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Doc 2012-11412 (2 pgs)

# Netherlands Publishes Proposed Budget Measures in Spring Memorandum

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Full Text Published by taxanalysts®

On May 25 the Netherlands published the highlights of its recently reached budget agreement (the so-called Spring Agreement), which calls for a 2 percentage point VAT increase, new and increased employer's levies, and restrictions on deductibility of acquisition financing costs.

The highlights of the Dutch budget measures in the so-called Spring Agreement were published in the Spring Memorandum.

The Dutch Cabinet resigned on April 23 after having lost the support of a condoning party (not being represented itself in the Dutch Cabinet). It subsequently entered into negotiations with several parties in order to reach agreement on a budget package so that Finance Minister Jan Kees De Jager could timely send the Dutch stability program to the European Commission. The Spring Agreement was then reached with the support of three opposition parties. (For a Dutch Ministry of Finance release on the stability program, see *Doc 2012-9101* or *2012 WTD 83-34*.)

The highlights of the proposed measures were published in the Spring Memorandum (Voorjaarsnota, May 25, 2012, no. BZ/2012/283M). For international parties, the most important measures are:

- an increase of the general 19 percent VAT rate to 21 percent, effective from October 1, 2012;
- additional restrictions on the deductibility of acquisition financing costs for qualifying participations;
- an additional employer's levy of 16 percent in 2013 on (2012) salaries in excess of €150,000; and
- an increase from 30 percent to 75 percent of the employer's levy on excessive exit bonuses (bonuses exceeding €531,000).

The Spring Agreement states that the proposed interest deduction limitation will apply to acquisition financing costs for a qualifying investment in a subsidiary. Because of the participation exemption, there is a (perceived) mismatch in the Dutch tax treatment of benefits -- dividends and capital gains -- from that participation and the acquisition financing costs incurred. The benefits are exempt, whereas the financing costs are deductible, if a corporate taxpayer observes the general debt-to-equity ratio prescribed by the Dutch thin capitalization rules and the transaction falls outside the scope of specific anti-base-erosion rules. Despite these thin capitalization rules and anti-base-erosion rules -- which both (can) apply to, *inter alia*, costs for financing

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obtained from related parties to finance the acquisition of qualifying participations -- the Dutch government has deemed it necessary to further limit the ability to claim deductions for this category of expenses.

According to the Spring Agreement, the interest deduction limitation would apply only when there is a (presumed) excessive deduction of acquisition financing costs relating to participations. For the purpose of these new rules, interest deductions will only be considered excessive if the value of qualifying investments in subsidiaries is greater than the corporate taxpayer's equity.

It will be proposed that debt financing obtained to finance additional acquisitions (designed to increase a taxpayer's existing stake in a subsidiary) will fall outside the scope of these new rules, unless:

- a hybrid loan is provided to the subsidiary;
- the acquisition financing costs are also deducted elsewhere within the group (double dip); or
- the financing of the entity in which the investment is made has been obtained for tax-saving reasons.

At this stage, no further details are known. It is also unclear whether any changes will be proposed to existing interest deduction limitations in view of the upcoming new limitation.

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