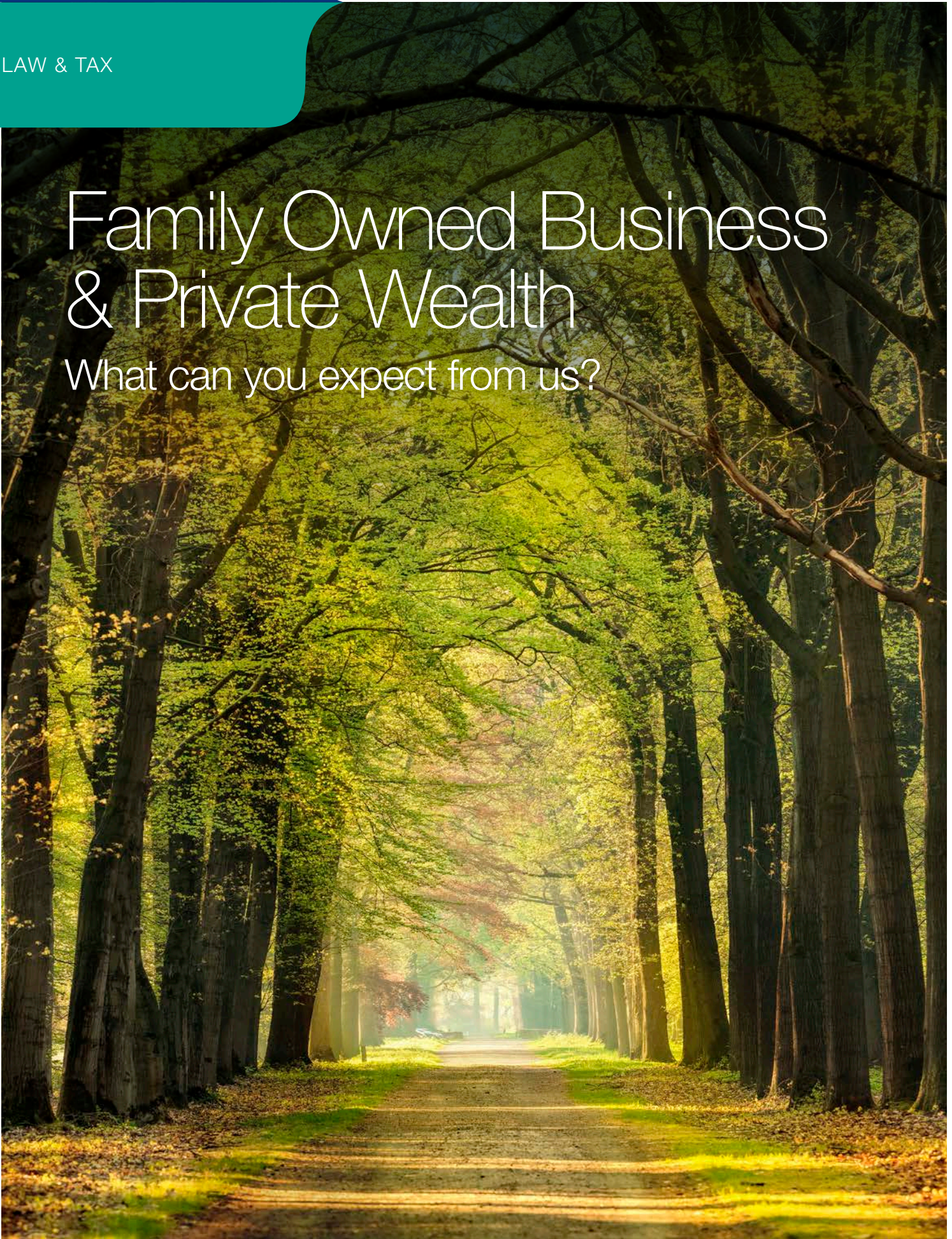


# Family Owned Business & Private Wealth

What can you expect from us?





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# Preface

As the owner of a family-owned business, as entrepreneur or as high-net-worth individual you are faced with many developments, which may impact the (family) business or yourself. National, international and European social, economic and legal developments rapidly succeed one another. In the area of law and tax topics such as tax equality, transparency, preventing abusive and protection of personal information dominate the agenda.

In the Netherlands, debate has been going on about sustainability, taxation of labour and wealth, taxation of business profits and the levy of tax in the event of business transfers. In view of such developments and in an increasingly complex tax and legal environment it is a good idea to pay extra attention to good family governance within your family-owned business. This can contribute to the continuity and success of the family-owned business in the long term.

This publication, '*Family Owned Business & Private Wealth - What can you expect from us?*' provides you with information on these developments and how we focus on a daily basis on the needs of (international) family-owned businesses, entrepreneurs and high-net-worth individuals.

