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# Private Wealth 2025

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**Contributing Editors**

Basil Zirinis and Elizabeth Kubanik  
Sullivan & Cromwell LLP

# Chambers

Global Practice Guides

## Private Wealth

Contributing Editors

Basil Zirinis and Elizabeth Kubanik

**Sullivan & Cromwell LLP**

2025

# Chambers Global Practice Guides

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# NETHERLANDS



## Law and Practice

### Contributed by:

Nathalie Idsinga and Mignon de Wilde  
**Arcagna**

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**Arcagna** is an Amsterdam-based tax boutique and notary firm that specialises in providing advice to high net worth individuals and family businesses. Arcagna uses its thorough and extensive tax knowledge as a starting point for creative and practical solutions. These solutions are implemented from beginning to end, both from a tax and a corporate and family law perspective. In international cases, Arcagna employs its network of leading independent firms throughout

the world. It strives for a lasting client relationship based on trust. This creates a foundation for good advice. It believes that it can best serve its clients if it is aware of the issues in families, family offices and companies. In addition to advising families, the firm advises independent charities and also regularly acts as adviser to accountants, tax advisers and family offices, together providing the best advice for the client.

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laws and regulations and to find a suitable solution for her clients, whereby, in addition to taxation, family relationships and business interests are not forgotten. It is precisely this dynamic that makes the profession interesting for Mignon. She is a member of the Dutch Association of Tax Advisers and the New York State Bar Association.

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## 1. Tax

### 1.1 Tax Regimes

#### Dutch Tax Residency

In the Netherlands, residents are subject to tax on their worldwide income and assets. Non-residents, on the other hand, are taxed only on certain income and assets that have a connection to the Netherlands (see the section on Non-residents below). Notably, domicile is generally not relevant for Dutch tax purposes.

Under Dutch case law, an individual is considered a tax resident if, based on all relevant facts and circumstances, there is a “durable bond of a personal nature” with the Netherlands. This determination generally takes into account factors such as:

- the availability of a (primary) residence;
- the location of the individual’s habitual abode;
- the place where the family lives; and
- the individual’s economic interests.

In this context, subjective intentions or the number of days spent in or outside the Netherlands are less significant.

It is possible for an individual to have durable ties with more than one country. In these cases, the existence of the strongest personal bond does not necessarily determine tax residency. Relevant tax treaties may contain tie-breaker rules to resolve such conflicts. However, it should be noted that the Netherlands has concluded only a limited number of treaties that address gift and/or inheritance tax.

#### Personal Income Tax in the Netherlands

In the Netherlands, personal income tax is regulated by the Personal Income Tax Act 2001. The tax year runs from January 1st to December 31st, and tax returns must be submitted by May 1st of the following year. Extensions for filing may be granted upon request.

Residents are taxed on their worldwide income, whereas non-residents are taxed only on income sourced in the Netherlands. Income is categorised into three separate “boxes,” and the allocation of

income to these boxes determines the applicable tax rates and deductions.

The three boxes are as follows:

- Box 1: Income from employment, business activities, and principal residence – rates range from 35.82% to 49.50% (2025).
- Box 2: Income from substantial interest – taxed at 24.50% on the first EUR67,804 and 31% on the excess (2025).
- Box 3: Deemed income from savings and investments – taxed at a flat rate of 36% (2025).

Regarding Box 3, the Dutch Supreme Court has ruled that the current wealth tax system, which taxes savings and investments based on a fixed deemed return, violates the European Convention on Human Rights (ECHR). As a result, taxpayers may opt to be taxed on their actual return on investment until a new Box 3 regime is implemented (see Box 3 below for a more detailed explanation).

The Netherlands provides levy rebates (*heffingskorting*). Two of the most significant are:

- the general levy rebate, up to EUR3,068 per year (2025); and
- the employment levy rebate, up to EUR5,599 per year (2025).

Additionally, certain personal allowances – such as alimony, medical expenses, and charitable donations – are first deductible from income in Box 1. If Box 1 income is insufficient to fully utilise these deductions, the remaining amount may be offset against income in Box 3, and subsequently in Box 2.

Taxpayers are assessed individually, even if they are married or living together. However, certain income, deductions and assets may be freely allocated between fiscal partners, allowing for tax optimisation. Note that unmarried cohabitants can only be treated as fiscal partners if specific conditions are met.

In addition to personal income tax, residents are generally required to pay mandatory social security contributions, which cover several national insurance

schemes. These contributions are calculated based on earnings and are collected either through wage tax withholdings or via the annual income tax return, depending on how the income is received. Social security contributions are capped at EUR10,628 per year (2025).

## Box 1

Income from current and previous employment, business activities, certain “other activities, specific annuity payments, and deemed income from the principal residence” is taxed at progressive rates in Box 1, up to a maximum of 49.5%. The wage tax that is withheld on salary by the employer can be offset against personal income tax on employment income.

Income from business activities also includes capital gains (or losses) on business assets. Income from other activities includes “business-like” income such as income from freelance work as well as certain income arising from transactions with a corporation in which the taxpayer is a substantial shareholder, such as interest on loans provided to the corporation and rental income from properties leased to the corporation.

