Netherlands
Individual Taxation

Introduction

Individuals are subject to a national income tax based on a schedular system. There is no net wealth tax. Social security contributions are payable by all taxpayers. Transfers at death and gifts are subject to inheritance and gift taxes imposed by the state. Municipalities impose a real estate tax. For VAT and miscellaneous indirect taxes, see Corporate Taxation, 8. and 9., respectively.

For tax purposes, Aruba and the Netherlands Antilles are regarded as separate jurisdictions. Following a constitutional reform, the Netherlands Antilles ceased to exist with effect from 10 October 2010. Since that date, the Netherlands Antilles are divided into three parts, i.e. Bonaire, St Eustatius and Saba (BES Islands), Curaçao and St Maarten. The BES Islands have the status of a special Dutch municipality while Curaçao and St Maarten have a partially separate status like Aruba. All provisions of Dutch tax law and protocols, which applied to the Netherlands Antilles before 10 October 2010, continue to apply to the BES Islands, Curaçao and St Maarten.

All parts of the Kingdom have their own jurisdiction in respect of taxation. Consequently, Netherlands tax law is not applicable in the other parts of the Kingdom. Tax treaties concluded by the Netherlands are also applicable to the Netherlands Antilles, Curaçao and St Maarten. Tax treaties concluded by the Netherlands are also applicable to the Netherlands. Tax treaties concluded by the Netherlands are also applicable to the Netherlands Antilles before 10 October 2010, continue to apply to the BES Islands, Curaçao and St Maarten.

The currency is the euro (EUR).

1. Income Tax

Individuals are subject to a national income tax, which was radically reformed with effect from 1 January 2001. The reform brought about a schedular system, the most interesting feature of which is taxation of savings and investment income based on a deemed yield of assets. As a corollary to the new system, net wealth tax was abolished.

1.1. Taxable persons

Individual income tax is levied on individuals who are (a) residents of the Netherlands or (b) non-residents with income from sources in the Netherlands. Non-resident taxpayers can in certain situations opt to be taxed according to the rules for resident taxpayers (see 6.3.1.).

There is no clear definition of “residence” in Netherlands tax law. Residence is to be determined “according to the circumstances”. Under case law, the following circumstances are considered particularly relevant: the availability of a permanent home, the place where the spouse and children live and the place of personal and economic relations (e.g. the place of employment).

A resident of the Netherlands who leaves the country without becoming a resident of another state and returns within 1 year is deemed to have remained resident for this entire period.

Spouses and registered partners are regarded as partners for individual income tax purposes, which means that they are taxed separately on their earned income, i.e. income from a present or past employment, a profession, a business and annuities. In addition, with effect from 1 January 2011, also unmarried individuals who are registered at the same address are regarded as partners, if (i) they have a child, (ii) one of the partners has recognized the child of the other partner, (iii) they are regarded as partners under a pension scheme of one of the individuals, or (iv) they jointly own an owner-occupied dwelling.

Certain categories of income, expenses and taxes, such as income from an owner-occupied dwelling, income from a substantial shareholding, savings and investment income, as well as extraordinary expenses, education costs, child care expenses and donations made, and dividend withholding tax paid, may be freely attributed to one of the spouses by the spouses in their annual tax returns. A tax credit for the withholding tax on dividends received by a minor child is granted to the parent to whom the child’s capital is allocated. Spouses living permanently apart are taxed separately on all income. Income of their children is taxed in the hands of the parent who maintains the children.

The income of partnerships is generally taxed at the level of the partners. Each partner is deemed to carry on his own business in proportion to his share in the partnership and may choose his own method of profit calculation. Finally, each general partner is entitled to the business incentives (see Corporate Taxation, 1.7.). Limited part-
nners, however, are only entitled to the profit-dependable business incentives, i.e. accelerated depreciation and the investment deductions.

1.2. Taxable income

1.2.1. General

Resident individuals are taxed on their worldwide income. Under the schedular tax system effective from 1 January 2001, taxable income is grouped into three “boxes”.

Box 1, income from employment and dwellings, includes the income from the following sources:
- present and past employment (see 1.3.);
- business activities (see 1.4.);
- other activities;
- periodical payments and pensions from individuals (e.g. alimony) or insurance institutions;
- periodical payments received from the state or a public body, e.g. old-age pensions (AOW); and
- owner-occupied dwellings.

Income from other activities includes income derived from activities that cannot be considered employment income or business income, including consideration received from (1) putting assets at the disposal of a business or a company in which the taxpayer has a substantial shareholding, (2) making assets available to a business or a company in which the taxpayer has a substantial shareholding, and (3) making property profitable by means of extensive efforts.

