

General provisions

Article A
Cancelled by O.G. 2001/89

CHAPTER I
Persons liable to pay tax [“Taxpayers”]

Article 1¹

1. Under the name of “income tax”, a tax shall be levied, to which shall be subject those residing within the Netherlands Antilles.

2. The question as to whether a person resides within the Netherlands Antilles shall be decided according to the circumstances, it being understood that:

- a) those who temporarily leave the Netherlands Antilles shall be deemed still to reside within the Netherlands Antilles if their absence should last for less than one year;
- b) those who leave the Netherlands Antilles to settle elsewhere but who resettle there within one year, shall be deemed to have left the Netherlands Antilles temporarily, unless it should appear that during their absence they resided in territory of the Netherlands, Surinam or of a foreign state;
- c) those who are temporarily staying within the Netherlands Antilles and either reside in the Netherlands or Surinam or are deemed to reside there according to legislation in force there concerning tax on income, shall be deemed not residing within the Netherlands Antilles if their stay does not last for longer than one year.

3. Also the persons not residing within the Netherlands Antilles, who have domestic sources of income as referred to in article 17, shall be liable to pay income tax.

Article 2

The following activities of persons not residing within the Netherlands Antilles, also insofar as taking place within the Netherlands Antilles, shall not be deemed to be the conduct of a business or the exercise of a profession within the Netherlands Antilles:

- a) the transportation by sea or by air of persons and goods between the Netherlands, Surinam and foreign countries on the one hand and places in the Netherlands Antilles on the other hand;
- b) the activities of personnel on means of conveyance carrying on traffic with the Netherlands, Surinam and foreign countries.

CHAPTER II
Taxpayers residing within the Netherlands Antilles

Article 3²

¹ In articles 1 and 2 Surinam was replaced by Aruba by O.G. 2001/94.

² As amended by O.G. 2001/94 taking effect as from 1-1-2001.

1. The persons residing within the Netherlands Antilles shall be liable to taxation on their assessable income.
2. Assessable income shall be the net income earned in a tax year less the losses to be set off pursuant to article 15.
3. Net income shall be the income less all personal expenses and extraordinary expenses.
4. By income shall be understood the aggregate amount of that which the taxpayer has earned nett as a return on and proceeds of:
 - a) immovable property;
 - b) movable capital;
 - c) enterprise and employment;
 - d) rights to periodical benefits.

Article 4³

1. As a return on immovable property shall be considered the benefits which, other than in the conduct of a business or the exercise of a profession, are reaped from buildings, lands, mines and waters, or from the rights therein.
2. The income from immovable property shall not include the net income from the private dwelling.
3. Contrary to the provisions of the first paragraph the nett returns of making immovable property available to third parties shall be set at 65% of the benefits yielded this way and no other costs shall be considered than the interest and the costs of money loan with the purpose of obtaining or improving the immovable property as well as the premiums for any death risk insurance attached to such loan and decreasing in keeping with the duration of the loan.
4. For the purposes of this national ordinance private dwelling shall refer to a dwelling:
 - a. owned by the taxpayer;
 - b. built on land rented or leased by the taxpayer;
 - c. of which the taxpayer is the usufructuary pursuant to the law of succession.

Article 5

1. As a return on movable capital shall be considered the fruits of capital not invested in immovable property or in the rights on such property⁴ or in a private business or private profession, such as:

³ As amended by O.G. 2001/94 taking effect as from 1-1-2001

⁴ The phrase 'or in the rights on such property' was added by O.G. 2001, no. 24 (introduction of new Civil Code)

interest on inscriptions in the Netherlands Debt Registers or any other debt, dividends and interest of share certificates, bonds or other securities;
payments on financing as a limited partner;
interest of other debts, on any ground whatsoever, regardless of whether or not a certificate has been issued of the debt and whether or not payment has been secured by mortgage or otherwise;
interest, comprised in the repayment of debts;
perpetual interest;
liquidation payments of companies, the capital of which is divided into shares, be this in whole or in part, insofar as exceeding the paid-up capital.

2. Share certificates and bonds, issued to shareholders other than against payment of the full nominal value, shall be considered dividends up to the amount in respect whereof it does not appear that paying-up has taken or shall take place. Writings-up on share certificates shall be considered issues of such certificates.
3. A return, in whole or in part, of the amount paid up on shares, shall be considered a dividend distribution if and insofar as such return can be effected from the nett profit, unless the authorized capital of the entity making the return has been reduced correspondingly beforehand through an amendment of the deed of incorporation.
- 4.⁵ The benefit from shares in an Exempt Company as referred to in article 1A of the National Ordinance on Profit Tax 1940, and from shares in, membership rights of and interests with an entity not established in the Netherlands Antilles, the property of which according to the consolidated balance sheet largely consists of the granting of credits and of investments or activities corresponding therewith, shall be set each year at four⁶ percent of the value attributable in economic traffic to the shares, membership rights and interests at the commencement of the calendar year.
- 5.⁷ In the event that the shareholding, membership or interest has not existed during the full calendar year, the percentage referred to in the fourth paragraph shall be calculated according to the time elapsed, whereby parts of calendar months shall be neglected. In the event that the entity was not set up until after the commencement of the calendar year, the date of incorporation shall apply for purposes of the fourth paragraph, instead of the commencement of the calendar year.

⁵ The text of this paragraph was amended by O.G. 1999, no. 245. The phrase 'from shares Profit Tax 1940' was removed by O.G. 2000, no. 84 (as confirmed by O.G. 2001, no. 144) and inserted again by O.G. 2001, no. 145 with a retrospective effect to 1-1-2001. The former fourth paragraph will continue to apply to bodies referred to in articles 8A, 8B, 14 and 14A of the National Ordinance on Profit Tax as effective on 31-12-1999.

⁶ Percentage was changed by O.G. 2001/94, taking effect as from 1-1-2001.

⁷ The paragraphs 5 – 9 were added by O.G. 1999, no. 245, and became effective on 1-1-2000.

By O.G. 2000, no. 84 (as confirmed by O.G. 2001, no. 144) the transparency for offshore companies was reintroduced into paragraph 8. The ninth paragraph was removed then. All this had a retrospective effect as from 1-1-2000. Then the previous amendment of the eighth paragraph was undone again by O.G. 2001, no. 145 and the ninth paragraph was put back in.

6. The fourth and fifth paragraphs shall apply correspondingly in respect of the benefit from debts and profit-sharing certificates and other rights in an entity as referred to in the first paragraph.
7. For the purposes of the fourth paragraph, if shares in, membership rights of or interests with another entity should pertain to the direct or indirect property of the entity, the property of such other entity shall be considered to be composed of investments if no consolidated balance sheet is submitted or the composition of the property of such other entity is otherwise shown.
- 8.⁸ If article 3, paragraphs 3 and 4 of the National Ordinance on Profit Tax 1940 are applied to a company, for the purposes of this national ordinance the company shall be considered not to have been wound up and the paid-up share capital shall not be adjusted.
- 9.⁹ The provisions of paragraph four shall not apply to the benefit from shares in credit banks, mortgage banks and insurance companies that are officially listed at stock exchanges to be designated by a generally applicable ministerial decree, nor shall they apply to the benefit from shares in companies whose actual activities are substantially different than investing or similar activities.

Article 6¹⁰

1. The proceeds of enterprise and labour shall comprise the benefits not falling under article 5, obtained as a profit, fee, pay, salary, wage, free residence, free board and lodging, share in profit or surplus profit, bonus, gratuity, daily allowance or attendance money, or under whatever denomination or in whatever form, from a business or profession (including an office, honour, function and present or past employment exercised by the taxpayer himself or by someone else) and from acts, activities and services of any nature.
2. Such benefits shall also include:
 - a. the private use of the fruits produced or obtained in the business in the widest sense or of goods manufactured, processed or stocked up for sale in the business;
 - b.¹¹ benefits obtained from the alienation of property used in the private business or profession, which was not intended for alienation, and in general any benefit obtained with such property;

⁸ After having been replaced by a ministerial decree by O.G. 2000/84 and confirmed by the NFR emergency act, this was changed back to the provision in O.G. 1999, no. 245, again when the NFR came into effect.

⁹ After having been removed by a ministerial decree by O.G. 2000/84 the ninth paragraph was inserted again when the NFR came into effect.

¹⁰ Three new paragraphs were added (O.G. refers to 2) by O.G. 2001/94, taking effect as from 1-1-2001.

¹¹ In the Dutch text "zaken" was replaced by "goederen", both translated as "property" in English (O.G. 2001, no. 24: introduction of new Civil Code).

- c. differences between the market value or, if same cannot be determined, the monetary value, and the fiscal book value of assets passing over from any business or professional capital and reserves to the taxpayer's private capital;
 - d. benefits acquired with or on the transfer or liquidation of a business or profession, or any part thereof;
 - e. differences between the market value or, if same cannot be determined, the monetary value and the fiscal book value of property pertaining to the business or professional capital and reserves, appearing on a taxpayer's demise, it being understood that same shall be deemed to pertain to the income of the last year or period referred to in article 12;
 - f. deposits of the employer to the name of the employee, into a savings or staff provident fund together with the interest added to the credit balance;
 - g. benefits received on withdrawing from a pension fund or on surrendering or terminating pension claims, insofar as the claims are derived from contributions or premiums falling under the sixth paragraph of article 9 or under the first paragraph of article 16, letters d. and e.;¹²
 - h. the payments of accident benefits and sickness benefits pursuant to the National Ordinance on Accident Insurance and the National Ordinance on Sickness Insurance.
3. The benefits referred to in the preceding paragraph under b., c., d. and e. shall be set at the difference between the market value or, if same cannot be determined, the monetary value of the assets passing over and the last fiscal book value thereof.
 4. "Wage" and "employment" in this national ordinance shall have the meaning as given in article 6 and article 3, respectively of the National Ordinance on Wage Tax 1976 (O.G. 1975, no. 254).
 5. To determine the business income the costs related to the holding of a passenger car to an amount of at least 15 % of the new value, including the turnover tax and the import duties of that car shall be considered not to have been incurred for the business, unless the entrepreneur demonstrates that such car is not used for private purposes, including the daily home/work traffic.
 6. In the event that a passenger car has been made available to a taxpayer to allow him to carry out work, at least the amount by which 15% of the new value, including turnover tax and import duties of the car exceeds the compensation which the taxpayer owes to allow him to use that car for other purposes than only for carrying out work, shall be reckoned as income from work, unless the taxpayer demonstrates that such car is not used for private purposes, including the daily home/work traffic.
 7. Any automobile intended for transporting both passengers and goods shall also be considered a passenger car within the meaning of this article.

Article 7¹³

¹² As amended by O.G. 2001/94, taking effect as from 1-1-2001

¹³ Second paragraph added by O.G. 2001/94, taking effect as from 1-1-2001.

