

RSM. Nederland

Fiscal Year 2011 News



The entrepreneur and the director and major shareholder with its BV (private limited company)

1. Corporate tax rate

The corporate tax rate for taxable profits above €200,000 remains at 25%. The rate for taxable profits up to €200,000 is 20%.

In case of a fiscal unity for the corporate tax rate, the profits of the different private limited companies are aggregated, so that the 25% rate may be achieved sooner. On the other hand, taxable profits and losses of the various private limited companies in a fiscal unity can be offset against each other. In terms of rates, a fiscal entity can, therefore, have both advantages and disadvantages for corporate income tax. It may be useful to discuss with your RSM advisor whether continuation or the incorporation of a fiscal unity in 2012 is desirable.

2. Check the taxable losses

2011 is the year to offset "old" losses, from 2002 and before, against profits. These taxable losses can only be offset in 2011. Losses that have not been offset evaporate as of 1 January 2012 and it will no longer be possible to offset these against future profits. Contact your RSM advisor if the (old) losses are likely to evaporate this year.

3. Provisional income tax and corporate tax assessments

Now that the end of the financial year is approaching and the level of profits may perhaps be more accurately estimated, the time has come to review, or have reviewed, the provisional assessments and, if required, submit a request for an adjustment.

The tax plan 2012 contains proposals - in contrast to the current regime - to convert interest on underpaid tax into a tax interest that is only due over the period from six months after the end of the fiscal year. The tax and custom authorities will only start paying a (tax) interest if they require more time than allowed for a return upon request, or the handling of a tax return. The tax interest is set at the statutory rate (currently 4%). The interest rate on overpaid tax remains unchanged and is payable only if an assessment is paid too late, or a payment arrangement has been agreed to.

4. VAT return

In 2012, all employers can still submit their VAT returns quarterly. Besides a significant easing of the tax burden (after all tax returns only need to be submitted four times a year rather than 12 times), there is also a substantial improvement in liquidity. Indeed, the VAT only needs to be paid at the end of the quarter. Entrepreneurs who make sizeable investments (such as investment in property or vehicle fleets/machinery) do have to wait longer for payment of the input tax, however. However, you can opt for monthly returns for an entire calendar year, as a result of which you will receive your refund sooner.

5. VAT review

In the past, if a VAT return was requested upon purchase of a movable or immovable item and in 2011 this item is used for transactions for which no right to deduct exists, revision VAT must be included in the last VAT return for this year. For property, the review period is 10 years and 5 years for movables.

In this issue we provide a broad overview of the most significant and interesting changes as per January 1, 2012, as well as a number of tax and legal items for consideration for the end of the year.

A number of the current issues below is based on legislative proposals (especially the tax plan 2012). It is possible that changes to the proposals can be made. Therefore, the list below is only for informative purposes. It is advisable to inquire with your RSM Advisor about the most current status of legislation. This issue was updated on 7 November 2011.

6. Investing during 2011 or 2012?

On their tax return, entrepreneurs can choose to depreciate investments in certain assets that took place in 2011, in two years (in the first year up to 50%). This temporary arbitrary depreciation applies to delivery vans, lorries, computers, machines and installations and very fuel-efficient passenger cars. Starting entrepreneurs are even entitled to fully accelerated depreciation. This (temporary) scheme already existed for the years 2009 and in 2010. Proper planning of investments and depreciations may be worthwhile. Entering into an investment commitment in 2011 also qualifies for this temporary option, provided the investment is put into service no later than December 31, 2013.

Tip: as the arbitrary depreciation scheme is not continued in 2012, it may be favourable for you, to make investments in 2011 to obtain an improvement in liquidity.

7. Investment allowance

If you invest less than € 301,800 (figure for 2011) on an annual basis, you are eligible for the small projects investment allowance. This amounts to a maximum of € 15,211 per year (for a total annual investment of € 100,600). Besides the small projects investment allowance, you may also qualify for the energy investment allowance or the environmental investment allowance. Careful planning of investments may yield a tax benefit.

8. Reassessment of the salary of the director and principal shareholder (dga)

In principle, the director and principal shareholder must earn an annual taxable salary of at least 70% of the customary wages (in principle, a minimum of €41,000 per year). For companies for which only limited work is performed and for which the customary fee for limited work amounts to less than € 5,000 per year (for example, former holding companies, private pension companies and private companies incorporated to make periodic payments) no wages need to be taken into consideration.

