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Corporate Tax 2022

Netherlands: Law & Practice

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Stibbe

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1. TYPES OF BUSINESS ENTITIES, THEIR RESIDENCE AND BASIC TAX TREATMENT

1.1 Corporate Structures and Tax Treatment

Large businesses in the Netherlands typically carry out their activities via a limited liability company (*besloten vennootschap* or BV) or – to a lesser extent, typically in the case of a listed company – via a public limited company (*naamloze vennootschap* or NV) or a no-liability co-operative (*coöperatieve UA*). Each of these legal forms has legal personality so that the entity can own assets in its own name and the shareholders (membership right-holders in the case of a co-operative) as a starting point cannot be held personally liable for corporate obligations.

A BV, NV and co-operative are separate taxpayers for Dutch corporate income tax purposes.

Reverse Hybrid Rules

As a final part of the implementation of the EU Anti-Tax Avoidance Directive 2 (ATAD 2), the reverse hybrid rule entered into effect on 1 January 2022. A reverse hybrid entity is an entity that for Dutch tax purposes is considered transparent (generally a partnership), whereas the jurisdiction of one or more related participants holding in aggregate (directly or indirectly) at least 50% of the votes, interest or profit entitlements, qualify the entity as non-transparent (ie, consider the entity a taxpayer for profit tax purposes). Pursuant to the reverse hybrid rule, entities incorporated or established in the Netherlands that in principle qualify as tax transparent, may nevertheless be considered non-transparent and integrally subject to Dutch corporate income tax. If, and to the extent that, the income of the reverse hybrid entity is directly allocated to participants in jurisdictions that classify the entity as transparent, the reverse hybrid rules provide for a deduction of the income at the level of the reverse hybrid entity.

If a Dutch transparent entity is considered a reverse hybrid entity, distributions by the reverse hybrid entity would in principle become subject to Dutch dividend withholding tax to the extent the recipient of the distribution is a participant that classifies the entity in its jurisdiction as non-transparent. In addition, interest and royalty payments by a reverse hybrid entity will in principle become subject to a conditional withholding tax provided that the recipient of the payment treats the reverse hybrid entity as non-transparent. See **4.1 Withholding Taxes**.

Furthermore, foreign participants could – in (deemed) abusive situations – be subject to Dutch corporate income tax in respect of capital gains and/or dividend derived from its participation in a reverse hybrid entity. See **5.3 Capital Gains of Non-residents**.

1.2 Transparent Entities

In the Netherlands, tax transparent entities that are typically used are a limited partnership (*commanditaire vennootschap* or CV), a general partnership (*vennootschap onder firma* or VOF) and a fund for joint account (*fonds voor gemene rekening* or FGR). Each of these legal forms lacks legal personality and should be considered as a contractual business arrangement.

As a VOF is tax transparent, it is not a taxpayer for Dutch corporate income tax purposes. Instead, the underlying participants are taxed for their participation in a VOF. Distributions by a VOF are not subject to Dutch dividend withholding tax.

With respect to a CV and an FGR, the Dutch corporate income tax treatment depends on whether it is considered open or closed. An open CV/FGR is subject to Dutch corporate income taxation as such, whereas in the case of a closed CV/FGR, the underlying participants are taxable for the income derived from their interest in the CV/FGR. A CV or FGR is closed if all limited and general/managing partners separately and upfront have approved each accession, resignation or replacement of participants. Alternatively, an FGR is also considered closed if participations can exclusively be transferred to the FGR itself.

Specific guidance is in place, by way of a Decree, to classify foreign vehicles (ie, non-transparent or transparent) for Dutch tax purposes. In that respect, it is, among others, also relevant whether the approval of (all the) other partners is required to transfer an interest. This guidance is currently being reviewed by the Dutch government. In 2021, the Dutch government published a consultation document to amend the Dutch classification rules for certain domestic and foreign legal entities, but in view of the significant number of responses received as part of the consultation, it has been decided to take more time to assess the impact of the proposed amendments. One of the proposed amendments, for example, was that the above-mentioned consent requirement should be abolished and as such all existing open CVs will become transparent for Dutch tax purposes.

1.3 Determining Residence of Incorporated Businesses

For Dutch corporate income tax purposes (with the exception of certain provisions, such as the fiscal unity regime and the participation exemption), a BV, NV or co-operative is deemed to be a corporate income tax resident in the Netherlands (regardless of the place of effective management of the entity) if it is incorporated under the laws of the Netherlands (the "incorporation principle"). If a double tax convention is applicable that includes a tie-breaker rule and both treaty contracting states consider a company to be a resident of their state, typically the place of effective management of a company is conclusive for the place of residence for tax treaty purposes, which is the place where the strategic commercial and management decisions take place. Important elements for determining this place are, for example, the residency of board members and the location of board meetings.

In several treaties, the number of which is expected to increase due to the effect of the Multilateral Instrument to implement the OECD base erosion and profit shifting project (BEPS), if both treaty contracting states consider a company a resident of their state, the residency is determined on the basis of a mutual agreement procedure (MAP) between the two states.

1.4 Tax Rates

Corporate income taxpayers are subject to a corporate income tax rate of 25.8% (2022) with a step-up rate of 15% for the first EUR395,000 of the taxable amount.

An individual who is a personal income tax resident of the Netherlands is liable for personal income taxation on their taxable income, including business income, at the following progressive rates (brackets and rates for 2022):

- EUR0–35,472 – 9.42% tax rate, 27.65% social security rate, 37,07% combined rate;
- EUR35,472–69,398 – 37.07% tax rate, 37.07% combined rate; and
- EUR69,398 – 49.50% tax rate, 49.50% combined rate.

The social security rate applied to individuals who are retired is 9.75%, resulting in a combined rate of 19.17%. The official retirement age in the Netherlands will remain at 66 years and seven months in 2022. From 2023, the retirement age will increase by three months and will reach 67 in 2024. After that, the retirement age will increase not by one year for every year that people live longer, but by eight months.

2. KEY GENERAL FEATURES OF THE TAX REGIME APPLICABLE TO INCORPORATED BUSINESSES

2.1 Calculation for Taxable Profits

The business income of personal income taxpayers and corporate income taxpayers is determined on the basis of two main principles. The first is the at arm's length principle (which serves to establish the correct overall amount of profit as such, the *totaalwinst*) and the second is the sound business principle also known as sound business practice (*goed koopmansgebruik*, which serves to attribute the profit to the correct financial year, the *jaarwinst*), which have been shaped through extensive case law.

