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Welcome to our Doing Business in the Netherlands guide. Doing business internationally expands a company’s horizon and offers unique opportunities for growth, development and profit building. The Netherlands poses an excellent operating base from a business and social perspective. From an outstanding infrastructure – including Europe’s largest port – to one of the most extensive tax and bilateral investment treaty networks in the world.

This publication gives you an informative view of the key aspects of doing business and investing in the Netherlands. We answer many questions that foreign businesses and entrepreneurs have when making their first venture into the Dutch market, based on our experience with establishing businesses in the Netherlands.

We are delighted that one of our cooperating partners, the Netherlands Foreign Investment Agency (NFIA), was willing to collaborate on this publication. The NFIA is an operational unit of the Dutch Ministry of Economic Affairs and throughout the years it has supported thousands of companies from all over the world to successfully establish their business in the Netherlands.

As a result, this publication goes beyond tax advice and tax compliance. The chapter ‘Introduction to the Netherlands’ offers general information about the Netherlands, for example about the location, industries and business segments, living in the Netherlands and the workforce. The forms of business used in the Netherlands are also described. And there are separate sections for human resources, employment law, and audit and accountancy.

This guide only provides a general overview of the existing opportunities. If you need more information, our advisors will be very happy to assist you on an individual basis.

On behalf of PwC NL, I hope that you will find this guide useful and I would like to wish you every success in the Netherlands.

Sytso Boonstra
Chairman of PricewaterhouseCoopers Belastingadviseurs N.V.
Netherlands Foreign Investment Agency

The Dutch economy has a strong international focus as the Netherlands is one of the European Union’s most dynamic centres of trade and industry. The Dutch government welcomes foreign companies wishing to establish their business in the Netherlands and is highly appreciative of the many international companies already operating here.

Because of its strategic location in Europe, companies use the Netherlands as a hub to cover several European markets. They are supported by a very business-minded government that is focused on reducing red tape and providing a stable, competitive investment climate.

The Netherlands has a long history as a trading nation, which has given the Dutch an international outlook. Foreign companies interested in establishing their business in the Netherlands will find that national and local government, knowledge institutes and business services providers work hand in hand, providing detailed information swiftly.

In many industries the Dutch are the champions of open innovation. Impressive clusters of foreign companies, home-grown success stories, research facilities to share and world-class science institutes have made the Netherlands a hotspot for companies looking to innovate. Strong R&D clusters are present in the Agrifood, High Tech Systems & Materials, Chemicals, Life Sciences & Health and ICT sectors. These industries belong to the top industries that the Dutch government declared the key investment sectors for government, private sector and relevant knowledge institutes. Moreover, investment in R&D is encouraged with highly effective incentives.

When looking to take advantage of all the Netherlands has to offer, several routes to fast and reliable information are available. This guide provides a comprehensive overview of the Netherlands and the business structures on offer.

As part of the Dutch Ministry of Economic Affairs, in 23 offices worldwide, the Netherlands Foreign Investment Agency (NFIA) offers customised information, practical assistance via fact-finding trips and introductions to national and local governments. The NFIA and a large number of specialised partners, including PwC, work closely together to ensure that companies interested in the Netherlands are able to speed up their investment decision-making process.

We look forward to welcoming you in the Netherlands.

Yours sincerely,

Jeroen Nijland
Commissioner Netherlands Foreign Investment Agency
Executive summary

Why the Netherlands

**General**
- The central geographical position of the Netherlands and its outstanding infrastructure make it the ideal gateway to start expanding your business.
- The Netherlands acts as the logistics hub for Europe through the Rotterdam port (Europe’s largest) and Amsterdam Airport Schiphol (named best European airport for 2013), both with renowned service levels.
- The Netherlands features one of the most highly educated, flexible and motivated workforces in Europe.
- Due to its exceptional number of bilateral investment treaties, the Netherlands is a secure place from which to make your investments.
- The Dutch political/financial climate has been very stable for decades.
- The Netherlands ranks eighth position among the cleanest countries in the world with respect to the perceived level of public sector corruption.
- According to the World Economic Forum (survey 2014-2015), the Netherlands currently has the eighth-best business climate in the world.

**Tax**
- The Netherlands has one of the most extensive tax treaty networks in the world.
- The Netherlands has an attractive low corporate tax rate of 25 per cent (20 per cent for profits up to EUR 200,000).
- Double taxation can usually be avoided in the Netherlands. Profits from subsidiaries/branches can be enjoyed tax free due to the full participation exemption and foreign branch exemption.
- The Netherlands has a very favourable tax treatment for foreign-owned companies. There are no withholding taxes on interest and royalties, and a full (to zero) or partial reduction of withholding taxes on dividend usually applies.
- Especially for holding companies, the Dutch tax system has many advantages.
- The innovation box, together with other R&D facilities, provides for a highly attractive tax regime for R&D activities.
- Expatriates with specific expertise may benefit from a 30 per cent tax free allowance on Dutch wage tax.
Why PwC NL

Assurance focuses on the audit of information and processes and provides assurance thereon. The most significant element of our Assurance practice is the statutory audit of annual financial statements. A smaller element is focused on providing assurance on process and numerical (non-financial) information and advising on accounting issues.

Tax & HRS covers all services with regard to tax consultancy, legal consultancy and human resources. Tax & HRS helps companies, individuals and organisations with their tax strategy, planning and compliance, and provides a wide variety of advisory services in the area of taxation. This Line of Service also has Human Resources specialists in place who advise on such matters as remuneration structures, pension plans, and cross-border staff exchanges.

Advisory’s activities are twofold. Firstly, it helps companies and institutions with transformation processes arising mainly as a result of changes in strategies, business models, and/or information systems. Secondly, it provides advisory services in the area of mergers and acquisitions, from strategy determination right through to assistance with corporate integration.

Industry teams

Our services structure covers a wide range of market sectors. For every sector, we have set up special teams (sector groups) that are up to date on current developments in the sector concerned. This means that our clients are advised by professionals who are familiar with their specific sector.

Knowledge sharing within eight industry groups

- Industrial Products
- Retail & Consumer
- Financial Services
- Energy, Utilities & Mining
- Technology, Media and Telecom
- Transport & Logistics
- Private Equity
- Public Sector

PwC worldwide 195,433 people

PwC has been voted the world’s leading tax advisor, across 12 key service areas, in the Global Tax Monitor’s survey of 4,000+ tax leaders from 40 key markets.

In-house knowledge necessary to design state-of-the-art group structures to optimise your business activities and tax position.

Very good contacts with the Dutch Tax Authorities, resulting in quick and smooth communication about your requests, filings and questions.

The Nederlands 4,240 people

12 Offices

PwC The Nederlands

Doing Business in the Netherlands 7
Official name: *Kingdom of the Netherlands*

Form of government: *Constitutional monarchy, parliamentary democracy*

Head of State: *His Majesty King Willem-Alexander, King of the Netherlands, Prince of Orange-Nassau*

Capital: *Amsterdam*

Seat of government: *The Hague*

Surface area: *33,800 km²*

Number of inhabitants: *16,907,957 (January 2015)*

Number of inhabitants per km²: *500 (January 2015)*

Monetary unit: *Euro*

Languages: *Dutch, Frisian*
Introduction to the Netherlands

Location
The Netherlands is situated in northwestern Europe. The location of the Netherlands provides a prime access to markets in the UK, Germany, France and other European countries. The strong position of the Netherlands in terms of logistics is reflected in the World Bank Logistics Performance Index 2014, where the Netherlands is ranked second.

The city of Rotterdam has the largest port in Europe. Rotterdam has five distinct port areas and three distribution parks that facilitate the needs of a hinterland with 350 million consumers. Most important for the port of Rotterdam are the petrochemical industry and general cargo transshipment dealings. The harbour functions as an important transit point for transport of bulk and other goods between the European continent and other parts of the world. From Rotterdam goods are transported by ship, river barge, train or road. There is a double track fast cargo railway from Rotterdam to Germany.

The Netherlands has the best water transport infrastructure in the world. The road transport network is extensive and is second in the world as regards road network density.

Government
The Dutch government is seated in The Hague and enjoys a good international reputation and functions effectively. The Netherlands is one of the most stable nations in the world with a competitive fiscal climate. Besides, government finances are relatively healthy. According to the World Bank, the government of the Netherlands is one of the most effective in the world, thus making it easier for companies to make medium and long-term decisions.

Living in the Netherlands
Because of its long and successful tradition in worldwide commerce, the Netherlands applies the same open-minded principles to making its society work for both natives and newcomers. It has extensive experience in adapting to the needs of others.

The large international community in the Netherlands has stimulated the Netherlands to provide good facilities, which naturally include a wide range of good primary and secondary international schools. Nowhere else in the world there is such an extensive group of high-quality international and globally oriented educational institutions as in the Netherlands.

Trade and foreign investment
The Netherlands plays a prominent role in the world economy due to its exports, imports, attracting foreign investors and investments abroad. Its favourable location in relation to the European hinterland and its world-class infrastructure have helped the Netherlands become an important distribution centre. As the fifth-largest exporter of goods in the world, the Netherlands occupies a prominent position when it comes to world trade. As well as being a major exporter, the Netherlands also imports large quantities of goods; the country is the ninth-largest importer of goods in the world. Dutch businesses are truly international in their orientation. The total value of Dutch investments in other countries is considerable. In late 2014, overseas investments totalled in excess of 1,072 billion US dollars, making the Netherlands, the seventh-largest foreign investor in the world.

The Netherlands is also the world's eleventh-largest and Europe's seventh-largest recipient of foreign investment. In 2014, foreign companies had inward direct investment worth 670 billion US dollars.

Top sectors
In its economic policy, the Dutch government focuses on nine business sectors that are key to the Netherlands international trade and investment. These are sectors that are leading the way in innovation and sustainability, collaborating with Dutch knowledge institutes on world-class research and development. Expertise and products from these Dutch sectors are in demand around the world. Together, they are the drivers of the Dutch economy.
Agriculture and food sector - World-leading supplier of agri-food products

- The Netherlands is the world’s second largest exporter of agricultural products (EUR 79.2 billion in 2013).
- Four of the world’s top 30 food and beverage companies are Dutch and nine have a major production site or R&D facilities in the Netherlands.
- The Netherlands is one of the world’s leading developers and manufacturers of food processing machinery.
- The productivity of Dutch agricultural entrepreneurs is five times higher than the European average.

Chemical sector - Chemical portal to Europe

- The chemical industry is one of the leading business sectors in the Netherlands with a turnover of EUR 57 billion in 2013.
- The Netherlands is world’s fifth-ranking chemical exporting country.
- The Netherlands hosts sixteen of the world’s top 25 leading chemical companies.
- Chemical companies work together on innovation and production and take advantage of regional clustering.
- The Netherlands is home to world-class R&D institutes for fundamental and applied research.

