The Netherlands

Paul Halprin
paul.halprin@dentons.com

Emilie Kaatee
emilie.kaatee@dentons.com

1.0 OVERVIEW

The Netherlands is one of the smallest countries in Europe, with a strategic geographic location, stable economy, reliable political climate and highly educated workforce. These features make the Netherlands one of the most open economies in the world, with an attractive tax climate for international corporations. The Netherlands offers a wide tax treaty network, a competitive corporate income tax rate, a full participation exemption for capital gains and dividends from qualifying participations and branches, and beneficial measures for highly skilled migrants. The Netherlands ranked fourth in the Forbes "Best Countries for Business 2018" list[1].

The Netherlands imposes personal income tax and corporate income tax on worldwide income derived by its tax residents. Tax residency is determined in accordance with the facts and circumstances. An entity incorporated under Dutch law is deemed to be a resident of the Netherlands for Dutch tax purposes. Non-residents that conduct a business enterprise in the Netherlands may be subject to personal income tax or corporate income tax in the Netherlands to the extent that income can be allocated to this business enterprise.

The Netherlands imposes a withholding tax on dividends distributed by entities with a capital divided into shares that are tax residents of the Netherlands. The general dividend withholding tax rate is 15%. The withholding tax rate can be reduced by a double taxation treaty. Dutch dividend withholding tax is a pre-levy and can be credited against the Dutch personal or corporate income tax liability of the recipient of the dividend income.

The Netherlands is a signatory to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) and has agreed to adopt the minimum standards (principal purposes test and dispute resolution) as well as certain optional provisions. The ratification process is expected to be completed by the end of 2019.

In addition to income tax, a value-added tax (VAT) is levied in accordance with EU Directives. Based on these regulations, the end consumer bears the final burden of VAT. This objective is achieved by deducting the amount of input VAT that an entrepreneur incurs on supplies from the amount of output VAT charged on goods or services supplied or rendered by the entrepreneur. The positive balance should be paid to the Dutch tax authorities.

2.0 LEGAL SYSTEM

The Netherlands operates under a civil law legal system; The Dutch system of law is based on the French Civil Code with influences from Roman law. The legal system in the Netherlands comprises of three areas of law:

- Private law, which deals with conflicts between individual members of the public and/or organizations
- Administrative law, which prescribes the rules that public authorities must keep to in their decision-making and regulates relationships between government and citizens
- Criminal law, which deals with offenses; cases are brought before courts by the Public Prosecutor's office.

The Dutch court system comprises district courts, courts of appeal and a Supreme Court. Judges are independent and cannot be dismissed by the Ministry of Justice.

3.0 TAX AUTHORITIES

The tax system in the Netherlands is administered by the Dutch Tax and Customs Administration (Belastingdienst), which conducts its activities through various regional offices and centralized knowledge centers. In general, the Dutch tax authorities have a professional and cooperative approach towards taxpayers. It is possible for qualifying corporate taxpayers to enter into a cooperative compliance program, known as horizontal monitoring. Under the horizontal monitoring program, a covenant is concluded between a taxpayer and the Dutch tax authorities pursuant to which the taxpayer commits itself to sharing information proactively and discussing potential issues upfront during regular meetings with the Dutch tax inspector. The aim is to accelerate the certainty for the taxpayer regarding its Dutch tax position.

Certainty in advance can also be obtained in the form of an advance tax ruling or an advance pricing agreement. Dutch minimum substance requirements have to be met by corporate taxpayers for certain types of rulings. In the event that other jurisdiction(s) involved in

1 https://www.forbes.com/best-countries-for-business/list/

a ruling are part of the EU or are a party to a treaty concluded with the Netherlands which accommodates the exchange of information, information on the ruling will be automatically exchanged with the tax authorities in the other jurisdiction(s) involved.

4.0 BUSINESS VEHICLES

Business activities can be undertaken in the Netherlands through a company or partnership or by an individual. In general, a Dutch company can be incorporated in a few days. A foreign person (individual or legal person) can also perform business activities. The Netherlands does not levy capital tax or stamp duty on the incorporation of an entity or on capital contributions thereafter.

