

Taxes and incentives 2023

The Netherlands

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Stimulating Foreign Investment and Entrepreneurship



Table of contents

Corporate income tax rate of 19% / 25.8%	4
Innovation box: effective tax rate of 9%	4
Participation exemption: drive for European headquarters	5
Fiscal unity regime: tax consolidation within a group	5
Losses: carry-back for one year and carry-forward indefinitely	5
Ruling practice: certainty in advance	6
Wage tax deduction (WBSO): incentive to invest in R&D	6
Tax relief regime for environmentally friendly investments (MIA and Vamil)	7
Tax relief program for sustainable energy (EIA)	7
Special tax regime for expats (30% facility)	8
Wide tax treaty network: avoidance of double taxation and reduction of withholding taxes	8
EU Membership: access to benefits of EU Directives	9
Dutch dividend withholding tax exemption in tax treaty situations	9
In general, no Dutch withholding tax on interest and royalty payments	9
VAT reverse charge mechanism on import: cash-flow advantages	10
Dutch Tax Department: open and accessible	10
Dutch Customs Department: practical and pro-active approach	11

Corporate income tax rate of 19% / 25.8%

Corporate income tax in the Netherlands is levied at the following rates (2023):

- **Taxable amount up to € 200,000: 19%**
- **Taxable amount exceeding € 200,000: 25.8%**

A special optional tax rate may be elected for profits resulting from self-developed intangible assets (Innovation box).

Innovation box: effective tax rate of 9%

- Companies can benefit from an effective tax rate of 9% instead of the statutory rate of 25.8% for profits derived from self-developed intangible assets.
- The innovation box has the following relevant features:
 - To qualify, companies require an R&D declaration as referred to in the R&D tax credit (WBSO) regime in addition to an R&D declaration, larger companies also need a patent, an exclusive license, a software program, a plant breeders' right or a pharmaceutical certification to qualify.
 - Companies that outsource a significant part of their R&D-activities to group companies are faced with restrictions regarding the amount of income that can be allocated to the innovation box.
 - The effective rate of 9% applies to profits exceeding development costs and losses incurred. Development costs of intangible assets and losses on the exploitation of intangible assets can be deducted against the tax rate of 25.8%.
 - The application of the innovation box is optional.

Participation exemption: drive for European headquarters

- The participation exemption, a key feature of the Dutch tax regime, explains the high number of European headquarters in the Netherlands.
- The participation exemption exempts the parent company from paying corporate income tax on benefits from a qualifying shareholding. It prevents benefits being taxed twice within the same group of companies. Benefits include cash dividends, dividends in kind, bonus shares, hidden profit distributions, and capital gains realized upon disposal of the shareholding.
- The participation exemption only applies to shareholdings of 5% or more, provided that the shareholding is not held as a non-qualifying portfolio investment.

Fiscal unity regime: tax consolidation within a group

A group of Dutch companies (or permanent establishments of foreign companies located within the Netherlands) may upon joint request apply to be treated as a fiscal unity. This results in tax consolidation of the Dutch activities within a group and the filing of just one consolidated tax return.

- The main advantages of this regime are:
 - the offset of losses of one company against profits of another company within the fiscal unity.
 - a tax-free transfer of assets.
 - the elimination of most intercompany transactions.

Losses: carry-back for one year and carry-forward indefinitely

- From 1 January 2022 tax losses can be carried back one year and carried forward indefinitely. However, loss compensation in one year is capped at €1 million plus 50% of the taxable profit in excess of €1 million.
- The rules apply to all losses that occur after 1 January 2022, and all losses still available at that date.

