

Taxation and Investment in Netherlands 2015

Reach, relevance and reliability



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1.0 Investment climate

1.1 Business environment

The Netherlands is a constitutional monarchy with a bicameral parliament, the *Staten Generaal*. Legislative power is vested in the parliament, which is comprised of an upper and lower house. Executive power is exercised by the crown and the cabinet, which must have the support of a majority in the parliament. Judicial power is vested in the courts and tribunals.

The Netherlands is a member of the European Union (EU), the European Economic Area (EEA), the World Trade Organization and the OECD. As an EU member state, it is required to comply with all EU directives and regulations. The Netherlands follows EU regulations on trade treaties, import regulations, customs duties, agricultural agreements, import quotas, rules of origin and other trade regulations.

The Netherlands has an advanced economy, which combines high income per head with a fairly even income distribution. Imports and exports of goods and services account for about 70% of nominal GDP. Rotterdam is Europe's largest port. The country's geographical position at a hub of Europe's transport system and the small size of its domestic market have made the Dutch economy one of the most open and outward-looking in the world. The scarcity of natural resources and raw materials has turned the country into a processing economy, with the manufacturing sector dependent on imported materials.

The Netherlands exports many of the products it imports, often after processing. Major export industries include oil and related products, natural gas, chemicals, raw plastics, electronics and related components, office machines, telecommunications devices, pharmaceuticals and fruits and vegetables. Major import industries are similar, but with the addition of clothing, paper, cartons, iron and steel.

The majority of Dutch exports are directed to other EU member states, followed by Asia.

Price controls

The Price Control Act of 1961 gives the government substantial power to control prices, which it occasionally has exercised in times of high inflation. The act provides that a decree fixing prices remains effective for only one year before being revised or withdrawn, and it covers only Dutch-made goods supplied to the home market. Few sectors have had price controls since the 1980s.

Intellectual property

The Netherlands offers legal recognition and protection to patents, trademarks, copyrights, industrial designs and models. The Patent Center deals with protecting the knowledge and the distribution of patent information in the Netherlands. The Benelux Office for Intellectual Property handles trademark and industrial design registration and information.

The primary benefit of securing intellectual property rights in the Netherlands is access to the court in The Hague, which is equipped to address the enforcement of patent rights. District courts throughout the country deal with trademark and design infringements, but cases must be adjudicated in the place where the infringement took place.

1.2 Currency

The currency in the Netherlands is the euro (EUR).

Countries participating in the Economic and Monetary Union		
Austria	Greece	Malta
Belgium	Ireland	Netherlands
Cyprus	Italy	Portugal
Estonia	Latvia	Slovakia
Finland	Lithuania*	Slovenia
France	Luxembourg	Spain
Germany		

* As from 1 January 2015

1.3 Banking and financing

The most important financial institutions are domestic “universal” banks (i.e. banks that follow the “Continental,” as opposed to the “Anglo-Saxon,” tradition of no separation between banking and securities functions). Through their affiliates and close ties with large institutional investors, universal banks can provide all types of financing. Savings banks and agricultural credit banks also provide a large amount of credit. The distinction between banks has largely disappeared, as all the major groupings operate to varying degrees as universal banks, offering a wide range of retail and wholesale services and financial products.

There are no legal restrictions on the lending practices of financial institutions.

The central bank is De Nederlandsche Bank (DNB), which is responsible for safeguarding financial stability. The DNB, together with the Authority for Financial Markets (AFM), supervises financial institutions and the financial sector.

Amsterdam is the main financial center.

1.4 Foreign investment

The Netherlands has a strong international orientation and a liberal policy toward foreign investment. There are no regulatory restrictions on foreign direct investment. Foreign companies may hold 100% of most Dutch enterprises; freely repatriate capital, profits, royalties and fees; borrow locally and on international markets; and make all types of trade-related payment. There have been substantial flows of foreign investment both into and out of the Netherlands.

The Information Office for International Tax Services supplies information on all types of taxation in the Netherlands. Foreign investors may be referred to the tax inspectorate in Rotterdam, which handles many of the advance ruling requests. The Rotterdam office has sole responsibility for the taxation of all foreign investments valued at more than EUR 4.5 million.

Companies must obtain a concession permit from the Ministry of Economic Affairs for oil and gas exploration on the mainland or in the Dutch sector of the North Sea.

1.5 Tax incentives

Most government aid for establishing a company is available through regional development schemes. These are operated by the North Netherlands Co-operative, the East Netherlands Development Agency and several provincial development corporations. Investors may consult the Ministry of Economic Affairs and its unit, the Netherlands Foreign Investment Agency (NFIA), for investment information and information on regional subsidies. An agency of the Ministry of Economic Affairs coordinates and administers the government’s subsidies for technology development, energy efficiency, environmental protection, international cooperation and exports.

Various types of aid are available, including direct subsidies, loans and grants for environmental and R&D projects, employment premiums for investments that create jobs, interest subsidies, equity participation from regional development corporations, export assistance and financing, training grants and assistance in obtaining EU loans. Aid packages may provide help in finding a business site, settling pre-establishment negotiations and developing joint research projects.

The “innovation box” regime provides for a reduction of corporate income tax rates on profits derived from intellectual property, including royalty income. Under the innovation box, profits derived from intellectual property developed by a company, and for which a patent is granted, are taxed at an effective rate of 5% to the extent they exceed a threshold equal to the sum of the costs incurred to develop the intellectual property; profits up to this threshold are taxed at the regular corporate income tax rate. Losses incurred on the utilization of the intellectual property are treated the same way as development costs. The scope of the innovation box was extended in 2008 to intellectual property that does not qualify for a legal patent (provided the tax authorities issue an R&D declaration) to make the incentive more attractive for small and medium-sized enterprises, but the measure also applies to large companies.

Additionally, a research and development allowance (RDA) applies for costs and expenditure directly related to a taxpayer’s R&D activities. For 2015, the RDA percentage is 60% of R&D costs and expenditure (except wage costs). Assuming a marginal tax rate of 25%, the net benefit will be 15%.

Other incentives include a special tonnage tax regime that applies to shipping companies, and a 0% tax liability or an exemption provided for qualifying investment funds.

Perhaps the most significant incentive in the Netherlands for multinational firms is the willingness of the Dutch tax authorities to provide advance tax rulings on proposed transactions. These rulings attract international investors by providing certainty on tax structures, and companies are allowed to negotiate multi-year rulings.

1.6 Exchange controls

There are no exchange controls and few restrictions on foreign investment in the Netherlands, but some reporting requirements apply. All transactions between residents and nonresidents or foreign institutions exceeding EUR 50,000 must be reported to the central bank for statistical purposes. Payments between the Netherlands and other countries may be made in any currency.

Foreign companies are not subject to any special restrictions in the Dutch market and, under EU rules, firms from EU/EEA countries must receive national treatment.

Residents may hold foreign currency accounts both locally and abroad. Authorization is not necessary for the former; for the latter, the DNB must be notified for statistical purposes. Nonresidents may hold euro and foreign currency accounts. Residents may make unlimited payments abroad through any authorized bank under a registration mechanism operated by the central bank. Under this system, the central bank’s balance-of-payments department receives notice of all international settlements, although it is not necessary to complete forms for payments of EUR 50,000 or less.

2.0 Setting up a business

2.1 Principal forms of business entity

The two most common forms of company structure in the Netherlands are the privately owned company (*besloten vennootschap*, or BV) and the public company or corporation (*naamloze vennootschap*, or NV). The liability of shareholders in a BV is limited to their paid-up capital contributions. A BV is an independent legal entity that may enter into contracts, sue and be sued. Shares may be transferred, but only under conditions set out in the articles of association. Shares may not be offered for public subscription or trading. The company law relating to BVs was modernized in 2012, resulting in a flexible law that accommodates a wide array of commercial wishes of the business world ("Flex-BV"). Firms that want to raise capital publicly must adopt the NV form.

Other business forms include the general partnership (*vennootschap onder firma*, or VOF), the traditional form of partnership where all partners are jointly liable for the firm's debts and obligations. The limited partnership (*commanditaire vennootschap*, or CV) is similar to the VOF, but one or more partners have limited liability.

A foreign firm may set up a branch, which is not a separate legal entity.

Companies from two or more EU member states are permitted to merge to form a *Societas Europaea* (European Company, or SE), or create an SE holding company or branch. A company with the legal form of an NV may convert into an SE without liquidating. One advantage of an SE is that it is possible to move headquarters to another EU member state with minimal formalities.

Businesses (and in some cases individuals) can establish a European Economic Interest Grouping (EEIG, or EESV in the Netherlands). Companies (even non-EU companies, if the vehicle is a subsidiary in an EU country) that want to start working with a Dutch company but do not want to commit to a formal joint venture may set up an EEIG. The grouping functions are much like those of a partnership, in that profits or losses are taxable only in the hands of the members. At least two of the companies involved must be from different EU member states.

