

Upper House of Parliament adopts 2021 Tax Plan package and bill on the Liquidation and Cessation Loss Schemes Limitation Act

On December 15, 2020 the Upper House of Parliament adopted the 2021 Tax Plan package and the bill on the Liquidation and Cessation Loss Schemes Limitation Act. The Lower House of Parliament had already adopted these bills on November 12, 2020 (see [our previous memorandum](#)).

The 2021 Tax Plan package contains the following bills:

- 2021 Tax Plan
- 2021 Other Tax Measures (*already adopted by the Upper House on December 8, 2020*)
- Improved Feasibility of Allowances Act
- CO₂ tax on Industrial Emissions Act
- Differentiation of Real Estate Transfer Tax Act
- Changes to Box 3 Act
- One-off rent reduction low-income tenants (*already adopted by the Upper House on December 1, 2020*)
- Determination of surcharge rates for sustainable energy and climate transition 2021 and 2022

For a more detailed explanation of the originally filed bills, we refer to [our Budget Day memorandum](#).

With regard to the tightening of the loss set-off for corporate income tax purposes as of 2022 and the Job-related Investment Allowance (*Baangerelateerde Investeringskorting*; BIK, for 2021 and 2022) two separate Memorandums of Amendment to the 2021 Tax Plan were presented to the Lower House of Parliament on October 5, 2020 (see [our previous memorandum](#)). We would like to note the following with regard to these measures.

Limitation of loss set-off

The tightening of the loss set-off for corporate income tax purposes will take effect on a date still to be decided by Royal Decree, in anticipation of the (final) implementation test for this change, which is currently not yet ready. This implementation test is expected at the beginning of 2021. The effective date envisaged by the government remains January 1, 2022. Should any technical implementation impediments emerge from the implementation test, this could be cause to amend this measure.

Job-related Investment Allowance (BIK)

One element of the Job-related Investment Allowance will also only take effect by Royal Decree. The option for a fiscal unity for corporate income tax purposes to use the BIK will possibly take effect at a later date. This is because the government has reported the BIK scheme to the European Commission to ensure that there is no prohibited State aid. The provisions covering the fiscal unity were removed from the 2021 Tax Plan by way of an amending Act, with the possibility to re-include them in the Act on a date to be determined by Royal Decree, if necessary with retroactive effect to January 1, 2021. The Lower House of Parliament had already adopted the amending Act on December 10, 2020 and the Upper House has thus now also done so.

Adopted motions

The following motions were also adopted in the vote on December 15, 2020:

- The government has been asked to in future accompany all tax measures that are presented to Parliament with a 'feasibility assessment' (*doenvermogenstoets*). The implementation of the tax system is becoming increasingly complex for citizens and businesses. However, according to the motion, in recent years there have been positive experiences with implementation tests for government agencies such as the Dutch tax authorities. This also includes the first experiments with the feasibility test, where the test to see whether tax rules are feasible is centered on the citizen (motion 35572-N).
- The government has been asked to investigate a more neutral treatment of businesses that are subject to tax as personal income taxpayers or as corporate income taxpayers, and to share the outcomes of this with the Lower House no later than the first half of 2021. According to the motion, the measures in the 2021 Tax Plan package create new differences between taxing businesses for personal income tax purposes and for corporate income tax purposes. However, the legal form that a business chooses should not affect the levying of profit tax on the profits of that business. According to the motion, a more neutral treatment of businesses that are subject to tax as personal income taxpayers or corporate income taxpayers will do justice to the various functions of income from profit, i.e. consumption, investment, setting funds aside and retirement provisions (motion 35572-O).

Should you have any questions about the above, Meijburg's advisors would be pleased to use their expertise to help you. We will, of course, keep you informed of subsequent developments with regard to these measures.

The information contained in this memorandum is of a general nature and does not address the specific circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.