4.1 Partnerships

A partnership is established with a partnership agreement between at least two individuals or legal entities. Setting up a partnership does not require the execution of a notarial deed. There are no minimum capital requirements. Although it is considered an entity from a commercial perspective, a partnership does not have legal personality (i.e., a partnership is not capable of having legal ownership of assets). Among the forms of partnerships, the most common are general partnerships and limited partnerships.

4.1.1 General partnership

In a general partnership, all partners are personally liable for the debts of the partnership. Creditors can make a claim on the partners' personal assets if the partnership is not able to satisfy its debt obligations. It is mandatory to list a general partnership in the commercial register maintained by the Chamber of Commerce. General partnerships are treated as transparent for Dutch tax purposes. In other words, partners of a general partnership are subject to income tax on their proportionate share of the profits derived from the partnership.

4.1.2 Limited partnership

A limited partnership has two types of partners: a managing partner and a limited partner. The managing partner runs the business on a day-to-day basis and is personally liable for the partnership's debts. The limited partner limits their involvement to the business' financial affairs and is only liable up to the amount of their financial investment in the partnership. A limited partner is not allowed to represent the partnership publically. If a limited partner does represent the partnership publically, they essentially act as a managing partner and become personally liable for the debts of the limited partnership.

In general, a limited partnership is considered transparent for tax purposes. In other words, partners in a limited partnership are subject to income tax on their proportionate share of the profits derived from the partnership. A limited partnership is considered non-transparent if the admission of limited partners or the transfer of a partner interest does not require the consent of all partners of the limited partnership. If a limited partnership is considered non-transparent, it is treated as a taxable subject for corporate income tax purposes and dividend withholding tax purposes, but only for the interest of the limited partners.

4.2 Cooperative

A cooperative is a special type of association. A cooperative does not have shareholders but it has members; it enters into specific agreements with and on behalf of those members. It is incorporated by the execution of a notarial deed by at least two persons, which will automatically become the members of the cooperative unless the deed of incorporation states otherwise. There are no minimum capital requirements. A cooperative has legal personhood, meaning it has legal rights and duties and can have legal ownership of assets. It assumes liability as a legal entity, but if it is dissolved with debts outstanding, the members are liable for an equal share. It is possible to limit or exclude liability of the members by setting up a cooperative with limited liability (BA, in its Dutch acronym) or a cooperative with excluded liability (UA).

A cooperative is subject to corporate income tax. Profits distributed by a cooperative are not subject to dividend withholding tax unless it acts as a passive group holding and financing company.

4.3 Corporation

There are two types of corporations in the Netherlands. The more common is a private limited liability corporation (BV). The capital of a BV is divided into shares. There are practically no minimum capital requirements (i.e., €0.01 is sufficient). The founders of the BV will determine the issued capital (at least one share) and required paid-up capital.

The shares of a BV are privately owned. Different types of shares are possible to vary the voting rights of shareholders and/or to vary their dividend rights.

The other type of corporation is a public limited liability entity (NV). The capital of a NV should amount to at least €45,000 and its capital is also divided into shares. In principle, the shares are freely transferable and cannot be issued without voting rights or profit rights. The NV is mainly used for corporations that are very large and/or will be listed on the stock exchange.

Both the NV and the BV are incorporated by the execution of a notarial deed, and the liability of the shareholders is in principle limited to the capital contributed. The NV and BV are also both subject to corporate income and their dividend distributions are subject to dividend withholding tax.

4.4 Foundation

A foundation is incorporated by the execution of a notarial deed with the aim to realize a certain objective clearly defined in its articles of association. There are no minimum capital requirements. A foundation has a distinct legal personality and is able to have legal ownership. A foundation does not have any members or shareholders. The liability of the board members is in principle limited. A foundation may conduct a business enterprise but profits must be allocated to the foundation's cause or purpose. It is only subject to corporate income tax to the extent it conducts a business enterprise. It is not subject to dividend withholding tax.