It should be noted that the Dutch fiscal concept of business income is, strictly speaking, independent of the statutory accounting rules. In practice, both regimes overlap to a certain extent.

Based on the at arm's length principle, a business income is adjusted as far as it is not in line with it. Thus, both income and expenses can be imputed in a group context for Dutch tax purposes regardless of the statutory or commercial accounting. For corporate income taxpayers this can result in informal capital or hidden dividends. As of 1 January 2022, legislation entered into force targeting mismatches resulting from the application of the arm's-length principle. The legislation aims to render the arm's-length principle ineffective between related parties in cross-border situations to the extent that it will deny the deduction of at arm's length expenses, to the extent that the corresponding income is not included in the basis of a local profit tax at the level of the recipient.

2.2 Special Incentives for Technology Investments

Two main tax incentives exist.

Firstly, the innovation box that, subject to certain requirements, taxes income in relation to qualifying income from intangible assets against an effective tax rate of 9% instead of the statutory rate of 25.8%. The regime has been amended as of 1 January 2017 among others to reflect that only R&D activities that take place in the Netherlands are eligible for the beneficial tax treatment (eg, Nexus Approach). Qualifying intangible assets are R&D activities for which a so-called R&D certificate has been issued or that have been patented (or application to this effect has been filed). Software can also qualify as an intangible asset.

Secondly, the wage withholding tax credit, which allows employers to reduce the amount of wage withholding tax that has to be remitted to the tax authorities with 32% up to an amount of wage expenses in relation to R&D activities of EUR350,000 and 16% for the remainder (2022). The wage withholding tax credit for start-up entrepreneurs is, under certain conditions, 40% up to an amount of wage expenses in relation to R&D activities of EUR350,000 (2022).

In addition, special tax incentives apply to stimulate sustainability. For example, businesses that invest in energy-efficient assets, technologies or sustainable energy may benefit from the Energy Investment Allowance (*Energie Investerinsgaftrek* or EIA). As to environmentally sustainable investments, the Environment Investment Allowance (*Milieu Investerinsgaftrek* or MIA) and the Arbitrary Depreciation of Environmental Investments (*Willekeurige afschrijving milieubedrijfsmiddelen* or VAMIL) may apply.

2.3 Other Special Incentives

Shipping companies can apply for the so-called tonnage tax regime, whereby essentially the income from shipping activities is determined on the basis of the tonnage of the respective vessel, which should result in a low effective corporate income tax rate. Qualifying income from shipping activities is, for example, income earned with the exploitation of the vessel in relation to the transportation of persons and goods within international traffic, the transportation of persons and goods in relation to natural resources, and pipe and cable laying.

Currently, measures haven been taken by the Dutch government in view of the COVID-19 crisis, such as a relaxation of payment of taxes (currently until 1 April 2022).

2.4 Basic Rules on Loss Relief

Before 1 January 2022, taxable losses could be carried back one year and carried forward six years. From 1 January 2022, tax loss carry-forwards are limited to 50% of the taxable income exceeding EUR1 million for that year. At the same time the six year tax loss carry forward period which previously applied is abolished so that tax losses can be carried forward indefinitely (but limited to 50% of the taxable income in a financial year).

Specific anti-abuse rules have to be observed. Anti-abuse rules may apply in some cases due to which losses cease to exist in the case of a substantial change of the ultimate ownership of the shares in a company that suffered the tax losses. For financial years starting on or after 1 January 2019, the so-called holding and financing losses regime has been abolished. Until that date, such losses are ring-fenced and can only be offset against holding and financing income.

2.5 Imposed Limits on Deduction of Interest

As a starting point, at arm's length interest expenses should in principle be deductible for Dutch corporate income tax purposes. A remuneration only classifies as "interest" if the financial instrument is considered "debt" for tax law purposes. In addition, a number of interest deduction limitation rules have to be observed to determine if interest expenses are deductible in the case at hand. The most important rules are detailed below.

- If a loan agreement economically resembles equity (for example, since the loan is subordinated, the interest accrual is dependent on the profit and the term exceeds 50 years), the loan may be requalified as equity for Dutch corporate income tax purposes, due to which the interest would be requalified into dividend, which is not deductible.
- If a granted loan is considered to be a non-business like loan (*onzakelijke lening*) from a tax perspective, it may effectively result in limitation of deductible interest because of a possible (downward) adjustment of the applied interest rate for Dutch tax purposes.
- Interest expenses due on a loan taken on from a group company that is used to fund capital contributions or repayments, dividend distributions or the acquisition of a shareholding may under circumstances not be deductible. With retroactive effect to 1 January 2018, this provision applies to companies included in a fiscal unity (ie, a Dutch tax group) as if no fiscal unity has ever existed.
- Interest expenses due on loans taken on from a group company should not be deductible if the loan has no fixed maturity or a maturity of at least ten years, whilst de jure or de facto no interest remuneration or an interest remuneration that is substantially lower than the at arm's length remuneration has been agreed upon.

- For financial years starting on or after 1 January 2019, as part of the implementation of the EU Anti-Tax Avoidance Directive (ATAD) the deduction of interest expenses is limited to 30% of a taxpayers EBITDA (so-called earnings stripping rules). As of 1 January 2022, it is further limited to 20% of a taxpayers EBITDA.
- As of 1 January 2020, the neutralising measures of ATAD 2 are effective. ATAD 2 aims in principle to neutralise hybrid mismatches resulting in mismatch outcomes between associated enterprises (ie, in short, situations with a double deduction or a deduction without inclusion). As a result, interest deductions may be limited or denied.
- For Dutch corporate income tax purposes, interest deductions for banks and insurers are limited in case, in short, the debt financing (*vreemd vermogen*) exceeds (in 2022) more than 91% of the total assets. In other words, banks and insurers are under the proposed legislation required to have a minimum level of equity capital in place of 9% to stay out of scope of the proposed interest deduction limitation rule. The equity ratio is determined on December 31st of the preceding book year of the taxpayer.

2.6 Basic Rules on Consolidated Tax Grouping

For Dutch corporate income tax purposes, corporate taxpayers that meet certain requirements can form a so-called fiscal unity. The key benefits of forming a fiscal unity are that losses can be settled with positive results within the same year (horizontal loss compensation) and one corporate income tax return should be filed that includes the consolidated tax balance sheet and profit and loss account of the entities consolidated therein. The main requirements for forming a fiscal unity are that a parent company should own 95% of the legal and economic ownership of the shares in a given subsidiary.