The principal residence is taxed in Box 1. Personal income tax is levied on a notional rental value (the *eigenwoningforfait*, a percentage of the property’s value for tax purposes); capital gains on the principal residence are tax-exempt. If certain conditions are met, interest paid on a loan for the acquisition, improvement or maintenance of the principal residence may be deducted for up to 30 years (“mortgage interest relief” or *hypotheekrenteaftrek*). The deduction of mortgage interest in the highest income tax bracket is limited to a rate of 37.48% (2025).

## Box 2

In Box 2, income and gains related to a substantial shareholding are subject to tax. A substantial interest generally exists if a taxpayer holds at least 5% of the shares in a company. Depending on the circumstances, this may also include options on shares, profit rights or economic ownership. Income from a substantial interest comprises both dividends and capital gains. The applicable tax rate is 24.5% on the first EUR67,804 of income or gains, and 31% on any

excess (2025). Dividends paid by a Dutch resident company are subject to a 15% dividend withholding tax, which can be credited against the Dutch personal income tax liability.

For Dutch personal income tax (and dividend withholding tax) purposes, dividends and capital gains also include certain deemed dividends and deemed capital gains. For example, a shareholder with a substantial interest in a low-taxed corporation (taxed at less than 10%) is subject to Box 2 personal income tax on a deemed annual “dividend” (5.88% of the substantial interest’s fair market value in 2025). This deemed dividend is reduced by any actual dividends received during the year. Examples of deemed capital gains include the repurchase of shares by a company, the liquidation of the company, and the inheritance or donation of a substantial interest.

In addition, a deemed benefit from a substantial interest is recognised if and to the extent that shareholder loans from a company in which a substantial interest is held exceed EUR500,000 (2025). For the EUR500,000 threshold, loans taken up by the shareholder’s fiscal partner and certain close relatives are attributed to the shareholder. Under certain conditions, loans used for the acquisition, improvement or maintenance of a principal residence are excluded.

If a substantial shareholder emigrates from the Netherlands, exit tax is due with respect to any substantial shareholdings held at the time of emigration. The Dutch tax authorities issue a protective assessment (*conserverende aanslag*) for up to 31% (2025) personal income tax on the deemed realised capital gain. An interest-free extension for tax payment is granted automatically for emigration within the EU/EEA, or upon request for emigration outside the EU/EEA (in which case security must be provided). The extension for tax payment is withdrawn, and the protective assessment is (partially) collected if, among other things, the emigrated substantial shareholder receives a dividend or realises a capital gain. The extension is also withdrawn upon the emigrated taxpayer’s death. Heirs may only request a further extension if the substantial shareholding represents active business assets.

## Box 3

In Box 3, the income from privately held savings and portfolio investments is taxed at a flat rate of 36% (2025). For resident taxpayers, the taxable base includes all tangible and intangible assets and second homes (the principal residence is taxed in Box 1). Movable property for personal use (such as cars, yachts and art collections) is excluded, provided it is not primarily held as an investment. For non-residents, Box 3 taxation is generally limited to Dutch real estate and related rights. Debts associated with Dutch real estate may be deducted. For both residents and non-residents, certain approved investments and savings below a specified threshold may be excluded from the taxable base. An annual tax exemption of EUR57,684 (2025) applies per taxpayer.

Currently, there are two different Box 3 systems and taxpayers can elect each year which system to apply.

System 1 determines the income based on deemed returns for three asset classes:

- savings (including cash);
- investments/other assets (such as investment portfolios, Dutch real estate, etc); and
- debts.

A deemed return is determined for each asset class. The tax rate is then applied to the deemed yield on the fair market value of assets and liabilities as at 1 January each year (net wealth). Actual income, gains, and cash flows from these assets are generally irrelevant for Box 3 purposes.

System 2 applies the rulings of the Dutch Supreme Court of 6 June 2024. On this date, the Supreme Court ruled that taxpayers should have the option to be taxed on their actual income from investments if they can demonstrate that this income was lower than the total deemed income in Box 3. Note that, according to the rules formulated by the Supreme Court, the actual income includes unrealised gains. The Supreme Court ruling will be adopted in Dutch law with an effective date of 1 January 2026.

Meanwhile, the government has announced its intention to introduce a new Box 3 income tax system by

2028. The new system is expected to combine a tax on unrealised gains and realised gains with tax on the actual return on assets at a rate of 36%. Deemed returns will no longer be used.

## Tax Treatment of Trusts

The Personal Income Tax Act 2001 and the Inheritance Tax Act 1956 govern the tax treatment of (foreign) trusts and trust-like entities (such as foundations), which primarily serve the personal interests of the settlor and/or the settlor's family, as opposed to a public interest. If an individual taxpayer (the settlor) transfers assets and liabilities to such a trust (or trust-like entity) without receiving economic rights (such as ownership of shares or profit participation) in return, the transferred assets are classified as a "separate private assets" (SPA, or *afgezonderd particulier vermogen*, APV), to which the "SPA regime" applies. Under this regime, the transfer of assets and liabilities to an SPA is disregarded for tax purposes. The assets and liabilities of the SPA remain attributable to the settlor. As a result, the transfer of assets to a trust (or trust-like entity) is tax neutral, as it is deemed not to have occurred. Personal income tax is levied on the settlor (or their heirs) as if the settlor (or heirs) remain the owner of the assets and liabilities held in trust. Distributions from the SPA to beneficiaries other than the settlor are subject to gift tax if the settlor is (deemed) resident in the Netherlands. Upon the death of the settlor, beneficiaries must also pay inheritance tax on trust assets if the settlor was (deemed) a Dutch resident.

