

# Year-end pointers for everyone

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 2022, with our Year-end pointers. On [Budget Day](#), the cabinet presented the 2023 Tax Plan. As part of the proposed legislative changes will enter into force on 1 January 2023, 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 regarding personal income tax, gifting, Box 3 and the own-home, as applicable to your personal situation. If you have any questions about these pointers, [your advisor](#) would be happy to discuss which ones are of particular importance for you.

Please note: the Dutch Senate has yet to approve a number of proposals. The likelihood of changes is nevertheless small.

## General pointers

### **Request tax averaging before the scheme is abolished**

If your income fluctuates significantly over three consecutive years, it may be beneficial to request tax averaging. Tax averaging means that your income in Box 1 (work and own-home) over a period of three consecutive years is added up and then divided by three. The personal income tax is then recalculated for each of the three years. The difference between the old and the new tax amounts can be paid out to you, taking into account a threshold of EUR 545. You can submit a request for tax averaging until 36 months after the last tax assessment for those three years has become final.

*Please note: the tax averaging scheme will be abolished from 1 January 2023 onwards. The final period for which tax averaging can be applied will be 2022-2023-2024. A particular tax year can only be included in tax averaging once.*

### **Request a preliminary tax assessment for personal income tax**

Do you expect to have to pay (additional) tax in the tax year 2021? If so, you should consider requesting a preliminary tax assessment. Have you already paid a preliminary tax assessment? In that case, check whether the amount paid is in line with the expected final tax assessment and, if necessary, request a revised preliminary tax assessment. In this way, you can limit the amount of legal interest due.

### **No tax return filed, but entitled to a 2017 rebate? Submit your tax return as soon as possible!**

Have you not yet claimed a rebate of personal income tax to which you were entitled for the tax year 2017? If so, make sure that you request the refund before 1 January 2023.

### **Take note of any alimony obligations**

Do you pay partner alimony? An alimony payment to an ex-partner is part of the personal deduction for the purpose of the personal income tax in the year of the payment. In 2022, the alimony payment is deductible at a maximum rate of 40%. However, in 2023, this will be capped at 36.93%.

Make sure that you have transferred the money for the payment no later than 31 December 2022, so that you can still benefit from the present percentage.

*Pointer: Do you intend to buy off the alimony obligation? If so, consider doing this in 2022. In this way, you can avoid the further reduction of the tax deductibility.*

## General pointers

### **Pay your annuity premium in 2022**

If you have a pension shortfall, purchasing some kind of annuity product may be an attractive option. Under certain conditions, the premiums which you pay for this can be tax deductible. Within the boundaries of the so-called annual margin (and any remaining reserve margin) you can deduct annuity premiums in Box 1, in the year of payment. Do you own a qualifying annuity product in 2022 and do you have sufficient annual margin? If so, make sure that you pay the premium no later than 31 December 2022.

*Please note: the Fiscal Retirement Reserve for personal income tax entrepreneurs will be abolished from 1 January 2023 onwards.*

*Please note: for certain actions, such as the conversion of a cessation profit or a fiscal retirement reserve into an annuity, other time limits may apply.*

### **Effectuate the prenuptial annual settlement clause in 2022**

Have you concluded a prenuptial agreement, which includes an annual settlement clause? If so, do not forget to actually effectuate the settlement of that clause. Failure to do so can expose you to the risk that, in the event of a divorce or death, you will for Dutch tax purposes be treated as if you were married in community of goods.

*Pointer: Have you forgotten to effectuate the annual settlement clause in previous years? If so, there are ways of addressing this. Your advisor can explain the consequences of not effectuating the settlement clause and how you can rectify this.*

## Box 3

### Taxation in Box 3

Recently, much has changed with regard to taxation in Box 3 (income from savings and investment). We now know that bridging legislation will apply for 2023. It is expected that a new methodology for taxation will be introduced, but not until 2026. At any rate, the system has not become any easier. Your advisor would be happy to discuss how this will impact your tax position and whether there are any points of attention or indeed opportunities for optimisation in your specific situation.

Please note that if you have a 30%-ruling and opt for treatment as a partially non-resident taxpayer, your taxable base for Box 3 may be determined in a different manner. Your Baker Tilly advisor would gladly tell you more about this.

