



## Proposed amendments 2011 Tax Plan

On 25 October 2010, amendments were proposed to the 2011 Tax Plan. Taxperience has summarized the most important amendments below. The amendments are expected to apply from January 1, 2011.

## Amendments 2011 Tax Plan

### ***Transformation into a business not being a legal entity***

In the situation a company is transformed into a business not being a legal entity the company is deemed to be dissolved, followed by the establishment of a new business. As a result, the realized liquidation profits would be taxable as well as the capital gains realized by the substantial shareholders in the company.

However, the Dutch tax legislation provides for a tax-deferral with respect to those liquidation profits and the capital gains realized by substantial shareholders if various conditions are met, including the set up of a transformation reserve. This reserve reflects the fact that a corporate income tax claim, and a substantial shareholding tax claim, is accordingly transformed into an income tax claim.

As a result of the structural reduction of the corporate income tax rate 20% for profits up to € 200,000 on a permanent basis, the calculation of the reserve will be amended. As of 2011, this "transformation reserve" will be equal to 50% of the exempt capital gains less 80% of the exempt liquidation profits.

### ***Trade in shell companies with losses to be compensated***

If the holding in a company is changed by 30% or more, losses realized can only be compensated if various requirements are met. An amendment clarifies that losses realized during the year in which the interest is substantially changed will be attributed to the preceding or subsequent book year.

However, the tax authorities will not pay any interest compensation for a reduction of a tax assessment resulting from such loss compensation.

### ***Lower VAT rate on renovation and repair of houses***

For the determination of the applicable VAT rate on renovation or repair of houses, it will be decisive when the taxable event takes place.

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## Amendments proposed changes 2011 tax legislation

### ***Averaging system***

Taxpayers with a substantially fluctuating income have the possibility to request an averaging of their income derived during a period of 3 subsequent years, to mitigate the effect of the progressive income tax rate. Such averaging will result in an equal attribution of one third of the income to each of those years.

To bring the Dutch legislation in line with the requirement set by TFEU treaty, the amendment provides that the facility also will apply to non-residents who derived almost their entire income in the Netherlands (i.e. 90% or more), but who did not opt to be taxed as a resident taxpayer for all 3 years.

### ***Transition rules innovationbox***

When the financial year of a company does not equal the calendar year, the transition rules of the innovation box must be applied to the financial year 2010/2011.

Source: [www.minfin.nl](http://www.minfin.nl)