A taxpayer who owns a dwelling (house, apartment, etc.) which is at his disposal, or at the disposal of persons belonging to his household, must include imputed income in his taxable income. The imputed income is calculated as a percentage (up to 0.55%) of the market value of the dwelling (established by public valuation). For dwellings with a value of more than EUR 1,020,000 the imputed income is EUR 5,610 plus 1.05% of the excess over EUR 1,020,000. From 2009, there is no maximum imputed income.

Income falling under Box 1, less personal deductions and allowances, is taxed at progressive rates (see 1.9.1.). The net results of the various income sources of this box are aggregated before the personal deductions (see 1.7.1.) are deducted and the progressive rates (see 1.9.1.) are applied.

Box 2, income from substantial shareholdings, includes dividends and capital gains derived from substantial shareholdings in resident and non-resident companies.

Such income is taxed at a flat rate (see 1.6.).

Box 3, income from savings and investment, replaces ordinary taxation of all types of income from capital, other than deemed income from a dwelling (Box 1) and dividends and capital gains from substantial shareholdings (Box 2). Taxation of Box 3 is based on a deemed yield on net assets, taxed at a flat rate (see 1.5.1.).

Taxable income is computed on a cash basis, except for business income (which is usually determined on an accrual basis) and capital gains from a substantial shareholding (at the time of transaction). For savings and investment income, see 1.5.

All boxes are treated separately, and a negative result of one box can normally not be set off against a positive result of another.

1.2.2. Exempt income

Income that does not fall under any of the boxes mentioned in 1.2.1. is exempt. For exemptions granted in the case of the cessation of a business and in respect of savings and investment income, see 1.4. and 1.5., respectively.

1.3. Employment income

1.3.1. Salary

Employment income is subject to tax in Box 1 (see 1.2.1.). It includes wages and salaries, sickness payments and certain social security payments. Tax on employment income is generally collected by means of a wage tax, which is a prelevy of the income tax (see 1.9.2.1.).

With effect from 1 January 2011, an employer may grant a tax-free general employment cost compensation in the amount of 1.4% of the gross salary. Any excess is taxable at the rate of 80%. This regime generally replaces the previous tax-free compensation for specific costs (e.g. for travel, study and moving costs). However for 2011, 2012 and 2013, the employer may opt to apply the former regime.

Costs of commuting between home and work using public transportation are deductible if the distance is more than 10 km. The maximum deduction is EUR 2,001 which is granted if the distance is more than 80 km. The employer is allowed to grant the employee tax-free compensation to cover commuting costs. Any such compensation reduces the above-mentioned commuter deduction.

In addition, a general activities rebate (credit) (for employment and entrepreneurial activities) is granted with a maximum of EUR 1,574 for income up to EUR 44,126. If the income is higher, the rebate is reduced by 1.25% of the excess, with a maximum reduction of EUR 77, resulting in a maximum credit of EUR 1,497 for an income of EUR 50,286 or more. For employment income the actual expenses are not deductible.

1.3.2. Benefits in kind

In principle, fringe benefits, i.e. any remuneration in kind received by an employee from his employer, are valued at fair market value and taxable as employment income.

If an employee or an entrepreneur has a car at his disposal which is provided by his employer or business and the car is used for private travel, 25% of the catalogue value (including car tax and VAT) of the car is added to his annual taxable income, unless the private travel is less than 500 km per year. However, only 14% or 20% of the catalogue value is added to the annual taxable income in respect of cars with low CO2 emission. Cars with no CO2 emission, such as electric cars, are exempt.

The taxable value of living accommodation provided by the employer is the rental value, i.e. the amount of rent that a third person would pay for the accommodation.
The maximum taxable value is 18% of the annual employment income.

Stock options granted to employees are always taxed at the moment of exercise or transfer of the option.

1.3.3. Pension income

Premiums paid by an employer for a qualifying employee pension plan are exempt for the employee; subsequent pension payments are included in the employee’s taxable income (Box 1). If the pension plan does not qualify (e.g. because the pension exceeds certain limits), the value of the pension right under the plan is included in the employee’s taxable income for the year in which the premiums are paid.

Pension premiums paid by an employee, which are based on a qualifying private pension plan, are deductible for the taxpayer; subsequent pension payments are included in his taxable income. Pension premiums paid under pension schemes with approved resident insurance companies or pension funds or permanent establishments of non-resident insurance companies or pension funds are fully deductible. Also premiums paid to recognized non-resident insurance companies or pension funds are fully deductible. A foreign pension fund or insurance company is recognized if both conditions are met:

- the fund or company provides information concerning the implementation of its pension regulations; and
- the fund or company provides a guarantee for the collection of any tax claim arising from the emigration of the insured, or the transfer of a pension claim from a resident to a non-resident pension fund or insurance company.

