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Shipping Tax Update

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Shipping Tax Update

Our annual shipping update summarizes the most relevant Dutch and international tax developments for the shipping & offshore service industry during the past year.

This edition of the update provides you with a brief overview of relevant corporate tax, value added tax and wage tax/social security developments for the shipping & offshore sector in the Netherlands for the year 2024. It moreover highlights some relevant EU and international developments for the shipping & offshore sector.

1. Corporate income tax

1.1 Corporate income tax rates

The Dutch corporate income tax (**CIT**) rates for 2025 do not change compared to 2024 and are as follows:

Taxable amount	CIT rate 2025
< € 200.000	19%
> € 200.000	25.8%

1.2 National exemption to the EU/EEA flag requirement in 2025

In the proposed Year-end regulation 2024 (*Eindejaarsregeling 2024*) the Dutch Ministry of Finance has included that the national exemption to the EU/EEA flag requirement will be applied in 2025.

As a result, every ship which is newly commissioned in 2025 does not have to comply with the EU/EEA flag requirement to qualify for the Dutch tonnage tax regime. However, to apply this exception to the EU/EEA flag requirement, at least one of the already qualifying ships of the fleet of the taxpayer must fly under an EU/EEA flag. The exception to the flag requirement also applies if none of the other two exceptions is met (we refer to the below). The last time the national exemption of the EU/EEA flag requirement applied was for 2021.

The other two exemptions to the EU/EEA flag requirement are:

1. The net tonnage of the qualifying ships, which the taxpayer operates under the flag of an EU or EEA Member State, expressed as a percentage of all qualifying ships operated by the taxpayer, did not decrease compared to the correspondingly percentage on 17th January 2004. If a shipowner first derived any profit from maritime shipping after this date, the percentage at the end of the first financial year applies. To apply this exception, at least one of the already qualifying ships of the fleet of the taxpayer must fly under an EU/EEA flag; and
2. The net tonnage of the qualifying ships, operated by the taxpayer under the flag of an EU or EEA Member State, amounts to at least 60% of the net tonnage of all the qualifying ships operated by the taxpayer.

Furthermore, we note that the exemption to the EU/EEA flag requirement applies to vessels the taxpayer (co)owns, holds in a bareboat basis, or for which it performs full crew and technical management. The EU/EEA flag requirement does not apply to dredgers or to vessels performing towing and auxiliary work. These vessels must always fly an EU/EEA flag. Ships on time or voyage/slot charter on the other hand, do not always have to fly the EU/EEA flag; this depends on certain ratios. Moreover, the EU/EEA flag requirement does not apply for vessels for which the taxpayer in the Netherlands primarily performs the commercial management for another entity/person.

1.3 Update Decree on profit from maritime shipping

On 15 November 2024, an updated version of the Decree of the Dutch State Secretary for Finance on the determination of profit from maritime shipping (**Decree**) was published. This Decree introduces some new elements and provides clarifications on the application of the Dutch tonnage tax regime, which may be relevant for both new and existing applicants. Therefore, it may be beneficial to review the recent changes in the Decree together to see if there is any impact on your application of the tonnage tax regime and to identify opportunities for a more advantageous application.

In short, the new elements in the Decree include the State Secretary's view on the tonnage regime consequences of entering and leaving a fiscal unity, the application of the tonnage tax regime on offshore wind farms, as well as the application of the so-called 'asset/crew split' on vessels intended for exploration of the seabed (survey vessels).

Additionally, the Decree includes some knowledge group positions from 2023. It is noted that waters located beyond the low-water mark of the coast, that qualify as inland waters for purposes of UNCLOS, qualify as "sea" within the meaning of the Dutch tonnage tax regime. Moreover, the State Secretary is of the view that being granted a sea certificate (*zeebrief*) is not required to qualify as a "vessel" within the meaning of the Dutch tonnage tax regime. Lastly, the State Secretary is of the view that transport from a Dutch port to a foreign port, whereby only a limited part of the route is sailed by sea, is regarded as "transport by sea" for the entire route.