In practice, the tax and customs authorities often propose the skimming method, as part of which the wage is set at 70% of the adjusted turnover of the company. Determining corporate payment for the director and major shareholder is an individual arrangement, however. For this, the RSM advisor also takes into account the fiscal facilities such as tax credits and allowances.

Once again, a good time to assess your remuneration package or have it assessed. The customary pay regulation also applies to the partner of the director and major shareholder, if he/she carries out activities for the private limited company.

9. Borrowing from your private limited company

Currently, the market interest rate is at a historically low level. Perhaps a good time to check your loan agreement to see if the interest you pay to the private limited company can be adjusted and possibly be reduced.

Because the market interest rate is currently low, it may still be useful to assess your financing structure, or have it assessed. Refinancing your home with your private limited company can be interesting, for example, even though the option to make use of the deduction due to not having or having a limited owner-occupied home debt (also known as the Hillen Act) when borrowing from the employer has ceased to apply. Once your private limited company has liquid assets, refinancing your mortgage with the company may yield a nice benefit.

10. Personal contribution for the company car to be paid before 31 December

Annually 25% (sometimes 20% or 14%) of the listed value of the company car is added to your income. Any personal contribution you pay to the private limited company will be deducted from this addition to the taxable income. The wage tax and social insurance contributions due are reduced by incorporating the personal contribution in the payroll administration. When paying a personal contribution, VAT becomes due, however. Therefore, ask your RSM advisor about the impact of the inclusion of a contribution for private use.

11. Report any inability to pay in due time

Should your company unexpectedly be unable to pay the wage tax and social insurance contributions and/or turnover tax in due time, report this to the Tax and Customs Administration within the specified time (i.e. within two weeks following the expiry of the payment term). This is to avoid the risk of being held personally liable for tax debts of the private limited company. The foregoing also applies in case of temporary inability to pay. Notification of inability to pay within the context of limitation of director's liability may be done in writing only. Even temporary inability to pay should be reported (in due time).

12. Timely filing of supplementary VAT return

The year-end closing may show that the balance of the VAT payable or receivable on the balance sheet at 31 December 2011 does not entirely correspond with the VAT specified on the periodic tax returns. Differences may be voluntarily corrected without interest on underpaid tax by lodging a supplementary VAT return by 1 April 2012. It is important, however, to include the corrections in the correct time period in order to avoid any penalties.

13. Irrecoverable debts

If you have any doubtful accounts who are not or no longer able to pay you, you can submit a request for a VAT refund on these irrecoverable debts with the Tax and Customs Administration. You will need to submit the request within a month following the period in which the bad debts became obvious.

International

14. Interest allowance limitation acquisitions

From 2012, an interest allowance limitation (including costs and currency exchange earnings) applies for holding companies acquiring other companies and subsequently form a tax unity. Within a fiscal entity for corporate tax, the interest costs of the acquisition holding company offset the positive results of the acquired company (the operating company). As a result of the proposed restriction, the interest costs of acquisition debts may in principle only be offset against the acquisition holding company's own profits and not against the profits of the acquired company. The acquisition interest is deductible, however, up to an amount of € 1 million. In addition, the interest for the acquisition holding company continues to be effectively deductible from the profits of the acquired company if there are real financing ratios. This is the case with an equity/borrowed capital ratio of 1:2. The measure only applies to acquisitions after January 1, 2012. This interest allowance restriction also applies to certain legal mergers or divisions, making it possible to achieve the same result as a fiscal unity. Meanwhile it was announced that the State secretary is considering alternative plans submitted by the Dutch Association of Tax Advisors. The exact content of these alternatives is not fully known at this moment.

15. Change in treatment of foreign branches

Until January 1, 2012, losses of foreign branches (a so-called permanent establishment) may still be deducted from a company's Dutch profits. The Dutch private limited company pays corporate tax on its worldwide profits in the Netherlands. From 2012, this is going to change and the results of the foreign branch may, in principle, no longer affect the Dutch result. As a result, losses incurred abroad, for example, will no longer be deductible from Dutch profits. The result of the foreign branch will continue to be included in the Dutch tax base if it is a so-called "passive foreign investment company". In certain situations, losses due to a strike when closing down a foreign branch may still be included in the Dutch tax return. With these measures, foreign branches are more or less treated in the same manner as foreign subsidiaries to which the participation exemption applies.