Creative industries - Masters in architecture, design, fashion and gaming

- The Dutch creative industry ranks among the world’s top ten in terms of trade figures, jobs and registrations of brands and patterns.
- The annual turnover of the Dutch creative industries is EUR 32.8 billion.
- Dutch architects are commissioned to design prestigious buildings around the world.
- The Netherlands has a long tradition of interior design.
- The Netherlands is the world’s third largest exporter of television formats.
- The Netherlands is also a world-leading developer of computer games.

Energy sector - Innovative, sustainable energy solutions

- The Netherlands is a pioneer in the area of dance music and large dance events.
- The Netherlands is a major natural gas producer and the source of advanced gas technology.
- The distribution network for gas is the densest in Europe and of a very high standard.
- The Dutch have leading expertise in offshore wind energy, co-combustion of biomass in coal-fired power plants, pre-treatment methods of biomass, the use of landfill gas and the use of heat pumps combined with heat and cold storage.
- The Netherlands has an international reputation for research in renewable energy.
- The Netherlands is establishing itself as leader in green gas.
- The Netherlands plays a key role as a major oil-refining centre in Europe.
High tech sector - New technologies for health, mobility, energy and security

- The Netherlands is a world leader in the development of new technologies and materials for use in communication systems, aircrafts and automobiles, medical devices, energy generation and semiconductor production.
- The Netherlands is world leader in designing, developing and making high-tech equipment and micro/nano components.
- The Netherlands is strong in nanotechnology research.
- In 2011 this sector had an export value of EUR 46 billion and an added value of EUR 34 billion.

Horticulture sector - World’s leading supplier of flowers, plants and trees

- The Dutch horticulture sector is a global trendsetter and the undisputed international market leader in flowers, plants, bulbs and propagation material.
- A quarter of the world trade in horticultural products is in Dutch hands.
- The sector is the number three exporter in nutritional horticulture products.
- The Dutch are the world’s largest exporter of seeds.
- In 2013 the Netherlands was the world’s biggest exporter (in value) of fresh vegetables.

Life sciences and health sector - Helping to advance health worldwide

- The Netherlands ranks eighth worldwide in life sciences and health patents.
- With approximately 360 innovative life sciences companies clustered within a 120 mile radius, the Netherlands is the most geographically concentrated region in the world when it comes to creating economic and social value in this sector.
- In 2011, Eindhoven’s Brainport region was named the world’s most intelligent ICT and health cluster.
- The Netherlands is a global market leader in mobile health care.
- The sector invests over two billion euros in R&D in the Netherlands each year and is becoming a globally recognised stronghold of open innovation.
- The industry’s annually exports amount to around EUR 37 billion in total.

Logistic sector - Strategic gateway to Europe and the world

- The Netherlands ranks second in the 2014 World Bank Global Logistics Performance Index.
- The Port of Rotterdam is the world’s eighth-largest and Europe’s largest port with a throughput of 440.5 million tons in 2013.
- Schiphol won the ‘ACI Europe Best Airport’ award for the fourth time in 2013. At the 2014 World Airport Awards air travellers voted Amsterdam Airport Schiphol the Best Airport in Western Europe.
- According to the World Economic Forum, the quality of the Dutch infrastructure is among the best in the world, reflecting excellent facilities for maritime (ranked first), air (ranked fourth) and railroad (ranked eleventh) transport in 2013. IMD Business School ranked the Netherlands first worldwide in 2014 with regards to the quality of its water transport infrastructure.
- Over 1,000 American and Asian companies have centralised their European distribution activities in the Netherlands.
- Dutch inland shipping accounts for 54 per cent of all trade shipping in Western Europe.

Water sector - World leader in hydraulic engineering, water treatment and shipbuilding

- The Dutch are renowned for their integrated water management and multi-disciplinary approach that balances social, environmental and engineering needs.
- Forty per cent of the freely accessible market for water management is in Dutch hands.
- The Dutch Delta Works are listed in the Guinness Book of Records as the largest flood defence project in the world.
- The Dutch invest heavily in innovation and R&D through public-private partnerships.
- In the field of water technology and maritime technology, the Netherlands ranks eight worldwide for global patents.
- Some 99.9 per cent of Dutch households have access to clean, entirely chlorine-free drinking water.
- The Dutch maritime cluster comprises twelve sub sectors and 12,000 companies, which employ 194,000 employees. Of the sea-going ships produced in the Netherlands 60 per cent are destined for export.
**Human capital and innovation**

Dutch products are ‘typically’ highly innovative. The Netherlands provides solutions to keep rising water levels in check, create islands in the sea and make waterways navigable. Apart from solutions for use in the natural environment, the Dutch also have the knowledge and the skills to develop products such as navigation systems with worldwide appeal. This capacity to innovate is evidenced by the large number of patents that are applied for every year and by the presence of several world-renowned knowledge and research institutes in the Netherlands.

**Well-educated working population**

The internationally-oriented working population of the Netherlands is well educated, with many people able to speak more than one foreign language. According to the EF English Proficiency Index, the Netherlands ranks third out of 54 countries. A good proportion of the population also speak German and French. According to the European Commission, the Netherlands has a world-class vocational education and training system, with built-in mechanisms to adapt to current and future skills needs so that training is more demand-driven. The Dutch labour force is also well equipped for the dynamic, fast changing IT-society of the 21st century. Dutch schoolchildren achieve good scores in the OECD Programme for International Student Assessment: fifth place within the OECD and second in the EU. Furthermore, compared to many other EU member states, life-long learning is commonplace in the Netherlands: adults regularly engage in further education in order to continually improve their skills and knowledge levels.

**High productivity per hour**

The high level of education and the strong economic structure allow employees to be productive. Labour productivity per hour is among the highest in the world. It is noteworthy that the Netherlands has combined this high level of productivity with a high level of labour participation, also among semi-skilled and unskilled workers.

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**Business etiquette**

Dutch people tend to view themselves as modest, tolerant, independent and self-reliant. They value education, tolerance, hard work, ambition and ability. The Dutch have an aversion to the non-essential. Dutch manners are frank with a no-nonsense attitude; informality combined with adherence to basic etiquette. For foreigners not being used to this, the Dutch may seem harsh or impolite at first. However, foreigners will soon learn that the Dutch way of working is also honest, efficient and friendly.

The Dutch are proud of their cultural heritage, rich history in art and music and involvement in international affairs.

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**Worldwide innovation index: fifth position**

Most innovative countries (2014) - 143 countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Score</th>
</tr>
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<tbody>
<tr>
<td>Switzerland</td>
<td>64.8</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>62.4</td>
</tr>
<tr>
<td>Sweden</td>
<td>62.3</td>
</tr>
<tr>
<td>Finland</td>
<td>60.7</td>
</tr>
<tr>
<td>Netherlands</td>
<td>60.6</td>
</tr>
<tr>
<td>United States</td>
<td>60.1</td>
</tr>
<tr>
<td>Singapore</td>
<td>59.2</td>
</tr>
<tr>
<td>Denmark</td>
<td>57.5</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>56.9</td>
</tr>
<tr>
<td>Hong Kong, China</td>
<td>56.8</td>
</tr>
</tbody>
</table>

Source: INSEAD, 2014

**High productivity per hour**

GDP per hour, corrected for purchasing power parity (2013)

<table>
<thead>
<tr>
<th>Country</th>
<th>Score</th>
</tr>
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<tbody>
<tr>
<td>United States</td>
<td>67</td>
</tr>
<tr>
<td>Belgium</td>
<td>61</td>
</tr>
<tr>
<td>Netherlands</td>
<td>60</td>
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<tr>
<td>France</td>
<td>59</td>
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<tr>
<td>Germany</td>
<td>57</td>
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<tr>
<td>Denmark</td>
<td>56</td>
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<td>Ireland</td>
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<td>Austria</td>
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<td>Sweden</td>
<td>55</td>
</tr>
<tr>
<td>Switzerland</td>
<td>50</td>
</tr>
</tbody>
</table>

Source: The Conference Board and Groningen Growth and Development Centre, 2014
Legal system

Setting up a business

Dependent on the form chosen, certain steps must be taken to set up your company in the Netherlands. As it is most common to start doing business in the Netherlands using a bv (‘besloten vennootschap’), below we will briefly set out the requirements for setting up your business using such entity form. The Dutch forms of business are described in the next paragraph.

- Normally, an establishment permit is not required to start up a new business in the Netherlands. This may be different for some sectors that are considered more complex. An example is the food sector. If you are planning a new plant in the Netherlands, an environmental permit is required in all cases.
- The articles of association must be written in Dutch and contain the name, seat and object of the bv. The name must be unique in such a way that it does not cause confusion with other entities/brands.
- The founders of the bv must sign the articles of association before a civil-law notary in the Netherlands (it is possible to use a power of attorney to avoid unnecessary travel or delays).
- Every business must be registered with the Trade Register of the Dutch Chamber of Commerce. The register holds publically available information on the business, such as the names of the board members and the articles of association.
- Before all requirements are fulfilled, the bv ‘under formation’ is allowed to assume obligations. These obligations are for the risk of the person(s) representing the bv under formation. After the formal establishment of the bv, these obligations need to be authorised by the bv, and the representatives are absolved of this liability.
**Forms of business**

There are several ways to operate a business in the Netherlands. A distinction can be made between entities with legal personality (corporate entities) and entities without legal personality (non-corporate). Below we discuss the principal forms used by foreign investors and companies expanding their businesses to the Netherlands.

**Corporate entities**

**The bv and nv**

Under Dutch law, two types of limited liability companies are recognised:
- bv (‘besloten vennootschap’); and
- nv (‘naamloze vennootschap’).

Both the bv and the nv are entities with legal personality and a capital divided into shares. They can be used for the same business purposes, to be set out in their articles of association. The bv is the more flexible of the two and is most frequently used in international business. For more information we refer to the box on page 15.

**The cooperative**

The Dutch cooperative (‘co-op’) was historically used mainly in the agricultural sector and by certain banks and insurance companies. In the last decade, it has been reinvented as a holding company in international structures due to its flexibility from a Dutch legal and tax perspective. A co-op is a special kind of association. Similar to the nv and bv, it is an entity with legal personality, governed by articles of association.

The participants in a co-op are called members and at least two members are required to form the co-op. The co-op conducts its activities for its members and is considered an extension of the businesses of its members. Members can be individuals, partnerships or legal entities. Member liability can be unlimited, limited or excluded. In general, the co-op is a very flexible legal entity with no minimum capital requirements and a less regulated governance structure. The co-op is often used in international structuring.

