

Doing Business in The Netherlands

2009



Contents

1. Introduction.....	2
2. Business environment.....	3
3. Foreign investment.....	7
4. Setting up a Business.....	8
5. Labour	9
6. Taxation.....	10
7. UHY firms in The Netherlands.....	22
8. UHY offices worldwide	22

1. Introduction

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in over 70 countries throughout the world. Business partners work together through the network to conduct trans-national operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in The Netherlands has been provided by the office of UHY representatives:

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Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at February 2009.

We look forward to helping you do business in The Netherlands.

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2. Business environment

Dutch prosperity is based on efficient industry, restructured in the 1980s, natural gas, rich and intensively farmed land and trade; around 60% of GDP consists of exports and imports, making The Netherlands one of the most trade - dependent economies in Europe. Chemicals, electronics and food - processing are prominent.

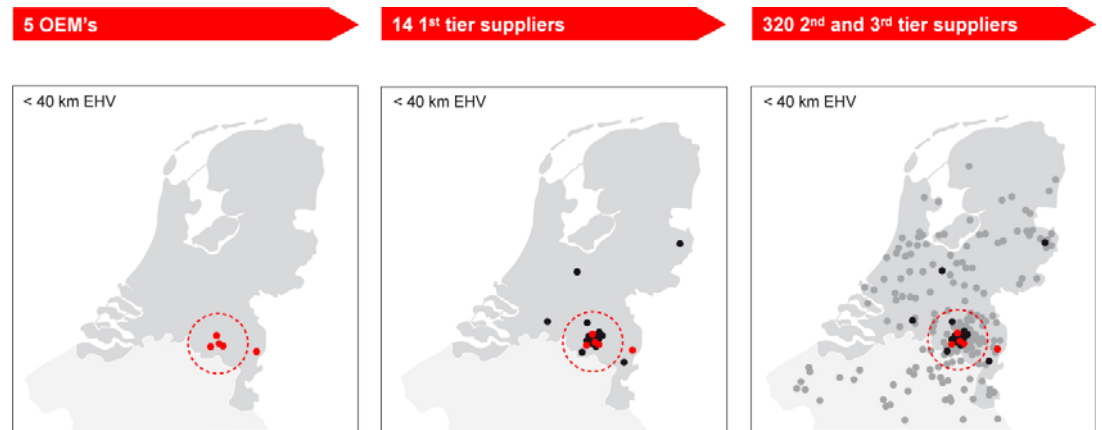


The Airport region of Amsterdam, the Seaport region of Rotterdam and the Brainport region of Eindhoven are considered to be the three pillars of the Dutch economy. The Airport and Seaport regions need no further introduction.

The Brainport region is a European top technology region. It offers an open and innovative ecosystem for industrial activities, with a long tradition of successful innovations.



The cooperation of companies and universities within the triangle of Eindhoven (Netherlands), Aachen (Germany) and Leuven (Belgium) is cross-border with a strong international focus.



5 OEM's: ASML - DAF - FEI Company - Océ Technologies - Philips

The supply chains of sectors such as high tech, automotive, health and food are well developed in the Brainport region.

Dependency on trade and great experience with consensus politics have made the Dutch natural leaders in EU developments. The Netherlands is keen on much greater political and economic integration and is likely to continue to play an important role as conciliator in EU affairs.

General population	16,4 million
Area	40,844 sq km
Civilian working population	around 8,4 million
Currency	Euro (€)

Main export destinations	% of total
Europe	82
Asia	8
America	7
Africa	2
Other	1

Main origins of imports	% of total
Europe	63
Asia	21
America	12
Africa	3
Other	1

VAT rates	
Lower	6%
Standard	19%
Higher	--

Distances (by car) between some main cities	
Eindhoven – Amsterdam	120 km
Eindhoven – Rotterdam	120 km
Eindhoven – Utrecht	90 km
Eindhoven – Brussels	120 km
Eindhoven – Frankfurt	320 km
Eindhoven - Paris	450 km
Eindhoven - London	470 km
Eindhoven – Berlin	700 km

3. Foreign investment

Government benefits and incentives

A range of government aids and subsidies are available to investors in The Netherlands, whether Dutch or foreign.