1.4 Offshore working vessels

On 24 January 2023, the Lower House (*Tweede Kamer*) of Dutch Parliament adopted a motion by Mr. Stoffer (SGP), requesting the government to ensure that the deployment of offshore work vessels can be fully included under the Dutch tonnage tax regime and the seafarer's wage tax reduction, taking into account international frameworks for state aid, among other things.

The various aspects regarding the content and implementation of the motion by Mr. Stoffer have been further elaborated in a response from the Minister of Infrastructure and Water Management (*Minister van Infrastructuur en Waterstaat*) dated 24 June 2024. Although the Minister is in favor of the proposed extension, the actual implementation was left over to the new government. Presently, no actual bill has been brought into Dutch Parliament. For that reason, the aforementioned extension of the law is expected to come into effect on 1 January 2026 at the earliest. In this case, a bill must be introduced in the spring of 2025 at the latest.

2. Globe rules

Under the OECD's Global Anti-Base Erosion (**GloBE**) rules, an additional tax is imposed if the effective tax rate of a group in scope of the GloBE rules in a jurisdiction is below 15%. The effective tax is calculated in accordance with the GloBE rules. The rules entered into force in the Netherlands for financial years starting on or after 31 December 2023.

2.1 International Shipping Income exclusion – Strategic or commercial management

Applicability of the Dutch tonnage tax regime often results in a (significant) reduction of the effective tax rate and can result in an effective tax rate (well) below the 15%. The GloBE rules, however, include a specific exclusion, the International Shipping Income (**ISI**) exclusion, to mitigate the impact of the new rules for certain international shipping companies. One of the requirements to apply the ISI exclusion is that the strategic or commercial management (**SCM**) of all ships concerned must be carried out from the location where the entity deriving ISI income is located. A number of questions and uncertainties with respect to this SCM requirement exist, for example in situations where SCM activities are (partially) outsourced or where SCM activities take place in more than one jurisdiction. There is therefore a need for additional Administrative Guidance to the GloBE rules to provide for further clarification, the issuance of such guidance likely not be expected this year (2024).

2.2 Substance Based Income Exclusion

Due to the strict requirements to apply the ISI exclusion, not all taxpayers applying a tonnage tax regime will be able to apply the exclusion. This could result in additional tax under the GloBE rules in those situations where the effective tax rate in a jurisdiction is below 15%. The GloBE rules include a Substance-Based Income Exclusion (**SBIE**). The SBIE decreases the income that is subject to additional tax under the GloBE rules (note: the SBIE does not impact the effective tax rate in a jurisdiction under the GloBE rules). The SBIE in its current form can however only be applied in full with respect to tangible assets (and payroll costs of eligible employees) located in the jurisdiction of residence for more than 50% of the time. In other situations, a pro rata approach applies. However, for shipping businesses this often results in a SBIE close to nihil since the tangible assets/eligible employees will not be located in the jurisdiction of residence of the relevant taxpayer but fly all over the world. There is a need for additional Administrative Guidance for the transportation business in order to be able to apply the SBIE in a fair and business-tailored way, the issuance of such guidance likely not to be expected this year (2024).

2.3 Transitional CbCR Safe Harbour

It is also noted that the ISI exclusion does not apply for purposes of the transitional CbCR Safe Harbour (**CbCR SH**). This safe harbour is available for financial years 2024 - 2026 subject to meeting one of the three tests and is tested on a jurisdictional basis. If available and elected, the additional tax due under the GloBE rules for that jurisdiction is deemed to be zero if the CbCR SH applies. Since the ISI exclusion is not available for purposes of the CbCR SH, taxpayers applying a tonnage tax regime are less likely to meet one of the three CbCR SH-tests. The outcome could be that these taxpayers can indeed not benefit from the CbCR SH and therefore are faced with – amongst others - increased compliance burden under the GloBE rules themselves as from 2024.