1. The proceeds of rights to periodical benefits shall comprise public assistance benefits, annuities, as also the allowances for maintenance, housing or other matters in general, all benefits and allowances due, not attaching to an office or employment, which terminate on the demise of the party entitled or of a third party.
- 2.¹⁴ Periodical benefits and allowances that constitute quid pro quo for an act performed shall only be taxed to the extent that they, together with any benefits and allowances already received from the insurance company pursuant to the right concerned, exceed the value of the act performed. The value of the act performed shall not include the amounts that have not been considered as income or that could be deducted from the income.

Article 8

The following shall not be reckoned as income or part of income:

- a) periodical benefits and allowances as referred to in article 7, made to relations in blood and by marriage in the direct line or in the second degree of the collateral line, unless they constitute quid pro quo for an act performed;
- b) the share in the profit of cooperative associations, received by the members according to the sum spent by them, provided the objects of the association shall not be related to the business or profession of its members;
- c) profit arisen through the speculation in funds and goods, other than in the conduct of a business;
- d) profits arisen through the alienation of movable or immovable property other than in the conduct of a business or the exercise of a profession;¹⁵
- e) that which is obtained from inheritance or legacy, gifts and benefits in respect of lotteries, insofar as not falling under article 7;
- f) that by which on the contribution of the assets and liabilities of a business into a limited liability company, firm, limited partnership or non-trading corporation, for the value for which such assets and liabilities have been entered in the last fiscal profit-determining balance sheet of the contributor, the monetary value of the acquired shares or participation exceeds the capital balance according to the aforesaid balance sheet of the contributor, provided that the limited liability company, firm, limited partnership or non-trading corporation binds itself to enter the assets and liabilities taken over, including the goodwill of the enterprise, in its opening balance sheet for the same value as that for which they were entered in the last fiscal profit-determining balance sheet of the contributor, and the limited liability company, firm, limited partnership or non-trading corporation binds itself at the same time as against the Inspector only to deviate from the system of appraisal, applied by the contributor, in

¹⁴ Transitional arrangement, article V, paragraph 3, O.G. 2001/94

In the event of a right to periodical benefits and allowances as referred to in article 7, second paragraph, of the National Ordinance on Income Tax 1943, any benefits and allowances received pursuant to the right concerned prior to 1 January 2001 and reckoned as income, shall not be considered for the purposes of said paragraph.

¹⁵ Id. footnote 11

the cases where good mercantile practice would allow also the contributor to change systems;

- g) the benefit referred to in article 6 second paragraph under e., provided the new acquirer binds himself to enter the acquired assets and liabilities, including the goodwill, in the opening balance sheet for the same values as those for which they were entered in the last fiscal profit-determining balance sheet of the deceased, and the new acquirer binds himself at the same time as against the Inspector only to deviate from the system of appraisal, applied by the deceased, in the cases where good mercantile practice would allow this to the deceased as well;
- h) the premiums paid by the employer pursuant to the National Ordinance on Accident Insurance and the National Ordinance on Sickness Insurance;
- i) the additions of the employer to the wages of the employee, to compensate the premiums owing by the employee pursuant to the National Ordinance on General Old Age Insurance and the National Ordinance on General Widows' and Orphans' Insurance;
- j) the obligatory contributions of the employer for pension and pension funds;
- k) the costs incurred by the employer for the benefit of the employee in connection with medical treatment and care, as also the claims of the employee to free medical treatment and care and to compensation for costs of sickness;
- l) the benefits gained by the exemption from social charges due and the obligation to pay over wage tax withheld, as referred to in article 2 of the National Ordinance for the Promotion of Employment for Young Jobseekers (O.G. 1989, no. 74).
- m) cancelled (by O.G. 1997, no. 333);
- n) interest from bond loans issued by a limited liability company as referred to in article 2, second paragraph of the National Ordinance on Profit Tax 1940;
- o) interest of savings deposits up to NAF.1,000.- at most per calendar year;¹⁶
- p) the rental value of the dwelling forming part of the business capital provided that such dwelling is available to the entrepreneur as his main residence..¹⁷

Article 9

1. The returns and proceeds described in the preceding articles, for the purpose of calculating the nett amount, shall be reduced by the cost of acquisition, collection and conservation of the returns and proceeds, and by the encumbrances falling on the returns and proceeds, such as:
 - the business and professional costs, by which shall be understood the costs necessary for the conduct of a business or the exercise of a profession or directly relating thereto, including costs of maintenance, interests and taxes due, burdening the proceeds of the business or profession;
 - the following costs, insofar as not already considered to be business or professional costs:

¹⁶ By O.G. 1999, no. 147, paragraph p was renumbered to o, taking effect as from 1-10-1999. The old paragraph o read as follows: "interest from bond loans issued by the legal persona the Netherlands Antilles or one or several island territories of the Netherlands Antilles". This provision shall continue to apply to interest from the bond loans referred to above issued prior to 1-10-1999.

¹⁷ Added by O.G. 2001/94, taking effect as from 1-1-2001.

interests of debts, as also the costs of money loans, costs falling on the cashing of coupons, costs of management.¹⁸

2. Expenses to keep a certain record shall not be reckoned as business and professional costs but as private expenses, also in cases when they are at the same time incurred in the interest of the business or for the promotion of the exercise of the profession or of any other activity of the taxpayer.
3. The amount of deductible costs concerning the aggregate returns from employment and other returns from labour outside business shall be set at f. 500. If the actual costs were higher than f. 1000, the taxpayer may deduct such actual costs. However the deduction shall not be more than the returns in either of these two cases.¹⁹
4. From the gross proceeds of a business or profession moreover shall be deducted the amount to be written off, by reason of decrease of the useful value, on the cost of acquisition of property used for the conduct of the business or the exercise of the profession, on that which was paid at the takeover of a business or profession for goodwill, as also that which must be written off as irrecoverable on debt-claims relating to the business or profession, all this according to good mercantile practice.
5. 1st. In deviation from the provision contained in the fourth paragraph, a taxpayer who receives proceeds from enterprise may write off one third of the costs of acquisition or of production of capital assets used for the conduct of an enterprise, at will, provided this is done in advance.
2nd. As for buildings, such writing-off shall be possible as soon as obligations have been entered into or production costs have been made in respect of the acquisition or improvement, it being understood that prior to occupation, with respect to any obligations entered into not more can be written off in advance than the amount paid in connection with such obligations.
3rd. The Minister of Finance, in agreement with the Minister of Economic Affairs, may limit the application of, or may declare non-applicable, the writing-off referred to above, either generally or for specific groups of capital assets.
6. In addition to this, the writing-off which may be necessary by reason of the termination of a time-limited right belonging to a taxpayer, shall moreover be considered for deduction.
7. Without prejudice to the provision contained in the third paragraph of this article, salaries and other remunerations as also leave-pays, non-activity salaries, retaining pays, public assistance benefits, pensions and salaries shall be reduced by the compulsory contributions attaching thereto for pension and pension funds, as also for savings and staff provident funds, provided that in the last-mentioned case no more may be deducted than five percent of the proceeds of the employment to which the

¹⁸ As amended by O.G. 2001/94, taking effect as from 1-1-2001.

¹⁹ As amended by O.G. 2001/94, taking effect as from 1-1-2001

contribution is attached, up to a maximum of f.840. In the first-mentioned case only employees' contributions may be deducted.²⁰

8. Except in respect of the proceeds of business or profession and the return on immovable property situated in this country, the costs of acquisition, collection and conservation of the proceeds shall be considered up to and insofar as in one year there are positive proceeds against such costs. That which shall not be considered on the strength of the provision of the preceding sentence, shall be deemed to have been paid in the next succeeding year.²¹

Article 9A.

1. If in any calendar year an amount of over f.5,000 is invested in capital assets, eight percent of the investment amount shall be charged both to the profit of that year and to that of the year subsequent thereto. By investment shall be understood the entering into obligations in respect of the acquisition or the improvement of capital assets, used for the conduct of an enterprise within the Netherlands Antilles, as also the making of production costs for same. If not all the obligations in this respect fall on the taxpayer, only the amount that does fall on the taxpayer shall be taken into consideration.

To the extent that in a calendar year investments are made in new buildings – this to include the improvement of existing buildings – the percentage stated in the first sentence of this paragraph shall be raised to twelve percent of the investment amount.

- 2.22 In case of alienation in any calendar year of property, in respect whereof the preceding paragraph has applied, a percentage of the transfer price, equal to the percentage as in respect of the investment in such property, pursuant to the first paragraph, could be deducted from the profit for the years thereby mentioned, shall be credited to both the profit of that year and that of the financial year subsequent thereto. Additions shall be made only insofar as the alienation takes place within six years – insofar as buildings are concerned within 15 years – from the start of the year in which the investment took place. Addition shall take place up to a maximum of the amount for which a deduction was granted at the time.

3. The following shall not be reckoned as capital assets:
 - a. lands, including the foundation of buildings;
 - b. private dwellings including parts of business premises used for residential purposes, unless the letting out of these dwellings is in keeping with the normal conduct of business;

²⁰ As amended by O.G. 2001/94, taking effect as from 1-1-2001

²¹ As amended by O.G. 2001/94, taking effect as from 1-1-2001 as to the limitation of negative costs of real estate, as referred to in O.G. 2000/76.

Then something strange happens: by O.G. 2001/94 the forward compensation of negative cost is generally limited to the next five years, taking effect as from 1-1-2002. Since the O.G. 2000/76 was revoked taking effect as from 18-8-2001, this means that such limitation of negative cost of real estate was undone as from that date. This looks like the eighth paragraph has now been postponed for one year.

²² Id. footnote 11

- c. passenger cars, unless such passenger cars are intended to be used for passenger traffic in the ordinary course of business;
 - d. pleasure craft;
 - e. securities, claims and goodwill;
 - f. bottles, cases and other packaging mediums;
 - g. objects of little value described in article 10, second paragraph under b.;
 - h. other capital assets to be designated by the taxpayer;
4. Unless the Minister of Finance shall provide otherwise for specific cases, the following shall not come into consideration:
 - a. obligations entered into between relations in blood and by marriage in the direct line and in the second degree of the collateral line;
 - b. obligations entered into between the parties entitled to an estate or marital community to which a capital asset belongs;
 - c. obligations entered into between the party who for more than one fourth part of the nominal paid-up capital directly or indirectly is a shareholder in a company, the capital of which is divided into shares, be this in whole or in part, and this company.
 5. The withdrawal of property from the enterprise shall be deemed to be alienation, it being understood that the market value or, if same cannot be determined, the monetary value shall then be considered the transfer price.
 6. In the event that an investment is cancelled or, with relation to an investment, a reduction, return or consideration is received, the same shall be reckoned as the alienation of a business and the amount of such investment, reduction, return or consideration shall be reckoned as the transfer price. If an alienation is cancelled or if, with relation to an alienation, a reduction, return or consideration is granted, the same shall be reckoned as an investment, and the amount of such alienation, reduction, return or consideration shall be reckoned as the investment amount.
 7. The Minister of Finance, in agreement with the Minister of Economic Affairs, can:
 - a. limit the reduction generally or for certain groups of capital assets;
 - b. provide that the reduction generally or for certain groups of capital assets shall not apply.