Moreover, the Dutch tax legislator has newly responded to the obligations following from further EU case law to arrive at an equal tax treatment of cross-border situations when compared to domestic situations by means of limiting the positive effects of the fiscal unity in domestic situations (instead of extending those positive effects to cross-border situations). Mostly with retroactive effect to 1 January 2018, several corporate income tax regimes (ie, various interest limitation rules, elements of the participation exemption regime and anti-abuse rules in relation to the transfer of losses) are applied to companies included in a fiscal unity (ie, a Dutch tax group) as if no fiscal unity has ever existed. This emergency legislation should be followed up by a new, future-proof, Dutch tax group regime that is expected to replace the current regime in several years time.

There has been a public consultation with respect to the new, future-proof, Dutch tax group regime and the alternatives are still under review. It is expected that the current regime will remain in place for the next couple of years.

2.7 Capital Gains Taxation

Capital gains (as well as capital losses) realised on assets of a Dutch corporate income taxpayer are considered taxable income that is taxable at the statutory tax rate, unless it concerns a capital gain on a shareholding that meets all the requirements to apply the participation exemption. Based on the participation exemption, capital gains and dividend income from qualified shareholdings are fully exempt from the Dutch corporate income tax base.

Essentially, the participation exemption applies to shareholdings that amount to at least 5% of the nominal paid-up capital of the subsidiary, whose capital is divided into shares whilst these shares are not held for portfolio investment purposes. The latter should generally be the case if a company has substantial operational activities and no group financing or group leasing activities are carried out, or a company is sufficiently taxed with a profit-based tax.

In relation to the application of the Dutch participation exemption by Dutch intermediary holding companies with no/low substance, the Dutch government has decided (for the time being) not to introduce legislation to enable the exchange of information with other jurisdictions. A possible amendment of the Dutch rules on exchange of information will be reviewed by taken into consideration the proposed directive on the misuse of shell entities that was published by the European Commission end of 2021 (ATAD 3).

Liquidation Loss

Under the former rules, a shareholder that held at least 5% of the shares in a Dutch company was allowed to deduct a so-called liquidation loss, upon the completion of the dissolution of such company and provided certain conditions were met. This liquidation loss broadly equals the total capital invested in that company by the shareholder minus any liquidation proceeds received. As of 1 January 2021, additional requirements (ie, on top of the existing requirements) need to be met to be able to deduct liquidation losses exceeding the threshold of EUR5 million.

These additional requirements among others relate to the residence of the liquidated company (which – in short – should be within the EU/EEA) and the fact that the Dutch shareholder of the liquidated company must have decisive control to influence the decision making of the company that is liquidated.

2.8 Other Taxes Payable by an Incorporated Business

Enterprises, be it transparent or opaque, may become subject to value added tax (VAT) when selling services or goods in the Netherlands.

Real estate transfer tax (RETT) at a rate of 8% should, in principle, be due upon the transfer of real estate or shares in real estate companies. For residential real estate a rate of 2% applies and, as of 2021, this rate can only be applied by individuals to the acquisition of their primary residence. As a result of the foregoing, real estate investors no longer can apply the 2% rate. As of 2021, there is a RETT exemption for “starters” (ie, persons in the age of 18 to 35 buying their first primary residence). From 1 April 2021, this RETT exemption only applies to real estate worth less than EUR400,000.

2.9 Incorporated Businesses and Notable Taxes

The transfer of shares in companies that predominantly own real estate as portfolio investment may, under certain conditions, become taxable with 8% RETT.

3. DIVISION OF TAX BASE BETWEEN CORPORATIONS AND NON-CORPORATE BUSINESSES

3.1 Closely Held Local Businesses

Typically, but not always, only small businesses and self-employed entrepreneurs (partially including *zelfstandigen zonder personeel* or ZZP) operate through non-corporate forms whilst medium and large businesses operate their activities via one or more legal entities (eg, BVs).

3.2 Individual Rates and Corporate Rates

There are no particular rules that prevent individual professionals from earning business income at corporate rates. For tax purposes, an individual is free to conduct a business through a legal entity or in person. However, despite the legal and tax differences between those situations, the effective tax burden on the business income will often largely align. The combined corporate income tax rate and the personal income tax rate for substantial shareholders almost equals the personal income tax rate for individuals.

Broad Balance between Taxation of Incorporated and Non-incorporated Business Income

Under the current substantial shareholding regime (that roughly applies to individuals holding an interest in a company of at least 5% of the share capital), dividend income (as well as capital gains) is subject to 26.90% personal income taxation (2022). The corporate income taxation on the underlying profit currently amounts to 15% for the first EUR395,000 and 25.8% beyond that. This leads to a combined effective tax rate of approximately 45.76% (2022).

The top personal income tax rate amounted to 49.50% at the time of writing in 2022 (and applying to a taxable income exceeding EUR69,398). Due to the application of several exemptions for individuals earning non-incorporated business income, the effective tax rate is substantially lower.

3.3 Accumulating Earnings for Investment Purposes

It is mandatory for substantial shareholders to earn a minimal salary from the BV of which they are a substantial shareholder to avoid all earnings remaining undistributed and due to which the substantial shareholder may unintendedly benefit from social security benefits. In principle, the mandatory minimum salary amounts to the highest of 75% of the salary of the most comparable job, the highest salary earned by an employee of a company or a related entity, or EUR48,000 (2022).

If it can be demonstrated that the highest amount exceeds 75% of the salary of the most comparable job, the minimum salary is set to 75% of the salary of the most comparable job, with a minimum of EUR48,000 (2022).

3.4 Sales of Shares by Individuals in Closely Held Corporations

Typically, individuals can conduct business activities in person or as a substantial shareholder of a legal entity (eg, a BV). In the case of business activities that are carried out in person (either alone or as a participant in a tax transparent partnership), the net result of the enterprise is taxed with Dutch personal income taxation at a top rate of 49.50% in 2022, to the extent the amount of taxable profits exceeds EUR69,398. Note, however, that a base-exemption of 14% (2022) applies, which lowers the effective tax rate. The gain upon the transfer of the enterprise (eg, the transfer of the assets, liabilities and goodwill) is also taxable at the same rates as regular profits.

