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Legislative proposal 'Wet werkelijk rendement box 3' was published

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On 19 May 2025 the legislative proposal 'Wet werkelijk rendement box 3' was published in the Netherlands. The proposal provides for a change in the taxation of box 3 of the income tax, namely from the current system based on fixed yields to taxation on the actual yield achieved.

The government aims to have the bill enter into force on 1 January 2028.

Background

The Dutch Supreme Court ruled in 2021 and again in 2024 that the current and revised box 3 tax system (based on fixed yields) violate fundamental rights. This prompted the government to propose a new system based on actual yield achieved.

Main principle

The main principle of the proposed "Wet werkelijk rendement box 3" is the introduction of a new tax system in box 3 based on actual yield achieved rather than fixed yields. Under this system, all assets currently falling under box 3 will continue to be taxed there. The new approach, known as capital growth tax ("vermogensaanwasbelasting"), means that not only regular income such as interest, rental income and dividends (i.e. direct returns) will be taxed annually, but also realized and unrealized changes in value of assets (i.e. indirect returns).

The exemption

Unlike other assets, real estate will not be taxed annually on unrealized gains. Instead, the government proposed a capital gains tax model for property. This means that rental income will be taxed each year but increases in property value will only be taxed when the property is sold or transferred. The way rental income is calculated depends on how the property is used.

Three categories are distinguished:
i. Fully rented (≥ 90% of the calendar year);
ii. Not rented;
iii. Mixed use (combination of rental for less than 90% of the calendar year and non-rental use).

If it is rented out for most of the year, actual rental income is taxed. If it is not rented at all, a fixed percentage of the property's value is used to estimate income. For mixed use, the higher of the two (actual or estimated) is taxed. Maintenance costs can be deducted, and improvement costs are added to the purchase price to reduce future taxable gains. Taxation of capital gains occurs not only upon sale but also in cases like inheritance, emigration, or divorce.

Startups

To avoid discouraging investment in startups, the proposal includes a special rule for startups. If someone holds a small share (less than 5%) in a startup, they will only be taxed on dividends received, not on unrealized gains. Tax on capital gains will only apply when the shares are sold. A company qualifies as a startup if it is less than five years old, has annual revenue under € 30 million and it not controlled by a larger, non-startup company. If the company no longer meets their criteria, the tax system switches to the regular model and any unrealized gains or losses are taxed at that point.

Other important elements

The proposed box 3 system introduces a flat tax rate of 36% on all taxable income within this category. To provide relief for taxpayers with lower returns, the current tax-free capital threshold will be replaced by a tax-free income threshold of € 1.800. This means that only income above this amount will be taxed, rather than taxing based on the total value of assets.

Losses within box 3 can be carried forward indefinitely and offset against future box 3 income. However, losses cannot be offset against income in other tax boxes in the Dutch personal income tax. To avoid administrative burdens, a minimum threshold of € 500 applies before a loss can be officially recognized.

Regarding the valuation of debts and receivables, the general rule remains that they should be valued at market value. However, an exception is made for private loans between individuals - such as a loan from a parent to a child - which may be valued at their nominal amount. Additionally, the proposal includes an exemption from remission benefits on debts ("*kwijtscheldingsvoordeelvrijstelling*"), allowing taxpayers to avoid taxation when a box 3 debt is forgiven, provided certain conditions are met.

Implementation conditions

The government aims to implement the new box 3 system by 1 January 2028. However, this timeline depends on several critical conditions. First, the draft bill must be passed by the Dutch House of Representatives no later than 15 March 2026. This deadline ensures that banks and insurers have enough time to adapt their systems and provide accurate data to the tax authorities.

Second, the proposal must remain largely unchanged during the parliamentary process. Significant amendments could delay implementation. Lastly, future rulings by the Dutch Supreme Court should not require major adjustments to the system. Given the complexity of this reform, both for taxpayers and the tax authorities, the feasibility of the 2028 start date will ultimately depend on how the legislative process unfolds.

Contact

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