

INTRODUCTION  
TO THE PRIVATE COMPANY  
IN DUTCH LAW

Please read the note on  
the next page.



This is an introduction to the Dutch "besloten vennootschap". Please note that there are plans to change the regulations in regard of this company form. At this moment we expect the changes to come into force the 1st of January 2010. When there is more clarity I will publish a new brochure on the subject. (Ellen Timmer, 30 July 2010)

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## FOREWORD

The private company with limited liability in Dutch law (besloten vennootschap), also referred to hereafter as BV or private company, is widely used by businessmen. Sometimes the BV is also used for non-commercial activities.

This brochure is intended for individuals who make use of the private company and want to know a bit more about this legal form. The intention here is to provide an initial introduction. This brochure is not however a manual in which you can find answers to various detailed questions. You can approach the business law specialists at Pellicaan Advocaten and Mazars Paardekooper Hoffman Juridisch Adviseurs for this.

This brochure pays no attention to the fiscal aspects of using the BV, due to the fundamental changes that have taken place in the Dutch tax system recently. You can obtain taxation information from Mazars Paardekooper Hoffman's tax consultants.

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# 1. INTRODUCTION

## THE BV AS A LEGAL ENTITY

The private company is a legal entity. In Dutch law, corporate bodies must be distinguished from 'natural persons', people of flesh and blood. As is the case with natural persons, corporate bodies may participate in social and economic life. A director must always represent a legal entity - but if a legal entity conducts transactions via that director, the legal entity is committed rather than the director privately.

The law of the Netherlands also recognises all kinds of other corporate bodies, including the public limited company (naamloze vennootschap, also referred to here as NV), the foundation (stichting), the association (vereniging), the co-operative (coöperatie) and the mutual guarantee association (onderlinge waarborgmaatschappij). The public limited company in comparison to the BV will be gone into briefly below. The other types of corporate bodies are not dealt with in further detail here.

## LEGAL FORMS OF A BUSINESS

The individual who wishes to operate a business may do so on his/her own as a natural person. This is called the 'one-man business'. It is also possible for more than one natural person to run a business together, based on something that lawyers call the '(personal) partnership' (personenvennootschap) or 'personal association' (personenassociatie). The examples of personal partnerships in Dutch law are the partnership firm (vennootschap onder firma), the limited partnership (commanditaire vennootschap) and the professional partnership (maatschap).

The disadvantage of both the one-man business and the personal partnership is that the natural persons involved in the business are privately liable with their entire equity. An exception applies to this for, among others, the limited partnership: the limited partner (silent partner) is only liable for the amount of his/her payment commitment.

A legal entity may also operate an enterprise. In the Netherlands the choice is mostly for the private company or public limited company. However, other types of corporate bodies (such as the foundation, the association and the co-operative) may also operate businesses. If a legal entity operates the business, the legal entity is solely responsible (liable) in principle in respect of creditors and other parties for its own equity.

## **DISTINCTION BETWEEN THE EQUITY PROVIDERS AND THE MANAGEMENT**

The most important feature of the BV is that a distinction is introduced between the equity providers and the management board. The private company recognises shareholders and the statutory directors (statutaire directeuren), who are member of the management board (often also called the management).

The shareholders are the individuals who have invested in the BV, by taking up shares and 'paying them in full'. They can exercise influence on the practical state of affairs within the BV by means of their vote in the general shareholders meeting (g.s.m.).

The managing directors are the individuals who determine the actual state of affairs in the BV. They report subsequently to the g.s.m. They have to submit some decisions to the general shareholders meeting beforehand for approval. The law stipulates that a decision from the g.s.m. is necessary for certain actions, including recording the annual accounts. The articles of association may also state that management requires permission from the g.s.m. for certain other actions.

The distinction between equity providers and management mentioned above has a somewhat theoretic character in companies where the same people are directors and shareholders.

## **THE 'ONE-MAN COMPANY'**

The legislator has created special rules for one-man companies. If a BV has only one shareholder this has to be registered in the trade register. In addition all legal transactions between the sole shareholder and his company have to be recorded in writing. The term 'sole shareholder' not only encompasses natural persons but also corporate bodies. This therefore has to be registered if a BV is sole shareholder of another BV. If a natural person together with his partner holds all shares in a BV, the same obligations apply.