Where business activities are carried out via a BV, the shares of which are owned by substantial shareholders, the business income is subject to corporate income taxation. To the extent that the profit after tax is distributed to a substantial shareholder in the Netherlands, 26.90% personal income taxation is due. A capital gain realised by a substantial shareholder is also taxable at the rate of 26.90% in 2022.

3.5 Sales of Shares by Individuals in Publicly Traded Corporations

Dividend income that is not considered part of business income and is received by individuals that do not qualify as a substantial shareholder (essentially being a shareholder not being an entrepreneur and that holds at least 5% of the shares in a company) is not taxed as such. Rather, the income from portfolio investments (including portfolio dividend) is deemed to be in the range of effectively, 1.82% to 5.53% in 2022 of the fair market value of the underlying shares (and other investments held by the taxpayer) minus debts owed by it. This deemed income is taxable income at a rate of 31% to the extent net value of the underlying shares exceeds the exempt amount of EUR50,650 (2022).

For completeness sake, it has been announced that the current tax regime for income received by individuals that do not qualify as a substantial shareholder will be reformed in the near future. It has been indicated that taxing the actual return on the investment (instead of a deemed income) is the ultimate goal. Please note that no proposal has been published yet.

4. KEY FEATURES OF TAXATION OF INBOUND INVESTMENTS

4.1 Withholding Taxes

The Netherlands has a withholding tax on dividends that, in principle, taxes dividends at a rate of 15%. Based on the EU Parent-Subsidiary Directive, a full exemption should be applicable for shareholders (entities) with a shareholding of at least 5%, subject to certain requirements (see also further below). If all requirements are met, under Dutch domestic law, a full exemption should also be available if the shareholder is a resident of a state with which the Netherlands has concluded a double tax treaty, even in cases where the double tax treaty would still allow the Netherlands to levy dividend withholding tax. An exemption is only available if the structure or transaction is not abusive and is entered into for valid commercial business reasons.

For completeness sake, it should be noted that in 2020 the first version of an initiative legislative proposal for a conditional final dividend withholding tax levy emergency act has been proposed. The proposal introduces a taxable event (ie, a DWT exit levy) in case of, for example, a cross-border relocation of the (corporate) tax seat or a cross-border merger of a Dutch company, provided certain conditions are met. The current (fourth) version of the proposal (possibly with retroactive effect to December 2021) is not expected to cover situations in which can be relied on the domestic dividend withholding tax exemption (inhoudingsvrijstelling) of the Dutch dividend withholding tax act or situations in which participants are tax resident in a jurisdiction with which a tax treaty has been concluded. It remains to been seen if, and to what extent, this proposal may become effective.

Conditional Withholding Tax

As of 1 January 2021, a conditional withholding tax has been implemented on interest and royalty payments made to related entities in so-called “low tax jurisdictions”, to hybrid entities and in certain abusive situations. The low tax jurisdictions are listed in a ministerial decree, ie jurisdictions:

- with a profit tax applying a statutory rate of less than 9% (updated annually based on an assessment as per 1 October of the year prior to the tax year); or
- included on the EU list of non-cooperative jurisdictions.

The tax rate is equal to the highest corporate income tax rate (ie, 25.8%). The payer and payee of the interest and royalties are considered to be related in case of a “qualifying interest” (a qualifying interest generally being an interest that provides a controlling influence on the decision-making and activities).

As of 1 January 2024, similar to the conditional withholding tax on interest and royalty payments, a conditional withholding tax (equal to the highest corporate income tax rate) on dividends will enter into force, which aims to prevent profit distributions to low tax jurisdictions, hybrid entities and in certain abusive situations.

4.2 Primary Tax Treaty Countries

The largest foreign investor in the Netherlands is the United States, respectively followed by Luxembourg, the United Kingdom, Switzerland and Ireland. The Netherlands has concluded double tax treaties with all these countries.

4.3 Use of Treaty Country Entities by Non-treaty Country Residents

So far the Dutch tax authorities have not in general challenged the use of treaty country entities by non-treaty country residents. Only in the case, for example, where specific anti-conduit rules are breached will the tax authorities challenge such a structure.

Targeting Abuse

It should be noted, though, that in light of the ongoing international public debate on aggressive international tax planning in the context of the G20/OECD, the Inclusive Framework on BEPS and recent case law of the ECJ, the Dutch tax authorities are increasingly more closely monitoring structures and investments and will target those that are perceived as constituting "abuse". In this respect, the importance of business motives, commercially and economic considerations and justification and relevant substance seems to be rapidly increasing.

From 1 January 2020, the presence of substance will only play a role in the division of the burden of proof between the taxpayer and the Dutch tax authorities. If the substance requirements are met, this will lead to the presumption of "non-abuse"' which is respected, unless the tax authorities provide evidence to the contrary. If the substance requirements are not met, the taxpayer is allowed to provide proof otherwise that the structure at hand is not abusive. See **6.6 Rules Related to the Substance of Non-local Affiliates**.

Furthermore, the Netherlands, a member of the Inclusive Framework and a party to the Multilateral Instrument, agrees to the minimum standards included in Articles 6 and 7 of the Multilateral Instrument, that amongst others prohibit the use of a tax treaty by – effectively – residents of third states.

The Dutch government aims to discourage the use of so-called letterbox companies (ie, companies with no or very limited activities that add no real value to the real economy). As part of this policy, amongst others, Dutch tax authorities are increasingly more closely monitoring that companies that claim to be a resident of the Netherlands can indeed be considered as such based on their substance. In 2021, a report on letterbox companies was published, providing an overview on the (mis)use of letterbox companies. The report also contains (tax related) recommendations, such as extending the possibilities to exchange information with other jurisdictions.

4.4 Transfer Pricing Issues

The Dutch tax authorities strictly apply the at arm's length principle as included in Dutch tax law, in Article 9 of most double tax treaties and elaborated on in the Organisation for Economic Co-operation and Development's Transfer Pricing Guidelines, as amended under BEPS. Therefore, transactions between affiliated companies should be at arm's length, whilst proper documentation should be available to substantiate the at arm's length nature of the transactions.

4.5 Related-Party Limited Risk Distribution Arrangements

The Dutch tax authorities scrutinise that, where a remuneration is based on a certain (limited risk) profile (eg, limited risk distributor), the services and risks of that company indeed match the remuneration. For example, if a limited risk distributor has in fact a stock risk, the remuneration should be increased to reflect a remuneration for that risk.

