Mels de Man
Hamelink & Van den Tooren, Amsterdam
mels.de.man@hamelinktooren.com

Recent developments in international taxation: the Netherlands

Introduction

This report summarises the key Dutch tax developments in 2025. It covers the new Dutch entity tax classification rules, effective 1 January 2025, followed by updates to corporate income tax (CIT), withholding tax and personal income tax legislation. This report also covers certain specific aspects relating to the interaction between the Dutch Minimum Tax Act (ie, the Dutch implementation of Pillar Two legislation) and other Dutch tax legislation.

New Dutch entity tax classification rules

As from 1 January 2025, the following changes have been made to the Dutch tax classification rules for entities.

1. All Dutch and equivalent foreign partnerships are classified as transparent for Dutch tax purposes, unless the partnership would also qualify as a non-transparent Dutch fund for joint account (*fonds voor gemene rekening* or FGR) (see also below, under item 2). This also includes Dutch limited partnerships (*commanditaire vennootschappen* or CVs) which previously could be either transparent or non-transparent, depending on whether the limited partners in the CV could be added or replaced without the consent of all partners (the so-called 'open CV' which was non-transparent) or not (the so-called 'closed CV' which was transparent).
2. The definition of a non-transparent FGR has been changed and a new definition of a 'transparent fund' has been introduced. As of 1 January 2025, a(n) (investment) fund only constitutes a non-transparent FGR if it is a regulated fund of which the participations are tradable. Note that a priority rule applies: ie, if a Dutch or foreign entity qualifies as a non-transparent FGR this overrules the initial classification of the entity as being transparent.
3. The Dutch foreign entity classification rules have been changed and are now based on the Decree Comparison Foreign Entities dated 9 November 2024 (the 'Decree'). This Decree provides a framework for the tax classification of foreign entities as either transparent or non-transparent for Dutch tax purposes. As a starting point, it needs to be assessed under the new classification rules whether a foreign entity has a Dutch equivalent (the 'similarity approach'). If so, the tax classification of the entity's Dutch equivalent will be applied. If the foreign entity is not sufficiently comparable with a Dutch entity or if it is comparable with more than one Dutch entity, either the 'fixed approach' or the 'symmetrical approach' applies. The fixed approach applies to foreign entities located in the Netherlands and classifies a foreign entity as non-transparent for Dutch tax purposes. For foreign entities located outside of the Netherlands, the symmetrical approach applies, meaning that the tax classification of the jurisdiction where the entity is located, will be followed for Dutch tax purposes.

In addition, a list (*rechtsvormenlijst*) with legal presumptions regarding the comparability of certain foreign entities is enclosed to the Decree. The comparability of the entities in this list is based on the similarity approach as described in the Decree. The list contains a number of foreign entities and their (presumed) Dutch equivalent, as well as foreign entities which can (presumably) not be compared to any Dutch legal form.

Corporate income tax
The most notable changes per 1 January 2025 to the Dutch Corporate Income Tax Act (CITA) inter alia relate to the earnings stripping rule, the related-party definition, the debt waiver exemption and the codification of the general anti-avoidance rule (GAAR).

Earnings stripping rule
As part of its broader ambition to enhance the Netherlands' attractiveness as a business location, the Dutch Government has prioritised improving the country's competitive position. One of the adopted measures is a change to the earnings stripping rule, which limits the deductibility of net interest expenses (in brief, interest expenses minus interest income, including currency exchange results) to prevent base erosion. This rule applies per taxpayer and does not differentiate between intragroup and third-party loans.

Under the 2022 Tax Plan, the deduction cap was tightened from 30 per cent to 20 per cent of fiscal earnings before interest, tax, depreciation and amortisation (EBITDA). However, recognising the need for a more balanced approach, aligned with other European Union Member States, the Dutch Government has now partially reversed this tightening. Therefore, as of 1 January 2025, the deduction limit has been increased from 20 per cent to 24.5 per cent of the fiscal EBITDA. Net interest expenses not exceeding €1m remain tax deductible under the earnings stripping rule.