Exceptions may apply, for example, if a beneficiary receives a fixed interest (ie, a fixed economic entitlement). In such cases, the beneficiary is subject to personal income tax on the fixed interest. The value of this entitlement is generally taxed in Box 3 (depending on the nature of the assets and liabilities), and the SPA regime does not apply to such fixed interests.

## Tax Facilities for Expatriates

Expatriates relocating to the Netherlands (incoming employees) may be eligible to apply for the so-called 30% ruling. Subject to specific conditions, this regime allows for a tax-free reimbursement of up to 30% of the employee's gross salary to cover deemed extrater-

ritorial expenses. As of 2025, the 30% ruling applies to a maximum annual income of EUR246,000.

The 30% ruling is valid for five years, reduced by any period (in months) the employee spent in the Netherlands during the 25 years preceding immigration.

It has been proposed to reduce the benefit of the 30% ruling to 27% as from 2027. Expatriates who held a 30% ruling during 2024 will remain subject to the old (30%) regime until the expiration of their ruling.

## Dutch Personal Income Tax for Non-Residents

Non-resident individuals are subject to Dutch tax on income and assets that have a connection (nexus) to the Netherlands, such as substantial shareholdings in Dutch resident companies or Dutch real property. The actual Dutch tax liability may be reduced or eliminated under an applicable tax treaty for the avoidance of double taxation.

## Tax Treaties

The Netherlands has entered into tax treaties with more than 90 countries. Under Dutch law, these treaties take precedence over domestic tax legislation.

As part of the OECD BEPS project, the Multilateral Instrument (MLI) was introduced. The MLI is designed to prevent international tax avoidance and enhance co-ordination between tax authorities. The Netherlands signed the MLI in June 2017, and Dutch Parliament ratified it in March 2019. The instrument of ratification was subsequently deposited with the OECD. Depending on when other countries deposited their instruments of ratification, the MLI became effective for the dividends provision as of 1 January 2020, and for most other provisions as of 1 January 2021. As a result of the MLI, certain treaty benefits may be denied if, for example, a structure or transaction lacks economic substance or genuine commercial purpose.

## Gift and Inheritance Tax

In the Netherlands, gift and inheritance tax is imposed under the Inheritance Tax Act 1956. Gift tax is due on gifts made by a (deemed) resident of the Netherlands. For gift tax purposes, all individuals who emigrate from the Netherlands are considered resident for one year after emigration, regardless of nationality.

Dutch citizens (at the time of emigration and the gift) are deemed resident for ten years after emigration. Inheritance tax is due on the worldwide assets of a (deemed) resident of the Netherlands at the time of death. The recipient is liable for the inheritance tax. Dutch citizens (at the time of emigration and death) are deemed resident for ten years after emigration. The estate of a non-resident decedent is not subject to Dutch inheritance tax.

For gift and inheritance tax purposes, assets are valued at fair market value. The progressive rates for both taxes in 2025 are:

- up to EUR154,197 – 10% (spouses/children), 18% (other descendants), 30% (others); and
- EUR154,197 and above – 20% (spouses/children), 36% (other descendants), 40% (others).

Individual exemptions apply to both inheritance and gift tax, depending on the relationship between the deceased or donor and the beneficiary (see **1.2 Exemptions**).

Gift tax returns must be filed within two months after the end of the calendar year in which the gift was made. An inheritance tax return must be filed within eight months of the date of death. It has been proposed to change this deadline to 20 months. An extension may be granted upon request. If an heir residing abroad receives property from a Dutch resident's estate, heirs residing in the Netherlands are also jointly liable for the payment of the non-resident heir's tax liability.

## Real Estate Transfer Tax

The acquisition of Dutch real estate is subject to real estate transfer tax (*overdrachtsbelasting*, or RETT) at a flat rate of 10.4%. As from 1 January 2026, the RETT rate for houses that are used as an investment property will be lowered to 8%. The RETT is due on the fair market value of the real property. To prevent tax avoidance, under certain conditions, shareholdings in real estate companies are treated as real estate for RETT purposes. This may also include shareholdings in non-resident (holding) companies if these interests, directly or indirectly, derive their value from real estate located in the Netherlands.

For primary residences, the RETT rate is 2% and a one-time RETT exemption is available to individuals aged 18 to 35, provided the property's value does not exceed EUR525,000.

If gift tax is due in connection with the acquisition of real property, the RETT may be (partially) offset against the gift tax. Real estate acquired via inheritance is exempt from RETT.

## Capital Gains Tax

The Netherlands does not levy a separate capital gains tax.

## Dutch VAT

Dutch VAT is charged on supplies of goods and services in the Netherlands. The basic rate is 21% (2025). A reduced rate of 9% (in 2025) applies to other goods and services (eg, food, arts and books) and services (eg, passenger transport, theatre performances). In addition, certain goods and services are subject to 0% VAT or are VAT exempt.

