European Parliament

TAXE COMMITTEE
ad hoc Delegation to Den Haag
29 May 2015

Draft Programme as of 20/09/2015

Thursday 28 May 2015

Arrival at Amsterdam Schiphol airport 19.50 local time.
Please note that <u>no transfer is organised to Den Haag</u>.
Members will have to take the train Schiphol Airport to Den Haag (either book your train ticket beforehand, or buy at the station)
Trains leave at 20.04 (arr. 20.43), 20.16 (arr.20.47, with change at Leiden Centraal), 20.27 (arr. 20.56), 20.33 (arr. 21.13)
The hotel is 1.5km (15 min. walk) from Den Haag Central station.

Friday 29 May 2015

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

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

Nieuwspoort - 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

16.00 - 16.30 Chair only : Press conference

Departure to airport or to Brussels
Head of EP Information office in NL: Eduard Slootweg, Tel 9123 or mobile +31 - 620147373 (office)
Account manager EP Information office NL. Lieke Schuitmaker (lieke.schuitmaker@europarl.europa.eu)

Secretariat : Marcus SCHEUREN

TAXE COMMITTEE
ad hoc Delegation to Den Haag
29 May 2015
Draft 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

Interpreters

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

Press Officer

Ronnie KORVER

Curriculum Vitae

Eric Wiebes
State Secretary for Finance

Personal details

Full name: Eric Derk Wiebes
Place and date of birth: Delft, 12 March 1963
Place of residence: Amsterdam
Civil status: partner, two children

Education

1975-1981: Secondary school, Bussum
1981-1986: Mechanical engineering, majoring in energy supply, Delft University of Technology
1990-1991: Master's degree in business administration (MBA), INSEAD, Fontainebleau

Career

After studying in Delft, Mr Wiebes worked as an energy engineer at Shell from 1987 to 1989. In 1990 he joined McKinsey & Company as a consultant. From 1993 to 2004 he worked as a consultant at OC&C Strategy Consultants, of which he was a partner from 1996.

In 2004 Mr Wiebes joined the Ministry of Economic Affairs. He was director of markets until 2007, when he became Deputy Secretary-General, with responsibility for ICT/operational management, executive organisations and the reorganisation of the ministry and external departments. In 2009 he also became interim director of communications.

In 2010 Mr Wiebes became a member of the municipal executive of Amsterdam with responsibility for traffic, transport, infrastructure and ICT.

On 4 February 2014 Mr Wiebes was appointed State Secretary for Finance in the Rutte-Asscher government.

Party political positions and outside activities

Mr Wiebes has been a member of the economic affairs committee of the People's Party for Freedom and Democracy (VVD) since 2005.

He was a board member of the Dutch Accreditation Council from 2004 to 2009, and since 2013 he has been a member of the Critical Review Team that advises the State Secretary for Infrastructure and the Environment on the long-term development of the rail network.

PERSONAL INFORMATION

Indra Römgens

Vasco da Gamastraat 53-1, Amsterdam, 1057 VJ, The Netherlands

0031 206391291 0031 644153644

i.romgens@somo.nl

State personal website(s)

Sex Female| Date of birth 06/01/1986| Nationality Dutch

CURRENT JOB(S)

September 2012 – present

Researcher at the Centre for Research on Multinational Corporations (SOMO)

Most of the research I do is related to economic justice: tax avoidance and evasion by multinational companies, reform of the financial sector, corporate capture. I am also part of the programme team that researches the practices of multinationals in conflicted-affected areas. Within this context, I focus mainly on the role and impacts of companies in Sierra Leone.

EXPERTISE RELEVANT TO THE STUDY

Research experience on Economic Justice

Research and policy analysis of economic justice issues, such as tax avoidance by multinationals (within a broader context of investment climate), regulation of the financial sector.

WORK EXPERIENCE RELEVANT TO THE STUDY

December 2011 – June 2012 & August 2010 – January 2011

Research assistant at the Political Science Department, Radboud University Nijmegen.

Supporting a research project of an Associate Professor European Integration, I conducted research on interregional behaviour between EU, MERCOSUR, ASEAN, NAFTA and SADC.

Business or sector University

February - July 2009

Policy assistant at the Fair Politics EU Campaign in Brussels

Topic: policy coherence for development.

Business or sector Non-profit organisation (Foundation Max van der Stoel, formerly known as Evert Vermeer Stiching)

EDUCATION AND TRAINING

2009 – 2010

Master of Science (cum laude)

Master of Science in Political Science, Radboud University Nijmegen .

Specialized in International Relations. Title master thesis: 'A Time of Change. A critical perspective on the policy shift from privatization to renationalization in Bolivia in 2006' (grade: 9.0).

- Subjects covered: International Relations theories, Global Political Economy, Foreign Policy Analysis, Regional Organisations, Philosophy of Science, Advanced Research Methods for Political Science.

2006-2007 **Minor Public Administration and Organisation Science**

Minor at the Utrecht School of Governance (University of Utrecht)

2004 - 2009 **Bachelor of Science**

Bachelor of Science in Political Science, Radboud University Nijmegen .

- Subjects covered: International Relations, Comparative Political Science, Political Philosophy, European Studies.

PERSONAL SKILLS

Mother tongue(s): Dutch

Other language(s)

	UNDERSTANDING		SPEAKING		WRITING
	Listening	Reading	Spoken interaction	Spoken production	
English	C2	C2	C1	C1	C1
Spanish	B1	B1	A2	A2	A2

Levels: A1/2: Basic user - B1/2: Independent user - C1/2 Proficient user
Common European Framework of Reference for Languages

Communication skills: Great communication skills gained through my experience as tutor and human resources coordinator at an institute for homework tutoring.

Organisational / managerial skills: Great organisational skills gained in following positions:
- research and education assistant at the Radboud University Nijmegen
- chairperson of study association for political science students (ismus)
- participant of Leadership for Economic Change Programme of Amsterdam Bright City

Computer skills: Good command of Microsoft Office™ tools

ADDITIONAL INFORMATION

Relevant publications: Co-author of the following publications relating to Economic Justice:

- Private Gain, Publi c Loss (2013), SOMO publication, available at http://www.somo.nl/publications-en/Publication_3975
- Taking Lobbying Public (2013) SOMO publication, available at http://www.somo.nl/publications-en/Publication_4016
- Hidden Profits (2014) Eurodad publication, available at http://www.somo.nl/publications-en/Publication_4117
- Fool's Gold (2015) SOMO publication, available at http://www.somo.nl/publications-en/Publication_4177

Presentations Conferences Honours and awards	▪ **July 2013:** Participation in International Initiative for Promoting Political Economy conference (IIPPE) in The Hague. Co-author and co-presenter of article that links political economy research of financial regulation on with a civil society perspective on advocacy and campaigning in the EU on regulation of agricultural derivatives markets. Replace with main activities and responsibilities ▪ **July 2012:** Participation and presentation in conference 'Trust and Integrity in the Global Economy' of The Initiative for Change in Caux (Switzerland). ▪ **2010 -2011:** Award for best master thesis of the Radboud University Nijmegen (worth €1000)

Information for TAXE committee visit to The Hague, May 29th

Dutch political parties' positions on tax avoidance

PvdA (S&D)

- Tax avoidance and evasion should be tackled more strongly and effectively.
- In order to make companies more transparent and honest about their profits international measures should be taken.
- Harmonizing the basic principles of the company tax and implementing minimum rates of taxation is desirable. This avoids situations where countries compete with each other.
- Tax authorities from different EU countries should cooperate more closely to discourage illegal savers and proceed against money laundering methods.
- Tax avoidance should be dealt with on a European level.
- European legislation is necessary to force major companies to report about their profits and about how much tax they pay over those profits.

CDA (EPP)

- Position of CDA is not very outspoken. They do propose, however:
- More transparency on a national and European level about illegal money transfers by multinationals.
- Tax avoidance by so called 'mailbox corporations' should be addressed.
- The party is pro harmonizing basic principles of certain systems instead of rates.

VVD (ALDE)

- The Netherlands should stay attractive as settling country for foreign companies.
- Foreign companies that provide employment should stay welcome. The ongoing debate about the so called 'mailbox corporations' and the lengthy processes a company has to go through to start are a point of concern for this party.
- Current policy should be continued and there should be more focus on tackling tax fraud internationally.
- The Netherlands should not be the first to propose new rules, which would be a threat to our own position.
- Pro internationally coordinated action against illegal tax evasion.

D66 (ALDE)

- Opposing tax avoidance should be high priority in times of austerity.
- This party wants to tackle tax avoidance and tax havens by taking better care of exchanging information.
- D66 is in favour of national tax systems.
- By implementing clear basic principles for the determination of the company tax companies can be active in multiple countries.
- Tax avoidance calls for a European solution
- D66 is in favour of common basic principles for company tax.

SP (European United Left/Nordic Green Left)

- Against unfair competing between small and medium enterprises and multinationals.
- International constructions in order to avoid taxes should not be allowed.
- An international solution is needed to acknowledge harmful effects of competitive fiscal activities.
- The Netherlands should be an example in the struggle against tax havens.
- The SP wishes to end the phenomenon of tax havens by ending fiscal treaties with these countries.
- The international race in continuously decreasing the company tax should be stopped by better international agreements.

Groenlinks (Greens)

- Speed up the process to address tax avoidance after the Luxleaks scandal.
- Unfair secret fiscal agreements annually approved by the Netherlands provide an unfair advantage for multinationals with respect to smaller enterprises and employees.
- Our government should pro-actively end unfair tax advantages for multinational.
- Groenlinks was very active in starting up the activities of the special EP enquiry.

Christenunie (European Conservatives and Reformists)

- Tax avoidance and fraud should be battled effectively
- There should be sufficient supervision and control.
- Supervision should be flexible when possible and strict when necessary.
- Tax evasion and fraud of any kind calls for severe control.

Other stakeholders

Belastingdienst (Dutch tax authority).
Ministerie van Financiën (Ministry of Finance).
Tweede Kamer Commissie van Financiën (House of Representatives Committee of Finance).

Eerste Kamer Commissie Financien (Senate Committee of Finance).
Eerste Kamer Commissie voor Economische zaken (Senate Committee of Economic affairs).
Eerste Kamer Commissie voor Europese zaken (Senate Committee of European affairs).

Media coverage of tax avoidance and the Dutch debate

The issue of legal tax avoidance has been covered extensively in the Dutch media, particularly the revelations about Starbucks and Google, as it appeared that both companies have letterbox companies in The Netherlands to avoid tax. KPMG, a large Dutch international tax advisor, has also been criticized for enabling tax avoidance for specifically Asian companies. The TAXE visit to the Netherlands has been depicted as the Netherlands having to answer for their misdeeds to the European Parliament.

However, the Luxleaks scandal has not risen a particular amount of public outcry towards the Tweede Kamer, the Dutch parliament. Dutch members of parliament are on the new committee´s side and the media coverage in the Netherlands supports the new committee of the European Parliament. The new party leader of GroenLinks, a left party, criticizes tax avoidance as being almost as bad as criticizes tax avoidance as being almost as bad as tax evasion, arguing it undermines democracy.
The Dutch undersecretaries and the Belastingdienst, the Dutch tax authority, have been criticized for allowing the tax rulings and draining away Greek tax money by helping Greek companies to avoid tax, depicting Greece as the victim of unfair tax play by the Netherlands.