Extension of related-party definition following changed entity classification rules
Article 10a of CITA is an anti-abuse provision that disallows the deduction of interest on loans from related parties if those loans are connected to certain 'tainted' transactions. These transactions are listed in Article 10a of CITA. A related entity is generally defined as one in which the taxpayer holds at least a one-third interest (or vice versa) or a third party holds such interest in both.

As of 1 January 2025, major changes were made to the tax classification of entities (see above). These changes mean that some entities previously considered non-transparent (and thus independently taxable) will now be treated as transparent, with tax obligations shifting to their participants. However, their legal structure and economic ties to the taxpayer remain unchanged. Under the current wording of Article 10a of CITA, these new transparent entities could no longer qualify as 'related entities', unintentionally narrowing the scope of the anti-abuse rule. To address this, CITA has been amended to expand the definition of 'entity'. The revised definition includes:

- Dutch CVs;
- foreign entities comparable to a CV; and
- foreign entities classified as transparent under the 'symmetry method'.

Entities comparable to a (transparent) Dutch *maatschap*, *vennootschap onder firma*, or transparent (investment) funds are not included in this expansion. The amendment ensures that the anti-tax base erosion rules of Article 10a of CITA continue to apply effectively, even after the reclassification of certain entities as transparent.

Interaction of the tax loss compensation rules and the debt waiver exemption
As of 1 January 2022, the Netherlands introduced a cap on the utilisation of tax losses for CIT purposes. Under this rule, tax losses up to €1m can be fully offset against taxable profits. For profits exceeding €1m, only 50 per cent of the remaining profit can be offset with losses.

At the same time, companies can apply the debt waiver exemption (*kwijtscheldingswinstvrijstelling*) when a creditor waives a claim that is no longer collectable. However, this exemption only applied to the portion of the waiver profit that exceeded the taxpayer's current and carry-forward tax losses.

This created an unintended issue: even when a company is in financial distress and a creditor waives debt, the company may still have a CIT liability due to the limited loss offset, undermining the purpose of the exemption and potentially blocking restructurings. To resolve this, the government has expanded the debt waiver exemption. Under the new rule, if a company has more than €1m in carry-forward tax losses, the entire amount of the waiver profit will be exempt from CIT, as long as it exceeds the tax losses incurred in that year. This change restores the pre-2022 treatment and ensures that companies in financial distress are not taxed on forgiven debt, supporting successful restructurings. The current system remains unchanged for companies with €1m or less in carry-forward tax losses. This change aligns with the original intent of the debt waiver exemption and prevents otherwise viable companies from facing unnecessary tax burdens during restructuring.

Implementation of the GAAR as embodied in ATAD1
Since 1 January 2019, the Netherlands has implemented the first Anti-Tax Avoidance Directive (ATAD1), which requires EU Member States to adopt a GAAR. Initially, the Netherlands chose not to codify the GAAR in its national legislation, arguing that the existing legal doctrine of '*fraus legis'* (abuse of law) already fulfilled the Directive's requirements. However, following concerns raised by the European Commission, the Dutch Government has now formally incorporated the GAAR into the Dutch CITA as of 1 January 2025. This codification is not intended to materially change the application of *fraus legis* and will not affect other taxes.

The GAAR aims to combat tax avoidance through artificial arrangements, without interfering with specific anti-abuse rules already in place (eg, anti-base erosion rules or rules against trading in loss-making entities). If a specific anti-abuse rule does not apply to a given structure, the GAAR can still be used to challenge it, provided the conditions for its application are met.

Pillar Two

Interaction between Pillar Two and Dutch tax legislation
The Minimum Tax Act 2024 (Pillar Two) entered into force on 31 December 2023, introducing a minimum effective tax rate of 15 per cent for large multinational enterprises. As of 1 January 2025, several clarifying amendments have been made to the Dutch CITA to align existing subject-to-tax rules with the new Pillar Two framework. The key amendments are listed below.

