming from these R&D activities. The innovation box leads to a lower effective tax rate on R&D profits. The current effective tax rate is 7%. In September 2019, the Cabinet announced that the effective rate of the innovation box would be increased from 7% to 9% per 1 January 2021. This announcement will now be formalised in the 2021 Tax Plan.

Adjustment of CIT rate

The reduction of the corporate income tax rate for large businesses (from 25% to 21.7%), which was announced last year, has been cancelled. The corresponding budgetary savings will in part benefit small and medium sized businesses. The tax rate in the lower tax bracket of the corporate income tax, will be reduced from 16.5% to 15%. The upper limit of this bracket will be raised in two steps. The corporate income tax rate and bracket limits for the coming years will be as follows:

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Specific measures for international activities

The objective of the limitation of interest deduction is to increase the taxable profits of a company. However, an unwanted side effect of the current regulation is that, if a company realises negative interest or currency exchange results on such a loan, this 'profit' may be exempt from tax as a result of the limitation of interest deduction. In such a case, the limitation would in fact reduce the taxable profits.

This will no longer be possible as of 1 January 2021. From that moment onwards, each debt must be assessed on an individual basis. Negative interest or currency exchange results will no longer be exempt from taxation, if the benefits exceed the expenses (such as positive interest, currency exchange losses or expenses) related to that debt.

Clarification of rules in cases of cumulation of ATAD2 and earnings stripping measure

In 2020, complex rules were introduced in the Dutch Corporate Income Tax Act (Wet op de vennootschapsbelasting 1969 or CITA), aimed at tackling the unwanted fiscal consequences of so-called 'hybrid mismatches' (hereinafter: 'ATAD2'). Situations may occur in which there is a cumulation of ATAD2 and the general limitations of interest deduction (earnings stripping measure).

The order in which the measures should be applied, has now been clarified. Interest that is non-deductible pursuant to ATAD2, cannot

also be excluded from deduction based on the earnings stripping measure. Interest for which deduction is not limited by ATAD2 can, however, subsequently be limited in deduction by the earnings stripping measure. Additional rules have been included for a number of specific situations.

[Read more about the app that Baker Tilly has developed](#) for corporate income taxpayers, to provide insight into the risks of ATAD2.

Limitation of liquidation and discontinuation loss scheme

Liquidating a participation may result in a loss. As of 1 January 2021, stricter conditions will apply to the deductibility of a liquidation loss insofar as it exceeds € 5 million. These are:

1. The equity stake in the participation is a so-called 'qualifying interest' (under the current scheme, a 5% equity stake is sufficient);
2. The participation is based in the EU/EEA (under the current scheme, it does not matter in which country the participation is based); and
3. The requirements under 1. and 2. have been met continuously during the five years preceding the settlement of the assets of the participation. Under certain conditions, the five-year period will be treated with some leniency.

Specific measures for international activities

A 'qualifying interest' (kwalificerend belang) exists, if the decisions of an entity can be influenced in such a manner that the activities of the entity can be determined.

With regard to the discontinuation of foreign activities which constitute a permanent establishment, a loss is deductible if those activities are carried out within the EU/EEA.

As of 1 January 2021, a liquidation or discontinuation loss will only be deductible if the settlement of the assets of the participation, or the dissolution of the permanent establishment, is completed within three years of the year in which the business of the participation or the foreign activities ceased. This applies irrespective of the extent of the loss. The term can potentially be longer if it is established that this is not aimed at avoiding or postponing corporate income taxation. The current scheme does not contain a temporal limit.

Perspectives on new group regime in corporate income tax

The Dutch Corporate Income Tax Act currently contains a group regime: the fiscal unity regime. Companies that are included in a fiscal unity, are regarded as a single taxpayer for the purpose of Dutch CIT. Both the income and the assets are consequently consolidated for tax purposes. Under the fiscal unity regime, the profits and losses of the companies may be offset against each other. Furthermore, intra-group transactions are not recognised for tax purposes.

In order to prevent a potential breach of European law, the Secretary of State for Finance has outlined a number of approaches for a new group regime.

It has not been ruled out that the current fiscal unity regime will remain in place, with a number of changes in order to comply with European law. Alternatively, it is possible that consolidation will be limited to intra-group results.

The approaches will be developed further, and discussed by the House of Representatives in the near future. The decision on this matter will, however, be left to the new Cabinet.

