

# Budget Day special 2019

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## Content

This Budget Day Special outlines important proposals in the 2020 Tax Plan and additional legislative proposals. This special is divided into the following topics:

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The proposed measures will enter into force on 1 January 2020, unless stated otherwise.

## MEASURES FOR BUSINESSES

### Higher corporation tax rate not reduced

The reduction of the higher corporation tax rate proposed in the 2019 Business Sector Act is not going ahead. It is now proposed to adjust the reduction of the higher corporation tax rate structurally in respect of the 2019 Business Sector Act by 1.2 percentage points. Thus the higher corporation tax rate remains at 25% in 2020 and will be reduced to 21.7% as of 1 January 2021. The planned reduction in the lower corporation tax rate has not been adjusted. With effect from 1 January 2021 that rate is 15%.

### Schools exempt of corporation tax sooner

Under current legislation, some schools in primary or secondary education who have an international department are in danger of being liable for corporation tax. More specifically, these are schools that could request a compulsory parental contribution for admission to such international department. By regarding the compulsory parental contribution as admitted funding costs, this is no longer a barrier for being exempt of corporation tax.

### Discontinuation of corporation tax payment discount

If taxpayers pay the tax due in a single payment and not in monthly instalments, in certain cases they get a payment discount from the Tax and Customs Administration. The government wants to abolish this payment discount for corporation tax as of 1 January 2021.

#### TIP

**Any payment discount is shown on the notice of assessment. This now also applies for (provisional) corporation tax assessments. The government's plan is not a law yet.**

### The State expands its own circle

At present, the legal forms of state-owned enterprises have more consequences than was intended. For instance, taxation can take place for common activities via a non-departmental public body (NDPB) governed by public law, whereas an exemption would apply if the activities took place via an NDPB governed by private law. The bill must put an end to this difference by expanding the own circle of government agencies.

## MEASURES FOR BUSINESSES

A public body can then incorporate an activity in an NDPB governed by public law, without this activity being taxed under corporation tax. The so-called exemption for internal activities or the quasi-internal procurement exemption is then applicable.

### Banks must have $\geq 8\%$ own funds

The government wants to introduce an interest deduction restriction for banks that are financed with too much borrowed capital. This is the case if the borrowed capital amounts to more than 92% of the balance sheet total. The non-deductible part of the interest is calculated using the formula  $(8-L)/(100-L)$ . L stands for the so-called leverage ratio.

#### TAKE NOTE!

**Foreign exchange results (on the interest) due to loans and results on hedging instruments of interest and foreign exchange results in connection with loans, do not count as interest for this restriction on deductibility.**

### Deduction exclusion of penalties

As from 1 January 2020, it will be regulated in income tax that administrative penalties and comparable foreign penalties are not deductible. Via an existing mutatis mutandis provision, the legislator will arrange that these foreign penalties are also not deductible in corporation tax.

#### TAKE NOTE!

**For penalties, the deduction and allocation ban will apply for the first time to penalties incurred after 31 December 2019.**

### Interest on corporation tax

Corporation tax returns are submitted in good time if they have been submitted before the first day of the sixth month following the end of the period to which the tax returns relate. If the financial year is the same as the calendar year, this is 1 June. In such cases, however, interest on tax is calculated, i.e. if the return is submitted after the first day of the fourth month following the end of the financial year

(1 April). It is now proposed that no interest on tax applies if the tax return is submitted on time. That means, before the first day of the sixth month following the end of the period and if the tax assessment is imposed in accordance with the submitted return.

#### TAKE NOTE!

**The measure will already apply for tax assessment periods beginning on or after 1 January 2019.**

### Innovation box is slightly less profitable

If businesses (BVs, NVs, etc.) make a profit with innovative activities, they pay less corporation tax on this part of the profit. The so-called innovation box applies for these innovative profits. The government plans to increase the effective rate of the innovation box from 7% to 9%.

