

THE NETHERLANDS

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0- SYNOPTIC TABLE: TAXATION OF RESIDENTS AND NON-RESIDENTS

| | RESIDENTS | NON-RESIDENTS |
|--------------------------|--|---------------|
| CORPORATE INCOME TAX | On worldwide income Only on NL income 0 - € 200,000: 19% Beyond € 222,000: 25.8% | |
| TAXES ON CAPITAL GAINS | Taxed as ordinary income | |
| WITHHOLDING TAXES | | |
| Dividends | 15% except in case of participation exemption | 15% reducible |
| Interest | 0% - 25.8% | |
| Royalties | 0% - 25.8% | |
| PERSONAL INCOME TAX | 36.93% - 49.5% | |
| OTHER TAXES | | |
| Annual property tax | Varies according to the Municipalities | |
| Real estate transfer tax | 10,04% | |
| VAT | 0%, 9% e 21%, Exports exempt | |
| LOSSES | | |
| Carried forward | 6 years | |
| Carried back | 1 year | |
| DEPRECIATION | | |
| Fixed assets | Machines: 10-20% Vehicles: 10-20% Buildings: 2-4% | |
| Intangible assets | Know-how, software: 5 years Goodwill: 10 years | |

1. AN OUTLINE OF COMPANY LAW

| BUSINESS ENTITY | MAIN TRAITS | FORMATION | GOVERNANCE |
|------------------------------------|--|--|--|
| <i>Limited liability companies</i> | <p>Under Dutch law there are 2 different types of limited liability companies: besloten vennootschap (BV) and naamloze vennootschap (NV), which can be listed on a stock exchange.</p> <p>Generally, the liability of a shareholder for the debts and obligations of a BV or NV is limited to the shareholder's paid-in capital. However, a director (natural person or company) may be held liable for company debts and obligations in case of mismanagement. The company can function prior to incorporation. However, the founders are personally liable for any transaction the company enters into, until the NV or BV confirms or complies with such transactions.</p> <p>At least 25% of the capital issued on incorporation must be paid up (paid-up capital) if the articles of association permit non-fully paid up shares. The minimum paid-up capital for an NV is €45,000. No minimum paid-up capital is required for a BV</p> <p>The shares of a BV, and those of an NV with registered shares, can only be transferred by a notarial deed.</p> | It is constituted by one or more persons (natural or legal) through a notarial deed. | The company must be registered with the Register of the Chamber of Commerce. |
| <i>General partnerships</i> | <p>A general partnership is a non-incorporated entity with at least 2 partners that conducts a business, financial operations, or a venture or provides professional services. Dutch law provides for 2 types of general partnership: an association of providers of professional services (such as lawyers, doctors, etc) or an association of passive investors or a vennootschap onder firma (VOF), which is an association that carries out a trade or other business activity.</p> <p>The most important difference between the 2 types of partnership is the liability of the partners. The partners in a maatschap are liable for the debts of the partnership only in proportion to their share in the partnership. The partners in a VOF are jointly and severally liable for all partnership liabilities.</p> | Both forms of partnership are formed by private contract. | |
| <i>Limited partnerships</i> | <p>A commanditaire vennootschap, or limited partnership, is formed under the Commercial Code (WvK). It has at least one general partner and at least one limited partner. General partners are fully liable for all partnership liabilities. Limited partners are liable only to the extent of their capital contribution. Limited partners cannot participate in the management of the partnership nor can their name be part of the partnership name.</p> <p>Dutch tax law makes a distinction between <i>open</i> and <i>closed</i> limited partnerships. The distinguishing feature of an open limited partnership is that general and limited partners in an open limited partnership can be admitted or replaced without the consent of all partners and the partnership is subject to corporate income tax.</p> | It is formed under the Commercial Code (WvK) | |
| <i>Foundations</i> | <p>Foundations, originally intended only for charitable purposes, are permitted to carry on business activities provided they do not have an objective of distributing profits to the foundation's founders, officers or members. A foundation is subject to corporate income tax to the extent it carries out business activities. Other activities are not subject to corporate income tax.</p> | A foundation that carries out business activities must file a corporate income tax return for those activities. The same rules apply as for limited liability companies. | |

| BUSINESS ENTITY | MAIN TRAITS | FORMATION | GOVERNANCE |
|--|--|--|-------------------|
| <i>Cooperative societies</i> | A cooperative society (cooperatieve vereniging) pursue the material interests of its members. Cooperative societies are used for many different purposes, such as joint purchase activities or joint sales activities. | It is a legal person established by a notarial deed. It must have at least 2 members. A cooperative society must prepare and electronically file a corporate income tax return. The same rules apply as for limited liability companies | |
| <i>Sole proprietorships</i> | A sole proprietorship is an unincorporated business that is owned by a single individual. It does not have legal status that is separate and distinct from its owner. The owner is fully liable for all business liabilities and is subject to tax on the income and loss from the business activities. | A sole proprietorship is not taxed as a separate entity. Owners report the taxable activity of their businesses in their individual income tax returns as business profits. | |
| <i>Branch</i> | An unincorporated branch is an extension of a domestic or foreign entity, but is not a separate legal entity. The income of a branch is treated as if it was earned directly by the entity. Branch income of a domestic entity is taxed at the entity level. Branches of foreign entities are generally subject to corporate income tax to the extent they are a permanent establishment (PE) in the Netherlands | The income of a branch of a domestic limited liability company, or other entity subject to corporate income tax, must be included in the company or entity's corporate tax return. A branch of a foreign entity which is subject to Dutch corporate income tax must file a non-resident corporate income tax return. | |
| <i>Vereniging</i> | The vereniging (association, legal entity) is a cooperative in which persons pursue a common goal or perform a common activity. The vereniging generally has a non-commercial goal and is therefore not subject to Dutch corporate income tax. However, if and insofar a vereniging is deemed to carry out an enterprise, it is subject to corporate income tax and must file a corporate income tax return. | | |
| <i>Onderlinge waarborgmaatschappijen</i> | It is a traditional form of doing business, mostly in the field of insurance or banking. The tax treatment is equal to a BV or NV. | | |