16. Cooperative sometimes also has obligation to withhold dividend tax

A cooperative is currently not required to withhold dividend tax on profit distributions. This is going to change where the membership right is not (in)directly attributable to the assets of the company of the relevant member or its (final) shareholders. In addition, the main objective of keeping the stake in the cooperative must be to avoid collection of Dutch dividend tax or foreign tax. This measure is particularly aimed at investment structures in which a Dutch cooperative is inserted in order to reduce the (foreign) tax burden. In addition, dividend tax will be levied in situations in which the right of membership does belong to a company, but where it is obvious that by inserting a Dutch cooperative, a Dutch dividend tax claim is circumvented.

17. 30% ruling

For employees with specific, scarce expertise who wish to be posted abroad or are recruited from abroad, an allowance for living expenses outside the country of origin (30% ruling) applies. From 1 January 2012 "expertise" is entered as salary standard of € 50,619 (excluding the allowance for expenses). For young doctoral candidates and postgraduates there will not be a lower salary standard. The 30% ruling (valid for a period of no more than 10 years) is reduced by previous periods of residence or employment in the Netherlands. The assessment period for this will be extended to 25 years. Foreign resident frontier workers living within a radius of 150 km from the Dutch border are no longer eligible for the 30% ruling. Existing 30% rulings will at least be respected until the regular assessment time 5 years after issuance of the original 30% ruling. Employees who, as at January 1, 2012, have been applying the 30% ruling for more than five years have passed the moment of assessment and will retain their right to the 30% ruling for the remainder of the term.

18. VAT identification number foreign buyers

For intra-Community supplies and services to customers in other EU member states, you must have the VAT number of the customer in order to supply at a 0% VAT rate. If this number is incorrect or has been revoked, for example in case of fraud or bankruptcy, you run the risk that the tax and customs authorities may still charge 6 or 19% VAT for deliveries made to these foreign buyers. It is, therefore, important that you check the VAT number of your customer with the tax and customs authorities for (each) delivery.

19. Reclaiming foreign VAT

VAT you have paid abroad and which is eligible for input tax deduction, must be reclaimed via the digital portal of the Dutch tax and customs authorities. A period of nine months after the end of the calendar year in which the foreign VAT has been paid applies. After this period you will lose the right to a refund.

Innovation and research

Innovation and research are a major focus of the Rutte government. As from 2012, the tax legislation provides three facilities to stimulate research and development. Ask your RSM advisor about the possibilities for your company.

20. The Innovation box

You may choose to place a self-developed intangible fixed asset in your private limited company in the innovation box. Profits made through innovative activities are taxed in the so-called innovation box at an effective corporate tax burden of 5% (rather than the 20 or 25% rate).

21. Promotion of Research and Development Act (WBSO) tax rebate

The tax rebate for research and development is continued in 2012. On one hand, the ceiling for the high rate is reduced to €110,000 and on the other hand, the maximum wage-cost subsidy for 2012 is maintained at € 14 million per withholding agent. This way, employers who have part of their staff working on so-called "research and development" projects, can receive a rebate on the payable contributions of up to € 14 million. These employees can offset the withheld contributions against the payable income tax in the standard way. The rebate applies to each withholding agent/company and is based on the number of hours used for research and development, multiplied by the average R & D wages as determined by the NL Agency. It is, therefore, important to have a sufficiently large wage bill in the R & D company in order to be able to actually implement the tax rebate. If employees within a fiscal unity for corporate income tax are made available to other companies, there is greater scope for implementing an income tax rebate. Entrepreneurs in sole proprietorships and joint ventures who do not pay income tax over their own profit share, can make use of a similar income tax facility. In 2013, the temporary increase in the tax rebate ceases to apply, but the scheme will be continued.

Tip: The WBSO application for 2012 must be submitted with the NL Agency not later than 1 December 2011. Your RSM advisor can be of service with this.

