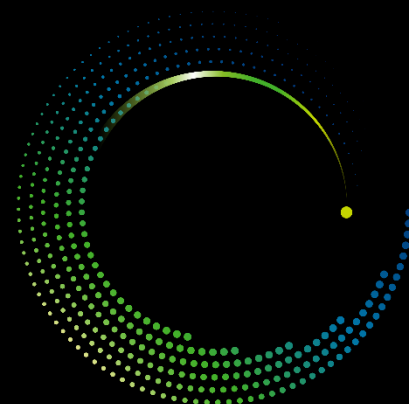


International Tax Netherlands Highlights 2022

Updated January 2022



Recent developments

For the latest tax developments relating to the Netherlands, see [Deloitte tax@hand](#).

Investment basics

Currency: Euro (EUR)

Foreign exchange control: There are no foreign exchange controls.

Accounting principles/financial statements: IAS/IFRS/Dutch GAAP. Financial statements must be filed annually.

Principal business entities: These are the public company (*naamloze vennootschap* or NV), private limited liability company (*besloten vennootschap* or BV), partnership (*commanditaire vennootschap* or CV, *vennootschap onder firma* or VOF, etc.), cooperative, and branch of a foreign company.

Corporate taxation

Rates

Corporate income tax rate	15% on the first EUR 395,000 of taxable profits; 25.8% on taxable profits exceeding EUR 395,000
Branch tax rate	Corporate income tax rate
Capital gains tax rate	Corporate income tax rate

Residence: Companies that have their management in the Netherlands and, in principle, all companies incorporated according to Dutch civil law, are regarded as resident.

Basis: Residents are liable to tax on their worldwide income; nonresidents are taxed only on Netherlands-source income. Exemptions may apply for certain income from shareholdings, permanent establishments (PEs), and innovative activities (see “Participation exemption” and “Incentives,” below). Branches of foreign companies and subsidiaries are treated the same way in determining corporate income tax. Branches are exempt from withholding tax on profit remittances to their foreign head offices.

Taxable income: Corporate income tax is due on all profits derived from conducting a business, including trading income, foreign-source income, passive income, and capital gains. In principle, all costs relating to the business are deductible.

Rate: The corporate income tax rates for 2022 are 15% on the first EUR 395,000 of taxable profits (increased from EUR 245,000 as from 1 January 2022) and 25.8% (increased from 25% as from 1 January 2022) on taxable profits exceeding EUR 395,000.

Surtax: There is no surtax.

Alternative minimum tax: There is no alternative minimum tax.

Taxation of dividends: Dividends received by a Dutch resident company are exempt if the participation exemption applies (see "Participation exemption," below). If the participation exemption does not apply, either because the holding requirement is not met, or because one of the three tests is not met and the subsidiary has not been subject to any form of corporate income tax, any profit derived from the shares is taxed at the normal corporate income tax rate without a credit. If the participation exemption does not apply because one of the three tests is not met, but the subsidiary has been subject to some corporate income tax, a tax credit is granted. The amount of the credit varies: the maximum credit is 5%, and for European Union (EU) subsidiaries, a credit is granted for the actual amount of corporate income tax, up to the Dutch corporate income tax levied on the dividends.

A Dutch resident company that receives a portfolio dividend that is subject to Dutch dividend withholding tax can credit this against its corporate income tax due. Prior to 2022, if the company's corporate income tax base was insufficient, the company was entitled to a refund. However, as from 1 January 2022, remedial legislation applies in this regard as an indirect result of case law of the Court of Justice of the European Union (CJEU). The credit now is restricted to the corporate income tax due before the credit of dividend withholding tax and any excess withholding tax may be carried forward indefinitely.

Capital gains: Capital gains derived from the sale of a participation are exempt if the participation exemption applies (see "Participation exemption," below). Other capital gains are taxed at the normal corporate income tax rate. Gains arising on a (de)merger may be exempt if certain requirements are met.