**Non-corporate entities**

Partnerships are used by individuals and entities to work together without being incorporated in a separate legal entity. The legal requirements are limited, a partnership agreement is sufficient. Although a partnership cannot hold legal title, it can acquire rights and assume obligations in its own name. It is therefore a separate business entity from an operating perspective, although it is not legally separate from its owners (the partners) in many respects, including taxation.

The most common partnerships are the vof (‘general partnership’) and the cv (‘limited partnership’). Partners in the vof have unlimited liability. In the cv, one or more general partners also have unlimited liability, but there will also be partners with limited liability. The limited partners are not allowed to perform acts of management and/or represent the partnership, as this would deprive them of their limited liability.

The cv is often used in international structuring for an optimal tax position.

**Branch**

Another possibility to start up activities in the Netherlands is to create a Dutch branch of a foreign entity. A branch is not a separate legal entity but an establishment in the Netherlands which is part of and governed by a foreign legal entity. The parent business therefore always bears ultimate legal liability for the branch. Depending on the nature and scope of the activities, the branch may qualify as a ‘permanent establishment’ for taxation matters. If so, the results of the branch will be taxable in the Netherlands.
### The bv

The bv is a privately held company comparable to the ‘limited liability company’ (Ltd) in the United Kingdom or the ‘Gesellschaft mit beschränkter Haftung’ (GmbH) in Germany. The rules for the bv changed in 2012 and were made even more flexible with the introduction of the ‘flex-bv’. The main characteristics of the bv under the new rules are:

**Shares**
- Practically no minimum capital is required. The founders will determine the issued capital (at least one share) and required paid-up capital. The issued capital and paid-up capital will be laid down in the articles of association.
- Companies with multiple shareholders can issue different types of shares to vary the voting rights of shareholders and to vary their dividend rights.
- Some shareholders (e.g. banks) can be excluded from voting rights.
- Shares of a particular class may give no or limited entitlement to profit sharing. Shares with no rights to profit or liquidation proceeds must always have voting rights.
- Depending on the wording in the articles of association, transfer restrictions may be applicable.
- Shares cannot be listed on a stock exchange.

**Governance**
- Annual general meeting (GM) for shareholders (in general, also for shareholders without voting rights) and holders of meeting rights.
- Both a one-tier board (executive and non-executives) and a two-tier board (separate supervisory board) are possible.
- A supervisory board (or non-executive directors (NEDs) on the board) is optional. Large companies may be subject to the ‘Large Company regime’. In that case, the supervisory board (or the NEDs) is mandatory and will have special powers to appoint the executive members of the board. For some groups of companies (holding companies, companies with a majority of the employees working outside the Netherlands), the Large Company regime is less restrictive.
- The articles of association may grant shareholders the right to give specific instructions to the management board.
- Disclosures about allocation of board membership between men and women. Based on the Dutch Corporate Governance code the principle of ‘comply or explain’ is advisable.

**Allocation of profits**
- The GM decides on profit distribution, based on the annual accounts drafted by the management board.
- Dependent on the outcome of a liquidity test, the management board may refuse approval to the distribution of profit, if this contribution threatens the continuity of the company.
- No other capital and creditor protection rules apply.
- Possibility to make interim dividends.

### The nv

The nv is a public company comparable to the ‘public limited company’ (plc) in the United Kingdom or ‘Aktiengesellschaft’ (AG) in Germany. The shares in an nv may be freely transferable. In general, the nv is more strictly regulated and mainly used to incorporate companies that are very large and/or listed on the stock exchange. The main characteristics of the nv are:

**Shares**
- Minimum capital of EUR 45,000.
- Different types of shares are possible (including bearer shares).
- All shareholders have voting rights and profit rights. There is the possibility to create depositary receipts to split up voting rights and profit rights.
- Depending on the wording in the articles of association, transfer restrictions may be applicable.

**Governance**
- Annual general meeting (GM) for shareholders (in some cases, depositary receipt holders may also attend the meeting).
- Both a one-tier board (executive and non-executives) and a two-tier board (separate supervisory board) are possible.
- A supervisory board (or non-executive directors (NEDs) on the board) is optional. Large companies may be subject to the ‘Large Company regime’. In that case, the supervisory board (or the NEDs) is mandatory and will have special powers to appoint the executive members of the board. For some groups of companies (holding companies, companies with a majority of the employees working outside the Netherlands), the Large Company regime is less restrictive.
- The articles of association may grant shareholders limited possibilities to give instructions (only general guidelines) to the management.
- Disclosures about allocation of board membership between men and women. Based on the Dutch Corporate Governance code the principle of ‘comply or explain’ is advisable.

**Allocation of profits**
- The GM decides on profit distribution, based on the annual accounts drafted by the management board.
- The GM decides on the proposed profit distribution. Dividends are limited by formal capital and creditor protection rules.
For centuries, the Netherlands, being a nation of traders, has realised the importance of being open and welcoming to foreign companies. As a result, the Dutch taxation system contains many incentives that stimulate entrepreneurship, foreign investment in the Netherlands and immigration of foreign employees. The most important are:

- **Broad tax treaty network**
- **Fiscal unity**
- **Innovation box**
- **Participation exemption and foreign branches**
- **No withholding taxes on interest and royalties**
- **Dutch Tax Authorities generally are accessible and willing to discuss the tax position in a constructive manner and to issue Advance Tax Rulings (ATR) and/or Advance Pricing Agreements (APA) to eliminate uncertainty for taxpayers**
- **A low corporate income tax rate of 25% (20% for income up to EUR 200,000)**
- **Regulations to unilaterally lower Dutch taxes**
- **30% ruling**
The Dutch ruling practice

One of the specific features of the Dutch tax system is the possibility to discuss the tax treatment of certain operations or transactions in advance. Upfront approval can be obtained from the Dutch Tax Authorities. The Dutch Tax Authorities conclude Advance Pricing Agreements (APA) as well as Advance Tax Rulings (ATR). Both are binding for the taxpayer and the Dutch Tax Authorities. To obtain an APA or ATR, certain substance requirements must be met. In general, the Dutch Tax Authorities are more than willing to cooperate and handle requests for APAs, ATRs and other requests (e.g. a request for a fiscally facilitated merger, a VAT registration or a (VAT) fiscal unity) within a reasonable amount of time.

APA

An APA is an agreement with the Dutch Tax Authorities specifying the pricing method that the taxpayer will apply to its related-company transactions. These programmes are designed to help taxpayers voluntarily resolve actual or potential transfer pricing disputes in a proactive, cooperative manner.

ATR

An ATR is an agreement with the Dutch Tax Authorities determining the tax rights and obligations in the taxpayer’s specific situation, used to prevent or resolve any tax disputes.

Horizontal monitoring

Another specific feature in the Netherlands is that the Dutch Tax Authorities allow businesses, under certain conditions, to apply for ‘horizontal monitoring’, a form of co-operative compliance by signing a Horizontal Monitoring covenant with the Dutch Tax Authorities. Horizontal monitoring encompasses more than just complying with laws and regulations; the organisation must be able to demonstrate it is in-control of its tax processes and tax risks, the so-called ‘Tax Control Framework’. The Dutch Tax Authorities will adjust the methods and intensity in which they perform their monitoring to the level of tax control of the taxpayer. As a result, audits performed by the Tax Authorities will shift from reactive (tax audits over past years) to proactive (providing ‘assurance’ upfront). Under horizontal monitoring, the company’s relationship with the Dutch Tax Authorities is based on mutual trust, understanding and transparency.

The benefit of this arrangement is that relevant tax risks and positions can be dealt with when they occur (in the present) within acceptable commercial deadlines. The company is required to act with a transparent attitude towards the Dutch Tax Authorities, who will in return provide a quick response with respect to tax issues that are brought to their attention by the company. This proactive assurance prevents unpleasant surprises afterwards. Apart from this, it helps with accurately determining the tax cash flow, deferred and current taxes, and ascertains that the company has as little uncertain tax positions as possible. This saves the company both time and costs.

However, some critical remarks with respect to horizontal monitoring have to be made. The way Horizontal Monitoring is executed depends very much on the individual tax inspector in charge of supervision since the concept is not regulated. Another remark is that the Tax Authorities have not formulated any objective criteria with respect to the concept of Tax Control Framework requirements. According to the Dutch Tax Authorities a Tax Control Framework is a ‘subjective, dynamic, open standard’. We strongly disagree with this view since general financial risk management standards should also apply to the tax function. The risk for companies is that the Tax Authorities become very unpredictable when working with ‘subjective, dynamic open standards’. Even more so, since the Dutch Tax Authorities now claim that a Horizontal Monitoring covenant has no legal power but has to be seen as a ‘psychological contract’. Based on the above we advise companies only to enter into the Horizontal Monitoring programme when clear written objectives have been set and a clear working process has been defined in order to manage expectations of the parties involved.

Horizontal monitoring can be applied to all taxes including corporate income tax, value added tax, wage tax and social security. PwC has developed a special tax management maturity model (T3M) to help companies determine their existing level of tax risk management and the path towards the intended maturity level of their tax risk management.

PwC

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Doing Business in the Netherlands 17
Corporate income tax

Scope
In general, a Dutch resident company is subject to corporate income tax (CIT) on its worldwide income. However, certain income can be exempted or excluded from the tax base. Non-resident entities have a limited tax liability. Only ‘Dutch source income’ is included in the CIT base of non-resident corporate taxpayers. For foreign companies, the income from Dutch sources includes income derived from a business enterprise in the Netherlands. This is the income attributable to a business or part of a business operated through a Dutch permanent establishment or permanent representative in the Netherlands.

Residence
In the Netherlands, corporate residence is determined by the company’s specific facts and circumstances. Management and control are important factors in this respect. Companies incorporated under Dutch law are deemed to be residents of the Netherlands.

To obtain a Dutch tax residency certificate, minimum substance requirements need to be met, effectively ensuring that effective management and control of the company is based in the Netherlands.

Tax rate
The standard CIT rate is 25 per cent. A lower rate of 20 per cent applies to taxable income up to EUR 200,000. If the criteria are met, fiscal investment funds are taxed at a CIT rate of nil per cent. Under conditions, certain investment funds are eligible to opt for an exempt status for Dutch CIT purposes.

Income determination
Corporate income is determined annually in accordance with the principles of ‘sound business practice’. Profits and losses are attributed to the years with reference to the basic principles of realisation, matching, reality, prudence and simplicity. The Dutch tax laws, however, contain rules that expressly deviate from the concept of sound business practice. For example, tax laws limit the annual amount of depreciation of immovable property, fixed assets and the amortisation of goodwill but also offers the possibility of accelerated depreciation of certain assets. In addition, there are many exceptions that provide special fiscal facilities, the most important one being the participation exemption, which will be discussed on page 19.