Article 9B²³

The provisions contained in article 9, fifth paragraph, article 9A, first paragraph and article 10, fourth paragraph shall apply only if books are kept by the taxpayer on a regular basis, with regular annual balancing. Should the taxpayer cease thus to keep books, the reserve according to article 10, paragraph 4 shall be included in the profit of the last calendar year with books kept on a regular basis.

²³ As amended by O.G. 2001/94 taking effect as from 1-1-2001. The second paragraph has now been included in Article 5B Nat. Ord. on Profit Tax

Article 9C²⁴

1. The costs referred to in article 9, first paragraph, relating to the following items shall not be deducted from the proceeds from employment, business or profession:
 - a. the work room, including its decoration, in the taxpayer's private dwelling if:
 - 1st in the event that he also has a similar work room at his disposal outside his private dwelling, he earns less than two-thirds of the aggregate amount of his proceeds from employment, business and profession in the workroom in the private dwelling,
 - 2nd. in the event that he does not have a similar work room at his disposal outside his private dwelling, he earns less than two-thirds of the aggregate amount of his proceeds from employment, business and profession in or from the workroom in the private dwelling,
 - b. home/work traffic;
 - c. vessels used for representational purposes;
 - d. clothing, except work clothes;
 - e. literature, except trade literature;
 - f. private telephone subscriptions and internet connections;
 - g. personal hygiene;
 - h. food, drinks and stimulants, representation - including receptions, festive meetings and entertainment – excursions, study trips etc.; always including the costs of travel and accommodation concerned;
 - i. donations and gifts to business relations;
 - j. fines imposed by a criminal court judge of the Netherlands Antilles and sums of money paid to the country the Netherlands Antilles or to one of the island territories to avoid prosecution in the Netherlands Antilles or to satisfy a condition attached to a decision to grant a pardon and for fines and increases imposed by a government body on the grounds of a national or island ordinance;
 - k. criminal offences for which the taxpayer has been convicted by a criminal court judge of the Netherlands Antilles by a final and conclusive sentence, including the criminal offences that were taken into consideration to determine the severity of the penalty imposed and concerning which the Public Prosecutor has declared to discontinue prosecution;
 - l. criminal offences concerning which the taxpayer has met the conditions set to allow him to avoid criminal prosecution in the Netherlands Antilles;
 - m. the costs and charges relating to a private dwelling that forms part of the business capital, with the exception of depreciation, to the extent that such costs and charges exceed the amount that, for the use of such private dwelling, is considered as wage or profit for the user for the calculation of the wage or income tax, without prejudice to the provision of article 16, first paragraph, section h, sub 2nd;²⁵
 - n. bribes.

²⁴ As amended by O.G. 2001/94 taking effect as from 1-1-2001.

²⁵ This provision is in accordance with O.G. 2001/94. However, on the basis of O.G. 2000/76 the text was as follows: the costs relating to a private dwelling that forms part of the business capital, to the extent that such costs exceed the amount that, for the use of such private dwelling, is considered as the user's wage for the calculation of the wage tax, this without prejudice to the provision of article 16, first paragraph, item h, sub 2.

2. The aggregate amount of costs as referred to in article 9, first paragraph, to the extent that they relate to an item referred to below, save where the costs are charged to the taxpayer's business income, shall be considered, duly observing the rates specified:
 - a. musical instruments, sound equipment, tools, text-processing equipment, typewriters, calculators, computers, fax machines, telephone equipment, other similar equipment, and image-related equipment: to the extent that the aggregate annual amount, on the basis of a three-year depreciation method, shall exceed f. 750;
 - b. courses, congresses, seminars, symposiums etc, including the costs of travel and accommodation concerned: for 75%, to a maximum of f. 2,500.
3. Car costs shall be considered as follows:
 - a. in the event that a car is concerned that does not form part of an entrepreneur's business capital: to an amount of f. 0.35 per kilometer;
 - b. in the event that a car made available to a taxpayer is concerned: the amount of fuel costs paid by himself.
4. The provisions of the first paragraph, sections h and i, and the second paragraph, section b, shall, to the extent that the costs referred to are charged to the taxpayer's business income, only apply to 20% of the costs. The above shall not apply with respect to such costs and charges to the extent that the direct objectives of the business are the manufacture or trade of the goods referred to there or the performance of any corresponding services and such goods and services form part of the total sales.
5. For the purposes of the first paragraph, section d, clothing shall be considered work clothing In the event that:
 - a. such clothing is exclusively, or virtually exclusively, suited to be worn when obtaining the income;
 - b. such clothing has been provided with external characteristics that show that it is exclusively intended to be worn when obtaining the income. The Minister of Finance can provide further rules to determine when such is the case.
6. To the extent that costs and charges relating to a criminal offence were taken into consideration to determine the profit during one or several of the five years prior to the year in which the conviction, referred to in the first paragraph, section k, became final and conclusive, or in which the conditions, referred to in the first paragraph, section l, were fulfilled, the amount equal to the sum of these costs and charges shall be considered a positive benefit of the business profit of the latter year.
7. For the purposes of the first paragraph, sections k and l, anyone who has ordered the criminal offence to be committed on behalf of the assessable party or who has actually supervised the criminal offence shall be considered equivalent to the assessable party.

Article 10

- 1.²⁶ Outlays for the purchase, erection, improvement or alteration of lands, buildings, machinery, implements and other property used for the conduct of the business or the exercise of the profession, outlays for the takeover, expansion, improvement or alteration of the business or profession and other expenses of such nature, shall not be reckoned as business or professional costs.
2. Excepted shall be:
 - a. the outlays necessary for the replacement of property on which no writings-off are effected, buildings excluded;
 - b. the outlays for the acquisition of objects of little value, insofar as such outlays usually are reckoned to be part of the daily costs of the business or profession.
3. Moreover, no deduction shall be allowed in respect of:
 - a. the creation or augmentation of a reserve fund;
 - b. interest of private capital; and
 - c. 10 percent of the tax paid over in respect of business turnover as referred to in the National Ordinance Tax on Business Turnover 1997 (O.G. 1996, no. 210).
4. In deviation from the provision contained in the third paragraph, in the event that considerations by reason of loss or damage of a capital asset not referred to in the second paragraph, letter b., [or] the proceeds at the alienation of such capital asset, should exceed the book value of such capital asset or of the damaged part, when calculating the profit earned in a calendar year in any case, if and so long as the intention to replace or repair the capital asset exists, the difference may be reserved and may so remain for the reduction of the costs of replacement or repair to be taken into consideration.

The provision of the preceding sentence shall apply analogously if the intention to replace the capital asset was carried into effect already before the alienation. To the extent that the reserve exceeds the difference between the costs of replacement or repair and the book value of the lost or alienated capital asset, or the damaged part thereof, as the case may be, the reserve shall be included in the profit.
5. The reserve created in accordance with the fourth paragraph shall be included in the profit at the latest in the fourth calendar year following upon that in which the reserve was created, unless for the replacement [or] repair a longer period of time will be required or, as the case may be, if the replacement [or] repair has been delayed owing to special circumstances, provided, however, the execution thereof has been commenced.
6. For the purposes of article 9, fifth paragraph, the reduction of the costs of replacement or repair pursuant to the fourth paragraph shall not be reckoned with; the amount of such reduction shall be deemed written off in accordance with the writings-off possible under article 9, fifth paragraph.

²⁶ In this paragraph and in the second the Dutch word 'zaken' was replaced by 'goederen' cf footnote 11.

7. On discontinuing a business or profession, or on the transfer or liquidation of the part to which the reserve referred to in the fourth paragraph belongs, this reserve shall be considered a benefit in terms of article 6, letter d.

Article 10A

(Cancelled by O.G. 1999, no. 207, taking effect as from 1-1-2000)

Article 11²⁷

1. The following shall also belong to the constituents of the income described in the fourth paragraph of article 3:
 - 1st. surrender values, indemnities and compensations which were allowed:
 - a. to replace remunerations lost or to be lost, periodical payments whether or not commenced and other proceeds or income or
 - b. in respect of the ceasing or non-performance of activities in the widest sense, or for abandoning a prospect of participation in a business or a profession conducted independently;
 - 2nd. that which on the alienation of shares in a company, the capital of which is divided into shares, be this in whole or in part, and which has entered into liquidation or shall probably soon enter into liquidation, is received in excess of the capital paid up on the shares concerned; subject to the provision sub 3° of this paragraph, this stipulation shall not apply if the new acquirer is a taxpayer residing within the Netherlands Antilles, who at the acquisition did not act in the conduct of a business or the exercise of a profession;
 - 3rd. profit from considerable interest, being the aggregate amount of:
 - a. benefits obtained from shares or profit-sharing certificates belonging to a considerable interest minus the deductible costs (regular benefits);
 - b. benefits from alienation of shares, profit-sharing certificates or debt claims, and from alienation of a part of the rights contained therein (alienation benefits).
2. If the surrender value, indemnity, compensation or the amount referred to in the first paragraph under 2° should consist of the awarding of a right which yields periodical returns (such as the right to an annuity or to a share of the profits), then only these periodical returns, but not the underlying standing right entitling to periodic payments or allocations [“Stamrecht”], shall be reckoned as the income.
3. The taxpayer shall be deemed to have a considerable interest if he, either together with his spouse or alone:
 - a. has directly or indirectly held at least 5% of the issued share capital in a company the capital of which is divided into shares, be this in whole or in part;
 - b. is entitled to directly or indirectly procure shares to at least 5% of the issued share capital;
 - c. has profit-sharing certificates that concern at least 5% of the annual profit of a company or at least 5% of the money paid upon the company being wound up.

²⁷ As amended by O.G. 2001/94 taking effect as from 1-1-2001, with the exclusion of paragraphs 10 and 11 which became effective on 1 August 2000 pursuant to O.G. 2000/76.