RECOGNITION OF PILLAR TWO TAXES
To ensure consistency, the Dutch CITA now explicitly recognises qualifying domestic minimum top-up taxes (QDMTT), as well as qualified income inclusion rule (IIR) and

undertaxed profit rule (UTPR) levies, as valid forms of 'tax on profit' for the purposes of certain subject-to-tax tests.

ARTICLE 10A CITA – ANTI-TAX BASE EROSION RULES
Interest on intra-group loans remains deductible if subject to sufficient taxation (≥10 per cent according to Dutch standards), provided certain other conditions are met. It has been confirmed that QDMTT, IIR, and UTPR qualify as such tax.

ARTICLES 13 AND 15E CITA – PARTICIPATION AND PERMANENT ESTABLISHMENT EXEMPTIONS
QDMTT qualifies as tax on profit for these exemptions. IIR and UTPR are not explicitly referred to.

OTHER ANTI-ABUSE PROVISIONS
Only regular corporate taxes are generally considered. However, if a taxpayer proves a 15 per cent effective rate via a qualified top-up tax for a specific transaction or asset, the subject-to-tax condition is met.

CONTROLLED FOREIGN COMPANY (CFC) RULE
The subject-to-tax condition is satisfied if a qualified top-up tax ensures a 15 per cent effective rate for the relevant CFC.

Withholding taxes
The main changes relate to the introduction of the new group definition replacing the previously applicable 'cooperating group' definition. Another important change is the reversion of the abolishment of the tax-free share buyback facility for listed entities.

New group concept in the Dutch Withholding Tax Act 2021
As part of the 2025 Dutch Tax Plan, the Netherlands introduced a significant change to the Dutch Withholding Tax Act 2021 (*Wet bronbelasting 2021* or WTA) by replacing the existing 'cooperating group' concept with a new definition: the 'qualifying unity' (*kwalificerende eenheid*), effective from 1 January 2025.

Under the WTA, the Netherlands levies a conditional withholding tax on interest, royalty, and dividend payments made to related entities in:

- low-tax jurisdictions (ie, certain listed jurisdictions with a statutory profit tax rate of 9 per cent or less);
- jurisdictions on the EU list of non-cooperative jurisdictions; or
- certain hybrid structures and abusive arrangements.

The withholding tax rate is aligned with the highest Dutch CIT rate, which is 25.8 per cent in 2025. This tax applies only to payments between affiliated entities, in this case defined by having a controlling interest (eg, more than 50 per cent of the shares, voting rights or other rights providing a controlling interest).

The previous 'cooperating group' definition created legal uncertainty, particularly in structures involving hybrid entities. In practice, it was often unclear whether a cooperating group existed, and the Dutch tax authorities were generally unable to provide advance certainty in this respect. This ambiguity sometimes led to unintended withholding tax liabilities, even in non-abusive cases. To address these concerns, the new 'qualifying

unity' concept has been introduced. A qualifying unity exists when entities are acting together, with the main purpose or one of the main purposes being to avoid Dutch withholding tax.

Importantly, the burden of proof that the conditions for a qualifying unity are met lies with the Dutch tax inspector.

Dividend stripping – clarification of the record date for listed shares
As part of its ongoing efforts to combat dividend stripping, Article 1a was introduced to the Dividend Tax Act 1965. The Dutch Government has now clarified the application of this article, effective 1 January 2025.

The previous formulation of Article 1a contained ambiguity about its interpretation. Specifically, it was unclear whether the article merely designated the moment in time at which the beneficial owner of listed shares should be identified for dividend tax purposes, or whether it also defined who that beneficial owner was.

The updated article now confirms that the record date serves exclusively to establish the moment in time at which the beneficial owner of the dividend must be identified. It does not determine who is legally entitled to the dividend under civil law.