Formalities for setting up a company

A new business must be entered into the Commercial Registry with the local chamber of commerce and must provide a copy of its constitution document in Dutch or English, which includes the name, trade name, purpose and registered address of the firm. It also must give a statement of its authorized, issued and paid-up share capital, and annually file any changes to issued and paid-up capital. The names, addresses, nationalities and other personal details of the company founders and the managing and supervisory directors must be provided. A single shareholder of a BV or an NV must provide personal details. Each managing director's authority to represent the firm in dealings with third parties should be clearly stated.

Individuals or companies forming a BV must sign the articles of incorporation before a public notary (known as a civil law notary in the Netherlands). The articles of incorporation must be written in Dutch and set out the firm's aims, objections and internal regulations, which may include rules for the transfer of shares. The notary will initiate checks to ensure that the chosen name of the company is valid.

The incorporation of a BV can be effected in one day. Before a company is incorporated, it may operate on a provisional basis, but it must signify this by adding the initials "i.o." to the BV after its name to signify the firm is "in formation." The management of a BV i.o. sometimes may be held personally liable for any problems.

A "large enterprise," also known as a *structuurvennootschap* (SV), must establish a supervisory board that approves certain decisions of the management board. These include changes in share and loan capital, issues of depositary receipts, mergers and takeovers, significant investments, changes in the articles of incorporation, proposals to dissolve the company, radical changes in the number of employees or working conditions and the filing of a petition for bankruptcy or the suspension of payments. Shareholders in SVs may vote on approval of supervisory board

members, executive remuneration packages and major joint ventures or divestments, and approve the annual accounts.

To avoid discouraging foreign investment in the Netherlands, foreign-owned subsidiaries are partially exempt from the SV requirements. They must have a supervisory board with a right to approve important management decisions, but, unlike their Dutch counterparts, these boards do not have the authority to hire or dismiss managing directors. To obtain this partial exemption, the majority of the firm's employees must be located outside the Netherlands. A subsidiary of a Dutch parent company is excluded from the rules if the parent already has a supervisory board.

A corporate governance code (codified in part in the Financial Regulation Act) provides shareholders with more control over management, tightens internal accounting standards and reduces possible conflicts of interest among management. Companies listed on the stock market are required to explain to shareholders how the code is implemented or why they cannot meet any particular requirements. The government has formed an independent commission to monitor adherence to the code.

Forms of entity

Requirements of a BV and NV

Capital: *Both:* Capital may be supplied in cash or in kind. *BV:* The minimum issued capital is EUR 0.01; there is no minimum authorized capital requirement. The minimum issued capital does not have to be paid up upon formation. *NV:* The minimum paid-up capital and minimum authorized capital are EUR 45,000. The authorized capital must be paid up to at least the legal minimum; 20% of the authorized capital must be issued. An NV must pay up at least the minimum issued capital upon formation.

Founders, shareholders: *Both:* Only one founder is required; it also is possible to have only one shareholder after formation of the company. There are no nationality or residence requirements.

Board of directors: *Both:* The managing directors need not be Dutch nationals or residents, or shareholders in the company. Banks and insurance firms must have one board member with Dutch banking or insurance experience. A corporate body may act as a managing director.

Management: *Both:* Dutch law is flexible, with each company allowed to adopt whatever management structure suits its operation. This usually includes a management board, a shareholders' committee comprised of priority shareholders and a works council. There are no restrictions on nationality or numbers, although these usually are stipulated in the company's articles of association. The shareholders and, if applicable, the supervisory board, appoint the managing directors of the board. Foreign-controlled firms retain the right to appoint management.

A supervisory board sometimes is added but is not obligatory unless the company is an SV. An SV is a large enterprise with more than EUR 16 million in issued capital and reserves, and with more than 100 employees in the Netherlands. Management resolutions on important matters require supervisory board approval.

Companies with at least 50 employees must have a properly constituted works council. Its representatives are entitled to participate in discussions and to give advice on important company matters, which include proposed mergers and acquisitions, mass dismissals and company closures.

Types of share: *BV:* Each share must have a par or nominal value, which may be denominated in a currency other than the euro. A BV may acquire its own shares; such shares, in principle, have no voting or dividend rights. A BV may not issue bearer shares. All shareholdings must be in registered form and recorded in its share register. The types of shares are similar to those in other countries. Ordinary shares are most common, but there are preferred shares, which may or may not have cumulative rights. Fractional shares, subshares, shares with no voting rights and shares with no profit rights also are permitted. Priority shares sometimes are issued, although these are not customary in foreign-owned companies. *NV:* An NV may issue registered and bearer shares, except that shares may not be in bearer form until they are fully paid up. In cooperation with the issuing NV, a trustee also may issue registered or bearer trust certificates. An NV is prohibited from having shares with no voting rights and shares with no profit rights.

Control: *Both:* Shares of equal value usually have equal voting rights, and those of a different value usually have proportionate voting rights. Dutch companies sometimes restrict votes per

shareholder under certain conditions, although the articles may not deprive a shareholder of the right to at least one vote (except for shares with no voting rights). A resolution normally requires a simple majority of the votes, although the articles may specify a larger majority for special resolutions. The appointment of a managing director by nomination is nonbinding if a resolution as such is taken by two-thirds of the votes cast at a meeting representing more than half the subscribed shares (this does not apply if the supervisory board appoints the managing director). When the resolution concerns the dismissal of a managing director, the majority required may not exceed two-thirds of the votes cast at a meeting representing more than one-half of the subscribed shares.

Shareholders may call special meetings; holders of depositary receipts may attend and speak, but they may not vote. A special general meeting can be called by obtaining the written consent of the holders of at least 1% of the subscribed capital. A shareholder with a personal interest in a contract with the company is permitted to vote on any decisions concerning that contract.

Taxes and fees: *Both:* The capital tax was abolished in 2006 and the annual contribution charged by the chamber of commerce was abolished in 2013. *BV:* A civil law notary charges a fee, usually around EUR 1,200, to draw up and execute the articles of incorporation for a BV. *NV:* The fee increases for an NV or if there are any issues that require much correspondence, translation or discussion.

Branch of a foreign corporation

Branches are not often used in the Netherlands. When a branch does exist, it usually is a stepping-stone to a BV or an NV. A branch of a foreign firm is subject to similar Commercial Registry requirements as a foreign-owned Dutch BV or NV. The information must include the name and address of the foreign enterprise, its constitution documents (in Dutch, English, French or German), the amount of capital and the names and addresses of the directors. The firm's Dutch address and statement of purpose are required. If the head office of the branch has to publish its financial accounts in its country of origin, it must publish these accounts in the Netherlands (unless an exemption from publication applies). The cost to establish a branch is minimal; the only official cost may be the cost of translating documents. Once formed, a branch does not need to comply with any particular regulations.

The speedy establishment process and relative privacy of a branch, compared with a BV or NV, may prove useful in the early stages of conducting business in the Netherlands. Nevertheless, foreign-owned companies tend to prefer to operate as a BV or an NV. One tax advantage for firms from outside the EU looking to establish a branch is that branches are not subject to withholding tax on dividends paid to the foreign parent company (the Netherlands' dividend withholding tax rate is 15%, unless reduced by tax treaty). If certain conditions are satisfied, it may be possible—with the permission of the Ministry of Finance—to convert a branch into a subsidiary company without giving rise to tax disadvantages.

2.2 Regulation of business

Mergers and acquisitions

EU and Dutch authorities share the supervision of mergers.

The EU generally has authority over larger combinations and those that affect several EU countries. Under its merger control regulation, the EU has jurisdiction in two situations:

- Where the combined aggregate worldwide turnover of all the undertakings concerned is more than EUR 5 billion, and the aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR 250 million (unless each of the undertakings concerned achieves more than two-thirds of its aggregate EU-wide turnover in a single member state); and
- Where the aggregate global turnover of the companies concerned exceeds EUR 2.5 billion for all businesses involved, aggregate global turnover in each of at least three member states is more than EUR 100 million, aggregate turnover in each of these three member states of at least two undertakings is more than EUR 25 million and aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR 100 million, unless

each achieves more than two-thirds of its aggregate EU-wide turnover within one and the same state.

In cases where a merger would not normally fall within the European Commission's purview, the companies may request the Commission's review if they are obliged to notify three or more EU member states. The Commission proceeds as a "one-stop shop" only if none of the relevant member states objects within 15 days.

