

Estate Planning

Living in the Netherlands?

WHAT YOU SHOULD KNOW ABOUT GIFT AND INHERITANCE TAX

If you live in the Netherlands or are intending to relocate to the Netherlands, you need to be aware of Dutch gift and inheritance tax, which can range from 10% to 40%.

It is not only confined to the situation where you bestow assets on your children, but also for example to the situation where you make assets available to your partner. Depending on the conditions under which you were married, making assets available to your partner (without a reciprocal consideration) can qualify as a gift in the Netherlands. Gifts between partners are, in principle, subject to gift tax in the Netherlands.

Dutch gift tax

The Netherlands can levy tax on assets given by a Dutch resident to another person. Where the acquirer lives or where the assets are located are irrelevant; the deciding factor is where the provider of the gift lives.

If you have lived in the Netherlands and subsequently emigrated, you will still be regarded as a Dutch resident for a specified period of time after emigration. For Dutch gift tax purposes, Dutch nationals are regarded as still being resident in the Netherlands for 10 years after emigration, while people without the Dutch nationality are regarded as still being resident in the Netherlands for one year after emigration. Consequently, Dutch gift tax can be levied on gifts during these periods.

Dutch inheritance tax

Should you pass away while you are living in the Netherlands, then your estate will, in principle, be subject to Dutch inheritance tax. This tax is also levied irrespective of where the acquirer resides and where the assets are located. For Dutch gift and inheritance tax purposes, a Dutch national who has lived in the Netherlands and then emigrates is still regarded as being resident in the Netherlands for 10 years after emigration. During this period a deceased Dutch person's estate can therefore be subject to Dutch inheritance tax. If you are not a Dutch national and leave the Netherlands after a period of residence, your estate will not be subject to Dutch inheritance tax after you have left the Netherlands.

Rates and exemptions

The same rates apply to gift and inheritance tax. The rates for acquisition by a partner and children vary from 10% to 20%; for acquisition by grandchildren and great-grandchildren from 18% to 36% and for acquisition by a third party from 30% to 40%.

Various exemptions apply to both taxes. Gifts to children are exempt up to an amount of EUR 5.304 (for 2016) per annum; gifts to other parties are exempt up to an amount of EUR 2.122 (for 2016) per annum. It is possible to increase the exemption for gifts to children, but this can be done once only and is subject to conditions.

If a Dutch resident passes away, their qualifying partner is entitled to a maximum inheritance tax exemption of EUR 636.180 (for 2016) and the children to an exemption of EUR 20,148 (for 2016).

Double taxation

In international situations, the giving or inheritance of assets may be subject to both Dutch and foreign gift- and inheritance tax, for example, because the assets are located abroad, the provider/testator or the acquirer is a national of a foreign country or the provider/testator or the acquirer resides abroad.

These factors can all lead to double taxation. In that case, tax treaties may provide double tax relief. However, there are only a small number of tax treaties that provide for this, which means that the avoidance of double taxation is often dependent on the national rules of the countries concerned. It should not be assumed that double taxation relief is always available.

Obligation to file a tax return

In principle, the acquirers of the assets must file a tax return for the acquisition. The provider of the gift is also liable for any gift tax payable. The period during which additional tax assessments can be imposed for both taxes is exceptionally long and in some cases indefinite.

In conclusion

One of the consequences of living in the Netherlands is that the transfer of assets by way of gifts or inheritance may be subject to Dutch gift and inheritance tax. This can lead to complex international situations and double taxation.

Therefore, we recommend that you ensure you know what your estate planning situation entails before you move to the Netherlands, or have this looked into shortly after your arrival, even if you only intend to stay for a limited time in the Netherlands. We would be pleased to help you with this. Feel free to contact your tax advisor at Meijburg & Co or the undersigned.

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