

In the next couple of months, the Dutch government will decide on the future of the “box 3” tax.

In the field of taxation and wealth, various other developments are currently underway.

In this newsletter we will summarize the latest developments.



Tax in box 3

Taxation based on realized return on investment as from 2025

- In December 2021, the newly formed government announced that the income from savings and investments will be taxed based on a realized return on investments as from 2025. Currently, the income from savings and investments is taxed based on a fictitious deemed return on investments.
- On 15 April 2022, the government announced that it is their preference to tax both the income realized with savings and investments, such as dividends, interest and rents, and the unrealized increase (or decrease) in value of savings and investments. A temporary fictitious valuation regime will be introduced for real property. It is not certain yet whether the income from savings and investments will be taxed at progressive rates, or at a flat rate.
- Before the summer of 2023, the government will publish proposed law for a new box 3 system. Later this year the government will publish a draft proposal for consultation.

Compensation for the years 2017-2022

- In the ‘Christmas judgement’ of 24 December 2021, the Supreme Court decided that, as from 2017, the tax in box 3 that is based on a fictitious return on investment is in conflict with the European convention for the protection of

human rights. Insofar the actual return on investments is lower than the fictitious return, taxpayers should receive a compensation for the tax paid.

- On 15 April 2022, the government has published two options to compensate taxpayers. In the parliamentary committee debate of 20 April 2022, the state secretary for Finance provided a further explanation. In the two options, the taxable income in box 3 should approximate the actual income from savings and investments.
- The first option is the 'fictitious savings option'. This option introduces three fictions. First, the return on savings is deemed equal to the current savings interest (but cannot be negative). Second, the interest on debts is deemed to be equal to the average mortgage interest. Third, the return on other investments is deemed to be equal to the current multiyear average return on investments.
- The second option is the 'fictitious variant'. In this option, each asset category has a fictitious deemed return on investment.
- For the time being, one of the two options provides compensation to taxpayers who have objected to assessments imposed or whose assessments for certain years have not yet been definitively issued. Compensation will also be granted in this way for all income tax assessments for 2021. For assessments that are definitively issued and to which no objection has been raised, the State Secretary intends to await a judgment of the Supreme Court that will be rendered within a few months. The intention is to decide on the basis of the outcome of this judgment to what extent compensation will also be made available for assessments that have been definitively issued.
- Taxpayers can continue to apply current law for years up to and including 2022, if the amount of tax due is lower based on the current box 3 system than based on one of the proposed options. The proposed options cannot result in an obligation to pay more tax than would be the case under current law.

Temporary law 2023 and 2024

- The new box 3 system to tax based on a realized return on investments cannot be implemented before 2025. Therefore, for the years 2023 and 2024, a temporary law will be introduced.
- On 15 April 2022, the government announced that they will base the temporary law on the option that will be chosen as compensation mechanism for affected taxpayers in the years 2017-2022.
- It is expected that the government will decide which option to apply by mid-May.
- Previously, a wealth tax had been considered. The government has announced that they do not prefer to turn box 3 into a wealth tax.

Tax in box 2

- As was previously announced, it is expected that the new law for excessive loans to shareholders will be implemented on 1 January 2023. Under this law, companies that provide loans to their 5% or more shareholders will be taxed as a dividend distribution, unless the loan qualifies as a home owner loan. Initially, a threshold of EUR 500,000 applied. Recently, it was proposed to increase this threshold to EUR 700,000. The proposed law is scheduled to be discussed by the *Tweede Kamer* on 6 June 2022.
- In a recent press conference, the Prime Minister indicated that he expects tax increases to be forthcoming. In this context, it is mentioned in various media

that the State Secretary of Finance is explicitly looking at the income from substantial interest that is currently taxed at 26.9% in box 2.

Corporate Income Tax

- For corporations the applicable tax rate is 15% on profits up to EUR 395,000 and 25.8% on any excess profit. To compensate the decrease in tax revenue due to the measures described above, the government considers to lower the amount of the first corporate income tax bracket. As a result, more profit will be taxed at the higher corporate income tax rate of 25.8%.

Gift and Inheritance Tax

- In December 2021, the new government also addressed the future of certain tax facilities for business successions. The opinion of the government is that, on the one hand, (actual) business successions should be facilitated on a more straightforward and fair basis, and that, on the other hand, improper use of the tax facilities should be prevented.
- The government also announced that the tax free gift to cover expenses for a primary residence of EUR 106,671 will be cancelled as from 2024. In anticipation, the government recently decided to decrease the exemption to EUR 27,231 per 1 January 2023.

Next steps

- This spring, more certainty is expected on further developments with respect to taxation and wealth.
- We will keep you updated on further developments in our newsletters. By mid-September 2022, we will organize a seminar in Amsterdam and Rotterdam to discuss the proposed changes in the law.

About Arcagna

Arcagna is an Amsterdam and Rotterdam based tax boutique and notary office that is specialised in local and international tax advice to high net worth individuals and family businesses. Arcagna uses its thorough and broad tax knowledge as a starting point for creative but always practical solutions. These solutions are implemented from A to Z, both from a tax and a corporate law perspective. In international cases Arcagna employs its network of leading independent firms throughout the world.

[Meer informatie](#)

Disclaimer

This newsletter has been drafted with care, but errors may be possible. Arcagna B.V. cannot be held responsible for any incompleteness/errors, or for any consequences that follow from actions taken based on the contents of this newsletter.

Arcagna Amsterdam

Museumplein 5E & F

1071 DJ Amsterdam

T: +31 (0)20 305 0850

E: info@arcagna.com**Arcagna Rotterdam**

Wilhelminaplein 1-40

3072 DE Rotterdam

T: +31 (0)10 313 4776

E: info@arcagna.com

U kunt uw [voorkeuren updaten](#) of [uitschrijven voor deze nieuwsbrief](#)

Copyright © 2022 Arcagna, All rights reserved.

You are receiving this newsletter because you are a relation of Arcagna.