The Netherlands Authority for Consumers & Markets (ACM) must be notified of mergers, takeovers and joint ventures. Only firms with a combined annual global turnover of at least EUR 113.45 million and at least EUR 30 million in annual sales in the Netherlands must notify the ACM of mergers and takeovers. For financial and credit institutions, the criterion is adapted to at least one-tenth of fixed and current assets exceeding the sales threshold of EUR 113.45 million, with EUR 22.69 million in tangible fixed assets held in the Netherlands. For insurance companies, notification is required if at least EUR 4.54 million in annual gross premiums are from Dutch residents. Failure to properly notify the ACM of the terms of a proposed merger can lead to a fine.

Within four weeks of notification, the ACM investigates whether the concentration could result in a dominant position that would significantly restrict competition in the Dutch market or part of the market. If the ACM decides that the merger would not result in a dominant position or restrict competition, it grants a license for the combination to proceed. It can attach operating or divestment conditions to a license. The ACM must decide within 13 weeks whether to issue a license or further investigate the merger. Other rules apply to public bids or exchange bids to acquire share capital in a company.

Companies that wish to challenge an ACM ruling can request a second ruling from the Ministry of Economic Affairs, which has eight weeks to decide. The district court of Rotterdam also hears ACM ruling disputes. Firms are not required to file a complaint with the ACM or the ministry before seeking a court decision but they must file the appeal within six weeks of the ACM's ruling.

The Social Economic Council (SER) implements the Takeover and Mergers Code of 1970, which is designed to protect the interests of shareholders and employees. It requires companies to consult trade unions and employees on merger or takeover plans, to avoid negative effects on personnel. Consultation is required for all companies with at least 50 employees. Foreign parties to takeovers and mergers in the Netherlands also must comply with the SER code. Although the SER cannot penalize firms for not adhering to the code, shareholders and employees can challenge management decisions in court, with a special companies' chamber available at the district court in Amsterdam. A merger, acquisition or joint venture is often suspended pending the result of a court-appointed investigation into management decisions and shareholder interests relating to the transaction.

Monopolies and restraint of trade

The Competition Act of 1998 prohibits agreements or acts between enterprises that infringe, limit or falsify competition, but the law does not prohibit monopolies or market dominance per se. However, the abuse of a dominant market position is prohibited. A dominant position is defined as the ability of one or more enterprises to act independently of customers, suppliers, competitors or end-users in a way that prevents effective competition. One or more companies may come under scrutiny for a dominant market position if the relevant market share exceeds 30%. Most investigations by the Authority for Consumers & Markets are the result of competitor complaints.

The Competition Act prohibits cartels, defined as agreements between companies that limit competition. EU Directive 1/2003/EC on modernizing cartel rules took effect in 2004. Cooperation between companies previously required a permit from the ACM exempting them from the ban on cartels, but companies now are allowed to assess themselves to determine if their cooperation violates the law. To facilitate self-regulation among enterprises, the ACM has published guidelines on how various forms of commercial cooperation are viewed under the Competition Act. Violations of the act may lead to a fine of EUR 450,000 or 10% of a company's annual turnover, whichever is greater.

2.3 Accounting, filing and auditing requirements

For large BVs and NVs, annual reports containing a balance sheet and a profit and loss statement that compare results from previous years must be presented to shareholders and published within

eight days of adoption. Financial accounts must be audited by a registered outside accountant. Details of production need not be published, but data on such matters as output and exports must be supplied on a confidential basis to the Central Bureau of Statistics.

Specified “closed” NVs (whose shares are 100% privately owned) that are subsidiaries may be exempt from publishing annual reports if the results of their activities are included in a consolidated report issued by the parent company, which is expected to assume full responsibility for their accounts. NVs that raise capital publicly must publish remuneration, including share options and bonuses to management and supervisory board members, in their annual reports.

Medium-sized BVs or NVs meeting two out of three requirements (net turnover of EUR 8.8 million-EUR 35 million, a balance sheet total of EUR 4.4 million-EUR 17.5 million and 50-249 employees), must file an audited balance sheet, profit and loss statement, management summary and details on profit distributions with the chamber of commerce. Larger companies must provide details on subsidiaries and any special voting rights. An outside registered accountant must certify all figures. Smaller BVs or NVs need only publish a balance sheet and an explanatory note. All BVs or NVs must give their works councils a balance sheet showing total fixed assets, net assets, provisions, current and long-term investments and long- and short-term obligations, along with comparable figures for the previous year and a statement of the net profit or losses before distributions.

Companies registered in the Netherlands are regulated principally under Book 2 of the Netherlands Civil Code. The provisions relating to annual reporting and auditing are based largely on EU directives and are incorporated in Part 9 of the Civil Code. These rules apply to legal entities such as NVs, BVs and limited and general partnerships where all partners that are fully liable to creditors of the partnership for partnership debts are capital companies under foreign law. Part 9 covers annual accounts, the directors' report and other information, such as the auditors' opinion, the provisions of the articles of association governing profit appropriation, dividend proposals and information on events with material financial consequences taking place after the balance sheet date. Part 9 has provisions for both the annual accounts to be prepared and those to be published. The information to be published need not be the same in every case as that submitted to the company's own bodies. The information required to be published by small and medium-sized legal entities is less than that which must be included in their annual accounts.

Legal entities can prepare financial statements in accordance with IFRS or Dutch generally accepted accounting principles (GAAP). Dutch GAAP is the term used to indicate the whole body of authoritative accounting law, standards and literature, including the Netherlands Civil Code, and the Framework and Dutch Accounting Standards published by the Dutch Accounting Standards Board (DASB).

Consolidated financial statements may be prepared in accordance with IFRS. A company's financial statements may be prepared according to IFRS if no consolidated financial statements are prepared or if consolidated financial statements according to IFRS also are prepared. The entity may apply the same accounting principles in the company financial statements as are applied in the consolidated financial statements according to IFRS, which effectively means that the legal entity prepares the company financial statements according to the IFRS accounting principles that have been applied in the consolidated financial statements, except for the valuation of participations where a significant influence is exercised. These participations are valued at net asset value. The legal entity will state the net asset value in accordance with the IFRS accounting principles that have been applied in the consolidated financial statements. Thus, the shareholders' equity in the company financial statements still can be reconciled to the equity in the consolidated financial statements.

In principle, every legal entity subject to Part 9 should publish its annual accounts within eight days of adoption by the general meeting of shareholders (which should be reported in the annual accounts). Publication is effected by depositing a copy at the offices of the commercial register in the district in which, according to its memorandum and articles of association, the legal entity has its registered office. Exemption from compulsory publication of the full annual accounts can be granted on the grounds of the limited size of the legal entity. The distinction made between small, medium-sized and large legal entities is important for these purposes.

3.0 Business taxation

3.1 Overview

Companies doing business in the Netherlands are subject to corporate income tax, dividend withholding tax, value added tax (VAT), real estate transfer tax and social security taxes, along with a variety of environmental taxes. There are no provincial or municipal corporate income taxes but some municipal taxes apply to companies. Municipal rates, the most important of which is the property tax, vary considerably. There is no interest or royalty withholding tax, capital tax, stamp duty, branch tax, excess profits tax or alternative minimum tax.

The Dutch tax system has many features that make the country an attractive location for businesses with international operations. Examples include the participation exemption (where dividends and capital gains on the sale of shares in both domestic and foreign subsidiaries are exempt from corporate income tax if certain requirements are met) and the absence of withholding taxes on interest and royalties. As discussed above (under 1.5), the innovation box regime provides for a significant reduction of corporate income tax rates on profits derived from intellectual property, including royalty income. The Netherlands also has an extensive tax treaty network and a beneficial advance ruling process.

The Netherlands has implemented the EU directives, such as the parent-subsidiary, interest and royalties and merger directives, as well as the savings directive. The latter requires the exchange of information between tax administrations when interest payments are made in one EU member state to an individual resident in another member state.

The power to establish tax law is vested in the government, together with the parliament. A tax law approved by the parliament becomes law once it has been signed by the king and the minister(s) responsible. The law then is published in the official gazette. The Tax and Customs Administration is responsible for levying and collecting most of the taxes and all national insurance contributions, and for ensuring compliance with the majority of tax laws and rules.

Netherlands Quick Tax Facts for Companies	
Corporate income tax rate	20%/25%
Branch tax rate	20%/25%
Capital gains tax rate	0%/25%
Basis of taxation for residents	Worldwide
Participation exemption	Yes
Loss relief	
- Carryforward	9 years
- Carryback	1 year
Double taxation relief	Yes
Tax consolidation	Yes
Transfer pricing rules	Yes
Thin capitalization rules	No
Controlled foreign company rules	No
Tax year	Calendar year (in general)
Advance payment of tax	Yes
Return due date	Within 5 months of the end of the tax year, with the possibility of an 11-month extension

Withholding tax	
– Dividends	0%/15%
– Interest	0%
– Royalties	0%
– Branch remittance tax	No
Capital tax	No
Real estate transfer tax	2%/6%
VAT	21% (standard rate)/6% (reduced rate)

3.2 Residence

The Corporate Income Tax Act (CITA) provides that all companies incorporated under Dutch law are deemed to be established in the Netherlands. Other factors taken into account in determining whether a company is established in the Netherlands include: (1) the place of effective management; (2) the location of the head office; and (3) the location of shareholders' meetings.

