

2024

Investing in real estate in the Netherlands



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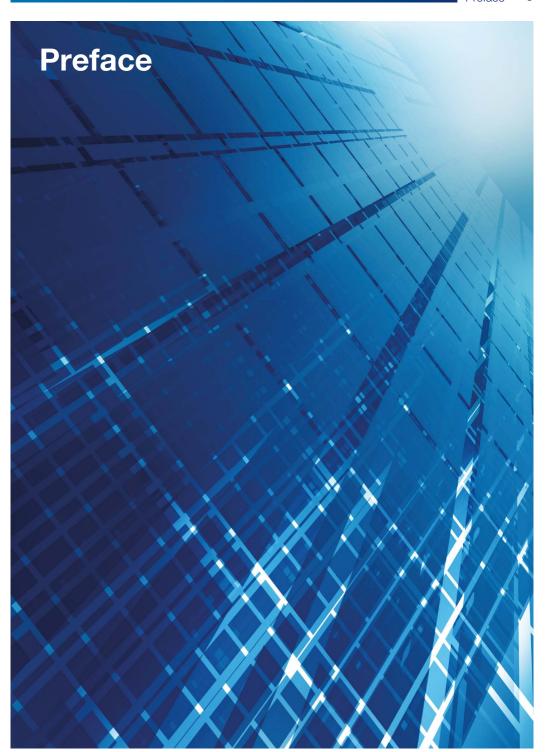
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Preface

Real estate is an investment category in which all three disciplines of Loyens & Loeff play a dominant role in the preparation, structuring and execution of a transaction.

A broad scope of laws governs aspects that co-determine the value of real estate, such as landlord-tenant laws, zoning laws, environmental laws and corporate law. This, together with the complicated tax aspects and sometimes even privacy aspects of a real estate transaction, makes the request for the advice of attorneys and tax lawyers virtually routine practice in the preparation of such a transaction. The mandatory role for the civil law notary, in connection with the establishment or transfer of real estate rights, places real estate civil law notaries in the centre of any real estate transaction. Loyens & Loeff is the first firm where attorneys, tax lawyers and civil law notaries work together on a large scale in offering integrated professional legal services in the Benelux countries and Switzerland. Real estate, in view of the aforementioned features, is one of the many areas where Loyens & Loeff's integrated formula has proved to be successful.

Since 2004, Loyens & Loeff has published new editions of the booklet *Investing in real* estate in the Netherlands on a regular basis. The aim of this booklet is to inform foreign companies who invest in Dutch real estate about the main legal and tax issues that may arise during such an investment. This is the seventh edition of the booklet. Its contents are entirely geared towards investments in Dutch real estate in 2024.

Since the publication of the sixth edition of this booklet in 2022, there have been several developments that have affected real estate investments. For example, surging energy prices have accelerated the transition from fossil fuels to renewable energy sources. This impacts real estate investors in various ways. Attention for energy efficiency of properties has increased and has more impact on value than ever before. The use of roof surfaces for photovoltaic systems becomes more interesting as payback periods become shorter and many solar companies look for roofs to lease for their panels. The downside of the increased speed of electrification also becomes visible: the investments in the Dutch grid does not keep pace with it, causing grid congestion that slows down real estate developments in areas where new connections are not possible on short notice. Further developments in this field will require close attention from real estate investors.

More broadly, we see Environmental, Social & Governance (ESG) factors increasingly influencing the actions of real estate investors. For this reason, we have included a new chapter 7 in this booklet specifically on that topic. This chapter covers all ESG themes relevant in the real estate sector, including e.g. green leases and green loans. The latter topics are therefore no longer included in the chapters on e.g. lease and finance.

Another development worth mentioning is the increase in the transfer tax from 8 to 10.4% since 1 January 2023. And not to be ignored is the introduction of the Environment and Planning Act (*Omgevingswet*) on 1 January 2024. The Act brings changes to the law relating to the permits real estate investors need for, for example, renovations. Chapter 4 of this booklet aims to provide a convenient overview of the most important changes in this regard. Lastly, as of 1 January 2025, a Fiscal Investment Institution may no longer hold direct investments in Dutch real estate. Chapter 9 looks ahead in this respect and discusses the implications for existing Fiscal Investment Institutions.

It should be noted that many of the complex issues that can arise in the context of an investment in Dutch real estate cannot be dealt with in a booklet this size. However, we trust that the content will serve foreign investors with quick orientation in the major legal and tax aspects of investing in real estate in the Netherlands. If, in addition to investments in Dutch real estate, you are also interested in project development in the Netherlands, do not hesitate to ask your contact person at Loyens & Loeff for a copy of our 2021 publication *Project development & construction in the Netherlands*.

We would like to thank all who have contributed to this seventh edition (for a complete list of all contributors, please see page 321-322). Their knowledge and experience is reflected in many sections.

Lonne Rooseboom, chairman of the real estate practice group.

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Introduction

Investing in real estate in the Netherlands serves to look at certain civil law, public law and tax aspects that may be involved when investing in real estate in the Netherlands. Its content is intended for those considering investing in real estate subject to Dutch law. It is addressed not only to foreign professional investors but also to financiers, advisors and high net worth individuals.

Chapter 1 describes real estate as an investment category. Chapter 2 deals with certain aspects of civil law pertaining to entitlements to real estate and the lease thereof.

Chapter 3, focussing on the financing of real estate, is an entirely new chapter. Chapter 4 covers some of the public law aspects that relate to real estate. Chapter 5 discusses the various features of corporations and partnerships used as investment vehicles. Chapter 6 considers the supervision of investment institutions and chapter 7 focusses specifically on ESG. The privacy aspects that need to be considered when investing in Dutch real estate are discussed in chapter 8. Finally, chapter 9 addresses the tax aspects of real estate investments.

This publication does of course not provide an exhaustive account of all the aspects relevant to investment in Dutch real estate. It is only intended to give a general impression of the various issues one can be confronted with when making such investment, up to date until January 2024. In view of possible changes in the laws regarding investments in Dutch real estate, we would recommend regularly ensuring you have up-to-date information about the latest developments and the implications thereof. Although the text has been compiled with the utmost care, Loyens & Loeff NV and the contributors to this booklet accept no liability for the consequences of using this publication or its contents without its collaboration.

The editor

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