## REASONS TO CHOOSE THE BV

There are various reasons to choose a private company and these may differ from case to case. Motives include:

- Introducing a distinction between the acquisition of capital and the management board.
- Limiting the liability of the equity providers. Normally the shareholders are not liable if something goes wrong with the BV.
- Promoting continuity, making the enterprise independent of the people who are active in it.
- Tax benefits tied to the use of BVs.

## DIFFERENCE WITH THE PUBLIC LIMITED COMPANY

Dutch law also recognises the public limited company (NV). Just as the private company this legal entity is a 'company limited by shares', meaning that the NV's capital is also divided into shares. The most important differences between BV and NV are that the shares in the BV may not be freely transferable and that it is not permitted for shares in the BV to be 'bearer shares'. This is possible in the case of a NV. However, public limited companies can limit the ability to transfer shares in their articles of association, and in many NVs the shares are in name, just as with the BV.

Another difference between the two types of company is that the BV has a lower minimum capital than the NV. With the BV this is EUR 18.000<sup>1</sup> and in the case of the NV it is EUR 45.000<sup>2</sup>. The minimum capital is the capital that is issued and paid up on incorporation.

### *Share transfer restrictions*

The limitation in the ability to transfer shares in a BV is expressed in what is referred to as the 'share transfer restrictions' (blokkeringsregeling) in the articles of association. These restrictions mean that a shareholder in a BV may only sell his shares to a third party after he has offered them in advance to his fellow shareholders or else has obtained approval for the sale from (generally) the shareholders meeting. This is also what makes a private company 'private'.

<sup>1</sup> Up until 1 September 2000 this was NLG 40.000

<sup>2</sup> Up until 1 September 2000 this was NLG 100.000.

### ***Shares in name (registered shares) and bearer shares***

Shares in name (the description says it all) are in the name of a specific person and are registered in the shareholders register. The transfer of shares in name takes place by means of a notarial deed.

Shares in a public limited company may be bearer shares. This means that the company issues share certificates. The individual who is in possession of the share certificates is the shareholder and may exercise the rights (such as the voting right) tied to being the shareholder. No notarial deed is required for the transfer of bearer shares.

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### **TWO-TIER STATUS COMPANY (STRUCTUURVENNOOTSCHAP)**

This brochure deals exclusively with the ordinary private company. The two-tier regime may apply to both a BV and an NV. Companies to which this applies may also be referred to as 'two-tier status companies'.

The two-tier regime applies to a company with the following characteristics:

- the shareholder capital according to the balance sheet with explanation amounts to at least a limit amount established by royal decree (currently EUR 13,000,000),
- the company or a firm depending on it (afhankelijke maatschappij) has created a works council (ondernemingsraad) under a legal obligation, and
- as a rule at least one hundred employees work in the Netherlands with the company and its dependant firms.

If a company has these characteristics it is obliged to modify its articles of association. Two-tier companies have a different legal organisation and are not discussed in this brochure.

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## 2. THE INCORPORATION OF A BV

### THE ADVANCE PERIOD

First of all when incorporating a BV it is important whether there are already business activities that take place in the name of the BV in the period prior to official incorporation<sup>3</sup>. The reason for this may be that the business has already started because there was no opportunity to wait for official incorporation. There can also be a fiscal background for the wish to start operating in the name of the BV.

The period in which activities are already taking place in the name of the BV while the company has not yet been incorporated is often called 'the advance period' (voorperiode).

Important formalities in the advance period are:

- Signing the statement of intent (intentieverklaring)/preparatory agreement (voorovereenkomst): this is the document that has to be drawn up based on tax legislation. It should include certain prescribed elements.
- Registration of the private company in incorporation (BV i.i.) in the trade register.

#### ***Liability connected with transactions in the advance period***

If legal transactions are conducted in the name of the BV i.i. in the advance period, it is of great importance that all of these are also put in the name of the BV i.i. If this does not happen the individual whose name is on the contract is liable privately. The individual who conducts legal transactions in the name of the BV i.i. (concludes a contract for example) is jointly and severally liable for the BV's compliance with the commitments entered into until the BV - following incorporation and registration in the trade register - has ratified the legal transaction concerned. Care should therefore be taken that ratification takes place after incorporation.