#### TAKE NOTE!

**This plan has not yet been presented in the form of a bill. The intention is that it will apply as from 2021.**

### Reduction of self-employed deduction

In order to reduce the difference between self-employed workers and employed workers, the government intends to reduce the self-employed deduction as from 2020 in eight increments of € 250 and one increment of € 280 from the current € 7,280 in 2019 to € 5,000 in 2028. This means that the self-employed deduction will result in approximately two-thirds of the current level. As there are contrasting measures to the scale down of the self-employed deduction that mitigate the burden (such as the increased employed person's tax credit), the self-employed still benefit in most cases until 2028.

### Allocation ban on fines and penalties

If an employer reimburses an employee for a fine imposed by penalty order or an administrative penalty, this reimbursement is part of the taxable wage. The employer may

## MEASURES FOR BUSINESSES

not allocate such reimbursements as final levy components. The same applies to reimbursement of foreign penalties which are comparable to Dutch administrative penalties.

### TAKE NOTE!

**The allocation ban for administrative penalties and fines imposed by penalty order will apply for the first time to penalties that have been incurred after 31 December 2019, or fines that are imposed due to penalty orders issued after 31 December 2019.**

## New insurance premium tax exemptions

The bill aims to introduce two insurance premium tax exemptions. The first exemption will apply to the so-called sick leave insurance and insurances for businesses who opt to bear the risk themselves for partially disabled persons

returning to work (WGA) and for sickness benefits. This brings the law in line with the legislator's original intention and with current practice. The second exemption concerns the broad-based weather insurance, an instrument for active farmers to cover weather risks that could not be insured previously. The exemption of insurance tax must make it more attractive for active farmers to take out a broad-based weather insurance policy.

## Deduction exclusion of fines

As from 1 January 2020, fines imposed by penalty order are not tax deductible in income tax nor are they tax deductible in corporation tax.

### TAKE NOTE!

**For fines applicable to penalty orders, the deduction and allocation ban will apply for the first time to penalty orders issued after 31 December 2019.**

## MEASURES FOR EMPLOYERS

## Later tax return and payment of final levy

If employers owe a final levy in a given calendar year due to exceeding the discretionary margin (in the WKR), they currently have to show this in the tax return for the first tax period of the following calendar year. It is proposed to extend this term to the second tax period. By reporting the final levy at the latest in the tax return over the second tax period of the following calendar year, employers are given more time to determine the exceedance.

## Work-related expenses scheme (WKR): discretionary margin increases

Within the WKR, the discretionary margin for employers is now 1.2% of the total taxable wages of all employees. The discretionary margin allows for untaxed allowances and benefits, so too when there is a private benefit. For example,

canteen meals or small bonuses. Expansion of the discretionary margin is proposed as a two-bracket tax system. This means that the discretionary margin on the wage bill for tax purposes up to € 400,000 amounts to 1.7% of the wage bill. On the remaining balance of the wage bill the discretionary margin remains 1.2%.

### TIP

**This, for example, provides SME entrepreneurs in particular with more scope to organise staff parties externally.**

## Valuation of products from own business

The employer must now determine the value of products from its own business at the amount that the employer charges to third parties. This amount need not be equal to the economic value. To bring the value of the product from an own business in line with the targeted exemption of 20%, it is proposed to value the product from an own business at the economic value.

## MEASURES FOR EMPLOYERS

### Work-related expenses scheme: exemption of reimbursement for certificate of good conduct

Employees in a number of professions are legally obliged to provide the employer with a Certificate of Good Conduct (VOG). Even if they are not obligated to do so, employers regularly request a Certificate of Good Conduct. Many employers reimburse the application fees. To prevent the employee owing a levy on such a reimbursement, the reimbursement is part of the discretionary margin. The proposal is to exempt reimbursement of the costs of the Certificate of Good Conduct to the employee, resulting in this no longer being part of the discretionary margin.

### Systematic R&D application adjusted

The number of times per year on which an R&D Statement (Research & Development) can be applied for is extended from three to four. Also, the closing time for submitting an application is the day prior to the period to which

the application relates, instead of a month prior to that period. For applications relating to the period beginning on 1 January of a calendar year, it is proposed to set the final submission date to 20 December of the preceding calendar year.