Ruling practice: certainty in advance

- The possibility of obtaining an Advance Tax Ruling (ATR) or an Advance Pricing Agreement (APA) is an attractive feature of Dutch tax law and one of the pillars of the Dutch investment climate. The aim of the Dutch tax ruling policy is to offer nationally and internationally operating companies the opportunity to obtain certainty in advance about their future tax position.
- An ATR is an agreement on the tax characterization of international corporate structures. It offers taxpayers certainty in advance on the tax implications of a planned transaction or combination of transactions in an international context. It concerns the application of Dutch tax laws and regulations in a specific situation for a specific organization or company. For example: the applicability of the participation exemption.,
- An APA offers a taxpayer certainty in advance on the determination of an arm's length remuneration or a method for the determination of an arm's length remuneration for cross-border transactions (goods and services) between affiliated organizations and companies, or between units of the same organization or company.
- The Dutch Tax Administration has a dedicated International Tax Certainty Team that handles requests for APAs and ATRs.

Wage tax deduction (WBSO): incentive to invest in R&D

- The R&D tax credit (WBSO) offers compensation for part of a companies' research and development (R&D) wage costs, other costs, and expenditures. In practice, the incentive reduces the wage tax burden of a company.
- The R&D wage tax deduction amounts to 32% of the first € 350,000 of R&D wage and other costs and expenses, and 16% of all further R&D costs and expenses. For start-ups the tax deduction for the first € 350,000 spent on R&D is even higher (40%). There is no maximum allowance per calendar year.

Tax relief regime for environmentally friendly investments (MIA and Vamil)

- The Environmental investment deduction (MIA) allows companies to deduct up to 45% of the investment costs for an environmentally friendly investment on top of the regular investment tax deductions. The investment amount must be at least € 2,500 per asset. A maximum of € 50 million per year is eligible per taxpayer.
- The Arbitrary depreciation of environmental investments (Vamil) allows companies to amortize 75% of the investment costs of a qualifying environmentally friendly investment at once. This leads to an advantage in terms of liquidity and interest. For the other 25% of the investment costs companies follow the regular investment amortization rules.
- The Netherlands Enterprise Agency (RVO) publishes an annual list of qualifying environmentally friendly investments for the MIA and Vamil, the so-called Environmental List.

Tax relief program for sustainable energy (EIA)

- The Energy Investment Allowance (EIA) program supports investments in new energy saving equipment and sustainable energy listed on the Energy list published by RVO. Companies that use the EIA gain a double benefit: their energy costs are lower, and they pay less tax.
- Companies can deduct 45.5% of the investment costs from the taxable profit on top of the usual depreciation.
- The amount of the energy-saving investment must be at least € 2,500 and the maximum investment amount for which a deduction is granted is € 136 million per calendar year per taxpayer.

Special tax regime for expats (30% facility)

Under the 30% facility an employer is permitted under certain conditions to give an employee from abroad a tax-free allowance of up to 30% of his gross salary for the extra costs involved in his temporary stay in the Netherlands.

To qualify for the 30% facility, the following conditions must be met:

- The employee possesses specific expertise that is not available or is scarce in the Dutch labor market. Specific expertise is deemed present if the employees' salary exceeds a certain threshold. For 2023 the salary requirements are:
 - minimum annual gross salary of € 41,954 (not including the tax-free allowance)
 - minimum annual gross salary of € 31,891 (not including the tax-free allowance) for masters (MSc) and doctorates (PhD) under 30.No minimum salary is required for scientific researchers, employees working in scientific education, or doctors in training.
- The employee must be recruited (or assigned) from abroad: the employee must have lived outside a 150 km radius from the Dutch borders in at least 16 of the 24 months prior to the start of the Dutch employment.
- The employer must be a Dutch wage tax-withholding agent and must have a positive decision from the Dutch Tax Administration.
- The facility is available for a maximum period of 5 years (60 months). The duration of any previous stay or previous period of employment in the Netherlands reduces the maximum grant period.
- As of 1 January 2024, the maximum salary that qualifies for the 30% facility will be capped at the so-called WNT-norm, which is currently € 223.000.