3. Value Added Tax

3.1 VAT in the Digital Age: political agreement reached

On 5 November 2024, the Council of the EU reached a political agreement on the VAT in the Digital Age (**ViDA**) proposal. We refer to our website article for a more elaborate overview of the proposed changed in the ViDA proposal. Below is a high-level summary of the most important attention points for the shipping and offshore sectors.

The ViDA proposal introduces e-invoicing and digital reporting requirements. Taking effect 1 July 2030, e-invoicing will become the default for cross-border B2B supplies of goods and services within the EU. The cross-border B2B supplies of goods and services within the EU will have to be reported to the tax authorities electronically in real time when the invoice is issued. The supplier and the customer will both have to report the transaction, although Member States may exclude the customer from this reporting obligation. EU countries may also impose e-invoicing and real time reporting obligations for domestic transactions.

The ViDA proposal also aims to reduce VAT compliance obligations by minimizing foreign VAT registrations for businesses involved in cross-border transactions. The idea is that businesses will have to maintain one single VAT registration in only one Member State. This will be achieved through various measures. Taking effect already as of 1 July 2028, a mandatory VAT reverse charge mechanism will be introduced for all supplies of goods and services where the supplier is not established nor has a VAT registration in the Member State in which VAT is due and its customer maintains a VAT registration in that Member State.

The scope of the One Stop Shop scheme will also be gradually increased per 1 January 2027 and 1 July 2028. This will ensure that businesses will not have to register for VAT in foreign countries in situations where the VAT reverse charge mechanism is not applicable.

The ViDA proposal now awaits formal adoption, which is expected to take place in early 2025. These developments mark a significant shift in VAT rules across the EU and will require businesses to prepare for the upcoming changes. Businesses will need to adapt their invoicing and reporting processes to be compliant with the future VAT requirements.

3.2 VAT knowledge group decision on VAT rate for shipping services in third countries

In the Netherlands, the 0% VAT rate applies - among others - to services related to goods arriving from outside the Netherlands, provided that those goods have not (yet) been imported.

The VAT knowledge group of the Dutch tax authorities has published a decision that the 0% VAT rate does not apply to transport services that entirely take place outside the EU, because the goods do not physically enter the Netherlands. This means that, according to the VAT knowledge group, 21% VAT rate is to be applied on such transport services between two Dutch counterparties.

4. Wage Taxes

4.1 Prevention of double exemption on seafarers' wages allocated to the Netherlands

A seafarer residing abroad and employed by a shipowner based in the Netherlands, whose wages are allocated to the Netherlands (the state where the shipowner is established) under a tax treaty, is deemed liable to pay Dutch wage tax on his entire wages, regardless of whether he has worked entirely outside the Netherlands.

However, this does not apply for Dutch income tax purposes. If the seafarer has performed part of his work in the Netherlands, he can reclaim the withheld Dutch wage tax under certain conditions. One of the conditions is that the income must be subject to taxation in his country of residence. If the seafarer has not worked in the Netherlands at all, this requirement does not apply, and he will not owe income tax in the Netherlands. He can then reclaim the wage tax withheld by his employer by filing an income tax return.

Since the tax treaty with his country of residence allocates the right to tax to the Netherlands, his country of residence must provide relief from double taxation. If the home country avoids double taxation by granting an exemption of income, the salary is not taxed at all (double exemption).

This issue arose in a case recently decided by the Belgian Supreme Court. The Court ruled that Belgium had to grant a full exemption for the salary allocated to the Netherlands under the tax treaty, even though the Netherlands could not tax it under its national legislation. The seafarer was therefore not liable to pay any tax on his wages.

To address this double exemption scenario, an amendment to the Dutch national law has been proposed in the 2025 Tax Budget Plan. This amendment aims to extend the Netherlands' right to tax under national law. According to the proposed legislation, the Netherlands will always have the option to levy tax on wages allocated to it for taxation under a tax treaty.