If the BV does not comply with its obligations from the ratified legal transaction, the individual who acted in the name of the BV to be incorporated (the representative) is jointly and severally liable for the loss that the third party suffers as a result of this, if he knew or reasonably could have known that the BV would not do so<sup>4</sup>.

The representative's knowledge is assumed to be present if the BV is declared to be in a state of bankruptcy within one year of its incorporation.

<sup>3</sup> Official incorporation takes place by executing the notarial incorporation deed.

<sup>4</sup> This does not affect the fact that in addition the directors may be liable due to the ratification.

If the BV i.i. has bank accounts at its disposal and the future shareholders have deposited money in these as a deposit on shares (at the most five months before the date of incorporation), and expenditure is made from this ('withdrawals'), the founders are jointly and severally bound to the company to repay the withdrawn amounts until the company has ratified these.

### *SPECIAL POINT FOR ATTENTION*

Ratification deed. Care should be taken that a ratification deed is drawn up and signed by the management board immediately after incorporation of the private company and its registration in the trade register.

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## **PREPARATION FOR INCORPORATION/REQUEST FOR STATEMENT OF APPROVAL**

Preparations always precede the incorporation of a BV, even if there is no advance period. Founders will always be involved with:

- Draft articles of association.
- Ministry of Justice Forms (security check).

Not compulsory, but recommended:

- Name search in connection with choosing the name for the BV.

This is gone into briefly below.

### ***Draft incorporation deed, including articles of association***

The articles of association are also included in the deed of incorporation for the private company. The law imposes a number of requirements on these articles of association, for example that the legal minimum capital is reported. Currently this amounts to EUR 18,000<sup>5</sup>.

For the rest there is scope to specify the articles of association in such a way as those involved in the BV consider desirable. Among others, subjects in which there is a certain freedom to specify the articles of association to individual taste are:

- the description of the objective;
- the nominal value per share, the smallest value permitted is EUR 0.01;

<sup>5</sup> Up until 1 September 2000 this was NLG 40.000.

- the representative authority of the managing directors of the BV;
- types of shares;
- decisions that the managing director has to submit for approval to the general shareholders meeting.

### ***Ministry of Justice forms (request for statement of approval)***

A BV can only be incorporated after a 'statement of approval' has been obtained from the Ministry of Justice. The Ministry institutes an investigation into the records of the founders and the initial shareholders, based on the lists of questions completed by the founders and future shareholders.

The Ministry may only refuse the statement if a danger exists that the BV will be used for illegal purposes or if its activities might result in disadvantaging creditors.

In the past, the Ministry also examined the contents of the articles of association. This examination has been left to the notary since 1 September 2001.

### ***Name search***

When a name is chosen for the private company it is recommended that a check is done on whether a comparable name already exists. One of the reasons for this is that in the Netherlands the use of a name that could cause confusion in business is prohibited based on the Trade Name Act (Handelsnaamwet). The Chamber of Commerce conducts name searches.

## **THE INCORPORATION/PAYING UP SHARES IN FULL**

Once the statement of approval has been obtained from the Ministry of Justice, incorporation of the BV can be started. This incorporation is done by means of a notarial deed. Immediately after incorporation the BV should be registered in the trade register, in view of the fact that the directors are liable for all legal transactions conducted in the name of the BV between the date of incorporation and the registration.

### ***Paying up shares in full***

The shares should be paid up in full prior to or on incorporation. This payment may be made in cash or 'in kind' ('in natura'). The directors of the BV are jointly and severally



liable for all legal transactions conducted during their management for as long as at least one quarter of the capital issued on incorporation has not been paid up in full.

### ***Share premium (Agio)***

The value of what is paid up should be at least equal to the nominal value of the shares. More than the nominal value may also be paid up. The difference between the paid up value and the nominal value is called the share premium.

### ***Paying up in full in cash***

Paying up in full in cash means that at the latest five months before incorporation, money is deposited on a BV account, or else that the amount is at the company's disposal immediately after the incorporation. In this matter the bank issues a statement, the so-called 'bank statement'.