3.3 Taxable income and rates

Resident companies are subject to taxation on their worldwide income; nonresident companies are subject to corporate income tax on certain Dutch-source income. Branches and subsidiaries are treated the same in determining corporate income tax, although branches usually are exempt from withholding tax on profit remittances to foreign head offices.

The Netherlands has a two-tier corporate income tax system with progressive rates: 20% on profits up to EUR 200,000 and 25% on the excess.

Taxable income defined

Taxable profit is defined as profit less deductible expenses and allowances. No distinction is made between trading income and capital gains—both are included in a company's profit and loss account and included in taxable profit.

Taxable profit must be calculated on the basis of "sound business practice," a legal concept supported by case law, but which may differ from GAAP. For example, unrealized losses may be taken into account, whereas unrealized profits may be deferred until actually realized. Consistency is required and the method of determining profits may be changed only if the new method of determining profits is compatible with sound business practice.

The standard currency in which Dutch taxable profits are calculated is the euro. Currency results will affect the profit of the company. As a rule, taxation of unrealized positive currency results may be deferred until they are effectively realized, while unrealized negative currency results can be charged immediately to the profit and loss account. Taxation of currency results regarding short-term receivables and short-term payables may not be deferred.

Both resident and nonresident taxpayers have the option, subject to certain conditions, to calculate profit in a functional currency rather than the euro. The corporate income tax due, however, must always be paid in euros. It is not possible to use the functional currency facility for dividend withholding tax purposes.

"Work in progress" and "current engagements" must be calculated using the percentage of completion method.

The CITA provides for a participation exemption, which avoids the double taxation of profits distributed by a subsidiary to its parent company. Qualifying dividends and capital gains from the sale of shares in subsidiaries are tax-exempt. Under certain conditions, losses from liquidating a subsidiary are tax deductible in the Netherlands. However, costs relating to the acquisition and disposal of subsidiaries are not deductible.

The participation exemption generally applies if a parent company holds at least 5% of the shares in a subsidiary. The participation exemption also applies to income from (covered) call and put options and convertible bonds. If the parent company's shareholding drops below 5%, the

participation exemption will remain effective for three years if certain conditions are fulfilled. There are many exceptions to the participation exemption, most of which relate to potential abuse (e.g. the exemption does not apply to shares in a portfolio investment company if its assets consist mainly of portfolio investments and the company is not subject to a profit tax resulting in an effective tax rate that is considered substantial according to Dutch standards). Active low-taxed companies qualify for the participation exemption. A credit system applies to passive investment participations that do not meet the effective tax rate test.

The participation exemption applies to currency results incurred on investments in subsidiaries (an exception applies to taxpayers that claim deductions of foreign exchange losses based on EU law).

Deductions

All expenses related to the carrying out of a business generally are deductible from profits, including:

- Costs incurred in setting up a business;
- Reserves earmarked for certain types of future spending, and book profits derived from the sale of fixed assets when set aside as reserves for future asset replacement;
- Interest on corporate debt, royalties and rent, although there are limitations on the deduction of interest paid on loans (see below under 3.6);
- Remuneration paid to members of the managing and supervisory boards;
- Many types of taxes, including foreign taxes if the foreign profits do not already benefit from a tax treaty or similar arrangement;
- Bad debts (unless the debt is considered to be an “extreme default risk loan”) and provisions for doubtful debts;
- Capital losses;
- Pension plan contributions;
- Bonuses paid to employees through an internal profit-sharing plan (however, the cost of remuneration via stock options and employee shares is nondeductible);
- Commissions;
- Gifts that are considered to be regular business expenses. Contributions to public benefit organizations and social benefit organizations that are not deemed to be regular business expenses are deductible. The annual deduction, however, may not exceed 50% of profits, or EUR 100,000. The annual deductible contribution to cultural organizations is increased by 50% of the contribution, capped at EUR 2,500; and
- Mixed expenses, such as food, representation and conference expenses, that have both a personal and corporate component, to the extent they exceed 0.4% of the total taxable wage bill of the enterprise, with a minimum nondeductible amount of EUR 4,500. Alternatively, companies can opt to deduct only 73.5% of the expenditure.

In addition to operating expenses, a standard allowance is available for investment in fixed assets.

Certain expenses, such as fines and some interest charges, are not deductible.

Depreciation

The straight-line method of depreciation is most commonly used, although companies may choose the declining balance method.

Both tangible and intangible assets owned or used by a company for the purpose of its trade may be depreciated if their values necessarily diminish over time. Depreciation is calculated on the original cost, less residual value. For tax purposes, depreciation begins on the date an asset is first used.

The depreciation of real estate portfolio investments is not allowed when the tax book value falls below the official fair market value of the property for tax purposes. The depreciation of buildings, other than portfolio investments, is limited to 50% of the property’s value for tax purposes, with the

value being determined annually by the municipal authorities. Various anti-abuse and transitional rules apply.

The minimum tax amortization period for goodwill is 10 years and the minimum depreciation period for business assets (such as equipment and computers) is five years. However, it is still possible to value goodwill/business assets at fair market value if this is demonstrably lower than the current value. Realization costs of intangible assets (except for goodwill) may be depreciated in the year they are incurred.

Profits derived from the resale of depreciated assets usually are taxable, unless reserved for replacements; the amount of profit is deducted immediately from the depreciable value of the replacements (reinvestment reserve).

Losses

Tax losses may be carried forward for up to nine years. Losses may be carried back for one year for corporate tax purposes. Losses incurred in 2009, 2010 and 2011 may be carried back for three years. However, if a company chooses to carry back its losses for three years, its residual losses may be carried forward only for up to six years.

Loss compensation is technically unavailable in the event of a change of 30% or more in the ultimate ownership interests in the entity. However, in business situations and in the absence of abuse, this change of ownership limitation may not apply. Loss compensation is limited for losses arising from holding and finance activities; such losses may be offset only against profits of years in which similar activities are carried out.

If the participation exemption applies, losses from the sale of a participation may not be deducted from the taxable profits of the parent company. A write-off for the declining value of such a participation is nondeductible. Despite the participation exemption, losses incurred on the liquidation of a subsidiary are deductible, subject to certain conditions. Such losses are fixed at the difference between liquidation payments and the cost of acquiring the participation.

Reserves

If fixed assets are lost, damaged or sold at a price above book value, profits may be set aside in a tax-free replacement reserve. The tax reserve does not apply to intangible fixed assets that are kept as part of a portfolio investment. Although contributions to the replacement reserve are deductible from taxable profits, the reserve must be applied to the cost of replacing the assets and should be terminated within three years after the year in which the relevant asset was lost, damaged or sold.

3.4 Capital gains taxation

Capital gains are included in taxable profits and subject to the normal corporate income tax 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 (although the fair market value may be used in certain circumstances).

As described above, under the participation exemption, capital gains derived from the sale of shares in a company are, in principle, exempt from corporate income tax.

In the case of mergers or divisions, any gain that arises from a company acquiring all of the shares or assets of another company in return for shares generally is tax-exempt. In other types of mergers or takeovers, all of the following conditions must be satisfied to qualify for a tax exemption:

- The transfer must take place as part of a merger;
- The transfer must be made in return for the issuance of shares by the other corporation;
- The shares acquired by the transferring corporation may not be sold for three years; and
- Subsequent taxation of the profits derived from the transfer must be guaranteed.

The transferred operations must be included in the books of the acquiring company and the selling company at the same book value at the time of the merger. Neither corporation may have tax-deductible losses, and the taxable profit of both corporations must be assessed in the same

manner. However, even if the above conditions are not satisfied, the transfer profit may be exempt from tax if prior approval has been obtained from the tax inspector and certain other requirements are met.

3.5 Double taxation relief

Unilateral relief

A foreign tax credit on dividend, interest and royalty income is limited to taxes withheld from income items originating either in a country that has concluded a tax treaty with the Netherlands or in 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.

Tax treaties

The Netherlands has a broad tax treaty network, with most treaties following the OECD model treaty. Treaties generally provide for relief from double taxation on all types of income; limit the taxation by one country of companies resident in the other; and protect companies resident in one country from discriminatory taxation in the other. Dutch treaties generally contain OECD compliant exchange of information provisions.

To obtain a reduced rate under a tax treaty at the time a payment is made, the recipient must provide a residence certificate to the payer of the income.

