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International Tax
Netherlands Highlights 2021

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Recent developments

For the latest tax developments relating to the Netherlands, see Deloitte tax@hand.

Investment basics

Currency: Euro (EUR)

Foreign exchange control: There are no foreign exchange controls.

Accounting principles/financial statements: IAS/IFRS/Dutch GAAP. Financial statements must be filed annually.

Principal business entities: These are the public company (*naamloze vennootschap* or NV), private limited liability company (*besloten vennootschap* or BV), partnership (*commanditaire vennootschap* or CV, *vennootschap onder firma* or VOF, etc.), cooperative, and branch of a foreign company.

Corporate taxation

Rates	
Corporate income tax rate	15% on the first EUR 245,000 of taxable profits, 25% on taxable profits exceeding EUR 245,000
Branch tax rate	Corporate income tax rate
Capital gains tax rate	Corporate income tax rate

Residence: Companies that have their management in the Netherlands and, in principle, all companies incorporated according to Dutch civil law, are regarded as resident.

Basis: Residents are liable to tax on their worldwide income; nonresidents are taxed only on Netherlands-source income. Exemptions may apply for certain income from shareholdings, permanent establishments (PEs), and innovative activities (see “Participation exemption” and “Incentives,” below). Branches of foreign companies and subsidiaries are treated the same way in determining corporate income tax. Branches are exempt from withholding tax on profit remittances to their foreign head offices.

Taxable income: Corporate income tax is due on all profits derived from conducting a business, including trading income, foreign-source income, passive income, and capital gains. In principle, all costs relating to the business are deductible.

Rate: The corporate tax rates for 2021 are 15% on the first EUR 245,000 of taxable profits and 25% on taxable profits exceeding EUR 245,000. The 15% rate will apply to the first EUR 395,000 of taxable profits as from 1 January 2022.

Surtax: There is no surtax.

Alternative minimum tax: There is no alternative minimum tax.

Taxation of dividends: Dividends received by a Dutch resident company are exempt if the participation exemption applies (see "Participation exemption," below). If the participation exemption does not apply, either because the holding requirement is not met, or because one of the three tests is not met and the subsidiary has not been subject to any form of corporate income tax, any profit derived from the shares is taxed at the normal corporate rate without a credit. If the participation exemption does not apply because one of the three tests is not met, but the subsidiary has been subject to some corporate income tax, a tax credit is granted. The amount of the credit varies: the maximum credit is 5%, and for European Union (EU) subsidiaries, a credit is granted for the actual amount of corporate income tax, up to the Dutch corporate income tax levied on the dividends.

Capital gains: Capital gains derived from the sale of a participation are exempt if the participation exemption applies (see "Participation exemption," below). Other capital gains are taxed at the normal corporate rate. Gains arising on a (de)merger may be exempt if certain requirements are met.

Losses: Losses arising in fiscal years beginning on or after 1 January 2019 may be carried forward for six years and carried back for one year. For losses incurred prior to 2019, the carryforward period is nine years.

Likely as of 1 January 2022, the loss rules will change (a royal decree will be issued confirming the effective date). Losses up to EUR 1 million will be eligible for set-off against taxable profits, with losses in excess of EUR 1 million eligible for set-off against up to 50% of taxable profits. Any remaining losses will be allowed to be carried forward indefinitely (i.e., the six-year carryforward period will be abolished). The carryback period will remain one year. The new rules also provide that losses incurred in fiscal years beginning on or after 1 January 2013 (and that have not been offset as of the end of fiscal years beginning on or after 1 January 2021) may be carried forward indefinitely. Losses incurred, or to be incurred, in fiscal years 2013 through 2021 also are subject to the above-mentioned 50% rule to the extent they are set off against taxable profit of fiscal years beginning on or after 1 January 2022. For losses incurred prior to 2019, the carryforward period will remain nine years under the rules applicable in those years.

Taxpayers may create a reserve with respect to their 2019 corporate income tax return for losses incurred in fiscal year 2020 as a result of the COVID-19 pandemic (i.e., an immediate deduction is available for such losses). The losses may not exceed the total losses expected for 2020 or exceed the profits for 2019 (prior to the reserve), and the reserve must be released with respect to the 2020 corporate income tax return.

Foreign tax relief: Foreign withholding taxes can be credited under tax treaties. If there is no tax treaty, unilateral relief for foreign withholding taxes is granted only if the income comes from specified developing countries.