### ***Paying up in full (contribution) in kind***

Paying up in full in kind, also referred to as contribution in kind, means that the shareholder in the BV transfers something that represents value, business premises for example. The contribution in kind could also be a business. In the case of a contribution in kind it is legally compulsory that the founders draw up a description of what is deposited and its value. A chartered accountant (registeraccountant) or an accounting-consultant (accountant-administratieconsulent) should issue a statement (auditor's report) from which it is evident that the value of the contribution in kind equals at least the amount of the payment in full.

A notarial 'contribution deed' ('akte van inbreng') is created in the matter of the contribution in kind; the description is attached to this as an addendum.

The contribution deed brings about the transfer of the capital assets into the equity of the newly incorporated BV.

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### ***Transfer of title***

In the case of contribution in kind, attention should be given to the fact that formally correct transfer acts should be conducted for all capital assets. Where the transfer formalities can be conducted entirely by the notary (such as with real estate and shares in private companies), no further actions are necessary. Examples of capital assets in which further actions are necessary are:

- claims: a deed of assignment and notification of the debtor are required;
- debts: the creditor should agree to the debt takeover;
- contracts: the other party should agree with the replacement.

Naturally a choice can be made to conduct the further actions only if there is an interest in this. The risks tied to not conducting the transfer formalities in full depend on the circumstances.

### **AFTER INCORPORATION**

#### ***SPECIAL POINTS FOR ATTENTION:***

- Ratification (bekrachtiging). Ratification of legal transactions and withdrawals in the advance period should take place as quickly as possible after incorporation in registration. See the comment under advance period for this.
- Transfer formalities. Take care that these are only omitted where they can cause no harm.

### 3. THE ORGANISATION OF A BV

Attention will be given in this section to the organisation of the private company. Among other things the general shareholders meeting, the management and the supervisory board (raad van commissarissen) will be discussed.

#### ORGANS

Attention has already been given above to the position of the shareholders and the BV's management board. A bit more will be said about this below.

#### *The general shareholders meeting*

A general shareholders meeting must be held at least once annually. At this annual meeting the management board submits to the general shareholders meeting for its approval the annual accounts it has drawn up in the matter of the previous financial year. The policy conducted by the management may also be discussed during this meeting.

In the past many articles of association of BVs stated that approval of the annual accounts likewise extended to discharge of the management board. On 1 December 2001 a change to the law came into operation. The consequence of this is that discharge must be placed on the agenda separately and that an explicit decision from the general shareholders meeting is necessary for discharge of the management board.

Holding a general shareholders meeting is also required for certain other decisions.

If the summoning formalities according to the articles of association are not followed, a general shareholders meeting may only take lawful decisions if all shareholders are present or represented. If all shareholders are not present or represented decisions may only be taken if the shareholders are summoned in the correct way and there is a majority as prescribed by the articles of association. Decisions may be taken outside meetings if all shareholders agree unanimously.

The management board is responsible for ensuring that minutes of each general shareholders meeting are taken and that they are kept carefully in the BV's administration system.

### ***Management board***

A BV can have one or more than one directors who are generally designated as managing director (statutair directeur). This is to distinguish the director from the employee who has the title of manager but is not a managing director (sometimes referred to as the manager).

A characteristic of the managing director, this officer will be designated hereafter as 'the director', is that he is appointed by the general shareholders meeting and that he must report to the shareholders about the policy he conducts.

A director must take into account that he may be liable personally for debts of the BV if he makes certain errors. For this subject see the Director's Liability Brochure\*.

### ***Supervisory board***

With the growth of businesses and the higher requirements that have to be imposed on the capacities of directors, a choice is made more frequently for a distinction between the direct management tasks and their expert supervision. In the case of companies a need sometimes exists for a supervisory body alongside the general shareholders meeting. That body is the supervisory board (raad van commissarissen) in the ordinary private company.

The Civil Code states the task of the members of the supervisory board (commissaris) to be:

- the board should supervise the management's policy and the general state of affairs in the company and its associated business;
- the board supports the management;
- in fulfilling their task the members of the supervisory board focus on the company's interest and the business associated with it.