4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards

The Netherlands generally follows the Organisation for Economic Co-operation and Development's Transfer Pricing Guidelines.

4.7 International Transfer Pricing Disputes

International transfer pricing disputes are, in some cases, resolved through a MAP process. At the end of 2020 there were 333 MAPs outstanding, 134 of the in total 333 MAPs are international transfer pricing disputes. In 2020, 168 MAPs were closed and 50 of those were international transfer pricing disputes. There is no data with respect to international transfer pricing disputes being resolved through double tax treaties. Generally, the Dutch tax authorities are open to MAPs and willing to cooperate in these procedures.

5. KEY FEATURES OF TAXATION OF NON-LOCAL CORPORATIONS

5.1 Compensating Adjustments when Transfer Pricing Claims Are Settled

Generally speaking, if a transfer pricing claim is settled, the Dutch tax authorities act in accordance with the settlement. Hence, if a downward adjustment of the Dutch income has been agreed, it will in principle be allowed. However, as per 1 January 2022, legislation entered into force targeting mismatches resulting from the application of the at arm's-length principle. The legislation aims to render the at arm's-length principle ineffective in cross-border situations and will, in that respect, deny the deduction of at arm's length expenses, to the extent that the corresponding income is not included in the basis of a local profit tax at the level of the recipient.

5.2 Taxation Differences between Local Branches and Local Subsidiaries of Non-local Corporations

Local branches (permanent establishments in fiscal terms) are generally taxed on the basis of the same rules and principles as subsidiaries of non-local corporations. However, due to the fundamental difference between a permanent establishment and a legal entity, in practice differences may occur.

5.3 Capital Gains of Non-residents

Dutch tax law includes so-called substantial shareholding rules that enable taxation of capital gains on shareholdings realised by non-residents of the Netherlands in the case of abuse. Based on the current domestic tax rules, capital gains are taxable if a shareholder holds an interest of at least 5% of the capital in a Dutch BV with the main purpose, or one of the main purposes, being to avoid personal income taxation and the structure should be considered artificial, not being created for legitimate business reasons that reflect economic reality.

In the case where the shareholder is a resident in a country with which the Netherlands has concluded a double tax treaty, depending on the content of the specific treaty, the Netherlands may be prohibited from levying capital gains taxation.

5.4 Change of Control Provisions

The change of control due to the disposal of shares by a holding company at a tier higher in the corporate chain (eg, above the Netherlands) as such should not trigger corporate income taxation. However, Dutch tax law includes anti-abuse rules that lead to the cancellation of tax losses in the case of the change of control of certain companies (that broadly speaking have or are going to have limited activities). See also **5.3 Capital Gains of Non-residents** in relation to capital gains realised on the (indirect) sale of shares in a related Dutch entity.

5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates

The Netherlands typically does not determine the income of (foreign-owned) Dutch taxpayers based on formulary apportionment. Instead, the remuneration of the rendering of services or the sale of goods between related companies is governed by the at arm's length principle.

5.6 Deductions for Payments by Local Affiliates

As to the deduction of cross charges by foreign group companies to the Netherlands, the at arm's length principle is leading. For example, head office charges should be deductible by a Dutch corporate income taxpayer, provided the expenses are at arm's length. It should be noted that in some cases a mark-up is allowed. Cross-charged shareholder costs are not deductible.

5.7 Constraints on Related-Party Borrowing

Other than the interest deduction limitations discussed in **2.5 Imposed Limits on Deduction of Interest**, there are no other/specific rules that particularly constrain borrowings of a Dutch subsidiary from a foreign subsidiary as such.

As discussed in **4.1 Withholding Taxes**, a conditional withholding tax applies on interest and royalty payments to related entities in low tax jurisdictions, to hybrid entities and in certain abusive situations as of 1 January 2021.

6. KEY FEATURES OF TAXATION OF FOREIGN INCOME OF LOCAL CORPORATIONS

6.1 Foreign Income of Local Corporations

If a permanent establishment (PE) is recognised to which the assets, risks and functions that generate the foreign income can be allocated, the foreign income should in principle be fully exempt from the Dutch corporate income tax base. It should be noted that currency translation results between the head office and the PE are not exempt.

If certain conditions are met, a loss that a PE on balance has suffered may be deductible, provided (amongst others) that the losses are not utilised in any way in the PE state by the taxpayer (eg, the head office) or a related entity of the taxpayer. As of 2021, losses resulting from the dissolution of a PE in excess of EUR5 million are generally also limited to EU/EEA situations, quite similar to the rules that apply to participations.

6.2 Non-deductible Local Expenses

As a starting point, the income that is allocated to a PE is determined based on a functional analysis, taking into account the assets, risks and functions carried out by the PE. On the basis of the outcome of the functional analysis, expenses are allocated to the PE and are as such exempt (eg, non-deductible) from the Dutch corporate income tax base. Furthermore, in some cases, expenses charged by the PE to the head office in consideration for services provided to the head office by the PE may be ignored. Other than that, there are no specific rules due to which local expenses are treated as non-deductible.

6.3 Taxation on Dividends from Foreign Subsidiaries

Dividend income distributed to a Dutch company is fully exempt if the participation exemption is applicable. The participation exemption should, broadly speaking, be applicable to shareholdings of 5% of the paid-up capital, divided into shares, that are not held as a portfolio investment company. A shareholding should essentially not be held as a portfolio investment if the company has operational activities and has no substantial group financing or group leasing activities, or the company is taxed at an effective tax rate of at least 10% based on Dutch standards.

As mentioned, the Dutch government has investigated whether with regard to intermediary holding companies with no/low substance, legislation can be introduced to enable the exchange of information with other jurisdictions.

6.4 Use of Intangibles by Non-local Subsidiaries

Group transactions in the Netherlands adhere to the at arm's length principle (including the amendments to the transfer pricing guidelines under the BEPS project, such as in relation to hard-to-value intangibles), so the use of locally developed intangibles by non-local subsidiaries should trigger Dutch corporate income taxation.

If the intangibles would be developed under the innovation box, the qualifying income (a capital gain or a licence fee) may be taxable against an effective tax rate of 9%.

6.5 Taxation of Income of Non-local Subsidiaries under Controlled Foreign Corporation-Type Rules

As part of the implementation of the EU Anti-Tax Avoidance Directive, the Netherlands introduced a controlled foreign companies (CFC) regime as per 1 January 2019.