### If possible, reduce your taxable base in Box 3 before 1 January

The personal income taxation in Box 3 is based on the sum total of your taxable assets on the reference date (which is 1 January of the tax year). A number of simple tips to mitigate the Box 3 taxation:

- Repay small debts. If the total amount of your debts is under the debt threshold (2022: EUR 3,200), these debts will not reduce your taxable base in Box 3. If you repay the debts before 1 January 2023, your bank balance on that date will however be reduced.
- Ensure that large expenditures are still made in 2022. For example, are you planning to buy a new car or put in a new kitchen? By paying for this in 2022, you will reduce your taxable bank balance.
- Pay tax assessments before 1 January. In principle, tax debts are not included in Box 3 and therefore do not reduce the taxable base. Therefore pay any outstanding tax assessments before 1 January, where possible.

### Selling investments in order to reduce Box 3 taxation? Beware of anti-abuse provisions!

It may be tempting to temporarily convert Box 3 investments into bank assets before the reference date, and then revert back to investments shortly after the reference date. This is because, under the existing Box 3 rules, a distinction is made between bank and savings assets on the one hand, and other assets and investments on the other. These other assets in Box 3 are deemed to have a much higher (notional) yield, and consequently lead to a higher taxation in Box 3. It is however important to note that in certain cases, anti-abuse provisions may be applicable. The Dutch Tax Authorities may for example ignore a sale followed by a buyback, if the transactions take place within a timeframe of three months, which starts before the reference date and ends after the reference date. The only exception is in cases where you can make it plausible that the transaction had a business reason. Restrictions also apply for certain dealings between a director-substantial shareholder and his limited liability company. Discuss this with your advisor beforehand.

## Box 3

### Take into account the interest over a gift on paper

Have you gifted an amount to your child, but not actually paid it out? In this case, there may be a so-called 'gift on paper'. Essentially, you have gifted an amount and then immediately borrowed it back from your child. Interest should be paid over this loan, at a rate of 6%. Make sure that this payment is actually made (on time), as the gift might otherwise be regarded as part of the taxable inheritance upon death.

*Please note: due to changes in the Box 3 rules, it has sometimes become less attractive to make (or maintain) a gift on paper. Discuss with your advisor whether it may be more advantageous for you to actually repay the debt.*

### Quickly look for a new (protected) tenant

Do you rent out housing to individuals who have rent protection? You may be able to apply the vacant value ratio (*leegwaarderatio* or 'LWR'), which means that you can claim a value reduction when determining the taxable value of the property for Box 3 (as well as gift and inheritance tax).

As of 2023, the LWR is set at 100% if there is a temporary tenant or rental to an associated party on the reference date. Effectively, this means that there is no value reduction. Do you rent out property temporarily, or to an associated party? Consider looking for a permanent tenant (with rent protection).

*Please note: the rented state is assessed on 1 January of each year. Find a permanent tenant before 1 January 2023 if you wish to apply the LWR in 2023.*



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## Mortgage and owner-occupied home

### **Pay your 2023 mortgage interest ahead of time**

If you pay the mortgage interest for your owner-occupied home (*eigen woning* or 'own-home') for the period up to 1 July 2023 ahead of time in 2022, you can under certain conditions deduct this amount in 2022. Due to the phasing out of the mortgage interest deduction, you can do this in 2022 against a tax rate of up to 40% (2023: 36.93%). If you expect to fall in a lower tax bracket in 2023 (e.g. because you reach the retirement age), it may also be worth paying the mortgage interest ahead of time.

*Please note: a payment ahead of time is only deductible to the extent that it pertains to the period up to 1 July 2023. Therefore there is no point in making a payment for a longer period of time.*

*Pointer: Payment ahead of time also helps reduce your taxable assets in Box 3 on the reference date. This can lead to a lower amount of Box 3 tax in 2023.*

### **Consider whether it is worth repaying your mortgage in 2022**

Do you have a mortgage with a high interest rate? If so, it may, from a tax perspective, be worth repaying this mortgage (this is especially true in the case of a mortgage without a repayment obligation). If the yield on your savings is lower than your (net) mortgage costs, it is worth checking whether repayment might be advantageous. Please note that mortgage providers often impose a penalty for repayments of over 10% to 20% of the amount borrowed.