2- WHEN DUTCH COMPANIES CAN BE CONSIDERED RESIDENT OR NON-RESIDENT?

A company is treated as resident of the Netherlands if:

1. the effective management of the company is situated in the Netherlands, or
2. the company is incorporated under Dutch law, generally as an NV or BV.

However, if the company is a resident of a foreign country pursuant to the Dutch tax treaty with that country, it will only be taxed in the Netherlands as a foreign company.

3- BUSINESS AND NON-BUSINESS ACTIVITIES (ADMINISTRATIVE OFFICES, LIAISON OFFICES, PURCHASING OFFICES, ETC.)

Administrative or liaison activities carried out in the Netherlands will not normally cause an administered foreign company to be taxed as a Dutch resident company, provided the central management is not carried on in the Netherlands and it is not trading in the country. Such activities will not cause a foreign company to be taxed as trading in the Netherlands, provided the Dutch office does not generally engage in trading activities.

Most Dutch tax treaties provide that a Dutch office used for buying goods, collecting information or advertising products does not constitute a Dutch taxable branch of the overseas entity it represents in the Netherlands. If the Dutch office constitutes a PE, its taxable profit is normally determined using arm's length rules.

4- WHICH FOREIGN LOCAL UNITS CAN BE OPENED IN THE NETHERLANDS: SECONDARY ESTABLISHMENTS, BRANCHES, SUBSIDIARIES OR PERMANENT ESTABLISHMENTS?

A non-resident is only subject to Dutch tax on income sourced in the Netherlands. A non-resident is not liable for Dutch tax on trading or business profits unless the non-resident is trading or doing business in the Netherlands through a PE or dependent agent in the Netherlands. Normally a non-resident will not be doing business until they conclude contracts of sale in the Netherlands, or manufacture or perform services in the Netherlands.

The terms of a double tax treaty between the Netherlands and the non-resident's country of residence will generally specify that the non-resident is liable to Dutch tax only if they have a Dutch branch, PE or dependent agent with power to conclude contracts.

5- CALCULATING TAXABLE INCOME

Profits are calculated by comparing net worth at the beginning and end of the accounting period, after adjusting for contributions and withdrawals of capital and withdrawals of profit (principally dividends paid). Profits include capital gains and are normally calculated in euro. Taxable profits also include forgiveness of debt. The taxable amount is calculated as the principal value of the debt plus incurred and unpaid interest.

Business assets are valued on the basis of original cost, less accumulated depreciation. Market or business value may be used for some types of assets.

Allowable deductions include all expenses directly or closely connected with the conduct of the business, if they have been incurred for business purposes.

Tax penalties and fines imposed by the Dutch criminal courts or by EC institutions are not deductible, whether or not they relate to the company's business. Criminal fines are not deductible.

Interest is normally deductible for tax purposes, but it can be limited in certain situations.

When expenses paid to related parties exceed normal arm's length charges, the excess is both non-deductible and, if paid to a shareholder, deemed a distribution of profits to the shareholder which is subject to dividend withholding tax. Other intercompany charges, such as charges for management services and royalties, are deductible if they are made on an arm's length basis.

A company may establish a fiscal reserve in respect of future guarantee claims by customers. A tax deductible fiscal reserve may also be set up on a taxable gain on the disposal of business

assets (reinvestment reserve) and a general bad debt provision is allowable on sound foundation. Foreign currency gains and losses related to currency movements on long-term assets are generally only recognised for tax purposes on realisation of the assets. Gains and losses are treated as ordinary income or losses for tax purposes, regardless of whether the gains and losses stem from assets and liabilities that are fixed or current. Taxpayers are allowed to deduct currency exchange losses in certain circumstances if it can be demonstrated that the transaction was entered into for sound business reasons. Dividends received by a Dutch company are not normally subject to tax if the Dutch company has a substantial participation in the paying company. Foreign source income and capital gains derived from substantial participations, foreign branches and foreign real estate are generally exempt from tax as a result of either domestic or treaty law.