4. The following shall also be deemed to form part of a considerable interest for the taxpayer:
 - a. if he has a considerable interest: his other profit-sharing certificates of and claims against such company.
 - b. if he has no considerable interest: the shares, profit-sharing certificates and claims and related purchase options -belonging to his assets- in, from and against a company in which he does not have a considerable interest, but his spouse or any of their relations in blood or by marriage in the direct line do.
5. As alienation of shares, profit-sharing certificates and claims shall also be understood:
 - a. the purchasing of shares;
 - b. the surrendering and purchasing of profit-sharing certificates;
 - c. the making payable of winding-up payments;
 - d. the redemption of claims;
 - e. entering them into the capital of a company;
 - f. the considerable interest ceasing to exist;
 - g. the ceasing, otherwise than through death, to reside within the Netherlands Antilles. This shall include the situation where, pursuant to the provisions of the Tax Regulations for the Kingdom or, as the case may be, a treaty for the prevention of double taxation, for the purposes of such regulations casu quo such treaty the taxpayer is considered no longer to be a resident of the Netherlands Antilles.
- 6.²⁸The alienation benefits shall be set at the transfer price less the acquisition price. In case a transfer price or acquisition price should be lacking or has been stipulated by an agreement which was not entered into under normal circumstances, the transfer price or, as the case may be, the acquisition price shall be the value which at the time of the alienation or acquisition, respectively, can be allotted to the shares or profit-sharing certificates in economic transactions. In respect of shares or profit-sharing certificates withdrawn from the capital of an enterprise, the acquisition price shall be the value which at the time of the withdrawal can be allotted thereto in economic transactions. In respect of shares or profit-sharing certificates accrued under the law of succession or of marital property, the acquisition price shall be that which is in force for the testator or, as the case may be, the party from whose side the shares have fallen to the community.

²⁸ Transitional arrangement for profit from considerable interest in Article V, paragraphs 1 and 2 of O.G. 2001/94: To calculate the profit from a considerable interest the acquisition price of shares, purchase options and profit-sharing certificates which were already part of the tax-payer's capital on 1 August 2000 were set at:

- a. if the shares, purchase options and profit-sharing certificates were part of a considerable interest on the day prior to the date referred to above: the acquisition price as applicable for application of the regulation as effective on said date;
- b. if the shares, purchase options and profit-sharing certificates were not part of a considerable interest on the day prior to the date referred to above: their market value on said date.
In the event that the shares referred to in the first paragraph were acquired in the context of converting a debt claim into share capital, the acquisition price of the debt claim shall be taken as the acquisition price of such shares on 1 August 2000.

7. In the event that the taxpayer takes up his residence in the Netherlands Antilles and at such time holds shares in or profit-sharing certificates of a company, the acquisition price of such shares or profit-sharing certificates shall be set at the market value that can be allotted to such shares or profit-sharing certificates at such time. The preceding sentence shall not apply if the taxpayer should take up his residence in the Netherlands Antilles within ten years from having left the Netherlands Antilles to settle elsewhere. If a tax assessment has already been imposed on the taxpayer's departure from the Netherlands Antilles, such assessment shall be remitted and the acquisition price shall be set at the amount of the acquisition price prior to his departure. The first sentence moreover shall not apply in case shares or profit-sharing certificates are involved of a company established in the Netherlands Antilles, save insofar as it should appear that, in connection with his expatriation from another country, the taxpayer owes tax on the value increase of such shares, profit-sharing certificates or claims.
8. The fifth paragraph, section g, shall not apply in respect of a considerable interest in a company not established in the Netherlands Antilles if the ceasing to reside within the Netherlands Antilles as referred to in that paragraph should take place within eight years from the taxpayer having taken up his residence in the Netherlands Antilles and since the past twenty-five years has not resided in the Netherlands Antilles in the aggregate for longer than ten years.
9. Profit from a considerable interest shall be considered to have been earned with respect to:
 - a. regular benefits: at the time determined in accordance with article 16B;
 - b. alienation benefits: at the time of the alienation, on the understanding that in the event of termination of the duty to pay taxes in the Netherlands Antilles, the time immediately preceding such termination shall be considered the time of earning profit.
10. The second paragraph shall not apply in respect of the commutation of pensions save insofar as concerning a transition as referred to in article 6B, second paragraph, second sentence of the National Ordinance on Wage Tax 1976.
11. The second paragraph furthermore shall not apply in respect of the surrender of a right to annuity as referred to in article 16, first paragraph, section e. save insofar as the right is converted into another right to a similar annuity.

Article 12²⁹

1. The tax shall be levied on the assessable income earned in a calendar year. If the liability to pay taxes has existed only during part of the calendar year, such part (taxation period) shall then be substituted therefor. For the calculation of the tax then

²⁹ First paragraph amended, third paragraph added, in second paragraph nett income replaced by assessable income. By O.G. 2001/94, taking effect as from 1-1-2001

due, the nett income earned in the taxation period, insofar as the provision of article 24.2 is not applied thereto and with exception of the income referred to in paragraphs 10 and 11 of article 11, shall be converted into a full-year's income. Of the tax due, to be calculated hereon according to the first paragraph of article 24, after deduction of the amounts referred to in article 24A, so many three hundred-and-sixtieth parts shall be due as the number of days for which the liability to pay taxes has existed in the calendar year.

On applying the foregoing, each full month shall be set at thirty days and the year at 360, with the day on which a taxation period commences reckoned as a full day, and the day on which a taxation period ends to be neglected.

2. If in the Inspector's judgement the converted full-year's income referred to in the preceding paragraph is considerably higher than the income which, if the liability to pay taxes had existed during the entire calendar year, would have been estimated to have been earned in that year, the aforesaid authority shall set the tax due, in deviation from the provision of the first paragraph, in accordance with the formula:

amount due =

$$\frac{\text{assessable income earned in the taxation period}}{\text{estimated annual income}} \times \text{the tax}$$

of the annual income estimated according to the rate of article 24.1.

3. On application of this article the amounts referred to in articles 9, third paragraph, 16 first paragraph, sections c and h, and the fourth paragraph, and article 16A, first paragraph, section e, second paragraph, section c, and the fifth paragraph, section a shall be applied on a pro rata basis for the taxation period during which the liability to pay taxes has existed.

Article 13

1. Shares in the proceeds of a business or profession, not being conducted or exercised by the taxpayer himself, shall be reckoned as assets of the calendar year in which their amount is determined.
2. If such determination takes place after the taxpayer has left the Netherlands Antilles to settle elsewhere or after his demise, same shall be deemed to have taken place in the year in which the taxpayer left the Netherlands Antilles or passed away, as the case may be, but at any rate prior to such departure or demise.

Article 14

Cancelled by O.G. 2001/94

Article 15

1. If the calculation of the nett income should lead to a negative amount, the same shall be considered a loss. A loss shall be set off against the nett incomes of the following five taxation years, to commence with the first of such years.
2. If the marriage is dissolved through the taxpayer's demise, his loss insofar as resulting from component items of the nett income other than as referred to in article 20, second and third paragraphs, shall be set off against nett incomes of the spouse. The preceding sentence shall apply only if both the taxpayer and his spouse were liable to pay taxes in this country at the time the marriage was dissolved.
3. In the event that the marriage is dissolved otherwise than through death, the loss of a taxpayer insofar as resulting from component items of his nett income, arisen on the side of his spouse and incapable of being set off against nett income of the years in which the marriage has existed, shall be set off exclusively against the nett incomes of the former spouse. Starting to live permanently separated shall be considered equivalent to the dissolution of a marriage.

Article 15A

Cancelled by O.G. 2001/94

Article 16

1. Personal liabilities shall be:
 - a. annuities and other periodical benefits and allowances as referred to in article 7, it being understood that:
 - 1st.³⁰ if they constitute quid pro quo for an act performed they shall only be deductible to the extent that they, together with the benefits already paid in respect of the liability concerned, exceed the value of the act performed;
 - 2nd. no deduction shall be allowed in the instances referred to in 1st above in respect of expenditures paid to relations in blood and by marriage in the direct line or in the second degree of the collateral line;
 - b. pensions;
 - c. the interests of debts and charges of money loans not to be reckoned as costs of acquisition, collection and conservation of the proceeds and liabilities falling on the proceeds, up to an amount of five thousand guilders;
 - d. premiums pursuant to the National Ordinance on General Old Age Insurance (O.G. 1960, no. 83) and the National Ordinance on General Widows' and Orphans' Insurance (O.G. 1965, no. 194), except for the part of the premium paid by the employer as an allowance on the wage, to compensate the premium due by the employee;

³⁰ Transitional arrangement, article V, paragraph 4, O.G. 2001/94:
In case of a liability to pay annuities and other periodical benefits and allowances as referred to in article 16, first paragraph, item a, 1st, of the National Ordinance on Income Tax 1943, the payments made before 1 January 2001 shall not be considered as quid pro quo for an act performed in such article.

- e. premiums of life insurance, annuity or pension insurance, with the exception of the premiums as referred to under d.;
 - f. gifts to religious, charitable, cultural and scientific institutions and public interest organizations established within the Netherlands Antilles, provided these gifts be evidenced by written proof, if and insofar as exceeding in the aggregate one percent of the income and at the same time f.100, it being understood that the amount to be deducted shall run to no more than three percent of the income;
 - g. premiums as referred to in article 5 of the Regulations on costs of sickness compensation for government pensioners (O.G. 1975, no. 249).
 - h)³¹³² the following expenditures in respect of the private dwelling available to the taxpayer as his main residence:
 - 1st. interest of debts and costs of money-loans entered into to obtain, maintain or improve the private dwelling, as also the premiums for a death risk insurance –that decreases as the term of the loan lapses- connected to such loan , for a maximum amount of f. 27,500 and the share of the amount that has not been used, referred to in section c;
 - 2nd. costs of maintenance of the private dwelling for an amount of 2% of the value of the dwelling for application of the ground tax to a maximum of f. 3,000;
 - 3rd. costs of maintenance of the private dwelling that has been designated a protected building in accordance with an island ordinance concerning monuments and/or listed buildings.³³
2. For the premiums referred to under letter e. of the preceding paragraph, not more than five percent of the income nor more than f.1,000 may be deducted. For those in respect of whom the provision of article 9, paragraph 7 is applicable, those premiums may be considered for deduction only if and insofar as the deduction allowed under such regulations shall remain below the aforesaid limit. For the purposes of the preceding paragraph under f., only benefits out of generosity and non-obligatory contributions shall be reckoned as gifts, if and insofar as no claim measurable in terms of money is derived from any such benefits and contributions, as also church taxes.
3. The maximums referred to in the first paragraph under c. and the second paragraph of this article and the 3rd and 6th paragraphs of article 9, shall apply for a full year

³¹ Transitional arrangement, article V, paragraph 8, O.G. 2001/94:
The limitation of the mortgage interest, referred to in article 16, first paragraph, item h, under 1st of the National Ordinance on Income Tax 1943, shall not apply to a mortgage agreement entered into by the taxpayer before 1 August 2000, for a private dwelling that has been permanently available to him as his main residence since that date.

³² Transitional arrangement, article V, paragraph 9, O.G. 2001/94:
Contrary to the provisions of article 16, first paragraph, item h, of the National Ordinance on Income Tax 1943, article 16, first paragraph, item h, of said national ordinance, as effective on 31 July 2000, shall continue to apply to the ground tax for the tax year 1999 and before.

³³ This item was added by O.G. 1999, no. 207 and shall become effective on 1-1-2000. Was put under article 16 since the rental value of the private dwelling was tax-exempted as a result of which the private dwelling ceased to be a source of income. Was later amended by O.G. 2001/94 taking effect as from 1-1-2001.

assessment; in the case of a taxation period, these maximums shall be reduced proportionally in accordance with the number of days of the taxation period.