#### TIP

**For disruptions at the digital desk, an excusability for exceeding the term applies for: the R&D application, notification of citizen services numbers, the hours spent or any costs and expenses incurred.**

### Indexing tax exemption for volunteers

Since 1 January 2019, individuals working as a volunteer can get a tax-free allowance of up to € 170 per month or € 1,700 per calendar year. Also, employee insurance premiums are not payable over that amount. It is proposed that the mentioned maximum amounts are to be indexed annually with effect from 1 January 2020. The maximum amount per calendar year will be rounded up to multiples of € 100.

## MEASURES FOR INTERNATIONAL SITUATIONS

### Withholding tax on interest and royalties

To date, there has been no withholding tax on interest and royalty payments made by Dutch entities (companies and institutions) to foreign entities. This is going to change. The government wants to put an end to the undesirable use of this practice. The Netherlands has many tax treaties on the basis of which interest and royalties can be paid out without deduction of tax to a Dutch entity, after which the Dutch entity is able to channel the payments through without deduction of withholding tax to an entity in a tax haven (low-tax country).

The government wants to introduce a withholding tax on outgoing interest and royalty payments to such countries as of 2021. The withholding tax will also apply in various abuse situations. This not only concerns brass plate companies, but with this measure an endeavour is being made

to tackle the shifting of profits to low-taxing countries. This also includes entities who perform genuine activities in the Netherlands and these could be become obliged to withhold. However, this must relate to affiliated parties, parties who are connected in such a way to each other that the activities of the one entity can be determined by the other entity. That is so in any case, if more than 50% of the statutory voting rights are represented.

The rate is the same as the highest rate of corporation tax.

The law enters into force on 1 January 2021. Some anti-abuse provisions already apply as from 1 January 2020.

#### TAKE NOTE!

**International concerns will have to critically examine their interest and royalty flows well before 2021.**

## More detailed definition of permanent establishment

The presence of a permanent establishment (for example, a branch) is one of the points of leverage for a state to proceed with taxation of a body or entrepreneur not established in that state. There are possibilities to artificially circumvent the qualification as a permanent establishment. The new interpretation of the definition of permanent establishment is directed against this form of tax avoidance. In treaty cases, in national legislation (wage tax, income tax and corporation tax) reference is made to the definition of a permanent establishment in the specific tax treaty applicable.

This prevents that, based on national law, there is no question of a permanent establishment, while the right to levy tax under the tax treaty is vested in the Netherlands. In non-treaty situations, inclusion of the definition in national legislation, ties in with the most recent version of the OECD Model Income Tax Convention and its corresponding international anti-abuse measures in the context of the base erosion and profit shifting (BEPS) project.

## Review of earnings stripping measure

The legislator proposes that the inspector can review an issued ruling in relation to the carry forward balance of interest, on the strength of a new fact, bad faith or an error that is reasonably apparent to the taxpayer. To this end, the same term applies as for the additional assessment of underlevied tax. In addition, the inspector can issue a ruling in the event of the carried forward interest of a previous year being deducted when determining the profit of a year. These measures contribute to legal certainty for taxpayers and supervision of the regulation by the Tax and Customs Administration.

## Liquidation and discontinuation loss scheme

On dissolution of a subsidiary company or discontinuation of a business activity abroad, at present companies can deduct unlimited losses from their profit in the Netherlands. It is proposed that as from 2021, the liquidation and discon-

tinuation loss scheme is amended as such, that a loss can be deducted less often. The idea is to make it impossible to have a liquidation and discontinuation loss on participating interests and permanent establishments outside the EU and EEA, and to limit the planning ahead of the liquidation and discontinuation loss.

### TAKE NOTE!

**This plan has not been laid down in a bill yet. The intention is that the amendment will apply as from 2021.**

## Interest payment on late repayment by BES

Based on BES tax law, a taxpayer is liable for collection interest on late payment, but no collection interest is owed on late payment by the Caribbean Netherlands Tax and Customs Administration (BCN). It is proposed that in future an interest payment is given if BCN pays too late.

