

Introduction

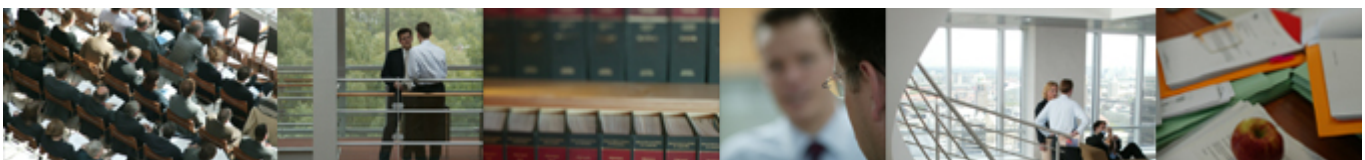
Attached to this edition of our Oil & Gas Newsletter, we provide you with [the Loyens & Loeff Year End Tax Bulletin 2010](#). The Bulletin summarizes the most significant tax developments in the Benelux in 2010 and highlights the main legislative changes announced for 2011. The focus is on developments and changes with relevance for internationally operating enterprises in general. In this edition of the Oil & Gas Newsletter we like to draw your attention to certain developments that are of main relevance to the Energy industry, including both the Oil & Gas industry and the Renewable Energy industry.

2011 Tax amendments

In the September edition of the Oil & Gas Newsletter, we summarized the main amendments as laid down in the 2011 Tax proposals. Such amendments, as also reflected in the attached Year End Tax Bulletin 2010, do not contain provisions that are specifically aimed at the Energy industry. However, due to the nature of the industry, some of the measures may have a particular bearing on the tax position of companies that are active in the industry. In this respect, we like to draw your attention to the following changes.

Corporate income tax

- The top corporate income tax rate will be lowered from 25.5% to 25%. It should be noted that companies that are in a State Profit Share (SPS) paying position may not effectively benefit due to the interaction between corporate income tax and SPS.
- The so-called depreciation-at will (DAW) regime will be extended to investments made in the year 2011. Earlier this year, the Dutch government improved the DAW regime, which applied for investments made in 2009 and 2010. Pursuant to the recent amendments, the amount of the DAW in the year after the investment was no longer limited to 50% of the investment. Under the amended DAW regime, the taxpayer is allowed to depreciate in 2011 the full amount of the investment, to the extent it has not been depreciated in 2010 yet. It should be noted that the DAW regime also applies to the computation of the depreciation for state profit share purposes, as in the Mining Act reference is made to the relevant articles of the 1969 Corporation Tax Act.
- Taxpayers will have the option to elect for an extended carry-back period of three years for losses incurred in the year 2011, subject to the restrictions that apply to an extended carry-back period for losses incurred in 2009 and 2010. The restrictions include a cap of EUR 10 million per year and a limitation of the carry-forward period to six years (instead of nine years). It should be noted that for SPS purposes the carry-back period is three years and the carry-forward period is unlimited.



- The possibility to apply the reduced effective rate for income that is attributable to qualifying R&D activities will be broadened. The existing Innovation Box regime could only be applied as of the year in which a patent was actually obtained. This could be disadvantageous in situations whereby the patent was already applied for and whereby the application procedure would take a relatively long time. As of 2011 also income that is generated prior to the patent being granted may qualify for the Innovation Box regime (subject to certain limitations).
- The allowances for certain environmental investments will be limited. More in particular, the so-called VAMIL regime, which provides an accelerated depreciation possibility for environmental investments, will be limited to a maximum of 75% of the qualifying investment amount, instead of the current 100%. Furthermore, the percentage of the so-called EIA, the additional tax deduction for energy investments, will be reduced from 44% to 41.5% of the qualifying investment amount. Thirdly, the percentage of the so-called MIA, the additional tax deduction for environmental investments, will be reduced from 15%, 30% or 40% to 13.5%, 27% or 36% of the qualifying investment amount. The abovementioned limitations on the VAMIL, EIA and MIA should be reversed as of 2014.

Value added tax

- As of 2011, the special VAT regime that applies to supplies of natural gas through, and import of natural gas directly into, the Dutch natural gas distribution system (i.e. the GTS network) will be extended to the supply and import of natural gas via any network connected to a natural gas distribution system. Furthermore, as of 2011 the EU regulation will stipulate that the zero percent VAT rate will also apply to the import of (liquefied) natural gas by tankers, provided this gas is subsequently brought into a natural gas distribution system or upstream pipeline network.

Social security

- The legislative proposal pursuant to which the Dutch part of the continental shelf will be considered to be part of the Netherlands for purposes of the application of the Dutch social security system has been adopted by the First Chamber of Parliament. It is still somewhat uncertain when the amendments will enter into force.

Should you wish to receive more detailed information regarding any of these topics, please do not hesitate to contact any of the members of the Loyens & Loeff Energy Team.

Finally, we wish you and your family a very enjoyable holiday season and a prosperous New Year!

Loyens & Loeff Energy Team
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