Under a somewhat CFC-like rule, in the case of shareholdings of at least 25% in foreign companies that are not taxed reasonably according to Dutch standards and in which the assets of the company are portfolio investments or assets that are not related to the operational activities of the company, the shareholding should be revalued at fair market value annually. The gain recognised as a result thereof is subject to corporate income tax at the standard rates. See also **9.1 Recommended Changes**.

Assuming that passive activities lead to the recognition of a PE, the income that can be allocated to that PE should not be exempt as the object exemption is not applicable to low-taxed passive investments.

6.6 Rules Related to the Substance of Non-local Affiliates

In general, no specific substance requirements apply to non-local affiliates (except for the CFC rules). In a broader sense, low substance of non-local affiliates could trigger anti-abuse rules (eg, non-application of the participation exemption due to which inbound dividend income may be taxable, annual mandatory revaluation of low-substance participations against fair market value).

Furthermore, under certain corporate income tax and dividend withholding tax anti-abuse rules, shareholders of Dutch intermediary holding companies, subject to certain requirements, should have so-called relevant substance, including that shareholders must use an office space for at least 24 months that is properly equipped to perform holding activities and wage expenses of at least EUR100,000 should be incurred by the shareholder.

Abuse of EU Law

It must be emphasised that following the CJEU cases of 26 February 2019 on the EU Parent-Subsidiary Directive (PSD, joined cases C-116/16 and C-117/16) and on the Interest and Royalties Directive (IRD, joined cases C-115/16, C-118/16, C-119/16 and C-299/16), the Netherlands, being an EU member state, is obligated to target "abuse of EU law". The assessment whether a structure or investment must be considered "abusive" is made based on an analysis of all relevant facts and circumstances. There are no legal safe harbour or irrefutable presumptions.

Consequently, from 1 January 2020, the presence of substance will only play a role in the division of the burden of proof between the taxpayer and the tax authorities. If the substance requirements are met, this will lead to the presumption of "non-abuse" which is respected, unless the tax authorities provide evidence to the contrary. If the substance requirements are not met, the taxpayer is allowed to provide proof otherwise that the structure at hand is not abusive.

6.7 Taxation on Gain on the Sale of Shares in Non-local Affiliates

Capital gains derived from the alienation of a qualifying shareholding in a foreign company by a Dutch company are fully exempt from Dutch corporate income tax if the participation exemption is applicable.

7. ANTI-AVOIDANCE

7.1 Overarching Anti-avoidance Provisions

Apart from specific anti-abuse rules, the Dutch Supreme Court has developed the doctrine of abuse of law (fraus legis) as a general anti-abuse rule. Under this rule, transactions can be ignored or recharacterised for tax purposes if the transaction is predominantly tax-driven and not driven by commercial considerations whilst the object and purpose of the law are being breached. So far, the Supreme Court has been reluctant to apply the doctrine in cases where a tax treaty is applicable.

As part of the implementation of the EU Anti-Tax Avoidance Directive, the legislator states that the doctrine of abuse of law (fraus legis) is very similar to the general anti-abuse rule included in the directive so that effectively no additional provision has to be included in Dutch law in this respect. As a consequence, the fraus legis doctrine must be interpreted in conformity with EU law in certain cases.

8. AUDIT CYCLES

8.1 Regular Routine Audit Cycle

The Netherlands has no periodic routine audit cycle. Tax audits are typically carried out at the discretion of the tax authorities. Tax audits are extraordinary in the sense that the Dutch tax inspector, upon the filing of the corporate tax return, has the opportunity to scrutinise the filed tax return, raise questions, ask for additional information and, if necessary, make an adjustment upon issuing a final assessment.

9. BEPS

9.1 Recommended Changes

Some of the developments that have taken place since the outcomes of the BEPS Project, in chronological order, include the following.

- Following the amendment of the EU Parent-Subsidiary Directive to counter abuse, the Dutch participation exemption regime has been amended, due to which, broadly speaking, dividend income is no longer exempt from the Dutch corporate income tax base if the dividend is deductible at the level of the entity distributing the dividend.

- On 12 July 2016 the Anti-Tax Avoidance Directive (ATAD 1 or the “Directive”) was adopted by the European Council, obliging member states to adopt it ultimately by 31 December 2018 (subject to certain exceptions). To adopt ATAD 1, the Netherlands implemented on 1 January 2019, a rule essentially to limit interest expense deductions to 30% of EBITDA (earnings stripping rules; from 2022 onwards the earnings stripping rules are further tightened (see below)) and a CFC regime. The earnings stripping rules are summarised as follows.
  (a) The (former) earnings stripping rules limit the deduction of the balance of interest amounts to the highest of 30% of the adjusted profit (*gecorrigeerde winst*) or EUR1 million. As of 1 January 2022, the deduction of the balance of interest amounts is further limited to the highest of 20% of the adjusted profit or EUR1 million.
  (b) The Dutch earnings stripping rules are more restrictive than required under the Directive. Thus the Dutch regime does not include a so-called group exemption (that would allow a deduction exceeding the prescribed maximum percentage (30% in ATAD 1 and currently 20% in Dutch law) of the adjusted taxable profit to the extent that the group’s overall debt level exceeds this prescribed maximum percentage), includes a EUR1 million threshold as opposed to the EUR3 million threshold included in the Directive and also applies in standalone situations (ie, where the taxpayer is not part of a group; this rule was not included in the coalition agreement).
  (c) It should be noted that the Dutch government has investigated the implementation of a budget neutral introduction of a deduction on equity, accompanied by the tightening of the Dutch earnings stripping rules in order to achieve a more balanced tax treatment of capital (equity) and debt. The Dutch government concluded that a unilateral introduction of a deduction on equity is not desirable in respect of tax avoidance and that they should therefore await a multilateral introduction of a deduction on equity.
- The Netherlands has signed and ratified the Multilateral Instrument that includes the BEPS measures that require amendment of (Dutch) bilateral double tax treaties. The Netherlands has taken the position that all material provisions of the MLI should be included in the Dutch double tax treaties, except for the so-called savings clause included in Article 11 of the MLI. As such, a general anti-abuse provision (in most cases, the so-called principal purpose test) should likely be included in many Dutch double tax treaties as well as a range of specific anti-abuse rules.
- The Dividend Withholding Tax Act 1965 has been amended whereby co-operatives that are mainly involved in holding and/or financing activities (and that up to now were able to distribute profits without triggering dividend withholding tax unless in cases of abuse) become subject to Dutch dividend withholding tax upon distributing profits. If the recipient of the profit distribution is a tax resident in a country with which the Netherlands has concluded a comprehensive double tax treaty, an exemption from that tax should be available provided that the relevant structure is not abusive. It remains to be seen whether the current rules in place for so-called “non-holding” co-operatives may be amended in the near future. The Corporate Income Tax Act 1969 has also been amended in relation to the above (ie, substantial shareholding rules).
- A law has been enacted to meet the obligations of the Netherlands in respect of country-by-country reporting (BEPS Action 13).