6- TREATMENT OF LOSSES

Dutch law makes no distinction between trading losses, other losses and capital losses. Ordinary business income losses may be carried back against taxable income (including capital gains) of the previous year or carried forward indefinitely, provided they were incurred on or after 1 January 2013. However, from 1 January 2022, the deduction of losses carried forward or back is limited to €1 million plus 50% of profit exceeding €1 million. Deduction of losses may be restricted if 30% or more of the shares of the company are transferred. Tax loss carry-back is restricted to one year. There is no time restriction on tax loss carry-forward. This also applies to start-up losses. From 1 January 2022, the deduction of losses carried forward or back is limited to €1 million plus 50% of profit exceeding €1 million.

7- IS INTEREST DEDUCTIBLE?

Interest is deductible for Dutch tax purposes on an accrual basis. Interest on loans obtained to finance foreign subsidiaries qualifying for the participation exemption is deductible, but interest deduction limitations may apply. From 1 January 2022, earnings-stripping rules restrict the deductibility of interest to the higher of 20% of EBITDA (earnings before interest, taxes, depreciation and amortisation) or €1 million per year. For 2019 to 2021, the deductibility of interest is restricted to the higher of 30% of EBITDA (earnings before interest, taxes, depreciation and amortisation) or €1 million per year. Before 1 January 2019, restrictions on the deductibility of interest applied to the interest on loans to a related company (or natural person) with a direct or indirect shareholding equal to or greater than 30% when the corresponding loan was used for certain transactions (eg a dividend distribution, a capital contribution/repayment or the acquisition of shares in a company).

8- IS DEPRECIATION DEDUCTIBILITY ACKNOWLEDGED?

Depreciation should reflect the economic life of an asset. Depreciation is normally computed by reference to the following percentages:

| | |
|---------------------|--------|
| Buildings | 2-4% |
| Plant and machinery | 10-20% |
| Office equipment | 10-20% |
| Vehicles | 10-20% |

Land is not depreciable.

Special depreciation rates apply to qualifying R&D expenditure.

Depreciation is normally based on the acquisition cost of an asset. Assets should be depreciated to a residual value. Depreciation is normally calculated on a straight-line basis, but depreciation based on a percentage of the written-down value may be allowed in certain cases.

Goodwill acquired in the acquisition of another business is generally amortised over 10 years. Other purchased intangible assets, such as know-how and software, are amortised over 5 years. Development costs of intangible assets may be written off immediately.

The depreciation of immovable property is limited when the book value of the immovable property reaches a specified “bottom value”. A property may only be depreciated when the book value is higher than this bottom value. The bottom value depends on the function of the immovable property.

It is normal practice to charge depreciation on a proportional basis for an asset that is acquired during the accounting year.

When a depreciable tangible fixed asset is disposed of, the difference between the sale proceeds and written-down book value is included in taxable income.

Some assets (environmental, movies, sea vessels and assets of a starting entrepreneur) may be freely depreciated, up to and including a 100% write-off in the year of acquisition.

9- WHAT TAX TREATMENT IS APPLIED TO RESIDENT COMPANIES?

The Dutch corporate income tax rate is progressive based on the income and residence of the taxpayer.

The rates for 2023 are as follows:

| <i>Taxable amount</i> € | <i>Tax rates</i> % |
|--|-------------------------------------|
| 0 – 200,000 | 19 |
| Over 200,000 | 25.8 |

The rate for taxable amounts up to €200,000 was 19% for 2019, 16.5% for 2020 and 20% for the years 2011 to 2018. The higher rate has remained at 25% since 2011.

10- ARE GROUP COMPANIES CONSIDERED SINGLE COMPANIES FOR FISCAL PURPOSES?

Dutch companies (NVs, BVs, cooperative associations and mutual insurance companies) may be taxed as a single fiscal unity and thus file one tax return for the group.

Consent is generally granted, provided the following conditions are met:

1. the shares of each subsidiary must be at least 95% owned by the parent — the holding may be indirect through another Dutch company, provided the intermediary company also forms part of the unit
2. the accounting periods of all companies forming part of the fiscal unity must coincide
3. the companies are residents of the Netherlands or the EU .

It is possible to include a Dutch PE of a non-resident company in a fiscal unity, provided that the foreign parent company is EU resident.

Foreign subsidiaries of a Dutch company are not normally included in a fiscal unity. Dutch branches of a foreign company can be included in a fiscal unity.

Brother-sister companies can be included in a fiscal unity provided that a common parent company holds at least 95% of the shares.

The Dutch Ministry of Finance has issued regulations setting out the conditions for inclusion in a fiscal unity of companies incorporated abroad, but resident in the Netherlands because their central management is located there:

- a company must have a share capital and its shares must be freely transferable without the prior consent of the other shareholders
- a company’s profits must be subject to tax in its jurisdiction of incorporation
- a company must have legal personality and the liability of the shareholders for its debts must be limited to their capital contributions

- the shareholders' voting rights must be in proportion to the nominal value of the capital they have subscribed, and
- the shareholders must have no direct claim to the profits of the company, other than in respect of a distribution resolved by the competent body of the company.

The advantages of fiscal unity are as follows:

- the taxable profits and losses (including capital gains and losses) of all companies within the unit are pooled together (ie enabling horizontal loss compensation)
- only one consolidated corporate income tax return needs to be filed, and
- assets and liabilities may be transferred between companies in a fiscal unity without attracting corporate income tax, since for these tax purposes all such assets and liabilities are appropriated to the parent company.