## 1.2 Exemptions

The amount of the applicable exemption depends on the relationship between the deceased or donor and the beneficiary.

For inheritance tax purposes, the exemptions for 2025 are:

- partners – EUR804,698 (from which half the cash value of pension rights derived by the partner upon the deceased's death is deducted; the minimum exemption is EUR207,886);
- children whose living expenses were mainly paid by the deceased and who are not expected to earn at least half the income of a healthy person within three years – EUR76,453;
- other children and grandchildren – EUR25,490;
- parents – EUR60,359; and
- other beneficiaries – EUR2,690.

For gift tax, the annual exemptions for 2025 are:

- children – EUR6,713; and
- other beneficiaries – EUR2,690.

For gifts to children between 18 and 40 years old, the annual exemption can be increased one time to EUR32,195 or EUR67,064 if the gift is used for education and certain conditions are met.

The Inheritance Tax Act 1956 also provides a separate tax facility for business assets and substantial shareholdings that qualify as business assets: the business succession facility (*bedrijfsopvolgingsfaciliteit*, or BOR – see 4.2 Succession Planning).

## 1.3 Income Tax Planning

Upon immigration, a taxpayer holding a substantial interest may, under certain conditions, be eligible for a step-up in the tax basis of their shares to the fair market value at the time of immigration. However, a step-up may be denied or only partially granted if the taxpayer has previously resided in the Netherlands, or if the taxpayer has previously been classified as a non-resident taxpayer with respect to the substantial interest.

Other (pre-immigration) tax planning includes the allocation of investment assets in Box 2 versus Box 3, and estate planning by making gifts prior to becoming a Dutch tax resident or, while being a Dutch tax resident, by making annual gifts to children.

## 1.4 Taxation of Real Estate Owned by Non-Residents

Non-resident individuals who own Dutch real property directly in private are subject to personal income tax in Box 3 (see 1.1 Tax Regimes under Box 3), subject to the application of a treaty for the avoidance of double taxation.

## 1.5 Stability of Tax Laws

The Dutch government will present its Tax Plan on Budget Day on 16 September 2025. Certain tax revisions have already been announced during Budget Day last year, or the Spring Note that was published earlier this year.

Noteworthy changes that have been proposed are listed below. These changes are expected to enter into effect in 2026, unless noted otherwise.

- The deemed return on “other investments” in Box 3 will be increased from 5.88% to 7.78%.
- Biological children that are not legally recognised as a child by a taxpayer will be treated the same as children for gift and inheritance tax purposes.
- Insofar as a marital agreement entitles a spouse to receive more than half of the total of the assets in a community of property, this is treated as a gift or inheritance. It is proposed that this measure entered into effect on 18 April 2025, the date the measure was announced.
- The business succession regime will be amended by making the rules for qualifying shareholdings more stringent but making rules for the possession and continuation periods more lenient.

## 1.6 Transparency and Increased Global Reporting

The Netherlands participates in the US Foreign Account Tax Compliance Act (FATCA), the Common Reporting Standard (CRS) and several other multinational transparency initiatives.

### FATCA and CRS

Under FATCA, Dutch financial institutions are required to register with the US Internal Revenue Service (IRS) and report information to the Dutch tax authorities regarding US reportable accounts and accounts held by non-compliant foreign financial institutions. Non-US entities that do not qualify as financial institutions must disclose their substantial US owners or certify that they have none.

The Netherlands has also committed to the CRS, which requires financial institutions to identify their account holders. If an account holder is determined to be a tax resident of another country that participates in the CRS, the financial institution must annually report information about the account holder and the account.

### Automatic Exchange of Information

BEPS Action 5 establishes an OECD framework for the mandatory exchange of information regarding specific categories of tax rulings. The Netherlands has committed to this framework. The information collected pursuant to BEPS Action 5 is exchanged bilaterally with the countries of residence of all related

parties and the countries of residence of the ultimate parent company and the immediate parent company.

Under the Directive on Administrative Cooperation, the EU also requires automatic exchanges of information on “advance cross-border rulings” and “advance pricing arrangements” between EU member states. Unlike BEPS Action 5, the scope of the EU Directive is not limited to specific categories of rulings. Only rulings and pricing arrangements relating solely to domestic situations, or exclusively to the tax affairs of one or more natural persons, are excluded. The information to be exchanged under the EU Directive must be submitted to a central database accessible to all EU member states.

### UBO Register

In response to the EU Anti-Money Laundering Directive, the Netherlands has enacted the UBO Register Act, which establishes a register for the ultimate beneficial owners (UBOs) of certain corporate and other legal entities (the “UBO Register”). These entities are required to collect, maintain and register specific personal information about their UBOs. Private limited companies, public limited companies, foundations, associations, mutual insurance associations, cooperatives, limited partnerships and churches or spiritual organisations incorporated or established under Dutch law are all subject to registration. Although the definition of a UBO varies by legal entity, generally, an individual must be registered if they hold an economic or controlling interest exceeding 25% in the entity. If no such individual exists, all members of the entity’s senior management must be registered as “pseudo-UBOs”.