22. Research and Development Allowance (RDA)

Besides the two aforementioned facilities, a new facility for innovative research will be introduced in 2012. Based on this new facility, both income tax entrepreneurs and companies, can claim an R & D rebate consisting of a certain percentage of the costs and investments in research and development (other than labour costs), such as purchase of material and the manufacture of prototypes. To qualify for this new scheme, an RDA ruling must be requested from NL Agency. NL Agency determines the amount of costs and investments directly attributable to research and development. Of this, a certain percentage is taken (expected to be 40%). The amount of the RDA ruling is an (extra) tax allowance when determining the profit. The tax and customs authorities only check whether the amount deducted matches the amount on the RDA ruling. The RDA ruling of NL Agency bears no relation with the regular tax deductible expenses specified by the tax and customs authorities. The amount of the RDA ruling will be charged to the profit on the day of the date of that ruling. A corrective RDA ruling is taxed in the year of the ruling. Expenses for outsourced research, financing costs, depreciation costs and investments that are eligible for the energy investment allowance and the environmental investment allowance are excluded from the R & D rebate. Other expenses not included are the cost of land acquisition or land improvement.

Tip: Be informed as to whether it is beneficial to postpone investments in research and development until 2012 in order to take advantage of the R & D rebate.

The private individual

23. Rate and tax credits

The combined rate for income tax/social insurance contributions in 2012 will remain about the same. The income-tax bands end up slightly higher due to index-linking, as a result of which the overall tax burden decreases marginally.

For 2012 the rate in Box 1 is:

For a taxable income from employment and home of more than	but not exceeding	Combined rate for taxable income from employment and home
-	€ 18.945	33,10%
€ 18.945	€ 33.863	41,95%
€ 33.863	€ 56.491	42%
€ 56.491	-	52%

The rate in Box 2 and 3 remains the same and is 25% and 30%, respectively.

Diverse heffingskortingen worden aangepast en deels verhoogd:

Several tax credits are adjusted and partially increased:

- Normally, the general tax credit from income tax (€ 2,033 per year) is not paid to the lowest-earning partner. There is, however, an exception for families with children under 6 years and for taxpayers born before January 1, 1972. This exception is phased out in three steps in the years 2012 to 2014. This means that the partner who earns no income has fewer options to have the tax credit paid. If both partners have sufficient income, obviously the tax credit can be cashed in.
- The combination tax credit for income-dependent partners with the lowest incomes, with the youngest child being under 12 years, is increased.
- In 2012, tax payers aged 57 and over who receive income from employment, will no longer be entitled to the increased tax credit. In 2013 there will be a new employment bonus of up to € 3,000 for those aged 62 and over who are working. In terms of specifications and legislation, the employment bonus is in line with the current employment tax credit for the wage tax and income tax for the elderly. In connection with this, the accrual percentages of the deferred pension bonus are adjusted in 2012 and the deferred pension bonus is abolished as per 1 January, 2013.
- The life-course leave tax credit ceases to exist as per 2012.

As a result of the above changes, the (employment) income tax burden may change significantly. Perhaps an opportunity to review the remuneration policy for you and your spouse for the coming year.

24. Tax exemption of box 3 assets and liabilities

Currently, assets and liabilities arising from the laws of succession are disregarded for income tax. The creditor is not required to declare the claim as possession in box 3 and the debtor cannot enter the debt in box 3. Interest deduction is not allowed for interest paid on these debts in box 1 and box 2. It concerns claims of children on the surviving (step) parent and the debts of that (step) parent to the children.

As of 1 January 2012 this scheme is extended to include cases where on the basis of a will or a division of the estate a situation arises that is comparable to the laws of succession. This includes, for example, partial divisions of an estate, (optional) legacies for a contribution of the value, for which the contribution remains due and usufruct wills. The tax exemption will, however, be limited to

claims/debts or rights of enjoyment in cases where the deceased bequeaths goods to his surviving partner and where the children of the deceased or of the surviving partner only receive a claim against that partner that has not yet become due and payable or receive bare ownership.

25. Extension deduction donations to cultural institutions

To promote fundraising by cultural ANBIs, a "multiplier" is introduced for the donation deduction of both income tax deduction and corporate income tax for donations to cultural institutions. As a result, unlimited donations to such an institution for the income tax and donations of a combined maximum of € 5,000 for corporate tax for the donations deduction may be multiplied by a factor of 1.5.

Stimulating the housing market

26. Temporary reduction of transfer tax on homes

As of June 15, 2011, the transfer tax rate for properties has been reduced from 6% to 2%. This measure is now legally defined, but will cease to exist again as per July 1, 2012. This relaxation does not apply to commercial properties, however.