In the case of a temporary secondment or immigration to the Netherlands for a maximum period of 5 years, premiums paid to a non-resident insurance company or pension fund for the continuation of an existing pension contract are deductible up to the amount that would be deductible in the former country of residence of the taxpayer.

Annuities received on the basis of a private insurance are included in taxable income to the extent, and at the moment, that the instalments received exceed the total of premiums paid for the policy; premiums that have been deducted from taxable income are not taken into account. A deduction for additional premiums is available if the taxpayer has “insufficient” pension rights.

State old-age pensions and other public pensions are included in taxable income.

1.3.4. Directors’ remuneration

Members of the boards of directors and the supervisory boards of companies are considered employees for income tax purposes. Their remuneration, including bonuses, is taxable as employment income.

1.4. Business and professional income

Business and professional income is taxed as part of income of Box 1 (see 1.2.1.). Profits from a business must be determined according to the principles of “sound business practice” which must be applied with consistency and with disregard of the possible tax consequences. In most cases, the accrual-basis accounting system is applied.

The self-employed who have spent at least 1,225 hours for their business activities in the tax year are granted a deduction, which decreases when taxable profits increase. The maximum deduction is EUR 9,484 (profits less than EUR 14,045); the minimum deduction is EUR 4,602 (profits more than EUR 59,810). The deduction is increased by EUR 2,123 for the first 3 years of a business. For the self-employed of 65 or older, the deduction is reduced by 50%. If the taxpayer has spent at least 500 hours in a calendar year carrying out qualifying research and development activities, the deduction is increased by EUR 12,104. The latter amount is increased by EUR 6,054 for the first 3 years of a business. In addition, 12% of the profits remaining after the above deductions is exempt from tax regardless of the number of hours spent on the business activities.

Another deduction is granted to taxpayers whose spouse works in the business. It varies between 0% and 4% of taxable profits, depending on the hours that the spouse worked in the business in a calendar year.

Taxpayers engaged in a business may form a tax-deferred pension reserve (FOR) representing 12% of taxable profits. The maximum contribution is equal to the difference between the business property and the amount of the built-up reserve. However, for 2011, the contribution may not exceed EUR 11,882. Premiums paid for an old-age annuity to a qualifying insurance company can be paid from this reserve without causing an immediate tax liability.

On the cessation or transfer of a business, all (hidden) reserves, goodwill and the pension reserve are included in taxable profits. However, an exemption of EUR 3,630 applies. The entrepreneur may also elect to contract for an annuity subject to certain limits, the value of which is deducted from the cessation profits. Rollover relief is available where close family members of the entrepreneur continue the business or the business is continued by a company established by the entrepreneur.

In addition, a general activities rebate (credit) (for employment and entrepreneurial activities) is granted; for details, see 1.3.1.

For investment incentives, see Corporate Taxation, 1.7.

1.5. Investment income

1.5.1. Income from savings and investments (Box 3)

From 1 January 2001 investment income, including dividends (other than those on substantial shareholdings; see below), interest and royalties, is no longer subject to income tax as such. Instead, the worldwide net value of the assets of the taxpayer on 1 January of the tax year is deemed to produce a 4% net yield. This net yield is taxed at a flat rate of 30%, resulting in a tax of 1.2% on the yearly average value of the net assets.

Liabilities higher than EUR 2,900 (double for married couples and partners) are deducted in calculating the tax-
able base. A number of assets are excluded from the taxable base, including owner-occupied dwellings (see 1.2.1.) and certain capital insurance policies used to finance owner-occupied dwellings. In addition, certain investments in the general interest are excluded from the taxable base up to EUR 55,476 (double for married couples and partners). Qualifying investments include:

- investments in approved “green funds”. Such funds must have the purpose of, and actually operate in, the direct or indirect portfolio investment in projects for the benefit of the environment; and
- investments with banks and other financial institutions and investment funds that invest in approved “social-ethical projects”.

An additional exclusion applies to the principal amount of venture loans granted to entrepreneurs starting up a business. The maximum exclusion is EUR 55,476 (double for married couples and partners).