On 22 November 2022, the European Court of Justice ruled that public access to UBO information violates the fundamental rights to privacy and data protection, rendering such access invalid. As a result, the Dutch government restricted access to the register. On 16 July 2025 a new law was entered into effect that governs the access to the UBO register. Based on this new law, competent authorities and institutions subject to the Money Laundering and Terrorist Financing (Prevention) Act have access to the UBO register as well as all other parties that can demonstrate a legitimate interest. Journalists and certain social and

scientific organisations are deemed to have a legitimate interest, if they are active in the fields of the prevention of money laundering, terrorist financing and related crimes. The Chamber of Commerce has announced that it will gradually expand the access to the UBO Register.

In addition to the UBO Register for corporate and other legal entities, the Netherlands has a separate register for trusts and similar legal arrangements (the “Trust Register”). Registration requirements apply to trusts that are established or located in the Netherlands, as well as to trusts established or located outside the EU that acquire Dutch real estate or enter into a business relationship in the Netherlands. The UBOs of a trust include the settlor(s), trustee(s), protector(s), beneficiaries or classes of beneficiaries and any other natural person who ultimately exercises control over the trust. Access to the Trust Register, like the UBO Register, is currently restricted as a result of the European Court of Justice ruling of 22 November 2022 (see above).

## Mandatory Disclosure

Pursuant to the Mandatory Disclosure Directive, the Netherlands has implemented rules requiring EU-linked intermediaries (such as lawyers, tax advisers and bankers) and, in certain cases (eg, where the intermediary is entitled to legal professional privilege), the taxpayers themselves to report specific arrangements to the Dutch tax authorities. These arrangements typically involve potentially aggressive tax planning with a cross-border element, or are designed to circumvent reporting obligations such as those under the CRS and UBO regimes. The Dutch tax authorities will automatically exchange the information received within the EU via a centralised database.

## 2. Succession

### 2.1 Cultural Considerations in Succession Planning

This is not applicable in the Netherlands.

### 2.2 International Planning

As businesses and families become more internationally mobile, it is important to pay close attention to

Dutch tax residency rules. Although the Netherlands has an extensive network of tax treaties for income tax purposes, it has concluded only seven inheritance tax treaties, of which only two also cover gift tax. As a result, while tax treaties can generally resolve issues of double tax residency for income tax, double residency – and thus double taxation – may still arise for gift and inheritance tax purposes.

### 2.3 Forced Heirship Laws

Children of the deceased have forced heirship rights (*legitieme portie*). Although they can be disinherited, they retain the right to make a monetary claim equal to 50% of the value of the share they would have received under intestacy. This claim must be made within five years of the deceased’s death, or earlier if an interested party sets a reasonable deadline. If not claimed in time, the right lapses. These forced heirship rights apply only to the estate of the deceased parent. For example, if the deceased was married under a full community of property regime, the children are collectively entitled to a quarter of the total property of the deceased and their spouse, as the deceased parent’s estate consists of only half of the total property.

A child who asserts their forced heirship rights does not become an heir but acquires a monetary claim against the deceased parent’s estate. This claim can be satisfied from estate assets. If the estate lacks sufficient assets, the claim can be recovered from certain gifts made by the deceased including gifts made within five years before death, gifts to descendants and gifts intended to infringe upon forced heirship rights. Children may also recover their claim from trust assets if the trust settlement qualifies as a donation by the deceased. Forced heirship claims can generally be collected six months after the parent’s death. However, the will may stipulate that the claim is only payable after the death of the deceased parent’s spouse, registered partner, or life partner with whom the parent had a notarial cohabitation agreement. This provision may also apply if the spouse, registered partner or life partner is not the children’s parent.

A disinherited spouse or registered partner also has certain statutory rights, including a right of usufruct over the family home and household effects and a right of usufruct over other estate assets if required

for their maintenance, taking all circumstances into account.

## 2.4 Marital Property

Prior to 1 January 2018, the default marital property regime in the Netherlands was full community of property. Under this regime, all assets acquired before or during the marriage – including those obtained by inheritance, legacy or gift – were included in the community, unless the testator or donor expressly designated the property as private. For marriages entered into on or after 1 January 2018, the default community of property is limited to assets acquired during the marriage. Property acquired individually before the marriage, as well as assets received by inheritance, legacy or gift, are excluded from the community.

If a marriage ends due to the death of a spouse or by divorce, the community of property is automatically dissolved. Upon dissolution, all assets must be divided equally: in the event of death, between the surviving spouse and the heirs of the deceased; in the event of divorce, between the ex-spouses. Entering into a community of property – either by marriage or by amending marital conditions during the marriage – is not considered a gift (except for the situation described in **1.5 Stability of Tax Laws**) and does not affect the calculation of the children's forced heirship rights.

Spouses may agree to deviate from the default marital property regime by entering into prenuptial or postnuptial agreements (*huwelijksvoorwaarden*). Such agreements must be executed by notarial deed before a Dutch civil law notary and may be amended during the marriage.

## 2.5 Transfer of Property

In principle, the transfer of assets in Box 1 or Box 2 constitutes a taxable event for Dutch personal income tax purposes (see **1.1 Tax Regimes**). The transferor is taxed on a (deemed) capital gain, calculated as the difference between the asset's tax basis and the consideration received (or at least the fair market value). For the transferee, the tax basis of the acquired asset is equal to the consideration paid (or at least the fair market value). As a result, the transferee is only taxed on future (deemed) capital gains.