*Please note: in the past, an own-home without a mortgage was effectively not taxed in Box 1, due to a deduction under the so-called 'Hillen Act'. Some years ago, it was decided that this deduction should be phased out. This means that owing an own-home without a mortgage can lead to taxation.*

### **Check whether it is more advantageous to sell your home in 2023 rather than in 2022**

Are you planning to sell your own-home? If so, please note that the property transfer tax for properties which the purchaser will not be using as an own-home, is set to increase in 2023.

If the purchaser for example intends to rent out the property, a property transfer tax of 10.4% is due in 2023 (2022: 8%). This can of course affect the price that a purchaser is willing to pay. In some cases it may therefore be prudent to complete the sale in 2022. Do you have an own-home without a mortgage and do you want to sell it without immediately buying a new home? In this case it may be prudent to postpone the sale until after 1 January 2023 (which is the reference date for Box 3). As long as your own-home falls within Box 1, you only pay a limited amount of tax on it. However, if you sell the own-home, your bank balance will be higher. This may result in a higher amount of Box 3 tax.

If the purchaser of the home intends to use it as an own-home himself, the lower property transfer tax rate will still be applicable in 2023. It is therefore important to assess whether it is more advantageous to sell your own-home in 2022 or 2023.

### **Acquire a renovation debt in 2022**

Do you want to renovate your own home in 2023 and do you intend to finance this with a non-deductible mortgage loan? By entering into the relevant agreements in 2022, you can reduce your taxable base for Box 3.



## Gifts

### **Make use of the (increased) gift tax exemptions in 2022**

In 2023, the increased exemption for gift tax regarding the own-home (also referred to in Dutch as the 'jubelton'), will be limited to an amount of EUR 28,947. In 2024 it will be abolished altogether. Do you want to make use of the current one-off increased gift tax exemption? If so, make sure you have made the necessary arrangements before the end of 2022. Your advisor can tell you more about the options, for example with respect to situations where the beneficiary's new own-home is only purchased after 2022.

*Please note: did your child receive a gift in 2022 for the maintenance or improvement of the own-home, and did you make use of the gift tax exemption in this regard? In that case, make sure that the maintenance or improvement is completed before the end of 2022. Otherwise, the exemption may not be applicable. This could result in gift tax being due.*

*Please note: Dutch gift tax takes into account the place of residency of the person giving the gift rather than the recipient. Therefore, a gift made by a Dutch tax resident to a beneficiary abroad may be subject to Dutch gift tax.*

*Pointer 1: The increased gift tax exemption for the own-home can also be used for gifts to third parties (i.e. others than the children of the gifting party), provided a number of requirements are met.*

*Pointer 2: Did you apply the one-off increased gift tax exemption for a child aged between 18 and 35 years, before 2010, but not since then? If so, it may under circumstances still be possible to supplement the gift using the gift tax exemption. You should discuss the requirements and options with your advisor.*

*Pointer 3: The gift tax return for gifts in 2022 must be submitted before 1 March 2023.*

*Pointer 4: Due to changes in the Box 3 rules, it may be useful to check whether any gifts on paper should be repaid.*

## Deductible donations

### Assess periodic donations

In some cases, donations made to a Public Benefit Organisation ('ANBI') are deductible for personal income tax purposes. One of the terms for this is that the deduction is, shortly put, capped at a maximum of 10% of your total income.

Are you approaching this cap on deduction? Consider converting your annual donation into a periodic donation. Previously, no cap applied for periodic donations. However, for periodic gifts which are contractually agreed upon after 4 October 2022 (16:00hrs) the deduction will be capped at EUR 250,000 from 2023 onwards.

*Please note: the EUR 250,000 cap applies both to the donor and their partner, combined.*

### Donate to a cultural institution in 2022

A 'multiplier' is applicable to donations to a cultural ANBI. Under certain circumstances, you can claim a deduction of 125% of the amount donated, in your personal income tax return. This extra 25% is capped at an amount of EUR 1,250. In 2022, this maximum amount still applied per partner. From 2023 onwards, this is for partners jointly.

*Please note: for all gifts, the deduction in 2022 has a maximum effective tax rate of 40%. In 2023, this will be reduced to 36.93%.*

***Read more about our Year-end pointers for employers, entrepreneurs and businesses [here](#).***

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