4.5 A foreign person (with or without a Dutch branch)

A foreign person (individual or legal person) that conducts a business enterprise in the Netherlands is subject to corporate income tax with respect to the income that can be allocated to the business enterprise. The determination of whether a business enterprise is conducted in the Netherlands is generally made in accordance with common international tax law principles. In addition, Dutch tax law deems certain activities conducted by a non-resident to be conducting a business enterprise, such as owning real estate assets in the Netherlands. Profit distributions from the branch to the foreign head office are not subject to dividend withholding tax.

5.0 FINANCING A CORPORATE SUBSIDIARY

5.1 Equity financing

5.1.1 Contributions for shares

Where a capital contribution is made into a Dutch entity in exchange for shares, the value of the capital contribution is added to the entity's paid-up nominal share capital account.

5.1.2 Contributions without taking additional shares

Where a capital contribution is made by a shareholder (or member) to a Dutch entity without the issuance of additional shares, the amount is added to the share premium reserve of the entity instead of the paid-up share capital. Share premium can be converted into nominal paid-up share capital by execution of a notarial deed.

5.1.3 Repayments of capital

An entity can reduce its nominal paid-up share capital to a shareholder without adverse tax consequences. In contrast, a distribution of share premium is in principle subject to dividend withholding tax to the extent the entity has profits and reserves.

5.2 Debt financing

5.2.1 Tax treatment of debt

According to case law from the tax courts, funds that qualify as a loan from a civil law perspective are also considered a loan for tax purposes. The Supreme Court defined three exceptions to this rule for tax purposes. Contracts that qualify as a loan from a civil law perspective are treated as equity for tax purposes if:

i. In reality, the intention of the parties involved was to provide equity (i.e., substance over form);
ii. It was clear that the loan could not be repaid at the moment it was provided and the lender had no other business reasons to provide the funds other than shareholder reasons (i.e., loss-financing); or
iii. The loan is granted under such conditions that the lender participates in the business of the borrower (i.e., profit participating loan).

In the case the loan should be treated as equity based on the exceptions as described above, interest payments are not eligible for deduction and can give rise to dividend withholding tax.

Loans should be provided under arm's length circumstances and based on sound business reasons. A loan is not considered to be based on sound business reasons if it is provided under such conditions that independent parties would not have accepted the risk under the conditions of the loan and the conditions applied (i.e., interest rate) cannot be adjusted for tax purposes in such a way that an independent party would be prepared to provide the loan. If the loan is not considered to be based on sound business reasons, a potential write-off of the loan may not be eligible for deduction.

5.2 Thin capitalization

The Netherlands does not have thin capitalization rules, but does have rules that restrict the deduction of interest (see below).

5.3 Stamp tax

The Netherlands does not levy a registration tax or stamp duty in respect of debt or equity financing.

6.0 CORPORATE INCOME TAX

6.1 Income tax rate

Corporate taxpayers are subject to corporate income tax on their worldwide income. In the year 2019, the rate is 25% (19% for taxable income up to €200,000). It will be lowered to 22.55% in 2020 (16.5% for income up to €200,000) and to 20.5% in 2021 (15% for income up to €200,000).

6.2 Computation of taxable income

6.2.1 Taxable base

The Dutch Corporate Income Tax Act does not provide for a specific method for computing annual taxable profits. Profits should be determined in accordance with sound business practice and in a consistent manner. What is considered sound business practice has been developed in case law and is not defined in the Dutch Corporate Income Tax Act. Pursuant to case law, a method of calculating taxable profits complies with sound business practice if it is based on generally accepted accounting principles.

In principle, taxable income is determined in euros. Provided that certain conditions are met, a taxpayer may obtain approval from the tax authorities to calculate profits using a functional currency other than euros. The actual tax payments have to be made in euros to the tax authorities. Tax losses can be carried back one year and carried forward six years. Certain anti-abuse provisions restrict the possibility to carry forward losses in a change-of-control situation.