The Dutch tax system provides several tax incentives. For example, to stimulate certain investments. If the conditions are met, tax incentives are available for small-scale investments, investments in energiefficient or environmental assets and for research and development activities. The Netherlands also provides for an optional favourable regime for the calculation of profits from qualifying activities of sea-going vessels. Conditions do apply. The remuneration for activities performed should be at arm’s-length, meaning that terms, conditions, and pricing of transactions between affiliated companies should be similar to those applied between independent third parties. Dutch companies are obligated to produce and maintain appropriate transfer pricing documentation substantiating the transfer prices used.

‘Appropriate documentation’ means that the documentation should, among other things, include a functional analysis (description of the functions, risks and assets), an economic analysis as well as transfer pricing policy documents and internal contracts.

If a transaction between related parties is not at arm’s-length, the taxable income may be adjusted by the Tax Authorities. Moreover, transactions that do not meet...
the arm’s-length test may be deemed to be a contribution of informal capital or a hidden profit distribution (which may possibly trigger dividend withholding tax).

**Depreciation**

Generally, depreciation may be computed by a straight-line or a reducing-balance method or, in accordance with any other sound business practice, on the basis of historical cost. However, Dutch tax law includes specific rules that can limit the depreciation of immovable property, goodwill and other assets.

On the other hand, the law provides accelerated and random depreciation of several specific assets. Accelerated depreciation applies to qualifying investments in assets that are in the interest of the protection of the environment in the Netherlands (the allowed percentage for accelerated depreciation is 75 per cent, the normal depreciation regime applies to the other 25 per cent of the investment). Accelerated depreciation is also available for certain other designated assets, for example, investments of starting entrepreneurs. Under conditions, the costs of the production of intangible assets may be taken into account at once.

**Functional currency**

A Dutch taxpayer may upon request and under certain conditions determine its taxable income in a currency other than euro. The request should be filed during the first book year of incorporation or prior to the start of a new book year in later years. Tax payments must be made in euro.

**Participation exemption**

Provided the conditions for the participation exemption are met, a Dutch corporate taxpayer is exempt from Dutch tax on all benefits connected with a qualifying shareholding, including cash dividends, dividends in kind, bonus shares, hidden profit distributions, capital gains, and currency exchange results.

The requirements for the participation exemption are:

- The holding is at least five per cent of the investee’s capital (options on shares, convertible loans etcetera and under specific conditions, an interest of less than five per cent may also qualify).
- The participation is not held as a portfolio investment. The intention of the parent company, which can be based on particular facts and circumstances, is decisive.
- Regardless of the shareholder’s intention, the participation exemption is also applicable if either the profit of the subsidiary in which the interest is held is subject to an effective profit tax of at least ten per cent or if the majority of the aggregated assets of the subsidiaries do not qualify as low-taxed ‘free’ portfolio investments.

For portfolio investment participations not qualifying for the participation exemption, double taxation will be (partially) avoided by applying a fixed tax credit method, unless the portfolio investment shareholding effectively is not subject to tax at all. For EU shareholdings, it is optional to credit the actual underlying tax.

The participation exemption also applies to losses related to qualifying subsidiaries, meaning that capital losses are in general non-deductible. However, if certain conditions are met a capital loss may be tax deductible if the subsidiary is formally liquidated.

**Innovation box regime**

A special regime applies with respect to profits, including royalties, derived from a self-developed intangible asset. In the innovation box, the taxpayer may opt, under certain conditions, for the application of a lower effective rate on taxable profits derived from these intangible assets. The effective tax rate of the innovation box is five per cent, by means of a reduction of the tax base.

The innovation box only applies to, on balance, positive income, allowing innovation losses to be taken into account at the standard tax rate (note that losses may be subject to recapture). It is also possible to effectively include profits from an intangible asset derived in the period between the patent application and the granting of the patent in the innovation box regime. The innovation box can be a very important facility. In combination with other facilities (see ‘Tax incentives’ on page 27), it makes the Netherlands the ideal location for R&D companies.

**Fiscal unity**

A Dutch resident parent company and its Dutch resident subsidiaries may, under conditions, opt to be treated as one taxable entity for the Dutch CIT by forming a ‘fiscal unity’. Under the fiscal unity regime, inter-company transactions are eliminated and the business proceeds of the included companies are balanced for CIT calculation purposes. Companies with their place of residence in the Netherlands, both for Dutch tax law purposes and tax treaty purposes, may be eligible to opt for this regime. Under conditions, permanent
establishments in the Netherlands of corporate taxpayers with their place of effective management abroad may also be included in a Dutch fiscal unity.

The main requirements to be met in order to benefit from this facility are that the parent company should hold directly or indirectly at least 95 per cent of the shares in one or more Dutch resident companies, the place of effective management should be located in the Netherlands and the entities should be subject to the same tax regime. The advantages of the fiscal unity include:

- Filing a single CIT return.
- Offsetting of losses during the existence of the fiscal unity.
- Elimination of inter-company transactions.

A disadvantage of a fiscal unity may be that each company is jointly and severally liable for the tax debts of the fiscal unity and the more limited application of certain tax incentives.

We note that following recent case law, the scope of the fiscal unity legislation has broadened. It is for example now also possible to form a fiscal unity between sister companies owned by an EU/EEA parent or between a parent and its indirect subsidiary held via an EU/EEA intermediate company.

**Net operating losses**

Tax losses can be carried back one year and carried forward nine years. Due to the participation exemption, losses from the sale of qualifying subsidiaries may not be deducted. However, under certain conditions any losses arising from the liquidation of a subsidiary, whether foreign or domestic, are deductible for CIT purposes. Complex rules may prohibit the utilisation of net operating losses after a change of 30 per cent or more of the ultimate control in a company. Furthermore, limitations exist on loss utilisation for holding/finance companies. Based on these rules, losses incurred by a mere holding or group finance company can be offset only against holding or finance income in preceding and following years, provided that certain strict conditions are met.

No cross-border relief is available with regard to foreign permanent establishments. As of 1 January 2012, foreign source losses can no longer be offset against Dutch source profits. An exception applies to ‘final losses’, losses realised upon the discontinuation of foreign business operations. Under the ‘cessation regime’, final losses of foreign permanent establishments are taken into account for Dutch CIT calculation purposes.

**Foreign income and double tax relief**

The worldwide income of a resident corporate taxpayer is included in the Dutch CIT base, but the Dutch system usually subsequently provides for international double tax relief. The Netherlands concluded around 90 tax treaties for the avoidance of international double taxation (‘DTC’). In case no DTC applies, the Netherlands often unilaterally provides for double tax relief. In addition, taxpayers may benefit from the favourable rules provided by EU directives and EU law.

Double taxation of foreign dividends (not exempt under participation exemption), interest, and royalties is relieved by a tax credit provided by Dutch tax treaties or if the payer of the income tax is a resident of a developing country designated by Ministerial Order unilaterally. If no treaty or unilateral relief applies, a deduction of the foreign tax paid is allowed in computing the net taxable income.

As of 1 January 2012, a new Dutch mechanism is in place to provide for double tax relief for Dutch resident corporate taxpayers deriving profits from foreign business activities. Under the new mechanism, the taxpayer’s worldwide profits are determined according to Dutch tax standards and subsequently reduced by an amount equal to the ‘positive and negative business income items derived from foreign sources’ on a per-country basis. The eligible income items include, for example, the business profits attributable to a permanent establishment located abroad and the income from immovable property located in the other state.

In most circumstances, foreign dividend is exempt from Dutch CIT under the participation exemption, as previously discussed. As a consequence, foreign withholding tax cannot be credited, and constitutes a real cost for the companies concerned. However, a credit of the foreign withholding taxes granted against Dutch dividend tax due on the distribution to foreign parents of the Dutch company may be available. The credit amounts to a maximum of three per cent of the gross dividend paid.

**Exit tax**

If, for any reason, you wish to migrate your company from the Netherlands, an exit tax is due on realised and unrealised profits (hidden reserves and goodwill). The taxable amount is calculated at the time of migration and is formalised in an assessment. If the new place of residence is within an EU/EEA member state, the tax due may be deferred. The company has to comply with certain administrative requirements and provide security in order to obtain the deferral.
Value added tax

EU context
The system of value added tax (VAT) in the Netherlands is essentially the same as that used in the rest of the EU but there are still some significant differences in details between various member states of the EU - especially with regard to the tax rates and formal VAT requirements and the applicable business context. The Netherlands has an attractive business climate that makes it stand out from other European countries. For example, it is possible to discuss VAT matters with the Dutch Tax Authorities and to make arrangements in case of difficult VAT issues (see ‘The Dutch ruling practice’ on page 17).

The VAT system
VAT is charged on the supply of goods and services in the Netherlands made by a taxable person in the course of furtherance of a business, unless the supplies are zero-rated or exempt. A VAT taxable person is anyone performing business activities in the Netherlands. If the business is liable for VAT on its transactions in the Netherlands, it will have to register for VAT. VAT is also due on the importation of goods into the Netherlands, regardless of whether the importer is a VAT taxable person or not.

VAT is effectively a tax on consumer expenditure. So, in theory, the final burden of the tax should not fall on business activity. This objective is achieved by an arrangement known as the input VAT deduction system. When a business buys goods or services, it usually pays VAT to the supplier (input tax). When the business sells goods or services, whether to another business or to a final consumer, it is usually required to charge VAT (output tax) unless the supplies are specifically relieved from VAT. If the business makes only taxable supplies, it must periodically total the input VAT it incurs and deduct this from the output VAT charged, paying (or claiming) the balance to (from) the Dutch Tax Authorities. The result is that the end consumers bear the total cost of VAT on the final price of the goods or services they purchase.

Additionally, various types of supply are exempt from VAT, such as educational and medical services. The difference between zero per cent VAT and an exemption is that the VAT incurred on costs that are incurred for VAT exempt transactions cannot be settled with input VAT. Zero-rated transactions (zero per cent VAT) allow full deduction of input VAT.

Deferment of import VAT
In contrast to some other EU member states, the Netherlands has implemented a system that provides for the deferment of actual payment of import VAT at the time of importation. Instead of paying import VAT when the goods are imported into the EU, the payment can be deferred to the periodic VAT return. Under this system, the import VAT should be declared but this amount can simultaneously be deducted in the same VAT return. As a result, in principle there is no actual payment of VAT at import, thus avoiding cash flow disadvantages.

Form-free administration and e-invoicing
Contrary to some other European countries, form-free administration is allowed in the Netherlands. There are some general requirements regarding the content and readability of the administration, as well as the obligation to retain the administration for seven years (ten years when it relates to immovable property), but basically the entrepreneur is free to determine how the administration is organised. This makes it relatively easy for businesses in the Netherlands to comply with the Dutch administrative obligations compared to other EU member states.