The Dutch Personal Income Tax Act 2001 provides several exemptions to this taxation method. For example, subject to strict conditions and upon request, personal income tax may be deferred in cases of business reorganisation (Box 1 or Box 2), the transfer of business assets, or a substantial shareholding representing business assets (see **4.2 Succession Planning**). If such deferral is granted, the transferor's tax basis is transferred to the transferee. Consequently, any future (deemed) capital gain will also include the gain for which deferral was granted.

## 2.6 Transfer of Assets: Vehicle and Planning Mechanisms

The inheritance and gift tax allowances are mentioned in **1.2 Exemptions**. Business succession facilities are discussed in more detail in **4.2 Succession Planning**.

Dutch tax legislation also provides tax benefits for qualifying country estates. The transfer and ownership of, or shareholdings in, such estates may be wholly or partially exempt from Dutch personal income tax, gift and inheritance tax, and real estate transfer tax. In addition, country estate holding companies may be exempt from corporate income tax. The application of these exemptions is subject to strict terms and conditions.

## 2.7 Transfer of Assets: Digital Assets

Dutch law does not contain specific provisions on the succession of digital assets. Cryptocurrency is treated as an asset that can be transferred between individuals and bequeathed to a beneficiary under a will. According to the Dutch tax authorities, for personal income tax purposes, income from cryptocurrency is taxed in Box 1 if it qualifies as income from business activities or other activities taxed in Box 1. If not, the cryptocurrency is taxed in Box 3. If cryptocurrency is transferred by inheritance or gift, inheritance or gift tax is due if the holder was (deemed) resident in the Netherlands at the time of death or donation. The tax is calculated on the value of the cryptocurrency at that time and is payable by the beneficiary. See **1.1 Tax Regimes**.

## 3. Trusts, Foundations and Similar Entities

### 3.1 Types of Trusts, Foundations or Similar Entities

The Dutch foundation (*Stichting*) is a legal entity that is often used in estate-planning structures both in asset protection and charity structures. It is established by its founders through a notarial deed. A foundation has no members or shareholders. It is not allowed to make distributions to its founders or members of the board and may only make donations to others unless for a charitable or social purpose.

The foundation may issue depositary receipts (*certificaten*) that give beneficial rights to assets that are legally owned by the foundation, while keeping the voting rights with the foundation. A foundation that has issued depositary receipts is generally referred to as a STAK (*stichting administratiekantoor*). Through issuing depositary receipts, the legal ownership and economic rights to the assets, often shares, are separated. A STAK is frequently used in wealth and holding structures for family governance purposes.

### 3.2 Recognition of Trusts

The Netherlands does not have domestic trust law. However, as a party to the Hague Trust Convention, the Netherlands recognises foreign trusts established in accordance with the Convention's requirements. In principle, trust assets are not subject to Dutch succession law, including forced heirship rules. However, the transfer of assets into a trust may, in some cases, be considered a gift that infringes upon forced heirship rights. This could give rise to a claim by a forced heir against the trustee. Under the Hague Trust Convention, recognition of a trust may be refused if it would prejudice forced heirship entitlements.

### 3.3 Tax Considerations: Fiduciary or Beneficiary Designation Trust

If a foundation is used as a trust or trust-like entity, it generally qualifies as an SPA to which the SPA regime applies (see 1.1 Tax Regimes). The SPA regime does not apply to Dutch corporate income tax. For corporate income tax purposes, the assets and liabilities of a trust are not attributed to the donor. It is there-

fore necessary to determine whether the trust itself is subject to corporate income tax. A foundation is only subject to corporate income tax if it carries on a business enterprise. If the trust's assets and liabilities consist solely of portfolio investments or passive shareholdings, it is generally not subject to corporate income tax.

#### Stichting Administratiekantoor (STAK)

A STAK is regarded as the legal owner of the assets and liabilities transferred to it, while beneficial ownership rests with the depositary receipt holders. As a result, a STAK has a liability to its depositary receipt holders equal to the value of the assets and liabilities it administers and does not have equity or taxable income of its own. If a STAK holds solely (portfolio) investments or passive shareholdings, and potentially also debts, it could be argued that the holder(s) of depositary receipts are subject to tax in Box 3 on the net value of the depositary receipts, as opposed to being subject to tax in Box 3 on the economic ownership of each separate asset.

For Box 2 substantial interests, if properly structured – through its articles of association and trust conditions – a STAK is considered fully transparent for tax purposes. In this case, the depositary receipts are fully assimilated to the underlying assets. However, if the trust conditions no longer allow the underlying assets to be identified with the depositary receipts, a deemed transfer of assets may be recognised for Dutch tax purposes.

### 3.4 Exercising Control Over Irrevocable Planning Vehicles

A Dutch foundation can function as a civil law trust. In this structure, an individual transfers assets to the foundation and imposes an obligation on the foundation to distribute the assets and any resulting income to designated beneficiaries. The foundation becomes the legal owner of the assets, but typically holds them only temporarily. The foundation may be granted discretionary powers to determine when and how distributions are made to beneficiaries. The individual may retain a degree of control by serving as a board member of the foundation or by holding the authority to appoint and remove board members.