Investments incentives can be:

- General
- Regional
- Special (sector, phase).

Detailed information can be provided upon request.

4. Setting up a Business

Dutch corporate law recognises two types of limited liability companies: the 'Naamloze Vennootschap' ('NV') and the 'Besloten Vennootschap' ('BV').

Normally, for small or medium - sized companies or non - quoted holding companies, the BV - type is mostly used. Slight disadvantages of the BV - type company are that no share certificates can be issued and that a certain restriction on the transfer of shares must appear in the Articles of Association.

A Dutch corporation may be formed by one or more corporations or individuals. The memorandum of incorporation must be notarised by executing a deed in the Dutch language before a notary public. The Ministry of Justice must then approve it before the full incorporation can take place. After incorporation, the memorandum must be deposited at the local Trade Register of the Chamber of Commerce.

Dutch corporate law requires at least 20% of the authorised share capital to be issued and at least 25% of the issued capital to be paid in at the date of incorporation of the company.

Minimum paid in capital is:

- BV: €18,000
- NV: €45,000

The Netherlands domestic law incorporates the rules and regulations of the EU.

The law on annual reports and annual accounts contains detailed provisions for accounting principles, the format of the balance sheet, the profit and loss accounts, legal reserves and the disclosure requirements.

Any company not qualifying as a 'small' company requires an audit.

All companies, except certain exempt subsidiary companies, must file financial data with the Trade Register of the relevant Chamber of Commerce.

5. Labour

Social security

The Netherlands has the most extensive welfare system in Europe. The social security system covers health, old age and unemployment, and contributions are paid by both employers and employees.

Different rates depend upon the type of activity. A big part of social security payments are paid by employers. Foreign employees working and receiving compensation in The Netherlands are normally liable to pay Dutch social security contributions and are entitled to Dutch benefits.

Some of the benefits of the social security system are:

- Employees are insured for the costs of medical care and they are also insured for a wage - loss during a period of illness. The costs of the first two years of illness are paid by the employer or insured by the employer. During the second year a payment of 70% is due;
- Permanent disability pensions range from 14% to 70% of the average base salary up to a limit, according to the degree of disability;
- A retirement pension is available when an employee reaches the age of 65. The insured worker may have other retirement pensions if he or she has made contributions to a special pension system;
- During a period of unemployment, an employee is entitled to an unemployment payment. The maximum period is five years and depends on the duration of the employment period;
- Other benefits are: children's allowance; rent-subsidies and scholarships.

Note: If a social insurance treaty allows an individual to remain insured solely under the social insurance system in the home state, in general no social insurance contributions have to be paid in The Netherlands. Social insurance treaties exist with all EU member countries. The text of a similar U.S. / Netherlands social insurance treaty came into force on 1 November 1990.

6. Taxation

Corporation tax (for corporations or branches; no local income taxes)

Rate in 2007

25.5% for profits of €60,000 and more

Profit: €0 - €25,000: 20%;

€25,000 - €60,000: 23.5%.

Rate in 2008

(Rates reduced temporarily as certain tax facilities on interest weren't introduced)

20% for profits up to € 275,000

25.5% for profits over € 275,000

Rate in 2009

25.5% for profits of €200,000 and more

20% for profits up to €200,000

Payment

Tax is payable upon receipt of assessments. A preliminary assessment is usually issued in the second month of a current fiscal year. Further preliminary assessments can be issued.

(Final) assessments are payable within two months. Preliminary assessments can be paid in monthly terms until the end of the fiscal year.

Basis

A resident corporation is taxed on its worldwide income. Certain types of foreign source income are exempt from tax (unilaterally or treaty).