Each member of the supervisory board is bound to the company to correct fulfilment of the task imposed on him; if this involves a matter that belongs to the working circle of two or more members of the supervisory board, each of them is entirely liable in the matter of a shortcoming, unless this cannot be attributed to him and he has not been neglectful in taking measures to avert the consequences of this.

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Unless the articles of association specify otherwise, the members of the supervisory board represent the company in all cases in which it has a conflicting interest with one or more directors. The general meeting is always authorised to appoint one or more persons to replace the directors with a conflicting interest. A member of the supervisory board who at any time conducts a management transaction based on the articles of association or under the powers of a decision from the general shareholders meeting (for example in the case of conflicting interest) is equated to a director as far as his rights and obligations in respect of that transaction are concerned.

The rules in the matter of director's liability in the case of bankruptcy (see also the Director's Liability Brochure\* about this) apply correspondingly to the company's members of the supervisory board. Members of the supervisory board may also be liable if a misleading representation of the company's situation is given by the annual accounts.

### ***Other organs in the BV***

The BV's management shall also have to keep to the legal rules in other areas. For example, a works council (ondernemingsraad) will have to be set up as so prescribed by law. Once there is a works council, its agreement will be necessary as far as certain decisions are concerned.

## **OTHER SUBJECTS**

### ***Duty to keep records***

A number of obligations have to be satisfied during the existence of the BV. One of these is the duty to keep records.

The management board is obliged to keep records of the BV's equity situation and everything associated with the BV's activities to the requirements arising from these activities, along with the associated books, documents and other data carriers (for example diskettes and other electronic files) in such a way that the BV's rights and obligations can be recognised at all times. The management board is further obliged to create and put on paper the BV's balance sheet and profit and loss statement within five months following the end of the financial year.

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\* At this moment only available in Dutch

The management is obliged to keep said books, documents and data carriers for a period of seven years. The data placed on a data carrier, with the exception of the printed balance sheet and profit and loss statement, may be transferred to and stored on another data carrier, provided that the transfer is performed with accurate and complete representation of the data and this data is available and can be made readable within a reasonable time during the retention period.

### ***Company documents***

The BV should have at its disposal all data concerning the existence of the private company and what is associated with it, also referred to as: the company documents.

The documents consist of:

- deed of incorporation;
- articles of association (statuten);
- changes to the articles of association;
- share transfer deeds;
- shareholder register;
- minutes of general shareholders meetings;
- (possibly) management minutes;
- deed of ratification of legal transactions and withdrawals in the advance period;
- share issue deeds;
- other deeds and documents relating to the company.

It is very important to ensure that the company documents are complete, as only a limited number of these papers can be obtained elsewhere.

### ***Recording and publishing the annual accounts***

There is a separate brochure from Mazars Paardekooper Hoffman on this subject called 'Representation and publication requirements pursuant to part 9, book 2 of the Netherlands Civil Code'. This subject will therefore only be gone into briefly here. The management board of a BV should draw up a balance sheet and a profit and loss account and add explanatory notes to this within five months of the end of the financial year. The general shareholders meeting may extend the period of five months mentioned above once, by at most six months, based on special circumstances. Whether the annual accounts are adopted or not, they should be deposited within two months of the extended period expiring.

Every BV should deposit certain data from the financial documents mentioned earlier with the trade register. In practice the data to be deposited are referred to as 'published statements' (publicatiestukken). The publication statements should be deposited with the trade register within eight days of recording the annual accounts and at the latest within thirteen months following the end of the financial year.

The requirement for the presentation of these statements depends on the category into which the BV falls. The categories are:

**Small:** two of the following three criteria have to be met:

- the value of the assets in accordance with the balance sheet and explanatory notes amounts to no more than EUR 3,500,000<sup>6</sup>,
- the net turnover in the financial year amounts to no more than EUR 7,000,000<sup>7</sup> and
- the average number of employees in the financial year is less than 50.

**Medium sized:** (not falling under 'Small'), two of the following three criteria have to be met:

- the value of the assets in accordance with the balance sheet and explanatory notes is no more than EUR 14,000,000<sup>8</sup>,
- the net turnover in the financial year amounts to no more than EUR 28,000,000<sup>9</sup> and
- the average number of employees in the financial year is less than 250.