Restriction on offsetting withholding taxes

Dutch taxpayers may offset Dutch gambling tax or dividend tax (withholding taxes) against their corporate income tax. Even if no corporate income tax is due in a particular year (e.g. because of a loss), gambling tax or dividend tax can be reclaimed.

A foreign entity that is not subject to Dutch corporate income taxation, but which has paid Dutch gambling tax or dividend tax, cannot reclaim these taxes.

In order to comply with European law, the Cabinet intends to amend this legislation as of 1 January 2022. Under the amendment, gambling tax and dividend tax can only be offset if corporate income tax is due. Ahead of this change, a policy decision will soon be published, which will describe the conditions under which foreign entities can temporarily reclaim Dutch gambling tax and dividend tax until 1 January 2022. Please note that this policy decision is contrary to the change per 1 January 2022.

Specific measures for international activities

Conditional withholding tax on interest and royalties

Although not included in the 2021 Tax Plan, it should be noted that the Dutch Withholding Tax Act 2021 (Wet bronbelasting 2021) will come into effect on 1 January 2021. Under certain circumstances, interest and royalty payments by a Dutch legal entity to associated parties, will become subject to Dutch taxation.

Announcement of changes to transfer pricing rules

In the spring of 2021, the Cabinet is set to announce additional rules regarding transfer pricing. These rules are aimed at the so-called 'informal capital structures'. These additional measures are necessary because the current system can lead to undesirable outcomes.

This can be illustrated with the following example. A Dutch company purchases goods, or borrows money, from a foreign group entity using a contractually agreed-upon price or interest rate. This price or amount of the interest may be less than a businesslike price or interest, the so-called 'arm's length price'. The current transfer pricing rules may lead to an increase of the price for the Dutch company, which would in turn lower the taxable profits. If the foreign group entity, however, does not increase the price or interest (sufficiently), the profit of that group entity is not increased (sufficiently). This leads to a deductible expense in the Netherlands which does not correspond to a taxable gain abroad.

The planned measure aims to combat the situation illustrated above. In such situations, the contractually agreed-upon price would be maintained for the purpose of the Dutch taxable profit; it would not be possible to apply an arm's length price. In other words, lowering the taxable profit is not permitted if the other group company does not apply a (sufficient) upward correction of profit.

Participation exemption for holding companies with insufficient substance

The Cabinet has published the findings of a study regarding the participation exemption and holding companies with no or insufficient 'substance'. The Cabinet has concluded that intensifying the exchange of information with source countries is preferable to denying such companies access to the participation exemption.

This increase of the exchange of information means that if a (holding) company wishes to apply the participation exemption, the company must indicate whether it meets the substance requirements. In a nutshell, there must be sufficient presence in the Netherlands. If the substance requirements are not met, the Dutch tax authorities will pass on this information to the country of residence of the participation (source country). The source country can subsequently assess whether application of a European Directive or treaty benefits is justified. This may have a negative impact on the attractiveness of the Netherlands as a conduit country for dividends.





Measures for businesses subject to personal income tax

Stimulating economic growth is the central theme of the 2021 Tax Plan. Various measures have been proposed to support Dutch business in these difficult times. An example is the Reimbursement Fixed Costs. At the same time, the Cabinet will continue with reforms. Read more about the (fiscal) measures for businesses which are subject to personal income tax.

Reimbursement of Fixed Costs for loss of turnover due to corona

The Reimbursement of Fixed Costs (Tegemoetkoming Vaste Lasten or TVL) is a subsidy for businesses that have suffered a significant loss of turnover due to the corona measures, and that have recurring fixed costs. The amount of the TVL subsidy depends on the extent of the fixed costs and the loss of turnover. The maximum subsidy over the period from June up to and including September, is 50% of the fixed costs to a maximum of € 50,000. The subsidy can be requested up to and including 30 October 2020. The TVL will be extended three times by three months. Consequently, the measure will run until 30 June 2021. From October 2021 onwards, the subsidy is capped at € 90,000 per period. A business must reapply for the subsidy per period.