27. Listed buildings

The threshold for the personal allowance of expenses for listed buildings ceases to apply, but in addition, from 2012 only 80% of the maintenance of listed buildings will be deductible. Maintenance for which a subsidy is provided may not be deducted. The limited deduction of maintenance applies both to listed buildings that qualify as own home and those that qualify as listed buildings that fall under the capital gains tax. For the years 2012 and 2013 there is a transitional arrangement for maintenance for which irrevocable obligations have been assumed prior to January 1, 2012 and for which payment will be made in 2012 or 2013. This must be demonstrated by means of invoices. The option of deducting owner's property charges and depreciation of listed buildings ceases to apply in its entirety as from January 1, 2012.

Tip: If you are planning major maintenance investments in your listed building in the near future, it may be beneficial to assume the obligation for maintenance prior to January 1, 2012. Your RSM advisor can assess whether it is more favourable to you to assume these obligations in 2011.

28. Repayment mortgage owner-occupied house?

The interest you receive on your savings account is lower than the mortgage interest you pay. The interest you pay on the mortgage of an owner-occupied home is, in principle, deductible in box 1, but if this interest is lower than the notional rental value to be considered, income from the owner-occupied home will be set at zero (in accordance with Hillen Act, unless you borrow from the private limited company). In that case, there is no longer any effective interest relief and it may be beneficial to repay the mortgage. This has the additional advantage that your box 3 capital is reduced by the amount of the repayment, as a result of which the tax on imputed return on investment is reduced as well. In case of redemption, make allowances for possible penalty interest for early repayment.

29. Extension of period of temporary mortgage interest relief for two owner-occupied houses

In principle, the mortgage interest may be deducted for one owner-occupied property only. In case of a divorce or a move, interest relief may be considered for two houses. When moving, this additional facility applies to both the (former) owner-occupied property that is for sale, but not yet sold, and the new property (whether or not under construction) and the period to which this double deduction applies is temporarily extended from two to a maximum of three years. After 2012 this term will again be reduced to two years.

30. Revive mortgage interest relief after a period of temporary rental of the former owner-occupied property

If you are moving to a different owner-occupied home while the old house has not yet been sold, you currently have two options:

- leave the home unoccupied during the selling period and deduct the (mortgage) interest for a total period of no more than three more calendar years (temporary measure);
- rent the house out, as a result of which the (mortgage) interest relief is cancelled. At that moment, the house and the debt move from box 1 to box 3. Moreover, the additional loan scheme applies.

For houses that are rented out for a relatively short period, the interest relief may be temporarily revived after termination of the rental period. In short, the house returns to box 1.

This measure is in particular a concession to private individuals dealing with double housing costs due to their former owner-occupied house not being sold yet. This rule applies from 2010 to 2012.

31. Reduction of transfer tax in case of early transfer of houses

For houses that are transferred within no more than six months after each other, considerably less transfer tax is payable for the second transfer (in fact, only on the added value). For first transfers taking place in 2011, the term is extended from six months to 1 year. In the unlikely event that newly purchased houses must be sold again, the transfer tax can be considerably reduced this way. In principle, the benefit here is for the buyer and obviously may be included in the price negotiations. Enquire with your RSM advisor about the exact terms.

32. Pay your annuity premiums in due time

Only if you have a pension shortfall you can deduct annuity premiums on the basis of the annual and/or reserve margin. Annuity premiums are only deductible if they have been paid or offset in the calendar year. To deduct the annuity premium in 2011, it must have been paid prior to January 1, 2012.

33. The assessment under the Valuation of Immovable Property Act (WOZ) for 2012

Appealing against the WOZ assessment had no effect if the intended reduction was relatively low in terms of percentage and Euros. This was a result of the so-called Fierens margin. Recently the court declared this efficiency ruling nonbinding, making it sooner worthwhile to appeal against the WOZ assessment, which you will receive early 2011. Especially since the WOZ assessment value for houses also applies to the gift and inheritance tax. In that case, the notice of objection must be submitted within six weeks. Heirs may, if they are of the opinion that the WOZ value is set too high, request a new WOZ assessment for an acquired property. It is possible to again object and appeal against the new assessment, as a result of which they are not bound by whether or not the deceased had acted contrary to the WOZ assessment.

34. Deposit your severance pay in a standing right savings account or standing right investment account

If you have received a severance pay for lost income or loss of income from your former employer, you can place this amount (upon granting thereof) with an insurance company or with your own private limited company as a standing right entitling to periodic payments without deduction of wage tax and social insurance contributions. Furthermore, it is also possible have the employer deposit the lump sum payment tax-free into a standing right savings account or standing right investment account. You may use the balance of the standing right savings account or the value of the standing right investment accounts for receiving periodic payments. These payments are considered wages from previous employment and the provider of the savings account or investment account is liable to withhold wage tax and social insurance contributions. Entitlement to future periodic payments is not taxed in box 3.