Finally, a basic allowance of EUR 20,785 (double for married couples and partners) is deducted from the taxable base. The allowance is increased by EUR 2,779 for each child of the taxpayer. For individuals of 65 or older, whose worldwide average net value of assets does not exceed EUR 275,032 (double for married couples and partners), the basic allowance is increased by an old-age allowance of (a) EUR 27,516 if their Box 1 income is not more than EUR 14,062 or (b) EUR 13,758 if their Box 1 income is not more than EUR 19,562.

1.5.2. Income from substantial shareholdings (Box 2)

Dividends, other profit distributions, interest and capital gains in connection with a substantial shareholding are subject to tax at a flat rate of 25%. A substantial shareholding exists if the taxpayer owns, alone or together with his spouse (or partner), directly or indirectly, at least 5% of the issued share capital, or at least 5% of a particular class of shares, in a resident or non-resident company. In family companies, a substantial shareholding may also exist if the taxpayer has a smaller holding, provided that his lineal ascendant or descendant owns a substantial shareholding in the same company.

Capital losses and costs, such as interest, relating to a substantial shareholding are deductible, in the first instance, from income of another source in the same box. Moreover, 25% of any excess is creditable against the tax due on the taxpayer’s income falling under Box 1 (see 1.2.1.).

1.6. Capital gains

Capital gains are generally not taxable. However, gains derived in the course of a business are taxed as part of ordinary business income (see 1.4.). For gains on substantial shareholdings, see 1.5.2.

1.7. Personal deductions, allowances and credits

1.7.1. Deductions

In general, in computing taxable income from Boxes 1 and 2, all expenses incurred which are necessary to obtain, collect or maintain income may be deducted. In the case of Box 3, expenses are treated as liabilities deductible from the taxable base. Certain expenses of a mixed character are not deductible, or are deductible subject to certain limits.

In addition, a taxpayer is entitled to claim the following deductions from the aggregate income of Box 1:

- interest on a mortgage loan relating to the owner-occupied dwelling of the taxpayer;
- fixed amounts paid for the maintenance of children;
- certain pension and annuity premiums (see 1.3.3.);
- specified medical expenses are deductible for individuals with a chronic decease and disabled persons if they exceed a certain threshold;
- expenses between EUR 500 and 15,000 for further education related to the taxpayer’s profession; and
- donations to certain resident and non-resident religious, charitable and cultural institutions, subject to a threshold of EUR 60 or 1% of taxable income of Box 1, if higher, and a ceiling of 10% thereof.

1.7.2. Allowances

There are no general personal allowances.

1.7.3. Credits

A levy rebate is creditable against the total amount of tax due from the three boxes. It is granted to all taxpayers, and comprises a general rebate of EUR 1,987 (EUR 910 for individuals of 65 years or older) and supplementary rebates. The supplementary rebates apply at fixed amounts, inter alia, to single parents with dependants and to the elderly.

1.8. Losses

Losses resulting from one box of income cannot be set off against positive income from another box. However, negative income of a source in Box 1 may be set off against positive income of another source in the same box. Any excess may be carried back to be set off against taxable income of the box for the 3 preceding years, or carried forward for 9 years. Business losses may be carried back for 3 years and forward for 9 years to be set off against prior or future business profits, respectively.

Capital losses relating to a substantial shareholding are deductible, in the first instance, from income of another source in the same box. Moreover, 25% of any excess is creditable against the tax due on the taxpayer’s income falling under Box 1 (see 1.2.1.). Any excess loss may be carried back for 1 year and forward for 9 years.
1.9. Rates

1.9.1. Income and capital gains

Box 1
For 2011 the rates applied to the aggregate net income falling under Box 1 (see 1.2.1.) are:

| Taxable income (EUR) | Tax on higher amount (EUR) | Rate on excess (%)
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 18,628</td>
<td>6,147</td>
<td>33</td>
</tr>
<tr>
<td>18,628 – 33,436</td>
<td>12,358</td>
<td>41.95</td>
</tr>
<tr>
<td>33,436 – 55,694</td>
<td>21,706</td>
<td>21</td>
</tr>
<tr>
<td>over 55,694</td>
<td>55,694</td>
<td>52</td>
</tr>
</tbody>
</table>

The 33% and 41.95% (second bracket) rates include, respectively, 1.80% and 10.80% income tax, the remaining 31.15% in both cases being national social security contributions. For individuals older than 64, the first two brackets are taxed at 15.10% and 24.05%, respectively (both rates include 13.25% national social security contributions). The 42% (third bracket) and 52% rates do not include any national social security contributions.

The national social security contributions should be distinguished from the employee social security contributions, the former being imposed on all types of income falling under Box 1, the latter being withheld only from salaries (see 3.).