The main requirements for a business to qualify for the TVL are:

- No more than 250 employees;
- The SBI code of the business is included in [the list of specified SBI codes](#) (this includes businesses in the hospitality sector, recreation, events, fairs, venues and theaters);

- The business has a loss of turnover of at least 30%. For the period of 1 January 2021 - 31 March 2021, the loss of turnover should be at least 40%. For 1 April 2021 - 30 June 2021 the minimum loss of turnover is 45%;
- The fixed costs amount to at least € 4,000 per period. The fixed costs are calculated based on the actual turnover and the average fixed costs for the sector, as determined by the Dutch statistical bureau (CBS).

The TVL subsidy is considered to be income for the recipient business, and in principle constitutes taxable profit. The Cabinet considers this to be undesirable, and will formalise the exemption from tax which had already been announced. Consequently, no personal or corporate income tax is due over the TVL subsidy.

Self-employment deduction to be decreased faster and further

In August 2019, it was decided that the self-employment deduction (zelfstandigenaftrek) would be lowered gradually over the course of 9 years, to € 5,000 in 2028. The goal is to reduce the difference between self-employed individuals and employees with regard to their fiscal treatment. At the same time, the labour tax credit is to be increased in 2020, 2021 and 2022.

Measures for businesses subject to personal income tax

This benefits both employees and self-employed individuals. The effect of these measures is that while both employees and self-employed individuals enjoy a higher labour tax credit, only self-employed individuals receive a lower self-employment deduction. This decreases the effective fiscal difference in treatment.

To provide a one-time relief in 2021, the Cabinet will move the 2022 increase of the labour tax credit to 2021. As a compensating measure, the self-employment deduction will be decreased at a faster rate.

Under the previous scheme, the self-employment deduction would have decreased to € 5.000 by 2028; under the scheme now proposed by the Cabinet, this would be € 4,120 by 2028. After that, the deduction is set to decrease by € 110 per year to € 3.240 in 2036.

Clarification of calculation of deduction for small investments (KIA)

The small-scale investment tax deduction (kleinschaligheidsinvesteringsaftrek or KIA) was established in order to stimulate small-scale investments. The amount of the KIA depends on the amount of the investment: the higher the investment, the lower the relative deduction. The Cabinet has clarified the method of calculation of the KIA for taxpayers with multiple businesses, and taxpayers that are a member of a partnership.

If a taxpayer has multiple businesses, the KIA is determined for each individual business. If a taxpayer is a member of a partnership, the amount of the KIA depends on the investment made by this partnership. If the taxpayer also has invested in a non-company asset (buitenvennootschappelijk vermogen) that has been allocated to the partnership, this needs to be taken into account when determining the amount of the KIA for that taxpayer. For a further explanation of this scheme, please contact your [Baker Tilly advisor](#).

Registration in the UBO register

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The UBO register is based on European regulations, and is aimed at the prevention of the use of the financial system for money laundering and the financing of terrorism. Foreign legal entities, such as a Ltd or GmbH, and foreign legal entities that only have a branch office in the Netherlands, are not required to register. The Ltd or GmbH must register their UBO's in their country of incorporation.

Measures for businesses subject to personal income tax

Later this year, the KvK will send letters to all organisations in the Dutch Commercial Register (Handelsregister), which are required to submit a declaration. This letter will explain how UBO's can be registered. This registration must occur ultimately 27 March 2022. The KvK has stated that the registration will be free of charge.



Specific corona measures

The Cabinet has earmarked € 62 billion in aid measures in support of business in these times of economic hardship. For example, a proposal has been presented to expand the discretionary margin for the Labour Cost Arrangement, and the scope of a specific exemption for reimbursements and allowances for qualifying training. Many of these measures were already applicable, but are now to be formalised.

We would like to draw your attention to our [special web pages about corona](#). These contain an extensive overview of the aid measures, our answers to frequently asked questions, as well as tips to safeguard the continuity of your organisation.

Reimbursement of Fixed Costs for loss of turnover due to corona

The Reimbursement of Fixed Costs (Tegemoetkoming Vaste Lasten or TVL) is a subsidy for businesses that have suffered a significant loss of turnover due to the corona measures, and that have recurring fixed costs. The amount of the TVL subsidy depends on the extent of the fixed costs and the loss of turnover. The maximum subsidy over the period from June up to and including September, is 50% of the fixed costs to a maximum of € 50,000. The subsidy can be requested up to and including 30 October 2020. The TVL will be extended three times by three months. Consequently, the measure will run until 30 June 2021. From October 2021 onwards, the subsidy is capped at € 90,000 per period. A business must reapply for the subsidy per period.