11- WHAT TAX TREATMENT IS APPLIED TO FOREIGN LOCAL UNITS AND NON-RESIDENT COMPANIES?

A non-resident is only subject to Dutch tax on income sourced in the Netherlands, but is not liable for Dutch tax on trading or business profits unless the non-resident is trading or doing business in the Netherlands through a PE or dependent agent in the Netherlands.

Normally a non-resident will not be doing business until they conclude contracts of sale in the Netherlands, or manufacture or perform services in the Netherlands. The terms of a double tax treaty between the Netherlands and the non-resident's country of residence will generally specify that the non-resident is liable to Dutch tax only if they have a Dutch branch, PE or dependent agent with power to conclude contracts. If no tax treaty is applicable, unilateral legislation will specify comparable rules in most cases.

12- ARE CAPITAL GAINS TAXED?

Capital gains are treated as ordinary income and taxable at the normal current corporate income tax rates. Capital losses are treated as ordinary losses.

Capital gains are the sales proceeds of an asset minus the book value of the asset.

Capital gains on foreign branch assets and foreign real estate are exempt from tax, provided that either:

- the branch is subject to tax in the foreign country, or
- the income is covered under provisions of a tax treaty concluded by the Netherlands with the foreign country in which the property is situated

13- WHAT TAX TREATMENT IS APPLIED IN CASE OF COMPANY LIQUIDATION?

A company continues to pay Dutch corporate income tax during its liquidation period.

A liquidating distribution in excess of paid-in capital is treated as a dividend and is subject to the 15% withholding tax. This rate may be reduced under a tax treaty or under the EU Parent Subsidiary Directive.

The liquidation of a Dutch company which formed part of a fiscal unity should not be subject to Dutch income tax, but the matter should be carefully reviewed in light of the anti-avoidance rules.

If the investment in a liquidated Dutch subsidiary qualifies for the participation exemption, all distributions received are tax free to its Dutch parent company. The parent company may be entitled to a tax deduction in respect of the liquidation losses. No deduction is allowed in respect of losses that become manifest after the liquidation has been concluded.

14- TRANSFER AND REPURCHASE OF SHARES: HOW ARE THEY TAXED?

Under Dutch law, a reduction of capital may be free of withholding tax to the extent it is a return of the paid-in equity or the share premium reserve of the company, and it is treated as a partial disposal of the shareholder's shares in the company.

In the case of a foreign parent company, such a capital reduction is free of Dutch tax as a capital transaction accruing to a non-resident.

Amounts repaid in excess of contributions are taxed as dividends and subject to withholding tax.

Any gain or loss when shares are redeemed at their par value is not recognised for Dutch tax purposes if the shareholding falls within the participation exemption.

Share capital may be reduced or repaid, provided the issued capital is not reduced below the legal minimum of €45,000 for an NV.

15- WHAT OTHER TAXES ARE APPLIED IN THE NETHERLANDS?

V.A.T.

VAT is applied at the rates of 21%, 9% or 0% on goods and services supplied by Dutch companies (including local units and foreign affiliated or controlled companies).

Dutch VAT is not applied to Aruba, Bonaire, Curaçao, Saba or Sint Eustatius.

Goods and services exported from the Netherlands are exempt.

Annual property tax

An annual immovable property tax is payable in all Dutch municipalities. Immovable property includes land and property permanently united with that land. Exemptions are available for agricultural land, nature conservation areas and churches.

Social security premiums

Social security premiums are payable on wages paid. Normally, employers are obliged to pay employee social security premiums. The rates differ per insurance (health, unemployment, disablement) and vary from 0.5% to 7.64% for 2023. The ceiling for the social security contributions is €66,956 for 2023.

Contractors

Head contractors are jointly and severally liable, subject to some exemptions, for wage tax, VAT and social security payments due from subcontractors.

Real estate transfer tax

The transfer of Dutch real estate is taxed at a rate of 10,4% on the value of the real estate. The rate is also payable on the purchase of shares of a Dutch or foreign company whose assets consist of 70% or more Dutch real estate where the business of the company is to deal in or exploit real estate.

The real estate transfer tax does not apply where the real estate is held for the purposes of a company's core business (except where the core business is trading in or letting real estate).

An exemption from transfer tax may apply in the case of a merger, a spin-off or an internal reorganisation.

Oil and gas

Special taxes apply to oil and gas extracted from Dutch territory, as well as from the Dutch part of the continental shelf.

Environmental taxes

Special environmental taxes exist in the Netherlands on the use of water and energy. The applicable base and rate of tax varies by municipality.

Tax on insurance premiums

The Netherlands imposes a special tax on insurance premiums. This tax is only due on indemnity insurances (life insurance and health insurance are exempt). Non-resident insurers of Dutch risk are subject to this tax. The tax rate is 21% of the insurance premium.

Tax on gambling winnings

The Netherlands imposes a tax on gambling winnings of residents and non-residents. A 30.1% withholding rate applies for Dutch casinos, Dutch and foreign winners of Dutch games of chance and Dutch resident winners of foreign games of chance.