Another advantage is that the Netherlands has introduced legislation that allows for form-free e-invoicing. This means that, although the standard invoicing requirements have to be met, the way in which the electronic invoices are sent is up to the entrepreneur, as long as the authenticity of origin, the integrity and completeness of the content and the readability of the electronically stored invoices are guaranteed. Especially going forward, as electronic invoicing takes flight, it will be advantageous to be established in the Netherlands, where the legislation in this respect is less restrictive than in many other European countries.

VAT refund request
In addition, general VAT refund requests are processed within a couple of weeks in the Netherlands, which is advantageous from a cash flow perspective.
Customs and Excise

EU: customs union

If your business imports goods into the Netherlands from outside the EU, the goods will have to be declared for customs purposes and may be subject to customs duties and VAT. The EU is a customs union, which means that the EU is treated as a single territory for customs purposes and that in principle the same rules and rates apply in each member state. This means that, once goods are in ‘free circulation’ (i.e. all duties paid and import formalities completed) in one member state, such as the Netherlands, they can move freely between all other member states, without further payment of customs duties or further customs formalities.

However, although the rules are the same throughout the EU, the interpretation and/or application may differ in the various EU countries. As a result of the long tradition as a trading country with its open and business friendly environment, the Dutch Customs Authorities are known for their flexible solutions in terms of customs supervision. This does not mean that lower duties are levied or no controls are performed, but merely that the Dutch Customs Authorities typically try performing their controls and supervision in such a manner that it has less impact on the company’s operations.

Customs duties

There are essentially three areas that determine the amount of customs duties payable on goods imported from outside the EU, these are:

Classification

The amount of customs duties depends on how the goods are classified in the EU Combined Nomenclature (the EU list of codes and duty rates for customs purposes), as this determines whether goods are subject to ad valorem customs duty rates (i.e. a set percentage of the value) or to specific customs duty rates (e.g. a set amount per volume) or no customs duties at all (i.e. a zero rate).

Valuation

Where goods are subject to ad valorem customs duties, the EU customs valuation rules are based upon the WTO valuation rules and likewise require that as a basic rule a transaction value method is applied. This means that the price actually paid or payable is the basis for the customs value, i.e. the value is based upon a buy-sell transaction. The transactions between related parties are basically acceptable as a basis for transaction value. However, the Customs Authorities may request that the arm’s length nature of the prices is demonstrated. Only where such transaction value is not available or cannot be applied, alternative methods may apply.

While using a buy-sell transaction as the basis for the customs value, certain cost elements may need to be added in case these are not included in the price paid, e.g. freight and insurance to the EU border, assists, R&D costs or royalty payments. Certain elements e.g. inland freight or inland installation may, in certain circumstances, be excluded, in case these are included in the price paid.

Origin

The EU has many free trade agreements and preferential trade arrangements in place with a large number of countries, which means that goods that on the basis of the specified strict rules, qualify as originating from such a country, can enter the EU at a reduced or zero customs duty rate. However, the EU does also apply trade defence measures upon importation of goods, such as anti-dumping, anti-subsidy (also known as countervailing) or safeguard measures, which generally take the form of additional duty. These are often applied to goods originating from specifically listed countries. Careful consideration must therefore be given to the customs implications of any sourcing or production decisions.

Unlike the US the EU does not have a general refund system for customs duties paid. This means that when goods are imported and subsequently re-exported the customs duties paid upon importation will not be refunded. Therefore, in order to avoid unnecessary payment of customs duties for products that are not destined for the EU market, various suspension arrangements can be applied, e.g. for transportation (customs transit), for storage (customs bonded warehousing) or for processing (inward processing). Some of these arrangements may also be applied for postponing the payment of customs duties and import VAT. For the application of such suspension regimes typically authorisations are required, which may only be available for EU established companies.

There is a range of customs reliefs that an importer may use provided that the criteria are met.

Furthermore, simplified procedures are available for performing customs formalities for import, transit and/or exports. These simplified procedures will often allow a more flexible handling of the (logistical) operations with customs supervision being performed in the company’s administration rather than with a physical customs checks/supervision. The simplifications can also relate to self-issuing certificates of origin for exports or origin statements on commercial documents such as invoices (authorised exporter). Based on such origin certificates or origin statements, the imports in the country of destination may be subject to reduced customs duty rates.

Excise duty

Excise duty is a consumption tax payable on certain consumer goods that have been specified in a European context. Excisable goods include: beer, wine, spirits, tobacco and mineral oil products. The amounts of duties payable may be substantial and the rules regarding excise formalities are complex, it is therefore important to seek advice before imports commence.
Personal income tax

The Netherlands taxes its residents on their worldwide income; non-residents are subject to tax only on income derived from specific sources in the Netherlands (mainly income from employment, director’s fees, business income, and income from Dutch immovable property).

Residence

The facts and circumstances determine an individual’s residence. In case of a dispute, the Dutch tax courts will examine the durable ties of a personal nature with the Netherlands. An expatriate is generally considered a resident of the Netherlands if, as a married person, his/her family accompanies him/her to the Netherlands, or if, as a single person, he or she stays in the Netherlands for more than one year.

Qualifying non-resident taxpayer

As of 1 January 2015 the regime for qualifying non-resident taxpayers replaces the regime under which non-resident taxpayers have the option to elect to be treated as a resident taxpayer, which was in place up to and including 31 December 2014. No transitional rules apply. Qualifying non-resident taxpayers of the Netherlands (i.e. individuals who reside in the EU, EEA, Switzerland or the BES islands and who earn 90 per cent of their worldwide income in the Netherlands) will be eligible for personal/familial deductions, tax credits, et cetera which are normally only available to Dutch tax residents. An advantage of the new legislation (as of 1 January 2015) is that qualifying non-resident taxpayers will be able to benefit without becoming liable to tax in the Netherlands on their worldwide income. The other benefit is that their deductions et cetera are taken into account in full, and no longer pro rata as under the rules that applied up to and including 31 December 2014. However, under the new rules, only residents of the countries indicated above can qualify as qualifying non-resident taxpayers of the Netherlands.

Under the provisions of the 30 per cent ruling (see ‘Extra territorial costs and the 30 per cent ruling’ on page 25), employees who are considered resident taxpayers may opt to be treated as partial non-residents. ‘Partial’ in this respect implies that they are treated as residents for box 1 and as non-residents for box 2 and box 3 purposes whilst they are entitled to personal deductions and tax credits.

Boxes

In the Netherlands, worldwide income is divided into three different types of taxable income, and each type of income is taxed separately under its own schedule, referred to as a ‘box’. Each box has its own tax rate(s). An individual’s taxable income is based on the aggregate income in these three boxes:
**Box 1**

**Scope**

Box 1 refers to taxable income from work and home ownership. It includes entrepreneurial and employment income and home ownership of a principal residence (deemed income).

**Social security**

The Netherlands has an extensive compulsory social security system, to which both the employer and the employee must contribute. As the social security contributions are capped, the Dutch social security system is relatively inexpensive in comparison to other European social security systems. The system can be classified as follows:

- **National insurance tax**: under the national insurance tax regulations, contributions are levied on income of the employee up to a maximum of EUR 33,589. At present, the contributions are capped at EUR 9,455 per annum. From this amount several levy rebates may be deducted. National insurance contributions paid by an employee are not deductible from taxable income. National insurance contributions and income taxes are included as a combined amount in the first and second income tax brackets.
- **Employee’s insurance**: this is paid by the employer. It includes unemployment and disability benefits. The maximum annual contribution amounts to approximately EUR 5,800, depending on the industry and size of the company.
- **Health insurance**: the employee should individually conclude a health insurance policy with a Dutch health insurance company irrespective of whether international health insurance is available. In addition, the employer is required to make a contribution as well. This contribution is capped at EUR 3,612.

**Income determination**

Regarding box 1, we will only discuss income from employment and home ownership, as these are most relevant for employees of foreign companies doing business in the Netherlands.

If an employee is on a Dutch payroll, wage tax will be withheld from their salary. The amount withheld and paid by the employer is applied as a prepayment of income taxes for the employee. Within an employment relationship, all benefits in kind are, in principle, considered taxable income. Such benefits include accommodation allowances, private use of the company car, employee stock options, home-leave allowances, and pre- and post-assignment bonuses. Employer-paid reimbursement of relocation costs relating to the acceptance of new employment is not taxable. The same applies for employer contributions towards approved pension schemes, as the future pension terms will be taxed. Income and benefits from equity based remuneration is generally taxable at the moment the benefit vests (shares) or is exercised (stock options).

On 1 January 2009, the rules regarding ‘excessive’ remuneration became effective and brought ‘lucrative investments’ (carried interest arrangements) under taxation in box 1. The income from a lucrative investment, both income and capital gains, will, in principle, be considered ‘income arising from other activities’ and, as such, be taxable in box 1. Under certain circumstances the income may be taxed in box 2 (lower tax rate).

Mortgage interest payments in relation to the financing, renovation, or maintenance of the primary residence may be deducted from box 1 income. To determine the net amount of the deduction, deemed income is taken into account.

Generally, 0.75 per cent of the value of the property is taken into account. An increased rate applies when the value exceeds EUR 1,050,000, for which the rate is 2.05 per cent on the portion exceeding EUR 1,050,000. The interest paid on mortgage loans concluded as of 1 January 2013 can only be deducted if the full mortgage loan is paid off on a periodical basis within 30 years. As of 1 January 2014 the maximum tax rate against which the deduction for the mortgage interest paid in respect of the primary residence can be applied was lowered to 51.5 per cent. This rate has further decreased as of 1 January 2015 to 51 per cent. The rate will continue to decrease over the following 26 years in steps of 0.5 per cent each year to a rate of 38 per cent.

**Levy rebates**

Qualifying taxpayers are entitled to ‘levy rebates’. In addition to the general levy rebate, several other levy rebates may be claimed, depending on the personal situation of the taxpayer (e.g. the continuing labour bonus, the single parent rebate).

**Box 2**

**Scope**

Box 2 refers to taxable income from a substantial interest.

**Rates**

Box 2 income is taxed at a flat rate of 25 per cent.

**Income determination**

A Dutch resident who holds at least five per cent of the shares or a class of shares of a company or who holds rights to acquire a five per cent interest in a company has a ‘substantial interest’. The benefits derived from this substantial interest are taxable in box 2. These benefits include dividends and the gain on the sale of one or more of the shares or rights. Taxation in box 2 will apply to a non-resident only if he holds a substantial interest in a Dutch-based company.

**Box 3**

**Scope**

Box 3 applies to (deemed) taxable income from savings and investment.
Rates
Box 3 income is taxed at a flat rate of 30 per cent.