6.2.2 Participation exemption

Under the participation exemption, income (i.e., dividends received and capital gains/losses realized) derived from a qualifying shareholding in a subsidiary are exempt from corporate income tax. Generally, the participation exemption applies if a corporate shareholder holds, directly or indirectly, at least 5% of the nominal paid-up share capital of an entity with a capital divided into shares.

In addition, in order for the participation exemption to apply, one of the following conditions has to be met:

i. The shareholding in the subsidiary is not held as a passive investment and is also not deemed to be held as a passive investment ("motive test"); or

ii. If the shareholding in a subsidiary is (deemed to be) held as a passive investment, the participation exemption may nevertheless apply if the subsidiary should not be considered a so-called "low-taxed portfolio participation." A low-taxed portfolio participation is a subsidiary:

    - Of which the fair market value of assets directly or indirectly, generally consists for 50% or more of (low-taxed) freely disposable portfolio assets ("asset-test"); or
    - Of which its profits are not subject to taxation at an effective tax rate of at least 10% calculated on the basis of Dutch tax principles ("subject-to-tax test").

6.2.3 Controlled foreign companies (CFC)

The Netherlands implemented the CFC rule included in the EU Anti-Tax Avoidance Directive (ATAD) for tax years starting on or after January 1, 2019.

Under this new rule, in certain cases, undistributed passive income derived by a CFC will be subject to corporate income tax, and relief from double taxation is provided for foreign tax incurred when the passive income is actually distributed to the Dutch company. In line with the ATAD, a foreign entity qualifies as a CFC if the Dutch taxpayer owns directly

or indirectly more than 50% of the votes or capital of the foreign company. A similar rule applies to a foreign permanent establishment of a Dutch taxpayer.

The rule only applies if the CFC is a tax resident in a jurisdiction that is included in a list annually reviewed by the Ministry of Finance. In October of each year, the Ministry of Finance publishes a draft list for discussion. Jurisdictions are included on this list in case they do not have a profit tax or a statutory profit tax rate of less than 9%, or if they are on the EU's list of non-cooperative jurisdictions.

The first list was published on December 31, 2018. It applies for the 2019 tax year and includes the following jurisdictions: Anguilla, the Bahamas, Bahrain, Belize, Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, Isle of Man, Jersey, Kuwait, Qatar, Saudi Arabia, Turks and Caicos Islands, the United Arabic Emirates and Vanuatu. The following jurisdictions are included on the EU list of non-cooperative countries: American Samoa, the American Virgin Islands, Guam, Samoa, and Trinidad and Tobago.

Passive income for the purpose of the CFC rule means interest, royalties, dividends, capital gains on shares, income from insurance or bank activities and income from certain re-invoicing activities. Income from rented-out real estate is not regarded as passive.

Undistributed passive income derived by a CFC that is tax resident of a jurisdiction mentioned on the list can be excluded from Dutch taxation if: (i) the CFC's income usually consists of 70% or more of non-passive income; (ii) the CFC qualifies as a financial undertaking; or (ii) the CFC carries out meaningful economic activity.

A list of substance elements is published that should be considered a safe harbor rule in order to determine whether a CFC carries out a meaningful economic activity. If all these substance elements are met, the meaningful economic activity test is satisfied. The substance elements include (among others): local decision taking, independence in day-to-day operations, qualified local personnel, own bank accounts, own bookkeeping, minimum wage costs of the local equivalent of €100,000 and a suitably equipped office space that is at the disposal of the CFC for at least 24 months.

6.2.4 Deductions

A taxpayer is generally permitted to deduct its current expenses in computing its taxable income. As a general rule, capital expenses are not deductible. In addition, certain interest deduction limitation rules apply as described below.

6.2.5 Anti-base erosion rule

Interest, foreign exchange results and related costs paid (or accrued) on a loan directly or indirectly attracted by a Dutch taxpayer from a related entity may not be eligible

for deduction if the loan is directly or indirectly connected with certain transactions as described below, unless the escape clause is met. An entity is considered related if the Dutch taxpayer, together with an affiliated entity, has or acquires at least a one-third direct or indirect interest in an entity.