The exemption is calculated as a pro rata reduction of the amount of tax computed on worldwide income.

Foreign income is normally fully taxable, but a credit for foreign tax is applicable based on treaties or unilaterally.

Thin capitalisation

Interest paid by a Dutch resident company, belonging to a group of companies, to a 'related' company can be (partially) non - deductible if the interest is paid on 'excessive debt financing'.

A company is deemed to be a 'related' company if:

- It owns one - third or more of the share capital of the debtor;
- The debtor owns one - third or more of the share capital of the company;
- A third party owns one - third or more of the share capital of both companies.

Debts are deemed to be (partially) excessive if they exceed both of the two following prescribed debt - equity ratios:

- The balance of interest bearing claims and debts exceeds three times the (fiscal) equity of the debtor plus €500,000 (safe haven); the "fiscal ratio".
- The debt - equity ratio of the company exceeds the debt - equity ratio of the whole group (resident and foreign companies) to which it belongs; the "group ratio".

If both these debt - equity ratios are exceeded by the ratio of the company (part of) the excessive interest will be regarded as non - deductible for tax purposes.

The maximum non - deductible interest is the amount of interest paid to related companies.

If part of the interest is deemed as non - deductible, certain measures can be taken. The sooner these measures are taken the better. For instance, the re - financing of the company by a bank or another third party, so that no interest is paid to a related company or the formation of a so - called 'fiscal unity', including the interest - paying and the interest - receiving companies.

Participation exemption

If a Dutch corporation owns 5% or more of the paid - up capital of another corporation, dividends and capital gains on the shares are free of Dutch corporation tax.

Capital losses, however, are only deductible on final liquidation of the participation and after complete settlement of the claims and debts.

Currency results are not tax deductible and are also included in the participation exemption.

Since the year 2007 the participation exemption also applies to participations of at least 5% in corporations which are settled in EU countries and countries with a Dutch tax treaty. In order to qualify for the exemption, the foreign company must be liable to an effective profit - taxation of at least 10%, measured by Dutch taxation standards. If this effective tax rate is less, the participation exemption will not be applicable and in that case a tax credit, for the foreign tax payments will be granted. This minimum tax rule of 10% does not apply to foreign real estate companies, the balance sheet of which contains at least 90% of real estate assets.

Expenses connected with a foreign participation that qualifies for the affiliation privilege are not deductible for Dutch tax purposes. If expenses lead to Dutch taxable profits, the expenses are deductible.

Advantages

The following are examples of circumstances in which the affiliation privilege can be beneficial.

1. No repatriation of earnings

If the parent or ultimate parent of the Dutch company owning participations is not required under its law and rules to repatriate earnings, then dividends from foreign corporate subsidiaries can be collected free of corporate tax in The Netherlands, and usually at advantageous dividend withholding tax rates at source (or even without any dividend withholding taxes) because of the many and favourable tax treaties negotiated by The Netherlands. Funds gathered in this way can usually be reinvested without exchange control problems.

2. Repatriation of earnings in a 'tax credit' system

If the parent or ultimate parent of the Dutch company owning foreign participations is based in a country which has a tax credit system for foreign taxes on a per - country basis and does not allow a credit higher than its own tax rates, 'averaging' of rates (holding participations in high and low tax countries) could be achieved through a Dutch holding company, thereby maximising the credit of foreign taxes.

3. Repatriation of earnings in an 'exemption' system

If the parent or the ultimate parent of the Dutch company owning the participations is based in a country with an 'exemption' system for double taxation relief for foreign income (which as a rule means an exclusion of foreign taxed income from taxable income), then by using the favourable tax treaties it may be advantageous to repatriate dividends via a Dutch company in order to reduce the dividend withholding tax burden.

4. Capital gains tax shelter for real property companies

If individual real properties are put into separate companies held by a Dutch holding company, then the sale of these properties can be affected by a sale of the shares, which is free from Dutch corporate tax.