## Threshold amounts BES refund

The BES Income Tax Act contains a special regulation for imposing or not imposing a tax assessment and for offsetting or not offsetting tax pre-payments in cases where wages are taxed according to the table for special remunerations. It is proposed to abolish these special regulations and to maintain the general regulations for these situations.

## Other BES changes

Institutions ('bodies') who are deemed as being established in the Netherlands according to BES Tax Law, are obliged to submit a certified copy of the annual financial statements to the tax inspector. The government shortens the term of obligation to retain payroll tax statements and for the Customs and Excise (BES Islands) Act to seven years. The 0% rate for importing passenger vehicles into Bonaire is restricted to passenger vehicles that have no carbon emissions. The Caribbean Netherlands will introduce an obligation to issue invoices for everyone who, other than those in employment, work or provide services to third parties.



## MEASURES FOR HOUSING

### Advantage for new builder in scarcity area

If a landlord starts to build housing in a designated scarcity area on or after 1 January 2020, and builds such housing within five years, he can effectively save himself the landlord levy. However, such housing must then have a rent below the lowest housing benefit capping threshold in the rent allowance (€ 607.46 in 2019). Minimum investment costs must amount to € 62,500. If the landlord meets this and a few other conditions then the landlord levy base is reduced, in principle, by an amount of € 25,000 per house.

#### TIP

**Designated scarcity areas, in any event, are: the entire province of Utrecht, the east of North Brabant, the Betuwe and the Veluwe, a large part of central and the south part of North Holland, Leiden and the Bollenstreek (bulb region).**

### Increasing energy tax on natural gas

The government wants to adjust the rates of energy tax by setting a higher tax rate on natural gas and a lower tax rate on electricity. The aim is to encourage investments in the sustainability of housing, because such investments are recouped sooner due to adjustments of the rates. The government also increases the tax relief on energy tax. This will particularly benefit households. The energy tax on natural gas will increase in the lowest tax bracket by

4 cents per m<sup>3</sup> in 2020. In the following 6 years this rate will be increased annually, each time by 1 cent per m<sup>3</sup>. The rate for the glasshouse horticulture sector will be increased proportionally in the lowest tax bracket by 0.642 cents per m<sup>3</sup> in 2020 and by 0.161 cents per m<sup>3</sup> in the 6 years thereafter.

### Landlord levy rate changes

Due to the exemption for temporary housing, the government proposes to increase the landlord levy rate (2019: 0.561%) by 0.001 percentage point as from 1 January 2024. This increase will be reversed again as of 1 January 2037.

### No landlord levy on temporary housing

For temporary housing being built in the period 2020-2024, an exemption of landlord levy applies under certain conditions. In this context housing is considered temporary if the comprehensive physical environment permit expires after no more than fifteen years. Besides, the permit holder must have restored the existing situation by that time.

#### TAKE NOTE!

**Both the exploitation period and the depreciation period have been set at fifteen years.**

## MEASURES FOR VAT AND EXCISE DUTIES

### Evidence of intra-Community delivery

Proof that a good has left the Member State is important for applying the zero VAT rate. The required number of documentary evidence is being reduced to two non-conflicting supporting documents. This will eliminate difficulties and uncertainties for companies. With 2 non-conflicting supporting documents, the goods will be deemed to have been consigned or transported from the territory of the

delivering Member State. Examples of this are a signed CMR document and a shipping document signed by an independent third party. The supplier must have the customer's declaration by no later than the tenth day of the month following the month in which the intra-Community delivery took place.

#### TAKE NOTE!

**The supporting documents must derive from two parties who are independent of one another.**

## Low VAT rate for electronic publishing

The reduced VAT rate of 9% (2019 percentage) will also apply for books, educational information for education, daily newspapers, magazines and suchlike in electronic form. An entrepreneur, may also apply the reduced rate for granting access to news websites such as those of newspapers, periodicals and magazines.