4.2 Is wind energy a natural resource for the application of the WVA shipping?

The maritime remittance reduction (**WVA**) applies to ships that are operated for the transport of goods or persons in international traffic by sea. As a result, merchant ships fall within the scope of the remittance reduction, but most offshore work vessels will not meet these conditions.

However, the WVA can also be claimed for ships that are operated in the transport of goods or persons for the purpose of exploring or exploiting natural resources at sea. As a result, WVA can also apply to certain offshore work vessels, such as crew transport vessels (**CTVs**) that transport workers to and from offshore locations where natural resources are extracted.

The WVA does not define 'exploitation and exploration of natural resources', leading to uncertainty about whether the transport of goods or persons for wind energy exploitation falls within its scope, as wind energy is not a natural resource by nature.

A recent letter from the Ministry of Infrastructure and Water Management suggests that the extraction of wind energy is considered the exploitation of natural resources. The letter states: “In line with the existing implementation practice* and the interpretation of the concept of “natural resources” in the Corporate Income Tax Act 1969, it can be enshrined that the generation of energy from wind, water and current falls under the exploitation of natural resources. This is already taken into account in the implementation practice for the tonnage tax regime. By laying this down in legislation, additional clarity and certainty can be provided about the scope of this part of the tonnage tax regime for ships carrying out work for wind farms”.

Since this letter addresses whether offshore work vessels fall within the scope of the tonnage tax scheme and WVA, the assimilation of wind energy with the extraction of natural resources also seems to apply to the WVA. This means that a CTV may fall within the scope of the WVA if it transports personnel to and from a wind farm.

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* In any case, the extraction of wind energy is already considered as exploitation of natural resources.

5. EU and international developments

5.1 Expansion of the EU Emissions Trading System to maritime transport as of 2024

In April 2023, the European Parliament formally adopted a legislative proposal to reform and extend the EU Emissions Trading System (**EU ETS**) to maritime transport starting in 2024. This proposal was part of the Fit for 55 package (**FF55**) presented by the European Commission in July 2021, aiming to achieve the EU's climate ambitions. These ambitions include reducing net greenhouse gas (**GHG**) emissions by at least 55% by 2030 compared to 1990 levels and becoming climate neutral by 2050.

The EU ETS is the EU's key instrument to mitigate carbon emissions and is based on the "polluter pays" principle. It functions as a so-called "cap-and-trade" mechanism, where "cap" refers to the total number of emission allowances in circulation and "trade" refers to the market as the place where allowances are exchanged. Emission allowances are either allocated free of charge, bought directly from other installations or via auctions and allow their owner to emit certain amounts of GHG. The FF55 reform tightened the current EU ETS and introduced a separate system in relation to fuel distribution for commercial road transport and buildings. Moreover, the scope of the EU ETS is gradually being extended to maritime transport from 2024 to 2026.

5.1.1 Relevant emissions

As of 1 January 2024, shipping companies are required to compensate (part of) their emissions with emission rights under the EU ETS. For the year 2024 this applied to 40% of CO2 emissions, after which this percentage increases to 70% in 2025. Methane and nitrous oxide emissions will be added in 2026. As from 2026, the EU ETS will apply to 100% of CO2, methane and nitrous oxide emissions by shipping companies.

5.1.2 Scope

Emissions from ships sailing between EU ports, or between ports within an EU member state, are fully covered by the EU ETS. Ships sailing from an EU port to a port located outside the EU fall into the EU ETS for 50%. EU member states with a relatively high number of maritime companies registered, including the Netherlands, may be allocated additional allowances that can be put up for auction. Compensation of allowances through carbon dioxide removal technologies and methods, such as planting a forest, is not (yet) possible.