**Large:** not falling under 'Small' or 'Medium sized'.

If the publication statements are not deposited on time, this will result in an increased risk of director's liability for the directors.

You will find more information on this subject in the Director's Liability Brochure\*.

<sup>6</sup> Up until 1 January 2002 this was NLG 7,500,000.

<sup>7</sup> Up until 1 January 2002 this was NLG 15,000,000.

<sup>8</sup> Up until 1 January 2002 this was NLG 30,000,000.

<sup>9</sup> Up until 1 January 2002 this was NLG 60,000,000.

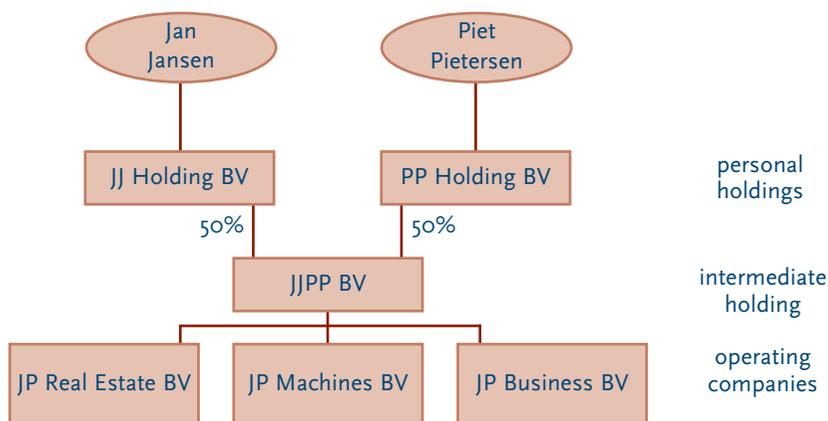
\* At this moment only available in Dutch

### Company structures

This brochure deals with the state of affairs entailed in one BV. In practice of course there are generally groups of BVs. No general rules can be given for the way in which companies have to be grouped, in view of the fact that this depends to a great extent on the circumstances.

What can be said is that frequently the so-called 'holding company structure', is chosen. This means that natural persons hold their interest in the BVs with the real business activities (the 'operating companies') via a 'personal holding' or 'personal holding company'. This personal holding company has virtually no activities other than holding shares.

An example of a holding company structure is drawn below.



Explanation: Share participation 100%, unless stated otherwise

In addition BVs are often used at larger organisations to accommodate separate activities, thus preventing problems in one activity having financial consequences for the other activities. Examples of this are: accommodating real estate and expensive operating resources in a separate BV that leases them to the operating companies.

### ***Changes to the company structure***

All kinds of changes may occur during the existence of the BV. For example:

- issue of new shares;
- share redemption (intrekking van aandelen);
- reducing the nominal value of the shares\*;
- legal merger with another BV\* (juridische fusie);
- legal splitting up of the BV\* (juridische splitsing);
- (another) change to the articles of association\*.

The formalities that apply above are not gone into in more detail here. More detailed information can always be obtained from the business law specialists at Pellicaan Advocaten and Mazars Paardekooper Hoffman.

### ***Certification***

A form applied regularly in practice is that of certification of shares in the BV. A feature of certification is that the 'say' in the general meeting is separated from the equity interest in the shares.

Certification means that the shares are transferred to a trust foundation (stichting administratiekantoor) that issues certificates to the former shareholders. The certificates give the certificate holder an interest in the BV's equity. If the BV pays out dividend to the administrative office foundation it is obliged to pay on the dividend to the certificate holders immediately.

The administrative office foundation casts a vote in the BV's general shareholders meeting because it has become a shareholder.

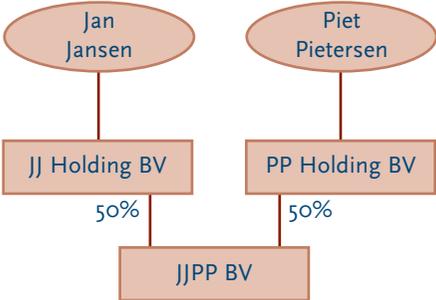
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\* A change to the articles of association is necessary for this.