The main requirements for a business to qualify for the TVL are:

- No more than 250 employees;

- The SBI code of the business is included in [the list of specified SBI codes](#) (this includes businesses in the hospitality sector, recreation, events, fairs, venues and theaters);
- The business has a loss of turnover of at least 30%. For the period of 1 January 2021 - 31 March 2021, the loss of turnover should be at least 40%. For 1 April 2021 - 30 June 2021 the minimum loss of turnover is 45%;
- The fixed costs amount to at least € 4,000 per period. The fixed costs are calculated based on the actual turnover and the average fixed costs for the sector, as determined by the Dutch statistical bureau (CBS).

The TVL subsidy is considered to be income for the recipient business, and in principle constitutes taxable profit. The Cabinet considers this to be undesirable, and will formalise the exemption from tax which had already been announced. Consequently, no personal or corporate income tax is due over the TVL subsidy.

Specific corona measures

Discretionary Margin Labour Cost Arrangement (WKR)

In the Decree emergency measures corona crisis (Besluit noodmaatregelen coronacrisis), the discretionary margin (vrije ruimte) of the labour cost arrangement (Werkkostenregeling or WKR) for the first € 400,000 of the total fiscal wages, was raised temporarily from 1.7% to 3%. This will be formalised for the year 2020.

Additionally, the discretionary margin for the part of the total fiscal wages in excess of € 400,000 will be lowered structurally from 1.2% to 1.18% as of 1 January 2021. This reduction is intended to compensate for the increase of the specific exemption for training and study costs.

Formalising fiscal treatment of temporary bridging scheme for flexible workers (TOFA)

The 2021 Tax Plan includes a formalisation, with retroactive effect to 1 January 2020, of the fiscal treatment of the Temporary bridging scheme for flexible workers (Tijdelijke overbruggingsregeling voor flexibele arbeidskrachten or TOFA) applied temporarily from that date onwards. The TOFA provided a contribution to the cost of living for so-called 'flex workers' who suffered a substantial loss of income due to the corona crisis but who were not eligible for social security benefits and did not have sufficient means of support. The benefits are treated as wages from previous employment, and the insurance agency UWV, which acts as the withholding agent, can apply the general tax credit.

Specific exemption training costs also applicable to previous employment

Reimbursements and allowances for qualifying training costs are subject to a specific exemption, which only applies insofar as there is a current employment. It has been proposed that this specific exemption should also apply to reimbursements and allowances which stem from previous employment. This means that employers can reimburse these training courses and study costs even after the former employee's employment has ended.

This broadening of the scope, concerns the specific exemption for training and studies pursued with a view to earning an income, and not the specific exemption for upkeep and improvement of knowledge and skills required for the proper fulfillment of the (current) employment.

Cashflow advantage with corona reserve

The corona reserve, which was announced by the Cabinet in May of this year, has been formalised in the 2021 Tax Plan. Businesses expecting a loss in 2020 as a result of the corona crisis, may form a so-called 'corona reserve' in their 2019 corporate income tax return. The corona reserve shifts the loss from 2020 to 2019, which means that less corporate income tax is payable over the book year 2019. This provides a cashflow advantage.

Specific corona measures

The maximum amount of the corona reserve is the total loss that the taxpayer anticipates in book year 2020, as a result of the corona crisis. The corona reserve is capped at the profit that would have been realised in 2019, had the corona reserve not been applicable. The corona reserve is released in the tax return of the 2020 book year, and therefore increases the profit of 2020.

Bonus healthcare professionals for non-employees

Based on the Subsidy scheme bonus healthcare professionals COVID-19 (Subsidieregeling bonus zorgprofessionals COVID-19), healthcare professionals who faced the direct or indirect consequences of the outbreak of the coronavirus in their work, are entitled to a bonus of € 1,000. This net bonus will not affect personal income taxes and social security contributions, or the income that is relevant for means-tested schemes (e.g. allowances).

For healthcare professionals in an employment relationship, this can be achieved without any legislative changes, if the employer designates the bonus as a final tax component, and charges it to the discretionary margin of the WKR. If the discretionary margin is not sufficient in this regard, the employer pays a final tax levy of 80%. This levy will be compensated by means of the subsidy scheme. A similar solution will be included for non-employee healthcare professionals: healthcare institutions can also designate the bonus for non-employees as a final tax element, at a final tax levy of 75%. This proposal will have retroactive effect to 1 January 2020.