Netherlands Tax Treaty Network			
Albania	France	Malaysia	Slovakia
Argentina	Georgia	Malta	Slovenia
Armenia	Germany	Mexico	South Africa
Aruba	Ghana	Moldova	Spain
Australia	Greece	Montenegro*	Sri Lanka
Austria	Hong Kong	Morocco	Suriname
Azerbaijan	Hungary	Netherlands Antilles	Sweden
Bahrain	Iceland	New Zealand	Switzerland
Bangladesh	India	Nigeria	Taiwan
Barbados	Indonesia	Norway	Thailand
Belarus	Ireland	Oman	Tunisia
Belgium	Israel	Pakistan	Turkey
Brazil	Italy	Panama	Uganda
Bulgaria	Japan	Philippines	Ukraine
Canada	Jordan	Poland	United Arab Emirates
China	Kazakhstan	Portugal	United Kingdom
Croatia	Korea (ROK)	Qatar	United States
Czech Republic	Kuwait	Romania	Uzbekistan
Denmark	Latvia	Russia	Venezuela
Egypt	Lithuania	Saudi Arabia	Vietnam
Estonia	Luxembourg	Serbia*	Zambia
Finland	Macedonia	Singapore	Zimbabwe

*The treaty concluded with the former Yugoslavia applies to Montenegro and Serbia.

3.6 Anti-avoidance rules

Transfer pricing

Intercompany transactions must be carried out on arm's length terms. The tax authorities may scrutinize tax avoidance schemes and ignore artificial transactions without economic substance or replace them with transactions reflecting real market value.

Under the CITA, acceptable transfer pricing methods include the comparable uncontrolled price, resale price, cost plus, profit split and transactional net margin methods, with transaction-based methods preferred over profit-based methods. No specific transfer pricing penalties exist, but general penalties apply, up to a maximum of 100% of the tax due in the case of malicious intent. Penalties may be reduced or waived if documentation reflects a justifiable position.

The transfer pricing rules impose an obligation to disclose intragroup transactions in the annual tax return. Documentation should be part of the taxpayer's general books and records, and is a statutory requirement for entities subject to the CITA. For those entities, documentation should be in place at the time the intercompany transaction takes place.

Thin capitalization (deductibility of interest)

Thin capitalization rules were abolished in 2013. However, various other rules can (partially) deny the deduction of interest costs incurred by a Dutch taxpayer. These rules include:

- Anti-base erosion legislation that covers the conversion of equity into intragroup debt without valid business reasons or where the effective tax rate test is not met (based on Dutch tax principles, the effective tax rate should at least be 10%);
- Rules that cover the acquisition of shares against debt from a related party without meeting the business reasons test or effective tax rate test;
- Rules that disallow the deduction of interest expense relating to excess debt (deemed to be) associated with the acquisition price of participations. The excess debt is calculated based on a specific mathematical rule, under which operational participations acquired from a third party generally are excluded; and
- Rules that cover debt-funded acquisitions of Dutch companies for acquisition holdings. When forming a fiscal unity between a parent company and an acquired subsidiary, interest expense relating to such acquisitions may be deducted up to the parent company's taxable income.

Several exceptions and thresholds apply to the above interest expense deduction limitation rules.

Controlled foreign companies

The Netherlands does not have general CFC rules. For corporate income tax purposes, however, certain subsidiaries must be valued at fair market value if the following conditions are satisfied: (1) the shareholder (together with related companies) holds an interest of at least 25% in the subsidiary; (2) the subsidiary is held as a portfolio investment (typically only the case if the investment is (predominantly) held to provide a return that is comparable to that provided by genuine portfolio investment activities); (3) the subsidiary is low-taxed (indicative threshold rate of 10%); and (4) 90% or more of the assets of the subsidiary, as well as those of the (in)direct subsidiaries it owns (if any), in the aggregate consist of low-taxed passive assets. As a result, profits made by such subsidiaries are taxed in the hands of the Dutch parent company. A credit system applies to avoid double taxation on such profits.

General anti-avoidance rule

While there is no statutory general anti-abuse rule, if specific statutory provisions are abused, the tax authorities still have methods to counter the abuse. The authorities can try to broaden or narrow the interpretation of the text of a provision in light of the purpose and intent of the law, to exclude abuse or approach the facts differently by presuming a sham transaction. According to jurisprudence of the Netherlands' Supreme Court, the key point in applying the tax law is the true intention of the parties and not simply the representation provided in derogation of the facts. Another doctrine that can be invoked to counter abuse is "tax qualification," under which the

designation given to a certain legal forms under civil law is ignored for the application of the tax law.

If these options are unsuccessful, the authorities can invoke the *fraus legis* doctrine, under which a transaction may be deemed not to exist, ignored or replaced by a similar action. Two conditions must be satisfied for *fraus legis* to apply: (1) the decisive motive for entering into the legal act is tax evasion; and (2) the method of tax evasion chosen is contrary to the purpose and intent of the law.

3.7 Administration

Tax year

The tax year generally corresponds to the calendar year, although a deviating year may be used if so provided in the company's articles of association. The tax year usually is 12 months, but shorter or longer periods are permitted in the year of incorporation/liquidation.

Filing and payment

A provisional assessment, generally based on information from the previous two years, usually is issued in the first month of the taxpayer's financial year. This assessment is payable in monthly installments for the remaining months of the year; however, if the assessment is paid immediately, the Tax and Customs Administration grants a payment discount. The taxpayer can indicate that the tax due will be lower than the amount provisionally assessed and request that the provisional assessment be adjusted. The tax inspector decides on the final assessment on the basis of the tax return. The final assessment may be issued no later than three years after the tax year concerned. If the tax authorities have granted an extension of the filing period for the return, the assessment period is extended by the same period.

Corporate income tax returns must be filed annually within six months of the end of the financial year (the taxpayer may file a request to extend the period for filing tax returns, subject to certain conditions). Businesses are expected to file all returns electronically. The tax return should contain all information required to assess the taxable profits, including the balance sheet and profit and loss account and any other information requested by the tax inspector that is essential for levying taxes. If a company does not meet these obligations or does not file a correct tax return, the inspector may issue an estimated assessment. Failure to fulfill compliance obligations may affect the burden of proof in appeals proceedings.

For assessments (preliminary and final) issued after the tax year, interest will be due. Tax interest begins to accrue six months after the end of the relevant financial year and will end six weeks after the date of the assessment.

Consolidated returns

A parent company may form a fiscal unity, i.e. a tax consolidated group with one or more of its subsidiaries. The main advantages of a fiscal unity are that the losses of one company may be offset against the profits of another, and fixed assets of one company may be transferred to another without tax consequences.

To qualify for fiscal unity status, the parent company must legally and beneficially hold at least 95% of the subsidiary's issued capital, have at least 95% of the voting rights and be entitled to at least 95% of the subsidiary's profits and net assets.

A Dutch permanent establishment of a foreign group may be included in a tax consolidated group. Based on a recent decision of the Court of Justice of the European Union (CJEU), it also is possible to form a fiscal unity between two sister companies with an EU-resident parent company, and between a parent company and a second-tier subsidiary that is held by a EU resident intermediary holding company. It is not possible to include foreign companies without a Dutch permanent establishment or companies incorporated under Dutch law residing outside the Netherlands. Following the CJEU decision, the State Secretary of Finance published a decree, under which fiscal unity requests between a domestic parent company and domestic "sub-subsidiaries" held through one or more EU/EEA-resident intermediate holding companies, or between Dutch sister companies directly or indirectly held by a parent company in another EU/EEA member state, will be granted under certain conditions. New legislation to replace the decree is expected in 2015. The parent company and the subsidiaries must have the same financial year and must be subject to the same corporate tax rules.

A request to form a fiscal unity must be submitted to the tax inspector on behalf of all of the companies involved. A fiscal unity can be terminated upon request and will be terminated automatically if any conditions are not satisfied.

Statute of limitations

The tax authorities may issue an assessment within three years from the end of the tax year (the period may be extended). A reassessment may be issued within five years (12 years for foreign-source income) after the tax year (plus the extension period) ends, if an unknown fact becomes available or if the taxpayer has acted fraudulently. Errors in tax assessments that are reasonably recognizable by the taxpayer may be adjusted by the authorities within two years after the original assessment is issued. Six weeks after issuing the final assessment, the amount of tax due becomes collectable (four weeks for reassessments). There is no statute of limitations for the collection of tax.

Tax authorities

The Dutch Tax and Customs Administration is responsible for levying and collecting most taxes and all national insurance contributions, and for ensuring compliance with most of the tax laws and rules. The administration, which is part of the Ministry of Finance, is geographically divided into 13 tax regions. One of the sections is the Fiscal Information and Investigation Service and Economic Investigation Service (FIOD-ECD), whose main task is to track down tax fraud.

Rulings

The tax authorities recognize that taxation significantly affects an international company's choice of business location. Accordingly, the authorities take an investor-oriented approach, providing potential international investors with advance information on the Dutch tax treatment of future investments in the Netherlands. The advance ruling process has been standardized through a series of ministerial decrees and reforms to the CITA to bring the process in line with best-practice guidelines of the OECD. The tax inspector is bound by agreements made with the Information Office and the Rotterdam office's special ruling teams.