4. In the event that a private dwelling is available as a main residence to two or several taxpayers at the same time, in deviation of the first paragraph, section h, the maximum amounts referred to there shall be applied to every taxpayer on a pro rata basis.³⁴
5. As to the taxpayer to whom the constituents of his spouse's income referred to in article 20, second and third paragraphs, are allocated:
 - 1st. the amount referred to in the first paragraph, section c, shall be increased to f. 5,000;
 - 2nd. the aggregate amount of the incomes of the taxpayer and his spouse instead of the taxpayer's income shall be taken into consideration for the purposes of the first paragraph, section f, and the second paragraph, .

Article 16A³⁵

1. Extraordinary liabilities shall be the expenditures burdening the taxpayer:
 - a. in respect of illness, disability, giving birth and the death of the taxpayer, his spouse, his own children and his children by marriage and his foster children, and of his relations in blood or by marriage in the direct line or in the second degree of the collateral line;
 - b. in respect of his training or study for a profession for himself or his spouse;
 - c. for providing the necessary maintenance for his own children and his children by marriage and his foster children, aged 27 or older, and for other relations in blood or by marriage in the direct line or in the second degree of the collateral line, insofar as such persons themselves are not capable of earning an income to support themselves;
 - d. for providing the necessary maintenance for children, up to the age of 27, who in consequence of illness or disability are not capable of earning half of what physically and mentally healthy children could earn, to the extent that such children are not capable of earning an income to support themselves;
 - e. in respect of the costs of a secondary professional education, an advanced professional education, an academic or comparable education for his own children, his spouse's children and foster children up to the age of 27 up to a maximum amount of f. 10,000 per child.
2. The joint expenditure relating to items listed below shall be considered, with due application of the rates specified:
 - a. the costs relating to the expenditure referred to in the first paragraph, section a, of transportation by car to an amount of f. 0.35 per kilometer, or, if a car made available is concerned, the fuel costs, ;

³⁴ Fourth and fifth paragraphs added by O.G. 2001/94 taking effect as from 1-1-2001.

³⁵ As fully amended by O.G. 2001/94 taking effect as from 1-1-2001

- b. the expenditure referred to in the first paragraph, section b: 75% of the cost of accommodation outside the island where the taxpayer is residing;
 - c. the expenditure referred to in the first paragraph, section c: maximum f. 2,500 per child supported with the proviso that the total amount to be considered shall not amount to more than 10% of the taxpayer's income.
 3. The following shall not be considered as extraordinary liabilities:
 - a. where the costs of study are concerned: other costs than tuition fees, the costs of books and other obligatory tuition materials not being objects outlined in article 9C, second paragraph, section a, as well as the costs of inter-insular or international travel, with the proviso that in the event of the first paragraph, section e, the maximum deduction shall be the costs of travel of one trip per child per year;
 - b. the premium due pursuant to the National Ordinance General Insurance Special Medical Expenses (O.G. 1996, no 211).
 4. The expenditure referred to in the first paragraph, sections a, c and d, shall be considered insofar as in the aggregate amounting to more than 10% of the income, with a minimum of f. 1,500.
 5. Where the taxpayer is concerned to whom the constituents of his spouse's income referred to in article 20, second and third paragraphs, have been allocated:
 - a. the amount referred to in the first paragraph, section e, shall be increased to f. 20,000;
 - b. the aggregate amount of the incomes of the taxpayer and his spouse shall be considered for the purposes of the second paragraph, section c, and the fourth paragraph, instead of the taxpayer's income.
 6. The Minister of Finance can lay down further rules stipulating that in the event of two unmarried parents the right to deduction, referred to in the third paragraph, can be transferred to the other parent or, in the event of a single parent the deduction can be doubled.

Article 16B

1. Returns and proceeds, other than profit from business or profession, shall be deemed to have been obtained at the moment when:
 - a) they were received or adjusted, made available to the taxpayer or became interest-bearing; or
 - b) they became due and at the same time collectable.
2. Charges and liabilities to be deducted from such returns and proceeds, as also the personal liabilities and the extraordinary liabilities, shall be considered the moment they were paid or adjusted, made available [by] the taxpayer or became interest-bearing.

Chapter III
Taxpayers not residing within the Netherlands Antilles

Article 17³⁶

1. The persons not residing within the Netherlands Antilles, referred to in article 1, paragraph 3, shall be liable to pay taxes on their full taxable income earned in the calendar year or taxation period, insofar as same was earned from the returns and proceeds of:
 - a.³⁷ immovable property situated within the Netherlands Antilles or rights established on such property;
 - b. debt-claims which, as far as the principal is concerned, are secured by mortgage, created on immovable property situated or established within the Netherlands Antilles;
 - c. other component items of the movable capital, not being securities, the returns on which are dependent either on the proceeds of a business or profession which is and insofar as being conducted or exercised within the Netherlands Antilles; or of the quantity or the proceeds of any product obtained, worked or processed within the Netherlands Antilles;
 - d.³⁸ businesses and professions (including an office, honour, function, and present or past employment exercised by themselves or by someone else), which are and insofar as being conducted or exercised personally or by a permanent representative or agents within the Netherlands Antilles. If such conduct or exercise takes place on a temporary basis only and lasts for less than three consecutive months, then a tax exemption, whether in whole or in part, may be granted by national decree;
 - e. shares in, or profit-sharing certificates, debentures or debt-claims against a company established within the Netherlands Antilles, the capital of which is divided into shares, be this in whole or in part, with the exception of companies as referred to in article 9A of the National Ordinance on Profit Tax 1940 and of entities which, pursuant to the National Ordinance on Ship Registration Tax 1987,

³⁶ A third, fourth and fifth paragraph were added by O.G. 1999, no. 245, taking effect as from 1-1-2000. The second paragraph concerning exemption of private pension earned abroad was cancelled by O.G. 2000/76 taking effect as from 1-8-2000.

The paragraphs renumbered as second, third and fourth paragraph were cancelled again by O.G. 2000/84 (confirmed by O.G. 2001, no. 144) with a retrospective effect to 1-1-2000.

Then item i was cancelled by O.G. 2001/94 with a retrospective effect to 1-1-2001.

Finally the paragraphs cancelled by O.G. 2000/84 were added again by O.G. 2001, no. 145, with a retrospective effect to 1-1-2001.

³⁷ In this item and in item b the Dutch word 'goederen' was substituted by 'zaken' by O.G. 2001, no. 24.

³⁸ Transitional arrangement, article V, paragraphs 5 and 6, O.G. 2001/94:

The taxpayer who was not residing in the Netherlands Antilles on 1 August 2000, has not lived in the Netherlands Antilles since and has a pension as referred to in article 17, first paragraph, item d, of the National Ordinance on Income Tax 1943 shall have the right to a deduction of the tax due by the lower of the two following amounts until the year 2005 (inclusive):

- a. the amount that is in the same ratio to the tax due as the pension to the total assessable income;
- c. the amount of the income tax on the pension levied in the country where the taxpayer is residing.

The above shall not apply to lump sum pension payments.

- are not subject to profit tax, if the beneficiary in the company has a considerable interest in terms of article 11, paragraph 1 under 3rd;³⁹
- f. the alienation of shares belonging to a considerable interest, or profit-sharing certificates belonging to a considerable interest, in or of a company the capital of which is divided into shares, be this in whole or in part, with the exception of companies as referred to in article 9A, of the National Ordinance on Profit Tax 1940 and of entities which, pursuant to the National Ordinance on Ship Registration Tax 1987, are not subject to Profit Tax;
 - g. a present or past employment exercised by themselves or by someone else as managing or supervisory director of an entity established within the Netherlands Antilles as referred to in article I of the National Ordinance on Profit Tax 1940, also in the case of restriction of powers to parts of the enterprise of such entity situated outside the Netherlands Antilles;
 - h. offices paid from the National or Island treasury, while the activities attaching to such offices were performed outside the Netherlands Antilles;
2. The first paragraph, sections e and f, shall apply exclusively to natural persons not residing within the Netherlands Antilles who were an inhabitant of the National Antilles at some time during the past ten years prior to their obtaining revenues from shares, profit-sharing certificates, debentures or debt-claims referred to in section e of said paragraph or the alienation of the shares or profit-sharing certificates referred to in section f of said paragraph.
 3. For the purposes of the first paragraph, section f, the purchase price of shares and profit-sharing certificates that belong to a considerable interest and in whose respect alienation benefits were applied when the taxpayer ceased to reside in the Netherlands Antilles shall be set at the market value which was used to calculate such benefits.
 4. For the purposes of this article a body which has been incorporated under Netherlands-Antilles law shall always be considered to have its registered office in the Netherlands Antilles.

Article 18⁴⁰

1. The nett proceeds of the sources of income referred to in article 17 shall be determined with due observance of the principles of articles 4, 5, 6, 7, 9, 9B and 10.

³⁹ In items e and f the reference to articles 8A, 8B, 9A and 14A Nat. Ord. on Profit Tax was cancelled by O.G. 1999, no. 245, taking effect as from 1-1-2000. This was revoked by O.G. 2000/84, which was confirmed by the NFR emergency act, but article 14 was then added to the list as well with a retrospective effect until 1987. By O.G. 2001, no. 145, the text of O.G. 1999, 245 was returned to. As a transitional arrangement, the old text will continue to apply to bodies referred to in the articles 8A, 8B, 14 and 14A Nat. Ord. on Profit Tax as effective on 31-12-1999.

⁴⁰ First and second paragraphs amended, fourth paragraph added by O.G. 2001/94, taking effect as from 1-1-2001.

2. Articles 11, 15 and 16 first paragraph letter f. shall apply in respect of the taxpayers referred to in this chapter.
- 3.⁴¹ A deduction according to article 16 furthermore shall be allowed only for the interests of debts, for which immovable property situated or established within the Netherlands Antilles has been mortgaged.
4. The articles 16A and 23A shall not apply to the taxpayers referred to in this chapter.

Article 19 (Cancelled)

CHAPTER IV
Married taxpayers
Exemptions

Article 20⁴²

1. This article shall apply in respect of a taxpayer who has been married the whole calendar year without having lived permanently separated, provided both the taxpayer and his spouse resided within the Netherlands Antilles. If the taxpayer and his spouse should start to live permanently separated and resume cohabitation within six months thereafter, for the purposes of this article they shall not be considered as having lived permanently separated.
2. The nett income of a taxpayer, other than the personal income and the personal reductions of the income, shall be considered the nett income of his spouse if:
 - a) his personal income is lower than that of his spouse's;
 - b) the taxpayer does not, but his spouse does, earn a personal income;
 - c) the personal income of both is equal, or neither of them earns a personal income, and the taxpayer is younger than his spouse.
3. The personal income shall consist of the aggregate amount of:
 - a) the nett proceeds of an enterprise conducted for his own account;
 - b) nett proceeds from employment;
 - c) net proceeds from rights to periodical benefits:
 - 1st. pursuant to the National Ordinance General Old Age Insurance and National Ordinance General Widows' and Orphans' Insurance;
 - 2nd. received in respect of study;
 - 3rd. acquired in connection with disability, illness or accident;
 - 4th. stipulated in direct relation to or at the discontinuation of an enterprise;
 - 5th. acquired in respect of a divorce or a judicial separation.