Employees

The Cabinet has announced that it will encourage businesses to invest, by introducing a new investment facility, namely the job-related investment facility (baangerelateerde investeringskorting or BIK). The BIK allows businesses to deduct a percentage of their investment costs from the wage taxes due. The measure is a temporary crisis measure, set to come into force in 2021. The proposal for the scheme has not yet been finalised. Read more below about other measures that have been comprehensively outlined in the Cabinet's Budget Day plans.

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This broadening of the scope, concerns the specific exemption for training and studies pursued with a view to earning an income, and not the specific exemption for upkeep and improvement of knowledge and skills required for the proper fulfillment of the (current) employment.

Increased flexibility for pensions and leave

In the proposal for a Lump-sum Payment, Early Retirement Scheme and Leave Saving Act (*Wet bedrag ineens, RVU en verlofsparen*), three agreements included in the Pension Agreement have been elaborated upon. This proposal was submitted prior to Budget Day.

Firstly, the proposal introduces a new right to withdraw a one-off lump-sum amount, on the commencement date of the pension, of at most 10% of the value of the old-age pension. The intended date of entry into force of this measure is 1 January 2022.

Secondly, the proposal envisages a temporary loosening of the 52% levy on the RVU (*Regeling vervroegd uittreden*) due in the case of schemes for early retirement. Under the proposed legislation, the 52% RVU levy would not be due in cases where an employer has, in the three years prior to the statutory retirement age (AOW age), granted an amount not exceeding the net amount of the state pension (after the deduction of wage tax), which is set at € 1,767 for each remaining month until the AOW age.

Thirdly, the proposed legislation increases the fiscal allowance for leave saving from 50 weeks to a maximum of 100 weeks. The intended date of entry into force of these measures is 1 January 2021.

Employees

Changes to definition public knowledge institutions for R&D wage tax credit

The R&D wage tax credit (*S&O afdrachtsvermindering*) is only intended for private companies. Public knowledge institutions are therefore not eligible for the R&D wage tax credit. The proposed legislation clarifies the definition of public knowledge institutions by removing the words 'non-profit' from the definition.

Changes to transitional rules for save-as-you-earn scheme

The fiscal 'save-as-you-earn' scheme (*levensloopregeling*) was abolished as of 1 January 2012. Under certain conditions, an existing save-as-you-earn credit could be maintained based on a transitional regulation which ends on 1 January 2022. If a save-as-you-earn credit has not yet been taken into account as wages at the end of 2021, the entitlement is taxed. Based on the current legislation, only the (former) employer can act as the withholding agent.

However, the (former) employer may not always have the relevant information to file the wage tax return. The proposal states that the institution which administers the save-as-you-earn scheme will act as a withholding agent. Additionally, the moment of entitlement will be moved from 31 December 2021 to 1 November 2021, reducing the risk of wage taxes being included as Box 3 assets on the valuation date of 1 January 2022.





Climate

The Cabinet strives toward a better, fairer and greener tax system. The (fiscal) measures include several proposals to help combat climate change. In this overview, we will discuss a number of these measures.

We would like to refer you to our special theme page for a number of 'green' measures regarding vehicles.

Introduction of CO2 tax for industry

The CO2 tax targets the emission of greenhouse gasses by and for industrial production and waste incineration. Businesses will receive transferrable dispensation rights based on benchmarks. These rights will decrease in the course of the years. The tax rate is progressive, stimulating businesses to emit less CO2. This measure is in line with the European emissions trading system (EU ETS). The tax rate per 1 January 2021 is € 30 per tonne of carbon dioxide equivalent, and will increase annually to a rate of € 125 in 2030.

Adjustment rate of surcharge for renewable energy and climate transition (ODE)

The rates for the ODE surcharge for 2021 and 2022 will be raised, and it is noted that the rates for 2020 might be adjusted later. At the same time, the tax reduction for the energy tax has been increased, which means that the division of the burden between households and businesses has been adjusted in favour of households.

Lower rate energy tax and ODE for shore-based power installations

The energy tax and ODE rates will be reduced with regard to shore-based power (electricity from the shore, supplied to berthed ships). If ships are berthed and draw power from a distribution grid at shore, they are no longer dependent on the use of mineral oils in their generator, which should lead to an improvement of air quality, reduction of CO2 emissions and a reduction of noise emissions.

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