The EU ETS applies to most large vessels, regardless of the flag they fly. Starting in 2024, the EU ETS affects cargo and passenger ships of or above 5000 gross tonnage. From 2025, offshore vessels bigger than 5000 gross tonnage will be included in the EU regulation for monitoring, reporting and verification (**MRV**) of CO2 emissions from maritime transport, while being introduced in the EU ETS as of 2027. In addition, general cargo vessels and offshore vessels between 400 and 5000 gross tonnage are also included in the MRV regulation as of 2025. However, in 2026 it will be reviewed whether these vessels will also be included in the EU ETS.

5.1.3 Formal obligations

Maritime companies will have to apply to the Dutch Emissions Authority ("Nea") in relation to the new EU ETS obligations. These obligations include:

- emissions permit;
- annual monitoring plan;
- account in the EU ETS registry;
- emissions report (to be filed no later than 31 March 2025 for the year 2024);
- activity report (to be filed no later than 31 March 2025 for the year 2024, provided the maritime company qualifies for free allowances); and
- emission allowances (to be surrendered no later than 30 September 2025 for the year 2024.

5.2 Carbon Border Adjustment Mechanism

The Carbon Border Adjustment Mechanism (**CBAM**) is an initiative of the EU to address carbon leakage. Carbon leakage takes place when companies relocate their manufacturing processes to countries outside the EU with less strict climate policies. CBAM aims to ensure a level playing field between EU and non-EU manufacturers. This mechanism came into effect on 1 October 2023. During the CBAM transitional period, from 1 October 2023 until 31 December 2025, only reporting obligations are applicable. During this period, CBAM declarants, such as importers, are required to report emission data on imported products covered by the CBAM such as cement, iron and steel, aluminum and electricity products.

From January 2025 onwards, CBAM declarants will be able to apply for the 'authorised CBAM declarant' status. From 1 January 2026, this status will be required for CBAM declarants to import CBAM products into the EU customs territory. This means that if this status is not obtained before 1 January 2026, CBAM products may not be imported. As the processing of an application is expected to take up to 180 days, it is recommended to act in time.

Furthermore, as of 1 January 2026, authorised CBAM declarants are required to hand in a number of CBAM certificates based on factors, such as the quantity of imported CBAM products and the number of embedded emissions. One CBAM certificate represents one ton of CO2-equivalent embedded emissions. The price of CBAM certificates is determined by the average weekly auction price of EU ETS allowances.

Contact

Should you require any assistance in this respect, please contact your trusted advisor at Loyens & Loeff.

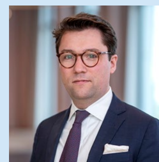
Marieke Bakker
Partner-Tax adviser
T +31 10 224 62 88
M +31 6 51 10 77 22
E marieke.bakker@loyensloeff.com

Alessandro Farris
Tax adviser
T +31 10 224 63 97
M +31 6 22 42 53 33
E alessandro.farris@loyensloeff.com

Jitske Hoekstra
Tax adviser
T +31 20 578 57 93
E jitske.hoekstra@loyensloeff.com

Steffie Klein
Tax adviser
T +31 20 578 50 45
M +31 6 51 42 67 86
E steffie.klein@loyensloeff.com

Mick Knops
Tax adviser
T +31 20 578 53 40
M +31 6 51 84 04 20
E mick.knops@loyensloeff.com



Aleid Langevoord
Tax adviser
T +31 10 224 65 17
M +31 6 22 78 40 09
E aleid.langevoord@loyensloeff.com

Bram Middelburg
Tax adviser
T +31 10 224 67 52
M +31 6 83 04 53 85
E bram.middelburg@loyensloeff.com

Bruce van Schaik
Tax adviser
T +31 20 578 52 94
M +31 6 12 57 11 80
E bruce.van.schaik@loyensloeff.com

Stefanie Siedenburg
Tax adviser
T +31 10 224 62 35
E stefanie.siedenburg@loyensloeff.com

Gino Sparidis
Tax adviser
T +31 10 224 67 34
M +31 6 30 50 71 26
E gino.sparidis@loyensloeff.com

Ton Stevens
Of counsel
T +31 10 224 64 14
E ton.stevens@loyensloeff.com

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