From 1 April 2021, a 30.1% tax is imposed on the gross revenue of online gaming operators.

Excise tax on consumer goods

An excise tax on specialty consumer goods applies to beer, wine and other alcoholic products, petrol, mineral oil and tobacco. The rate of tax differs according to the product and is based on a fixed amount per volume of product.

Workers' council tax

This is a tax for companies who are required to have a workers' council, ie an organisation of employees of a company who keep an eye on the employees' interests. The company pays the tax of 0.01% of the sum of previous years' wages.

Tax on motor vehicles

The Netherlands imposes a registration tax on passenger cars and motorcycles and a periodical tax on the use of a car or motorcycle. All vehicles in the Netherlands are subject to these taxes. The tax rate of the registration tax varies on weight, type of engine, fuel economy and pollution. The tax rate of the periodical user tax depends on the weight, type of engine and province.

Gift and inheritance tax

The Netherlands imposes tax on the value of gifts and inherited property received from a Dutch resident. The rates of tax applicable to inheritance and gift amounts received in excess of applicable exemption thresholds range from 10% to 40%.

16- DIVIDENDS, INTEREST AND ROYALTIES: HOW ARE THEY TAXED?**Dividends**

There is a 15% Dutch withholding tax on domestic dividends and interest on profit-sharing bonds (which is deemed to be a dividend), also received by residents of non-treaty countries. A credit (or refund) is given against the recipient's income tax liability. No tax is withheld in domestic situations if the participation exemption applies.

The participation exemption applies if a participation of at least 5% is held in a subsidiary unless the participation itself is held as a "portfolio investment". Whether a participation is deemed to be held as a portfolio investment depends on the taxpayer's aim, ie the purpose for which the participation is held. This criterion applies to companies established in both the Netherlands and the EU. If the investment is considered a portfolio investment, the participation exemption still applies if a subject-to-tax test or asset test is met.

A Dutch company must withhold tax at the rate of 15% on dividends (as well as other profit participations) paid to shareholders. Dividends paid to a corporate Dutch shareholder that meet the requirements of the participation exemption are free from withholding tax.

Dividends paid to companies resident in another EU member state within the terms of the EU Parent Subsidiary Directive are exempt from Dutch withholding tax. In order for the exemption to apply, a certain number of conditions must be satisfied.

Interest and royalties

From 1 January 2021, withholding tax applies to interest and royalties paid by a Dutch company to a related party located in a low tax jurisdiction, and in cases deemed to constitute abuse. The withholding tax rate is the maximum corporate income tax rate (25.8% for 2023).

There is no withholding tax on other interest or royalties, and there is no withholding tax on rents.

Before 1 January 2021, Dutch withholding taxes did not apply to any Dutch source interest, royalties or rents paid to non-residents.

17- HOW ARE CALCULATED STOCKS OR INVENTORIES?

For tax purposes, inventories can be valued on the basis of market value, purchase cost and the lower of purchase cost and market value. Other valuation methods are LIFO and FIFO.

18- HOW ARE RESIDENT INDIVIDUALS TAXED?

Tax liability criteria

According to the Dutch Personal Income Tax Act, individuals are subject to income tax if they are considered to be resident in the Netherlands (the residence principle). The General Tax Act provides that the residence of an individual must be determined in accordance with “factual circumstances”, in particular, personal and economic ties with the Netherlands.

Tax rates

Individuals resident in the Netherlands are subject to income tax on their worldwide income. Three types of taxation are applied based on the various sources of income divided into three groups: group 1 income from work and from possession of real estate; group 2 substantial interest income; group 3 income from savings and investments. As regards group 1, in 2023 the rates shown in the three tables below are applied.

| <i>Taxable income</i> | <i>Tax rates</i> |
|------------------------------|-------------------------|
| Up to € 73,031 | 36.93*% |
| Over 73,031 | 49.5% |

* This rate includes compulsory social security contributions that are due on income up to €37,149 for 2023 (27.65% for those who have not yet reached the pensionable age).

For those who have reached pensionable age in 2023 and who were born before 1 January 1946, the rates are:

| <i>Taxable income</i> | <i>Tax rates</i> |
|------------------------------|-------------------------|
| Up to € 38,703 | 19.03*% |
| 38,704 – 73,031 | 36.93% |
| Over 73,031 | 49.5% |

* This rate includes compulsory social security contributions that are due on income up to €37,149 for 2023 (9.75% for those who have reached the pensionable age)

For those who have reached pensionable age in 2023 and who were born on or after 1 January 1946, the rates are:

| <i>Taxable income</i> | <i>Tax rates</i> |
|------------------------------|-------------------------|
| Up to a € 37.149 | 19.03*% |
| 37.150 – 73.031 | 36.93% |
| Over 73.031 | 49.5% |

* This rate includes compulsory social security contributions that are due on income up to €37,149 for 2023 (9.75% for those who have reached the pensionable age)

Under the Dutch tax system, every individual is required to file a separate tax return and to be separately assessed to tax. Married persons are taxed separately on their income from personal labour. All other income and deductions are attributed to spouses in the proportion that they choose in the annual tax return. Income of children under the age of 18 is taxed in the hands of the parent who exercises parental control. Spouses living permanently apart are taxed separately on all income. The income of any children is taxed in the hands of the parent who maintains the children.