Another point the media makes is the hypocrisy of the Dutch politicians as they point fingers to other countries not having their finances in order. Meanwhile, those countries use the Netherlands´ tax rulings to avoid tax. Dutch MEPs take different sides in this discussion, as some are accused of not daring to point out the role of the Netherlands in tax evasion as they want to focus on Europe as a whole, while others want to call attention to the Netherlands´ role in tax evasion.

Courtesy translation of the main parts of the report on tax evasion requested by the House of representatives to the Court of Audit (6 November 2014)

At the request of the Lower House , the Court of Audit investigated tax evasion in relation to the tax rules and the Dutch tax treaty network .
The main report is available in Dutch at this web link:
http://www.rekenkamer.nl/Publicaties/Onderzoeksrapporten/Introducties/2014/11/Belastingontwijking

Background

Between countries, there are differences in the tax regime : differences in national tax legislation and differences in tax treaties concluded with other countries . International companies usually try to structure their operations so that they can reduce their own tax burden within the framework of the law . This is called tax planning , also called tax evasion. Tax avoidance is not illegal, but means that international companies are making an increasingly smaller contribution to the tax revenue which must be matched by others in order to maintain a similar level of facilities within countries. International companies can namely optimum use of national differences in corporate tax rate , tax base and withholding tax . This contrasts with only national companies.

Conclusions

Dutch law and regulations

The tax climate in the Netherlands is favorable for international companies through measures to avoid double taxation, but the legislation as such is not very different from our neighboring countries.

Dutch policy as regards tax treaties

The principles of taxation that in tax treaties are presented in the "Netherlands Tax Treaty Policy Note 2011". The starting point of this policy note is the model convention of the Organisation for Economic Co-operation and Development (OECD). In the recent last six sets of negotiations that we have investigated, the State Secretary of Finance applied these principles in negotiations.

Tax planning in practice

Tax planning is customized (case by case). Due to the lack of a consistent pattern, we cannot indicate how often certain structures are used. The attractiveness to establish a possible structure is dependent on a combination of many factors such as corporate tax rate and base, withholding tax, ability to set off withholding taxes in a different country, anti-abuse provisions in national legislation or in double tax treaty and the presence of an investment protection treaty. The availability of a tax treaty is in itself not a prerequisite for setting up a tax-efficient international structure; it however offers in many cases additional savings or additional security to taxpayers.

Information provision to the parliament

The Secretary of state for Finance provides information on current events to the Parliament mainly following negotiations on tax treaty and parliamentary questions. The information provided by the Secretary of State in response to this is not different from what we find in our report. However, we draw here the attention to the fact that the Secretary of State is obliged to confine its information. Information that can lead to individual companies should not be made public. We also indicate that the House does not have an integrated view of the Dutch tax settlement policy (Dutch establishment policy) in relation to international tax planning. There is hardly no information on the results of this policy and the associated financial flows; A systematic periodic reporting is missing.

Recommendations

Tax avoidance is an international phenomenon. Measures from the Netherlands alone cannot prevent companies to use a fiscal pathway leading to the lowest possible tax burden. The Netherlands therefore actively support initiatives by international organizations to reduce tax arrangements that lead to almost no taxation, in violation of the intent of the rules.

We recommend that the responsible ministers:

- indicate what is done to prevent abuse or improper use of the new or revised treaty when providing to parliament review and new treaties.

- further intensify cooperation with treaty partners. Extra attention on the following will be needed when concluding and implementing tax treaties
    - better exchange of information;
    - avoid legal uncertainty for companies wishing to use the treaty (including the application of anti-abuse provisions)
    - the active assistance to the tax administration of the other treaty country.
- provide to the House a regular fiscal monitor report on the (use of) the tax settlement climate, the funds involved, and the impact of measures taken to combat the improper use of tax regulations and tax treaties

DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY

Documentation for the visit to The Netherlands of the TAXE Committee

May 2015
EN

1. BRIEF OVERVIEW OF THE CORPORATE INCOME TAX

- The **corporate income tax** is a **national tax** that applies to the entire territory of the Netherlands, except its oversees municipalities in the Caribbean.

- The general corporate income tax rate is 25%, with a starting rate of 20% for the first € 200.000 of taxable profit.

- As of 2012 The Netherlands effectively apply a territorial tax regime, excluding foreign business profits from the tax base (with the exception of income from portfolio investments).

- Notable **special regimes** are:

  - the **innovation box**, leading to an effective tax rate of 5% on income from patents or other certified R&D activities, excluding brand and trademark rights. Income will only qualify once tax-deductible R&D costs have been made up for;

  - the **tonnage tax** regime;

  - an optional exemption system for certain **investment funds** ('Vrijgestelde beleggingsinstellingen') and a 0% rate for certain investment funds that distribute their profits to investors ('Fiscale beleggingsinstellingen').

- Other notable provisions in the Dutch tax code are:

  - the participation exemption ('Deelnemingsvrijstelling'), exempting benefits from holding ≥5% of shares in (foreign and domestic) subsidiaries, such as dividends received and capital gains upon sale;

  - the fiscal unity regime ('Fiscale Eenheid), allowing for the taxation of groups at a consolidated level.

- The Netherlands have a **dividend withholding tax**, which can be credited against Dutch corporate (or personal) income tax where applicable. No withholding tax will be imposed in case the participation exemption is applicable or when a fiscal unity has been established.

- There is **no withholding tax on interest payments or royalties**.

2. APA/ATR GOVERNANCE

- In order to ensure coordination and the building of expertise on transfer pricing, a **coordination group on transfer pricing** ("CGVP") was established within the tax authorities in **1998**. Members of this group are active both at management level as well as within the different offices of the tax authorities.

- Next to this CGVP, there is a **special team** at Rotterdam that **handles advanced tax rulings (ATRs) and unilateral/bilateral advance pricing agreements (APAs)** as of **2004**. This team may be consulted by local tax authorities and it may give binding opinions to them in certain situations. Obligatory consultation must take place, inter alia, in respect of request for:

  - confirmation of the participation exemption for situations where none of the subsidiaries of a holding carries out business activities in the Netherlands;

  - confirmation of international structures that involve hybrid financing or hybrid legal entities;

  - confirmation of the absence or presence of a permanent establishment in the Netherlands in respect of tax liability.

- Certain situations, such as group financing companies and IP-management entities with limited to no real economic presence in the Netherlands, will be dealt with by the Rotterdam office exclusively as to ensure enhanced scrutiny for these situations, as will entities with mere holding, financing and licensing functions within international groups.

- At Rotterdam there is also a **contact point for potential foreign investors** ("APBI"), which mainly takes care of investors that are willing to make physical investments in the Netherlands of at least 4.5 Million Euro and whose central management is outside of the Netherlands. This is done to ensure that potential investors also have a way to get in touch with the Dutch tax authorities even before they are formally considered to be taxpayers in the Netherlands. If such investor already has substantial activities in the Netherlands he will be dealt with by local authorities. Local authorities may refer additional major investments by those investors to the APBI for consultation.

- Corporations, mainly larger ones, may opt for a system of horizontal supervision ("Horizontaal toezicht"). It allows them to get early-access to tax authorities. Corporations oblige themselves to inform the authorities pro-actively of potential tax issues and to discuss them openly in advance as much as possible. The tax authorities will screen the internal control systems of these companies, in order to optimize tax compliance.

3. APA/ATR POLICY

- **On average 420 ATRs and 226 APAs have been issued annually** (2010-2014). The average annual number of requests for ATRs/APAs denied, withdrawn or set aside amounted to 175.

- **Main guidance on APA/ATR policy was published in 2004**, with some minor revisions in 2014. The most substantial revision in 2014 concerned additional scrutiny in respect of determining substance (see Annex). A model overview of the most common ATRs has been published in 2014 (no translation available).

- An **APA/ATR** will normally be **valid for a period of 4 to 5 years**, with possible exceptions in case they cover long term contracts or in case of bilateral agreements. After a review a new, consecutive APA/ATR may be issued. A substantial change in relevant circumstances or facts may lead to the termination of an APA/ATR.

- Applicants for an APA need to hand over descriptions of transactions and products/agreements involved, next to a proposal for a suggested transfer pricing method including a comparability analysis, providing third party prices and clarifications of corrections made, as well as an indication of market conditions (trends, competition, etc.). In principle, the taxpayer may choose and substantiate any calculation method, provided that it leads to an at arm's length price for the transaction at hand. As it may be difficult for small-sized enterprises to provide such reliable market details, the tax authorities may offer them assistance in gathering information when applying for an APA.

- As of 2014 **no APA will be issued to group financial service entities that have insufficient presence** (substance) in the Netherlands and to those whose activities in the Netherlands carry little to no real risks (credit risks, market risks or operational risks). As of mid-2014 **an APA** that has been granted to service entities **will be exchanged spontaneously with other countries** if the group of which the entity is part is lacking substance in the Netherlands and has no real plans to extend its presence.

- In respect of holding companies **ATRs will only be available to those with sufficient physical presence (substance)** in the Netherlands and to those that are part of a group that is performing or planning to perform operational activities in the Netherlands as of mid-2014. (See Annex.)

- In 1995 and 2004 the State Secretary for Finance decreed that **no rulings were to be issues in cases that would lead to abuse of law** ("fraus legis"). If a structure would be set up that would clearly lead to abuse of law at the side of a tax treaty partner, the taxpayer must first show that the tax authorities in the other country are fully informed of the transaction or tax structure.

4. Taxable profit and the 'at arms length principle'

- In the Netherlands the determination of taxable profit is separated from the determination of commercial profit. Taxable profit is mainly determined on the basis of the principle of good bookkeeping by a diligent merchant ("Good koopmansgebruik") from the 1950s.

- Based on both this principle and subsequent case law companies that are related (such as group companies) must act as unrelated parties for the determination of taxable profit. Because of this, the **taxable profit of an entity may be adjusted either upwards or downwards if deemed necessary to reflect a proper allocation of profit** to Dutch taxable entities.

- This principle has been confirmed explicitly in Dutch tax law **as of 2002** by the introduction of an at arm's length provision in the corporate income tax ('Article 8b of the Vennootschapsbelasting 1969'). Based on this provision, **taxpayers** operating within a group **are obliged to permanently have transfer pricing documentation available in their files on any transactions with associated enterprises**.

- In November 2013 the State Secretary of Finance decreed that the OECD transfer pricing guidelines may serve to clarify the application of article 8B. Such a decree is binding on the tax authorities, but it would not be binding the courts or the taxpayer necessarily.

5. Settlement agreements

- A taxpayer and the tax authorities may settle genuine legal disputes in a **settlement agreement** ('Fiscaal compromis') within reason. Such agreement will be invalid if, when the agreement is signed, parties must have known that it is clearly contrary to the text or purpose of the law. Thus, such agreements can go contrary to the law and still be binding, unless it was evident that the settlement would violate the law to such a degree that parties could not expect that it would be lived up to.

6. State aid investigations

- There is a pending state aid investigation into the rather broad corporate income tax exemption for government-owned enterprises. The Dutch tax code is likely to be changed to address these issues by 2016.