Box 2
Dividends, interest and capital gains from substantial shareholdings (see 1.5.2.) are subject to tax at a flat rate of 25%.

Box 3
The net yield of 4% is taxed at a flat rate of 30%, resulting in a tax of 1.2% on the net assets (see 1.5.1.).

1.9.2. Withholding taxes

1.9.2.1. Wage tax

Employers must withhold wage tax from salaries and other taxable remuneration paid to their employees, as well as the benefit relating to a company car. Pensions and most social distributions are also subject to this withholding. The wage tax is an advance payment of individual income tax and is credited against the final tax liability. It includes the national social security contributions levied on the first two income tax brackets (see 1.9.1). For certain types of income and for income less than a certain annually fixed amount, the wage tax may be a final tax.

From 2009, employers have to pay tax on excessive severance payments, i.e. payments equal to more than 1 year’s salary of the employee. The tax is levied at a fixed rate of 30%. The tax is levied in addition to the normal wage tax. If an employee whose annual salary is more than EUR 522,000 and whose employment pension is based on a final pay system receives a salary increase, the employer has to pay a final 15% tax which is levied on four times the amount of the salary increase. It should be noted that these taxes do not constitute a tax burden on the employees.

Employees may deposit an amount equal to up to 12% of their annual gross wage, with an overall maximum of 210% of the annual gross wage, in order to finance free time later, e.g. for maternity, education or sabbatical leave or early retirement, to work part-time or to improve their pension rights. The deposited amount is deducted from the wage tax base (but is subject to the employee social security contributions).

1.9.2.2. Other

Dividends and interest from profit-sharing bonds paid by a resident company to its shareholders or creditors, respectively, are subject to dividend withholding tax at a rate of 15%. Resident taxpayers can credit the tax against their income tax due. Other interest or royalties are not subject to withholding tax.

1.10. Administration

1.10.1. Taxable period

The tax year is the calendar year. For an entrepreneur, a deviating book year may be applied. Taxes are generally collected during the tax year by way of withholding and by advance payments, with or without a final assessment during the following year.

1.10.2. Tax returns and assessment

In general, tax returns must be filed by 1 April of the year following the tax year. Extension of the filing date is usually possible for a good reason and for a limited period of time. If the tax liability can only be determined after the end of the tax year (e.g. for business income), a preliminary assessment may be made. Prepaid tax is credited against final tax.

The tax authorities make provisional assessments. Afterwards, the final assessment must be made within 3 years from the end of the tax year. Additional assessments are allowed within 5 years of the close of the tax year if new facts have become available. With respect to foreign-source income, the 5-year period is extended to 12 years. On 11 June 2009, the European Court of Justice in joined cases X and Passenheim-Van Schoot (C-155/08 and C-157/08) decided that this extension is not in conflict with EU law. The decision was confirmed by the Dutch Supreme Court on 29 February 2010 in joined cases No. 43050 and 43670 bis. In addition, the Court held that when the tax inspector has clear indications that a taxpayer has a foreign bank account, the application of a longer recovery period than for domestic situations is only acceptable if this extension is necessary to obtain the relevant data, and to prepare and issue a tax assessment. An additional assessment based on new data may result in a non-deductible penalty of up to 100% of the additional assessment plus interest.
1.10.3. Payment of tax

Taxes are collected during the tax year either by way of withholding (see 1.9.2.) or by preliminary tax assessments. The final tax is payable within 2 months of the date of the assessment.

1.10.4. Rulings

Advance tax rulings and advance pricing agreements can be requested by both resident and non-resident individuals, on the tax consequences of any future transaction of significant importance.

2. Other Taxes on Income

No other taxes on income are levied.

3. Social Security Contributions

3.1. Employed

In addition to the national social security contributions that form part of the lowest two income tax rates (see 1.9.1.), social security contributions on employment income are payable by employees. The contributions are calculated on gross salaries, less pension premiums withheld from the salary and payments to the wage savings accounts.

An income-dependent health insurance contribution (ZVW) is levied at a rate of 7.75% (in 2011) on a maximum annual income of EUR 33,427. The contribution is compensated by the employer by the same amount; this compensation is added to the employee’s taxable income for wage tax purposes.

3.2. Self-employed

Self-employed persons must make an income-dependent contribution for health insurance. The contribution (ZVW-zelfst.) is levied at a rate of 5.65% (in 2011) on net business profits up to EUR 33,427. The contribution is deductible for income tax purposes only to the extent it exceeds, together with medical expenses, the threshold for the medical expense deduction (see 1.7.1.).

