



TAXE COMMITTEE

**Special Committee on tax rulings
and other measures similar in nature or effect**

Delegation visit to the Netherlands - Friday 29 May

Mission report

Agenda

09.00 - 10:30 Meeting with the Committee of Finance of the Dutch Parliament

Delegation of members from Finance Committee
Plein 2 in The Hague (Den Haag)

10.45 - 12.45 Meeting with stakeholders (experts, academics, NGO's)

- Mr Bartjan Zoetmulder, Dutch Association for Tax Advisors
- Mr Hans Van den Hurk, University of Maastricht
- Mr Eikelenboom or Mr de Groot, Financieele Dagblad
- Mrs Indra Römgens, SOMO, independent, not-for-profit research and network organisation
- Mr Francis Weyzig, Oxfam

Nieuwspoor - Lange Poten 10, 2511 CL Den Haag, Nederland

13.00 - 13.45 Lunch in EP office Korte Vijverberg 6-2513 - AB Den Haag

14.00 - 15.00 Meeting with Head of Tax Ruling Office, Mr Pieterbas Plasman

Ministry of Finance Korte Voorhout 7, 2511CW The Hague

15.00 - 16.00 Meeting with Dutch State Secretary for Tax Affairs Eric Wiebes

Ministry of Finance Korte Voorhout 7, 2511CW The Hague

Programme ends around 16.00

Interpretation : EN, FR

TAXE COMMITTEE
ad hoc Delegation to Den Haag
29 May 2015
Final list of participants

Members

Alain LAMASSOURE, Chair	
Esther de LANGE	PPE
Elisa FERREIRA	S-D
Bernd LUCKE	ECR
Michael THEURER	ALDE
Fabio DE MASI	GUE
Philippe LAMBERTS	Verts/ALE
Marco VALLI	EFDD

Accompanying Members

Cora van NIEUWENHUIZEN	ALDE (NL)
Sven GIEGOLD	Verts/ALE
Peter SIMON	S-D
Paul TANG	S-D (NL)

Political advisers

Daniel KÖSTER	PPE
Stine LARSEN	S-D
Jami ARVOLA	ECR
Petra SOLLI	ALDE
Sinead NI TREABHAIR	GUE
Michael SCHMITT	Verts/ALE
Andrea CURRI	EFDD

Secretariat

Massimo PALUMBO	Head of Unit
Marcus SCHEUREN	Administrator

EP Information office in the Netherlands

Eduard SLOOTWEG	Head of Unit
Lieke SCHUITMAKER	Assistant
Ingelise DE BOER	Press

Press Officer

Ronnie KORVER

Interpreters

Aoife KENNEDY (Team Leader)
Lila GUHA
Alexandra HAMBLING
Zoran SARADJIC (technician)

1. Meeting with the Committee of Finance of the Dutch Parliament

- *Mrs Sjoera Dijkers, Member of Parliament*
- *Mrs Helma Neppéus, Member of Parliament*
- *Mr. Ed Groot, Member of Parliament*
- *Mr. Wouter Koolmees, Member of Parliament*
- *Mr. Arnold Merkies, Member of Parliament*
- *Mr. Jesse Klaver, Member of Parliament*

Main messages from Parliamentarians:

- *all countries/ MS are in tax competition, also to attract FDI;*
- *NL support an EOI on tax rulings;*
- *NL is the country with the highest incoming & outgoing FDI (more than DE, UK, JP combined);*
- *tax rulings are required to ensure a dialogue between tax authorities and tax payers*
- *NL not to be seen as a tax haven, however as a gateway to tax havens, does not tax outgoing interests & royalties;*
- *NL have taken measures to address empty 'shell' companies, introduced an economic substance test and general anti-abuse rules (GAAR);*
- *NL tax rulings only interpret the laws, no mean to negotiate rates;*
- *NL parliament openly discusses NL tax policies, no unanimous position;*
- *NL offered attractive tax incentives to small young companies in the hope that "small ugly ducklings become swans - however many never become swans";*
- *on CCCTB: NL was against original proposal, however open to revised proposal with no optionality (no parallel regime to existing national tax regimes), start with common base first and consolidation later, possibly combine with minimum rate;*
- *on CbCR: support public CbCR;*
- *the future Dutch 'innovation box' differs from e.g, the UK 'patent box', as it only considers R&D costs (not patents) carried out in NL.*

Members raised questions with regard to the positioning of NL as a 'small member state', and its role as a potential tax haven (referring to a PWC country brochure), the limits between harmful vs. healthy tax competition, the need to coordinate tax policies at EU level, the fact that 17 of the largest Portuguese companies transferred their seat to the NL for tax purposes in past years, their expectation that the upcoming NL Council Presidency plays a constructive role in taking forward EU tax policies, the NL position on public CbCR, access to Code of Conduct group (CoCG) minutes, and specifics of the FIAT and Starbucks cases.

Members of the Dutch Parliament are happy to cooperate with the TAXE Committee and accepted to attend the Interparliamentary session of 17 June 2015.