- There is a pending state aid investigation into a tax ruling issued to Starbucks. In its press release (IP/14/663) the Commission stated:

  "Regarding tax rulings specifically, the preliminary enquiries have shown that the quality and the consistency of the scrutiny by the tax authorities differ substantively across Member States. In particular, the Commission notes that **The Netherlands** seem to generally proceed with a thorough assessment based on comprehensive information required from the tax payer. The Commission therefore does not expect to encounter systematic irregularities in tax rulings. However, at this stage the Commission has concerns that the tax ruling for Starbucks Manufacturing EMEA BV is providing that company with a selective advantage, because there are doubts whether it is in line with a market-based assessment of transfer pricing."

Annex

N. Vis, "Introduction of Substance Requirements for Netherlands Holding Companies", European Taxation, December 2014, pp. 583-586, provides an unofficial translation of the revised and extended 2014 substance requirements:

Table: Comparison of substance requirements from both a tax and civil law perspective	
Decree of 12 June 2014	**Civil law**
At least 50% of the members of the statutory board of directors with decision making powers should live or actually reside in the Netherlands.	Netherlands civil law has no specific requirements in terms of composition of the board of directors and/or nationality/ residency of the board members.
The board members residing in the Netherlands should be sufficiently competent and qualified to perform their tasks. Their tasks should at least concern (1) decision-making on the transactions the company will perform, and (2) the proper completion of the transactions the company will perform.	Netherlands civil law requires that every board member perform its tasks adequately and that he/she maintain a reliable administration. Based on this, case law has determined that board members should have the necessary capabilities.
The entity should have qualified staff at its disposal in order to adequately process and register the transactions the entity will perform.	Employing qualified and competent staff is (also) a responsibility of the company's board of directors (as the employer).
The board decisions should be taken in the Netherlands.	Civil law does not contain any requirements in terms of the manner and location in which decisions are made.
The most important bank accounts of the entity should be maintained in the Netherlands.	There is no such condition.
The bookkeeping should be maintained in the Netherlands.	It is not a legal obligation to maintain the bookkeeping in the Netherlands, provided that the board of directors is able to provide the necessary overview of the rights and obligations of the legal entity.
The entity should – at least at the moment of decision – have met all its tax compliance obligations in a correct manner. This could concern Netherlands corporate income tax, wage taxes, VAT, etc.	This is a responsibility of the board of directors. Not meeting this obligation could result in an irrefutable presumption of mismanagement and potential liability in the event of bankruptcy.
The entity should have a registered address in the Netherlands. The entity will, as far as can be known, not (also) be treated as a tax resident of any other country.	The registered address is not required to be in the Netherlands (contrary to the statutory seat of a company, which should be established in the Netherlands).
In respect of requests related to a transaction involving a participation, there is a requirement that the requestor must have financed or will finance the cost price of the partici-pations for which an ATR is being requested with at least 15% equity.	This condition has no relevance from a civil law perspective.

Netherlands	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2012	
A. Structure of revenues	% of GDP													Ranking (1)	€ bn
Indirect taxes	12.5	12.9	12.7	12.7	12.9	12.9	13.1	13.0	12.7	12.2	12.5	12.0	11.9	22	71.1
VAT	6.9	7.3	7.2	7.3	7.3	7.2	7.4	7.5	7.3	7.0	7.3	6.9	7.0	24	41.7
Excise duties and consumption taxes	2.6	2.5	2.5	2.5	2.6	2.5	2.5	2.4	2.4	2.3	2.3	2.2	2.2	26	13.0
Other taxes on products (incl. import duties)	2.0	2.1	1.9	1.9	2.0	2.1	2.2	2.0	2.0	1.8	1.8	1.6	1.5	8	8.9
Other taxes on production	1.0	1.1	1.1	1.1	1.1	1.1	1.0	1.0	1.1	1.2	1.2	1.2	1.2	14	7.5
Direct taxes	12.0	11.7	11.8	11.0	10.7	11.7	11.9	12.2	12.0	12.1	12.2	11.7	11.2	13	67.0
Personal income	6.0	6.2	6.8	6.5	6.0	6.6	6.9	7.4	7.2	8.6	8.5	8.1	7.7	13	45.9
Corporate income	4.3	4.2	3.6	3.0	3.3	3.6	3.7	3.5	3.4	2.1	2.3	2.2	2.1	20	12.7
Other	1.6	1.3	1.4	1.4	1.4	1.5	1.3	1.3	1.3	1.4	1.4	1.4	1.4	6	8.3
Social contributions	15.4	13.7	13.3	13.8	13.9	12.9	14.0	13.5	14.5	13.8	14.2	14.8	16.0	2	95.8
Employers	4.5	4.3	4.3	4.3	4.3	4.0	4.6	4.5	4.8	4.9	5.0	5.1	5.4	19	32.6
Employees	7.9	6.7	6.4	6.7	6.9	6.4	6.5	6.1	6.6	5.9	6.0	6.4	7.0	2	41.7
Self- and non-employed	3.1	2.6	2.5	2.8	2.7	2.5	2.9	2.9	3.1	3.0	3.1	3.3	3.6	1	21.4
Less: amounts assessed but unlikely to be collected	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.		
Total	39.9	38.3	37.7	37.4	37.5	37.6	39.0	38.7	39.2	38.2	38.9	38.6	39.0	11	233.8
B.Structure by level of government	% of total taxation														
Central government	55.9	58.9	59.7	57.8	57.6	60.2	59.5	60.4	58.3	59.1	59.0	56.7	54.0	16	126.4
State government (2)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Local government	3.4	3.6	3.7	3.9	4.0	4.1	3.3	3.3	3.3	3.7	3.7	3.8	3.8	22	9.0
Social security funds	38.6	35.7	35.2	36.9	37.1	34.5	35.9	34.8	37.0	36.2	36.4	38.4	41.0	4	95.8
EU institutions	2.0	1.8	1.4	1.4	1.3	1.3	1.3	1.4	1.4	0.9	1.0	1.1	1.2	2	2.7
C. Structure by economic function	% of GDP														
Consumption	11.3	11.6	11.4	11.5	11.7	11.7	11.7	11.6	11.4	11.1	11.4	11.1	11.0	20	66.1
Labour	20.6	18.5	18.8	19.2	19.0	18.7	20.0	19.8	20.7	21.1	21.4	21.7	22.4	8	134.5
Employed	17.6	16.0	16.2	16.5	16.3	16.0	17.2	17.5	18.3	18.7	19.0	19.2	19.9	6	119.2
Paid by employers	4.5	4.5	4.5	4.4	4.4	4.1	4.7	4.6	4.9	5.1	5.1	5.1	5.5	19	32.8
Paid by employees	13.1	11.5	11.7	12.1	11.9	11.9	12.6	12.9	13.4	13.7	13.8	14.1	14.4	2	86.4
Non-employed	2.9	2.5	2.6	2.7	2.6	2.6	2.8	2.3	2.4	2.4	2.4	2.5	2.6	7	15.3
Capital	8.0	8.2	7.6	6.7	6.9	7.3	7.3	7.3	7.1	5.9	6.1	5.8	5.6	19	33.3
Capital and business income	5.3	5.7	5.0	4.3	4.3	4.6	4.7	4.7	4.6	3.5	3.7	3.5	3.4	20	20.3
Income of corporations	4.3	4.2	3.6	3.0	3.3	3.6	3.7	3.5	3.4	2.1	2.3	2.2	2.1	20	12.7
Income of households	-1.4	-0.6	-0.7	-0.8	-0.9	-1.0	-1.0	-0.9	-1.0	-0.9	-0.9	-1.0	-1.0	28	-6.2
Income of self-employed (incl. SSC)	2.4	2.1	2.1	2.1	2.0	2.0	2.1	2.1	2.2	2.2	2.3	2.3	2.3	7	13.8
Stocks of capital wealth	2.7	2.5	2.5	2.4	2.5	2.6	2.6	2.6	2.5	2.4	2.4	2.2	2.2	12	12.9
D. Environmental taxes	% of GDP														
Environmental taxes	3.8	3.6	3.5	3.6	3.7	3.8	3.9	3.7	3.8	3.8	3.8	3.7	3.6	3	21.3
Energy	1.9	1.8	1.8	1.8	1.9	2.0	2.0	1.8	1.9	2.0	2.0	2.0	1.9	12	11.6
of which transport fuel taxes	1.3	1.2	1.3	1.3	1.3	1.3	1.3	1.3	1.2	1.3	1.3	1.3	1.3	22	
Transport (excl. fuel)	1.4	1.3	1.2	1.2	1.3	1.3	1.4	1.4	1.3	1.2	1.2	1.2	1.1	3	6.6
Pollution/resources	0.53	0.50	0.51	0.51	0.50	0.50	0.52	0.51	0.51	0.53	0.54	0.53	0.51	2	3.1
E. Property taxes	% of GDP														
Property taxes	1.9	1.7	1.8	1.7	1.7	1.8	1.8	1.8	1.6	1.4	1.4	1.2	1.2	14	7.2
Recurrent taxes on immovable property	0.5	0.5	0.5	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.7	13	4.1
Other property taxes	1.4	1.2	1.2	1.1	1.1	1.2	1.2	1.2	1.1	0.8	0.8	0.6	0.5	12	3.1
F. Implicit tax rates	%														
Consumption	23.1	23.8	23.3	23.7	24.2	24.4	25.3	25.6	25.7	24.7	25.4	24.8	24.5	8	
Labour employed	34.7	31.4	31.5	32.0	31.9	32.3	35.1	35.6	36.8	35.9	37.0	37.5	38.5	9	
Capital	21.3	21.9	23.8	20.7	20.2	17.9	17.4	16.0	16.9	15.7	13.9	12.0	13.7		
Capital and business income	14.0	15.2	15.8	13.2	12.8	11.4	11.3	10.3	11.0	9.3	8.4	7.4	8.4		
Corporations	18.4	17.2	18.0	14.4	14.4	12.4	12.0	10.2	10.9	7.4	6.5	5.7	6.8		
Households	5.9	9.5	10.1	9.3	7.7	7.2	7.8	8.6	9.1	12.8	14.0	12.5	12.1		
Real GDP growth (annual rate)	3.9	1.9	0.1	0.3	2.2	2.0	3.4	3.9	1.8	-3.7	1.5	0.9	-1.2		

(1) The ranking is calculated in descending order. A '1' indicates this is the highest value in the EU-28. No ranking is given if more than 10% of data points are missing.

(2) This level refers to the *Länder* in AT and DE, the *gewesten en gemeenschappen / régions et communautés in BE* and *comunidades autónomas in ES*.

Source: DG Taxation and Customs Union and Eurostat (online data codes: gov_a_tax_ag, gov_a_tax_str and gov_a_tax_itr)

Netherlands

Overall trends in taxation

Structure and development of tax revenues

In 2012, the tax-to-GDP ratio was 39.0 % in the Netherlands. This value is 0.4 percentage points below the EU-28 average (39.4 %) and 1.4 percentage points below the euro area average (40.4 %). Compared to the neighbouring countries, the Dutch tax-to-GDP ratio is lower than the ratio for Belgium and Denmark but very close to the ratio for Germany and Luxembourg.