Participation exemption: The participation exemption applies to dividends and capital gains derived from shareholdings of at least 5%, provided: (i) the subsidiary is not held as a mere portfolio investment; (ii) the subsidiary is subject to a reasonable effective tax rate based on Dutch tax principles ("subject to tax test"); or (iii) less than 50% of the assets of the subsidiary consist of "passive" assets, based on the fair market value of the assets ("asset test"). If the participation exemption is not applicable, a credit for the underlying tax may be obtained.

Group financing/licensing activities generally are deemed to be portfolio investment activities, i.e., participations predominantly engaged in these activities must meet test (ii) or (iii) for the participation exemption to apply.

Even if the participation exemption applies, dividends and interest received on an equity instrument are taxable if the payment is tax deductible in the country of the payer.

As from 1 January 2021, the scope of application of the liquidation loss scheme in the participation exemption is significantly limited. A restriction has been introduced, so that a liquidation loss can only be utilized within three years after the activities are terminated. A liquidation loss exceeding EUR 5 million sustained on a participation is deductible only if the Dutch parent company has a decisive influence in the decision making of the subsidiary that is liquidated and the subsidiary itself is established in an EU/European Economic Area (EEA) member state. These restrictions also will apply to the cessation loss scheme for PEs.

Holding company regime: See "Participation exemption," above.

Incentives: Various investment deductions and reliefs are available.

Under the "innovation box" regime, income derived from self-developed intellectual property (R&D) is effectively taxed at a rate of 9% (increased from 7% as from 1 January 2021). The OECD modified nexus approach applies, with the result that R&D expenses incurred by an affiliated entity are disregarded and more stringent conditions are imposed on the type of R&D activities that qualify for the innovation box.

As from 1 January 2020, changes have been made to the special tonnage tax regime that applies to shipping companies.

A 0% tax liability or an exemption is provided for qualifying investment funds.

A temporary job-related investment credit (BIK) has been introduced to stimulate investment in new business assets. The BIK applies to investment commitments entered into on or after 1 October 2020. An additional condition is that the investments involved must be fully paid for during the period from 1 January 2021 through 31 December 2022 and put into use within six months of that full payment. The BIK functions as a wage tax remittance reduction, with a 3.9% credit up to a EUR 5 million investment level and 1.8% over the excess.

Compliance for corporations

Tax year: The tax year generally corresponds to the calendar year, although a different 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.

Consolidated returns: If certain conditions are satisfied, a parent company may form a fiscal unity with one or more of its subsidiaries, under which the losses of one company may be offset against the profits of another company and fixed assets of one company may be transferred to another company without corporate income tax consequences. To qualify for fiscal unity status, the parent company must have at least 95% economic and legal ownership of the shares of the subsidiary, and the parent company and the subsidiaries must have the same financial year. In certain cases, a Dutch PE of a foreign company may be included in a fiscal unity.

A fiscal unity may be formed via a company based in another EU member state, and it is possible in certain cases to form a fiscal unity with an EU/EEA-resident parent company.

Remedial legislation applies with retroactive force as from 1 January 2018 as a result of the decision of the Court of Justice of the European Union (CJEU) in two cases relating to the Dutch fiscal unity regime. The CJEU held that the Netherlands may not favor domestic situations by allowing a benefit that is not open to cross-border groups. As a consequence, some corporate income tax and dividend withholding tax rules will have to be applied as if no fiscal unity exists.

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.

Corporate income tax returns generally must be filed annually, within five months of the end of the fiscal year, although an extension of this deadline is possible. Businesses are expected to file all returns electronically. The tax return must be accompanied by all information required to determine taxable profits, including the balance sheet and profit-and-loss account and any other information requested by the tax inspector. If a company fails to comply with these obligations or does not file a proper tax return, the inspector may issue an estimated assessment.

Penalties: Administrative penalties may be imposed for late filing or failure to file a return or for the late payment or nonpayment of tax. Criminal penalties may be imposed if the Dutch authorities can prove fraud or gross negligence.

Rulings: A taxpayer may request an advance ruling from the tax authorities on the application of the participation exemption to holding companies in international structures, the use of hybrid financing instruments and hybrid entities, the existence of a PE in the Netherlands, or the classification of activities (i.e., group services or shareholder activities).