Losses: As from 1 January 2022, the loss set-off rules have changed. Losses up to EUR 1 million still may be set off in full against taxable profits. However, losses in excess of EUR 1 million may be set off only against 50% of taxable profits. Any remaining losses are carried forward indefinitely (i.e., the six-year carryforward period has been abolished). The carryback period remains one year. The new rules also provide that losses incurred in fiscal years beginning on or after 1 January 2013 (and that have not been offset as of the end of fiscal years beginning on or after 1 January 2021) may be carried forward indefinitely. Losses incurred in fiscal years 2013 through 2021 also are subject to the above-mentioned 50% rule, to the extent they are set off against taxable profit of fiscal years beginning on or after 1 January 2022. For losses incurred prior to 2013, the carryforward period remains nine years.

Foreign tax relief: Foreign withholding taxes can be credited under tax treaties. If there is no tax treaty, unilateral relief for foreign withholding taxes is granted only if the income comes from specified developing countries.

Participation exemption: The participation exemption applies to dividends and capital gains derived from shareholdings of at least 5%, provided: (i) the subsidiary is not held as a mere portfolio investment; (ii) the subsidiary is subject to a reasonable effective tax rate based on Dutch tax principles ("subject to tax test"); or (iii) less than 50% of the assets of the subsidiary consist of "passive" assets, based on the fair market value of the assets ("asset test"). If the participation exemption is not applicable, a credit for the underlying tax may be obtained (subject to limitations).

Group financing/licensing activities generally are deemed to be portfolio investment activities, i.e., participations predominantly engaged in these activities must meet test (ii) or (iii) for the participation exemption to apply.

Even if the participation exemption applies, dividends and interest received on an equity instrument are taxable if the payment is tax deductible in the country of the payer.

In certain cases, a liquidation loss on participations can be taken into account, regardless of the participation exemption. However, the scope of application of the liquidation loss scheme has been significantly limited as from 1 January 2021.

Holding company regime: See “Participation exemption,” above.

Incentives: Various investment deductions and reliefs are available.

Under the “innovation box” regime, income derived from self-developed intellectual property (research and development (R&D)) is effectively taxed at a rate of 9%. The OECD modified nexus approach applies, with the result that R&D expenses incurred by an affiliated entity are disregarded and more stringent conditions are imposed on the type of R&D activities that qualify for the innovation box.

A special tonnage tax regime applies to shipping companies.

A 0% tax liability or an exemption is provided for qualifying investment funds.

Compliance for corporations

Tax year: The tax year generally corresponds to the calendar year, although a different year may be used if provided in the company's articles of association. The tax year usually is 12 months, but shorter or longer periods are permitted in the year of incorporation.

Consolidated returns: If certain conditions are satisfied, a parent company may form a fiscal unity with one or more of its subsidiaries, under which the losses of one company may be offset against the profits of another company and fixed assets of one company may be transferred to another company without corporate income tax consequences. To qualify for fiscal unity status, the parent company must have at least 95% economic and legal ownership of the shares of the subsidiary, and the parent company and the subsidiaries must have the same financial year. In certain cases, a Dutch PE of a foreign company may be included in a fiscal unity.

A fiscal unity may be formed via a company based in another EU member state, and it is possible in certain cases to form a fiscal unity with an EU/European Economic Area (EEA) resident parent company.

Remedial legislation applies with retroactive force as from 1 January 2018 as a result of the decision of the CJEU in two cases relating to the Dutch fiscal unity regime. The CJEU held that the Netherlands may not favor domestic situations by allowing a benefit that is not open to cross-border groups. As a consequence, some corporate income tax and dividend withholding tax rules have to be applied as if no fiscal unity exists.

Filing and payment: A provisional assessment, generally based on information from the previous two years, usually is issued in the first month of the taxpayer's financial year. This assessment is payable in monthly installments for the remaining months of the year.

Corporate income tax returns generally must be filed annually, within five months of the end of the fiscal year, although an extension of this deadline is possible. Businesses are expected to file all returns electronically. The tax return must be accompanied by all information required to determine taxable profits, including the balance sheet and profit-and-loss account and any other information requested by the tax inspector. If a company fails to comply with these obligations or does not file a proper tax return, the inspector may issue an estimated assessment.