Indirect and direct taxes each account for about 30 % of total tax revenues while social contributions represent 41.0 %. Indirect tax revenues have fallen since 2009 due to the crisis, although in 2012 they remained at a similar level to 2011. The crisis also caused a reduction by one third of revenues from corporate income tax (CIT) in 2009. After that year the weight of CIT stabilized at the resulting low level.

From a fiscal viewpoint, the Netherlands display a fairly centralised tax structure as local government taxes account for merely 3.8 % of total tax revenues, a share which is just above a third of the EU-28 average (11.0 %). In contrast, the share of social security funds (41.0 %) and revenues received by the central government (54.0 %) are well above the EU-28 averages (32.4 % and 48.7 % respectively).

The tax-to-GDP ratio in 2012 of 39.0 % is at the pre-crisis 2008 level. Yet its composition has changed since the crisis. The slight increase of the VAT share in 2012 attenuates the constant decrease of the share of the indirect taxes since 2006. The significant increase of the personal income taxation share in 2009 and 2010 has been followed by a slower but clear decrease in 2011 and 2012. Since 2009 the total tax revenue has been maintained by the continuous increase of the social contributions.

Taxation of consumption, labour and capital; environmental taxation; property taxes

The implicit tax rate on consumption increased from 2002 to 2008, but has decreased since 2009, due to the crisis. In 2012, the implicit tax rate on consumption (24.5 %) for the Netherlands was ranked eighth highest in EU-28 and 4.6 percentage points higher than the EU average (19.9 %).

The ITR on labour has increased steadily since 2001. (+ 7.1 percentage points for 2012, compared to 2001) ([12]). In 2012, the ITR on labour (38.5 %) was well above the EU average (36.1 %).

From 2003 till 2011, the ITR on capital and business income and on corporations has been declining. Although this trend was reversed in 2012, the general ITR on capital still declined by 44 % since its peak in 2002. In 2012, the ITR on capital in the Netherlands was 13.7 %.

At 3.6 % of GDP, the Netherlands has the third highest level of environmental taxes as a percentage of GDP in the EU. The Netherlands raises significant revenue from transport taxes (excl. fuel taxes) and is one of the few countries in the Union with a non-negligible contribution from pollution taxes, originating from a tax on pollution of surface waters and sewerage charges (0.51 % of GDP, EU-28 0.1 %).

Property tax revenues in the Netherlands in relation to GDP in 2012 (1.2 %) were far below the EU-28 average of 2.3 %. The property tax represented 3.1 % of the total tax revenue in 2012, which is below the EU average (5.7 %). The revenues from recurrent taxes on immovable property in 2012 counted for 0.7 % of GDP, whereas the corresponding EU-28 average stood at 1.5 %.

Main recent reforms implemented, on-going or announced

To achieve fiscal consolidation, a number of measures were taken in recent years. Some of them come into force in 2014. In the PIT a number of simultaneous changes will be gradually implemented over the years 2014–17. The maximum EITC and general tax credits are gradually increased. Also, these credits will decrease with income. The length of the tax brackets is not corrected for inflation in 2014. A targeted tax credit for employed persons aged 61-64 has been abolished for new cases. In 2013, a once-only surtax for employers in the wage tax of 16 % of wages earned in 2012 exceeding EUR 150 000 was effective. This tax is extended to (only) 2014.

Since 1 January 2013 the interest on new mortgages for owner occupied dwellings is only tax deductible for mortgages that will be repaid in full (and at least as annuity) over the course of the loan agreement of 30 years. Interest on new mortgages that are not repaid in full is no longer deductible. The possibilities for tax free savings for repayment of the loan are abolished for new mortgages as well. As of 2014, the rate at which mortgage interest paid for mortgages on owner-occupied housing can be deducted in the highest income bracket is reduced yearly by half a percentage point, until it will reach 38 % in 2031. For 2014 the rate is 51.5 %. The revenues of these measures are used to gradually decrease the tax rates in the second, third and fourth tax bracket of the personal income tax. Since 1 January 2013 landlords who rent out more than 10 social dwellings (for 2014 defined as dwellings with a rent lower than EUR 699.48 per month) pay a tax on the value of the dwellings. To pay

([12]) A large share of this increase is due to the replacement of private health care insurance contributions by a new public health care insurance system in 2006. Under the accounting conventions followed in this report, this replacement leads to an increase in the ITR on labour although disposable income of households is unaffected.

this tax the landlords are allowed to increase the rent more than the inflation rate and an additional increase depending on the level of income from the tenant. The tax rate will increase considerably over the years: 0.014 % in 2013, 0.381 % in 2014, to 0.536 % in 2017, resulting in EUR 1.7 bn (0.3 % of GDP) additional tax revenues in 2017. In 2014, increasing rents and decreasing house prices led to an increase of the deemed income from owner-occupied housing. For houses valued between EUR 75 000 and EUR 1 040 000 the deemed income increased from 0.6 % to 0.7 % of the value. For the part of the value exceeding EUR 1 040 000 the rate is set at 1.80 % instead of 1.55 %.

Deferral of income tax levy through converting a severance scheme into an annuity is no longer possible. When existing annuities (of severance payments) are paid out fully in 2014 (and only in 2014), a 20 %-point discount for the income tax applies.

The excise duties for diesel, liquefied petroleum gas and alcoholic beverages and the consumption tax on soft-drinks have been increased. Exemptions for road tax of less polluting cars have ended in 2014, except for cars emitting less than 50 gr/km of CO_2.

Main features of the tax system

Personal income tax

The Dutch PIT system consists of three so-called boxes: Box 1 consists of labour income as well as some types of capital income, such as the proceeds of capital that proprietors employ in their own businesses, and the deemed income from owner-occupied housing, balanced with paid interest on mortgages. The sum of income in Box 1 is taxed at progressive rates ranging from 36.25 % to 52 % (income tax and social contributions). For taxpayers over the retirement age, the combined rates range from 18.35 % to 52 % due to the fact that this group is exempt from contribution for the national pension. The highest rate applies to income above EUR 56 531. Box 2 contains profit distributions and realized capital gains in connection with closely held companies. The nominal PIT rate on these income items is 25 %, but the effective overall tax rate is higher, because these items are also subject to the corporation tax at the level of the company. For 2014 only, for profit distributions up to EUR 250 000 the rate is 22 % instead of 25 %. Box 3 includes the returns on privately held assets such as saving deposits, stocks, bonds and real estate (except owner-occupied housing). The items in this box are subject to a tax rate of 30 % on a deemed return of 4 % on the net value of the assets on 1 January, exceeding EUR 21 139.

As of 2014 the general credit is dependent on the income from labour and housing. The maximum credit is EUR 2 103. Starting at an income of EUR 19 645 it is reduced until it reaches its minimum of EUR 1 366 at an income of around EUR 56 500. This credit can be partially transferred to partners without income of their own. Other tax credits exist for those in work (EITC max. EUR 2 097), for single parents, for young handicapped and for the elderly. For self-employed entrepreneurs and starting companies, there are several tax reliefs and allowances. For 2014, the deduction for the self-employed is EUR 7 280. The profit exemption for unincorporated SMEs is 14 % of taxable profits after applying the deduction for the self-employed.

Corporate taxation

The current profits of corporations (publicly and closely held companies) are subject to the corporation tax at a rate of 25 % (20 % for profits up to EUR 200 000). For tax purposes, profits should be determined according to ‘sound business practice’, a concept that has mainly been developed in case law.

A main feature of the Dutch corporate income tax (CIT) is the participation exemption: dividends and realized capital gains from subsidiaries are not taxed at the parent company. Furthermore, under certain conditions a parent company may be taxed as a group together with one or more of its subsidiaries. For corporate income tax (CIT) purposes this means that the parent company and subsidiary are deemed to be one fiscal entity. The main advantages of group taxation are that the losses of one company can be offset against profits from another company within the group, and that fixed assets can in principle be transferred tax free from one company to another.

For R&D activities several facilities exist. Income derived from R&D is taxed in a separate ‘innovation box’ for innovative enterprises. The rate for income in this box is 5 %. In addition, wage costs for R&D activities are decreased by a reduction of the wage tax of 35 % of the wage up to EUR 250 000 and 14 % of the excess. The self-employed who carry out R&D activities can deduct EUR 12 310 from their taxable profits. For starting entrepreneurs this amount is increased by EUR 6 157. Finally, a tax facility provides for 60 % deduction for current and capital R&D expenses.

For environmentally-friendly investments a deduction of 13.5 %, 27 % and 36 % of the investment amount is granted, depending on the type of investment.

VAT and excise duties

There are two VAT rates. The standard rate is 21 % and the reduced rate of 6 % is applicable to, inter alia, food, water, pharmaceuticals, art, cultural events and publications. The Netherlands applies a range of green taxes: environmental taxes (taxes on tap water, waste, coal and the energy tax on electricity and natural gas), excise duties on mineral oils and taxes on vehicles. Furthermore, there are consumption taxes on soft drinks and excise duties on tobacco products and alcoholic beverages.

Wealth and transaction taxes

Ownership of real estate is taxed by local government through the real estate tax. Acquisition of real estate is taxed through the transfer tax. The rate is 2 % on dwellings and 6 % on other real estate. There is no wealth tax Inheritance and gift taxes are levied at rates ranging from 10 % to 40 % depending on the relationship between the donor and the beneficiary and the amount involved if the amounts exceed certain allowances. From 2011, an exemption for business succession in the inheritance tax of 100 % for businesses with a maximum value up to EUR 1 045 611, and to 83 % for the excess, exists. For the tax due, a 10-year tax deferral is granted.

A bank tax is levied if the debts of the banks that are not covered by own capital or reserves are more than EUR 20 000 000 000. The tax rate is: 0.044 % on short debts (less than 1 year) and 0.022 % on long debts.

Social contributions

The social security system is composed of national insurance (national pension, special health care and widow's pension) and employee insurance (unemployment, disability). The national insurance applies to all inhabitants and the collection of contributions is integrated in the income tax and wage (withholding) tax levy. The employee insurance applies to employees and is financed by a levy calculated on gross salaries (with a maximum amount) and depends on the economic sector. For basic health insurance each adult pays a fixed amount of around EUR 1 100 a year. Employers pay 7.5 % of gross earnings to a maximum salary of EUR 51 414 to the State health insurance fund. The self-employed and pensioners pay a contribution of 5.4 % of their net business profits or pension, on their income up to EUR 51 414.

Netherlands: Tax system

Corporate Taxes

Tax Base For Resident and Foreign Companies

Resident companies are subject to taxation on their worldwide income, and non-resident companies are subject to corporate income tax on certain Dutch-source income.

Tax Rate

Corporate income tax rate	The applicable tax rates and brackets are: up to EUR 200,000 - 20%; and income exceeding EUR 200,000 - 25%.

Tax Rate For Foreign Companies

There are no special tax rates for foreign companies.

Capital Gains Taxation

There is no specific tax rate for capital gains but gains and losses are included in the company's general taxable income. Capital gains are taxed at the normal corporate rate. The basis for calculating a capital gain or loss is the difference between the book value of an asset (original cost minus depreciation) and the amount for which the asset is sold (which under circumstances can be replaced by the fair market value)..

