

Letter to Lower House of Parliament regarding requests for ex-officio reduction in Box 3 tax liability for non-litigants

On December 24, 2021 the Supreme Court ruled in a class-action appeal that the Box 3 tax regime for the years 2017 and 2018 is contrary to the European Convention on Human Rights (ECHR). On Budget Day 2022 Deputy Finance Minister Mr. Van Rij said that taxpayers who did not file an objection or had not joined the class-action appeal against their personal income tax assessment and whose assessment was irrevocable at the time of the Supreme Court judgment did not qualify for restoration of rights.

Non-litigants have recently started inundating the Tax and Customs Administration with requests for a reduction in their personal income tax assessments. The submission of these requests results in a lot of work for taxpayers, tax advisors and the Tax and Customs Administration. On November 4, 2022 the Deputy Minister of Finance sent a letter to the Lower House of Parliament in which he promised to institute a 'class-action-plus' procedure.

Based on this procedure, it should become possible to litigate a small number of cases involving a request for reduction in the tax assessment. The outcome of those litigation proceedings will then apply to all taxpayers involved.

To prevent all non-litigants from having to file a request to join the 'class-action-plus' procedure about the question of whether they qualify for restoration of rights as well, the Deputy Minister has said that non-litigants will also be governed by a Supreme Court judgment in these litigation proceedings for the years 2017 through 2020 even if they have not filed a request.

KPMG Meijburg & Co comments

The procedure proposed by the Deputy Minister of Finance will allow non-litigants to benefit, for the years 2017 through 2020, from the litigation proceedings that will be conducted about the restoration of rights in Box 3 for non-litigants. This is a welcome simplification for the practice.

Please do not hesitate to contact us if you have any questions about the above. Meijburg's advisors would be pleased to use their expertise to help you.

KPMG Meijburg & Co
November 4, 2022

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