The procedure for requesting a ruling and the data to be provided are subject to specific guidelines. The request should be filed with the local competent inspector, who will then submit the request to the APA/ATR (advance pricing agreement/advance tax ruling) team for binding advice. (A special foreign investor's desk has been set up to provide advance certainty for potential foreign investors in the Netherlands, but this desk is not a part of the APA/ATR team; APA/ATR requests still must be submitted to the local competent inspector.) The APA/ATR team examines requests for APAs and ATRs. For APA requests, the APA/ATR team and the taxpayer will draw up a joint case management plan, in which the APA/ATR team records the process for issuing the APA and the intended processing time in consultation with the taxpayer/advisor.

3.8 Other taxes on business

None

4.0 Withholding taxes

4.1 Dividends

Dividends paid to residents or nonresidents are subject to a 15% withholding tax. For residents, the withholding tax may be offset against the recipient's corporate or individual income tax liability. In most cases the withholding tax is a final tax for nonresidents. The 15% rate for nonresidents may be reduced under a tax treaty, and no withholding tax will be imposed if the Dutch participation exemption applies, the payer and the recipient form part of a fiscal unity for corporate income tax purposes or the dividends are paid to a qualifying parent company under the EU parent-subsidiary directive.

A Dutch cooperative generally is not subject to Dutch dividend withholding tax. Exceptions apply in certain abusive situations.

4.2 Interest

The Netherlands does not levy withholding tax on interest (except dividend withholding tax with respect to interest on profit-sharing bonds).

4.3 Royalties

The Netherlands does not levy withholding tax on royalties.

4.4 Branch remittance tax

The Netherlands does not levy a branch profits tax.

4.5 Wage tax/social security contributions

Wage tax is an advance levy on personal income tax. Wage tax and contributions for national (state) insurance are levied through withholding from the employee's gross wages. The employer generally acts as a wage tax withholding agent and transfers the amounts withheld to the tax authorities by means of a wage tax return. Foreign employers employing individuals whose wages are subject to Dutch income tax or having a permanent establishment in the Netherlands also are wage tax withholding agents and must register with the Dutch tax authorities. Foreign companies seconding employees to a Dutch company, whether or not in the same concern, may be considered tax withholding agents in certain circumstances.

The tax rates to be applied are equal to the income tax rates. For employees that do not have additional income, own a residence or have any personal deductions, the wage tax is a final levy.

Social security contributions on employment income are payable by the employer and the employee. The contributions are calculated on gross salary, less pension premiums withheld from the salary. An income-dependent health insurance contribution, a disability insurance contribution and an unemployment insurance contribution also are levied. Contributions are withheld by the employer and transferred to the tax authorities on the wage tax return.

The wage tax return must be filed and payment made on a monthly basis, or every four weeks. The return and the payment must be received by the end of the following month. Penalties and interest charges are imposed for late filing or payment. Wage tax returns must be submitted electronically.

5.0 Indirect taxes

5.1 Value added tax

Value added tax (VAT) is levied at each stage in the chain of production and distribution of goods and services in the Netherlands, and on imports.

The standard VAT rate of 21% applies to the supply of goods, the provision of services, the acquisition of goods by businesses and the import of goods. A reduced rate of 6% applies to the supply, import and acquisition of certain goods and services, including food and medicine; art; books, newspapers and magazines; certain goods and services for agricultural use; passenger transport; and hotel accommodation. Certain labor-intensive services also are eligible for the lower rate. A zero rate is intended primarily for exported goods, seagoing vessels and aircraft used for international transport, gold destined for central banks and activities within bonded warehouses or their equivalents. There also is 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, noncommercial broadcasting and the services of journalists, composers and writers.

There is no registration threshold in the Netherlands; all VAT payers are required to register. A business that is VAT-registered in the Netherlands usually must file a VAT return and make a payment to the tax authorities on a monthly or quarterly basis. If the amount due is less than EUR 1,883 a year, the return can be filed annually. The return and the payment must be received by the end of the following month. Penalties and interest charges are imposed for late filing or payment. VAT returns must be submitted electronically, although companies based outside the Netherlands still may file paper returns.

VAT entrepreneurs established in the Netherlands that are linked financially, organizationally and economically constitute a fiscal unity for VAT purposes. Such entrepreneurs need not charge VAT on intragroup transactions.

5.2 Capital tax

The Netherlands has abolished capital tax.

5.3 Real estate tax

The municipalities levy an annual real estate tax, with the rate depending on the municipality. Real estate tax is deductible for corporate income tax purposes.

5.4 Transfer tax

Transfer tax is levied on the acquisition of property in the Netherlands. For private residences, the applicable tax rate is 2% of the market value of the home; for other immovable property, the applicable rate is 6% of the market value of the property.

5.5 Stamp duty

There is no stamp duty.

5.6 Customs and excise duties

Import duty is levied as a percentage of the value of the goods imported. Various rates apply, which are determined by the EU. The rates usually are lower for minerals or raw materials, and higher for finished products. Import duty applies on goods imported from countries outside the EU, with the revenue accrued by the EU.

Excise duty is levied on the ultimate use or consumption of alcoholic beverages; juices and mineral waters; cigars and cigarettes; tobacco; and unleaded petrol. Excise duties are included in end prices to consumers, and the manufacturers and importers of goods liable for the duty remit the tax. If the goods are exported, the tax usually is refunded.

5.7 Environmental taxes

Various environmental taxes are levied in the Netherlands:

- Coal tax on the import of coal and its release from a “coal facility”;
- Energy tax on the supply of electricity and natural gas to consumers;
- Tap water tax on the supply of tap water to consumers; and
- Waste tax on the disposal of waste (levied from waste disposal companies).

In addition to these environmental taxes, environmental effects determine the base of many other taxes (e.g. private motor vehicle and motorcycle tax).

5.8 Other taxes

Insurance tax at a rate of 21% generally applies on insurance premiums, but life, accident, medical, invalidity, disability, unemployment and transport insurance are exempt.

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

A tax is imposed on domestic and foreign landlords that own more than 10 rented houses in the “regulated sector,” i.e. rented houses with a rent up to the housing benefit limit (currently, EUR 710.68). The taxable base consists of the total value of the houses, minus 10 times the average value. The rate is 0.449% for 2015 and the tax must be paid at the time the tax return is filed. The landlord levy is deductible for corporate income tax purposes.

6.0 Taxes on individuals

Netherlands Quick Tax Facts for Individuals	
Income tax rates	Progressive up to 52%
Capital gains tax rates	0%/25%/progressive up to 52%
Basis of taxation for residents	Worldwide income
Double taxation relief	Yes
Tax year	Calendar year
Income tax return due date	1 May
Withholding tax	
– Dividends	15%
– Interest	0%
– Royalties	0%
Net wealth tax	No
Social security	Yes
Inheritance/gift tax	10%-40%
Real estate transfer tax	2%/6%
VAT	21% (standard rate)/6% (reduced rate)

6.1 Residence

The term “resident” is not defined in the Income Tax Act, and an individual’s residence status is determined on a case-by-case basis. Of overriding importance are the individual’s personal and economic ties with the Netherlands, including the existence of a family home and employment in the Netherlands or registration in a register of the local authorities. Nationality may be relevant, but is not the decisive factor.

6.2 Taxable income and rates

Resident individuals are taxed on their total gross income, which is income from all domestic and foreign sources, less associated expenses (and double taxation relief is often available).

Nonresidents are subject to tax only on certain Dutch-source income, although exemptions may apply under a tax treaty. Under certain conditions foreign individuals with Netherlands-source income are treated as qualifying non-Dutch resident taxpayers; under this regime, they are taxed on foreign-source income but are entitled to certain credits.

Individuals are taxed only on their own personal income—they may not deduct a spouse’s items in addition to their own. A few joint items (such as childcare expenses) may be divided between spouses, but the separate deductions must total 100% of the costs.

Taxable income

Taxable income is divided into three independent “boxes”: (1) employment and home ownership income; (2) enterprise income (income from a substantial holding in a company); and (3) savings and investment income. Under the “three-box system,” income from one box generally may not be offset against income from another box (except for losses under Box 2 (see below)).