In cases where the Dutch holding company is used to own foreign real estate companies, it is especially important to take care that the shares are not held as portfolio investments.

The position in general is as follows:

- (i) If the property abroad is for development and will be sold upon completion of development, then the affiliation privilege should apply;
- (ii) If the property abroad is held purely for investment, the affiliation privilege will only apply if 90% or more of the assets on the balance sheet consist of real estate.

Withholding taxes

Dividends distributed by a Dutch corporation are subject to 15% withholding tax. For dividends paid to non - resident shareholders, this rate is often reduced by tax treaty.

For example:

- US
If more than 80% participation (for more than a year): no withholding tax.
If more than 10% participation: 5% withholding tax. In other cases: 15% withholding tax.
- EU
No withholding tax on dividends to an EU parent company holding at least 15% of the subsidiary's capital (as from 2009: 10%).

For dividends paid to resident companies that qualify for the participation exemption there is a specific (total) exemption.

Interest and royalties paid by a Dutch corporation are not subject to withholding taxes.

Tax rulings

As in many countries, the tax authorities may give binding advance tax rulings with regard to the application of the tax law to specific transactions or structures. Obtaining a tax ruling is particularly advisable in cases where a taxpayer is relying on principles which are not precisely set out in the tax statutes (e.g. taxation principles developed by the courts).

Only in the following cases (offshore) is it possible to get a binding advance ruling in The Netherlands:

- Holding – activities
- Finance - activities
- Licence - or royalty – activities
- Branch finance activities (permanent establishment financing)
- Capital funding activities (only in some cases)

- Foreign Sales Corporations.

Rulings must be negotiated on a case – by - case basis, because the Tax Inspector must consider the application of the statutes and case law to each specific set of circumstances.

The Tax Inspector may decline to give a ruling if he considers the specific facts of the ruling request to be inconsistent with his interpretation of the tax law. Likewise, certain restrictions not specifically prescribed by the tax statutes may be required by the Dutch Tax Inspector as a precondition to granting a favourable advance ruling.

Information concerning the corporate structure, including the name of the Dutch company's ultimate shareholder, must be disclosed in the ruling request.

The Netherlands - Netherlands Antilles dividend route

The Netherlands is a favourable location in which to collect dividends.

However, dividend distributions to foreign shareholders are subject to 15% withholding tax which, pursuant to tax treaty provisions, is frequently reduced to 5% or nil in the case of a 25% or more shareholding.

For decades investors residing in non - tax treaty countries considered owning the Dutch company through a Netherlands Antilles company.

According to the former Federal Tax Agreement between The Netherlands and the Netherlands Antilles, dividend payments to a company resident in the Netherlands Antilles were subject to only a 7.5% or 5% withholding tax if a 25% or more shareholding exists. Since 1 January 2002, this withholding tax rate is 8.3% or 5%.

Since 2000, the New Fiscal Framework (NFR) has been implemented in the Netherlands Antilles. One of the objectives of the NFR is that the Netherlands Antilles is no longer characterised as a tax haven.

The most important changes in the Netherlands Antilles Profit Tax Ordinance are:

- General tax rate of 34.5% (including the island surcharge)
- Introduction of a flat rate of corporate income tax
- A participation exemption of 95% for international participations
- The introduction of a dividend withholding tax of 10%;
- Extension of the scope of the participation exemption which includes capital gains on qualifying participations.

However, the NFR also provides for a transitional rule granting the advantages of the former offshore regime to existing companies for a

maximum period, generally, up to and including the year 2019 (the so-called 'grandfathering clause').

The combination of low taxation in the Netherlands Antilles (grandfathering rule or participation exemption), a low rate of withholding tax on dividend payments by a Dutch company to a parent company resident in the Netherlands Antilles, together with the features of the Dutch tax system, including the favourable Dutch extensive network of double tax treaties, have given rise to the popularity of the Netherlands Antilles as a base for ultimate holding companies and The Netherlands itself as a base for intermediate holding companies.