Main deductions and reliefs

Actual costs realised are not deductible. An exemption is made for the costs of a mortgage that has been used to acquire an owner-occupied dwelling. The deductible costs are limited to costs related to the acquisition, improvement and maintenance of the owner occupied dwelling for a maximum period of 30 years.

The Netherlands has a complex system of relatively minor tax rebates and deductions, which among others benefit individuals who are supporting a dependent spouse, child or student, sick and disabled. Expenses incurred in maintaining relatives are part of the so-called “personal deduction” and also include maintenance payments to a former spouse, living expenses for children younger than 30 years maintained by their parents and expenses incurred for weekend visits by handicapped children aged 30 years or older to their parents.

Inheritance and gift tax

On January 2010, the new law on inheritance and gift tax came into force and replaced the one of 1956.

The tax is levied on the value of property inherited by a natural person resident in the Netherlands at the time of death or donation.

The amount of the tax depends on the value of the property and the relationship with the deceased. The law indicates two main categories of relatives and other beneficiaries for which progressive rates of 10% -20% and 30% -40% respectively are applied.

Pension, social security and national health policy

There is no legal requirement in the Netherlands obliging employers to arrange for pensions for their employees. In certain industrial sectors, however, a collective labour agreement is concluded, which obliges employers in the related industrial sector to form pension schemes.

Resident self-employed taxpayers are allowed to set up a tax deductible pension reserve within certain limits. The maximum annual contribution is 9.44% of taxable profits, subject to an annual ceiling of €9,632 in 2022.

From January 2023 existing tax deductible pension reserves cannot be increased further.

Both employees and other residents (eg the self-employed) pay social security premiums under the national social security scheme equal to 27.65% of taxable income (up to € 35,129 in 2021).

The general compulsory contribution consists of a “nominal premium” amounting to 6.68% (up to a maximum premium income of €69,956 in 2023), which must be withheld from the employee’s wage by the employer who pays the premium to the health insurer. The employer must reimburse the income-dependent premium to the employee.

19- HOW ARE FOREIGN INDIVIDUALS TAXED? WHEN ARE THEY CONSIDERED RESIDENT?

Tax liability criteria

According to the Dutch Personal Income Tax Act, individuals are subject to income tax if they are considered to be resident in the Netherlands (the residence principle). The General Tax Act provides that the residence of an individual must be determined in accordance with “factual circumstances”, in particular, personal and economic ties with the Netherlands.

Tax rates

Only “qualifying foreign taxpayers” are taxed as residents on income or assets in the Netherlands. They are entitled to the same deductions, tax credits and exemptions as residents. In order to be treated as a “qualified foreign taxpayer”, an individual must live in an EU country, Liechtenstein, Norway, Iceland, Switzerland, Bonaire, Sint Eustatius or Saba, be able to provide an income statement from their country of residence, and pay Dutch taxes on over 90% of their worldwide income. All other non-residents are liable for Dutch taxation only on income derived from the following Dutch domestic sources: taxable income, business profits, income from employment or other activities in the Netherlands, taxable income from savings and investments in the Netherlands and substantial interests in a Netherlands company.

Main deductions and reliefs

Non-residents are among others entitled to basic tax-free allowances and to a 30% deduction on gross salary and file a “non-resident” tax return.

Inheritance and gift tax

On January 2010, the new law on inheritance and gift tax came into force and replaced the one of 1956.

The tax is levied on the value of property inherited by a natural person resident in the Netherlands at the time of death or donation.

The amount of the tax depends on the value of the property and the relationship with the deceased. The law indicates two main categories of relatives and other beneficiaries for which progressive rates of 10% -20% and 30% -40% respectively are applied.

Pension, social security and national health policy

The general compulsory contribution consists of a “nominal premium” amounting to 6.68% (6,75% in 2022), which must be withheld from the employee’s wage by the employer who pays the premium to the health insurer. The employer must reimburse the income-dependent premium to the employee.

EU nationals who come to the Netherlands to work on a temporary basis can apply for a one- or two-year exemption from paying national social security premiums, on the basis of EU legislation. In principle, such an exemption is available for other non-residents as well, provided the Netherlands has concluded a social security treaty with their home country.

20- TERMS FOR TAX PAYMENT: THE FISCAL YEAR IN THE NETHERLANDS

The Dutch tax year is the calendar year, unless a different financial year is chosen.

Partnerships and companies are required to electronically file the most important Dutch tax returns, including corporate income tax, personal income tax, wage tax and VAT returns.

Small penalties for filing the tax return after the due date are calculated as a fixed amount. More severe penalties are calculated as a percentage of the taxes due. The maximum penalty in the case of fraud is 100% of the taxes due.

21- WHAT TAX INSPECTIONS ARE MADE?

There is no statute of limitation for tax audits. However, the power to levy an additional tax assessment lapses 5 years after the end of the fiscal year. For foreign source income, this term is extended to 12 years.

Dutch law requires a foreign controlling shareholder or sister company of a Dutch company to supply information which may be relevant to the taxation of the Dutch company.