- A law has been enacted to meet the obligations of the Netherlands in respect of the automatic exchange of rulings. Furthermore, the Dutch innovation box regime has been amended to align it with BEPS Action 5 (countering harmful tax practices).
- Further enhancement of the substance requirements for interest and/or royalty conduit companies has been introduced, due to which information is automatically exchanged with the respective foreign tax authorities in the case of interest and/or royalty conduit companies not meeting these enhanced substance requirements, including a minimum of EUR100,000 salary expenses and the requirement that for at least 24 months properly equipped office space should be available.
- A conditional withholding tax on royalties and interest paid to group companies in low tax jurisdictions, to hybrid entities or in certain abusive situations applies as from 1 January 2021. As of 1 January 2024, a conditional withholding tax on dividends paid to group companies – in line with the conditional withholding tax on interest and royalty payments – to low tax jurisdictions, hybrid entities and in certain abusive situations will also apply.
- Double tax treaties have been and are being renegotiated with 23 developing countries to ensure these tax treaties can no longer be abused, potentially leading to tax budget leakage for the respective developing countries.
- The minimum substance requirements do no longer function as a safe harbour.
- The Dutch practice regarding international tax rulings has been revised as of 1 July 2019. To obtain an international tax ruling from the Dutch tax authorities, amongst others, a sufficient "economic nexus" with the Netherlands is required.
- The national definition of a permanent establishment is brought in line with the 2017-OECD Model Tax Convention (which reflect the BEPS outcomes).
- Furthermore, the government has announced that it will investigate the extend to which group companies are breaking up (*opknippen*) activities in order to obtain tax benefits, specifically the benefit arising from the multiple application of the low tax rate levied on the first part of a taxpayer's profit (15% over the first EUR395,000 in 2022). In addition, certain tax benefits apply to each individual business unit.

The Dutch CFC regime is summarised as follows.

- The benefits derived from a controlled company are included in the taxable profit of the corporate income taxpayer, taking into account the interest held and the holding period. CFC benefits are defined as interest or other benefits from financial assets; royalties or other benefits from IP; dividends and capital gains upon the alienation of shares; benefits from financial leasing; benefits from insurance, banking and other financial activities; and benefits from certain, low value-adding, factoring activities ("tainted benefits"); less related expenses.
- CFC benefits are only taken into account to the extent that the balance of benefits (ie, income less expenses) results in a positive amount and that balance, by the end of the financial year, has not been distributed by the controlled company. Negative CFC benefits can be carried forward six years to offset against future positive CFC benefits. As of 1 January 2022, the Netherlands introduced a mandatory order to settle foreign taxes by prescribing that first the lowest amount should be settled followed by the rising amounts. If the amounts to be set-off are identical, both amounts should be taken into account pro rata.

- A controlled company is defined as a company in which the taxpayer, whether or not together with related companies or a related person (see below), has an interest of more than 50% (whereby interest is defined in relation to nominal share capital, statutory voting rights and profits of the company), provided that the company is a tax resident in a low tax jurisdiction or a state included on the EU list of non-cooperative jurisdictions (unless the company is taxed as a resident of another state). A jurisdiction is considered low taxed if it does not levy a profit tax or levies a profit tax lower than 9% (the statutory rate should be at least 9%). Prior to each calendar year, an exhaustive list will be published with all designated non-cooperative and low tax jurisdictions for the next taxable period (being the next calendar year). A permanent establishment can also qualify as a CFC.
- For purposes of the CFC regime, a company or person is related to the taxpayer if the taxpayer has a 25% interest in the company or the company or that person has a 25% interest in the taxpayer (whereby interest is again defined in relation to nominal share capital, statutory voting rights and profits of the company).
- A company is not considered a controlled company if at least 70% of the income of the company does not consist of tainted benefits or the company is a regulated financial company as defined in Article 2(5) of the Directive and at least 70% of the benefits earned by the company are not derived from the taxpayer, a related entity or a related person.
- The CFC regime does not apply if the controlled company carries out material (wezenlijk) economic activities. According to the explanatory memorandum, material economic activities are considered present if the relevant substance requirements that are currently already included in the anti-abuse provisions in the Dutch Dividend Withholding Tax Act 1965 (DWT) are met. Most importantly, the controlled company will need to incur annual wage costs of at least EUR100,000 for employees and the controlled company will need to have its own office space at its disposal in the jurisdiction where it is established during a period of at least 24 months whereby this office space needs to be properly equipped and used. Furthermore, the employees must have the proper qualification and their tasks should not be merely auxiliary. Note however, that as per 1 January 2020, a different approach will apply. See **6.6 Rules Related to the Substance of Non-local Affiliates**.

9.2 Government Attitudes

The central attitude of the Dutch government is to find a balance between, on the one hand, ending international aggressive tax planning by promoting transparency and making rules abuse-proof, and, on the other hand, not harming the Dutch economy and thus seeking to take measures on an international level to avoid unilateral measures that would disproportionately harm Dutch corporations and favourable Dutch tax regimes to safeguard the attractive business and investment climate.

The Dutch government has announced that it will fully commit to the rules of Pillar One and Pillar Two. Pillar One may substantially impact the allocation of tax revenues to jurisdictions. It should furthermore be noted that Pillar Two may substantially impact the sovereignty of states as regards to the taxation of business profits and their ability to employ an international tax policy based on the principle of “capital import neutrality”. In addition, the implementation of Pillar Two will most likely lead to a higher administrative burden as the effective tax rate should be determined in each jurisdiction a multinational is active in.

9.3 Profile of International Tax

International taxation, especially over the last decade, has gained a high public profile due to extensive coverage of – alleged – aggressive tax planning in leading Dutch newspapers and other media, as well as the exposure generated by NGOs such as Oxfam Novib and Tax Justice.

