

Family Owned Business & Private Wealth

What can you expect from us?



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Preface

Since the spring of 2020, the world has been dominated by the corona pandemic, which has a major impact on economic and social developments. In addition, national, international and European developments continue apace. Themes like tax avoidance, the need for transparency, countering tax treaty abuse and protection of personal information have increasingly been addressed in domestic and international legislation (such as treaties).

As a shareholder, a family-owned business, an entrepreneur and/or a high net worth individual you are faced with all these developments, which may have an impact on the (family) business or yourself. The same is true for family offices private bankers, (family) foundations, and (family) trusts.

In the Netherlands, an important concern is that business transfers may be subject to higher taxation in the future. If you are considering transferring your family-owned business in the (near) future, now is the time to start taking this into (even more) serious consideration. Considering this, 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 about these developments and our specialised department that focusses 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.

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](#)' (FOB&PW) department.

We look forward to being of service.

Yours sincerely,



Amsterdam, 14 June 2021



Gerard Blokland

Chairman Family Owned Business & Private Wealth
Tax adviser / Partner

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





Do you own a family business? Are you an entrepreneur? Or maybe a high net worth individual?

If so, you no doubt face complex tax and legal regulations, both at home and abroad. Not just related to your business, but also to your personal (family) wealth.

You may well be wondering if your tax and legal position in business and in personal affairs is up to date and optimal. Or perhaps you have questions on how to ensure a smooth transfer of your (family-owned) company to the next generation, without disrupting the continuity of the business. Or maybe you want to make a difference for a particular (local) charity you feel involved with?

These are not just questions that should be answered on the basis of business considerations only: family values, emotion and personal interests also play an important role and must therefore be involved in any considerations.

Our [Family Owned Business & Private Wealth department](#) would be delighted to offer you tailored, personal advice. We take a co-operative and forward-thinking approach, anticipating social dynamics, and help you to make the right choices. This also applies to our services for family offices, private bankers, (family) foundations and (family) trusts.

What can you expect from us?

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We take a co-operative and forward-thinking approach, anticipating social dynamics, and help you to make the right choices.



Tax and legal structuring 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 a tax and legal structure designed in the past 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.

Are you experiencing tax or legal obstacles in entering into new contracts or raising funds? If so, this can be a sign that your tax and/or legal structure is no longer up to date.

Maybe you have also wondered whether you are aware of all the tax opportunities and tax facilities available e.g. in relation to innovation, business financing and/or the differences 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 create solutions that will ensure that you can make use of the available tax opportunities even better. Solutions that ensure the right match between your family-owned business and your own company structure.

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



Tax and legal structuring of your succession planning

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

Business succession or transfer of the (family-owned) business is an important and emotional step for any entrepreneur. 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 pass control to? One or more of your children or even a third party (whether or not temporarily)? And which of your children should be given shares, 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 which 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.



Advice on the 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? It will be different for every business and every situation.

Generally, it means ‘the right person in the right place’ and a good balance between management and supervision, where family members of the various generations handle the family assets in a (socially) responsible manner.

This requires, among other things, good supervision 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 apply to your family-owned business and wealth. Starting by analysing the current setup of your (management) organisation, we can discuss together if this setup 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.

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

What is good corporate and family governance?



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Advice on innovation and sustainability within your family-owned business

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 feel involved with the family, with employees and with society.

This feeling forms the basis for a business strategy in which innovation and sustainability is often highly valued. We are happy to advise you on the tax and legal aspects of innovation and sustainability within your family-owned business.

We could for example advise on 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 of 9% (instead of the regular corporate income tax rate of 15% or 25%). 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.

We are happy to advise you on the tax and legal aspects of innovation and sustainability within your family-owned business.



Advice on prenuptial agreements 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 leave legacies after you passed away? And under what conditions?

You can use prenuptial agreements, co-habitation 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 claim does your spouse have if you divorce or die? 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?

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 leave legacies after you passed away? And under what conditions?

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.



Establishing (family) foundations and charitable organisations

The (family) foundation can be used in many ways. You can separate control over and economic rights to assets, separate your estate or engage in charity.

Are you planning to establish a (family) foundation? If so, there are various legal and tax aspects to consider. We take your wishes into account to outline a complete picture of what is and is not possible and what the implications of a (family) foundation are, both nationally and internationally. We can then set up the (family) foundation.

Are you 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 (*SBBI*)? We can advise you on how to optimise your charitable giving and provide 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.

Are you planning to establish a (family) foundation? Are you considering providing financial support to a charitable organisation? Maybe you even want to establish a charitable organisation yourself? Or are you a director of an ANBI? We would be happy to be of service.



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.

A significant development is the introduction of the UBO register that is now in place in almost all countries of the European Union. The UBO register is a register that contains certain personal information of the UBOs of entities in the EU. In addition, a Trust register will be introduced amongst all EU countries; a register containing data of the UBOs of trusts and similar entities.

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 the information that is 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.

What are the implications of the UBO register and the Trust register for you and your family?



Advice on international and European developments

The globalization of the economy is having 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 raise 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 and the influence of tax treaties.

Moreover, national, international and European developments continue apace. Themes like tax avoidance, the need for transparency, countering tax treaty abuse and protection of personal information have increasingly been addressed in domestic legislation (and treaties). These developments may have implications for your family-owned business.

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

In your private life too, all kinds of international and European aspects can play a role. Emigrating can be a major event for you and your family. You will be confronted with all kinds of practical and administrative issues, but your (r)emigration also presents tax opportunities and challenges.