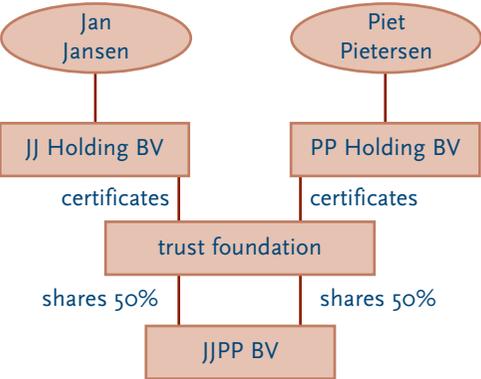
An example of certification is given below. In this example, which connects to the previous example, the shares in the joint holding company are certified.

**Certification example**

**Before certification**



**After certification**



Explanation: Participation 100%, unless stated otherwise

## 4. TERMINATION AND INSOLVENCY

A BV has a beginning - on incorporation - but can also come to an end. This termination is prefaced by dissolution of the company.

### DISSOLUTION (ONTBINDING)

Dissolution can take place in the following ways:

1. By means of a decision of the general shareholders meeting. The general shareholders meeting appoints a liquidator who winds down the further affairs of the BV. We will refer to this as 'the ordinary liquidation' below.
2. Because the court orders bankruptcy (faillissement) and appoints a solicitor/administrator (curator). This is sometimes preceded by moratorium (surséance van betaling) in which a solicitor/receiver (bewindvoerder) appointed by the court acts.
3. By the court at the request of the Chamber of Commerce because a non-active BV is involved. In that case the Chamber of Commerce looks after liquidation.
4. Because the court dissolves the BV on special grounds, for example if the company's objective is in conflict with the law. This type of dissolution seldom occurs in practice.

Further attention is given to the formalities surrounding the ordinary liquidation below.

### ORDINARY LIQUIDATION

The liquidator goes to work after the general shareholders meeting has taken the decision to dissolve the BV. First of all he investigates whether the BV's debts exceed its income. If that is the case the liquidator should request the bankruptcy of the BV unless all creditors agree to winding up outside of bankruptcy. If no bankruptcy has to be requested the liquidator winds up the affairs of the BV. Among other things liquidation means that the company's assets are converted into cash and that the debts are paid.

The following are special points of attention in the framework of the ordinary liquidation:

- The decision to dissolve should be registered in the trade register.
- All documents going out from the company should have the words 'in liquidation' added to the company's name.
- The liquidator draws up an account of the liquidation from which the size and composition of the surplus are evident. Likewise the liquidator draws up a plan of distribution containing the principles of distribution.
- The liquidator deposits the account as well as the plan of distribution with the trade register in which the company is registered and at the company's offices. The documents are available to everyone for inspection for two months.
- The liquidator makes it known in a national newspaper where and until when the account as well as the plan of distribution will be available for inspection.
- The opposition term commences after deposition and announcement. Every creditor or entitled party has the opportunity to oppose for a period of two months.
- If no opposition is recorded the liquidator may proceed to paying out after this period. The liquidator transfers what has remained from the equity in the dissolved company after paying the creditors to those who are entitled to this under the articles of association, in proportion to each of their rights. These are generally the shareholders.
- On each occasion when the equity situation gives cause to do so, the liquidator can make a 'payment in advance' (an advance on the final liquidation payoff) to the entitled parties. He does not however do this after commencement of the opposition term without authorisation from the courts.
- The liquidation ends when the liquidator is not aware of any assets. At that time the company ceases to exist.
- The liquidator registers that fact of the company ceasing to exist in the trade register.
- The custodian of the company's documents submits his name and address to the trade register within eight days following the end of the liquidation. Doing this earlier is more efficient.

## 5. FINAL REMARKS



This brochure deals with a number of important subjects in the area of Dutch corporate law. It has been kept short so that there are probably subjects that you, the reader, will miss. If you have questions about the subject of this brochure you can always approach the business law specialists at Pellicaan Advocaten and Mazars Paardekooper Hoffman Juridisch Adviseurs.