Individual taxation

Rates

Individual income tax rate	Taxable income	Rate
	Up to EUR 68,507	37.1%
	Amount exceeding EUR 68,507	49.5%
Capital gains tax rate	In principle, taxed at the above (Box 1) rates. If the gains are related to a substantial interest (Box 2), they are taxed at 26.9% (increased from 26.25% as from 1 January 2021); if related to savings and investment in Box 3, the gains are not taxed	

Residence: Residence is based on factors such as employment and family circumstances.

Basis: Residents are taxed on their worldwide income. Nonresidents are taxed only on Netherlands-source income. In certain cases, nonresident individuals with Netherlands-source income are treated as limited national taxpayers, in which case they are taxed on foreign-source income but are entitled to some credits.

Taxable income: Income is categorized and taxed under one of three "boxes." Box 1 is income from an enterprise, employment, and housing. Box 2 is income from substantial interests (5% or more). Box 3 is income from savings and investments.

Rates: A two-tier system applies to Box 1 income, with a base rate of 37.1% (reduced from 37.35% as from 1 January 2021) for amounts up to EUR 68,507, and a rate of 49.5% on the excess (with a 14% base deduction for entrepreneurs). Box 2 income is taxed at a rate of 26.9% (increased from 26.25% as from 1 January 2021). Under Box 3, a fixed presumed gain (of the market value of Box 3 assets minus debt) is taxed at a flat rate of 31% (increased from 30% as from 1 January 2021). The fixed presumed gain is based on the average return on Box 3 assets, consisting of savings and investments (the "capital mix"). The calculation of the actual presumed gains for each year are based on past market returns realized.

Capital gains: In principle, capital gains are taxed at progressive rates (i.e., Box 1 income). If the gains are related to a substantial interest, a 26.9% rate applies (i.e., Box 2 income). If the gain relates to an investment, the gains are not taxed as such (i.e., Box 3 income is taxed on an annual basis by calculating a fixed presumed gain). There is no capital gains tax on gains from the sale of a residence or other assets.

Deductions and allowances: All expenses incurred that are necessary to obtain taxable income in Box 1 generally are deductible, except expenses related to employment. Certain expenses of a mixed nature are not deductible, or are deductible subject to limits. As from 2020, the maximum rate against which certain expenses in Box 1 (e.g., mortgage interest) can be deducted is being reduced by three percentage points annually, until a base rate of 37.05% applies in 2023. In 2021, the maximum rate against which those expenses can be deducted is 43% (for 2020, it is 46%). Expenses that are necessary to obtain taxable income in Box 2 generally also are deductible. In relation to Box 3, liabilities (in excess of EUR 3,200) are deductible from the taxable base.

Foreign tax relief: Foreign withholding taxes may be credited under tax treaties. If there is no tax treaty, unilateral relief for foreign withholding taxes is granted only if the income comes from specific developing countries. The foreign tax credit applies separately to each box of income.

Compliance for individuals

Tax year: The tax year is the calendar year.

Filing status: 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.

Filing and payment: Individual taxpayers must file a tax return even if no tax is payable for the relevant tax year. In principle, the tax return must be filed before 1 May of the following calendar year, although an extension to file may be possible in certain circumstances. Payment generally must be made within six weeks after the tax authorities assess the amount payable.

Penalties: Administrative penalties may be imposed for late filing or failure to file a tax return, or the late payment or nonpayment of tax. Criminal penalties are imposed if the Dutch authorities can prove fraud or gross negligence.

Withholding tax

Rates

Type of payment	Residents		Nonresidents	
	Company	Individual	Company	Individual
Dividends	0%/15%	15%	0%/15%	15%
Interest	0%/25%	0%	0%/25%	0%
Royalties	0%/25%	0%	0%/25%	0%
Fees for technical services	0%	0%	0%	0%

Dividends: A 15% withholding tax generally is levied on dividends paid to resident or nonresident shareholders, unless the rate is reduced under an applicable tax treaty or the participation qualifies for an exemption under the EU parent-subsidiary directive or domestic law. Dutch holding cooperatives are required to withhold tax from dividends in certain cases.

In domestic situations, dividends are exempt from withholding tax if the participation exemption applies or if a fiscal unity for corporate income tax purposes exists between the dividend payer and the recipient.

Domestic rules implementing the EU parent-subsidiary directive provide for an exemption from withholding tax on dividends paid to EU/EEA parent companies under the same conditions as for distributions to a Dutch parent. The exemption from withholding tax also applies to dividends paid to a parent company in a third country that has concluded a tax treaty with the Netherlands that contains "qualifying provisions" relating to dividend withholding tax.

