

Estate Planning

Moving to the Netherlands

WHAT YOU SHOULD KNOW ABOUT DUTCH GIFT AND INHERITANCE TAX

You will soon be moving to the Netherlands. A lot of things have to be arranged (e.g. home, visa and work permit, insurance, school, 30%-ruling). Something that is also worth taking a look at is your estate planning situation. We suggest you review that (and possibly take action on that) before you arrive in the Netherlands. It is advisable to ensure that everything is arranged properly, tax efficiently and according to your wishes should you decide to make a gift or were you to pass away during your stay in the Netherlands. On the one hand, cross-border gifts and estates can lead to complex situations and double taxation. On the other hand, timely planning can offer valuable opportunities from a tax perspective. **This factsheet describes the highlights of Dutch gift and inheritance tax.**

Dutch gift tax

The Netherlands can levy gift tax on assets gifted by a Dutch resident to another person. Where the beneficiary lives or where the assets are located is irrelevant; the deciding factor is that the person making the gift is a resident of the Netherlands. For Dutch gift tax purposes, Dutch citizens are regarded as still being resident in the Netherlands for 10 years after emigration, while non-Dutch citizens are regarded as still being resident in the Netherlands for only one year after emigration from the Netherlands. Generally foreign residents can gift assets without triggering Dutch gift tax. You may therefore wish to consider gifting assets before you arrive in the Netherlands as this could lead to tax savings of up to 40%. The tax savings achievable in your situation depend on your exact circumstances, including **the applicable tax legislation in your home country.**

After you arrive in the Netherlands, any gifts you make will, in principle, be subject to Dutch gift tax. Gift tax is payable by the beneficiaries (regardless of where they live). Gifts received from a spouse and/or parents are taxed at rates varying from 10% to 20%. The tax rates for gifts received from grandparents are higher and vary from 18% to 36%, while gifts received from other parties are taxed at rates varying from 30% to 40%. Various Dutch exemptions may apply. Please note that exemptions in other countries will not be taken into account to calculate the tax due in the Netherlands. For example, gifts to children

are exempt up to an amount of EUR 5,363 per annum (for 2018); gifts to other parties are exempt up to an amount of EUR 2,147 per annum (for 2018). It is possible to increase the exemption for gifts to children, but this can only be done once and is subject to several conditions. There are also very generous exemptions available for the transfer of (shares in) active businesses, but this is subject to strict conditions.

Gifts to qualifying public benefit organizations are exempt from gift tax. Under certain conditions the gift is also deductible for personal income tax purposes (maximum 52% personal income tax reduction in 2017).

Dutch inheritance tax

In principle, Dutch inheritance tax is payable if the deceased was a resident of the Netherlands at the time of death. The place of residence of the beneficiaries is irrelevant. For Dutch inheritance tax purposes, Dutch citizens are still considered to be residents of the Netherlands for 10 years after emigration. During this period, the estate of a Dutch citizen is therefore subject to Dutch inheritance tax. People without the Dutch nationality are not regarded as Dutch residents for Dutch inheritance tax purposes if they did not live in the Netherlands at the time of death and consequently their estate will not be subject to Dutch inheritance tax. This means that if you die during your stay in the Netherlands, Dutch inheritance tax would, in principle, be due on the value of any assets a beneficiary receives. If you already left the Netherlands (and you are not a Dutch citizen), no Dutch inheritance tax should be payable.

The same tax rates apply for both gift and inheritance tax purposes (see above). However, the exemptions for inheritance tax differ from the gift tax exemptions. Upon the death of a Dutch resident, their qualifying partner is entitled to a maximum inheritance tax exemption of EUR 643,194 (for 2018) and the children to an exemption of EUR 20,371 (for 2018).

Double taxation and international law

In international situations, gifts and estates may be subject to both Dutch and foreign gift and inheritance tax. For example, because the assets are located

abroad, the deceased or the beneficiary is a citizen of a foreign country or lives abroad, or the assets are contributed to a trust. These factors can all trigger double taxation. Tax treaties may provide double tax relief in such situations. However, very few tax treaties 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 automatically assumed that double tax relief is always available.

Besides tax aspects, civil law aspects should also be considered. What are the consequences in the Netherlands of wills governed by foreign civil law? And what is the effect in the Netherlands of marriage contracts concluded abroad?

Obligation to file a tax return

In principle, the person who receives a gift or an inheritance that is subject to gift and inheritance tax in the Netherlands must file a tax return for this. In addition, the person making the gift may be held liable for any gift tax payable. The period during which additional tax assessments may be imposed 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 or inheritance tax. This can result in complex international situations and double taxation. We therefore recommend that you know exactly what your estate planning situation is before moving to the Netherlands, even if you intend to stay for only a short time. We would be pleased to advise you on this. Feel free to contact your tax advisor at Meijburg & Co for more information.

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