4. Taxes on Capital

4.1. Net wealth tax

As a corollary to the introduction of the new system of taxation of savings and investment income (see 1.5.), net wealth tax was abolished with effect from 1 January 2001.

4.2. Real estate tax

Real estate tax is levied annually by the municipalities from the owners of immovable property. The taxable base is established by public valuation. The tax rate differs for each municipality. Different rates may apply for commercial property and private property. For individuals, real estate tax is only deductible if the property is used commercially.

5. Inheritance and Gift Taxes

5.1. Taxable persons

Inheritance and gift taxes are imposed if property is acquired by inheritance or gift and the deceased or the donor was a resident of the Netherlands (see 1.1.) at the time of death or at the time of the gift.

Dutch nationals resident in another country are deemed residents for the purposes of this tax for 10 years following the date they left the Netherlands to live abroad. Non-Dutch nationals who have been resident in the Netherlands remain liable for gift tax in the year following their departure.

Inheritance tax is levied on the beneficiary in respect of his share in the estate. However, the tax authorities have a right of redress against all beneficiaries with respect to the tax debt of any non-resident beneficiary. Gift tax is levied on the donee, but the donor and donee are equally liable for the payment.

5.2. Taxable base

The taxable base is the fair market value of all property received less liabilities. All gifts received by a donee from the same donor in a calendar year are aggregated. Gifts received within 180 days before the death of the deceased are deemed to be acquired by way of inheritance. Proceeds from a life or accident insurance on the life of the deceased are also deemed to be acquired by way of inheritance, unless no premiums were paid on account of the deceased. Premiums actually paid may be deducted.

5.3. Personal allowances

Certain deductions are allowed from the beneficiary’s share in the estate. Accordingly, a surviving spouse or partner may deduct EUR 603,600. A similar deduction applies to the surviving partner of an unmarried couple who lived together for at least 5 years and other partners with a notarial living together contract. Children may deduct EUR 19,114. For sick or disabled children, the deduction is EUR 57,342 if the children were mainly maintained by the deceased. Pension rights may reduce the deduction for spouses and partners. Their minimum deduction is EUR 155,930.

Gifts up to EUR 2,012 per calendar year received from the same donor are exempt. Gifts from parents to children, including adopted and stepchildren, are exempt up to EUR 5,030 per calendar year. Once in a child’s lifetime the annual exemption may be increased to EUR 24,124 if the child’s age is between 18 and 35. This exemption is increased to EUR 50,300 if the amount is used for the purchase, improvement or maintenance of a dwelling, the redemption of a mortgage, long-term lease of a building, or to finance education costs of at least EUR 20,000 per year.
5.4. Rates

Inheritance and gift taxes are levied at the same progressive rates. The progression depends on (1) the proximity of the relationship between the deceased/donor and the beneficiary/donee and (2) the value of the inheritance or gift received.

The rates for 2010 and later years are as follows (for the categorization as I, IA and II, see below):

<table>
<thead>
<tr>
<th>Taxable amount (EUR)</th>
<th>I</th>
<th>IA</th>
<th>II</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 118,708</td>
<td>10</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>over 118,708</td>
<td>20</td>
<td>36</td>
<td>40</td>
</tr>
</tbody>
</table>

Beneficiaries/donees are categorized as follows:

- Category I: spouses, partners or heirs in the direct line;
- Category IA: heirs in the second or further degree; and
- Category II: others.

5.5. Double taxation relief

In general, foreign taxes are deductible as a liability on the inheritance or gift received. Unilateral relief in the form of a tax credit is granted for foreign tax on immovable property, assets belonging to a permanent establishment and rights (not being securities or originating from an employment) to the profits of an enterprise the management of which is situated in another state. The credit is limited to the tax actually levied abroad or the Netherlands tax attributable to the assets situated abroad, whichever is lower.

The Netherlands has concluded tax treaties on inheritance taxes with Austria, Finland, Israel, the Netherlands Antilles, Sweden, Switzerland, the United Kingdom and the United States. The treaties with Austria, the Netherlands Antilles and the United Kingdom also cover gift taxes. Following a constitutional reform, the Netherlands Antilles ceased to exist with effect from 10 October 2010. Consequently, the treaty with the Netherlands Antilles from that date continues to apply to Bonaire, St Eustatius and Saba (BES Islands), Curaçao and St Maarten. In respect of the BES Islands, the treaty does not apply to the Netherlands because this is regarded as an internal situation.

6. International Aspects

6.1. Resident individuals

For the concept of residence, see 1.1.

6.1.1. Foreign income and capital gains

Resident individuals are subject to income tax on their worldwide income and capital gains. Foreign income is subject to the same income tax rates as domestic income.