2. Meeting with stakeholders (experts, academics, NGOs)

- *Mr Bartjan Zoetmulder, Dutch Association for Tax Advisors*
- *Mr Hans Van den Hurk, University of Maastricht*
- *Mr Eikelenboom or Mr de Groot, Financiële Dagblad*
- *Mrs Indra Römgens, SOMO, independent, not-for-profit research and network organisation*
- *Mr Francis Weyzig, Oxfam*

Main messages:

- NL tax ruling practice, notably Advanced Pricing Agreements (APAs) are based on OECD Transfer pricing guidelines (which allow for a certain discretion);
- 'knowledge groups' in the NL tax administration monitor coherent approach to tax rulings;
- multinational companies (MNCs) seek for hubs to invest in the EU; due to (tax-)free movement of capital within the EU (under the Parent-Subsidiary Directive/ PSD and Interests and Royalties Directive/ I&RD), and no taxation of outgoing I&R in the NL, NL is attractive to invest in;
- decision of non-taxation of I&R is a national choice, other countries (e.g. UK, BE) may choose not to tax dividends;
- CCCTB would favour big, industrialised MS over small, service-economy MS;
- NL 'innovation box' only considers R&D costs occurred in the NL (the question by members, whether R&D outsourced to 3rd countries but nominally 'managed' in the NL would still be tax-deductible in the NL, remained open/ unanswered);
- NL innovation box more confined than UK patent box, since only linked to R&D costs, not to the costs of mere ownership of a patent.

NGOs:

- review of the I&RD urgently needed, to include general anti-abuse rule (GAAR);
- intra-EU tax competition considered short-sighted, has spill-over effects intra-EU and globally, also on DCs;
- tax rulings should be exchanged and made public; EOI on tax rulings is not enough, needs to be public and combined with public CbCR.

Members raised questions with regard to the functioning of the 'Bermuda triangle' (US-IRL/NL-Bermuda), the functioning of 'horizontal monitoring' of compliance of tax payers by the tax administration, the functioning of the Dutch 'innovation box', the views on a future revised CCCTB proposal.

Members pointed out that if the resistance of small MS to the CCCTB proposal is only based on the fear of losing out, this could be addressed by a modification of the apportionment formula in the CCCTB proposal.

3. Meeting with Head of Tax Ruling Office, Mr Pieterbas Plasman

Members raised questions with regard to the independence of the tax ruling service (part of the tax administration), the character of the tax rulings (binding), the nature of the economic substance test, the practice of non-taxation of I&R in the NL, the functioning of 'horizontal monitoring' and of innovation boxes, the compliance of TR with EU state aid rules, transparency of TR, the (non-) assessment of the costs of a TR to other MS, and the guiding principle for Dutch tax officials (support business? support economic policy? maximize state revenue? apply the law?).

Main messages:

- Tax administration has teams on APAs (Advance Pricing Agreements) and ATR (Advance tax rulings) with 12 members each; no separate entity but within tax administration;
- guiding principle is to apply the law;
- economic substance requirement (ESR): to request an APA/ATR, tax payer needs to fulfil ESR;
- 'horizontal monitoring' of compliance of tax payers is a common principle in tax administrations, based on mutual trust and understanding, but not blind trust;
- tax advisors may request APAs/ ATRs on behalf of the tax payer, but irrelevant on the decision on the APAs/ ATRs;
- state aid: as all tax payers receive the same treatment on APAs/ ATRs, no issue of state aid;
- FIAT, Starbucks: no comment on individual tax payers;

4. Meeting with Dutch State Secretary for Tax Affairs Eric Wiebes

Members asked questions with regard to the reasoning/ motivation of MNCs to (re)locate in the NL, the role of the future NL Presidency in moving forward on CCCTB, CbCR, I&RD, the role of tax treaties creating (unintended?) loopholes, the assessment of the place of taxation in the innovation box, specifics on the Fiat, Starbucks, Crosswinds cases, the (non-) assessment of the costs of a TR to other MS, and access to the minutes of the CoCG.

Main messages from the State Secretary:

- NL supports an international level playing field in tax matters;
- NL tax system has 3 guiding principles: treat cross-border and (intra-EU/) internal transfers similarly (i.e. no different taxation of outgoing I&R whether intra- or extra-EU), profits taxed where value added is created, provide legal certainty in advance (-> APAs/ ATRs);
- with the introduction of the economic substance test and general anti-abuse rules, 'letterbox'/ shell companies without any economic substance will disappear in the NL
- NL will be a frontrunner in the EOI on tax rulings, announced pilot project with DE on EOI on TR;
- CCCTB: problem with consolidation: NL (and many/ most MS) would lose out; start with tax base first;
- supports BEPS, criticises non-inclusion of DCs in OECD/ BEPS;
- NL included GAARs in double tax agreements with 23 largest DCs;
- answers to technical questions to be provided in writing;
- refusal to share CoCG minutes with EP.