Main Allowable Deductions and Tax Credits

Costs incurred in setting up a business, reserves earmarked for certain types of future spending and book profits, rents, royalties and interest payments on corporate debt, remuneration paid to members of the managing and supervisory boards, many types of taxes, bad debts, capital losses, pension plan contributions, commissions, bonuses paid to employees through an internal profit-sharing plan, gifts to contributions to religious, social, charitable and other institutions and mixed expenses.

Foreign tax credits on dividend, interest and royalty income are limited to taxes withheld from income items originating either in a country that has concluded a tax treaty with the Netherlands or certain developing countries listed by the State Secretary of Finance. However, a Dutch company may not credit any foreign withholding tax levied on dividends received from foreign subsidiaries to which the participation exemption applies.

Other Corporate Taxes

Transfer tax is levied on the acquisition of property in the Netherlands at a rate of 6% of the market value of the property. Insurance tax at a rate of 21% applies on insurance premiums, but life, accident, medical, invalidity, disability, unemployment and transport insurance are exempt.

Motor vehicle tax is paid on all vehicle ownership, with the amount depending on the type and weight of the vehicle and, for private cars, the type of fuel.

In the overseas municipalities of Bonaire, St. Eustatius and Saba (also known as the BES islands), there is no corporate income tax on revenue or profits. Instead, two alternative taxes have been introduced: a tax on real estate (property tax) and a withholding tax on revenue distributions.

Other Domestic Resources

Consult Doing Business Website, to obtain a summary of the taxes and mandatory contributions.

Country Comparison For Corporate Taxation

	Netherlands	OECD	United States	Germany
Number of Payments of Taxes per Year	9.0	12.0	11.0	9.0
Time Taken For Administrative Formalities (Hours)	127.0	176.0	175.0	207.0
Total Share of Taxes (% of Profit)	40.1	42.7	46.7	46.8

Source: Doing Business - Last Available Data.

Note: *The Greater the Index, the More Transparent the Conditions of Transactions. **The Greater the Index, the More the Manager is Personally Responsible. *** The Greater the Index, the Easier it Will Be For Shareholders to Take Legal Action. **** The Greater the Index, the Higher the Level of Investor Protection.

Accounting Rules

Accounting System

Accounting Standards

The Dutch Generally Accepted Accounting Principles (GAAP) consists out of the International Financial Reporting Standards (IFRS). All Dutch (and European) companies have to comply with these standards. The EU's Accounting Regulatory Committee (ARC) is responsible for checking the reports.

Accounting Regulation Bodies

NIVRA, Dutch Institute of Accounting
Accounting Regulatory Committee

Accounting Law

As the standards are part of European law the approved standards and approved subsequent changes must be published in the Official Journal of the European Union. On October 13, 2003 the first publication of the standards was included in PB L 261. Changes to the earlier published IAS and IFRS can be monitored using the Web site of the Directorate Internal Market of the European Union on the implementation of the IAS in the European Union.

Difference Between National and International Standards (IAS/IFRS)

IAS / IFRS are in use.

Accounting News

Accounting Web
Accounting Plaza
Q Accounting (in Dutch)

Accounting Practices

Tax Year

The fiscal year begins on January 1st and ends on December 31st of the same year.

Accounting Reports

Financial statements, cash flow statement and additional information.

Publication Requirements

Private companies, cooperatives, mutual insurance companies and general partnerships have to publish their accounts.
To be published, the annual report must be deposited in the trade register. Statements must be filled annually.

Accountancy Profession

Accountants

There are two organizations of accountants : the Royal NIVRA with about 9600 members and the Netherlands Organization winnowing basket Accountants-Administratieconsulenten (NOVAA) with 4,300 members.

Professional Accountancy Bodies

NIVRA, Dutch Institute of Certified Accountants.

NOVAA - Administratieconsulenten , Administration advisers.

Member of the International Federation of Accountants (IFAC)

NIVRA is a member of the IFAC

Member of Other Federation of Accountants

NIVRA is a member of The European Federation of Accountants.

Audit Bodies

Companies have to seek a statutory auditor to conduct an annual audit of the financial health of their organization. For more information, you can contact The Netherlands Court of Audit

Consumption Taxes

Nature of the Tax

BTW (Belasting Toegevoegde Waarde - the Dutch equivalent of the VAT)

Standard Rate

21%

Reduced Tax Rate

Netherlands apply a reduced VAT rate of 6% on certain categories of goods and services, including foodstuffs, water supplies, pharmaceutical products, medical equipment for disabled persons, books, newspapers, hotel accommodation…

Exclusion From Taxation

There is a zero rate intended primarily for exported goods, sea going vessels and aircraft used for international transport, gold destined for central banks and activities within bonded warehouses or their equivalent.

There is also a zero rate for goods transported to another EU member state on which VAT is levied. Exemptions from VAT include educational services, medical services, banking and insurance transactions, postal services, non-commercial broadcasting, and the services of journalists, composers and writers.

For additional information, consultExpatax Website.

Method of Calculation, Declaration and Settlement

A business that is registered for VAT in the Netherlands must normally file a VAT return and make a payment to the tax administration on a monthly basis. The return and the payment must be received by the end of the following month. The filing can be made quarterly if VAT due does not exceed EUR 7,000 per quarter, or annually if the amount due is less than EUR 1,883 per year. Penalties and interest charges are imposed for late filing or payment. VAT returns must be submitted electronically, although companies based outside of the Netherlands may still file paper returns.

The complete tax overview of the Netherlands can be found on the website of the national fiscal authorities.

Other Consumption Taxes

Liquor tax, tobacco tax, gasoline tax, aviation fuel tax, liquefied petroleum gas tax, petroleum tax, motor vehicle tax, etc.

Individual Taxes

Tax Base For Residents and Non-Residents

Residents are taxed on their worldwide income and non-residents are taxed only on income from a limited number of sources in the Netherlands.

Tax Rate

Individual Income Tax (under age of 65)	Progressive rate from 5.85% to 52%
EUR 0 - 19,645	5.85%
EUR 19,645 – 33,363	10.85%
EUR 33,363 – 55,991	42%
EUR 55,991 and over	52%

Allowable Deductions and Tax Credits

Employer reimbursement of (international) school fees. Tax deductions: interest allowance for mortgage interest related to real property in the Netherlands.

Tax exemptions: an employee subject to the 30% tax ruling (if a resident of the Netherlands) can opt for partial non-resident status, which implies that income (assets/savings) may be tax-exempt in the Netherlands.

Special Expatriate Tax Regime

An employee assigned to the Netherlands who has specific expertise that is not available or that is scarce in the Dutch labor market is eligible to apply for a tax-exempt allowance of 30% of his/her salary. A request must be made to apply the 30% ruling within four months of starting employment. Once approved, the allowance applies for a maximum term of ten years, with an interim test to determine whether the expatriate continues to satisfy the conditions to qualify for the 30% ruling. Employees who do not qualify for the 30% ruling still may receive a tax-free reimbursement of actual extra-territorial expenses.

Capital Tax Rate

Municipal authorities levy personal property tax on all immovable property based on the council-rated value of property. The tax base for real estate tax is the fair market value as determined by the municipal tax authorities. The council-rated value of an immovable property applies to certain elements of the personal income tax.

Double Taxation Treaties

Countries With Whom a Double Taxation Treaty Have Been Signed

See the list of the conventions signed, on the Dutch Finances Ministry.

Withholding Taxes

Withholding taxes are: 15% for dividends. There are not any tax rates on interest and royalties.

Bilateral Agreement

Spain and the Netherlands signed a Double Taxation treaty.

The Netherlands

'By making use of loopholes in tax treaties in combination with differences between national tax rules, internationally operating companies can avoid paying tax. It means that poor countries miss out on tax revenues, funds they desperately need for things like infrastructure and education.'

Lilianne Ploumen, Minister for Foreign Trade and Development Cooperation[386]

General overview

The Netherlands is the world's largest source of global foreign direct investment (FDI), mainly due to the tax treatment of these flows. It is no surprise then that tax issues have been high on the public agenda. The impact of Dutch tax treaties on 28 developing countries resulted in a tax loss of €554 million annually in 2011 alone.[387] Recently the European Commission has started an investigation into whether Dutch tax rulings are in breach of EU State Aid rules.[388]

On other issues, the Dutch official line is highly contradictory. Following a decision in 2013, the Dutch government carries out automatic exchange of information with foreign tax authorities in the context of a tax ruling when it concerns a company whose sole activities are channelling through interest or royalty payments.[389] Meanwhile, the Dutch embassy in the Ukraine co-organised a workshop entitled "Dutch Holding Companies: New Opportunities for Structuring of Ukrainian Business"[390] – which essentially explained how companies can use the Netherlands for aggressive tax planning structures. When similar cases were brought to the public's attention, it led to a political debate that forced politicians to make public statements on harmful tax practices.[391]

There have been many media stories relating to Dutch tax avoidance structures covered by the international media, including cases involving Google,[392] Uber[393] and Mylan.[394] The developing country angle is still mostly represented by civil society – but the Dutch government has taken certain measures and is in the process of offering 23 developing countries anti-abuse provisions in bilateral tax treaties between them and the Netherlands.[395]

Tax policies

Taxation of transnational corporations

A recent report by Citizens for Tax Justice shows that the Netherlands is the most popular tax haven for the 500 largest US companies. Almost 50 per cent of the companies have subsidiaries based in the Netherlands, which together generated a profit of $127 billion.[396]

The Netherlands Foreign Investment Agency (NFIA), an operational unit of the Dutch Ministry of Economic Affairs, uses tax incentives to attract foreign investments and says that "the Dutch tax system has a number of features that may be very beneficial in international tax planning".[397] They include the Dutch Advance Tax Ruling and Advance Pricing Agreement practices; the 'innovation box', which results in an effective corporate tax rate of only 5 per cent; the 'participation exemption' where all benefits related to a qualifying shareholding are exempted from Dutch corporate income tax; and advantages in debt and loss structuring.

The Netherlands also has a wide tax treaty network resulting in a reduction of withholding taxes on dividends, interest and royalties in countries that have signed these treaties with the Netherlands.[398] Finally, the Netherlands levies no withholding taxes on outgoing interest, royalties and most dividends – making the country a conduit haven for FDI flows. It is the combination of these policies and practices that make the Netherlands a popular conduit country.[399]

The Netherlands does not have clear anti-abuse laws, but instead applies a doctrine of 'substance over form' *(fraus legis)* that has been developed in jurisprudence of the Supreme Court. Tax authorities may disregard a legal transaction if: a) the main motive for entering into the transaction is the avoidance of tax; and b) when entering into the transaction, the taxpayer violates the purpose and objective of the tax legislation.[400] However, the abuse of law is only as a so-called ultimate remedy *(ultimum remedium),* when other legal options are exhausted. The State Secretary of Finance also acknowledged that it is difficult to tackle tax avoidance using *fraus legis* as it only applies to national tax legislation, whereas most tax avoiding structures make use of the differences between national and international tax rules.[401]

The European Commission has announced that it is investigating the tax system in the Netherlands, Luxembourg and Ireland. Under investigation in the Netherlands is "the individual ruling issued by the Dutch tax authorities on the calculation of the taxable basis in the Netherlands for manufacturing activities of Starbucks Manufacturing EMEA

BV".[402] The Dutch government maintains that its rules do not constitute harmful practices, and the Commission stated that "in particular, the Commission notes that The Netherlands seem to generally proceed with a thorough assessment based on comprehensive information required from the tax payer. The Commission therefore does not expect to encounter systematic irregularities in tax rulings."