A loan provided that, directly or indirectly, relates to one of the below-mentioned transactions falls within the scope of the anti–base erosion rules:

i. A dividend distribution or repayment of capital by the Dutch taxpayer (or a related entity) to a related entity
ii. A capital contribution by the Dutch taxpayer (or a related entity) to a related entity
iii. An acquisition or expansion by the Dutch taxpayer (or a related entity) of an entity that will become a related entity after the acquisition or expansion

An escape clause applies if the taxpayer demonstrates that there are sound business reasons for the transaction as well as the loan (i.e., "double business motive test"), or if the interest in the hands of the recipient is subject to taxation at an effective tax rate that is considered adequate according to Dutch standards (i.e., at least 10%). If the escape clause is met, the interest is eligible for deduction unless limited by another interest deduction rule.

6.2.6 Low-interest bearing long-term loans

The deduction of interest expenses (and value mutations) is limited if a Dutch taxpayer received a loan from a related party with no maturity or a maturity of more than 10 years and the loan carries no interest or an interest rate of more than 30% below the arm's length interest rate. The arm's length interest rate is generally defined as the rate that independent parties would charge each other for a loan under similar circumstances. If the maturity of the loan with an initial term of less than 10 years is extended past the tenth anniversary of the loan, the loan is deemed to have had a term of more than 10 years from inception. Consequently, any interest and capital losses that were deducted in prior years may become non-deductible with retroactive effect in the case of a loan extension.

6.2.7 Interest barrier rules – general restriction on interest deduction

The Netherlands implemented the 30% EBITDA rule included in the ATAD for tax years starting on or after January 1, 2019. Based on this rule, the deductibility of net interest costs are limited if they exceed 30% of earnings before interest, taxes, depreciation and amortization (EBITDA) of a Dutch entity, adjusted for Dutch tax purposes.

"Net interest costs" means deductible interest expenses minus taxable interest income. If the net interest costs amount to €1,000,000 (de minimis allowance) or less, the rule does not limit the deduction of interest. The rule applies to intercompany debt as well as third-party debt.

Interest costs that cannot be deducted due to the above limitation can be carried forward indefinitely and be used in later years, subject again to the same rule. Certain anti-abuse provisions restrict the possibility to carry forward interest costs in the case of a change of control. If an entity forms part of a Dutch fiscal unity, the EBITDA rule applies to the fiscal unity as a whole and not to each single entity that forms part of the fiscal unity.

6.3 Fiscal unity

Upon request, Dutch resident taxpayers (including branches of foreign entities) may form a fiscal unity with their Dutch subsidiaries, in which they directly or indirectly have 95% or more of the legal and economic ownership. It is also possible to form a Dutch fiscal unity between sister companies with a common EU parent company, provided certain criteria are met. After the formation of a fiscal unity, all entities that are part of the fiscal unity are treated as one and the parent of the fiscal unity is recognized as the taxpayer. The main advantage of a fiscal unity is that a consolidated tax return can be filed by the parent of the fiscal unity in which profits and losses are set off.

6.4 Income tax reporting

Dutch resident entities and non-resident entities that carry on business in the Netherlands are required to file an annual corporate income tax return if an invitation for filing a tax return has been received or if corporate income tax is due. In principle, a corporate income tax return must be filed within five months of the financial year-end. Upon request, an extension for filing can be granted for another five months. It is possible to file for a preliminary tax assessment before filing the tax return in order to avoid interest on any unpaid tax balance.

6.5 Special tax regimes

6.5.1 Fiscal investment institutions

A fiscal investment institution (FII) benefits from a tax rate of 0% provided that certain conditions are met, including a specific requirement on the distribution of profits within eight months after the end of the financial year. An FII is only allowed to make portfolio investments, which includes development of real estate for holding and renting out by the FII itself. In addition, certain gearing restrictions and specific shareholder requirements apply to benefit from the FII regime. Profit distributions made by an FII are subject to the dividend withholding tax of 15%, unless reduced by a tax treaty or a domestic dividend withholding tax exemption.