Over the last decade, on a regular basis Members of Parliament have raised their concerns regarding the attitude of MNCs and their supposed unwillingness to contribute their fair share. This is, for example, also reflected in the notifications made by the Dutch government for the application of the Multilateral Instrument, that reflect the Dutch position to apply nearly all anti-abuse measures included in the Multilateral Instrument.

9.4 Competitive Tax Policy Objective

The Netherlands has a competitive tax policy, driven by the fact that the Dutch economy relies for a large part on foreign markets, given that the domestic market is relatively small. In a letter from May 2020, the Dutch government sets out its (updated) international tax policy. As a starting point, domestic and cross-border entrepreneurial activities should, in principle, be treated equally for tax purposes. Thus, foreign-sourced (business) income in principle is exempt from the Dutch tax base.

At the same time, the government is aware of international corporations increasingly eroding domestic tax bases and shifting profits. It is therefore seeking to find a balance between mitigating the risk of abuse by international taxpayers whilst avoiding unnecessary hindrance of real corporate activities.

9.5 Features of the Competitive Tax System

As the Dutch government generally takes a balanced approach for each measure, consideration will be given to the pros and cons of existing practices, and the relevance for real business activities, including the accounting and legal services industry. Thus, it is difficult to say which areas are vulnerable to scrutiny, except for structures with low substance and structures that are clearly tax-driven whilst bearing little or no relevance for the real economy. Dutch law does not restrict state aid in general with a specific rule except for the state aid rules as laid down in EU-law.

9.6 Proposals for Dealing with Hybrid Instruments

The proposals addressing hybrid instruments have been implemented by the Dutch government and as such are included in Dutch tax law and/or Dutch double tax treaties. This applies to the measures taken as part of BEPS as well as the extension of the EU Anti-Tax Avoidance Directive.

9.7 Territorial Tax Regime

The Netherlands has no territorial tax regime as it – as a starting point – taxes resident (corporate) taxpayers for their worldwide income, subject to the application of double tax treaties and unilateral rules for the relief for double taxation.

It is difficult to make a general prediction as to the impact of the interest limitation rules for Dutch taxpayers as this is to a large extent fact-driven, whilst the Netherlands already has a range of interest limitation rules and it is currently proposed to abolish two of the existing interest limitation rules.

9.8 Controlled Foreign Corporation Proposals

A cornerstone of Dutch international policy for decades has been to avoid economic double (including juridical double) taxation within corporate structures, which is why the Netherlands has exempted dividend income received from foreign group companies (under the so-called participation exemption regime). Furthermore, the Netherlands so far has been advocating the principle of so-called capital import neutrality, by which a resident state should exempt foreign-sourced income from its taxation to allow its corporations to make foreign investments on a level playing field (in terms of taxation).

The Netherlands should therefore used to be reluctant to let go of its position to exempt foreign income. As a matter of fact, former proposals to include a so-called switch-over provision (whereby an exemption of taxation is basically replaced by a tax credit for certain types of income) were strongly and successfully opposed by the Dutch government. However, as part of the implementation of the EU Anti-Tax Avoidance Directive (ATAD), CFC rules have been introduced in the Netherlands as per 1 January 2019. See **9.1 Recommended Changes**.

9.9 Anti-avoidance Rules

The Netherlands favours (as reflected in the Dutch notification to Article 7 of the Multilateral Instrument) a principal purpose test as opposed to a limitation on benefits provision, mainly because the principal purpose test is considered to work out proportionately in most situations. Thus, truly business-driven structures, either inbound or outbound, should not be harmed. Nevertheless, the principal purpose test is principle-driven rather than rule-driven, which makes it less clear which structures will be affected by the principal purpose test.

In other words, there may be legal uncertainty, especially in the beginning when there is also little practical experience. Furthermore, some countries might apply the principal purpose test liberally, which might make corporations decide to avoid the Netherlands. However, this remains to be seen, especially as in other countries the same issues should come up. The potential impact of EU law in this respect is subject to debate.

9.10 Transfer Pricing Changes

Aside from the introduction of country-by-country reporting and to a lesser extent the documentation requirements (eg, master file and local file), the Netherlands has already applied the at arm's length principle as a cornerstone of its transfer pricing regime. As such, these changes should not lead to a radical change, which should also apply to intangibles.

However, as stated before, legislation entered into force as of 1 January 2022 targeting mismatches resulting from the application of the at arm's-length principle, which aims to render the arm's-length principle ineffective between related parties in cross-border situations to the extent that it will deny the deduction of at arm's length expenses if the corresponding income is not included in the basis of a local profit tax at the level of the recipient.

9.11 Transparency and Country-by-Country Reporting

The Netherlands is in favour of increasing transparency in international tax matters, provided an agreement can be reached on an international level as broad as possible to avoid national economies being harmed by MNCs' decisions to avoid jurisdictions that have transparency requirements.

9.12 Taxation of Digital Economy Businesses

No legislative proposals have been published in this area yet.

9.13 Digital Taxation

The State Secretary for Finance favours an international, coordinated (unified) approach, instead of jurisdictions implementing domestic legislation independently, such as Pillar One and Pillar

Two. Consequently, the Dutch government has announced that it will fully commit to the rules of Pillar One and Pillar Two.

It should also be noted that by the end of 2022, the Directive on Administrative Cooperation (DAC7) should be implemented into Dutch law. DAC7 contains rules on the information exchange of digital platforms.

9.14 Taxation of Offshore IP

The Netherlands has no specific provisions as to the taxation of offshore intellectual property. Note however that as of 1 January 2021, a conditional withholding tax applies to interest and royalty payments to states qualified as low tax jurisdictions. Furthermore, in case of passive offshore IP structures, the Dutch CFC-rules may apply.

Stibbe handles complex legal challenges, both locally and cross-border, from its main offices in Amsterdam, Brussels and Luxembourg as well as branch offices in London and New York. By understanding the commercial objectives of clients, their position in the market and their sector or industry, Stibbe can render suitable and effective advice. From an international perspective, Stibbe works closely with other top-tier firms on cross-border matters in various jurisdictions. These relationships are non-exclusive, enabling Stibbe to assemble tailor-made integrated teams of lawyers with the best expertise and contacts for each specific project. This guarantees efficient co-ordination on cross-border transactions throughout a multitude of legal areas, irrespective of their nature and complexity.

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