Penalties: Administrative penalties may be imposed for late filing or failure to file a return or for the late payment or nonpayment of tax. Criminal penalties may be imposed if the Dutch authorities can prove fraud or gross negligence.

Rulings: A taxpayer may request an advance ruling from the tax authorities on topics such as the application of the participation exemption to holding companies in international structures, the use of hybrid entities, the existence of a PE in the Netherlands, or the classification of activities (i.e., group services or shareholder activities). Advance pricing agreements (APAs) are available.

Individual taxation

Rates		
Individual income tax rate	Taxable income	Rate
	Up to EUR 69,398	37.07%
	Amount exceeding EUR 69,398	49.5%
Capital gains tax rate	In principle, taxed at the above (Box 1) rates. If the gains are related to a substantial interest (Box 2), they are taxed at 26.9%; if related to savings and investments (Box 3), the gains are not taxed	

Residence: Residence is based on factors such as employment and family circumstances.

Basis: Residents are taxed on their worldwide income. Nonresidents are taxed only on Netherlands-source income. In certain cases, nonresident individuals with Netherlands-source income are treated as limited national taxpayers, in which case they are taxed on foreign-source income but are entitled to some credits.

Taxable income: Income is categorized and taxed under one of three "boxes." Box 1 is income from an enterprise, employment, and housing. Box 2 is income from substantial interests (5% or more). Box 3 is income from savings and investments.

Rates: A two-tier system applies to Box 1 income, with a base rate of 37.07% (reduced from 37.1% as from 1 January 2022) for amounts up to EUR 69,398, and a rate of 49.5% on the excess (with a 14% base deduction for entrepreneurs). Box 2 income is taxed at a rate of 26.9%. Under Box 3, a fixed presumed gain (of the market value of Box 3 assets minus debt) is taxed at a flat rate of 31%. The fixed presumed gain is based on the average return on Box 3 assets, consisting of savings and investments (the "capital mix"). The calculation of the actual presumed gains for each year are based on past market returns realized.

Capital gains: In principle, capital gains are taxed at progressive rates (i.e., Box 1 income). If the gains are related to a substantial interest, a 26.9% rate applies (i.e., Box 2 income). If the gain relates to an investment, the gains are not taxed as such (i.e., Box 3 income is taxed on an annual basis by calculating a fixed presumed gain). There is no capital gains tax on gains from the sale of a residence or other assets.

Deductions and allowances: All expenses incurred that are necessary to obtain taxable income in Box 1 generally are deductible, except expenses related to employment. Certain expenses of a mixed nature are not deductible, or are deductible subject to limits. The maximum rate against which certain expenses in Box 1 (e.g., mortgage interest) can be deducted is being reduced by three percentage points annually, until a base rate of 37.05% applies in 2023. In 2022, the maximum rate against which such expenses can be deducted is 40% (for 2021, it is 43%). Expenses that are necessary to obtain taxable income in Box 2 generally also are deductible. In relation to Box 3, liabilities (in excess of EUR 3,200) are deductible from the taxable base.

Foreign tax relief: Foreign withholding taxes may be credited under tax treaties. If there is no tax treaty, unilateral relief for foreign withholding taxes is granted only if the income comes from specific developing countries. The foreign tax credit applies separately to each box of income.

Compliance for individuals

Tax year: The tax year is the calendar year.

Filing status: Married couples must file a joint assessment unless a petition for a divorce has been filed. Unmarried couples must file a joint assessment if certain conditions are satisfied.

Filing and payment: Individual taxpayers must file a tax return for the relevant tax year. In principle, the tax return must be filed before 1 May of the following calendar year, although the deadline may be extended in certain circumstances. Payment generally must be made within six weeks after the tax authorities assess the amount payable.

