Netherlands alert

New policy goals include corporate income tax rate reduction, abolition of dividend WHT

The Dutch government coalition parties presented their long-awaited agreement on 10 October 2017, which sets out the new government's policy intentions for the coming years. (The coalition agreement follows the announcements made on budget day (19 September 2017) before the new government was formed (for prior coverage, see tax@hand **article dated 22 September 2017**). The budget day announcements already are legal proposals, while the coalition agreement contains plans that will be presented as legal proposals in the future.)

The coalition agreement outlines broad policy objectives that would affect both individuals and companies, such as making work more profitable; combatting climate change by increasing pollution taxes; tackling tax avoidance; and improving the business climate for companies with substantial economic activities in the Netherlands.

The following summarizes the main tax changes that would affect companies and foreign investors.

Reduction of corporate income tax rate

The corporate income tax rate currently is 20% on the first EUR 200,000 of taxable profits, and 25% on taxable profits exceeding that amount. The new government wants to retain a competitive business climate, so it intends to implement a significant reduction of the corporate income tax rates. The two rates will be reduced in stages by a total of four percentage points: down to 19%/24% in 2019, 17.5%/22.5% in 2020 and 16%/21% in 2021. The extension of the lower bracket to a taxable amount of EUR 350,000, as previously announced, will be scrapped.

Withholding tax

The new government wants to abolish the dividend withholding tax, most likely as from 1 January 2020. However, dividends paid in situations involving abuse and where cash flows are made to countries with very low tax rates will remain subject to a withholding tax. In addition to the abolition of the dividend withholding tax, the government plans to introduce withholding tax on interest and royalty payments made to countries with very low tax rates (currently, the Netherlands does not levy withholding tax on these payments).

Equity / debt capital

The new government proposes to introduce a generic limitation on the deduction of interest expense in the form of an earnings stripping measure. If the balance of (group and third-party) interest payable and receivable exceeds a cap of 30% of the gross operating result (EBITDA, i.e. earnings before interest, taxes, depreciation and amortization), interest will not be deductible (although the government proposes to introduce a fixed tax-free amount of EUR 1 million, under which interest expense be deductible). A group safe harbor is not under consideration.

The coalition agreement notes that several existing interest deduction limitations will be abolished, except for the specific limitation that aims to prevent profit shifting. Presumably this means that the anti-profit shifting rules will apply in conjunction with the new earnings stripping measure. The coalition agreement does not mention which interest expense deduction limitations will be eliminated, but it is likely that the restriction on interest expense deductions for loans related to participations and acquisition holding constructions may be targeted. It is unclear whether the limitation on the setoff of losses for holding and financing losses and/or the limitation on the deduction for long-term low interest-bearing loans will be scrapped.

Innovation box

The innovation box regime allows companies in the Netherlands to have profits derived from qualifying intellectual property to be taxed at an effective corporate income tax rate of 5%; the government intends to make changes to the regime so that the effective rate is 7%.

Loss carryforwards

Under current rules, losses may be carried back one year or carried forward nine years. The coalition agreement proposes to reduce the carryforward term to six years.

Approach to tax avoidance

It is proposed to introduce a “black list” of noncooperative tax jurisdictions, combined with the obligation for multinationals to prepare a report on their activities for each EU member state and each country included on the black list.

Comments

The coalition agreement sets out the policy framework of the government for the next four years. The next steps will convert the plans into legal proposals, the timing of which is uncertain at this time.

The announcement of a reduction in the corporate income tax rate is the standout point for the business community and is somewhat of a (welcome) surprise. However, despite the obvious benefits of a lower rate, it should be noted that rate reductions often are accompanied by a broadening of the tax base. The real implications of this proposal will become clearer once an actual legislative proposal is released.

The dividend withholding tax generally will be abolished with a view to making the Netherlands more attractive to foreign investors that use equity. The abolition of the dividend tax, accompanied by the introduction of withholding tax on interest and royalties, should ensure that equity financing is encouraged over debt capital financing. The withholding tax on interest will mean that debt capital financing will face heavier taxation, and, as mentioned above, there will be restrictions on the deduction of interest expense. The royalty tax focuses, in particular, on avoidance structures.

Contacts

If you have any questions or would like additional information on the topics covered in this alert, please email one of the following Deloitte professionals:

Peter Kavelaars
pkavelaars@deloitte.nl

Jasper Korving
jkorving@deloitte.nl

Additional resources

Global Tax Alerts subscription page

Global Tax Alerts archive

World Tax Advisor

Deloitte International Tax Source (DITS)

Deloitte tax@hand app

Dbriefs

www.deloitte.com/tax