

## **LOWERING OF TARIFF TRANSFER TAX (OVERDRACHTSBELASTING) PROBLEMS POSSIBLE UNTILL DECEMBER 31st 2017 !**



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### **Lowering of tariff transfer tax (overdrachtsbelasting) Problems possible untill December 31st 2017 !**

In my [previous article](#) I wrote about the raising of the VAT tariff per October first 2012. This time I would like to discuss the lowering of a tax rate and what this might mean to you.

Part of this column will be somewhat technical, but please bear with me. At the end I will point out to you what an estate-agent/broker must not do to prevent you from paying too much transfer tax (in Dutch: overdrachtsbelasting).

Unfortunately I must lay down some groundwork with regards to Dutch transfer tax, so this will be a long(er) article. If you lack the time to read everything, then scroll down to Lesson 1 and 2 under the heading "Important News For You".

### **TRANSFER TAX / TEMPORARY LOWERING OF THE RATE**

When buying a home or other real estate, such as a garage or commercial real estate, you have to pay a transfer tax to the Dutch Government. For decades the tariff was 6%.

To this general rule there was only one exemption: when buying your home (or any other type of real estate) directly from a builder (in Dutch: aannemer) before it was build or within 2 years after it's completion, no transfer tax was levied since the buyer had to pay VAT.

In 2011, the Dutch Government decided to lower the tax rate from 6% to 2%, but only if the real estate concerned was a home. This lowering was announced on July first 2011, but applied to all transfers of ownership of houses executed on June fifteenth 2011 or after.

This measure was meant to stimulate prospective buyers to buy a home and was to have a temporary lifespan. After a limited period the tariff would be automatically raised again to 6%. (Note: for any other real estate aside from houses the rate was kept at 6%).

### **TRANSFER TAX / EXTENSION OF A LENIENT POLICY IF OWNERSHIP IS REPEATEDLY TRANSFERRED**

On Prinsjesdag, her Majesty, Beatrix, Queen of Orange, read the "Troonrede" to the assembled parliamentarians. This Queen's Speech was written by the Government and the Queen, and afterwards the Government made public the new tax laws and rulings which would apply for the next fiscal year.

This year it was announced that new rules would be applicable regarding the transfer tax. These rules are important enough for you to take notice of, if you own a house in The Netherlands or are planning to buy real estate in Holland.

### **LENIENT POLICY WHEN THE SAME REAL ESTATE IS TRANSFERRED AGAIN**

One important thing to know is that there has always existed a lenient policy for real estate that was regularly traded, but I need to explain a bit about the general workings of this leniency before I can go on.

Suppose someone buys a house (or other real estate) and pays transfer tax. Then this new owner decides to sell the house to someone else. This second buyer has to pay transfer tax again. If the selling price and the tax rate are the same for both transactions, this still means that the Government receives a double amount of taxes; once from the first buyer and then again from the second.

Even the Government thought this was too much and might impede the trading of real estate, so a lenient policy was laid down in [article 13 of the Law on transfer tax](#). This entails that if the same property is transferred again within a short (and in this article specified) timeframe, the second buyer only has to pay transfer tax if the price he or she pays is higher than the price for which the first buyer acquired the real estate. So the second buyer only has to pay transfer tax on the amount he or she is willing to pay more.

*Example:*

Person A buys a home for €100.000,- and pays €2.000,- transfer tax.

A then sells it to person B for €120.000,-.

Normally B would pay 2% transfer tax on €120.000,- (or €2.400,-).

If all requirements of the lenient policy of article 13 are met, then person B only has to pay 2% transfer tax on €20.000,-.

Normally persons A and B agree in a contract of sale that B will reimburse person A for the transfer tax (€2.000,-) person A paid when first acquiring the property.

**EXTENSION IN TIME OF ARTICLE 13 AND THE LENIENT POLICY**

On Prinsjesdag 2012 the Government announced that article 13 of the Law on transfer tax will be changed as of January first 2013. From that moment onwards the lenient policy will apply if the period of time between the first and second transfer does not exceed 36 months. This used to be just 6 months. So it is important news for anyone who buys real estate and then sells it again!

**IMPORTANT NEWS FOR YOU**

If you have made it this far I can congratulate you. This was the hard bit. Now comes the part where I can give you simple advice and a severe warning too.

If you bought a home (or any other real estate) in The Netherlands on or after September 1 2012 and are planning to sell it on or before December 31st 2017, you are in the same position as person A in the example mentioned above.

The person to whom you sell your home on December 31st 2017 at the latest (he or she is person B in the example) only has to pay a small amount of transfer tax due to the lenient policy.

(**Note:** only if the timeframe between the two transfers is 36 months or less)

LESSON 1:

Therefore, you and this buyer must agree in writing that he or she will reimburse you for the transfer tax that you paid when becoming owner on or after September 1st 2012. If you do not do this, you needlessly pay transfer tax.

You can save €2.000,- for every €100.000,- that you paid for your home!

(**Note:** only if the timeframe between the two transfers is 36 months or less)

LESSON 2:

This next part is again technical because it concerns the correct framing of the agreement between you and the buyer of your home.

In the standard clause the Dutch estate agents/brokers use in their contract for these situations there is no mention of the amount the buyer will reimburse you for. In a very general sense it states that an amount has to be paid (back) to you which can be calculated by looking at the transfer tax that would have to be paid by the buyer if article 13 would not apply.

But since the tax rate is not mentioned in article 13, this means that you run the risk that the rate is lower at that time than when you bought your home. According to this general clause you would then only be entitled to a reimbursement based on this (future) lower tariff than the tariff you paid.

Suppose the rate is lowered to 0,5%, the person buying your home would only need to reimburse you for this 0,5%. But you paid 2% when acquiring your home!  
(**Note:** only if the timeframe between the two transfers is 36 months or less)

My advice to you would be to put down in your contract of sale the exact amount in euro's that the buyer of your home has to pay (back) to you.

But this has to be done by your estate agent/broker when agreement is reached between you and the buyer and not later when you go to the notary for the transfer of ownership. By then it will be too late.

If you ever find yourself in the position of selling your home at the latest on December 31st 2017 and you are not sure if your estate agent/broker drew up the correct contract, don't hesitate to contact me.

**Please take note:** if you are buying a home on or before that date and the present owner bought it on or after September 1 2012, make sure you don't pay too much as reimbursement to the present owner. If you are not sure, don't sign the contract of sale and come to me first.

(**Note:** this only applies if the timeframe between the two transfers is 36 months or less)

Met vriendelijke groet,

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Wilt u meer weten, kijk dan op [www.ntrs.nl](http://www.ntrs.nl) of bel 043-3509950.

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