The following ten examples set out what you can expect from us in finding answers to the questions that may live with you and with your business. Questions that we do not answer solely bases on business considerations, but where we work with you together to map the family values, emotions and personal interests at play.

Would you like more information having read this brochure? Maybe an informal introductory meeting would be of interest? Please contact your Loyens & Loeff adviser or get in touch with one of our dedicated advisers in our '[Family Owned Business & Private Wealth](#)' (FOB&PW) team.

We look forward to being of service.

Yours sincerely,  
Dirk-Jan Maasland

Amsterdam, 17 April 2023



**Dirk-Jan Maasland**

Chair practice group Family Owned Business & Private Wealth  
Civil law notary / Partner



The ten examples on the pages that follow will give you an idea of what you can expect from us.



## The tax and legal structure of your family-owned business

A family-owned business cannot be placed into the rigid boxes of a model or plan. Sometimes this means that an existing tax and legal structure is no longer fit-for-purpose given the realities faced by a family-owned business today. Occasionally, the tax and legal structure even becomes an obstacle to the business.

For example, are you experiencing tax or legal obstacles in signing new contracts, doing investments, raising funds or carving out certain activities? If so, this can be a sign that your corporate structure is no longer up to date.

Maybe you have also wondered whether your corporate structure is sufficiently eligible to tax opportunities and tax facilities available for example in relation to innovation, business financing or the differences in taxation between your family-owned business and you personally as shareholder.

Our specialists can sit down with you to map out tax and legal issues like these. We will work with you to ensure the right match between the day-to-day reality of your family-owned business and your own corporate structure.

Sometimes, the tax and legal structure forms an obstacle to the business.





## Structuring a business transfer

Have you ever thought about transferring your family-owned business to your child(ren), a family member or a third party? In the Netherlands the taxation of business transfers is a topic of debate. If you are considering transferring your family-owned business in the future, now is the time to take this into serious consideration.

Business succession or transfer of the (family-owned) business is an important and emotional step. Handing over a business is more than just handing over its financial value. It is about transferring management, ownership and control. In other words, it is about people and emotions resulting in you feeling responsible for the next generation of shareholders and your employees.

You may face questions such as who is the best person to hand over control to? One or more of your children or even a third party (whether or not temporarily)? And who should be given ownership, and what kind of portion?

All in all, it is a challenging and often lengthy process involving difficult legal, tax, financial and organisational choices. Careful preparation in an early stage can save you a heap of worries and can contribute to the continuity of your family-owned business.

We would be delighted to help you in this challenging process. We will help you listing the conditions and interests that are most important to you. You can then use this to define the next steps in the process. We will work together in documenting and implementing the necessary legal framework, as well as in coordinating the resulting tax implications with the tax authorities.

Careful preparation in an early stage can save you a heap of worries and can contribute to the continuity of your family-owned business.



## Management and supervision of your family-owned business and wealth

Good governance is crucial to the long-term success of your family-owned business and to preserve your family wealth for future generations. But what is good corporate and family governance?

Generally, good governance means ‘the right person in the right place’ and the right balance between management and supervision, where family members of the various generations (and maybe third parties) handle the family assets in a responsible manner. This requires, among other things, personal guidance of family members; from the younger generation that is not familiar with dealing with the assets to senior family members who may need support to look after their own interests in a responsible manner.

Taking into account your wishes, we can advise you on the regulations that are the best fit with your family-owned business and wealth. Starting by analysing the current setup of your (management) organisation, we can discuss together if this still meets your needs, both now and in the future.

If the result is that changes should be made, we can advise you on how to design and implement these. As a result, you can ensure good (corporate) governance by defining control structures, outlining profiles for executive and non-executive board members and making other arrangements for which there is a need.

A (family) foundation can play an essential role in this, for example in separating legal ownership and financial rights to certain assets or carving out assets that are not vital to the continuity of the business (anymore).

Moreover, as the owner of the family assets, you can ensure good family governance by having clear arrangements included in your prenuptial agreement, cohabitation agreements, your last will, gift agreements and, if desired, in your living will.



## Investing in sustainability and innovation within your family-owned business

Sustainability, the energy transition and climate adaptation are important social themes with an impact on many family-owned businesses. Sustainability and continuity go hand in hand in many family-owned businesses. Apart from the feeling of being responsible for the long-term survival of the company, shareholders also feel involved with their employees and with society. This feeling forms the basis for a business strategy in which sustainability and innovation is often highly valued.

We are there to advise on the law and tax aspects of investing in sustainability, energy transition and climate adaptation within your family-owned business. This could for example involve energy-efficient investments or investments in new business assets for which tax incentives are available.

Protecting intellectual property may also be important for your family-owned business. For example, you might want to register patent, copyright and/or plant breeders' rights to ensure the protection of new ideas, products, technology and plant varieties. We are happy to assist you with the legal aspects of innovation and sustainability.