Income determination
Income from savings and investments is, as such, not taxable. However, the net assets (assets minus debts) valued as at 1 January are deemed to generate a fixed return on investment of four per cent per year. This fixed return is taxed in box 3. All net assets that are not intended for daily use and that are not taxed in box 1 or box 2 classify for the box 3 taxable base.

For Dutch residents, part of the taxable base is exempt and several specific deductions apply. Non-residents are subject to taxation only on the net value of a limited number of Dutch assets, including Dutch real estate not used as the primary residence and profits rights unrelated to shares or an employment.

Foreign tax relief
Residents and most partial non-residents are entitled to relief from double taxation under tax treaties or under unilateral relief provisions.

Extra-territorial costs and the 30 per cent ruling
The actual costs relating to employees who are hired/assigned from abroad to the Netherlands incurred by a foreign employee may be reimbursed tax free provided that these expenses can be proven. These extra-territorial costs basically include all costs that the employee would not have incurred had he or she not been assigned to the Netherlands. Costs that qualify as extra-territorial costs include, among others, costs related to double housing, language courses, residence permits, and home leave. Apart from the base of the 30 per cent ruling, the actual extra-territorial costs may not be reimbursed tax free in addition to the 30 per cent reimbursement. If the actual extra-territorial costs are higher than the 30 per cent reimbursement, the higher costs can be reimbursed tax free.

There are several requirements to qualify for the 30 per cent ruling:
• The foreign employee should have specific expertise that is not available, or is scarce in the Dutch labour market. This is based upon a salary norm: the general gross salary has to amount to a minimum of EUR 36,705 (i.e. EUR 52,436 including tax free reimbursement of 30 per cent). A lower norm amounting to EUR 27,901 (i.e. EUR 39,859 including tax free reimbursement of 30 per cent) applies to individuals with a university degree who are younger than 30.
• The employee must have lived outside a 150 kilometre radius of the Dutch border during more than 2/3 of a 24-month period before taking up Dutch employment in order to qualify for the 30 per cent ruling.
• An application for the 30 per cent ruling must be filed within four months of starting the Dutch employment. If this period is exceeded, the ruling, if granted, will only apply as of the month following the month in which the application was filed. The 30 per cent ruling may only be applied if the employee is included in a Dutch wage tax administration.

The 30 per cent ruling will end when the conditions are no longer met or ultimately eight years from the moment the 30 per cent became applicable. Furthermore, the 30 per cent ruling lapses at the end of the next wage tax period following the wage tax period in which the Dutch employment was terminated. The 30 per cent ruling can no longer be applied on post-departure income. Hence, the 30 per cent ruling can, in principle, no longer be applied on bonuses and equity income that becomes taxable after having left the Netherlands in most situations.

One of the conditions listed above is that the employee should have lived outside a 150 kilometre radius of the Dutch border during more than 2/3 of a 24-month period before taking up Dutch employment in order to qualify for the 30 per cent ruling. This ‘150 kilometer radius’ is currently under discussion. Several court cases regarding this condition started during the year 2012. At this moment one of these cases is pending at the European Court of Justice.

PwC has a special agreement with the Dutch Tax Authorities, based on which PwC can assess and grant expatriates the 30 per cent ruling on behalf of the Dutch Tax Authorities. This reduces the application period from 3-4 months to 2-3 weeks.

Example of the 30 per cent ruling
Employer pays EUR 75,000 to an expatriate who made extra-territorial costs of EUR 10,000 in a given year.

<table>
<thead>
<tr>
<th>Description</th>
<th>With 30% ruling</th>
<th>Without 30% ruling</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>Less: extra-territorial costs</td>
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<td>€10,000 (actual costs)</td>
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<td>Less: National insurance tax</td>
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<tr>
<td>Plus: Levy rebates</td>
<td>€3,556</td>
<td>€2,953</td>
</tr>
<tr>
<td>Net income</td>
<td>€57,598</td>
<td>€51,005</td>
</tr>
<tr>
<td>Effective tax rate</td>
<td>23%</td>
<td>32%</td>
</tr>
</tbody>
</table>
Other taxes

Transfer tax
Acquisition of economic or legal ownership of immovable property in the Netherlands is subject to a six per cent transfer tax on market value. Some exemptions (e.g. for mergers, split ups, reorganisations) are available. The real estate transfer tax on homes is two per cent.

The acquisition of shares in an entity that owns real estate may also be subject to transfer tax if that entity is characterised as a ‘real estate entity’. The threshold for qualifying as a real estate entity is met if at the time of acquisition of the shares or in the preceding year more than 50 per cent of the assets of the entity consist of or has consisted of real estate and at least 30 per cent consist of Dutch immovable property.

Dividend withholding tax
Dividends from Dutch corporations are generally subject to a 15 per cent Dutch dividend withholding tax. In general, in a business-driven structure this does not apply to a Dutch cooperative, a widely used vehicle for holding and financing activities. Dividend withholding tax on dividend received by Dutch individuals or corporate entities is creditable against the personal income tax and the corporate income tax. However, if the participation exemption applies the dividend withholding tax can not be credited.

Dividends paid to corporate entities in other EU countries are often exempt from dividend tax due to the EU parent/subsidiary directive. Moreover, dividend tax is often eliminated or lowered by one of the many bilateral tax treaties.

Thus, the participation exemption, the stable and transparent tax ruling practice and the fact that there is no withholding tax on royalties and interest, are the main fiscal reasons that many intermediate holding companies of international companies are based in the Netherlands.

Car taxes and regional taxes
Apart from the taxes already mentioned, some other taxes complete the Dutch tax system. The most important are:
• An individual who owns/uses a car in the Netherlands may become liable to Dutch road tax.
• Excise tax is levied on certain consumer goods (e.g. cigarettes, cigars, mineral oils, alcoholic products).
• A municipal tax applies to the ownership of immovable property.
• Inheritance and gift tax is imposed on the fair market value of the gift or inheritance.
Tax incentives

The Netherlands is a very attractive place for performing research and development work and for investment. The Dutch tax system features several tax incentives to stimulate innovation and business activities.

Research and development incentives

Apart from the innovation box (see ‘Innovation box regime’ on page 19 above at the CIT section), the Dutch tax system has two more regulations to stimulate R&D: one for wage costs and one for other costs.

Wage costs

Conducting certain R&D activities on applied new technology is subsidised by a reduction of wage tax due on the wages of employees engaged in R&D of technologically new products. The subsidy accrues to the employer when the employee is credited for the normal amount of wage tax. For the year 2015, the reduction of the payroll tax and social security contributions amounts to 35 per cent of the first EUR 250,000 in R&D wage costs (first bracket) and 14 per cent of the excess costs. The benefit for each employer (or group of companies) may not exceed EUR 14 million per year.

To receive this additional deduction, taxpayers must file an electronic/online application with RVO.nl. The request must be filed together with the application for the R&D declaration.

Investment incentives

Investments in certain business assets may qualify for an additional deduction for tax base calculating purposes. Not all business assets are eligible, some are explicitly excluded.

Energy-efficient and environment-improving assets

An investment in a new energy-efficient asset may qualify for an additional deduction (EIA) if the amount exceeds EUR 2,500 and the asset satisfies the requirements on the Energy List 2015. The EIA amounts to 41.5 per cent of the qualifying investments. A similar tax incentive is available for investments in new environment-improving assets. Such an investment may qualify for an additional deduction (MIA) if the amount exceeds EUR 2,500 and the asset satisfies the requirements on the Environment List 2015. The MIA is set at 36, 27 and 13.5 per cent (dependent upon eligibility) of the amount of the qualifying investments. The taxpayer must report the qualifying investment within three months to RVO.nl. An investment can be reported in phases, but the minimum amount for notification is EUR 2,500. An electronic application form is available for this purpose. Both for EIA and MIA, limitations to the maximum amount of benefit apply.

Arbitrary depreciation

Arbitrary depreciation is available to investments in business assets that are in the interest of the protection of the Dutch environment and that meet certain requirements. If the conditions are satisfied, accelerated (or decelerated) depreciation up to 75 per cent of the investment costs is possible. The other 25 per cent of the costs are depreciated in accordance with sound business practice.

Accelerated depreciation is also available for certain designated investments, such as investments by starting entrepreneurs and certain investments made in new business assets in 2009, 2010 or 2011 and between 1 July 2013 and 31 December 2013. Certain conditions apply.
Human resources and employment law

Human resources

The most important long-term asset of almost any business is its qualified personnel. As mentioned before, the Netherlands is internationally renowned for its high-quality labour market. In addition, Dutch employees are flexible and have an excellent work ethic.

Trade unions in the Netherlands have a moderate demeanor in character and tend to operate on the premise of consensus. Union membership is generally low and where industrial disputes do occur, they are resolved quickly and pragmatically. Employers and employees cooperate in various ways through the Joint Industrial Labour Council, the Social and Economic Council, Dutch works councils and European works councils. This cooperation also contributes to stable labour relations. As a result, growth in wage costs has been kept to moderate levels, while productivity levels remain high.

It has become common practice in the Netherlands to include a bonus scheme in the employment agreement of highly qualified personnel. In certain sectors bonus schemes are subject to specific statutory requirements. The wording of these schemes is of utmost importance, as the right design can have tax advantages and may save the employer unexpected costs when the employment is terminated. In addition, providing benefits (rather than paying a higher salary) can have tax advantages for both the employer and the employee.

While wage costs are moderate, it is important to notice that premiums for benefits such as social security and pensions are compulsory. They are paid by both the employer and the employee. Recently, many Dutch employers have been hiring people on a flexible basis, such that in principle they qualify as self-employed. In this regard temporary and flexible contracts are possible and may alter the social security and pension obligations for employers. In addition, these contracts prove helpful for easier termination of the employment.

Employment law requirements

Dutch law grants employees a range of protections that create obligations and potential risks for employers. These include:

- The requirement to establish a works council for every company with 50 employees or more. The employees elect the members. The works council facilitates the communication between management and staff and has a legal right to advise on, or approve, certain decisions of the company.
- A general duty to provide a safe place of work, safe access and safe work systems, supported by related obligations such as consulting with employees or their representatives on health and safety issues and providing staff with certain health and safety information.
- An obligation not to discriminate against employees, including job applicants, on a range of grounds, including race, colour, nationality, ethnic origin, age, gender (this includes sexual harassment), religion or religious belief, sexual orientation, disability, or part-time or fixed-term status.
- An obligation to pay employees at least the minimum wage, which is a fixed monthly rate and is increased annually (as of 1 January 2015 EUR 1,501.80 for those aged 23 and over).
- Various benefits for the employee in connection with childbirth, adoption and other family situations (including the right to at least sixteen weeks of pregnancy and maternity leave, and a right to time off to deal with personal emergencies).
- A requirement not to allow a worker to work beyond twelve hours per day and 60 hours per week without express consent (there are additional limits on i.a. working time, including daily and weekly time off and specific limits related to young workers and night workers).
- A duty to give each employee paid holiday leave at a minimum of four times the average number of days worked per week.
- An employer is limited in its freedom to process personal data obtained about its employees and job applicants, including transferring such data to third parties (these limitations are more stringent in relation to personal data which is ‘sensitive’ and where the data may be transferred outside the EU to countries with low levels of privacy protection).
- The limitation of the number of temporary employment contracts that can be offered to an employee. These rules will in this regard be more
stringent due to new labour legislation as of 1 January 2015.