## 4. Family Business Planning

### 4.1 Asset Protection

In the Netherlands, a STAK (see 3.1 **Types of Trusts, Foundations or Similar Entities**) is frequently used in estate planning, for example, to safeguard the continuity of a family business. By transferring shares in the family business (typically the top holding company) to a STAK in exchange for the issuance of depositary receipts, beneficial ownership is effectively separated from legal ownership. This structure enables the transfer of economic ownership to the next generation (for example, by gifting the depositary receipts) while retaining control over the family business through the board of the STAK. The transferor can further safeguard the continuity of the family business by making specific arrangements concerning the composition and powers of the STAK's board after stepping down as a board member.

### 4.2 Succession Planning

The Inheritance Tax Act 1956 and the Personal Income Tax Act 2001 provide a tax facility for the transfer of business assets and substantial shareholdings representing business assets as part of business succession: the business succession facility (*bedrijfsopvolgingsfaciliteit*, or BOR).

Dutch personal income tax may be (partially) deferred if certain requirements are met. Deferral is only available for the transfer of business assets (Box 1) and substantial shareholdings representing business assets (Box 2). For both categories, the main requirement is that the successor is at least 21 years old at the moment of the transfer. For inheritances, no minimum age applies to utilise the BOR.

Subject to strict conditions, the following inheritance and gift tax features apply to such transfers. Up to EUR1.5 million (2025) of the value of a business may be conditionally exempt from tax. For the portion exceeding EUR1.5 million, payment of tax may be conditionally deferred for up to ten years. One of the conditions is that the business must be continued for at least three years after the gift or the death of the deceased.

### 4.3 Transfer of Partial Interest

For Dutch income tax, gift tax and inheritance tax purposes, a partial interest in an entity must be valued at no less than its fair market value at the time of transfer.

A taxpayer may apply a discount for lack of marketability and control, for example, if the shareholding constitutes a minority interest or is subject to a right of first refusal (*aanbiedingsregeling*). A blocking clause (*blokkeringsregeling*) in the articles of incorporation is generally not considered relevant for valuation purposes. It should be noted that case law on this issue is highly fact specific. Whether a discount can be applied depends heavily on the particular facts and circumstances and is often a subject of discussion with the Dutch tax authorities.

## 5. Wealth Disputes

### 5.1 Trends Driving Disputes

In general, the number of disputes concerning Dutch inheritance law remains limited, although it is increasing. This is largely attributable to the involvement of civil law notaries in drafting wills and marital agreements. When interpreting wills and marital agreements, the intention of the parties at the time of drafting should be taken into account. Civil law notaries play a key role in clarifying these intentions and providing context.

Tax disputes have had a significant impact on the Box 3 regime. Following the Supreme Court's ruling that the use of fictions and deemed returns in Box 3 violates the ECHR, the use of deemed income for other tax purposes has also come under scrutiny. Currently, legal proceedings are ongoing regarding the notional rental value of the primary residence in Box 1. In addition, since Box 3 continues to apply deemed returns in certain situations – even under the new proposed legislation – further Box 3 litigation is anticipated.

### 5.2 Mechanism for Compensation

This is not applicable in the Netherlands.

## 6. Roles and Responsibilities of Fiduciaries

### 6.1 Prevalence of Corporate Fiduciaries

This is not applicable in the Netherlands.

### 6.2 Fiduciary Liabilities

This is not applicable in the Netherlands.

### 6.3 Fiduciary Regulation

This is not applicable in the Netherlands.

### 6.4 Fiduciary Investment

This is not applicable in the Netherlands.

## 7. Citizenship and Residency

### 7.1 Requirements for Domicile, Residency and Citizenship

Foreign nationals intending to reside in the Netherlands for more than three months must obtain a residence permit. Applications are submitted to the Immigration and Naturalisation Service (IND). In most cases, applicants must first obtain a regular provisional residence permit (MVV) before entering the Netherlands. For stays of less than three months, neither a residence permit nor an MVV is required; a visa is sufficient. Specific rules apply to EU nationals, European Economic Area (EEA) nationals, and Swiss nationals, who do not require a permit. Foreign nationals staying in the Netherlands for more than four months are required to register with the Dutch Municipal Personal Records Database (*Basisregistratie Personen*, or BRP).

Employers must obtain a work permit before hiring a non-EU employee. Generally, a work permit is only granted if the employer can demonstrate that no suitable candidates are available in the Netherlands or elsewhere in the EU. Exemptions apply to highly skilled migrants (such as those who have completed a master's, post-doctoral programme, or PhD at a designated foreign institution) and certain scientific researchers. Some professions in the Netherlands require employees to hold an appropriate certification.

To obtain or regain Dutch citizenship, an adult generally has two options: the "option procedure" or "natu-

ralisation". The option procedure is available only to certain foreign nationals, but it is the fastest and simplest route to Dutch citizenship. For example, individuals may qualify after residing in the Netherlands for a specified period or if they are former Dutch citizens. The naturalisation process requires applicants to pass a civic integration test and is, generally, only available to individuals who have lived in the Netherlands at least five years.