6.5.2 Tax-exempt investment institutions

A tax-exempt investment institution is not subject to corporate income tax. Therefore, it cannot credit withholding taxes or benefit from tax treaties. It should be set up as an open-end investment fund with the aim to invest solely in financial instruments, which includes cash at banks. There are no requirements for shareholders or profit distributions. Profit distributions are not subject to dividend withholding tax.

6.5.3 Innovation box regime

Qualifying profits derived from self-developed intangible assets, for which a specific certificate is granted by tax authorities, are taxed at an effective rate of 7%. Intangible assets qualifying for the innovation box regime include software, patents and licenses, among others.

6.5.4 Tonnage regime

For certain shipping activities (e.g., operating vessels, cable- and pipe-laying activities, towing, dredging, etc.), a tonnage regime is available. Under this regime, the taxable profit of a seagoing vessel is based on its registered net tonnage multiplied by a fixed amount of deemed profit per ton, according to a five-bracket, regressive-scale system, instead of the actual profits from the exploitation. The tonnage tax regime applies upon request and for a fixed period of 10 years or multiples of the 10-year period.

7.0 CROSS-BORDER PAYMENTS

7.1 Transfer pricing

The Dutch Corporate Income Tax Act contains a provision to adjust taxable income in case related parties did not act on arm's length conditions. Secondary adjustments are allowed. Taxpayers are required to maintain contemporaneous documentation in respect of transactions subject to the transfer pricing rules (such as benchmark reports). The general documentation requirements have an open norm. If a taxpayer has not sufficiently documented transfer pricing, the burden of proof in discussions on pricing adjustments can shift to the taxpayer.

Tax authorities generally adhere to the Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines to interpret the arm's length principle. These guidelines are not part of the Dutch law.

The Netherlands adopted Action 13 of the OECD Base Erosion and Profit Shifting (BEPS) project and implemented rules in its tax legislation on country-by-country reporting, master files and local files. In accordance with Action 13 of the OECD BEPS project, corporate taxpayers that are part of a group with a consolidated revenue of €750 million or more in the year preceding the current financial year should file a country-by-country report. A master file and a local file are required be prepared by a multinational group having a total consolidated group revenue of at least €50 million in the fiscal year that immediately precedes the year for which a tax return is filed.

7.2 Withholding tax on dividend distributions

In principle, profits distributed to shareholders by a Dutch entity with capital divided into shares are subject to a dividend withholding tax rate of 15%. An exemption applies if:

i. The corporate shareholder is a tax resident in the European Economic Area (which includes all EU member states) or a jurisdiction with which the Netherlands has concluded a tax treaty that includes a dividend article; and

ii. The corporate foreign shareholder would have been able to apply the Dutch participation exemption to the Dutch entity if it would have been a resident of the Netherlands.

The dividend withholding tax exemption will not apply in cases that:

i. The foreign corporate shareholder holds the interest in the Dutch entity with the main purpose, or one of the main purposes, of avoiding dividend withholding tax; and

ii. The structure can be considered artificial (i.e. lacks economic reality).

Profit distributions by a Dutch entity to a Dutch tax-exempt pension fund are generally exempt from withholding tax. A foreign pension fund that is sufficiently comparable to a Dutch tax-exempt pension fund may also qualify.

A notification of a profit distribution should be submitted to the tax authorities within a month of the distribution, regardless of whether the dividend distribution is exempt from dividend withholding tax.

8.0 PAYROLL TAXES

8.1 Wage tax

Employers are required to withhold wage tax from an employee's gross salary and to remit this amount to the tax authorities. Wage tax is a provisional levy of the final personal income tax due by the employee.