- Various rights that protect employees in the event of termination of employment. At times, this may make it difficult to dismiss employees. There is a minimum notice entitlement varying from one month (for workers employed less than five years) up to four months (for workers employed more than fifteen years). Under certain circumstances deviation of the notice period is possible. A dismissed employee has a right to claim compensation for unfair dismissal.

- The calculation formula for severance payments will change as of 1 July 2015 due to new legislation. Currently, severance payments are usually calculated on the basis of the following formula: \( A \times B \times C \), with \( A \) being the amount of weighted years of service, \( B \) the monthly gross salary (including certain fixed benefits such as holiday allowance and fixed bonus) and \( C \) a correction factor, which is usually 1, but may be increased or decreased depending on the exact reasons for the dismissal and the financial situation of both the employer and the employee. The new formula, for the so-called ‘transition allowance’, stipulates that an amount equal to \( \frac{1}{3} \) of the gross monthly salary per service year for the first ten years of service and an amount equal to \( \frac{1}{2} \) of the gross monthly salary for further service years, is due. Up to the year 2020, years of service after the age of 50 and situations of more than ten years of service are rewarded with 1 gross monthly salary instead of the \( \frac{1}{2} \) month salary. The transition allowance is capped at EUR 75,000 gross, or 1 gross annual salary if this exceeds the amount of EUR 75,000.

It is advised for an employer to have a comprehensive employment contract in place, to be used for each employee. This can include all the terms and conditions of employment and in addition protect the employer’s business interests by imposing obligations on the employee (e.g. about confidentiality of business secrets or restrictions of certain competitive activities after the employment ends). Please note that the previously mentioned new labour legislation will become effective as of 1 January 2015 and 1 July 2015 which changes for example the dismissal rules.
**Immigration**

Immigration procedure(s) must be started for foreign nationals who want to work and stay in the Netherlands. Over the past few years the Netherlands has introduced a less restrictive admittance policy for highly skilled workers of multinational companies who meet specific (salary) criteria.

**EEA national**

No immigration requirements are applicable to EEA nationals (excluding Croatian nationals, for whom a work permit is required in the first year of their employment). In case the stay of an EEA national exceeds four months he/she needs to register with the local municipality (see ‘Registration municipality’ under ‘Non-EEA national’).

**Non-EEA national**

According to the Dutch Foreign Employment Act an employer needs to be in possession of a work permit for a non-EEA national (including Croatian nationals) who will perform work activities in the Netherlands. For stays shorter than three months the non EEA national may need a Schengen visa (for business or tourist purposes) to enter the Netherlands. A (business) Schengen visa does not allow the non-EEA national to work in the Netherlands.

In case the intended stay will exceed 90 days (within a period of 180 days) a residence permit is required to legally stay in the Netherlands. Besides that a long term entry visa (MVV) is required before entering the Netherlands for most nationals (except for nationals from the US, Canada, Australia, South Korea, Vatican City, New Zealand, Monaco and Japan).

Which immigration procedure has to be initiated, depends on the specific facts and circumstances. The work permit procedure and the highly skilled migrant procedure are the most common.

**Work permit procedure**

There are various types of Dutch work permits (e.g. for intra-company transfers and trainees). It depends on the specific facts and circumstances which type of work permit can be applied for. For some non-EA nationals a single application for a combined permit for work and stay (GVVA procedure) needs to be applied for in case they plan to work and stay in the Netherlands for at least three months. This procedure does not apply to all foreign employees; a number of exceptions exist. If the GVVA procedure does not apply, a separate MVV visa and residence permit should be applied for in addition to the work permit.

For a non-EEA national assigned to a Dutch entity within the same group the intra-company work permit procedure for key personnel might be applicable. The worldwide turnover of the group needs to be at least 50 million. Further, the employee must be in the possession of at least a bachelor’s degree, have a management or key position and earn a gross monthly salary of at least EUR 4,524.12 (figure 2015). In general, the decision period for a work permit (including MVV and/or residence permit) is six to eight weeks.

**Highly skilled migrant procedure**

A residence permit for a highly skilled migrant allows a non-EEA national to reside and work legally in the Netherlands (without a separate work permit). This procedure is, in general, applicable in case the employee stays longer than 90 days within a period of 180 days. The following requirements have to be met:

The company must be registered as a recognised sponsor with the Dutch Immigration and Naturalisation Service (‘IND’). The employee should have a gross monthly market conform salary of EUR 4,524.12 (figure 2015) or EUR 3,316.68 (figure 2015) if the employee is younger than 30 years.

If an MVV visa is required on the basis of nationality, the visa and residence permit can be applied for simultaneously under the so-called TEV procedure. The decision period for this residence permit (including or excluding MVV visa) is two to four weeks.

Please note that a 30 per cent tax allowance for this category of employees might be applicable (see ‘Personal income tax’ on page 23).

**Registration municipality**

In case the stay in the Netherlands is less than four months, registration as a non-resident with the Municipal Population Database is voluntary with one of the 18 designated offices, but required in order to obtain a Dutch citizen service number, needed for tax and payroll purposes. Further, for a stay of at least four months within a period of six months, registration with the Municipal Population Database is required.
Audit and accountancy

Accounting requirements

A company is required to maintain accounting records that are sufficiently adequate to determine the financial position of the company at any time. There are various regulations, including civil and tax regulations, stipulating the period for which the records should be retained. As a general rule, the records must be kept for a period of seven years.

As regards the location of the accounting, there are no special regulations. The accounting can be done in any country (although for tax residency purposes, in certain situations accounting should take place in the Netherlands), but the records must be made available within a reasonable time upon request. A company may decide not to keep records in euros, but to maintain its own functional currency. The same applies to the financial statements. In principle, all companies residing in the Netherlands must prepare annual financial statements, which are then adopted by the shareholders of the company. Subsequently, the financial statements are published, most often by filing them with the relevant Chamber of Commerce. If a foreign company only has a branch in the Netherlands, it normally suffices to file a copy of the annual financial statements of its home country.

It is not necessary for a company to prepare and file the annual report in Dutch. Preparation of the annual report in other languages is allowed. However, it may only be filed in the Dutch, English, German or French language.

The annual report

Size of the company

For all companies, the requirements to prepare and file annual reports and the requirement for an audit are determined, inter alia, by the size of that company. Companies are classified as ‘small’, ‘medium-sized’ or ‘large’ on the basis of three criteria, being (consolidated) total assets on historical cost basis, net turnover and the average number of employees. The criteria are summarised in the table below. Be aware that the size criteria may change based on the amended European Directives followed by new Dutch legislation on financial statements, which will be effective as from 1 January 2016.

<table>
<thead>
<tr>
<th>Net turnover</th>
<th>Small company</th>
<th>Medium-sized company</th>
<th>Large company</th>
</tr>
</thead>
<tbody>
<tr>
<td>(in EUR millions)</td>
<td>&lt; 8.8</td>
<td>&gt; 8.8 and &lt; 35</td>
<td>&gt; 35</td>
</tr>
<tr>
<td>Total assets</td>
<td>&lt; 4.4</td>
<td>&gt; 4.4 and &lt; 17.5</td>
<td>&gt; 17.5</td>
</tr>
<tr>
<td>(in EUR millions)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employees</td>
<td>&lt; 50</td>
<td>&gt; 50 and &lt; 250</td>
<td>&gt; 250</td>
</tr>
</tbody>
</table>

A company will be classified as small, medium-sized or large where it satisfies at least two out of the three criteria for that size for two consecutive years (or the first year for newly formed companies).

Content

The principal requirement for financial statements is that they must be prepared in accordance with generally accepted accounting principles (GAAP) and provide a view enabling a well-founded opinion of the entity’s legal assets, liabilities and results and, as far as the financial statements permit, of its solvency and liquidity.

The financial statements can be prepared either under Dutch GAAP or IFRS as adopted by the EU. IFRS is required for listed companies. In the past the Dutch Accounting Standards Board amended and updated many of its Dutch Accounting Standards to align them to IFRS. However, many differences remain between Dutch GAAP and IFRS. A standard in which IFRS fundamentally differs from Dutch GAAP is for example employee benefits.

In general, the annual report contains the following documents:

- A directors’ report presenting a fair view of the financial position, results and future plans of the company.
- Financial statements comprising (I) a balance sheet, (II) a profit and loss account, (III) a cash flow statement, and (IV) notes to the balance sheet and profit and loss account.
- Other information, including the auditors’ report.
The auditors’ report must include the following points: (a) whether the financial statements are in accordance with the Dutch accounting principles and are an accurate representation of the financial position and result for the year, (b) whether the directors’ report meets the legal requirements; and (c) whether the adequate additional information has been provided. The auditor’s report for so-called OOBs (Public Interest Entities) has changed as from fiscal year 2014, as the auditor needs to include information on materiality, group scoping and key audit matters in the opinion.

A small company does not have to include a directors’ report, has no audit requirement and may file an abbreviated balance sheet and notes with the Chamber of Commerce. Notwithstanding the general requirements, a small company may at its discretion prepare financial statements based on tax accounting principles. As a result, the equity and the profit according to the annual accounts are equal to the equity and profit according to the corporate tax return. This facility was introduced in Dutch law in order to reduce the administrative burden for small entities.

A medium-sized company must be audited, but is permitted to file an abbreviated profit and loss account as part of the financial statements and is exempt from including certain notes to the balance sheet.

**Consolidation**

The important issue of group accounts is one that affects most foreign investors in the Netherlands, particularly in cases where a Dutch company is being used as an intermediate holding company in the group structure. While, as a general rule, a company with subsidiaries must prepare consolidated accounts, there are significant exemptions. The availability of these exemptions means that, in practice, most intermediate holding companies are not required to prepare consolidated accounts (article 408 of the Dutch Civil Code). Though, it is very important that the intermediate holding meets all the conditions of Article 408 in order to be able to use this exemption, also see the next paragraph. For group companies, an exemption from the audit requirement may be available for consolidated subsidiaries.