Does your family-owned business generate profits from innovative products or services? If so, this profit may be taxed at a reduced effective rate (instead of the regular corporate income tax rate). This special tax regime is called the 'innovation box'. In order to apply the innovation box and its reduced rate, you must submit a request to the Dutch Tax Authorities. The agreements made are usually laid down in a settlement agreement.

Sustainability, the energy transition and climate adaptation are important social themes with an impact on many family-owned businesses.





## International and European developments

The globalization of the economy has an increasing impact on you and/or your (family) business. Each country has its own legal system and associated tax regime. The differences between legal systems may cause complex questions.

If your family-owned business operates across borders, complex questions may arise about the structuring of your foreign activities, the residence status of your company, tax liability in other jurisdictions and the influence of tax treaties.

Moreover, national, international and European developments continue apace. Themes like tax avoidance, the need for transparency and protection of personal information have increasingly been addressed in European and domestic legislation (and treaties). A good example are the developments on a global minimum tax (Pillar 2) that may be expected to have further implications for family-owned businesses in the future.

In your private life too, all kinds of international and European aspects can play a role. Emigrating or remigrating can be a major event for you and your family. You will not only be confronted with all kinds of practical and administrative issues, but your (r)emigration also presents tax opportunities and challenges.

With offices in the Netherlands, Belgium, Luxembourg and Switzerland, we can assist you with specialist tax and legal knowledge in these countries.

This means that it is important to think about the potential consequences of engaging in cross-border operations at an early stage – in business and in private. With offices in the Netherlands, Belgium, Luxembourg and Switzerland, we can assist you with specialist tax and legal knowledge in these countries. Plus, we can draw on a global (business) network of specialists to help you anywhere in the world.



## Tax and legal structuring of your (family) wealth

Does your carefully-accrued wealth consist of assets such as (portfolio) real estate, a securities portfolio, homes, land, art, cars or boats? Then you may be wondering how to secure your wealth for the future. Or how the social debate on taxation of wealth will affect you, or whether it is better to hold your assets personally or under the umbrella of an investment company.

We would be delighted to offer you tailored advice on the tax and legal aspects of your wealth.

Your thoughts on your assets are important to us. We understand that this is a dynamic process involving emotions and personal interests, as well as external factors that are subject to change. This includes legislation and the economic environment, views of society, but also your interest in solving a particular societal problem by making impactful investments.

Therefore, we are happy to assist you with advice which offers you flexible and pragmatic solutions. We will consult you every step of the way as we cooperate with your other service providers such as family officers, financiers, asset managers and accountants. This will ensure your wealth does what it is supposed to: making you feel secure.

You may be wondering how to secure your wealth for the future. Or how the social debate on taxation of wealth will affect you, or whether it is better to hold your assets personally or under the umbrella of an investment company.





## Protection of your wealth and your privacy

Wealth that has been carefully built up, should be protected. This includes protection against business and investment risks. Sometimes protection is desirable even after you have given up your assets, for example, by transferring control of your assets to a family fund.

Are you contemplating a new (risk bearing) investment? Do you want to separate the risks associated therewith from other assets, such as your business, home and pension? Or are you looking for ways to guide the strategy of your family-owned business or the investment policy after your assets have been transferred to the next generation?

Perhaps you are also considering protecting your privacy. The personal information of UBOs (ultimate beneficial owners) is increasingly filtering into the public domain. This is a result of international measures designed to counter tax evasion and money laundering, and company structures becoming increasingly transparent as a consequence.

In the Netherlands, two central UBO registers have been introduced in which UBO information must be registered; one for companies and other legal entities (the UBO register) and one for trusts and other legal types of legal arrangements with a structure or function similar to that of trusts (the Trust Register). This obligation follows from an EU directive and applies to all EU member states.

Would you like to know what the implications of the introduction of the UBO register and the Trust register are for you and your family? Are you aware of which personal information may or may not be publicly available; and are you still comfortable with that? We can help you answer these questions and advise you on how to assure your privacy.



## Prenuptial agreements, cohabitation, divorce and last wills

How and when do you want your nearest and dearest to share in your accrued wealth? Will you make gifts while you are still alive or bequeath wealth after you passed away? And what happens if you and your partner would separate?

You can use prenuptial agreements, cohabitation agreements, deeds of gift and your will to specify how your wealth is to be distributed. You will want to be aware of what is and is not possible, both legally and in terms of tax, if you are to make good decisions.

For example, what would the implications be for gift and inheritance tax, personal income tax and real estate transfer tax if you were to transfer your wealth to the next generation? And if you pass on your wealth, are you also relinquishing control of it? Can a son- or daughter-in-law also become entitled to the family wealth? What are the implications if you have assets abroad? What claims will there be in the event of death or divorce? How does that affect your children's share of the inheritance? How can you protect your spouse's position from your children, or vice versa?