### 7.2 Expeditious Citizenship

There are no expeditious means for an individual to obtain Dutch citizenship.

## 8. Planning for Minors, Adults with Disabilities and Elders

### 8.1 Special Planning Mechanisms

In the Netherlands, individuals under the age of 18 are considered minors. Minors may own assets, which are managed by their parents or legal guardian. A testator or donor may appoint an administrator other than the minor's parents or guardian to manage these assets.

In the event of loss of capacity, a court may place an individual under legal restraint. In such cases, a legal guardian is appointed to represent the incapacitated person. The court may also appoint a fiduciary administrator if an adult is unable to manage their own property. To plan for potential incapacity, an individual may execute a living will. A living will typically grants specific powers of attorney and may include medical directives (such as a do not resuscitate order). A durable power of attorney, granted prior to incapacity, remains valid. Foreign powers of attorney are generally recognised. For certain legal acts, such as mortgaging real estate in the Netherlands, a notarial power of attorney is required.

### 8.2 Appointment of a Guardian

In the case of loss of capacity, a person can be put under legal restraint by a court. A court order is also required if an adult is to be put under fiduciary administration.

The parents or guardian of a minor (a child under 18) need a court's authorisation for certain legal acts

that significantly affect the minor's property, such as donations on behalf of the minor or the disposition of assets other than money.

### 8.3 Elder Law

In the event of loss of capacity, an individual may be placed under legal restraint, with a legal guardian appointed to represent them. To prepare for potential incapacity, a person may also execute a living will.

If an adult is unable to manage their own property, a fiduciary administrator may be appointed to administer their assets.

## 9. Planning for Non-Traditional Families

### 9.1 Children

Under Dutch law, the key factor in determining a child's legal status is the existence of "legal family ties" between the child and the deceased. Legal family ties between a child and their mother are established by birth or adoption. When the mother of a child is married, or within a registered civil partnership, her husband is considered the legal father of the child. In addition, the father can claim legal ties via formal recognition of the child, judicial establishment of paternity or adoption. If a child has legal family ties with a parent, regardless of how these ties were established, the child is considered an intestate heir and is entitled to a statutory share (see 2.3 Forced Heirship Laws).

### 9.2 Same-Sex Marriage

In the Netherlands, same-sex couples can marry or enter into a registered civil partnership. They are treated equally to heterosexual couples in relation to property, gifts and inheritances, and tax law.

## 10. Charitable Planning

### 10.1 Charitable Giving

Gifts and inheritances from a Dutch taxpayer to a registered charity (*algemeen nut beogende instelling*, or ANBI) are exempt from gift and inheritance tax. Additionally, gifts to ANBIs are deductible for personal income tax purposes. Such deductions are only allowed for the portion of the gift that exceeds

1% and does not exceed 10% of the donor's total income. Periodical gifts are deductible regardless of income, but as of 1 January 2025, the deduction for periodical gifts to ANBIs is capped at EUR1.5 million per taxpayer per calendar year. To qualify as a periodical gift, the donation must consist of at least five fixed and regular payments, made by notarial deed or private written agreement.

For resident companies, gifts to ANBIs are deductible for corporate income tax purposes. Such gifts – including those made in connection with the charitable wishes of a shareholder – are deductible up to a maximum of 50% of the company's profit, with an absolute cap of EUR100,000. If total gifts exceed this threshold, the excess may be treated as a (deemed) distribution to the shareholder and taxed in Box 2.

Gifts received from an ANBI are exempt from gift tax, provided the gift is made in the interest of the ANBI's charitable purpose.

ANBI status is granted by the Dutch tax authorities upon application. To qualify, an organisation must meet specific requirements, the most important being that its activities are primarily for the general benefit. ANBIs must also comply with public disclosure obligations, including publishing the composition of the board, a current report of past and planned activities, and a financial report.

### 10.2 Common Charitable Structures

In the Netherlands, the most common form of charitable organisation is the ANBI (see 10.1 Charitable Giving). To qualify as an ANBI, a key requirement is that assets must be spent in line with the organisation's charitable objectives and may not be accumulated as (investment) assets. If a charitable organisation holds (long-term) investments, the Dutch tax authorities may consider that it does not meet the "spending requirement".

Following discussions on impact investments held by ANBI's, further guidance on ANBI investments was provided in a decree issued on 15 March 2024 by the State Secretary for Finance. To qualify as being in the public interest, an investment must meet the following conditions:

- the primary purpose of the investment is to directly achieve or promote one or more of the ANBI's public benefit objectives as set out in its articles of association;
- the investment is not a business activity primarily aimed at generating profit;
- the entire proceeds of the investment must be used by the recipient for activities related to the ANBI's objectives;
- neither a director (nor any person associated with a director) of the ANBI is involved as founder, director, shareholder, capital provider or employee of the recipient organisation; and
- the ANBI clearly records the investment as a public interest investment in its financial records and policy plan.

For investments that do not meet these conditions and therefore do not qualify as public interest expenses, the “spending requirement” necessitates an assessment of whether the investments are otherwise reasonably necessary for the continuity of the ANBI's planned activities in line with its objectives.