Reversion of the abolition of the tax-free share buyback facility for listed entities
As part of its broader ambition to strengthen the Netherlands' business climate and international competitiveness, the Dutch Government has announced the reversion of several previously proposed tax increases. A key measure among these is the reinstatement of the dividend tax buyback facility for publicly listed companies, which was set to be abolished as of 1 January 2025 under the 2024 Tax Plan.

Under Dutch law, the repurchase of own shares by a (listed) company is generally subject to dividend tax. However, the buyback facility provides for an exemption under certain conditions, ensuring that Dutch listed companies are not placed at a disadvantage compared to foreign competitors, many of whom are not subject to similar taxes on share buybacks.

As a result of this reversion, the share buyback facility will remain in effect as of 1 January 2025. This means that listed companies in the Netherlands may continue to repurchase their own shares – under certain conditions – without withholding dividend tax, thereby maintaining alignment with international tax practices.

Personal income taxes

Tax rates in Box 1
As of 1 January 2025, Box 1 of the Dutch personal income tax act has three tax brackets, instead of two as in 2024 and previous years.

Bracket	Taxable income	Tax rate
1	Up to and including €38,441	35.82 per cent
2	€38,441 up to and including €76,817	37.48 per cent
3	More than €76,817	49.50 per cent

Tax rates in Box 2
Last year, the headline rate in Box 2 (substantial interests) increased from 31 per cent (2023) to 33 per cent (2024). As of 1 January 2025, the rate increase has been reversed and is 31 per cent again, resulting in the below rate structure.

Bracket	Taxable income	Tax rate
1	Up to €67,804	24.5 per cent
2	From €67,804	31 per cent

Tax rates in Box 3
Last year, the tax rate in Box 3 (net wealth) increased from 32 per cent in 2023 to 36 per cent in 2024. The rate remains 36 per cent in 2025.

Wage taxation

30 per cent ruling
Under previously adopted legislative changes, as of 1 January 2024, the 30 per cent ruling for new applicants was supposed to be gradually reduced, ultimately phasing out to a 10 per cent ruling. However, the Dutch Government has since reversed this decision. For the years 2025 and 2026, the full 30 per cent ruling will continue to apply to all eligible employees. Starting 1 January 2027, the 30 per cent ruling will be reduced to a 27 per cent ruling. Furthermore, the salary threshold that should be met in order to be eligible for application of the 30 per cent ruling will be increased.

Certain transitional rules apply for employees who were already applying the 30 per cent ruling before 1 January 2024. We also refer to the update below on the abolition of the partial foreign taxpayer regime.

Abolition of the partial foreign taxpayer regime
Previously, employees who benefitted from a 30 per cent ruling could opt to be treated as partial non-residents for Dutch tax purposes. This allowed them to exclude foreign substantial shareholdings (Box 2) and foreign savings and investments/net wealth (Box 3) from Dutch personal income taxation.

As of 1 January 2025, this partial foreign tax regime has been abolished. Individuals with a 30 per cent ruling are now fully subject to Dutch personal income tax on their (worldwide) substantial interests and savings and investments/net wealth.

However, transitional rules apply that stipulate that individuals who already applied the regime before 1 January 2024, may continue to do so until 31 December 2026.

Proposal for a new regime for taxation options
As part of the 2025 Spring Memorandum of the Dutch Ministry of Finance, the Dutch Government announced plans to introduce a tax incentive in the Dutch wage tax act to encourage employee participation in start-ups and scale-ups. This proposed incentive offers employees of innovative start-ups and scale-ups a lower tax rate in Box 1, with the aim of

stimulating innovative companies and attracting talent. The lower tax rate is designed in such a way that the taxable basis of income from share options is narrowed to 65 per cent. As a result, the headline effective tax rate is approximately the same as it would be if the share options were taxed in Box 2 (ie, 32.175 per cent). No further details are available yet.

It is proposed that this new legislation will come into effect as of 1 January 2027. Since this proposal was made by the (as of 3 June 2025) outgoing Dutch Government and new elections are called (scheduled for 29 October 2025), it remains to be seen whether a new government will adopt the plan and whether the initially anticipated implementation deadline can still be met.