The best estate planning starts with asking the right questions. We can help you not only ask those questions, but can answer them too. Once you have made and executed your decisions, it is important to keep your wishes up to date and to adapt them to changing circumstances and regulations. We are happy to assist with that as well.

How and when do you want your nearest and dearest to share in your accrued wealth? Will you make gifts while you are still alive or bequeath wealth after you passed away? And under what conditions?





## Philanthropy, corporate social responsibility and charitable organisations

Society increasingly calls on (family-owned) businesses and high-net-worth individuals to conduct their business and invest in a socially responsible manner (CSR). If you wish to contribute to that as (owner of a) family-owned business or from your personal wealth, there are many ways to do so.

We can help you make the right choices, by not just laying out the options and your ESG (Environmental, Social and Governance) responsibilities, but also by helping you structure your charitable activities and the CSR-activities of your business in the best manner from a legal and tax perspective.

Is your family-owned business for example considering financially supporting a charitable organisation (which are known as charitable institutions or ANBIs in the Netherlands), a support foundation (steunstichting) or an institution that promotes social interests (SBB)? We can advise you on how to optimise your charitable giving and provide for the implementation process, thus ensuring that you can efficiently contribute to the societal issues that are important to you.

Do you want to establish a charitable organisation yourself? Or are you a director of an ANBI? We are happy to provide information about the various conditions and developments. It goes without saying that we can help prepare the necessary documents such as articles of association and a policy plan. We can also handle communications with the tax authorities on obtaining and/or retaining ANBI status so that you can focus your efforts on supporting the good cause chosen by you.

We can help you structure your charitable activities and the CSR-activities of your family-owned business from a legal and tax perspective.



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## Tax compliance

Tax compliance is more than submitting a timely and correct tax return. It also involves meeting various administrative documentation and reporting obligations in all countries in which you and your family-owned business are active.

We can assist you with taking care of (complex) tax return(s), with respect to personal income tax, corporate income tax, gift tax and inheritance tax. In addition, we can help you to prepare your tax returns with respect to dividend withholding tax, real estate transfer tax, VAT and wage tax.

Should the tax authorities have any questions about your tax returns, we will communicate with them and answer the questions together with you. If desired, we assist you in objection and appeal procedures or coordinate mutual agreement procedures between tax authorities of multiple jurisdictions to prevent double taxation.

We can also assist you with your other tax documentation and reporting obligations. This includes documentation obligations as part of transfer pricing and the mandatory reporting of certain cross-border structures to the tax authorities.

The seamless collaboration between our compliance specialists, tax advisers and civil-law notaries enables us to accurately prepare your tax return in full alignment with our tax and legal advice.

Seamless multidisciplinary collaboration enables us to accurately prepare your tax return in full alignment with our tax and legal advice.





## More about Loyens & Loeff

We are unique because of the fully integrated collaboration between tax advisers, civil law notaries and lawyers. We have a profound knowledge of the tax and legal themes that you as (owner of a) family-owned business or high-net-worth individual face.

Your questions are considered and addressed from various perspectives. You can draw on specialist tax and legal knowledge of the rules in our four home markets (the Netherlands, Belgium, Luxembourg and Switzerland) and on our global network.

We have more than 100 years of experience in the industry and we are genuinely interested in our clients. This allows us to efficiently transform your complex tax and legal issues into pragmatic solutions. We aim to build long-term client relationships founded on mutual trust (trusted adviser).

## Contact

Would you like more information having read this brochure? Maybe an informal introductory meeting would be of interest? Please contact your Loyens & Loeff adviser or get in touch with one of our dedicated advisers in the 'Family Owned Business & Private Wealth' team.

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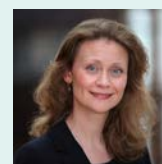
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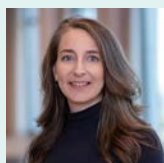
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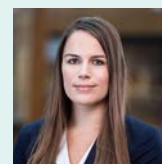
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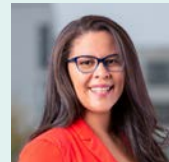


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This edition was finalised on 17 April 2023.

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As a leading firm, Loyens & Loeff is the logical choice as a legal and tax partner if you do business in or from the Netherlands, Belgium, Luxembourg or Switzerland, our home markets. You can count on personal advice from any of our 900 advisers based in one of our offices in the Benelux and Switzerland or in key financial centres around the world. Thanks to our full-service practice, specific sector experience and thorough understanding of the market, our advisers comprehend exactly what you need.

Amsterdam, Brussels, London, Luxembourg, New York, Paris, Rotterdam, Tokyo, Zurich