⁴¹ *goederen/zaken* rephrased in Dutch text by O.G. 2001, no. 24.

⁴² Second and third paragraphs amended, fifth and sixth paragraphs cancelled, seventh paragraph renumbered to fifth paragraph by O.G. 2001/94, taking effect as from 1-1-2001.

4. The personal reductions of the income are the premiums referred to in article 16, first paragraph, sections d., e. and g.
5. At the partition of property, the second paragraph shall not apply if so requested by either of or both the spouses. In such a case the tax shall be calculated as if the second paragraph did apply. Subsequently the tax due by both the spouses together shall be allocated proportionally to the nett income of each of them.

Article 20A

1. The personal income of a minor child, as also the personal reductions of his income, shall be considered the income of that child.
2. Without prejudice to the provisions of article 20, second paragraph, the nett income of a minor child, otherwise than as referred to in the first paragraph, shall be considered the nett income of the taxpayer exercising authority over that child.⁴³

Article 21.

If pursuant to article 20 or article 20A, income component items of a third party have been allotted to the taxpayer, then such third party, without prejudice to his liability on other grounds, shall be liable in respect of a proportionate part of the tax due, determined proportionally to the assessable incomes calculated without the application of that article.

Article 22

From the tax shall be exempted the consular and other representatives of foreign powers, the officials attached to them and the persons in their service, living with them; all of whom provided they be aliens and for the rest not conducting a business or exercising a profession within the Netherlands Antilles and subject to reciprocity.

Article 23

1. The exemption pursuant to the preceding article shall not extend to include returns and proceeds acquired outside the office or employment as referred to in article 17.
2. Also in respect of those residing within the Netherlands Antilles the provisions of article 18 hereby shall apply.

Article 23A⁴⁴

1. For an own child, a child of his spouse and a foster child up to the age of 27 the taxpayer residing within the Netherlands Antilles shall receive a child allowance on

⁴³ As amended by O.G. 2001/94 taking effect as from 1-1-2001.

⁴⁴ As fully amended by O.G. 2001/94 taking effect as from 1-1-2001.

top of the basic deduction referred to in Article 24A, depending on the category to which the child belongs.

2. The following division into categories shall apply:
 - a. category I: a child between 16 and 27 years old who is residing elsewhere:
 - 1st. to pursue a secondary professional education, an advanced professional education, an academic or comparable education; or
 - 2nd. to attend a teaching establishment not existing on the island where the taxpayer resides;
 - b. category II: a child between 16 and 27 years old that is staying at the island where the taxpayer lives to pursue a secondary professional education, an advanced professional education, an academic or comparable education;
 - c. category III: a child between 16 and 27 years old that forms part of the taxpayer's household and whose time available for work is largely occupied by or in connection with their pursuing an education or vocational training other than as referred to in sections a and b;
 - d. category IV: a child younger than 16 who forms part of the taxpayer's household.
3. For the purposes of the first and the second paragraphs, the situation at the start of the calendar year or, if the liability to pay taxes starts in the course of the calendar year, at the start of the said liability, shall be decisive.

Article 23B

1. The taxpayer, referred to in article 1, first paragraph, and who complies with the conditions laid down in article 23D, on making his tax return for any year may request that, in deviation from the provisions laid down in chapter V of this national ordinance, the tax on his nett income in that year and the subsequent years insofar as concerning the nett proceeds from foreign sources, be levied according to a rate of ten percent, surcharges thereby included.
2. If a request as referred to in the first paragraph is made by a taxpayer, in respect of whom a request as referred to in article 23C, first paragraph has been granted, and who previously already had submitted a request as referred to in the first paragraph, which request was granted, the first paragraph shall not apply.

Article 23C

1. In deviation from article 23B, the taxpayer referred to in article 1, first paragraph, and who complies with the conditions laid down in article 23D, on making his tax return for any year may request that, in deviation from the provisions laid down in chapter V of this national ordinance, the tax on his nett income in that year and the subsequent years insofar as concerning the nett proceeds from foreign sources, be levied according to a rate of ten percent, surcharges thereby included [or], if this should result in lower taxes, his nett income insofar as concerning the nett proceeds from

foreign sources be set at NAF.500,000.- and taxed according to article 24, first paragraph.

2. If a request as referred to in the first paragraph is made by a taxpayer, in respect of whom in the year preceding that for which the request was submitted, the rate referred to in article 23B first paragraph applies, the rate stated in the first paragraph shall not apply earlier than as and from the third year following upon the first year to which the rate stated in article 23B, first paragraph, applies.
3. The amount referred to in the first paragraph may be modified by national decree containing general measures.

Article 23D

1. A request as referred to in article 23B or article 23C may be made if the taxpayer:
 - a. immediately preceding the year in which article 23B or article 23C first becomes applicable to him, has been residing abroad for an uninterrupted period of at least 60 months,
 - b. at the moment of entering his name in the civil registers has reached age 50,
 - c. within two months from having entered his name in the civil registers has presented himself to the competent Inspector of Taxes as a taxpayer who wants to come into consideration for the application of article 23B or article 23C, as also
 - d. within 18 months from having entered his name in the civil registers has occupied a dwelling as referred to in the second paragraph, section b.
2. Article 23B or article 23C shall apply only in respect of the taxpayer who:
 - a) is a person as referred to in article 1 of the National Ordinance on Admission and Expulsion (O.G. 1966, no. 17) or has been admitted to the Netherlands Antilles pursuant to the said National Ordinance, unless relating to an admission for a temporary stay; as also
 - b) for his private use has the ownership of an unlet dwelling in the Netherlands Antilles that at the moment of acquisition has a value of at least NAF.450,000.
3. Article 23B or article 23C shall not apply if the taxpayer or his spouse not permanently living separated from him acquires benefits from:
 - being employed;
 - independently exercising a profession; or
 - performing acts, activities or services of any nature, in this country.
4. For the purposes of the third paragraph, being employed shall not be:
 - a. the work relation between the taxpayer and an entity as referred to in article 1 of the National Ordinance on Profit Tax 1940 (O.G. 1965, no. 58), in which the taxpayer is a shareholder for at least 40 percent of the nominal paid-up capital, be this directly or indirectly;

- b. the occupying of a supervisory function as a supervisory director in an entity as referred to in article 1, first paragraph, section a. or b., of the National Ordinance on Profit Tax 1940 (O.G. 1965, no. 58).
5. The amount referred to in the second paragraph, section b., may be modified by national decree containing general measures.

Article 23E

1. For the purposes of article 23B and article 23C, proceeds from foreign sources shall be the sum of the following nett incomes:
 - a. proceeds of present or past employment or of other activities performed outside the Netherlands Antilles, unless relating to the proceeds from present employment as a manager or supervisory director of an entity that in fact or according to its articles of association is established in the Netherlands Antilles as referred to in article 1 of the National Ordinance on Profit Tax 1940 (O.G. 1965, no. 58);
 - b. proceeds of enterprise, insofar as conducted personally with the aid of a permanent establishment or by permanent representatives or agents, outside the Netherlands Antilles;
 - c. proceeds of immovable property situated outside the Netherlands Antilles or rights established on any such property;
 - d. proceeds of bank-account credit balances and other debt-claims, with the exception of:
 - 1st. debt-claims secured by mortgage, established on immovable property situated in the Netherlands Antilles;
 - 2nd. debt-claims not being bank-account credit balances, to the charge of an individual or a legal entity residing or established, respectively, in the Netherlands Antilles in fact or according to its articles of association;
 - e. proceeds of rights to shares in the profit, otherwise than as a shareholder, of an enterprise not conducted in the Netherlands Antilles;
 - f.⁴⁵ proceeds of shares in, or profit-sharing certificates to the charge of a company that in fact or according to its articles of association is not established in the Netherlands Antilles and the capital of which is divided into shares, be this in whole or in part;
 - g. benefit from the alienation of shares belonging to a considerable interest, or profit-sharing certificates belonging to a considerable interest, in or of a company that in fact or according to its articles of association is not established in the Netherlands Antilles and the capital of which is divided into shares, be this in whole or in part;
 - h. proceeds of rights to periodical benefits to the charge of an individual or legal entity not residing or established, respectively, in the Netherlands Antilles;
 - i. the capital sum from life insurance, paid to the charge of an individual or legal entity not residing or established, respectively, in the Netherlands Antilles.

⁴⁵ Sections g, h, i, and j were re-lettered to f, g, h, and i by O.G. 1999, no. 207, taking effect as from 1-1-2000.. Until that date section f ran as follows: the rental value of the dwelling, referred to in article 23D, second paragraph, section b.

2. For the purposes of the first paragraph, proceeds from a past employment shall be the proceeds from a right to periodical benefits allotted to the taxpayer with respect to a past employment provided same has been accrued mainly outside the Netherlands Antilles.
3. For the purposes of the first paragraph, sections d.2nd, f., g., h. and i⁴⁶, entities the profits of which are assessed on the strength of article 9A of the National Ordinance on Profit Tax 1940 (O.G. 1965, no. 58) and entities that under the National Ordinance on Ship Registration Tax 1987 (O.G. 1987, no. 112) are not subject to profit tax, shall be considered as not being established in the Netherlands Antilles in fact or according to their articles of association.⁴⁷
- 4.⁴⁸ For the purposes of articles 23B and 23C, the articles 5, fourth paragraph, 12, 16, 16A, 23A and 24A, second, third and sixth paragraphs shall be left out of consideration.
5. In respect of a taxpayer, referred to in article 23B or article 23C, who fails to make a full tax return in time, the tax to be comprised in the assessment shall be raised, in deviation from the provision of article 34, first paragraph second sentence, by half the tax amount due.
6. Article 23B or, as the case may be article 23C, shall not apply as and from the second taxation year referred to in the sections a. and b. or, respectively, as and from the year in which the six-month term referred to in section c. is exceeded, in respect of the taxpayer referred to in article 23B or article 23C:
 - a) who, for two consecutive taxation years fails to make a full tax return in time; or
 - b) in respect of whom, in accordance with the provision of article 23D, third paragraph, article 23B or, as the case may be, article 23C shall not apply for two consecutive years; or
 - c) who, save for the case referred to in article 23D, first paragraph section d., does not comply with the condition referred to in article 23D, second paragraph section b. during a term of over six months.
7. If a taxpayer not permanently living separated should have the ownership of a dwelling, whether or not together with his spouse, as referred to in article 23D,

⁴⁶ Sections g, h, i, and j were re-lettered to f, g, h, and i by O.G. 1999, no. 207, taking effect as from 1-1-2000

⁴⁷ The references to articles 8A, 8B, 14 and 14A Nat. Ord. on Profit Tax were cancelled by O.G. 1999, no. 245, taking effect as from 1-1-2000. The old text will continue to apply to bodies referred to in articles 8A, 8B, 14 and 14A Nat. Ord. on Profit Tax as effective on 31-12-1999. This amendment was later revoked by O.G. 2000/84 (confirmed by O.G. 2001, no. 145) after which the latter was -in turn- revoked by O.G. 2001, no. 145, with a retrospective effect until 1-1-2001.