Potentially harmful tax practices

Special Purpose Entities (SPEs) create the illusion that foreign direct investment (FDI) flows in and out of the Netherlands are high when compared to GDP. According to the International Monetary Fund (IMF), the FDI figures of the Netherlands – as with other European countries like Luxembourg and Cyprus – cannot be understood "without reference to tax arrangements that make several of these countries well known as advantageous conduits through which to route investments".[403]

The Dutch Ministry of Finance and the Dutch Central Bank do not use the term SPE, but instead use the term 'special financial institution' (SFI, in Dutch: bijzondere financiële instelling), which is similar to an SPE. The Netherlands hosts around 12,000 of these special financial institutions that channel €4,000 billion per year.[404] Although SPEs have to comply with several so-called substance requirements[405] – such as having a registered address in the Netherlands, and ensuring that at least 50 per cent of the statutory (and competent) directors are Dutch residents – these substance requirements can be fulfilled easily by so-called trust offices. Large transnational corporations often manage their own SPEs, but most SPEs are managed by trust offices. The Dutch trust office sector has grown to become statistically important for higher FDI and growth, while due to lack of substance it has little impact on the real economy. However, the statistical weight of the sector, pointed to over and again by sector lobbyists, makes it politically difficult for Dutch politicians to regulate. Recent research from the Dutch Central Bank found it "alarming"[406] that executive and supervisory functions in trusts' offices are not sufficiently separated and there is too often a lack of knowledge regarding the beneficial owner. As a result, some trust offices were fined and others had their licenses revoked.[407]

Dutch media attention regarding the harmful effects of its tax system goes back at least as far as 1999, when a *Handelsblatt* journalist revealed that the former Indonesian dictator Suharto and his family used Dutch letterbox companies to hide corrupt money and evade taxation.[408] More recently, in 2014, the Dutch media reported allegations of money laundering concerning the eldest son, and business friends, of the former Ukrainian president Viktor Yanukovych.[409]

However, the European Commission investigation may turn the debate from corruption to tax dodging, as it has highlighted the role of several EU jurisdictions in facilitating tax dodging.[410]

Tax treaties

The Netherlands currently has 90 tax treaties in force of which 44 are with developing countries.[411] The treaties with developing countries includes significantly reduced rates of withholding taxes, with an average reduction of 3.1 percentage point compared to the national statutory rates of the developing country treaty partners. Particularly the rates on interests and dividends for qualified companies have been lowered.[412]

In 2012, an IMF Technical Assistance Report on the Mongolian tax treaty model pointed out that that tax treaty network was prone to tax avoidance. The treaty with the Netherlands, in particular, lowered withholding taxes (on dividends) in such a way that it caused international tax avoidance.[413] In October 2012, Mongolia cancelled its tax treaty with the Netherlands (as well as with Luxembourg, Kuwait and United Arab Emirates).[414] Another developing country that cancelled its treaty with the Netherlands is Malawi. In early 2013, Malawi and the Netherlands agreed to renegotiate the existing treaty since it was out of date. However, before negotiations started, Malawi cancelled the treaty in June 2013. Shortly afterwards, the two countries agreed to start negotiations.[415] The reasons for cancellation remain unclear to the public.

As a response to criticism, and an IMF process on international corporate tax spillovers, the Ministry of Foreign Affairs commissioned a report that researched the risk of the unintended negative effects of tax treaties on developing countries – for instance the lack of anti-abuse provisions.[416] The Netherlands now actively supports the inclusion of anti-abuse clauses in its tax treaties and is in the process of approaching 23 developing countries with which it already has tax treaties, or with which negotiations are taking place, with the intention of including anti-abuse clauses.

Although Dutch fiscal policy follows the OECD Model and low withholding tax rates in treaty negotiations, it offers developing countries more room to negotiate higher withholding taxes and follows some elements of the UN Model in negotiations with developing countries.[417]

Financial and corporate transparency

As regards a public registry of beneficial owners, the Dutch government supports the unprogressive text agreed upon by the Council of Ministers, which "is a carefully balanced text, stating that Member States shall ensure that beneficial ownership information is held in a specified location, for example in the case of companies in a public and central company registry, or in data retrieval systems."[418] Meanwhile, the Dutch Parliament adopted a resolution that calls upon the government to actively pursue – within the European Council – a public register of beneficial owners.[419]

The Netherlands has adopted a positive stance with respect to corporate transparency and is interested in international initiatives on country by country reporting. It has therefore advocated that the European Commission should investigate the impact of public country by country reporting for all sectors.[420] However, there are no further national plans other than the EU-proposed legislative processes.

Global solutions

When asked if the Dutch government supports an intergovernmental body on tax matters, established under the auspices of the UN, the Ministry of Finance answers that the Netherlands is satisfied with the way both the OECD and the UN currently function.[421] This implies that the Netherlands does not support a UN intergovernmental body, but instead views the OECD as the appropriate forum to address global tax matters. In general terms, the Netherlands is publicly concerned with the lack of tax capacity in developing countries and supports initiatives such as the OECD's Tax Inspectors without Borders.[422]

The Netherlands is willing to send information to developing countries that are not yet able to send information on an automatic basis in return, but "only on a legal basis and if we are sure that the privacy of our information will be secured".[423]

Conclusion

The public debate in the Netherlands brings together diverse opinions on the benefits of the trust sector and other harmful tax practices. Ongoing media attention on major corporations using mailbox companies in the Netherlands for tax planning has created significant public awareness, for instance leading parliament to pursue a public registry of beneficial owners in the European context.

The Netherlands does not want to be seen to be blocking EU-wide initiatives, while still trying to keep its own harmful regimes outside of the scope of the EU.

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[390] Netherlands Embassy in Kiev, available at http://ukraine.nlembassy.org/news/2013/11/dutch-holding-companies-new-opportunities-for-structuring-of-ukrainian-business.html

[391] Parliamentary questions were asked by several members of the Dutch Parliament. For an example, see here: http://www.tweedekamer.nl/kamerstukken/kamervragen/detail.jsp?id=2014Z04267&did=2014D08385.

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[393] *The Financial Times,* 'MP criticises Uber for 'opting out' of UK tax regime', 1 August 2014, available at http://www.ft.com/intl/cms/s/0/c63f9500-1965-11e4-9745-00144feabdc0.html#axzz39bI1xAPC

[394] *Reuters*, 'Mylan to buy Abbott generics, cut taxes, in $5.3 billion deal', 14 July 2014, available at http://www.reuters.com/article/2014/07/14/us-mylan-abbott-idUSKBN0FJ10F20140714

[395] Kamerbrief 'Kabinetsreactie op SEO-rapport Overige Financiële Instellingen en IBFD-rapport ontwikkelingslanden', 30 August 2013, available at http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/08/30/kabinetsreactie-op-seo-rapport-overige-financiele-instellingen-en-ibfd-rapport-ontwikkelingslanden.html

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[400] Response of the Ministry of Finance to the Eurodad Questionnaire.

[401] Minister of Finance, 'Beantwoording Kamervragen van de leden Nijboer en Groot (beide PvdA) over de integriteit van de trustkantoren', available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2014/06/02/beantwoording-kamervragen-over-de-integriteit-van-trustkantoren/beantwoording-kamervragen-over-de-integriteit-van-trustkantoren.pdf

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[403] Ruud de Mooij, Michael Keen, Victoria Perry (IMF) *Taking a bite out of Apple? Fixing international corporate taxation,* 14 September 2014, available at http://www.voxeu.org/article/fixing-international-corporate-taxation

[404] De Nederlandsche Bank. (2013). *Ontwikkelingen van Nederlandse BFI's in 2011*, Statistisch Nieuwsbericht 30 January 2013, available at http://www.dnb.nl/nieuws/nieuwsoverzicht-en-archief/statistisch-nieuwsbericht/dnb284531.jsp

[405] The definition of a special financial institution is as follows: "Special Financial Institutions: resident enterprises or institutions, irrespective of their legal form, in which non-residents hold a direct or indirect participating interest through a shareholding or otherwise or exercise influence and whose objective is or whose business consists to a major extent, in combination with other domestic group companies, of 1. mainly holding assets and liabilities abroad and/or 2. transferring turnover consisting of royalty and licence income earned abroad to foreign group companies and/or; 3. generating turnover and expenses that are mainly associated with re-invoicing from and to foreign group companies" Source: Dutch Central Bank, Balance of Payments Reporting Instructions 2003, available at http://www.dnb.nl/en/statistics/eline-bb/application-forms/sfi/index.jsp

[406] De Nederlandsche Bank, 'Functies onvoldoende gescheiden bij trustkantoren', press release, 25 April 2014, available at http://www.dnb.nl/publicatie/publicaties-dnb/nieuwsbrieven/nieuwsbrief-trustkantoren/nieuwsbrief-trustkantoren-april-2014/dnb306898.jsp

[407] *Financieele Dagblad,* 'DNB pakt trustkantoren hard aan', 1 May 2014.

[408] Geer van Asbeck, 'Wij hebben een naam hoog te houden; Het Nederlandse Belastingparadijs en Soeharto's kinderen' in *NRC Handelsblad*, 22 July 1999, p. 10.

[409] *Volkskrant,* 'Oekraïnse elite volgt de Nederlandse belastingroute', 14 February 2014; *Volkskrant,* 'Ook zoon Janoekovitsj sluisde vermogen weg via Nederlandse belastingroute', 25 February 2014. See also Bloomberg, 5 May 2014, available at http://www.bloomberg.com/news/2014-05-05/russia-knows-europe-sanctions-ineffective-with-tax-havens.html

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[414] *BBC News*, 'Tax avoidance: Developing countries take on multinationals', 23 May 2013, available at http://www.bbc.com/news/business-22638153

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[418] Response of the Ministry of Finance to the Eurodad Questionnaire.

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SPIGTHOFF

Corporate Income Tax System in the Netherlands

National Corporate Income Tax Rate at a Glance

Corporate Income Tax Rate (%)	25.5
Capital Gains Tax Rate (%)	25.5
Branch Tax Rate (%)	25.5
Withholding Tax (%)	
Dividends	15
Interest	N.A.
Royalties	N.A.
Branch Remittance Tax	N.A.
Net Operating Losses (Years)	
Carryback	1
Carryforward	9

Outline of Dutch Corporate Tax System

Taxable Income

Dutch resident companies are subject to corporate income tax on their worldwide income. Furthermore, foreign companies, holding 5% or more in the issued share capital of a Dutch resident company could also become subject to Dutch corporate income tax on Dutch-source income. The latter only applies in case the corporate shareholder cannot benefit from any treaty protection.

Participation exemption

Double taxation is eliminated through the participation exemption. The following requirements need to be met in order to benefit from the participation exemption:

- The entity in which the participation is held must have a capital divided into shares;
- The shareholder should have an interest in the share capital of the entity of at least 5%, and;
- The entity in which the participation is held may not qualify as a low taxed portfolio investment participation.

With respect to the latter requirement, a participation is considered to be a low taxed portfolio investment company if the assets of the participation (directly or indirectly) consist for more than 50% of portfolio investments <u>and</u> the effective tax rate of the participation is less than 10%.