- **Box 1:** Box 1 income includes income from employment and income from the primary residence. Employment income includes salaries, wages, benefits in kind and pensions. Employment income generally is subject to wage tax at the level of the employer. Deductions are available for charitable donations, life annuity premiums and mortgage interest on an owner-occupied home. Deductions also may be available for childcare, education, alimony and medical treatment expenses.
- **Box 2:** Box 2 income, which includes income from a substantial holding in a company, as well as gains from substantial shareholdings, is taxable only if the individual's direct or indirect holding is at least 5% of the company's issued capital. Losses may be deducted from income from a substantial holding of the preceding year and the following nine years. If a taxpayer and his/her partner no longer have a qualifying substantial holding in a company and a relevant loss has not been deducted, the loss can be converted into a tax discount. Subject to certain conditions, this discount may be deducted from box 1 income.
- **Box 3:** Box 3 deals with income from savings and investments. Taxable income for these purposes is determined on the basis of a deemed return on capital, set at 4% of the capital that is not exempt, measured on 1 January of each year. This deemed amount is taxed at a rate of 30%. Each person is entitled to a tax-free capital threshold of EUR 21,330. The first EUR 3,000 in liabilities may not be deducted. The capital consists of the value of the assets minus the value of the liabilities of the relevant year. Relevant capital includes savings and bank accounts, a second home, equity and other shares, annuity insurance where the premiums are not deductible and endowment insurance that is not linked to an owner-occupied dwelling. Certain items are exempt.

The net income for the three boxes is added up, and general tax credits are taken into account.

A general personal tax credit of up to EUR 2,203 (depending on the amount of income from employment and the primary residence) is available for taxpayers, as is an employed person's tax credit of up to EUR 2,220 (also depending on the amount of income from employment and the primary residence). Other tax credits are available for the elderly, young disabled people and low-income employees.

In practice, most nonresidents are taxed only on returns from two types of assets: immovable property (or related rights) situated in the Netherlands, and profit-sharing rights based on net profits of a company managed in the Netherlands (excluding employment bonuses and profit-sharing bonds). Nonresidents owning assets in the Netherlands—other than real estate—that are not part of a company usually are not required to pay income tax on dividends and interest, unless they hold a substantial interest in a company residing in the Netherlands.

30% facility

An employee assigned to the Netherlands who has lived at least 150 kilometers from the Dutch border during at least 16 of the 24 months preceding the start of the employment and who has specific expertise that is not available or is scarce in the Dutch labor market is eligible to apply for a tax-exempt allowance of 30% of his/her salary. Recently the CJEU ruled that the 150-kilometer requirement is basically compatible with EU law. The required expertise is present if the annual gross wage of the employee is at least EUR 36,705, excluding the tax-exempt allowance resulting from the 30% facility. For graduates (under 30 years old) with a university master's degree, the gross wage should be at least EUR 27,901.

If the 30% facility is to apply from the commencement of the employment, a request must be made within four months of the start of the employment. As from 1 January 2012, the facility applies for a term capped at eight years, with an annual test to determine whether the expatriate continues to satisfy the conditions to qualify for the 30% facility. Transitional rules apply for employees who obtained a 30% facility before 1 January 2012.

The eligible amount is calculated on the basis of "remuneration earned from the present employment in the Netherlands," which includes irregular amounts such as nonguaranteed bonuses and stock option income, but excludes certain components, such as pension benefits and "golden handshakes." Also excluded are amounts that are not taxable in the Netherlands (e.g. because of a treaty provision). The 30% facility is calculated as the current taxable remuneration multiplied by 100/70 and reduced by the current taxable remuneration (or the current taxable remuneration multiplied by 30/70). For example, if the current taxable remuneration is EUR 80,000,

the tax-exempt allowance will be EUR 34,286. Hence, EUR 80,000 is taxable, while EUR 34,286 can be made as additional tax-exempt payment by the employer.

The 30% facility generally is intended to cover a number of extraterritorial costs that might otherwise be paid separately as allowances in respect of a temporary secondment to the Netherlands. Although the facility prohibits the separate payment of such amounts, there are exceptions.

School fees paid are an exception and may be compensated free of tax, in addition to the 30% facility. School fees are expenditures incurred for the primary or secondary education of an employee's children at an international school or an international section of a noninternational school, up to the amount charged by the school in accordance with its education fees, excluding the cost of board and lodging, but including travel expenses.

Moving expenses or business travel expenses may be reimbursed without regard to the 30% limit (i.e. they may be reimbursed tax-free, in addition to the 30% tax-exempt amount), but only to the extent they do not represent extraterritorial expenses. It may be unclear whether an amount falls within this category. For instance, if an employee retains his/her principal residence in the home country, the payment of housing costs in the Netherlands might not be regarded as an extraterritorial expense and it might be possible to reimburse such costs tax-free, in addition to the 30% facility. Where it appears that the extraterritorial costs exceed the 30% amount, the taxpayer may be reimbursed the actual extraterritorial costs.

Employees who do not qualify for the 30% facility still may receive a tax-free reimbursement of actual extraterritorial expenses.

The status of "partial nonresident taxpayer" is available to resident expatriates. Resident expatriates opting for this status will be liable for tax on their box 1 worldwide income (i.e. income from work and principal residence). For box 2 and box 3 income, partial nonresident taxpayers will effectively be treated as nonresident taxpayers. Thus, tax will apply only on Dutch sources of income in boxes 2 and 3. Individuals who opt for partial nonresident taxpayer status enjoy the benefit of limited liability. Partial nonresident taxpayers may deduct certain personal allowances allocated to box 1.

Rates

Employment and home ownership income (box 1) is taxed at progressive rates that range from 36.50% (income tax and social security contributions are part of combined levy (8.35% income tax plus a 28.15% social security contribution)) on the first EUR 19,822 to 52% on income exceeding EUR 57,585. For 2015, income (capital gains, dividend income, etc.) from a substantial holding (box 2) is taxed at 25%. For box 3 income, 4% of the capital that does not fall within an exemption is taxed at a rate of 30%.

Capital gains are, in principle, taxed at the progressive rates in box 1. If the gains are related to a substantial interest, the 25% rate in box 2 applies. If the gains relate to an investment, the gains are not taxed as such in box 3. There is no capital gains tax on gains from the sale of a dwelling.

Dividends received by an individual are subject to a 15% withholding tax. This withholding tax is an advance levy that may be deducted from the income tax due.

6.3 Inheritance and gift tax

The Netherlands has both an inheritance tax and a gift tax.

Inheritance tax is levied on the total value of an acquisition under the law of succession from a person who lived in the Netherlands at the date of death. Gift tax is levied on all gifts received from a Dutch resident. A common tax rate is applied to both the inheritance tax and the gift tax. This rate consists of three tax rate groups, each with its own rates:

- Spouses and direct descendants are taxed at a rate of 10% on the first EUR 121,296, and a rate of 20% on inheritances or gifts exceeding EUR 121,296.
- For direct descendants in the second degree or further removed, the rates are increased by 80%. Therefore, an 18% rate applies on the first EUR 121,296 and a 36% rate applies for grandchildren and great-grandchildren on inheritances or gifts exceeding EUR 121,296.

- All other beneficiaries are taxed at a rate of 30% on the first EUR 121,296 and a rate of 40% on inheritances or gifts exceeding EUR 121,296.

A number of exemptions apply for both taxes (e.g. inheritances received by spouses, children and charities). Some exemptions are subject to a specified maximum.

A special exemption applies to the transfer of business assets due to inheritance or donation. This exemption applies to the total value of the business assets up to EUR 1,055,022, and 83% of the value exceeding EUR 1,055,022. The exemption applies per business, not per beneficiary.

Anti-abuse rules apply to prevent the avoidance of inheritance and gift tax.

6.4 Net wealth tax

The net wealth tax was abolished in 2001.

6.5 Real property tax

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 fair market value of immovable property must be determined every year, but with a reference date that is one year earlier. The council-rated value of an immovable property applies to certain elements of the personal income tax.

Transfer tax is levied on the acquisition of property in the Netherlands. For private residences, the applicable tax rate is 2% of the market value of the home; for other immovable property, the applicable rate is 6% of the market value of the property.

6.6 Social security contributions

See above under 4.5.

6.7 Other taxes

None

6.8 Compliance

The tax year is the calendar year. The tax administration sends a tax return to taxpayers who must pay income tax.

Taxpayers who receive a return must complete and file the return with the tax administration even if no tax is payable in that year. The tax return generally must be filed by 1 May of the year following the tax year and may be filed electronically. If the taxpayer does not file a return, the tax authorities may estimate the taxpayer's income.

Married couples must file a joint assessment unless a petition for a divorce has been filed. Unmarried couples must file a joint assessment if certain conditions are satisfied.

7.0 Labor environment

7.1 Employee rights and remuneration

A number of laws in the Netherlands govern employee rights and remuneration, including the following:

- The Labor Conditions Law covers the health, safety and well-being of employees. Employers are required to inventory all risks to which employees might be exposed and make proposals to reduce such risks. The law also makes employers responsible for monitoring sick employees and providing access to regular medical check-ups. Fines may be imposed for noncompliance.
- The Working Hours Law sets maximum working hours and applies to all companies not covered by a collective labor agreement.
- The Minimum Wage Law sets the minimum wages for employees aged 23 up to the state pension age; a lower minimum wage applies to employees younger than 23.
- The Works Councils Law requires companies with 50 or more employees in the Netherlands to form a works council. A works council also must be formed under a clause to that effect in a collective labor agreement. The employees choose the council members, with one person appointed as chairman. The council must have three to 25 members, depending on the size of the company. Companies with 10-49 employees may create a voluntary works council and are required to hold personnel meetings. The majority of employees may vote to make the council obligatory.