⁴⁸ As amended by O.G. 2001/94, taking effect as from 1-1-2002.

Article 5, paragraph 8 was included by O.G. 2001, no. 144, with a retrospective effect until 2-9-2000, the date when the old transparency fiscal was reintroduced in that eighth paragraph. When this provision was cancelled by O.G. 2001, 145, with a retrospective effect until 1-1-2001, this reference to the eighth paragraph was cancelled as well, but it will continue to apply in the context of the transitional arrangement.

second paragraph section b., both of them shall be considered to have complied with this condition.

8. The other articles of this national ordinance, and specifically article 37 shall remain in full force and effect insofar as not expressly deviated from in this article.
9. The income in respect whereof the rate referred to in article 23B, first paragraph or else article 23C, first paragraph does not apply, shall be assessed on the strength of article 24, first paragraph, it being understood that the tax shall amount to at least 10% of such income. When calculating the tax on the income in respect whereof the rate of article 23B or, as the case may be, article 23C does not apply, the income in respect whereof this rate does apply shall be left out of consideration.

Article 23F
 Cancelled by O.G. 2001/94

CHAPTER V
 Amount of the tax

Article 24⁴⁹

1. The amount of the tax due excluding surcharges shall be determined using the table below.
 If the taxable income is

more than	but not less than	the tax will be	in addition for every amount on top of the amount in column I
I	II	III	IV
-	23,950	-	12.00%
23,950	34,450	2,874	18.00%
34,450	45,550	4,764	25.00%
45,550	60,450	7,539	30.00%
60,450	102,000	12,009	36.00%
102,000	-	26,967	44.00%

2. In deviation from the first paragraph, on the taxpayer's request, the nett amount of the benefits referred to in article 5, first paragraph, last phrase, article 6, second paragraph, sections d. and e, and the amounts referred to in the first and second sections of paragraph 1 of article 11, provided that they do not fall under the third section of the first paragraph, or the second, tenth or eleventh paragraphs of that article, shall be taxed for 80% of the difference between the tax due on the assessable income on the basis of the table and the tax due on the assessable income without these benefits. Exclusive of surcharges the tax rate shall amount to not less than 15% nor more than 30 %.

⁴⁹ Introduction of tax brackets to replace the old table, plus a change of the special rate, by O.G. 2001/94, taking effect as from 1-1-2001.

3. In deviation from the provision of the second paragraph, when applying the first paragraph in respect of an employee of a business that closes, whether in whole or in part, and in respect of a public servant having received a Lumpsum Benefit for Public Servants (O.G. 1988, no. 30), the percentages referred to in such paragraph shall include the insular surcharges on the tax on income, unless the employee concerned has held a considerable interest pursuant to article 11, first paragraph, sub 3.
4. In deviation from the first paragraph, on the taxpayer's request, the nett amount of the benefits, referred to in article 11, paragraph 1, sub 3 shall be taxed at a rate of 25% excluding surcharges.

Article 24A⁵⁰

1. The tax due excluding surcharges shall be the tax calculated in accordance with article 24, first paragraph, minus the basic deduction and the applicable sole earner allowance, pensioner's allowance and child allowance.
2. The taxpayer shall be entitled to a basic deduction of f. 1,125.
3. The sole earner allowance shall be f. 750.
4. The taxpayer residing in the Netherlands Antilles that has been married for all of the calendar year without having been permanently separated shall be entitled to the sole earner allowance if his spouse's assessable income in the calendar year has been equal to, or less than, nil.
5. The taxpayer who is not residing within the Netherlands Antilles, shall -in a calendar year in which he is also liable to pay tax as a person residing within the Netherlands Antilles- be eligible for this basic deduction for the period of his foreign tax liability to the extent that such basic deduction was not made use of in the period of his domestic tax liability.
- 6.⁵¹ The taxpayer residing in the Netherlands Antilles shall have a pensioner's allowance of f. 300, if he had reached the age of 60 at the start of the calendar year. Where a taxpayer is concerned to whom his spouse's income constituents referred to in article 20, second and third paragraphs, have been allocated, this amount will, at the joint request of both spouses, be increased by the amount of his spouse's pensioner's allowance less the tax due by his spouse, to a maximum of f. 200.
7. The child allowance, referred to in article 23A, shall be:

⁵⁰ As introduced by O.G. 2001/94, taking effect as from 1-1-2001 (substitution of tax-free amounts, child deduction etc. by tax discounts).

⁵¹ Transitional arrangement, article V, paragraph 10, O.G. 2001/94:
Article 24A, sixth paragraph, of the National Ordinance on Income Tax 1943 shall apply mutatis mutandis to taxpayers who, at the start of the fiscal year 2000 had reached the age of 56, but had not reached the age of 60 yet, and who, on 31 July 2000, were entitled to the pension deduction referred to in article 23F of the National Ordinance on Income Tax 1943, as effective on 31 July 2000.

- a. for category I: f. 400;
 - b. for category II: f. 200;
 - c. for category III: f. 50;
 - d. for category IV: f. 40.
8. Where a taxpayer is concerned to whom his spouse's income constituents referred to in article 20, second and third paragraphs, have been allocated, the spouse's child allowance amount can, at the joint request of both spouses, be allocated to the other spouse. The spouse shall have no further rights to such child allowance then. The Minister of Finance can lay down further rules stipulating that in the event of two unmarried parents the right to child allowance can be transferred to the other parent or, in the event of a single parent the allowance can be doubled.

Article 25⁵²

1. At the start of the calendar year the Minister of Finance shall replace the tax amounts of the table, referred to in article 24, first paragraph, and 24A, by other amounts. The amounts shall be calculated by multiplying the amounts to be replaced by the table correction factor and by subsequently rounding off such amounts as he shall consider necessary.
2. The table correction factor is one divided by the price index ratio. The price index ratio is the ratio of the average of the price index figures of the family consumption as calculated by the *Centraal Bureau voor de Statistiek* [Central Statistics Bureau] of the Netherlands Antilles, relating to the eighteenth up to and including the seventh month previous to the calendar year and the average of those price index figures, relating to the thirtieth up to and including the nineteenth month previous to the calendar year. In case the basis for the aforesaid price index figures is altered, the Minister of Finance shall provide rules as to how to proceed from the old to the new series of price index figures when applying the preceding sentence.
3. The Minister of Finance, provided the relative Disposition be effected at least two months prior to the start of the calendar year, may stipulate that in deviation to such extent from the first paragraph, at the start of the calendar years designated in that Disposition, the amounts of the table referred to in article 24, first paragraph, shall be replaced by amounts which he shall calculate with a factor designated in such Disposition, which shall constitute at least half the income tax correction factor.

Article 25A

(cancelled by O.G. 1997, no. 333, taking effect as from 1 January 1998)

Article 26

Cancelled by O.G. 2001/94

⁵² As amended by O.G. 2001/94, taking effect as from 1-1-2001.

CHAPTER VI
Taxation year

Article 27

The taxation year is the calendar year.

CHAPTER VII
Tax return

Articles 28/34
Cancelled by O.G. 2001/89

Article 35 (Cancelled)

CHAPTER VIII
Assessment regulations

Article 36

1. The taxpayers residing within the Netherlands Antilles shall be assessed in the island territory where they reside at the start of the taxation year or at the commencement of their liability to pay taxes in the course of the year.
2. In deviation from the first paragraph, the taxpayer residing within the Netherlands Antilles shall be assessed in the island territory where his spouse, residing within the Netherlands Antilles, is assessed if under application of article 20, first paragraph, the nett residual income of the taxpayer is considered the nett income of his spouse.
3. Taxpayers not residing within the Netherlands Antilles shall be assessed in the island territory where they have earned their nett income.
4. In the event that a taxpayer as referred to in the third paragraph has earned nett income in more than one island territory, then, in deviation from the third paragraph, the Director of Taxes shall designate the island territory that shall be competent to impose the assessment. With this designation, the following shall specifically be reckoned with:
 - a) the amount of the nett income per island territory;
 - b) the presence of a permanent establishment or immovable property per island territory.

Articles 37/38
Cancelled by O.G. 2001/89

Article 39⁵³

By Ministerial order with general operation rules shall be laid down, in deviation from the articles 9.3 and 11.6.b of the General National Ordinance on National Taxes, with regard to the granting of postponement of payment for the duration of ten years – to be reckoned as and from the last day of the calendar year in which the taxpayer left the Netherlands Antilles to settle elsewhere – provided adequate security has been furnished, for tax assessments insofar as the same shall include income tax in respect of the alienation of shares and profit-sharing certificates belonging to a considerable interest, whereby article 11 fifth paragraph has been applied, as also with regard to the termination of the postponement of payment. At the same time, with the said ministerial order rules shall be laid down, pursuant to which as regards the tax for which, based on the preceding sentence, postponement of payment has been granted, remission of tax may be granted and up to what amounts.

CHAPTER IX
Assessments

Articles 40/41
Cancelled by O.G. 2001/89

Article 41A

The tax levied pursuant to the National Ordinance on Wage Tax 1976 and the National Ordinance on Dividend Tax 2000 (O.G. 1999, no. 246), such not to include the increase applied at the additional levy, shall constitute an advance levy for the income tax to be levied pursuant to this national ordinance.⁵⁴

Article 41B⁵⁵

1. No final assessment shall be made and no advance levies shall be deducted if:
 - a. the tax due exceeds the total amount of advance levies by more than f. 300;
 - b. pursuant to article 8, fourth paragraph of the National Ordinance on Wage Tax 1976 a wage tax reduction has been granted;
 - c. the taxpayer has made a tax return within 18 months of the end of the tax year.
2. If the provision of section c of the first paragraph is met, the assessment shall be determined at nil and advance levies shall not be deducted if the aggregate of such advance levies does not exceed the tax due by more than f.150.

⁵³ This provision was removed by O.G. 2001, 89, to take effect as from the tax year 2002. However, by O.G. 2001, no. 145, the text of article 39 was drawn up as included here. This text was the text of the former third paragraph of this article, as introduced by O.G. 1999, no. 245. As a result of this, the texts of the first and second paragraphs have now been cancelled, with a retrospective effect to 1-1-2001. Nevertheless, by virtue of O.G. 2001, no. 89, the text of these paragraphs shall continue to apply to tax years and periods prior to 1-1-2002.

⁵⁴ The reference to dividend tax was added by O.G. 1999, no. 245, taking effect as from 1-1-2000.