### TAKE NOTE!

**Electronic publications and news websites that consist exclusively or mainly of advertising material, video content or music may not apply the reduced VAT rate.**

## Increase in tobacco duty

With effect from 1 April 2020, the duty on cigarettes will be additionally increased in such a way that the selling price of a packet of 20 cigarettes rises by € 1. This is a first step towards a further price increase of a packet of cigarettes to € 10 in 2023. In order to avoid substitution effects, the rate of duty on smoking tobacco (especially fine-cut tobacco) per kilogram, will be equally increased as the rate of duty on 1000 cigarettes, with effect from exactly the same date.

## Increase in excise duty on diesel

The government proposes to increase the excise duty on diesel by 1 cent as of 1 January 2021. For 2023, the government is also proposing to increase the excise duty on diesel by 1 cent per litre. The proposed increases are needed to be able to finance the proposals in the new Climate Agreement.

## Regulation for chain transactions

The proposed article determines to which of the subsequent deliveries in the chain the intra-Community delivery or the consignment must be attributed. Only that delivery will be deemed as the intra-Community supply. The other deliveries within the chain are regarded as a domestic delivery. Deliveries in the chain before the intra-Community supply, take place in the Member State where the intra-Communi-

ty delivery starts. Deliveries in the chain after the intra-Community supply, take place in the Member State where the intra-Community delivery ends.

### TAKE NOTE!

**When applying the regulation, it must first be determined who in the chain is the intermediary and to whom will the intra-Community delivery or the intra-Community consignment be attributed.**

## Solution for stocks on demand

The transfer by an entrepreneur of own goods from the business to another EU Member State is no longer treated as a supply of goods for valuable consideration. The intra-Community supply (ICS) and the intra-Community acquisition (ICA) therefore only take place later. It is not the supplier, but the customer who must report the ICA in the Member State of destination. In terms of the regulation regarding stock on demand, the supplier no longer needs to register in the Member State of destination.

### TAKE NOTE!

**The regulation is applied if the conditions have been met and cannot be applied optionally.**

## Correct VAT identification number

Submission of a proper periodic intra-Community transactions declaration (ICS Declaration) is required for the zero VAT rate to be applied. Specifying a proper VAT identification number is required for submission of a correct ICS Declaration and is therefore mandatory. This means the consequences of certain rulings of the Court of Justice of the European Union have been quashed. If an entrepreneur has not met the conditions, then entitlement to the zero VAT rate relating to the delivery lapses. Recovery is possible if, in the opinion of the tax inspector, the conditions are ultimately met, e.g. by providing the correct VAT identification number of the customer within a certain period.

### TIP

**Avoid the lapse of your entitlement to the zero VAT rate by stating the correct VAT identification number.**



## MEASURES FOR CARS & MOBILITY

### Additional tax liability for emission-free vehicles

The new Climate Agreement includes a measure to increase the additional tax liability for the private use of an electric company car. As of 1 January 2020, the additional tax liability for electric cars increases to 8% (was 4%) of the catalogue value up to € 45,000 (was € 50,000). Above that, the regular additional tax liability of 22% applies. In 2021, the additional tax liability is 12% on the first € 40,000. The regular additional tax liability remains at 22%. In the years after 2021, the additional tax liability on the first € 40,000 will increase until there is no longer a difference between electric and ordinary company cars as from 2026.

#### TIP

**Buy an electric car still in 2019. Then an additional tax liability of 4% on the catalogue value up to € 50,000 and 22% for above that still applies.**

### Increase in MRB rate for delivery vans

The government proposes, in accordance with the Climate Agreement, to allow the MRB rate on delivery vans to increase gradually every year. It concerns an increase of € 24 per delivery van per year from 2021 to 2024. For 2025, it is proposed to have the rate reduced by an average of € 24 per year. The rate will be indexed annually for the aforementioned years.

### Extension of BPM and MRB exemptions on electric cars

Until 1 January 2021, an exemption of private motor vehicle and motorcycle tax (BPM) applies for vehicles that have zero carbon emissions. It is proposed to extend this exemption until 2024. In 2025, the regular flat-rate of € 360 will apply for zero emission cars.