The works council plays an important role in communication between employees and management, and it exerts considerable influence on company policies. Employers are legally obliged to confer with the works council on certain decisions. The council has the legal right to approve general labor conditions, including an appraisal and remuneration system and general rules for working hours and resignation. It also has the right to provide advice on important investments, major borrowings, management appointments and mergers.

- The Law on Collective Labor Agreements governs negotiations between employers, employees and trade unions on working conditions and compensation.
- The Labor and Security Law outlines minimum requirements for determining an employment contract, sets a maximum probationary period of two months for new employees where the employment contract is for an indefinite period of time and deals with the rules on dismissal.
- The Equal Treatment of Men and Women in the Labor Market Act prohibits direct or indirect discrimination on the basis of sex, salary, working conditions, pregnancy or family responsibilities.

Working hours

Under the Working Hours Act 2013, a maximum work day of 12 hours and a maximum work week of 60 hours is allowed. However, the average work week may not exceed 55 hours on a four-week basis and 48 hours on a 16-week basis.

The working week in the Netherlands is commonly 40 hours. The work week for the public sector is 36 hours, and certain industries have adopted a 36 or 38-hour work week under collective labor agreements. Sunday is not a work day unless the employee has expressly agreed to work. If work is conducted on Sundays, the employee must have at least 13 Sundays off in a year.

Many industries pay a premium on overtime (and for night shifts) under an applicable collective labor agreement.

Work performed between midnight and 6 am is defined as night shift work. After a minimum of three consecutive nights worked, an employee is entitled to a rest period of 46 hours. Technically, a night shift may not exceed 10 hours, while the following period of rest must be at least 14 hours (the rest period may be shortened to eight hours once a week). If a night shift ends before 2 am,

an employee is entitled to a rest period of at least 11 hours. A night shift may be extended to 12 hours up to five times in two weeks and 22 times per year. After such a night shift, the employee is entitled to a rest period of at least 12 hours.

The limits on working time and rest periods do not apply to persons in supervisory positions who earn more than double the minimum wage per year, or to senior personnel who earn more than three times the minimum wage. Exceptions apply in sectors such as distribution and transshipment, dredging, newspapers, defense, hotels and catering.

Employers can structurally reduce working hours for a period if there is a significant decline in business activity as a result of unforeseen circumstances, such as a natural disaster, fire or the outbreak of disease. The reduction of working hours applies if an employer expects to have 20% less work for a period of two to 24 weeks. The employer must request a permit from the Ministry of Social Affairs and Employment.

7.2 Wages and benefits

The statutory minimum wage is adjusted regularly to reflect general wage changes. As from 1 January 2015, the minimum wage is EUR 1,501.80 per month; the wage varies by age for those younger than 23.

The law provides for a minimum annual vacation allowance, which is 8% of the gross salary or minimum wage, usually payable mid-year.

The works council may examine the remuneration policy and terms of employment in companies with at least 100 employees.

Pensions

Until 2013, the state pension kicked in at age 65. However, the state pension age increases each year by one month for the period 2013-2015, two months for the period 2016-2018 and three months for the period 2019-2022. As from 2023, the state pension will begin at age 67.

Private pension schemes are supervised by the central bank. An employer is free to choose a pension plan unless the employees are covered by an industry-wide pension fund in which the Ministry of Social Affairs and Employment has made membership mandatory. There are three types of pension plan: (1) final pay plan; (2) average pay plan; and (3) defined contribution plan. Pension plan premiums generally are paid jointly by the employer and the employees, with contributions based on a variety of factors that often are included in collective labor agreements, such as a percentage of salary or a 50/50 split of the premium.

Employees who saved at least EUR 3,000 by the end of 2011 under the life-course savings scheme may save up to 12% of their annual salary tax-free, capped at 210% of their annual salary through 2021. These savings can be used for extended leave or early retirement.

Social insurance

Social insurance contributions are compulsory and payable by both the employer and the employee under the social security acts. The only exception is when an inbound employee has obtained a certificate of coverage showing that he/she is covered under a foreign social security scheme.

Other benefits

Obligatory annual holidays are New Year's Day, King's Day (27 April), Liberation Day (once every five years on 5 May), Easter Monday, Ascension Day, Whit Monday, Christmas and Boxing Day (26 December). All or part of Good Friday is a customary holiday in some parts of the country or certain sectors of industry.

All employees are entitled to paid vacation time provided at a minimum of four times the average number of days worked per week. A collective agreement can increase the minimum, normally to 25 days, depending on the sector. Legally mandated paid leave of one to four days is given for personal events (marriage, death in the family, family obligations or moving house). Extended leave also is possible for certain personal circumstances.

7.3 Termination of employment

A company must notify the local labor office and the trade union before dismissing an employee. An employee may be dismissed only with the agreement of the labor office (via a permit).

The notice period is one month for individuals employed for fewer than five years, two months for individuals employed for five to 10 years, three months for individuals employed for 10-15 years and four months for individuals employed for more than 15 years.

An aggrieved employer may appeal a negative ruling issued by a labor office directly to a civil court. The criteria used by the labor office (and by the civil court on appeal) are based on court rulings and the Dutch civil code. A dismissal usually is considered unjustified if the consequences for the employee outweigh those for the employer, if no reason for the dismissal is given or if the dismissal runs counter to current practice or agreement in the industry or company.

The parliament has adopted a bill that will change termination payments to “transition payments.” Under the new rules, which are expected to apply as from 1 July 2015, an employer will be required to make a transition payment if a labor contract is terminated after at least two years of employment. The amount of the payment will depend on the number of years the employee worked for the employer, but will be capped at EUR 75,000, or the amount of the annual salary if that is higher. An exemption from the transition payment will apply in certain cases (e.g. if the termination results from misconduct of the employee).

7.4 Labor-management relations

Collectively bargained wage and dismissal agreements, in which unions play a strong role, often are extended to nonunion workers through individual contracts or a decree issued by the government. Unions are organized primarily along industrial or religious lines; company unions are rare. Strikes are rare in the Netherlands.

Industry-wide collective agreements, drawn up after lengthy bargaining, govern wages and working conditions. The Labor Foundation sets the pattern of wages and working conditions. The foundation is a voluntary organization comprised of equal numbers of representatives of trade unions and employer associations. The foundation negotiates a central accord each year, which makes general recommendations to guide the industry-level wage bargaining between unions and employers. The Social and Economic Council of the Netherlands (SEC), which includes union, employer and government appointees, advises the government on public-sector problems on wages, prices and social policies.

The term of a collective labor agreement is five years, although one- or two-year deals are made when a longer accord appears difficult to achieve.

7.5 Employment of foreigners

Under the Foreign Employment Law, an employer may not employ non-EEA employees in the Netherlands without a work permit. The employer for these purposes is the entity or person for which the foreign national actually will be working (“material employer”). In principle, the Foreign Employment Act applies to all work carried out in the Netherlands.

A work permit is required for employees who are nationals of Croatia (even though this is an EU member state).

The employer is responsible for obtaining a work permit for non-EEA employees before the employee starts working in the Netherlands. The work permit is issued for a specific period and for a specific function. A permit will not be issued when “priority”-enjoying employees (i.e. employees that are nationals of EEA countries) are available in the Dutch or EEA labor market. Certain categories of employee, such as highly-educated employees and independent entrepreneurs, do not require a work permit.

After three consecutive years of legal employment and legal residence, a foreign employee is eligible for an annotation on his/her residence permit that working is allowed without a work permit.

Most foreign employees who intend to reside and work in the Netherlands for more than three months must obtain a Dutch residence permit, the application for which must be filed within three days of arrival in the country. The application procedure differs by city. In most cities, the

application must be filed at the local municipality office. The residence permit application itself is reviewed by the Dutch Immigration and Naturalization Service.

“Knowledge migrants” are employees from outside the EEA who come to the Netherlands to carry out paid employment based on an employment contract and have a minimum gross income of EUR 4,524.12 a month (for knowledge migrants under the age of 30, a minimum gross income of EUR 3,316.68 a month applies). This rule can shorten the application procedure to as little as two weeks and result in a five-year residence permit for employees with a contract for an indefinite period. An employee holding a knowledge migrant residence permit does not need a work permit to work in the Netherlands.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

Connect to the source and discover:

A database that allows users to view and compare tax information for 65 jurisdictions that includes –

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