Income taxes on individuals

Individual income is divided into three types of income (boxes 1 - 3), with specific rules and rates for each box. Each type of income is taxed according to the rules of the appropriate box. These boxes have different tax rates. There is no offset of negative income (loss) in one box with positive income in another box (closed box system).

Married people and unmarried people who live together are treated equally. Partners may confer calculation of certain types of income to each other.

Box 1: income from labour, business profits and housing. Progressive rate: up to 52%.

Box 2: income from substantial shareholdings; if the shareholder owns at least 5% of the paid-up share capital in resident and non-resident corporation dividends and capital gains deriving from this substantial interest) are taxed at a fixed rate of 25%.

Box 3: income from savings, investments, property, etc. The income from private capital, other than deemed income from a dwelling (box 1) and the income from substantial shareholdings (box 2), is fixed at 4% of the averaged 'net equity' in one year with a fixed tax-rate of 30%, e.g. 1.2% 'net wealth tax'.

Note: this means that the real amount of rent, interest and dividend (excluding dividend in 'box 2') is no longer of any importance. Neither are the costs of capital. Taxes are fixed at 1.2% of the average value of the shares, savings, buildings, loans, etc.

Individuals, residing in The Netherlands, are taxed on their worldwide income.

Salaries and wages are subject to taxes at source (wages tax).

There are no local income taxes.

Capital gains (and losses) arising from the sale or exchange of private assets, not used by or owned by a private company or used by a corporation in which the taxpayer has a substantial shareholding, are fully exempt from taxation. The taxation of these private assets is restricted to the levy of box 3 as mentioned above.

Capital gains realised on the sale of shares are taxed at the rate of 25% if the seller has a 'substantial' shareholding in a company.

Non - resident taxpayers with Dutch taxable income can choose to be treated the same as a resident taxpayer (for all advantages and disadvantages).

30% ruling

Foreign nationals with specific expertise, which is hardly (or not) available in The Netherlands, who are transferred to The Netherlands to work for a group company, or who have been specifically hired for their expertise, can apply for a ruling in which 30% of the total remuneration (gross income) can be paid by the employer free of taxes.

The ruling applies for 60 months. A one - time prolongation for another 60 months is possible in the case that all requirements for this ruling are still met. If the foreign national has a certificate of coverage (c.o.c.) issued by the authorities of his home country, it is possible to get an exemption for payment of Dutch social security premiums.

Withholding taxes

Dividends distributed by a Dutch corporation are subject to 15% withholding tax. For dividends paid to non - resident shareholders, this rate is frequently reduced by tax treaty.

For example:

- U.S.

If more than 80% participation (for more than a year): 0% withholding tax.

If more than 10% participation: 5% withholding tax.

In other cases: 15% withholding tax.

- EU

There is no withholding tax on dividends to an EU parent company holding at least 15% (as from 2009: 10%) of the subsidiary's capital.

Interest and royalties paid by a Dutch corporation are not subject to withholding taxes.

Other significant taxes

VAT

Business transactions are taxed at 19%.

Certain basic necessities are taxed at 6%.

Inheritance and gift taxes

Gifts and receipts from estates are taxed after deduction of varying tax - free amounts. The rates depend on the amounts received and the relationship of the beneficiary to the deceased or the donor.

Taxes on paid-up capital

No taxes on paid up capital since 1 January, 2006.

Transfer tax

Transfer tax is levied on the acquisition of both the legal and the beneficial ownership of real estate in The Netherlands. Transfer tax is charged at a rate of 6% of the market value of the real estate.

Non - resident investors can operate in The Netherlands either through a branch or by forming a locally settled corporation. A branch and a local corporation are taxed at the same rates. Principally, the same tax provisions apply to both entities. However, no withholding taxes are imposed on profit distributions by branches.

