



The NETHERLANDS – September 2022

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A GENERAL INTRODUCTION TO REAL ESTATE INVESTMENT TAXATION IN NETHERLANDS

i Investment vehicles in real estate

A real estate investment in the Netherlands can be structured in many ways, depending on the specific facts and circumstances. Commonly used Dutch vehicles to acquire real estate include the private limited liability company (BV), public limited liability company (NV), cooperative (Coop), mutual fund (FGR) and limited partnership (CV).

BVs, NVs and non-transparent FGRs can obtain the status of a fiscal investment institution (FII) and benefit from a regime similar to regimes abroad for real estate investment trusts. FIIs are subject to corporate income tax at a rate of zero per cent.

Dividends distributed by the FII are, in principle, subject to dividend withholding tax at a rate of 15 per cent, unless the domestic dividend withholding exemption applies or the rate is reduced under an applicable double tax treaty. Dividend withholding tax due by a FII may be reduced by Dutch and foreign withholding tax levied on dividends or interest payments received by the FII, subject to certain limitations.

For Dutch tax purposes, CVs and FGRs can be structured as either tax transparent or non-transparent.² If the vehicle is considered tax transparent, all profits are attributed to the investors directly, meaning that no taxation takes place at the level of the vehicle.

Foreign companies are also often used to invest in Dutch real estate, mainly because the Netherlands levies dividend withholding tax from distributions by companies residing in the Netherlands.

ii Property taxes

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The ownership, transfer and investment in real estate may be subject to different forms of taxation in the Netherlands.

Property tax

The ownership or use of real estate located in the Netherlands is subject to the following property taxes: real estate tax, water board charges, sewerage charges and waste disposal charges. Certain property taxes are levied on the owner of the real estate, whereas others are levied on the user. An owner-occupier will be charged both.

The municipal authority appraises the property to determine the tax base for property tax purposes. The municipality reassesses the value of all properties each year. This value is the base of all taxation relating to the property and is referred to as the WOZ value.

Real estate transfer tax

The transfer of real estate is, in principle, subject to real estate transfer tax. Recently, this rate has been diversified for different types of buyers:

- zero per cent for residential real estate up to €400,000 (€440,000 as of 2023) for individuals younger than 35 (starter exemption);
- 2 per cent for residential real estate to be used by the buyer as their primary residence;
- 8 per cent for investments in residential real estate (10.1 per cent as of 2023); and
- 8 per cent for investments in commercial real estate (10.1 per cent as of 2023).

Exemptions of real estate transfer tax are available if the transfer is subject to value added tax (VAT) or for subsequent transfers within a certain time frame.

A company with a balance sheet comprising 50 per cent or more of real estate assets and a minimum of 30 per cent of real estate located in the Netherlands is considered to be a real estate company for Dutch tax purposes. By means of legal fiction, shares in a real estate company are deemed real estate. This implies that the transfer of shares may also trigger real estate transfer tax, provided that the relevant company is a qualifying real estate company.

VAT

The transfer of real estate is exempt from VAT unless the real estate qualifies as newly constructed (i.e., less than two years after first moment of use) or building land or the seller and buyer opt for a VAT taxable transfer. In that case, the transfer is subject to VAT at a rate of 21 per cent.

Corporate income tax

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Capital gains derived from the disposal of Dutch real estate assets held as investment by resident corporate taxpayers are subject to corporate income tax. The same applies for net rental income enjoyed by resident corporate income taxpayers. The applicable corporate income tax rate is 25.8 per cent for 2022.³

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