It is proposed to also extend exemption of the Motor Vehicle Tax (MRB) for the above-mentioned cars until 2024. In 2025, an amount of 25% of (the government's part of) the MRB will be paid for zero emission cars. As from 2026, the MRB exemption will no longer apply. For passenger vehicles

that have a carbon emission up to 50 grams, a 50% discount applies on the regular MRB rate until 2024. In 2025, a three-quarters rate applies. As from 2026, the regular rate applies.

The current correction factor for the mass of Plug-in Hybrid Electric Vehicles (PHEV) is to be extended until 2025. This correction factor is due to the heavier weight of the PHEV.

### New test method of carbon emission of cars

In determining the carbon emission of cars, a new method called the Worldwide harmonised Light-duty vehicles Test Procedure (WLTP) is available. This method calculates carbon emissions more accurately. As the new test procedure shows other results (higher emissions), it is proposed to adjust the rates and carbon emission categories for the BPM as of 1 July 2020. The WLTP method will be used from that date. A transitional law is also proposed for the half-rate in the motor vehicle tax, so that use can still be made of the results of the old test method under certain conditions until 1 January 2025.

#### TIP

**For levying the BPM, if that is more beneficial under certain conditions, claims can still be made on the old scheme for a period of up to two months after entry into force of the new scheme.**

### BPM, petrol and compression ignition engines

There is a so-called diesel surcharge in the BPM for passenger vehicles and delivery vans driven by a compression ignition engine. Petrol engines, in the meanwhile, have also been developed with a compression ignition engine. By adding "compression ignition that can derive its power from diesel", the diesel surcharge now only applies for vehicles with diesel engines.

#### TAKE NOTE!

**The diesel surcharge applies as compensation for the duty benefit that diesel vehicles have. Petrol vehicles with compression ignition engines do not benefit from the lower duty rate on diesel.**

## MEASURES FOR CARS & MOBILITY

### Adjustment of particulates surcharge

The government proposes to change the earlier proposal on the particulates surcharge for diesel vehicles with an emission of particulate matter of more than 5 mg/kWh. For heavy-duty diesel delivery vans, the particulate matter standard will be 10 mg/kWh. Diesel engines comply with this, in any case, if they're fitted with a soot filter ex works.

Previously, the proposal was to exclude diesel passenger vehicles permitted after 1 September 2009 from the levy. The government is reversing this exclusion. In future the exclusion only applies to vehicles whose emission of particulate matter has not been registered. They are being given 'the benefit of the doubt'.

If the ex-works soot filter has been removed, the vehicle is deemed to exceed the particulate matter standard. Evidence to the contrary is possible.

## MEASURES FOR (WEALTHY) INDIVIDUALS

### Tax-relief measures for citizens

The government wants to effectuate tax-relief measures for citizens. The 2020 Tax Plan bill contains several measures that reduce the income tax and make working (more) even more rewarding. This includes the accelerated introduction of the two-bracket tax system. The introduction that was initially to take place in 2021, is already being implemented in 2020, with a basic rate of 37.35% and a top rate of 49.5% for 2020. The employed person's tax credit and general tax credit will also be raised further. The increase of the general tax credit will have a positive effect for those with lower incomes.

### New income tax rates

Taxpayers who have not yet reached retirement age (general old age pension entitlement) by the beginning of 2020, can, in principle in terms of effect, expect two brackets.

Box 1-rate 2020	Tax. inc. more than	but not more than	2020 rate
Low rate bracket	-	€ 68.507	37,35%
High rate bracket	€ 68.507	-	49,50%

These percentages include national social insurance contributions. A different rate structure applies for those who qualify for other national insurance contributions.

### Changed tax credits

This only includes the changes in tax credits as proposed (or mentioned) in (the Explanatory Memorandum of) the 2020 Tax Plan or mentioned in the memo. For persons entitled to an old-age pension, in principle, lower maximum amounts apply.