In the case of start - up losses, it could be advantageous to operate through a branch in The Netherlands to utilise such losses against possible profits of the foreign corporation under a tax - free reorganisation scheme.

Apart from the above considerations regarding initial losses, foreign investors normally prefer to operate through a subsidiary corporation, largely for administrative and commercial reasons.

Dutch corporate law recognises two types of limited liability companies, the 'NV' and the 'BV'. Non - quoted companies are normally incorporated as a BV.

Relevant features of the Dutch tax system

The Netherlands has historically been a focal point in international tax planning. The reasons are to be found in certain distinctive features in its

tax system, combined with its extensive network of bilateral double tax treaties.

These features of the Dutch tax system, which are of particular relevance in international tax planning, are:

- The participation exemption (affiliation privilege); exemption of taxation for dividends and capital gains, if the foreign subsidiary is subject to foreign corporation tax at a rate of at least 10%;
- The absence of withholding taxes on royalty payments and interest payments;
- The ability to obtain an advance ruling for certain series of transactions;
- The extensive network of, generally, quite favourable double tax treaties.

Summary of taxes levied in The Netherlands (tax year 2008 and 2009)

The main taxes levied in The Netherlands can be summarised as:

Corporate income tax: statutory rate

2008: 25.5% (profits up to € 275.000: 20%)

2008: 25.5% (profits up to € 200.000: 20%)

Dividend withholding tax

2008/2009 statutory rate: 15%;

There is no withholding tax on dividends to an EU parent company holding at least 15% (2009: 10%) of the subsidiary's capital. In other cases, dividends for most corporate shareholders resident in a tax treaty country are subject to a 5% withholding tax.

Interest and royalty withholding tax

None.

Capital gains tax

Except for business profits and capital gains on shareholdings of 5% or more, generally no capital gains tax exists for individuals. Corporate capital gains are included in corporate income.

Taxes levied by local governments

No local income tax.

Some, not substantial, local taxes are the municipal real estate tax (depending on the value of the real estate) and certain environmental levies, e.g. for granting certain licences. These levies will depend upon the specific circumstances of a particular case.

Value Added Tax

This tax is levied at proportional rates of 6% and 19% on added value and is borne by the end user (consumer).

Capital tax

No more capital tax since 1 January, 2006.

Real estate transfer tax

A 6% tax is due upon the transfer/acquisition of real estate, certain rights on real estate in The Netherlands and (under certain circumstances) shares in entities which specifically invest in real estate.

If the applicable conditions are met, exemption can be claimed for transfers in certain corporate reorganizations, transfers of newly constructed buildings, acquisitions through inheritances and some other special situations.

Individual income tax

Individual income tax has been based, since 2001, on the 'box - system'.

The tax rate in box 1 is progressive up to 52% for a taxable income of €54.776 (2009) and more.

Note: A substantial reduction of individual income tax can be obtained by foreign employees with specific professional expertise not readily available on the Dutch labour market and assigned to The Netherlands Group Company (expatriates). This reduction is effected by a tax - free reimbursement of 30% of the gross salary including pension scheme premiums, as defined by the Dutch Wage Tax Act 1964.

The resulting reimbursement should be specified in the employment contract and should be paid together with the salary. The ruling will be valid for a maximum of 120 months. Periods of previous stay and employment in The Netherlands will be deducted from this unless the employee has not stayed or worked in The Netherlands for at least 10 years.

If the employer can substantiate a claim that the specific professional expertise is still not readily available on the Dutch labour market before the end of the first 60 months whether reduced or not, the ruling will be granted for a further 60 months. If extension of the ruling is not granted, it will become invalid after the initial 60 months period, and consequently the reimbursement will become taxable.

Note: If a social security treaty allows an individual to remain insured solely under the social security system in the home state, in general no social security premiums have to be paid in The Netherlands. A social security ordinance (nr. 1408/71) exists for EU member countries. The text of a similar U.S. / Netherlands social insurance treaty was entered into force on 1 November 1990.



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