



## ***The Netherlands - Legal Framework***

*When considering an energy efficiency retrofit within your national housing market, a wide plethora of consideration needs to be made. Below, we list key findings to facilitate your analysis of the retrofit investment. More details and backgrounds can be found on the website [www.rentalcal.eu](http://www.rentalcal.eu).*

### ***The analysis of rent regulations and modernisation cost recovery in the Netherlands show:***

- It is possible to set up a contract for a specified fixed period or for an indefinite period.
- Three elements are legally required in the rental tenancy contract:
  - The obligation of the landlord to the tenant to allow the use of a property.
  - The duration of a tenancy period.
  - A compensation for the use of the property.
- The rent for properties are agreed upon between landlord and tenant and are not subject to any further upper limit. It is possible to add an indexation clause to the contract, often the consumer price index is used. There is no maximum to a rent increase.
- An energy efficiency improvement increases the amounts of point awarded in the property valuation system, raising the value of the property. The property valuation system is a points-based system which covers all aspects of a house, like square meters, isolation, facilities and location.
- In general large maintenance and renovation is the responsibility of the landlord. Energy, water and small maintenance are costs for the tenant.

### ***The analysis of taxation and depreciation rules in the Netherlands show:***

- The letting of immovable property is generally exempt from VAT, except when the tenancy contract parties choose not to make use of the exemption. Then the landlord is enabled to deduct the VAT of the purchase of the property and the maintenance costs, thereby creating the option of charging a lower rent to the tenant.
- Businesses have to pay taxes when renting property, but may deduct all costs related to the business space including the rent and energy costs from their entrepreneurial rent.
- Maintenance and refurbishment are in general exclusively subject to VAT (21%). In case of refurbishments related to EE there may be exemptions on VAT or other forms of aid available.
- Landlords are taxed for possession in tax box 3, the tax on savings and investments. Possession above the value of € 21.139 is taxed with 30% on a fixed yield rate of 4% (=1.2% over the taxable assets).
- Professional private landlords may be taxed via the income tax box 1, the tax on work and home. This is the case when time invested in the renting of properties exceeds 'normal asset management' and is seen as work.
- When personal income tax rules apply, the whole taxable income is taxed using a progressive, four layer tax rate system with rates between 36.55% and 52%.
- Applying the taxation rules of the corporate income tax, corporate investors will depreciate their dwelling stock in 30 to 50 years.
- The calculation is as follows: The purchase price of the property minus the residual value (not the same as the bottom value) minus the value of the land (if included) times 2 % (when 50 years of depreciation is applied). The outcome is the yearly depreciation amount, when the book value reaches the bottom value (WOZ value) it is not allowed to depreciate any further.

### ***The analysis of building requirements in the Netherlands show:***

- The policy strategy of the Government regarding retrofit investments can be worded in three activities: Instilling self-responsibility, facilitating and stimulating, financing and subsidising.
- At the moment no regulation exist which influences EE investments with a mandatory character. Regulation related to EE investments are mainly targeted on new construction of (EE) dwellings via a more stringent Energy Performance Coefficient (EPC) included in the Dutch Construction Law, which comprises of minimal requirements for buildings.
- The EPC is used in the the property valuation system and is additionally used to provide each building with a mandatory energy label.