Tax credits	2019	2020
General tax credit max.		
( < statutory retirement age)	€ 2.477	€ 2.711
Employed person's tax credit max.	€ 3.399	€ 3.595
Income dependent combination tax credit max.	€ 2.835	€ 2.881
Young disabled person's credit	€ 737	€ 749

### Discontinuation of tax deduction for education expenses

As a result of introducing the subsidy scheme Tax Incentive for the Labour Market Position (Stimulans van de Arbeidsmarktpositie, STAP), the tax deduction of educational expenses will be discontinued. At this point in time only the outlines of this new subsidy scheme are known. Discontinuation of the income tax deduction will occur at the same time as entry into force of the STAP tax incentive. This is estimated to be 31 December 2020. In any case, use of the tax deduction for education expenses is still allowed in 2020.

#### TAKE NOTE!

**There will be no transitional law for education expenses incurred after discontinuation of the tax deduction.**

## MEASURES FOR (WEALTHY) INDIVIDUALS

### Transitional law on life annuity settlement

Based on former transitional law (2001), taxation of old annuity benefits only takes place if the benefits exceed the contributions that were previously non-deductible. This scheme would end as of 1 January 2021, in which an annuity settlement liability is created on transfer of the policy from Box 1 to Box 3. A one-off tax would have had to be paid on the policy value minus the contribution that was previously non-deductible. It is proposed to continue the scheme after 1 January 2021 without an annuity settlement liability. This also applies to certain foreign retirement schemes.

#### TAKE NOTE!

**Exclusive life annuity settlements, for which no deduction of contribution could previously take place, must be transferred to Box 3 as of 1 January 2021 with an annuity settlement liability.**

### Interest on inheritance tax

No interest is calculated if an Inheritance Tax return or a request for a provisional assessment is submitted by the first day of the ninth month following a death, and the tax assessment is imposed in accordance with the submitted return or request. It is proposed to also apply this regulation in situations in which the tax return deadline does not commence on the day of the death, for example, if, due to a pregnancy, there is uncertainty about the person of the heir. The tax return or request for a provisional assessment must then be submitted within the tax return deadline applicable in the relevant situation.

#### TIP

**If the tax return is not submitted in due time, interest on tax based on the new regulation will only be calculated from the date on which the tax return deadline applicable in the situation has been exceeded.**

## OTHER MEASURES

### Waste tax on foreign waste

Since 2015, waste tax has been levied on landfilling or incineration of Dutch waste. It is proposed to also subject foreign waste that is incinerated in the Netherlands to the waste tax. This measure is a result of the Urgenda ruling on the basis of which, by 2020, the Netherlands must reduce its greenhouse gas emissions by 25% in comparison to 1990.

### Increase in sustainable energy surcharge

The aim of the Surcharge for Sustainable Energy (Wet opslag duurzame energie, ODE) is to finance the subsidy scheme Renewable Energy Production Incentive (SDE+). The basic assumption on introduction of the ODE was that half of the burden would be borne by households and the other half shared by businesses. Now the government is proposing to change the ODE's burden-sharing to 33% for households and 67% for businesses. As a result, industrial users will pay more. The government further proposes to change

the name of the act to Surcharge on Sustainable Energy and Climate Transition Act. According to the government, this means that the burden on SMEs will barely rise, while industrial users of natural gas will have to pay considerably more.

### Disclosure of consultant's fine

The inspector will be given the option to publish a fine that has been imposed on a 'consultant' for cooperating in tax evasion or allowance fraud, on [www.belastingdienst.nl](http://www.belastingdienst.nl). This concerns a negligence penalty imposed on persons or legal persons who provide professional or commercial assistance in tax evasion or fraud. An objection may be lodged against the decision for disclosure. The aim is to gain an insight into the type of offence by the 'consultant', the extent of the fine, where and when the offence was committed and when the fine was imposed.

#### TAKE NOTE!

**Legislation applies to fines relating to an offence committed on or after 1 January 2020.**

## Fine-free voluntary disclosure adapted

On the basis of the voluntary disclosure scheme, taxpayers who have not declared the extent of income or capital can limit an administrative fine. Exclusion from the voluntary disclosure scheme is being extended along two lines, namely:

1. Box 2 income; and
2. Income derived from domestic savings and investments.

This clarifies the distinction between income derived from abroad and income that has been derived domestically.