Employment income of individuals who remain residents while exercising employment abroad is, however, exempt if the income is subject to tax in the foreign country. If the stay abroad is not longer than 30 days, it is necessary that tax has actually been paid in that country.

No special tax treatment is accorded to foreign business or professional income.

From 1 January 2001 foreign investment income, including dividends, interest and royalties, is no longer subject to progressive income tax rates. Instead, the worldwide net assets of resident taxpayers are deemed to produce a net yield of 4%, which is taxable at a flat rate of 30%. For details, see 1.5.1. With respect to a substantial shareholding (for definition, see 1.5.2.) in a foreign investment company, the taxpayer is deemed to receive a yield equal to 4% of the fair market value of the shareholding at the beginning of the calendar year, less dividends received. The deemed yield in this case is taxed at a rate of 25%.

In all other cases, income from a foreign substantial shareholding is taxed in the same manner as income from a domestic substantial shareholding (see 1.6.).

6.1.2. Foreign capital

There is no net wealth tax. Immovable property located abroad is not subject to real estate tax in the Netherlands.

6.1.3. Double taxation relief

Unilateral relief from double taxation of income is granted to resident taxpayers in the form of a tax exemption (with progression) or an ordinary tax credit. The relief is calculated separately for each box in accordance with their specific rules.

To qualify for the unilateral relief, the income must have been subject to a foreign national income tax. Unilateral relief is denied where a tax treaty provision applies to the particular item of income. Tax treaties have priority over Netherlands domestic law even if that results in a less favourable tax treatment. For a list of tax treaties, see Corporate Taxation, 6.3.5.

Exemptions (with progression) are granted for profits from a permanent establishment or a permanent agent abroad, income (including pensions) from an employment exercised abroad, income from immovable property located abroad, rights (not being securities or originating from an employment) to the profits of an enterprise the management of which is abroad and certain less significant types of income.

Ordinary tax credits are granted for dividends, interest and royalties (including service fees), which are taxed as income falling under Box 3 (see 1.2.1.), only if derived from certain developing countries. Any excess over the tax calculated for Box 3 may be set off against the tax payable on income falling under Boxes 1 and 2. The maximum credit is 15% of the gross dividends, interest and royalties.

Foreign taxes on income which are actually paid may be deducted from taxable income if the taxpayer opts not to be entitled to unilateral relief and does not receive tax treaty relief.

Income derived by sportsmen and artists from non-treaty countries is taxed as employment income. An ordinary credit is granted for any foreign tax on such income.
6.2. Expatriates

6.2.1. Inward expatriates

Foreign executives and other employees of companies or international non-profit organizations and foreign teachers of international schools temporarily exercising their employment in the Netherlands may qualify for the benefits of a so-called 30% ruling if they have specific know-how which is rarely available in the Netherlands (criteria include highly specified education, working experience of at least 2.5 years and a high salary). In addition, employees working for an international concern may qualify for the ruling if they are seconded to the Netherlands as a result of job rotation.

The maximum duration of the ruling is 10 years. However, after the fifth year the tax administration may require proof that the expatriate still has the required know-how. The ruling also applies to salaries paid in respect of periods during which an individual works outside the Netherlands if the Netherlands has the right to tax that income, e.g. under a relevant tax treaty.

From 1 January 2001 expatriates qualifying for this regime are taxed as residents with respect to their income from employment and dwellings (Box 1, see 1.2.1.). The expatriate relief granted under the regime consists of a tax-free allowance equal to 30% of the salary to be granted by the employer to cover expatriate costs. An additional amount can be received free of tax for the international school fees of the taxpayer’s children. Expatriates are entitled to the personal deductions (see 1.7.1.) and the levy rebate (see 1.7.3.). With respect to income from substantial shareholdings (Box 2) and income from savings and investments (Box 3), expatriates are taxed as non-residents (see 6.3.). They may, however, opt to be taxed according to the tax rules for resident taxpayers with respect to the income of those boxes as well.

6.2.2. Outward expatriates

A 30% cost reduction regulation applies in respect of secondment to a country in Asia, Africa, Latin-America (including the Netherlands Antilles and Aruba) and certain European countries. Following a constitutional reform, the Netherlands Antilles ceased to exist with effect from 10 October 2010; from that date the rule continues to apply to Bonaire, St Eustatius and Saba (BES Islands), Curacao and St Maarten. The reduction applies if the taxpayer during a period of 12 months was seconded by an employer resident in the Netherlands to one of these countries for a period of at least 45 days.