Penalties: Administrative penalties may be imposed for late filing or failure to file a tax return, or the late payment or nonpayment of tax. Criminal penalties are imposed if the Dutch authorities can prove fraud or gross negligence.

Withholding tax

Type of payment	Residents		Nonresidents	
	Company	Individual	Company	Individual
Dividends	0%/15%	15%	0%/15%	15%
Interest	0%/25.8%	0%	0%/25.8%	0%
Royalties	0%/25.8%	0%	0%/25.8%	0%
Fees for technical services	0%	0%	0%	0%

Dividends: A 15% withholding tax generally is imposed on dividends paid to resident or nonresident shareholders, unless the rate is reduced under an applicable tax treaty or the participation qualifies for an exemption under the EU parent-subsidiary directive or domestic law. Dutch holding cooperatives are required to withhold tax from dividends in certain cases.

In domestic situations, dividends are exempt from withholding tax if the participation exemption applies or if a fiscal unity for corporate income tax purposes exists between the dividend payer and the recipient.

Domestic rules implementing the EU parent-subsidiary directive provide for an exemption from withholding tax on dividends paid to EU/EEA parent companies under the same conditions as for distributions to a Dutch parent. The exemption from withholding tax also applies to dividends paid to a parent company in a third country that has concluded a tax treaty with the Netherlands that contains “qualifying provisions” relating to dividend withholding tax.

Tax withheld on dividends paid to nonresident individuals and companies may be refunded, provided the recipient is a resident of another EU/EEA member state and is the beneficial owner of the dividends. The refund would be equal to the amount of tax withheld that exceeds the (corporate) income tax that would have been due had the recipient been a Dutch resident. A similar refund also is available, in certain cases, to a resident of a third country that exchanges information with the Netherlands.

The dividend withholding tax legislation contains various anti-abuse rules.

As from 1 January 2024, a conditional withholding tax will apply on dividend payments to related entities in low tax jurisdictions. This new tax will be imposed alongside the current Dutch dividend withholding tax, although an anti-cumulation provision will apply. The conditional withholding tax also will apply in cases of abuse.

Interest: The Netherlands generally does not impose withholding tax on interest. Interest on a hybrid loan can qualify as a dividend for tax purposes, in which case the rules for dividends apply. A conditional withholding tax on interest paid to related entities in low tax jurisdictions applies as from 2021. The withholding tax also applies in cases of abuse. The applicable rate for conditional withholding taxes is the same as the highest corporate income tax rate in the current year (25.8% for 2022).

Royalties: The Netherlands generally does not impose withholding tax on royalties. A conditional withholding tax on royalties paid to related entities in low tax jurisdictions applies as from 2021. The withholding tax also applies in cases of abuse. The applicable rate for conditional withholding taxes is the same as the highest corporate income tax rate in the current year (25.8% for 2022).

Fees for technical services: There are no withholding taxes on fees for technical services.

Branch remittance tax: There is no branch remittance tax.

Other: Anti-abuse rules for specific dividend withholding tax measures have been adjusted pursuant to jurisprudence by the CJEU. Specifically, the adjustment relates to the requirements that an intermediary holding company with a linking function should meet to establish valid business reasons that reflect economic reality in terms of the withholding tax exemption.

Anti-avoidance rules

Transfer pricing: Intracompany pricing for goods and services must be at arm's length, and documentation must be maintained on intragroup transactions. Acceptable transfer pricing methods include the comparable uncontrolled price, resale price, cost plus, profit split, and transactional net margin methods, with transaction-based methods preferred over profit-based methods. It is possible to enter into an advance pricing agreement with the Dutch tax authorities for the use of a certain transfer pricing method.