For 2019, the income tax rates for an individual that did not reached the official retirement age are as follows:

Taxable income (EUR)

From	Up to	Income tax rate
0	20,384	9%
20,384	34,300	10.45%
34,300	68,507	38.10%
68,507+		51.75%

In addition to income tax, employers are required to withhold and remit national insurance contributions, contributions for insurances of employees and an income-dependent health care insurance contribution.

8.2 Employment insurance

Employers are required to withhold contributions for state social security and remit these to the tax authorities. The state social security insures residents of the Netherlands against the financial consequences of old age, death, exceptional medical expenses and costs of children. The rates for state social security are determined annually. For 2019, the percentage is 27.65% levied over a maximum annual income of €34,300 (i.e., the first two income tax brackets).

Employers are also required to withhold contributions for insurance specifically for employees, and to remit these to the tax authorities. Employer social security insures employees against the financial consequences of illness, occupational disability and unemployment. The rates for employer social security vary by sector.

Employed persons' insurance schemes include, among others:

i. Sickness Benefits Act

ii. Invalidity Insurance Act / Work and Income according to Work Capacity Act

iii. Unemployment Insurance Act

8.3 Special tax benefit – 30% ruling

Upon request, tax authorities may grant a special tax benefit (known as a "30% ruling") to foreign employees who are hired from abroad by or are assigned to a Dutch entity or branch. The 30% ruling is granted to highly skilled expatriates with specific expertise working in the Netherlands, provided that certain conditions are met.

With a 30% ruling, the expatriate can receive tax-free compensation from their employer of up to 30% of their gross salary. In addition, the expatriate may opt to be qualified as a partial non-resident taxpayer of the Netherlands. A partial non-resident taxpayer is not subject to personal income tax with respect to income from substantial interests in foreign companies and income from savings and investments. A 30% ruling is valid for a period of five years.

9.0 INDIRECT TAXES

9.1 Value-added tax (VAT)

The European VAT system is a consumption tax assessed on the value added to goods and services. VAT applies to all commercial activities involving the production and distribution of goods and the provision of services. In principle, it is charged in every leg of the supply chain. VAT-registered businesses are required to pay VAT due, whereby the VAT incurred on costs can be deducted. This mechanism ensures that VAT is neutral, regardless of how many transactions are involved.

In regards to cross-border activities, specific rules exist to determine the place of supply of goods or provision of services. Entities and individuals (including non-residents) who, in the course of their business activities, are involved in making taxable supplies of goods and services in the Netherlands, are required to register, report for, charge, collect and remit VAT.

Depending on the nature of the goods or services, the supplies are domestically sold at the standard VAT rate of 21%. A reduced VAT rate of 9% applies to certain food

and beverages, pharmaceuticals and specific labor-intensive provisions of services. The 0% VAT rate applies to intra-EU supplies of goods and exports of goods to non-EU jurisdictions, as well as certain services provided in relation to the mentioned exports. Apart from taxable supplies, certain transactions are VAT-exempt, such as transactions in the public interest, financial/banking/insurance services and transactions conducted by nonprofits.

9.2 Real estate transfer tax

The acquisition of economic or legal ownership of immovable property in the Netherlands is subject to real estate transfer tax at a rate of 6%. A special 2% rate applies for residential property. The tax is calculated based on the higher of (i) the fair market value of the property or (ii) the purchase price.

An exemption from real estate transfer tax applies to the acquisition of building land and the acquisition of newly constructed buildings within six months after the first use of the building. Instead, the supply of building land and the supply of newly constructed buildings within six months after first use is subject to VAT. Under certain conditions, exemptions are also available for mergers, demergers and reorganizations.

The acquisition of shares in a real estate company is subject to real estate transfer tax if a substantial interest is acquired. A real estate company is an entity that primarily trades in or rents out real estate, and whose total assets consist of more than 50% of real estate, and at least 30% of the total assets consists of real estate in the Netherlands. The acquisition of shares in a real estate company is subject to real estate transfer tax if the acquirer acquires an interest of at least 33.33% in the company or increases an existing interest to 33.33% or more.