A resident of the Netherlands who leaves the country without becoming a resident of another state and returns within 1 year is deemed to be resident for this entire period.

Emigrating individuals who own a substantial shareholding in a resident company are provisionally assessed to tax on capital gains on a deemed alienation of the shareholding. The tax is not collected, but if the taxpayer has emigrated outside the European Union, security must be provided. The tax becomes finally due if the shareholding is sold within 10 years of the emigration. The tax is (partially) waived if the value of the shares has decreased after the emigration. The waiver is equal to 25% of the value decrease.

Similar rules apply to emigrating individuals who have deducted annuity and/or pension premiums. The tax becomes finally due if the taxpayer transfers the annuity policy or gives security with the policy and in the case of pensions if a lump-sum payment is received.

6.3. Non-resident individuals

For the concept of residence, see 1.1.

6.3.1. Taxes on income and capital gains

Non-residents are subject to tax in the Netherlands with respect to certain categories of income originating from sources in the Netherlands, e.g. profits from a business conduct through a permanent establishment or representative (Box 1, see 1.4.) and income and capital gains on substantial shareholdings in a resident company (Box 2, see 1.5.2.). Non-resident taxpayers are also subject to tax on Netherlands-source pension payments, social security payments and life and other periodic insurance payments. In addition, the tax on income from savings and investments (see 1.5.1.) is levied on immovable property (and rights thereon) situated in the Netherlands and profit-sharing rights (other than a substantial shareholding) in a resident company.

Unless otherwise stated, a non-resident taxpayer is subject to normal income tax rules and the same tax rates as residents (see 1.9.). He may generally only deduct expenses related to his income that is taxable in the Netherlands. He is only entitled to the personal deductions (see 1.7.1.) for pension or annuity premiums and for child care expenses. He is not entitled to the levy rebate (see 1.7.3.), unless he opts to be taxed according to the rules for residents (see below).

From 1 January 2001 it is possible for non-residents to opt to be taxed according to the rules for residents for income tax purposes. This option is available to non-residents who are residents of an EU Member State or a state with which the Netherlands has concluded a tax treaty which contains an exchange of information clause. In addition, the non-resident taxpayer must be subject to tax in his country of residence. The option is also available to the taxpayers’ spouses (and partners) who are not subject to tax in the Netherlands. On 18 March 2010, the European Court of Justice decided in the case of F. Gielen v. Staatssecretaris van Financiën (C-440/08) that the option system is incompatible with the EU freedom of establishment. The system is not capable of neutralizing the discriminatory treatment of non-residents even though those taxable persons may opt for the regime applicable to resident taxable persons in order to benefit from that tax advantage. By Decree of 16 June 2010, the Minister of Finance has clarified the tax consequences of the Gielen case, providing that with respect to the criteria which must be met to benefit from entrepreneurial incentives, residents and non-residents will be treated in the same manner, regardless of whether the option was used.

The option possibility replaces the former 90% scheme, under which non-residents who earned more than 90% of their worldwide income from the Netherlands were
granted a number of deductions and allowances that were normally granted to residents.

Non-resident musicians, sportsmen and artists performing in the Netherlands, who are resident in Aruba or the Netherlands Antilles, or a country with which the Netherlands has a tax treaty, are not taxed in the Netherlands in respect of income earned from such activities. Following a constitutional reform, the Netherlands Antilles ceased to exist with effect from 10 October 2010; from that date the rule continues to apply to Bonaire, St Eustatius and Saba (BES Islands), Curacao and St Maarten.

Other non-resident musicians, sportsmen and artists performing in the Netherlands are deemed to exercise an employment there and are subject to a final wage tax of 20% on their remuneration. Costs incurred, such as travel costs, rental costs and depreciation of (sports) equipment, may be deducted if they exceed in total EUR 163 per day, provided that a prior approval of the tax inspector has been obtained.

Dividends and interest from profit-sharing bonds paid by a resident company to its non-resident shareholders or creditors, respectively, are subject to a final dividend withholding tax at a rate of 15%, unless a lower rate applies under a tax treaty (see Corporate Taxation, 6.3.5.). Other interest or royalties are not subject to withholding tax.

Capital gains are not included in taxable income unless they are realized in the course of a business (see 1.4.) or result from a substantial shareholding (see 1.6.).

6.3.2. Taxes on capital
There is no net wealth tax. Non-residents are subject to real estate tax in respect of their immovable property located in the Netherlands.

6.3.3. Inheritance and gift taxes
See 5.

6.3.4. Administration
The taxation of non-residents takes place by assessment, unless a final withholding tax is levied. The same rules as discussed in 1.10. apply.