Furthermore, if an EU/EER or Dutch resident company holds 5% or more in the issued share capital of a Dutch resident company, under strict conditions no withholding tax will be levied upon dividends distributed to this qualifying shareholder. In all other cases, the double tax treaty applies with a maximum of 15%. This maximum rate thus also applies if no double tax treaty protection can be invoked.

Transfer Pricing Rules

The transfer pricing regulations stipulate that pricing between affiliated entities should be determined based on the at arm's length principle. Entities are considered affiliated if a company directly or indirectly participates in the board of, has a substantial control over or participates in another company.

Dutch taxpayers are obliged to keep records in their administration substantiating the at arm's length character of intercompany pricing agreements.

Anti-abuse provisions

Dutch corporate tax law contains anti-abuse provisions in respect of interest deductions on loans taken up by affiliated companies relating to certain transactions, such as capital contributions in other affiliated companies, acquisition, dividend distributions and repayments of capital.

Furthermore, limitations, other than in time, could apply with respect to the possibility to compensate net operating losses. Special attention should be drawn in case of change of ownership and in case of holding- or finance companies.

Thin Capitalization

The general thin-capitalization rules limit interest deduction for as far as the debt-to-equity ratio exceeds 3:1, for as far as the excessive part exceeds € 500.000. The applied debt and equity amounts are the annual average amounts. The limitation itself is limited to the sum of interest payments to related entities and interest income received form related companies.

Upon request, a Dutch taxpayer may under strict conditions opt to apply a group debt-to-equity ratio.

Foreign Tax Credit

An unilateral tax relief is granted to a Dutch company in case income is derived from a foreign permanent establishment or a permanent dependant representative. A Dutch company can deduct corporate income and withholding tax paid abroad as expenses in case no other double taxation relief can be applied.

Exempt Investment Company

Dutch investment companies that are ivolved in collective investment activities and have more than one shareholder can under circumstances apply for the Exempt Investment Company status ("EIC"). The company may solely invest in qualifying financial instruments such as shares and stocks.

As a consequence of this EIC status the return on portfolio investments will not be subject to corporate income tax and dividends distributed by the EIC are not be subject to withholding tax. As a consequence an EIC may not benefit from double tax treaty protection.

Fiscal Investment Company

Dutch investment companies may, under specific circumstances, also apply for the Fiscal Investment Company regime ("FIC"). The FIC is subject to 0% corporate income tax but has a yearly obligation to distribute its profits to the shareholders. These distributions are subject to withholding tax. FIC companies may benefit from double tax treaty protection.

Patent-box

Corporations liable to Dutch corporate income tax can opt for the so called patent-box if revenues are received from self developed patented intangible assets. In case the patent-box is applicable revenues received from intangible assets will be subject to 10% corporate income tax, rather than 25,5%. The 10% rate can only be applied to for a maximum of four times the production costs of the intangible assets.

Fiscal Unity

Upon request a domestic parent company that legally and economically holds at least 95% of a domestic subsidiary can be treated as a fiscal unity (tax consolidation). Foreign subsidiaries with a permanent establishment in the Netherlands can under specific circumstances be part of a fiscal unity as well.

If the fiscal unity is applied the parent company must file a consolidated tax return. Losses incurred by one company can be set off against profits generated by another company within the fiscal unity. Assets and liabilities can be transferred within the fiscal unity without being liable to corporate income tax, subject to a claw back in case the fiscal unity between the transferor and transferee is terminated.

Taxable Year

The tax year for a corporation is in principle the calendar year. The use of a different tax year is however possible, if allowed by the articles of association of the corporation. A corporate income tax return form will be issued by the tax authorities and must be filed within the deadline set by the tax authorities. A preliminary tax assessment may be imposed during the tax year. In case the final tax assessment is lower than the preliminary tax assessment a refund will be granted.

Functional currency

Upon request, a Dutch corporate income taxpayer may file its annual tax return in a functional currency. This is a welcome facility to avoid exchange rate result.

Value added Tax

Generally, a value added tax is imposed on goods and service provided at a rate of 19%. A lower rate of 6%, or 0% might apply for specific goods and / or services provided. Furthermore, certain goods and / or services are fully exempt.

A company is generally allowed to credit value added tax paid against its value added tax liability, if the company qualifies as an entrepreneur for Dutch VAT purposes.

Other taxes and stamp duties

No net worth tax applies. Further no capital duty or other duties are payable on capital contributions to a Dutch incorporated entity.

A 6% real estate transfer tax is levied upon the acquisition of legal title or economic ownership of real estate located in the Netherlands. The acquisition of an interest in a real estate company may also be subject to the same 6% real estate transfer tax.

Treaty Withholding Tax at a Glance

Please find below an overview of the treaty withholding tax rates. For completeness sake we note that the maximum Dutch dividend withholding tax rate is 15% and that the Netherlands do not impose withholding tax on interest- and royalty payments.

Countries	Dividends Individuals, Companies (%)	Qualifying companies[1] (%)	Interest (%)	Royalties (%)
Local rate	15	15	N.A.	N.A.
Albania	15	0/5	5/10	10
Argentina	15	10	12	3/5/10/15
Armenia	15	0/5	0/5	5
Aruba	15	5/7.5	0	0
Australia	15	15	10	10
Austria	15	5	0	0/10
Azerbaijan	15	15	0	0
Bahrain	10	0	0	0
Bangladesh	15	10	7.5/10	10
Barbados[2]	15	0	5	5
Belarus	15	0/5	5	3/5/10
Belgium	15	0/5	0/10	0
Bosnia and Herzegovina	15	5	0	0
Brazil	15	15	10/15	15/25
Bulgaria	15	5	0	0
Canada	15	5	0/10	0/10
China	10	10	10	10
Croatia	15	0	0	0
Czech Republic	10	0	0	5
Denmark	15	0	0	0
Egypt	15	0	12	12
Estonia	15	5	0/10	5/10
Finland	15	0	0	0
France	15	5	0/10	0
Ghana	10	5	8	8
Georgia	15	0/5	0	0
Germany	15	10	0	0
Greece	15	5	8/10	5/7
Hungary	15	5	0	0
Iceland	15	0	0	0
India	10/15	10/15	10/15	10/20

[1] In general the lower tax rate applies if the recipient is a company that owns at least 25% of the capital in the Dutch company. However, fulfilment of additional requirements can be demanded. This may vary depending on the treaty.
[2] The Dutch Ministry of Finance announced that an amendment to article 10 (Dividend article) of the income tax treaty between the Netherlands and Barbados signed on 28 November 2006 will be negotiated.

Indonesia	10	10	10	10
Ireland	15	0	0	0
Israel	15	5	10/15	5/10
Italy	15	5/10	10	5
Japan	15	5	10	10
Jordan	15	0/5	5	10
Kazakhstan	15	0/5	0/10	0
Korea	15	10	10/15	10/15
Kuwait	10	0	0	5
Kyrgyzstan	15	15	0	0
Latvia	15	5	10	5/10
Lithuania	15	5	10	5/10
Luxembourg	15	2.5	0/2.5/15	0
Macedonia	15	0	0	0
Malawi	-	-	0	0
Malaysia	15	0	10	8
Malta	15	5	10	0/10
Mexico	15	0/5	0/5/10/15	10
Moldova	15	0/5	5	2
Mongolia	15	0	0/10	0/5
Montenegro	15	5	0	10
Morocco	25	10	10/25	10
Netherlands Antilles	15	8.3	0	0
New Zeeland	15	15	10	10
Nigeria	15	12.5	12.5	12.5
Norway	15	0	0	0
Pakistan	20	10	10/15/20	5/15
Philippines	15	10	0/10/15	15
Poland	15	5	0/5	5
Portugal	10	0	10	10
Qatar	10	0	0	5
Romania	15	0/5	0	0
Russia	15	5	0	0
Serbia	15	5	0	10
Singapore	15	0	10	0
Slovak Republic	10	0	0	5
Slovenia	15	5	0/5	5
South Africa	15	5	10	0
Spain	15	5	10	6
Sri Lanka	15	10	5/10	10
Suriname	20	7.5/15	5/10	5/10
Sweden	15	0	0	0
Switzerland	15	0	5	0
Taiwan	10	10	0/10	10
Tajikistan	15	15	0	0
Thailand	25	5	10/25	5/15
Tunisia	20	0	7.5	7.5
Turkey	20	5	10/15	10
Turkmenistan	15	15	0	0
Uganda	5/15	0	0/10	10
Ukraine	15	0/5	0/2/10	0/10
United Arab Emirates	10	5	0	0
United Kingdom	15	5	0	0
United States	15	0/5	0	0

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Uzbekistan	15	0/5	0/10	0/10
Venezuela	10	0	5	5/7/10
Vietnam	15	5/7	7	5/10/15
Zambia	15	5	10	10
Zimbabwe	20	10	10	10

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Yahoo, Dell Swell Netherlands' $13 Trillion Tax Haven

by Jesse Drucker
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Jan. 23 (Bloomberg) -- Inside Reindert Dooves's home, a 17th-century, three-story converted warehouse along the Zaan canal in suburban Amsterdam, a 21st-century Internet giant is avoiding taxes.

The bookkeeper's home office doubles as the headquarters for a Yahoo! Inc. offshore unit. Through this sun-filled, white-walled room, Yahoo has taken advantage of the law to quietly funnel hundreds of millions of dollars in global profits to island subsidiaries, cutting its worldwide tax bill.

The Yahoo arrangement illustrates that the Netherlands, in the heart of a continent better known for social welfare than corporate welfare, has emerged as one of the most important tax havens for multinational companies. Now, as a deficit-strapped Europe raises retirement ages and taxes on the working class, the Netherlands' role as a $13 trillion relay station on the global tax-avoiding network is prompting a backlash.

The Dutch Parliament is scheduled to debate the fairness of its tax system today. Lawmakers from several parties, including members of the country's governing coalition, say they want to remove a stain on the nation's reputation.

"We should not be a tax haven," said Ed Groot, a parliament member from the Labour Party, which along with the People's Party for Freedom and Democracy took power in November. Both ruling parties are "fed up with these so called PO Box companies," he said. "If they go somewhere else we are not sorry at all because they spoil the name of Holland. Otherwise you can wait for retaliation measures and this we don't want."

War Declaration

Last month, the European Commission, the European Union's executive body, declared a war on tax avoidance and evasion, which it said costs the EU 1 trillion euros a year. The commission advised member states -- including the Netherlands -- to create tax-haven blacklists and adopt anti-abuse rules. It also recommended reforms that could undermine the lure of the Netherlands, and hurt a spinoff industry that has mushroomed in and around Amsterdam to abet tax avoidance.

Attracted by the Netherlands' lenient policies and extensive network of tax treaties, companies such as Yahoo, Google Inc., Merck & Co. and Dell Inc. have moved profits through the country. Using techniques with nicknames such as the "Dutch Sandwich," multinational companies routed 10.2 trillion euros in 2010 through 14,300 Dutch "special financial units," according to the Dutch Central Bank. Such units often only exist on paper, as is allowed by law.