### TAKE NOTE!

**This applies both for allowances and taxes.**

## Use of WOZ values by third parties

Until 30 September 2016, the Valuation of Immovable Property Act (WOZ) contained a provision with a delegation basis for designating a third party – other than administrative authorities – who could request the value of a property which is essentially suitable to be a residence, and who is authorised to use that for a specifically defined purpose. This proposal aims to reintroduce this provision with retroactive effect from 1 October 2016.

## Spontaneous tax returns

Taxpayers may submit spontaneous tax returns. They then send a tax return without the tax inspector having sent an invitation to do so. As there is no legal obligation to submit a tax return, the tax inspector cannot make use of various legal correction and sanctioning powers. The proposal is to amend the law, so that the inspector does have those powers. Malevolent taxpayers who submit a spontaneous tax return can thus be tackled. Provisionally, the scheme only applies for tax assessments such as income tax and corporation tax.

### TAKE NOTE!

**For tax returns such as wage tax and turnover tax, the legal adaptations are still being investigated.**

## Communications: electronically or by post

Every taxpayer is given the opportunity to choose between electronic or paper submission of notifications from the Tax and Customs Administration. This choice can be reviewed at any time and applies to all notifications relating to taxation, tax collection, and the domain of allowances (therefore, not per section). If a taxpayer does not make a choice, a default setting applies: the option that seems most appropriate for the taxpayer. The taxpayer may change the default setting by retroactively making a choice. This proposal only enters into force when the systems are in place.

### TAKE NOTE!

**Exceptions are possible. At present not all notifications can be sent digitally. Turnover tax returns and corporation tax returns must be submitted digitally.**

### TAKE NOTE!

**Where it concerns income tax, turnover tax and wage tax, citizens who are also entrepreneurs have no right of option. Such notification remains digital.**

## Use of WOZ values by administrative authorities

Based on a delegation clause in the Valuation of Immovable Property Act (WOZ Act), authorised administrative authorities can be designated to use the value of a property. This concerns, for example, use of the established value of immovable property (the WOZ value), the address (meta-level attribute) and the value reference date (temporal attribute). In some cases it is desirable that an administrative authority can only use the temporal or meta-level attributes. That is why the particular delegation clause is being expanded with a more limited allocation option.

## Lower tax component in energy tax

For a household with an average consumption of 1179 m<sup>3</sup> of gas and 2525 kWh of electricity, the government is proposing to reduce the tax component in the energy bill by € 100.

## OTHER MEASURES

In 2021, the government wants to leave the rates unchanged and after 2021, to restrict the rise of the tax component in the energy tax. This reduction of the tax component will mainly benefit the lower and middle-income groups.

### Change in waste tax

It is proposed to effectuate a technical change in the Environmental Taxes Act (Wbm) in the taxable event “the removal of waste within the establishment in which it has originated”. This proposal will regulate that the removal of incineration residues in the own establishment are not subject to the levying of waste tax to the extent that those incineration residues arisen from the incineration of waste passed on to this establishment for disposal, and for which waste tax is levied. In all other situations, this remains a taxable event.

### Data protection and payments

The law will be amended to clarify which data the Tax and Customs Administration may request at a bank to be able to link up a payment received by the Tax and Customs Administration to an amount to be collected. This includes the stating of incorrect payment references in bank transfers. In this, efficiency and data protection always take priority.

### Increase in non-residential transfer tax

At this moment the general rate of transfer tax on property is 6%. As of 1 January 2021 this rate will be 7%. Non-residential means, for example, company buildings, business premises, land intended for housing and hotels and guesthouses. The rate for residential remains unchanged at 2%. The general rate increase commences on 1 January 2021. With this measure, in securing coverage for the Climate Agreement, the government wants to relieve the burden for citizens and get the business community to contribute.

#### TIP

**In instances where buildings possibly get transferred, it is becoming even more important to designate them as housing, if possible. In several doubtful cases the court has already decided favourably.**

### Tightened tonnage regime

As from 1 January 2020, the Netherlands must tighten its tonnage regime. A tightening is proposed for the parts concerning:

1. keeping the time and/or travel charters of ships;
2. the flag requirement; and
3. transportation of goods and persons by sea in international traffic.