

# WORDING OF COURT DECISIONS IN TAX CASES

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# Function and structure of court decisions (1)

- Written court decisions are intended to
  - - inform the parties about the decision and reasons of the court
  - - inform legal professionals about legal criteria
  - - inform the general public what courts do
- As a general rule the court decision should be self sufficient
- but references to easily accessible documents may be acceptable

# Function and structure of court decisions (2)

- Sober legal statements?
- The decision is not necessarily limited to a sober legal statement
- More extensive reasons can make the decision more convincing
- And a higher court can indicate its views on a broader scale in order to develop the law and to give more clarity for legal practice

# Function and structure of court decisions (3)

- In general, Dutch court decisions follow a straight line, limiting themselves to aspects necessary to decide the case
- But sometimes the court gives useful extra information
- Special blocks can be helpful and are used in practice, especially to distinguish between facts and law

# How deep should the court go into the details? (1)

- A description of the whole judicial procedure
- is not a legal obligation for the court, but can nevertheless be useful
  
- The description of the facts
- by Dutch courts is in general limited to facts that are relevant for the decision
- It may depend from case to case how extensively the court describes the facts
- But in many cases courts try not to be very extensive

# How deep should the court go into the details? (2)

## Reasons of law (a)

- It is up to the court how far it will go with its motivation on points of law
- Response on (all) legal arguments of the parties is not required, but may be useful to convince them and to develop the law and give more clarity for legal practice
- The Supreme Court can adjust the degree of legal reasoning in its decision to the legal importance of the decision; it may even refrain from giving reasons in cases that legally do not matter

# How deep should the court go into the details? (3)

## Reasons of law (b)

- Arguments for a certain legal interpretation by the court can be diverse. Sometimes the courts also formulate non-legal arguments for their decision.
- Dutch tax courts frequently refer to previous decisions of the Supreme Court or European courts, which is a useful practice

## Statement of the outcome of the case

- The court should make the correct amount of tax sufficiently clear
- For information sake, it may be useful that the court also mentions consequences for related issues

# What kind of style should be used?

- The style of Dutch court decisions is detached and in standard situations the courts often use standard formulas.
- The tendency is to write court decisions that can be understood by persons with sufficient general knowledge
- Decisions of Dutch courts are usually divided in sections with underlined titles
- Usually, the titles are divided in numbered sections and often in numbered subsections.