

## CODE OF CONDUCT FOR THE NFIA

### Economic diplomacy and fiscal business climate

Fiscal policies are an important aspect of the Dutch business climate, therefore, an important element in NFIA's support for potential and current foreign direct investors. In view of this topic's importance as well as its possible complexity and (political) sensitivity, it is essential for NFIA employees to be well informed on fiscal matters and to know how to approach the subject. For that reason, it is key to regularly reconfirm our **communication policy on fiscal matters** following the introduction of this code of conduct in 2014.

- The Dutch Cabinet is proud of its investment climate. It is geared towards strengthening the national economy and protecting employment. The Dutch Cabinet is aware of the fact that Foreign investments generate substantial amounts of additional employment.
- Competitive fiscal policies stimulate Dutch companies to do business abroad and foreign companies to invest in the Netherlands. Although it is not always a decisive factor, combined with our general location benefits, the Netherlands often matches competitive bids from other European countries or tops the list of locations considered.
- The Dutch (fiscal) investment climate is a permanent matter of attention to the Dutch government. Competing countries attempt to match Dutch policies.
- Based on the criteria of the OECD, the Netherlands can't be considered as a tax haven. It meets all the relevant requirements for transparency and exchange of information. The statutory corporate income tax rate is 25%, contrary to very low or zero % tax jurisdictions.
- The 25%-rate applies to all profits that can be attributed to business activities within the Netherlands (profits from R&D performed in NL could qualify for the innovation box, taxed at 5%). These rules apply to all Dutch national companies as well as companies from foreign origin (non-discriminatory). The tax rules are transparent and in accordance with all the international regulations and guidelines. Information is exchanged if required by law or treaties.
- Usually the NFIA does not have insight in rulings. If (the content of) a ruling is obtained via a taxpayer, the NFIA is not allowed to disclose its content, because this contains company confidential information. The company itself is allowed to disclose the agreement, if deemed necessary. NFIA can and shall never 'pitch' low effective corporate income tax rates to prospects.
- Always refer to tax advisors to discuss tax issues in more detail. The expertise of the Dutch financial services sector is widely acknowledged.
- The Dutch government is actively involved in OECD-discussions on base erosion and profit shifting (BEPS) and EU-initiatives in this field. It strives for globally binding solutions ('hard law'), with the aim of realizing a level playing field.
- For NFIA-support a minimum of 5 people in the third year of operation is required. Holding companies lacking sufficient substance (so called 'letterbox companies') are not our targets.

- When NFIA hosts seminars or other events including presentations on tax climate (inside our offices or elsewhere) always convey to the audience that we only support companies that bring relevant substance to the Netherlands. Please make sure that all speakers are aware that substance is a prerequisite. Presentations by tax lawyers should pay explicit attention to the fact that a Dutch entity requires substance.
- Do not put (links to) presentations or slides from tax advisors about tax structures via the Netherlands on NFIA websites without explicit reference to substance requirements.

Please, bear in mind that 'tax rulings' are just helpful for taxpayers to get certainty in advance about their tax position in the Netherlands. When determining the tax base, there will be no different rules and regulations applicable. They are always based on all relevant rules and regulations (including the OECD transfer pricing guidelines). Rulings are no "deals" and not a result of negotiations; it is a matter of applying the rules, also in situations where the applicability of the rules in a certain situation is not 100% certain. Information regarding rulings will be exchanged between tax authorities and they will, if necessary, be explained and defended.

### **Attractive features of the Dutch tax regime include:**

- Relatively low statutory corporate income tax rate of 25% (20% for first 200,000 Euro)
- Possibility of obtaining advance tax rulings from the Dutch tax authorities giving certainty on future tax position, always within the national and international regulatory framework.
- Innovation box resulting in an effective corporate tax rate of 5% for qualifying profits
- R&D allowance for qualifying R&D wage costs (WBSO)
- Tax relief schemes for environmentally friendly investments (MIA/Vamil)
- Tax relief program for sustainable energy (EIA)
- Broad participation exemption regime for qualifying dividends and capital gains
- Fiscal unity regime which provides for a tax consolidation of companies within a corporate group, which freely offsets profits and losses among group members
- Transfer pricing practice in accordance with OECD Transfer Pricing Guidelines and the possibility to obtain an Advance Pricing Agreement (APA)
- The possibility to carry forward losses for nine years and to carry them backward for one year
- Wide tax treaty network (some 100 treaties) to avoid double taxation and reducing withholding taxes on dividends, interests and royalties (for interest and royalties often to 0%)
- No statutory withholding tax on outgoing interest and royalty payments
- Favorable tax treatment for expats (30% tax ruling)
- VAT deferment upon import: no upfront payment of VAT
- Dutch Tax Authorities are highly accessible and transparent
- Dutch Customs Authorities: practical and pro-active approach