22- CAN TAXPAYERS AGREE IN ADVANCE THEIR TAX TREATMENT?

The Dutch Tax Inspector may grant a standard type of ruling. Rulings deviating from the standard can be granted only after discussion with the Ministry of Finance. Non-standard rulings affecting other jurisdictions are granted only with the consent of the foreign jurisdiction.

Since 1 April 2001 the ruling practice has comprised specific advance tax ruling agreements (ATRs). The ATRs are concluded between the taxpayer and the tax administration. An ATR may be requested in advance to establish certainty in particular circumstances, including:

- the application of the participation exemption to intermediate holding companies and top holding companies to the extent that none of the subsidiaries carries on an enterprise in the Netherlands
- the tax treatment of international structures involving hybrid financial instruments and hybrid entities, and
- the determinations regarding the absence of a PE in the Netherlands.

23- WHAT EXCHANGE CONTROLS ARE CARRIED OUT?

There are no Dutch exchange controls that would inhibit the normal flow of funds into and out of the Netherlands.

Payments to a Dutch resident from abroad, or by a Dutch resident abroad, in excess of €15,000 must be reported to the Dutch Central Bank. Reporting is not necessary for payments under €15,000.

The Dutch tax authorities have the power to request from Dutch resident entities information and records held by a non-resident shareholder.

Exemption from the duty to supply this information is granted where the non-resident shareholder or fellow subsidiary is resident in a member state of the EC, the former Netherlands Antilles or Aruba, or a country with which the Netherlands has a tax treaty allowing for exchange of information.

24- WHAT TAX RELIEFS AND INCENTIVES ARE GRANTED BY THE DUTCH GOVERNMENT?

General investment deduction

A deduction is granted for small scale investments in certain assets, calculated as a percentage of the investment. The deduction is only available if the total annual qualifying investment is between €2,600 and €353,973 in 2023. Each separate item must have a cost price of at least €450. The percentage is a sliding scale ranging from 28% for annual investments exceeding €2,600, to 0% if such investments exceed €353,973.

Energy saving investment deduction

In addition to the general investment deduction, an energy saving investment deduction is available. It is calculated as a percentage of the cost price of the total qualifying annual investment at a uniform rate of 45.5% in 2023, if the qualifying investment exceeds €2,500. The deduction is nil to the extent the investment exceeds €136 million. Qualifying investments are published in a list titled *Uitvoeringsregeling Energie-investeringsaftrek (energielijst)*, which is issued by the Ministry of Finance. About 50 assets used in businesses which are economical on energy comprise the list. The list is updated annually.

Environmental investment deduction

An environmental investment deduction is granted for investments exceeding €2,500 which further environmental protection. Qualifying investments are listed in the *milieulijst* by the Ministry of Environmental Affairs and the Ministry of Finance and updated annually. The deduction for 2023 is 45%, 36% or 27% of investments exceeding €2,500, depending on the category.

Free depreciation and amortisation

Accelerated or free depreciation is allowed at a maximum of 75% in the first year for:

1. assets that are important for environmental protection (environmental investments) listed on the *milieulijst*
2. assets of starting entrepreneurs that have a high technological value or are used for R&D, and
3. sea vessels.

Free depreciation is not allowed for energy saving investments.

Tax reduction for R&D activities

A tax reduction applies for R&D costs and expenses, including salaries paid in respect of R&D activities. For 2023, under temporary measures, the tax reduction for the first €350,000 of qualifying expenditure is 40% in the first 3 years and 32% thereafter (50% in the first 3 years and 40% thereafter for 2021). For any excess qualifying expenditure over €350,000 the reduction is 16%. For these purposes, “qualifying” means a cost or expense that is directly attributable to the R&D activities.

Other incentives for R&D and innovation

The Netherlands ministries of Economic Affairs, Infrastructure and the Environment and Foreign Affairs provide incentives to entrepreneurs with international plans or innovative ideas for business, through the Netherlands Enterprise Agency.

Income derived from R&D activities is subject to a reduced tax rate of 9% under the “innovation box” scheme. This incentive is subject to certain conditions, such as that at least 30% of profits must have been generated through an issued patent.

Companies based in the Netherlands may be eligible for an innovation tax credit for investments over €150,000 as follows: small companies can qualify for a 45% credit, medium companies can qualify for a 35% credit, and large companies can qualify for a 25% credit. The credit is capped at €10 million per year. If the investment project is successful, the credit, including interest, must be paid back over a period of 10 years.