The car and tax

35. VAT correction for private use of car

A car that is provided free of charge for private purposes, including commuting, will be subject to VAT as a notional service to the actual private use as from 1 July 2011. The VAT due for the notional service can be calculated using a fixed amount that, on an annual basis is equal to 2.7% of the list price (including VAT and BPM [private motor vehicle and motorcycle tax]). This scheme came into effect sooner, but has now been made into law. With retroactive effect from July 1, 2011 a scheme for cases where a car has not been used free of charge, but for a lower fee than the so-called normal value is also included. In that case, the base for the VAT is increased to the normal value. In this situation, approval will be granted for application of the fixed rate of 2.7% of the list price (including VAT and BPM).

Please note: until 1 July 2011 the old scheme should be applied.

36. Addition LB/IB for the private use of a company van

From 2012 it is no longer required to keep kilometre records to prevent an addition from applying. A statement that a van is used exclusively for business purposes must be requested for this. This statement can be used to indicate that the van is not being driven for private purposes. The tax and custom authorities will make a digital form available for this. The entrepreneur may omit the kilometre record if he has received confirmation of receipt of the statement from the inspector.

37. Facilities for environmentally friendly cars

For 2012 as well, various measures relating to the purchase and keeping of a car have been proposed.

The tax incentives for highly fuel-efficient cars have proved too popular, resulting in erosion of the tax revenues. This is the reason for the government to cancel the BPM and road tax exemption for environmentally friendly cars in 2013. The low addition of 14% and 20% for environmentally friendly cars will be maintained, but will be phased out during the period 2012-2015. The 0% addition rate for electrical cars that are applied in 2010 and 2011 will be increased to 7% of the list value for 2012, 2013 and 2014, but the 0% addition will be maintained until 1 January 2017 for electrical cars that are registered prior to 1 January, 2012.

Estateplanning

38. Gifts to your children and grandchildren

The end of the year is the perfect opportunity to make full use of exemptions to the gift tax of € 5,030 per child and € 2,012 for each grandchild. For children aged between 18 and 35 there is a one-off increased exemption of € 24,144, which may even be increased to € 50,300 per child for gifts for the purpose of a(n) (expensive) study or a house (purchase, improvement, maintenance or mortgage payment). If you have already taken advantage of the then increased exemption before 2010, you can still use the remaining margin (obviously only as long as your children are still younger than 35 years). If you make your gift before the end of the calendar, you can make optimal use of the exemption for 2011. You may even save on capital gains tax in 2012. After all, as at 1 January 2012 your savings will have fallen as a result of the gifts.

39. Will scan

It may be advisable to critically assess, or have assessed, your will and/or community property system. This is also important because of the substantial changes to the Inheritance Tax Act as per 1 January 2010. However, changes in your personal situation may also be a reason. The term partner in the amended Inheritance Tax Act has been adjusted as per 2011, so that especially the cohabitation contract of couples living together will need to be adjusted. In order to be considered as a partner under the Inheritance Tax Act, a mutual duty of care should be included in the core habitation contract. From 2010 it may also be interesting to include your grandchildren in your will and to grant them the amount equal to the exemption for inheritance tax (2011: € 19,114 per grandchild).

40. Transitional arrangement split usufruct and bare ownership prior to January 1, 2010

In the past, parents were able to transfer their house to their children, subject to usufruct to prevent the appreciation of the property from being included in the inheritance tax upon death of the parents. As a result, the increase in value from bare ownership to full ownership remained untaxed for the children. In view of this kind of tax-saving situations, an acquisition fiction was introduced in the past, as a result of which the increase in value is still subject to tax. As a consequence of the review of the Inheritance Tax Act as per 1 January 2010, tax is no longer levied over the appreciation from bare to full ownership at the time of transfer of the property but over the entire appreciation until the time of death. Since no transitional law was adopted, these situations are included more heavily in the inheritance tax than prior to January 1, 2010.