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 with specialist tax and legal knowledge in these countries. Plus, we can draw on a global (business) network of specialists if you are emigrating to other countries.



Tax and legal structuring of your wealth

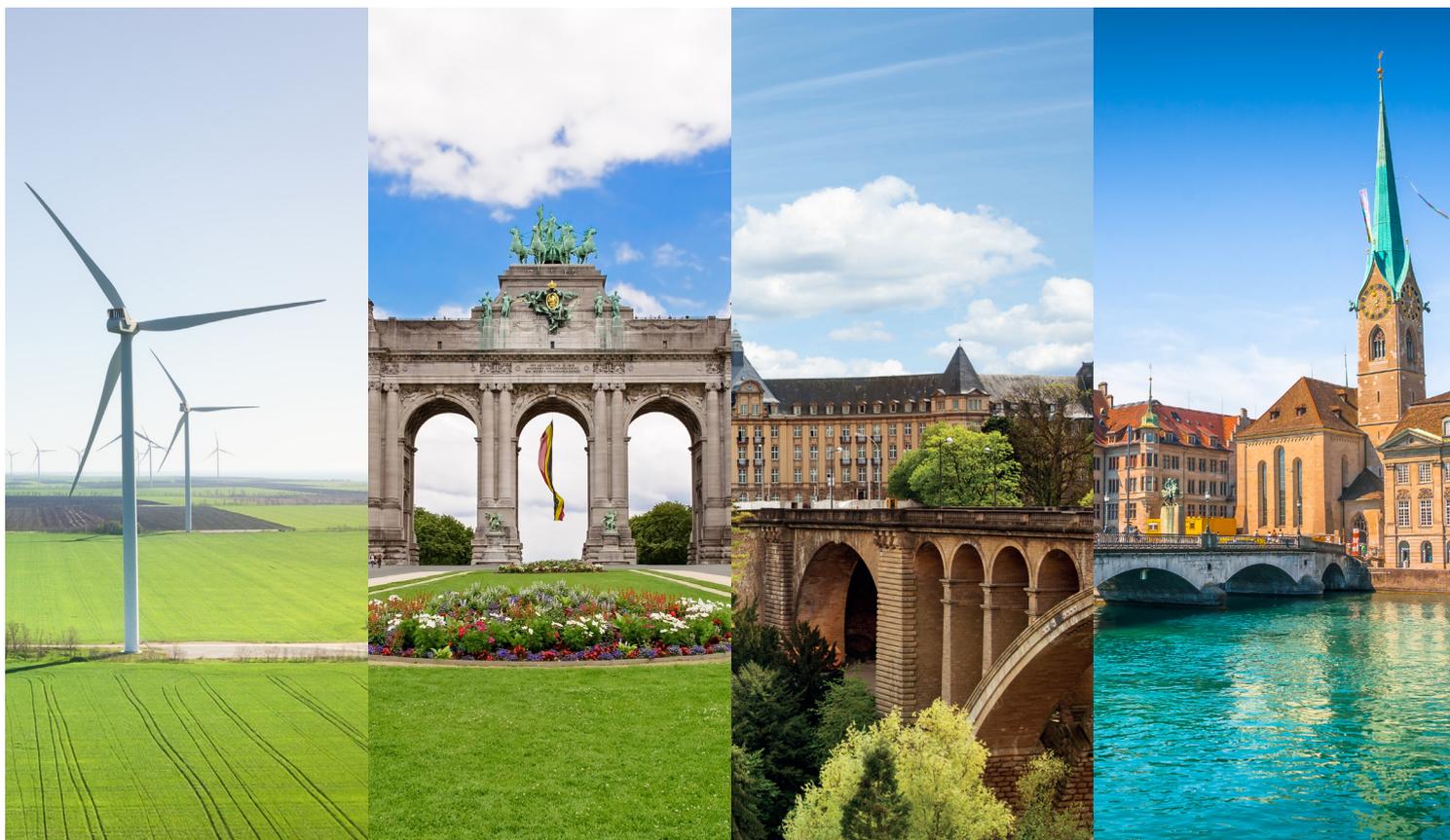
Does your carefully-accrued wealth consist of business and investment assets, a securities portfolio, homes, land, art, cars or boats? Then you may be wondering how to secure your wealth for the future. Or whether it is better to hold your assets personally or under the umbrella of an investment company. Or maybe you want to make a difference for a particular (local) charity you feel involved with?

We would be delighted to offer you tailored, personal advice on the tax and legal aspects of your carefully-accrued wealth. With tax advisers, civil law notaries and lawyers under one roof, we cannot only offer advice on how to structure your wealth, but also assist in the implementation of that advice with the quality and efficiency you may expect from us.

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 along with 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, 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 whether it is better to hold your assets personally or under the umbrella of an investment company?



What makes us unique?

We are unique because of the fully integrated collaboration between tax advisers, civil law notaries and lawyers. Your questions are considered and addressed from various perspectives. You can also draw on specialist tax and legal knowledge of the rules in our four home markets (the Netherlands, Belgium, Luxembourg and Switzerland) and you can draw 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](#) department.

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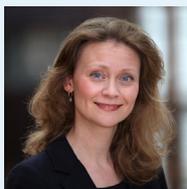
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As a leading firm, Loyens & Loeff is the logical choice as a legal and tax partner if you do business in or from the Netherlands, Belgium, Luxembourg or Switzerland, our home markets. You can count on personal advice from any of our 900 advisers based 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.

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