25- HAVE THE NETHERLANDS SIGNED BILATERAL TAX AGREEMENTS WITH OTHER COUNTRIES? TABLE OF WITHHOLDING TAXES

The Netherlands has concluded tax treaties with a number of countries which specify the withholding tax rates that apply.

| | <i>Dividends</i> | <i>Interest</i> | <i>Royalties</i> |
|-----------------------------|------------------|-----------------|------------------|
| | 15 | 0/25,8 | 0/25,8 |
| <i>Non-treaty countries</i> | | | |
| <i>Treaty countries</i> | | | |
| Albania | 0/5/15 | 0 | 0 |
| Algeria | 0/5/15 | 0 | 0 |
| Argentina | 10/15 | 0 | 0 |
| Armenia | 5/15 | 0 | 0 |
| Aruba | 5/7.5/15 | 0 | 0 |
| Australia | 15 | 0 | 0 |
| Austria | 0/5/15 | 0 | 0 |
| Azerbaijan | 5/10 | 0 | 0 |
| Bahrain | 0/10 | 0 | 0 |
| Bangladesh | 10/15 | 0 | 0 |
| Barbados | 0/15 | 0 | 0 |
| Belarus | 0/5/15 | 0 | 0 |
| Belgium | 0/5/15 | 0 | 0 |
| Bosnia and Herzegovina | 5/15 | 0 | 0 |
| Brazil | 15 | 0 | 0 |
| Bulgaria | 0/15 | 0 | 0 |
| Canada | 5/15 | 0 | 0 |
| China | 0/5/10 | 0 | 0 |
| Croatia | 0/15 | 0 | 0 |
| Curaçao | 0/15 | 0 | 0 |
| Czech Republic | 0/10 | 0 | 0 |
| Denmark | 0/15 | 0 | 0 |
| Egypt | 0/15 | 0 | 0 |
| Estonia | 0/5/15 | 0 | 0 |
| Ethiopia | 5/15 | 0 | 0 |
| Finland | 0/15 | 0 | 0 |
| France | 0/5/15 | 0 | 0 |
| Georgia | 0/5/15 | 0 | 0 |
| Germany | 0/5/15 | 0 | 0 |
| Ghana | 5/10 | 0 | 0 |
| Greece | 0/5/15 | 0 | 0 |
| Hong Kong | 0/10 | 0 | 0 |
| Hungary | 0/5/15 | 0 | 0 |
| Iceland | 0/15 | 0 | 0 |
| India | 5/15 | 0 | 0 |

| | | | |
|---|-----------|---|---|
| Indonesia | 5/10/15 | 0 | 0 |
| Ireland | 0/15 | 0 | 0 |
| Israel | 5/10/15 | 0 | 0 |
| Italy | 0/5/10/15 | 0 | 0 |
| Japan | 0/5/10 | 0 | 0 |
| Jordan | 5/15 | 0 | 0 |
| Kazakhstan | 5/15 | 0 | 0 |
| Korea | 10/15 | 0 | 0 |
| Kuwait | 0/10 | 0 | 0 |
| Latvia | 0/5/15 | 0 | 0 |
| Lithuania | 0/5/15 | 0 | 0 |
| Luxembourg | 0/2.5/15 | 0 | 0 |
| Macedonia | 0/15 | 0 | 0 |
| Malaysia | 0/15 | 0 | 0 |
| Malta | 0/5/15 | 0 | 0 |
| Mexico | 5/15 | 0 | 0 |
| Moldova | 0/5/15 | 0 | 0 |
| Montenegro | 5/15 | 0 | 0 |
| Morocco | 10/15 | 0 | 0 |
| Netherlands Antilles (excluding Aruba, Curaçao and Sint Maarten) | 8.3/15 | 0 | 0 |
| New Zealand | 15 | 0 | 0 |
| Nigeria | 12.5/15 | 0 | 0 |
| Norway | 0/15 | 0 | 0 |
| Oman | 0/10 | 0 | 0 |
| Pakistan | 10/15 | 0 | 0 |
| Panama | 0/15 | 0 | 0 |
| Philippines | 10/15 | 0 | 0 |
| Poland | 0/5/15 | 0 | 0 |
| Portugal | 0/10 | 0 | 0 |
| Qatar | 0/10 | 0 | 0 |
| Romania | 0/5/15 | 0 | 0 |
| Saudi Arabia | 5/10 | 0 | 0 |
| Serbia | 5/15 | 0 | 0 |
| Singapore | 0/15 | 0 | 0 |
| Sint Maarten | 0/15 | 0 | 0 |
| Slovak Republic | 0/10 | 0 | 0 |
| Slovenia | 0/5/15 | 0 | 0 |
| South Africa | 5/15 | 0 | 0 |
| Spain | 0/5/15 | 0 | 0 |
| Sri Lanka | 10/15 | 0 | 0 |
| Suriname | 7.5/15 | 0 | 0 |
| Sweden | 0/15 | 0 | 0 |
| Switzerland | 0/15 | 0 | 0 |
| Taiwan | 10 | 0 | 0 |
| Thailand | 5/15 | 0 | 0 |
| Tunisia | 0/15 | 0 | 0 |
| Turkey | 15 | 0 | 0 |
| Uganda | 0/5/15 | 0 | 0 |
| Ukraine | 0/5/15 | 0 | 0 |
| United Arab Emirates | 0/5/10 | 0 | 0 |
| United Kingdom | 0/10/15 | 0 | 0 |

| | | | |
|---------------|---------|---|---|
| United States | 0/5/15 | 0 | 0 |
| Uzbekistan | 5/15 | 0 | 0 |
| Venezuela | 0/10 | 0 | 0 |
| Vietnam | 5/10/15 | 0 | 0 |
| Zambia | 5/15 | 0 | 0 |
| Zimbabwe | 10/15 | 0 | 0 |

The Netherlands has signed TIEAs based on the OECD model convention with about 30 countries.