As from 1 January 2022, new legislation applies to combat the avoidance of Dutch corporate income tax through international interpretation differences of the arm's length principle (i.e., transfer pricing mismatches). For fiscal years beginning prior to 2022, where a foreign entity granted an interest free loan to a Dutch entity, the Dutch entity was entitled to deduct an arm's length interest expense on the loan, irrespective of whether corresponding interest revenue was taken into account at the level of the foreign entity. For fiscal years beginning on or after 1 January 2022, the Dutch entity may deduct such interest only to the extent that the foreign entity includes arm's length interest income in its tax base and the interest income is subject to a tax on profits. Transfer pricing mismatches under the new legislation also may arise in double deduction situations. The new legislation also includes specific rules to address structures with hybrid entities. Lastly, the new legislation may affect the depreciation basis of assets acquired from an affiliated entity by a Dutch BV, as the balance sheet valuation at the level of a Dutch BV must correspond to the amount subject to tax with the transferor. Using the market value as the depreciation basis is, therefore, no longer permitted in certain cases. A transitional measure applies for business assets acquired between 1 July 2019 and 1 January 2022.

Interest deduction limitations: The Netherlands does not have thin capitalization rules, but earnings stripping rules apply for corporate taxpayers. Under the earnings stripping rules, the restriction on deductibility applies to the difference between interest expense and interest income from third party and group loans. The balance of interest is deductible up

to a maximum of 20% (decreased from 30% as from 1 January 2022) of a taxpayer's EBITDA (earnings before interest, taxes, depreciation, and amortization), although all interest is deductible up to a net amount payable of EUR 1 million (even if the 20% threshold is exceeded). The excess is nondeductible but may be carried forward indefinitely. The earnings stripping rules apply per taxpayer, although if the taxpayer is part of a fiscal unity, the 20% threshold applies at the level of the fiscal unity. The Netherlands has not introduced a group ratio exception, i.e., it is not possible for a taxpayer to rely on a higher group debt-to-equity ratio or higher group interest/EBITDA ratio.

Controlled foreign companies: CFC rules apply for entities in which a Dutch corporate taxpayer holds a shareholding of more than 50% and that are established in low-tax or noncooperative jurisdictions. A low-tax jurisdiction is defined as one where the statutory profit tax rate is less than 9%, while a noncooperative jurisdiction is one on the EU list of noncooperative jurisdictions. The Dutch government has issued a list of noncooperative jurisdictions for tax purposes. Certain categories of undistributed (passive) income of such CFCs will be allocated to the taxpayer/parent company. An exception applies to CFCs carrying out a "substantial economic activity."

Hybrids: Rules targeting hybrid mismatches have been included in the Dutch corporate income tax act pursuant to the EU Anti-Tax Avoidance Directive. As a result, several kinds of hybrid mismatches that lead to situations of a double deduction or a deduction without inclusion are neutralized by either disallowing a deduction or including the corresponding income for tax purposes. Rules targeting reverse hybrid entities apply by means of a tax liability measure as from 1 January 2022 in accordance with which Dutch reverse hybrid entities (either partnerships established under Dutch law or Netherlands based foreign partnerships) are fully subject to tax in the Netherlands.

Economic substance requirements: The corporate income tax and dividend withholding tax legislation contain various anti-abuse provisions that are intended to prevent artificial arrangements. In such situations, a taxpayer can prove that the arrangement is not artificial if certain substance requirements are met.

Disclosure requirements: As a result of the OECD BEPS project, country-by-country (CbC) reporting requirements are in effect that require information to be provided to the tax authorities on revenue, income, tax paid and accrued, employment, capital, retained earnings, tangible assets, and activities of a multinational group.

Rules apply for the automatic exchange of cross-border rulings, CbC reports, and transfer pricing agreements between the tax authorities of EU member states.

Advance tax rulings and APAs issued after 1 July 2019 are published in an anonymized summary format on the website of the Dutch tax administration.

As a result of the Dutch implementation of the EU directive on mandatory disclosure rules (DAC 6), intermediaries and/or taxpayers must report potentially aggressive cross-border tax arrangements to the Dutch tax authorities.

General anti-avoidance rule: The abuse of law doctrine applies where the purpose of a transaction or series of transactions is the avoidance of tax.