Tax withheld on dividends paid to nonresident individuals and companies may be refunded, provided the recipient is a resident of another EU/EEA member state and is the beneficial owner of the dividends. The refund will be equal to the amount of tax withheld that exceeds the (corporate) income tax that would have been due had the recipient been a Dutch resident. A similar refund also is available, in certain cases, to a resident of a third country that exchanges information with the Netherlands.

The dividend withholding tax legislation contains various anti-abuse rules.

Interest: The Netherlands generally does not impose withholding tax on interest. Interest on a hybrid loan can qualify as a dividend for tax purposes, in which case the rules for dividends apply. A conditional 25% withholding tax on interest paid to related entities in low tax jurisdictions applies as from 2021. The withholding tax also applies in cases of abuse.

Royalties: The Netherlands generally does not impose withholding tax on royalties. A conditional 25% withholding tax on royalties paid to related entities in low tax jurisdictions applies as from 2021. The withholding tax also applies in cases of abuse.

Fees for technical services: The Netherlands does not impose withholding tax on technical services fees.

Branch remittance tax: There is no branch remittance tax.

Other: Anti-abuse rules for specific dividend withholding tax measures have been adjusted pursuant to jurisprudence by the CJEU. Specifically, the adjustment relates to the requirements that an intermediary holding company with a linking function should meet to establish valid business reasons that reflect economic reality in terms of the withholding tax exemption.

Anti-avoidance rules

Transfer pricing: Intracompany pricing for goods and services must be at arm's length, and documentation must be maintained on intragroup transactions. 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. It is possible to enter into an advance pricing agreement with the Dutch tax authorities for the use of a certain transfer pricing method.

Interest deduction limitations: The Netherlands does not have thin capitalization rules, but earnings stripping rules apply for corporate taxpayers. Under the earnings stripping rules, the restriction on deductibility applies to the difference between interest expense and interest income from third party and group loans. The balance of interest is deductible up to a maximum of 30% of a taxpayer's EBITDA (earnings before interest, tax, depreciation, and amortization), although all interest is deductible up to a net amount payable of EUR 1 million (even if the 30% threshold is exceeded). The excess is nondeductible but may be carried forward indefinitely. The earnings stripping rules apply per taxpayer, although if the taxpayer is part of a fiscal unity, the 30% threshold will apply at the level of the fiscal unity. The Netherlands has not introduced a group ratio exception, i.e., it is not possible for a taxpayer to rely on a higher group debt-to-equity ratio or higher group interest/EBITDA ratio.

Controlled foreign companies: CFC rules apply for entities in which a Dutch corporate taxpayer holds a shareholding of more than 50% and that are established in low-tax or noncooperative jurisdictions. A low-tax jurisdiction is defined as one where the statutory profit tax rate is less than 9%, while a noncooperative jurisdiction is one on the EU list of noncooperative jurisdictions. The Dutch government has issued a list of noncooperative jurisdictions for tax purposes. Certain categories of undistributed (passive) income of such CFCs will be allocated to the taxpayer/parent company. An exception applies to CFCs carrying out a "substantial economic activity."

Hybrids: Rules targeting hybrid mismatches that have been included in the Dutch corporate income tax act pursuant to the EU Anti-Tax Avoidance Directive apply as from 1 January 2020. As a result, several kinds of hybrid mismatches that lead to situations of a double deduction or a deduction without inclusion will be neutralized by either disallowing a deduction or including the corresponding income for tax purposes. The rules targeting reverse hybrid entities will apply as from 1 January 2022.

Economic substance requirements: The corporate income tax and dividend withholding tax legislation have a number of anti-abuse provisions that are intended to prevent artificial arrangements. In such situations, a taxpayer can prove that the arrangement is not artificial if certain substance requirements are met. Before 1 January 2020, the substance requirements functioned as a "safe harbor," but now the substance requirements serve as an indication that an arrangement is not artificial.

Disclosure requirements: As a result of the OECD BEPS project, country-by-country (CbC) reporting requirements are in effect that require information to be provided to the tax authorities on revenue, income, tax paid and accrued, employment, capital, retained earnings, tangible assets, and activities of a multinational group.

Rules apply for the automatic exchange of cross-border rulings, CbC reports, and transfer pricing agreements between the tax authorities of EU member states.

Advance tax rulings and advance pricing agreements issued after 1 July 2019 are published in an anonymized summary format on the website of the Dutch tax administration.

