# Real estate special - Tax plan 2025

**In this special real estate edition of the Budget day Special from Atlas Tax Lawyers, we summarize the latest proposals and additional legislative measures from the 2025 Tax Plan that are relevant to the Dutch real estate market.**

Many proposals have already been announced before, for example in the Spring Memorandum 2024.

## Adjustment of interest deduction for real estate entities

Currently, the deduction of net interest expenses for tax purposes under the earnings stripping measure is limited to the greater of: (i) 20% of EBITDA, or (ii) €1 million per taxpayer. It is proposed to increase the percentage under (i) to 25% as of January 1, 2025. The legislator has found that, especially in the context of real estate investor, the €1 million treshold per company has resulted in the splitting up of companies

Therefore, the €1 million threshold under the earnings stripping measure will be abolished for taxpayers whose assets consist mainly (70% or more) of immovable property made available directly or indirectly to third parties for at least half of the year.

This means that qualifying real estate investors will rely on the 25% (currently 20%) of EBITDA for calculating deductions under the earnings stripping measure.

This proposal represents a restriction on the interest deductions for taxpayers involved in the business leasing real estate to third parties. We recommend assessing the impact of these changes and considering (re)structuring investment entities.

## New group concept for withholding tax

The Netherlands levies a withholding tax on interest, royalties and dividends paid to affiliated entities (the beneficial owner) located in designated or low-tax jurisdictions and in situations where there is abuse.

Withholding tax arises if the beneficial owner has a qualifying interest in the Netherlands-based paying entity or permanent establishment. A qualifying interest exists if it is an interest through which decisive influence can be exercised on decisions and activities.

This may also be the case if there is a cooperating group. The definition of the term cooperating group is based on the Corporation Income Tax Act 1969, which requires a coordinated investment. Practice has shown that this can lead to unintended consequences.

The term 'cooperating group' will therefore be replaced by the group concept: qualifying entity. A qualifying entity exists when entities act jointly with the main objective (or one of the main objectives) of preventing withholding tax from being payable by one or more entities that are part of the qualifying entity.

The Dutch government expects the result of the new group concept will be that it will only be in obvious cases of withholding tax avoidance that there will be situations in where a qualifying entity is identified. However, there is still a lack of clarity as to, for example, the circumstances under which private equity structures – where the fund has a coordinating role on behalf of the investments and its investors – will be classified as a qualifying entity.

## Reduction in real estate transfer tax rate 2026

As of January 1, 2026, the real estate transfer tax rate for residential properties not intended for long-term occupancy by the buyer will be reduced from 10.4% to 8%.

These properties are often rented out. This change is intended to encourage investment in (private) rental properties, thus increasing supply in the rental housing market.

The exemption for first-time homebuyers and the reduced 2% rate for homes where the buyer intends to occupy it will remain in effect, depending on the situation and provided that the conditions are met. While this lower rate may make investments more attractive, it is uncertain whether it will actually increase housing supply. Lower real estate transfer taxes could lead to price increases, as real estate investors may use the margin in tax to place higher bids. This could increase competition in the housing market and raise rental prices, potentially reducing accessibility for tenants.

## First-time buyer exemption and reduced real estate transfer tax rate for residential properties in 2025

The first-time buyer exemption and the reduced 2% transfer tax rate will be extended as of January 1, 2025, to situations where the economic ownership of a home is acquired. This means that the exemption or reduced rate can also be applied when acquiring economic ownership, provided that the other conditions are met. This offers more flexibility in property transfers.

If the first-time buyer exemption is applied upon acquiring economic ownership, it cannot be used again for the later acquisition of legal ownership.

## Adjustment to transfer tax for real estate entities

As of January 1, 2025, the concurrence exemption will generally no longer apply to share transactions in real estate entities (OZR), meaning that real estate transfer tax will be due. This change is not part of the 2025 Tax Plan but was decided earlier. You have already been informed about this, but we would like to highlight this point once again.

### *What remains exempt?*

An exception applies if the underlying new real estate (or building land) is used for at least 90% for VAT-taxed purposes, such as VAT-taxed lease of real estate, within two years following the share transfer (more than 1/3 of the shares in the OZR).

In that case, the exemption remains in effect.

### *What will be subject to tax?*

However, if the new real estate or building land is used for less than 90% for VAT-taxed purposes during the two-year period after acquisition, for example residential leasing, the exemption expires, and 4% transfer tax will be due. This is a newly introduced rate.

The opportunities to fall under the transitional law have now expired.

## Box 3

The deemed (or actual) return on real estate owned by individuals is taxable in Box 3 at a rate of 36%. Despite a previous announcement, the rate will not be lowered due to budgetary reasons. Under the current regime, not actual income is  taxed, but a deemed income based on a percentage of the property’s WOZ value. Unless the taxpayer can prove that the actual return earned on their total Box 3 assets was lower (counterproof).

The government is expected to announce statutory rules by mid-2025 on how actual returns for Box 3 should be determined. This will likely apply for the years up to and including 2026.

No new information was announced on Budget Day regarding the new Box 3 system, which is expected to be implemented from 2027.

The previous Rutte IV cabinet submitted this (draft) legislative proposal to the Council of State in June 2024, which still has to issue advice.

## Effective date

The proposed measures will take effect from 1 January 2025, if agreed in both chambers, unless otherwise stated. Click here for the Tax Plan documents.

## Questions?

If you have any questions following this special property edition of the Budget Day Special, please do not hesitate to contact our real estate colleagues.

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