In addition to the restrictions on the deductibility of interest discussed above, various other rules can result in the (partial) disallowance of a deduction for interest expenses incurred by a Dutch taxpayer. These include: (i) anti-base erosion rules that essentially cover the conversion of equity into intragroup debt without a valid business purpose; and (ii) rules on the acquisition of shares against debt from a related party without meeting a business purpose test or an effective tax rate test.

Value added tax

Rates	
Standard rate	21%
Reduced rate	0%/9%

Taxable transactions: VAT is levied at each stage in the chain of production and distribution of goods and services. VAT applies on the supply of goods, the rendering of services, the acquisition of goods by businesses, and the import of goods.

Rates: The standard VAT rate is 21%, with a reduced rate of 9% applying to certain goods and services. The reduced VAT rate applies to goods such as foodstuffs, medicines, books, and electronic publications (e.g., books, newspapers, and magazines in electronic form). A 0% rate applies to goods that are being exported from the EU or being transported to another EU member state where they are subject to VAT for purposes of intra-EU acquisition. There also are certain VAT exemptions, including for healthcare and sports related services.

Registration: There is no registration threshold in the Netherlands; all VAT payers are required to register for VAT purposes.

Filing and payment: Depending on the amount of VAT payable, VAT returns are filed monthly, quarterly, or annually.

Other: E-commerce VAT rules in accordance with the EU directive on the simplification of VAT rules for distance sales of goods apply in the Netherlands as from 1 July 2021.

Other taxes on corporations and individuals

Social security contributions: Social security contributions on employment income are payable by both employers and employees. The contributions are calculated on gross salary, less pension premiums withheld from the salary. Contributions also are payable by the self-employed.

In addition, an income-dependent health insurance contribution, disability insurance contribution, and unemployment insurance contribution are imposed.

Payroll tax: Companies are required to withhold tax on wages paid to employees. A “30% facility” (providing a tax-free allowance of 30% of the employee’s gross remuneration subject to wage tax, including the allowance granted for extraterritorial costs if certain requirements are met) applies for a period of five years for extraterritorial employees (i.e., employees recruited from overseas to work in the Netherlands).

Capital duty: There is no capital duty.

Real property tax: Municipalities impose an annual tax at varying rates on owners of real property related to the value of the immovable property. Real property tax is deductible for corporate income tax purposes but not for individual income tax purposes.

Landlords in the regulated sector that rent out more than 50 houses are subject to a landlord tax, which is charged on the average value of the houses. The taxable base consists of the total value of the houses (capped at EUR 345,000 per house) minus 50 times the average value. The tax rate is 0.332% (reduced from 0.526% as of 1 January 2022).

Transfer tax: An 8% real estate transfer tax is payable on the acquisition of real property in the Netherlands, or certain related rights. A one-time exemption from transfer tax applies for first-time homebuyers between 18 and 35 years of age where the value of the home does not exceed EUR 400,000. Anti-abuse rules apply. Homeowners moving property who acquire a home may continue to claim the 2% reduced rate. In order to benefit from the one-time exemption or

the reduced rate of 2%, the home must serve as a buyer's main residence, and the buyer must clearly, firmly, and unreservedly declare in writing that they will be using the home as their main residence other than temporarily.

Net wealth/worth tax: There is no net wealth tax or net worth tax.

Inheritance/estate tax: Inheritance tax is due on inheritances received from Dutch residents. Dutch nationals who emigrate from the Netherlands still are considered residents during a 10-year period. Rates vary between 10% and 40%.

Other

Insurance premium tax

An insurance premium tax is imposed at a rate of 21%.

Air passenger tax

A unilateral air passenger tax is imposed by airport operators. The rate is EUR 7.947 for each passenger departing from an airport in the Netherlands. Transfer passengers and children under the age of two are exempt.

Tax treaties: The OECD multilateral instrument (MLI) entered into force for the Netherlands on 1 July 2019. For information on the tax treaty network of the Netherlands, which consists of more than 100 tax treaties, visit [Deloitte International Tax Source](#).

Tax authorities: *Belastingdienst* (Tax Revenue)

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