

## **Upper House adopts 2020 Tax Plan package and bills on ATAD2 and DAC6**

On December 17, 2019 the Upper House adopted the:

- 2020 Tax Plan package;
- Second EU Anti-Tax Avoidance Directive (ATAD2) Implementation Act; and
- Cross-border Arrangements (DAC6) (Implementation of EU Directive) Act.

The 2020 Tax Plan package contains the following bills:

- 2020 Tax Plan;
- Other 2020 Tax Measures;
- National Climate Agreement (Tax Measures) Act
- The Withholding Tax Act 2021;
- Education Expenses Tax Deduction (Abolition) Act;
- Harmonization and simplification of trade between Member States (Implementation of EU Directive) Act.

These are explained in more detail in our [Memorandum on the 2020 Tax Plan](#).

Along with the adoption of the 2020 Tax Plan package and the bills on the implementation of ATAD2 and DAC6, the Upper House also adopted several motions. Moreover, the CV/BV policy statement will be repealed at the same time ATAD2 is implemented on January 1, 2020. The adopted motions and the implications of repealing the relevant policy statement are briefly explained below.

### **Copying the good elements of the UK tax system**

- The government was asked to examine the simplifications that were introduced into the UK tax system and to evaluate the extent to which the Dutch tax system can copy the good elements of this and to inform the Upper House about its findings. The main focus of the motion is on reducing the marginal tax burden and making the tax system more transparent and simpler. This with a view to making work more rewarding (Motion 35.302, letter N).

### **Examination of reducing the cost burden for, among others, greenhouse horticulture, the food processing industry and the paper and chemical industries**

- The government was asked to examine the possibilities for reducing the extreme increase in costs that a number of business sectors are facing as a result of the introduction of the surcharge for sustainable energy (*Opslag voor Duurzame Energie*; ODE) and, if necessary, defer the ODE, to enter into discussion with these sectors and to inform the Upper House about the progress of these discussions (Motion 35.304, letter F).

### **Avoidance of double taxation as a result of ATAD1 and 2**

- Situations of double taxation can arise as a result of ATAD1 and 2. The Deputy Minister was asked to facilitate the avoidance of double taxation in practice and to enter into discussions with the European Commission and other Member

States next year to see whether, and if so how, double taxation can be eliminated if it is caused by the Directive (Motion 35.421, letter H).

### **Repeal of CV/BV policy statement**

Simultaneously with the implementation of ATAD2 on January 1, 2020, the policy statement of the Deputy Minister of Finance dated July 6, 2005, IFZ2005/546M, *Government Gazette* 2005, 167, concerning hybrid entities under the tax treaty with the United States (the 'CV/BV policy statement'), will be repealed as of that date. Because this policy statement will no longer apply as of January 1, 2020, the agreement with the tax inspector about the conditions for disregarding Article 24(4) of the treaty will no longer be relevant as of that date and that Article will immediately come back into effect. If the settlement agreement also provides advance certainty on other tax aspects, the material effect of the settlement agreement on those aspects will be maintained. A decision issued under Article 2 of the Dutch rules implementing the 1992 Netherlands - United States of America Tax Treaty in conjunction with the policy statement of July 6, 2005, discharging a taxpayer from the obligation to withhold dividend tax pursuant to Article 10 of this tax treaty, will also no longer be relevant as of January 1, 2020 (see the policy statement of the Deputy Minister of Finance dated December 16, 2019, *Government Gazette* 2019, 66196).

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