The State secretary has now announced to make a transitional arrangement for situations arising from a transfer of the property before January 1, 2010. The transitional law means in essence that the relevant taxpayers upon the death of (one of) their parents can take the value of the property at the time of the transfer, plus (if any) increase in value from January 1, 2010 to the date of death. As a result, the increase in value between the time of transfer and January 1, 2010 is not included for the application of the acquisition fiction.

The employer and the employee

41. The labour costs scheme

The labour costs scheme was introduced in 2011, but reality has shown that still very few employers make use of this scheme. For the years 2011 to 2013 the former system of tax-free allowances and provisions can still be used. The choice for 2012 to move to the new labour costs scheme should be made in early 2012, but at the latest upon lodging the first wage tax declaration of

2012 (i.e. during February 2012). Once you switch to the labour costs scheme you need to adjust your administration in time to the new legislation. This includes, for example, (possibly) changing the terms of employment and adjusting your financial records (general ledger accounts). The various allowances and provisions must be expressly identified and recorded in your administration. Your RSM advisor can assist you with making the choice whether or not to switch in 2011, as well as with making adjustments to your financial and personnel administration.

42. Salary savings scheme and life-course savings scheme transformation in the Vitality Scheme

The life-course savings scheme and the salary savings scheme in the pay-as-you-earn tax are replaced by a vitality scheme in the income tax. This also results in a reduction in the administrative burden for employers.

The salary savings scheme is abolished in 2012. The vitality scheme will not be introduced until 2013. In order to qualify for the transitional arrangement for the life-course savings scheme, one must be a participant in the scheme by 31 December. If there was no participation in the savings scheme in 2011, it is still possible to deposit into the life-course savings scheme. Because directors and principal shareholders cannot participate in the salary savings scheme, they may still opt for the transitional arrangement by depositing a sufficient amount into the savings scheme in 2011. If on 31 December 2011 at least € 3,000 has been deposited in the life-course savings scheme, a transitional arrangement even applies until the age of 65, for which the deposit under the rules of the life-course savings scheme can also be continued after 2011.

43. Changes in the Healthcare Insurance Act

The income-related Healthcare Insurance Act contribution, which is paid by the employer and which is subject to income tax, is indeed reduced from 7.75% to 7.1% (the lower rate is reduced from 5.65% to 5%), but at the same time the maximum contribution income for which the income-related contribution is to be paid is increased from € 33,427 to € 50,056. The costs for employers for lower wages fall by about 8.5%, but for higher wages the Health Insurance Act costs for employers may increase by up to € 1,000 per annum.

44. Cross-border Social Security

On 1 May 2010 the new European regulation on determining where someone is socially insured and liable to pay social insurance contributions came into effect. This means that employees who work simultaneously in two or more countries will be insured and liable to pay social insurance contributions in one country only. Unlike before, the premium will be calculated based on the earned income from both countries in accordance with the rules of the country where social insurance contributions are paid.

45. Request a new VAR (declaration of independent contractor status) from freelancers

In a number of cases you are not required to withhold or pay income tax or social insurance contributions on the fee you pay freelancers and ZZP-ers. We always recommend only omitting paying income tax and social insurance contributions once you are in possession of a correct and valid declaration of independent contractor status (VAR). The VAR declaration is valid for one year. Request a new declaration for 2012 from the people you are hiring. Please note that the activities carried out must correspond with the activities described in the VAR declaration and that it concerns a so-called VAR profit business or a VAR director and major shareholder. Besides the above VAR declaration, obviously you should also have a valid ID of the freelancers and ZZP-ers you are hiring.

Obligations to disclose information

46. Active obligations to disclose information

Taxpayers have the obligation to inform the tax inspector of their own volition as soon as they become aware of any inaccuracies or omissions. Initially the following four cases are considered: the statement exclusive business use of delivery van, the statement "no private car use", the so-called Edelweiss situations and VAT supplementations. There will be a general provision on the basis of which the taxpayer or withholding agent may be required in some cases to inform the tax inspector of his own volition of inaccuracies or omissions as soon as he is or becomes aware of these inaccuracies or omissions and when and how the taxpayer should give notice hereof. Failure to comply with the disclosure requirement or with the regulations can be fined with a punitive fine of up to 100% of the amount of tax that has not or would not have been levied due to failure to comply with the obligation requirement.

Finally

In compiling this publication we have aimed for the utmost reliability and accuracy. Our organisation cannot be held liable for any inaccuracies and the consequences hereof. These current tax issues are based on the status of the legislative proposals as at 7 November 2011.

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