⁵⁵ As amended by O.G. 2001/94, taking effect for application as from 1-1-2001, first concerning assessments relating to the financial year 1999.

3. Without prejudice to the provisions of the first and second paragraphs, a restitution on or collection of a tax assessment shall take place only if the amount to be refunded or still to be collected exceeds f.50.

Article 42
Cancelled by O.G. 2001/89

CHAPTER X
Articles 43/47
Cancelled by O.G. 2001/89

CHAPTER XI
Articles 48/51
Cancelled by O.G. 2001/89

CHAPTER XII
Article 52
Cancelled by O.G. 2001/89

CHAPTER XIII
Article 53 (Cancelled)

CHAPTER XIV
Special provisions

Article 54
Cancelled by O.G. 2001/89

Article 55

1. Everyone shall be bound in the month of January of each year to furnish the Inspector, within whose district he falls, with two signed statements concerning the persons who have been employed with or for him during the past year, including managers, supervisory directors and persons who only work on a commission basis.
2. The statements referred to in the first paragraph shall be made on forms for the combined wage statements for purposes of income tax, wage tax, the old age insurance and the widows' and orphans' insurance.
These forms shall be available at the Inspector.
3. The Director of Taxes shall lay down these forms and shall determine the data that shall be required for the proper levying of taxes and premiums.
4. The term within which the statements shall be furnished may be extended by the Inspector.

Articles 56/63
Cancelled by O.G. 2001/89

CHAPTER XV
Articles 64/72
Cancelled by O.G. 2001/89

CHAPTER XVI
Final and transitional provisions
Final provisions

Articles 73/74
Cancelled by O.G. 2001/89

Article 74A

1. Anyone who on the strength of an Island Ordinance or an Island Decree containing general measures has been designated a party liable to withhold money in respect of persons who are or have been employed with or for him, including managers, supervisory directors and persons who only work on a commission basis, shall be liable in respect of income tax amounts not or not fully withheld and paid over, which amounts are stated on the assessment forms or the paying-over lists sent to him.
2. The person who does not, or does not fully comply with the provision of the first paragraph shall be liable as if he himself were assessed for the tax amounts referred to in the first paragraph.
3. In case an entity, whether same be private or public, is concerned, the person in charge of the management of wage administration with this entity shall also be liable.
4. The collection of the tax amounts referred to in the preceding paragraphs or the total of these tax amounts shall take place by means of a warrant.

Article 74B/74C
(Cancelled by O.G. 1997, no. 333)

Article 74D
Cancelled by O.G. 2001/94

Article 75

This national ordinance may be cited under the title of: "National Ordinance on Income Tax 1943".

Article 76
Cancelled by O.G. 2001/89

Transitional provisions

Article 77

1. With regard to dwellings whereby, for their acquisition, obligations were entered into prior to January 1 1998 or, if later, were occupied at the latest within 18 months from a taxpayer, already residing in the Netherlands Antilles on January 1 1998, having entered his name in the civil registers, the value as required under article 23D, second paragraph section b., shall be NAF.240,000.-.
2. As for a taxpayer in respect of whom articles 23B and 23C as reading up to January 1 1998 were applicable, and who requests application of article 23B as reading commencing that date, it shall apply, in deviation from the requirement of article 23D first paragraph section b., that at the time when article 23B as reading commencing January 1 1998 becomes applicable to him, he shall be required to have reached the age of 50.
3. For the purposes of article 23C, article 23D first paragraph section b. shall not apply in respect of the taxpayer who was already residing in the Netherlands Antilles on January 1 1998.

Article 78

As for those persons having settled in the Netherlands Antilles prior to January 1 1998 and who before March 1 1998 submitted a request as referred to in articles 23B, 23C and 23D as reading up to January 1 1998, or else have presented themselves to the Inspector of Taxes as taxpayers wishing to be considered for the application of those articles, the articles 79 up to and including 82 shall apply in deviation from the articles 23B up to and including 23E as reading commencing January 1, so long as the rate referred to in article 23B, first paragraph or article 23C, first paragraph is not applicable at the taxpayer's request.

Article 79

1. The taxpayer referred to in article 1 first paragraph, in respect of whom article 78 applies, when making a tax return may request that, in deviation from the provisions in chapter V, the tax be levied on his nett income, insofar as regarding the nett proceeds from foreign sources, according to a rate of five percent, surcharges included, provided that:
 - a) immediately prior to the year in which this article first becomes applicable to him, he resided abroad for an uninterrupted period of at least five years;
 - b) within 18 months from entering his name in the civil registers he proceeded to occupy a dwelling as referred to in the third paragraph section b.

2. In deviation from the first paragraph, at the taxpayer's request the nett income insofar as concerning the nett proceeds from foreign sources for the purposes of this article shall be set at NAF.150,000.- and assessed according to article 24, first paragraph.
3. The first paragraph shall apply only in respect of the taxpayer who
 - a. is a person as referred to in article 1 of the National Ordinance Admission and Expulsion (O.G. 1966, no. 17) or who pursuant to the said national ordinance has been admitted to the Netherlands Antilles, unless this concerns an admission for temporary residence, and who
 - b. for his private use has the ownership of an unlet dwelling in the Netherlands Antilles that at the time of acquisition [has] a value of at least NAF.240,000.-.

Article 80

1. Article 79 shall not apply if the taxpayer or his spouse not permanently living separated from him acquires benefits in this country from:
 - the discharge of an employment;
 - the independent exercise of a profession; or
 - the performance of acts, activities or the rendering of services of any nature.
2. For the purposes of the first paragraph, the discharge of an employment shall not be:
 - a. the employment relation between the taxpayer and an entity as referred to in the article I of the National Ordinance on Profit Tax 1940 (O.G. 1965, no. 58), in which the taxpayer, directly or indirectly, is a shareholder for at least 40 percent of the nominal paid-up capital;
 - b. the occupying, as a supervisory director, of a supervisory office in an entity as referred to in article 1, first paragraph section a. or section b. of the National Ordinance on Profit Tax 1940.

Article 81⁵⁶

1. By proceeds from foreign sources, for the purposes of article 79, shall be understood the sum of the following nett incomes:
 - a. proceeds from present or past employment or of other work discharged outside the Netherlands Antilles, unless proceeds are involved of present employment as manager or supervisory director of an entity that in fact or according to its articles of association is established in the Netherlands Antilles as referred to in article 1 of the National Ordinance on Profit Tax 1940 (O.G. 1965, no. 58);
 - b. proceeds from enterprise, insofar as conducted personally with the aid of a permanent establishment, or by permanent representatives or agents, outside the Netherlands Antilles;
 - c. proceeds from immovable property situated outside the Netherlands Antilles or rights established on such property;
 - d. proceeds from bank-account credit balances, with the exception of:

⁵⁶ Section e was removed from the first paragraph, as well as the reference to this section in third paragraph, by O.G. 2001/94, taking effect as from 1-1-2001.

- 1st. debt-claims, secured by mortgage, established on immovable property situated in the Netherlands Antilles;
 - 2nd. debt-claims, not being bank-account credit balances, to the charge of an individual or legal entity, residing or established, respectively, in the Netherlands Antilles according to its articles of association or in fact;
 - e. proceeds from rights to shares in the profit, other than as a shareholder, of an enterprise not conducted in the Netherlands Antilles;
 - f. income from shares in, or profit-sharing certificates of a company not established in the Netherlands Antilles in fact or according to its articles of association, and the capital of which is divided into shares, be this in whole or in part;
 - g. benefits from the alienation of shares belonging to a considerable interest, or profit-sharing certificates belonging to a considerable interest, in or of a company not established in the Netherlands Antilles in fact or according to its articles of association and the capital of which is divided into shares, be this in whole or in part;
 - h. income from rights to periodical benefits to the charge of an individual or legal entity not residing or established, respectively, in the Netherlands Antilles;
 - i. the capital sum from life insurance paid to the charge of an individual or legal entity not residing or established, respectively, in the Netherlands Antilles.
2. For the purposes of the first paragraph, income from a past employment shall be the proceeds from a right to periodical benefits accorded to the taxpayer in respect of an earlier employment, provided same accumulated chiefly outside the Netherlands Antilles.
 3. The first paragraph, section d. under 2nd, sections f, g, h., and i., shall apply analogously with respect to entities, the profits of which are assessed on the strength of articles 8A, 8B, 9A, 14 and 14A of the National Ordinance on Profit Tax 1940 (O.G. 1987, no. 112) are not subject to profit tax.
 4. For the purposes of article 79, the articles 5.4⁵⁷, 12, 15A, 16, 16A, 23A and 23F shall be left out of consideration.
 5. As regards the taxpayer, referred to in article 79, who fails to make his tax return in full and on time, in deviation from the provision of article 34, first paragraph second sentence, the tax to be imposed with the assessment shall be increased by half the tax amount due.
 6. Article 79 shall not apply as and from the second taxation year referred to in the sections a. and b. or, as the case may be, as and from the year in which the term of six

⁵⁷ A reference to article 5, paragraph 8 was included by O.G. 2001, no. 144, with a retrospective effect to 2-9-2000, the date when the old transparency fiscal was reintroduced. When this provision was cancelled by O.G. 2001, no. 145, with a retrospective effect until 1-1-2001, this reference to the eighth paragraph was cancelled as well. However, the reference will continue to apply to offshore bodies in the context of the transitional arrangement.

months referred to in section c., is exceeded, in respect of the taxpayer referred to in article 79:

- a. who for two consecutive taxation years fails to make his full tax return on time; or
 - b. in respect of whom in conformity with the provision of article 80 first paragraph, article 79 shall not apply for two consecutive years; or
 - c. who, except in the case referred to in article 79, first paragraph section b., during a term of over six months does not comply with the condition referred to in article 79, third paragraph section b.
7. If a taxpayer not permanently living separated, whether or not together with his spouse has the ownership of a dwelling as referred to in article 79, third paragraph section b., this condition shall be deemed to have been complied with in respect of both of them.
 8. The other articles of this national ordinance, and specifically article 37, shall remain in full force and effect insofar as not expressly deviated therefrom in this article.
 9. The income to which it is not the rate referred to in article 79, first paragraph that applies, shall be assessed on the basis of article 24, first paragraph, it being understood that the tax shall be at least 10% of such income. When calculating the tax on the income to which the rate of article 79 does not apply, the income to which this rate does apply shall be left out of consideration.

Article 82

1. With respect to dwellings whereby, for their acquisition, obligations have been entered into on or after January 1, 1998, the value required under article 79, third paragraph section b. shall be the value referred to in article 23D, second paragraph section b. The first sentence shall not apply in respect of a dwelling that the taxpayer proceeded to occupy within 18 months from having entered his name in the civil registers.
2. If in any year article 23B or article 23C as reading after January 1, 1998 has been declared applicable in respect of a taxpayer, the latter thereafter shall no longer be capable of relying on the application of article 79.