Wide tax treaty network: avoidance of double taxation and reduction of withholding taxes

- The Netherlands has one of the most extensive tax treaty networks in the EU, having concluded bilateral tax treaties with over 100 countries to avoid double taxation and to provide reduced withholding tax on dividends, interest, and royalties (for interest and royalties often to 0%).
- Most double taxation agreements negotiated by the Netherlands have followed the draft models published by the Organization for Economic Cooperation and Development (OECD).
- In case no treaty applies, the Netherlands often unilaterally provides for double tax relief.

EU Membership: access to the benefits of EU Directives

- The Netherlands' EU membership secures access to the benefits of implemented EU Directives, such as:
 - The Parent-Subsidiary Directive, designed to eliminate tax obstacles for profit distributions between parent companies and subsidiaries based in different Member States, and
 - The Interest and Royalty Directive, designed to eliminate withholding taxes on cross-border payments of interest and royalties between affiliated companies based in different Member States.

Dutch dividend withholding tax: withholding exemption in tax treaty situations

- Dividend distributed by Dutch resident companies is subject to 15% Dutch dividend withholding tax. However, a withholding exemption applies if dividend is distributed to a qualifying corporate shareholder in a country with which the Netherlands has concluded a tax treaty that contains a dividend article.

In general, no Dutch withholding tax on interest and royalties

- The Netherlands does not levy withholding tax on interest and royalty payments by Netherlands-based companies. In addition, tax treaties usually reduce or eliminate foreign withholding tax on interest or royalties paid to companies based in the Netherlands.
- Dutch withholding tax on interest and royalties is only due in case of distributions to affiliated beneficiaries in countries with very low taxes, countries on the EU list of non-cooperative jurisdictions and in certain tax abuse situations.

VAT reverse charge mechanism on import: cash-flow advantages

- Based on its special position as a distribution country in the EU, the Netherlands has implemented the reverse-charge mechanism on import, which gives a complete deferment of import VAT to the periodical VAT filing.
- Pursuant to the application of this reverse-charge mechanism, import VAT is declared on the periodic return and reclaimed in the same form. As a result, the VAT at import does not become due at all.
- Resident companies and foreign companies with a permanent establishment in the Netherlands can apply for the reverse-charge mechanism on import. Foreign companies without a permanent establishment can appoint a fiscal representative for this purpose (for instance a third-party logistics provider).

Dutch Tax Department: open and accessible

- The Dutch Tax Department understands how important it is for investors to know how tax law will be applied in their specific cases. Therefore, the Dutch Tax Department is as transparent and accessible as is possible to foreign investors. To facilitate this, the 'Liaison for Potential Foreign Investors' has been set up. This Liaison, who works together with the International Tax Certainty Team, provides foreign investors certainty in advance on the tax consequences of proposed major investments in the Netherlands. As a result, fewer checks are required following the investment and the administrative burden is reduced. The tax inspector for the area where the company is located is bound by the agreements made with the Liaison.
- The Netherlands has a broad tax treaty network with over 100 countries. Due to the broad network of treaties, the possibility to get certainty in advance, and the cooperative approach of the Dutch Tax Department, the Netherlands is well positioned to prevent double taxation and international tax disputes for companies doing business in the Netherlands. Should an international tax dispute nevertheless arise, the Dutch Tax Administration is positioned to resolve this as quickly as possible.
- The Dutch Tax Department is known for its cooperative attitude towards taxpayers and aims for an enhanced relationship based on trust, transparency, and mutual understanding.

Dutch Customs Department: practical and pro-active approach

- Goods that are brought into the European Union (EU) are, from the time of their entry, subject to customs supervision, meeting the requirements laid down in the EU customs legislation. The customs inspector understands the importance of a reliable government partner for enterprises. Where the import and export of goods are concerned, he is open to consultation in order to find the most suitable customs arrangements.
- The Dutch Customs Department is well known for its practical and pro-active approach towards facilitating international trade and optimizing customs procedures. This fact underlies the Netherlands' preferred status as a country in which to base importing activities



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