

Dutch policy to combat tax avoidance and evasion

The Netherlands has an open economy and we would like to have an attractive investment climate for businesses with real activities. However, the Netherlands is acutely aware of the risk of such an open economy, meaning that the Netherlands can be used in tax structures with the purpose to avoid taxation. Therefore, one of our key policy priorities is combating tax avoidance with a view to prevent the eroding of the tax base of other countries. Furthermore, we are taking unilateral measures and we are constructively engaged in international (e.g., EU and OECD/Inclusive Framework) discussions on further coordinated action against tax avoidance.

Government policy to combat tax avoidance and evasion rests on two pillars:

1. Protection of the tax base
2. Measures to promote transparency and integrity.

First pillar: Protection of the tax base

- The Netherlands introduced a domestic withholding tax against a rate of 21.7% on interest and royalty payments to low-tax jurisdictions. The withholding tax applies as of 2021 on payments to jurisdictions with a corporate tax rate lower than 9% and jurisdictions which are listed on the EU list for non-cooperative jurisdictions for tax purposes.
- The Netherlands is amending its tax treaties with a view to bring the tax treaties in line with the latest standard on anti-abuse measures, and by doing so, making the Netherlands less attractive for undesirable conduit arrangements.
- To facilitate an effective process for amending its tax treaties, the Netherlands has signed-up practically all of its treaties for amendment through the Multilateral Instrument developed by the OECD / Inclusive Framework. The MLI measures have become effective in relation to the first batch of treaties on 1 January 2020.
- Furthermore, the Netherlands has implemented the measures from the first and second EU Anti-Tax Avoidance Directives (ATAD1 and ATAD2). The Netherlands has chosen to implement some of these measures even more stringent than required under the minimum standards of the Directives. The rules include
 - the earnings stripping measure, limiting the deductibility of interest payable by a taxpayer.
 - the controlled foreign company (CFC) measure, preventing companies from avoiding taxation by shifting mobile assets to a CFC in a low-tax jurisdiction, and
 - measures regarding hybrid mismatches, preventing possible tax advantages which could arise as a result of differences between tax systems.
- Moreover, various other domestic rules were introduced in order to prevent abusive structure, e.g., the exchange of information in case certain Dutch tax payers do not have a sufficient amount of substance in the Netherlands.
- In addition, a list of other initiatives and legislation is currently prepared to further tighten the risk on base erosion.
- A relevant one to mention in this respect is the limitation of the liquidation loss rules which will be applied from the year 2021.

Second pillar: Promoting transparency and integrity

- Within the EU several directives have been implemented regarding the automatic exchange of tax information:
 - Bank accounts,
 - Tax rulings, and
 - Country by Country reporting.
- This means that EU member states will automatically be informed if, for instance, tax rulings are concluded which have implications for those member states.
- By doing so other EU member states are aware of information regarding cross border bank accounts, tax rulings and paid tax obligations by multinationals in the Netherlands, and can react appropriately by using the implemented anti abuse measures in the ATAD directives, with a view to protecting their tax base.
- Furthermore, from 1 July 2019 stricter requirements apply regarding the issuance of a tax ruling with a view ensuring no tax avoidance can take place
- Finally, the Netherlands supports the proposed directive (under discussion in Brussels) on public country-by-country reporting, basically meaning disclosure of the tax obligations of the multinationals.

- By applying all these measures the Netherlands would like to stress that we are aware of the risk of being used in tax schemes.
- Therefore, the Netherlands has implemented far reaching anti abuse measures with a view to combating any possible facilitation on tax avoidance or abuse.