'Harmful Role'

The EU's 27 member states had accumulated an annual 519.5 billion euro budget deficit as of the second quarter of 2012, according to Eurostat. In response, Spain is slashing teacher salaries and Greece is cutting funding for public hospitals and prescription drugs. The Netherlands had a deficit of 24.9 billion euros.

"Governments around the world have to cut budgets and at the same time multinational companies are avoiding taxes," said Arnold Merkies, a Dutch parliament member from the Socialist Party.

Merkies recently sent questions to the state secretary for finance about the Netherlands' role in enabling a tax-avoidance strategy used by Google, after Bloomberg News reported in December that the company had funneled almost $10 billion through a Dutch shell company en route to Bermuda in 2011. The move cut the company's worldwide tax bill by $2 billion that year.

"We connect the tax havens here," Merkies said. "We have a harmful role in the world and have a responsibility toward the rest of the world."

OECD Proposal

Profit shifting into tax havens by corporations costs the U.S. $90 billion a year, according to Kimberly Clausing, an economics professor at Reed College in Portland, Oregon. The U.S. faces a projected budget deficit of almost $1 trillion in fiscal 2013.

The Paris-based Organization for Economic Cooperation and Development -- which sets standards for how multinational companies allocate taxable income around the world -- is also tackling the issue. It's discussing a proposal that could make it harder for companies to move profits through the Netherlands into island tax havens.

Anger over corporate tax avoidance is spreading throughout Europe. On Jan. 31, the U.K. Parliament is scheduled to hold its second hearing on the issue. At a November hearing, members of Parliament quizzed executives from Google and Starbucks Corp. about their use of Netherlands subsidiaries to cut taxes.

‘Applicable Taxes’

Yahoo’s offshore operations cut its taxes by $42.8 million in 2011, U.S. securities filings show. Last February, the company reported a dispute with the U.S. Internal Revenue Service regarding its overseas arrangements. It didn’t disclose the amount at stake.

“Yahoo! pays all applicable taxes in every jurisdiction where we operate,” said Sara Gorman, a spokeswoman for the company, based in Sunnyvale, California. She didn’t respond to a detailed list of questions about Yahoo’s Dutch tax-cutting arrangements.

By routing profits through the Netherlands en route to island havens, companies receive an important benefit: They generally don’t have to pay taxes on payments leaving or entering the country.

Technology and pharmaceutical companies often seek to reduce their tax bills by paying royalties to license patent rights from offshore subsidiaries.

Withholding Tax

Such transactions could incur a cost: many developed nations impose a withholding tax -- sometimes as high as 33 percent -- on royalties leaving for zero-tax locales with which they don’t have tax treaties, such as Bermuda and the Cayman Islands. By contrast, the Netherlands doesn’t impose withholding taxes on royalties leaving the country, regardless of their destination.

Countries often either eliminate or reduce those taxes when such payments head to a treaty partner. The extensive Dutch treaty network thus protects payments on the way into the country as well.

The Netherlands’ role in facilitating tax avoidance began in force in the late 1970s, when it started so-called advance-pricing agreements to attract multinational companies, said Francis Weyzig, chair of Tax Justice Network Europe, who is finishing a Ph.D. thesis at Radboud University on Dutch tax policy.

Under such agreements, multinational companies agree to leave a tiny amount of income in the Netherlands to be taxed in exchange for being permitted to route profits through the country. This remainder left for the revenue authorities in the Netherlands is known to tax planners as “the Dutch Turn.”

‘All Upfront’

Yahoo, for instance, has an agreement to pay taxes equal to about 1.35 percent of the unit’s total revenue, said the soft-spoken Dooves, who has run the Yahoo unit since 2007. He previously worked as treasurer for a Dutch packaging company for almost 15 years.

“The benefit of the Netherlands is that you know all upfront,” Dooves said in his high-ceilinged home office in the town of Koog aan de Zaan, overlooking a placid commercial street with a scooter store, bakery and Thai restaurant.

Records show that the Yahoo unit reported Dutch income taxes in 2009 of 1.28 million euros -- out of the 101.5 million euros in royalties it funneled through the subsidiary that year.

That’s a small price to pay. In return, Yahoo can move profits to virtually any destination without paying a withholding tax.

Nothing Illegal

Tax avoidance has fostered a sizable industry in the Netherlands of so-called trust firms, generating about 1 billion euros in annual tax revenues and about 3,500 jobs, according to a 2009 study by SEO Economic Research. Local companies such as Intertrust Group Holding SA and TMF Group set up high-priced mailboxes for multinational companies, often by providing them with an address at their gleaming, high-rise office buildings near the Amstel River and Amsterdam’s massive soccer arena. Trust firms also provide non tax-related services, such as bookkeeping and payroll administration.

Jan Reint de Vos van Steenwijk, managing director of TMF Holding BV, said he expects the Dutch government to wait until the release this spring of a research report on the economic impact of the corporate services industry before taking any action.

“The benefits to Holland are employment, high-level tax advisers,” said Jos Peters, tax director for Merlyn Tax Solutions & Royalty Conduit Services in Rotterdam. “They come to us and why should we refuse this? We are not doing anything illegal or immoral.”

Blackstone Purchase

In December, Blackstone Group LP, the New York-based private equity giant, announced it would buy one of the biggest such firms, Intertrust, for $833 million, according to a person with knowledge of the deal.

Merck, the maker of diabetes drug Januvia and asthma treatment Singulair, lists 54 subsidiaries in the Netherlands. From 2002 to 2010 the company routed more than 7 billion euros in royalties, mostly from European sales, to Bermuda via an Amsterdam subsidiary called Crosswinds BV.

The unit -- which had no employees -- was named Crosswinds to conjure the image of royalties crossing in and out "like wind blowing," said a person familiar with the matter.

In late 2010, after Merck acquired Schering Plough Corp., it stopped using Crosswinds to route royalties. Merck cut $1.9 billion off its tax bill that year because of its offshore arrangements, securities filings show.

Ronald Rogers, a spokesman for Merck, based in Whitehouse Station, New Jersey, declined to discuss its tax strategies.

"Merck files its income tax returns in accordance with all applicable laws and regulations," Rogers said.

Double Non-Taxation

One purpose of tax treaties is to prevent companies from paying tax twice in two different countries on the same profit.

Dell, however, uses the Netherlands to avoid paying income taxes in either place. The world's third-largest personal-computer maker has avoided about $4 billion in income taxes since 2004, thanks partly to its use of a Dutch unit.

The subsidiary, called Dell Global BV, paid income taxes at a rate of 1/10 of 1 percent on profits of about $2 billion in 2011, the most recent year for which records are available. That means the unit took credit for almost three quarters of Dell's worldwide income. That subsidiary had no actual employees in the Netherlands as of 2009, filings show.

The Dutch company conducts its business through a branch in Singapore, where it designs and sells laptops and other equipment for the U.S., European and Asian markets.

Singapore Business

For tax purposes, Dell says the unit's profit is generated in Singapore, where it obtained an income-tax holiday in 2004. Although the company pays almost no income taxes in Singapore, the Netherlands doesn't impose any significant income taxes either because "avoidance of double taxation can be claimed with respect to the" profit earned in Singapore, according to the Dutch subsidiary's 2011 annual report.

"You don't want companies to pay double tax but you also don't want them to not pay any tax at all," said Merkies, the Dutch parliament member.

The U.S. Internal Revenue Service is seeking back taxes avoided through Dell's intra-company arrangements, according to a company securities filing. Dell is contesting the IRS's proposed assessment. While the company didn't disclose the amount in dispute, it said an unfavorable outcome could have a "material impact" on its financial position.

Cash Overseas

One result of its tax avoidance: Substantially all of Dell's $14.2 billion in cash and cash equivalents is overseas, according to a company filing in December. It may now have to tap that cash pile as it goes private, potentially subjecting the money to U.S. taxes.

"We've always been clear that Dell has a responsibility to pay its fair share of taxes," said Jess Blackburn, a spokesman for Dell, based in Round Rock, Texas. "We operate according to all applicable laws and regulations and in accordance with the letter and spirit of those laws." He declined to respond to a detailed list of questions about Dell's tax arrangements.

Last month, the European Commission recommended that EU members require in their treaties that income be subject to tax in one country before being exempt in another. That could prevent companies such as Dell from avoiding taxes in two countries simultaneously.

Another EU proposal to combat tax-avoidance strategies has moved slowly through the bureaucracy since 2004. It would allocate multinational companies' taxable profits into various countries based on factors such as actual sales or number of employees there.

'Waiting for Godot'

Whether the EU can implement such a change remains doubtful. Under its rules, the move requires unanimous approval from the 27 member states, including the Netherlands. At a December news conference in Brussels announcing the plan to combat tax avoidance, Algirdas Semeta, the EC's commissioner for taxation, avoided answering a Dutch journalist's question about whether the commission would target the Netherlands.

"I regard the Netherlands as the central European hub in corporate tax avoidance," said Sven Giegold, a member of the EU parliament from Germany's Green Party. "The main challenge is you need consensus within the EU, and waiting for consensus on tax matters is like waiting for Godot."

Last year, representatives from the Netherlands fought at least two internal EU proposals to clamp down on tax avoidance techniques, according to a person familiar with the matter.

Other European countries are competing to attract multinational companies with tax inducements. Luxembourg has imitated the Dutch system of conduit companies and advance tax rulings, and Switzerland offers long-term tax holidays and other incentives.

Swiss Generosity

Yahoo is taking advantage of the Swiss tax generosity: In late 2009, the company began shifting profits from its European sales into a small subsidiary in Rolle, Switzerland, a picturesque town 25 miles north of Geneva at the foot of the Alps.

Through Yahoo! Netherlands BV, headquartered at Dooves's suburban home, Yahoo has also routed European and Asian revenues from Web ads to a subsidiary incorporated in Ireland that claims its residency in the tax-friendly Cayman Islands, according to filings.

In 2009, for example, the Dutch unit collected 101.5 million euros in royalties from around the world -- and promptly paid out 98.7 percent of that to the Cayman subsidiary, records show. If those payments went directly from, say, Yahoo's France sales arm to the Cayman unit, they could trigger a 33.3 percent withholding tax in France.

'Beneficial Owner'

In 2011, a Yahoo French sales subsidiary reported 66 million euros of revenue, yet paid just 462,665 euros in income taxes, records show.

A typical Dutch tax avoidance arrangement may violate the tax treaties of various countries, said Peters, the Rotterdam tax adviser. Only a small percentage of royalties stays in the Netherlands in these transactions, records show, yet treaties typically require that, in order to avoid withholding tax, the Netherlands unit must be the "beneficial owner."

"It's clearly visible in the public accounts in Holland that these Dutch entities are not the beneficial owners," said Peters, speaking generally about such arrangements.

Yahoo recently introduced another circuitous path through the Netherlands to cut the taxes on profits from its Asian sales: Royalties travel from Singapore, through Dooves's house, to another subsidiary in Mauritius, a tax-friendly island off the southeast coast of Africa.

In 2011, the Dutch unit collected 110 million euros from Asian sales, according to Dooves -- before paying royalties to the Mauritius subsidiary.

On paper, the cash remains with the Dutch subsidiary, which uses it to finance operations throughout the world outside the U.S., said Dooves. In reality, much of it sits in a HSBC Holdings Plc bank account in London, he said.