As a result of the Dutch implementation of the EU directive on mandatory disclosure rules (DAC 6), intermediaries and/or taxpayers must report potentially aggressive cross-border tax arrangements to the Dutch tax authorities. The law came into force on 1 July 2020. The Netherlands has made use of the option offered by the EU to postpone the reporting obligations under DAC 6 by six months as a consequence of the COVID-19 pandemic.

General anti-avoidance rule: The abuse of law doctrine applies where the purpose of a transaction or series of transactions is the avoidance of tax.

In addition to the restrictions on the deductibility of interest discussed above, various other rules can result in the (partial) disallowance of a deduction for interest expenses incurred by a Dutch taxpayer. These include: (i) anti-base erosion rules that essentially cover the conversion of equity into intragroup debt without a valid business purpose; and (ii) rules on the acquisition of shares against debt from a related party without meeting a business purpose test or an effective tax rate test.

Value added tax

Rates	
Standard rate	21%
Reduced rate	0%/9%

Taxable transactions: VAT is levied at each stage in the chain of production and distribution of goods and services. VAT applies on the supply of goods, the rendering of services, the acquisition of goods by businesses, and the import of goods.

Rates: The standard VAT rate is 21%, with a reduced rate of 9% applying to certain goods and services. The reduced VAT rate applies to goods such as foodstuffs, medicines, books, and electronic publications (e.g., books, newspapers, and magazines in electronic form). A 0% rate applies to goods that are being exported from the EU or being transported to another EU member state where they are subject to VAT for purposes of intra-EU acquisition. There are also certain VAT exemptions including for healthcare and sports related services.

Registration: There is no registration threshold in the Netherlands; all VAT payers are required to register for VAT purposes

Filing and payment: Depending on the amount of VAT payable, VAT returns are filed monthly, quarterly, or annually.

Other: By 1 July 2021, the Netherlands must fully implement the EU directive on the simplification of VAT rules for distance sales of goods. As a result, the Implementation Act was submitted to the House of Representatives in June 2020.

Other taxes on corporations and individuals

Social security contributions: Social security contributions on employment income are payable by both employers and employees (and the self-employed). The contributions are calculated on gross salary, less pension premiums withheld from the salary.

In addition, an income-dependent health insurance contribution, disability insurance contribution, and unemployment insurance contribution are imposed.

Payroll tax: Companies are required to withhold tax on wages paid to employees. A "30% facility" (providing a tax-free allowance of 30% of the employee's gross remuneration subject to wage tax, including the allowance granted for extraterritorial costs if certain requirements are met) applies for extraterritorial employees for a period of five years.

Capital duty: There is no capital duty.

Real property tax: Municipalities impose an annual tax at varying rates on owners of real property related to the value of the immovable property. Real estate tax is deductible for corporate income tax purposes. Real property tax is not deductible for individual income tax purposes.

Transfer tax: An 8% real estate transfer tax (increased from 6% as from 1 January 2021) is payable on the acquisition of real property in the Netherlands, or certain related rights. A one-time exemption from transfer tax has been introduced as from 1 January 2021 for first-time homebuyers between 18 and 35 years of age. Homeowners moving property who acquire a home may continue to claim the 2% reduced rate. In order to benefit from the one-time exemption or the reduced rate of 2%, the home must serve as a buyer's main residence and the buyer must clearly, firmly, and unreservedly declare in writing that they will be using the home as their main residence other than temporarily.

Net wealth/worth tax: There is no net wealth/worth tax.

Inheritance/estate tax: Inheritance tax is due on inheritances received from Dutch residents. Dutch nationals who emigrate from the Netherlands still are considered residents during a 10-year period. Rates vary between 10% and 40%.

Other

Insurance premium tax

An insurance premium tax is imposed at a rate of 21%. Landlords in the regulated sector that rent out more than 50 houses are subject to a landlord tax, charged on the average value of the houses. The taxable base consists of the total value of the houses (capped at EUR 315,000 per house) minus 50 times the average value. The tax rate is 0.526% for 2021.

Air passenger tax

As from 1 January 2021, a unilateral air passenger tax is imposed by airport operators. The rate is EUR 7.85 (rounded) for each passenger departing from an airport in the Netherlands. Transfer passengers and children under the age of two are exempt.

Tax treaties: The OECD multilateral instrument (MLI) entered into force for the Netherlands on 1 July 2019. For information on the tax treaty network of the Netherlands, which consists of more than 100 tax treaties, visit Deloitte International Tax Source.

Tax authorities: *Belastingdienst* (Tax Revenue)

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