As a general rule, small companies in the Netherlands are exempt from preparing and filing consolidated financial statements. If the holding company meets the small company criteria on a consolidated basis, there is no need to prepare and file consolidated accounts. Moreover, intermediate holding companies and group companies may be exempt from preparing consolidated financial statements provided, among other things, that the financial information which the company should consolidate has been included in the financial statements of its parent company and that these statements have been prepared in accordance with the provisions of the Seventh European Directive.

**Time table**

The timetable below does not apply to listed companies. The financial statements must be prepared and made generally available within four months after year-end. They must be adopted within six months after year-end.

**Penalties for non-compliance**

In the event that the statutory requirements for preparing and filing financial statements have not been met, this will constitute an economic offence on the part of the directors. The maximum penalty that may be imposed on a director for non-compliance is a fine, as well as six months of imprisonment. Non-compliance with the statutory requirements could have significant repercussions if the company goes bankrupt. Where the statutory requirements for preparing and filing financial statements have not been met, and the company goes into liquidation, the directors will be deemed not to have properly fulfilled their fiduciary duties and could be held personally liable for any deficit upon liquidation.

<table>
<thead>
<tr>
<th><strong>Required action</strong></th>
<th><strong>Time frame</strong></th>
<th><strong>Possible extension</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintaining accounting records</td>
<td>On-going during the year</td>
<td></td>
</tr>
<tr>
<td>Preparation of financial statements</td>
<td>5 months after year-end</td>
<td>Up to 6 months (making the maximum preparation time 11 months after year-end)</td>
</tr>
<tr>
<td>Adoption of the financial statements by the general meeting</td>
<td>Within 2 months of the date of preparation</td>
<td>If the above extension is applied, adoption should take place ultimately 13 months after year-end</td>
</tr>
<tr>
<td>Filing of the financial statements</td>
<td>Within 8 days of adoption, but in no event later than two months after the date of preparation (whether the accounts have been adopted or not)</td>
<td>If the above extension is applied, filing should take place ultimately 13 months after year-end</td>
</tr>
</tbody>
</table>
Corporate income tax

CIT return

A company incorporated under Dutch law or a foreign company tax resident in the Netherlands is required to file a CIT return annually.

The Dutch Tax Authorities will issue a preliminary CIT assessment at the start of a financial year. For financial years that do not coincide with the calendar year, other timing considerations than those discussed below are relevant.

A first preliminary CIT assessment is normally issued in January. Generally, the taxable amount in this first assessment is based on either average of the two preceding years' taxable income or on an estimate provided by the taxpayer. The payment date is mentioned in the assessment. Normally, these assessments must be paid within six weeks after the issue date of the assessment or in eleven instalments (i.e. February to December). If a preliminary assessment is higher than the final assessment, the excess is refunded with interest. Such interest is taxable income.

If an objection against the preliminary assessment is warranted, it must be filed within six weeks after the date of the assessment. Please note that at any time after this the taxpayer may request the Dutch Tax Authorities to issue a revised preliminary CIT assessment. Such a request can be filed electronically and is normally accepted, after which a revised preliminary assessment will follow.

Following the end of a financial year, a CIT return should be filed within five months (before 1 June of the subsequent financial year in case of a financial year equal to the calendar year). If the CIT return is prepared by a professional tax firm like PwC, under certain conditions a further extension for filing the CIT return can be obtained up to an additional eleven months (i.e. in total sixteen months after the end of a financial year). Please note that for financial years that do not equal the calendar year a maximum filing extension of ten (five plus five) months (after the end of a financial year) can be obtained.

After the tax return has been filed, a revised preliminary tax assessment is often issued. Once the Dutch Tax Authorities have examined the CIT return, the final CIT assessment will be issued. The final assessment should be issued within a period of three years as from year end plus the period of the extension granted for filing the tax return. If an objection against the final CIT assessment is warranted, it must be filed within six weeks after the date of the assessment.

Payment

Tax is payable within six weeks of the date of assessment. Interest is payable on any difference between the final assessment and the preliminary assessments, calculated from the end of the financial year. With effect from 1 January 2012, the interest calculation is made from 1 July following the financial year. It is advisable to ensure that a correct preliminary tax assessment is imposed, given the high level of tax interest payable of at least eight per cent.

Additional assessments

Additional assessments are allowed within five years if new data become available of which the tax inspector could not reasonably have been aware at the time the final assessment was made. With regard to income from abroad, additional assessments are allowed within twelve years. An additional assessment may involve interest and a penalty of up to 100 per cent of that assessment. This penalty is not tax deductible. For completeness' sake we note that the actual term of the granted extensions and the actual date/period/terms that the Dutch Tax Authorities will use to issue assessments may vary from case to case. Also depending on the filing history of the client and/or PwC, the Dutch Tax Authorities may reduce the extension for filing deadlines.

Please note that a legislative proposal is currently before the House of Representatives that is expected to be enacted this year (i.e. 2015). This legislative proposal contains an adjustment of the periods during which the tax inspector may impose an additional assessment. The current five-year period for imposing an additional assessment will be reduced to three years after the tax return has been received plus the period of the extension granted for filing the tax return. If the taxpayer acts in ‘bad faith’ the period for imposing an additional assessment will be increased up to twelve years after the tax return has been received plus the period of the extension granted for filing the tax return. For the proposed additional assessment periods it will be no longer relevant whether it concerns income from abroad or not.
**Dividend withholding tax**

Dividend payments, distributions treated as dividends and interest on certain profit participating loans paid by resident companies to residents or non-residents are subject to dividend withholding tax. The tax is withheld by the distributing company at the moment the dividends are put at the disposal of the recipient. The distributing company must file a self-tax assessment and pay the tax withheld to the Tax Authorities within one month of the distribution.

There is no withholding obligation and no self-tax assessment filing obligation if:
- the Dutch participation exemption regime applies; or
- both the distributor and the recipient are part of a fiscal unity for Dutch tax purposes; or
- the dividends are paid to a qualifying EU parent company.

Please note that in case no Dutch dividend withholding tax is due based on an applicable double tax treaty concluded with the Netherlands, the taxpayer is – contrary to the above – obliged to file the dividend withholding self-tax assessment even though no dividend withholding tax is due.

Additional assessments can be imposed by the tax inspector within five years after the calendar year in which the tax liability incurred or the dividend withholding tax refund was made. In case of an omission with regard to the self-tax assessment or in case the dividend withholding tax is not paid or not paid within the stipulated period, a penalty may be imposed.
Value added tax

**VAT return**
The tax period is usually a calendar quarter. However, the taxpayer may request the Dutch Tax Authorities to file a monthly VAT return. If the taxpayer is in a refund position, this could lead to a cash flow advantage. The taxpayer may also request filing a yearly VAT return provided that some specific conditions are met. One of these conditions is that the balance of payable and deductible VAT does not exceed EUR 1,883 per year.

Returns are due by the last day of the month following the tax period to which they relate for companies established in the Netherlands. For foreign companies with only a VAT registration in the Netherlands, the returns are due by the last day of the second month following the tax period to which they relate. Taxable persons filing an annual return are automatically allowed to defer filing until 1 April of the following year.

**Intra-Community Transactions Statement**
An Intra-Community Transactions Statement must be submitted if the taxpayer supplied goods or provided services to an entrepreneur in another EU country and where, in the case of the supply of goods, these goods are transported to another EU country. Taxpayers transporting their own goods to another EU country must also submit these Statements. The period for which the taxable person must submit an Intra-Community Transaction Statement depends on the actual situation (the amount of supplies and/or acquisitions and the type of transactions). The following options are possible: monthly, bimonthly, quarterly and annually.

The statement must be received by the Dutch Tax Authorities within two months after the end of the applicable period.

**Intrastat declaration**
Intrastat declarations have to be filed for dispatches of goods to other EU countries if these exceed EUR 1,500,000 per annum and for arrivals of goods from other EU countries if these exceed EUR 1,500,000 per annum. The Intrastat declarations must be filed monthly and are due on the tenth day of the calendar month following the period to which they relate.

**Personal income tax**

**PIT return**
Tax returns must be filed after each calendar year, in principle before 1 April. Extensions may be possible.

**Advance payment or preliminary tax refund**
Generally speaking, if taxpayers have sizeable income that is not subject to wage tax withholding, they may be required to make advance payments of estimated additional income tax. If the employee has income tax deductions that are not considered in the Dutch payroll, it is also possible to file a preliminary tax refund form in order to claim monthly income tax refunds during the calendar year.
Payroll taxes

Entrepreneurs who employ personnel in the Netherlands withhold wage tax and the national insurance contributions from the employee’s wage and bear the cost of the employee’s insurance contributions and the income-related contribution pursuant to the Health Care Insurance Act (jointly: payroll taxes). The wages are understood to mean everything the employee receives pursuant to the employment contract although some items may be tax exempt (under the general work related cost scheme or specific exemptions).

Payroll taxes are calculated for each wage period, i.e. the period for which the employee receives his/her wage (usually monthly or four-weekly). The employer is required to timely and correctly file the payroll tax returns per wage period. The payroll tax return consists of a collective section (general information concerning the employer) and an employee’s section (detailed information concerning each employee).

The Tax Authorities use the detailed information for purposes including the award of benefits and the pre-completed income tax returns. Consequently, it is extremely important that the details are up to date, correct and complete. For this reason the employer must always adjust or supplement any misstatements or shortcomings in payroll tax returns.

Each payroll tax return has to be paid within the deadline given by the Tax Authorities and quoting the payment reference also given by the Tax Authorities.

On 1 January 2015 a revised system became mandatory for all employers in respect to the determination of the payroll tax implications for reimbursements and provisions provided by employers to their employees. Under the so-called workrelated cost scheme (‘werkkostenregeling’) an employer may reimburse expenses tax free up to 1.2 per cent of the total fiscal wages of its employees. All reimbursements and provisions fall within the scope of this 1.2 per cent budget, unless they are excluded from the budget because they are covered by the so-called intermediary costs, nil assessments or specific exemptions (e.g. extraterritorial costs), or are mandatory taxable wage (e.g. company car). In case the 1.2 per cent budget is exceeded, the employer needs to pay wage tax in the form of a final levy of 80 per cent on the amount in excess of the budget.
Contacts and links

For more information and to find out the opportunities for your company, please contact your own PwC contact or:

Knowledge Centre Tax & HRS
Fascinatio Boulevard 350
3065 WB Rotterdam
P.O. Box 8800
3009 AV Rotterdam
Email: knowledge.centre.taxhrs@nl.pwc.com

Links for more information:

Tax specific:
http://taxsummaries.pwc.com

PwC the Netherlands:
http://www.pwc.nl

NFIA:
http://www.nfia.nl

This document was concluded on 1 January 2015. Subsequent developments have not been included.

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