MFFA Belastingadvies | Tax Advice

Doing Business in the Netherlands 2019

Table of Content

Introduction

Doing Business in the Netherlands 2019 by MFFA Tax Advice provides information and guidance mainly regarding Dutch legal and tax matters for businesses and employees interested in doing business or working in the Netherlands. In addition, this guide may also serve a useful purpose in doing business with the Netherlands.

The first few pages of this guide will give an overview of doing business in the Netherlands inter alia by summarizing certain topics, which will be discussed in more detail later on, and by stating various financial incentives. In addition, you are shortly introduced to MFFA Tax Advice and the services we offer to assist you in doing business or working in the Netherlands.

This guide covers a wide range of topics within the Dutch legal and tax framework relevant to businesses and employees. In this brochure you can find the answers to practical questions like:

- How to start your business in the Netherlands?
- What are the common business forms in the Netherlands?
- How much time does it take to start your business in the Netherlands?
- What are the rights of employees?
- What are the costs of Dutch social security?
- Do I need a permit or registration?
- What is considered taxable income and profit in the Netherlands?
- What are the Dutch tax rates?
- How to qualify as entrepreneur as a self-employed professional or freelancer?
- When to file a tax return?

On behalf of MFFA Tax Advice, we hope that this guide will be useful for you in doing business in the Netherlands.

"Veel succes"

Folkert Mijlof
Senior Partner MFFA Tax Advice

Jeroen Mijlof
Tax Partner MFFA Tax Advice

Why invest in the Netherlands?

The establishment of a company in the Netherlands can be business wise very lucrative for companies and individuals. Companies always look at factors like, availability / knowledge of the workers, business costs, how is the transport / telecom quality, the political situation and much more before they decide to do business in a country. We have outlined below several reasons why a company should establish a company in the Netherlands.

General reasons to invest in the Netherlands

- Infrastructure and location. (Rotterdam harbor, Schiphol Airport, good highways for distributions of goods)
- Skilled and educated workers. (Dutch people speak many languages such as English, German and French).
- International business environment (a lot of multinationals have their headquarters in the Netherlands).
- Political situation.

Fiscal reasons to invest in the Netherlands

- The Dutch participation exemption fully excludes dividends and capital gains received from subsidiaries from the taxable profit of the Dutch (holding) company.
- Large tax treaty network avoiding double taxation.
- The ruling practice of the Dutch Tax Authorities provides clarity and certainty in advance about future tax positions.
- Dutch Cooperation (legal entity) can distribute dividends without withholding dividend withholding tax.
- Reduced corporate tax rate (5%) for profits gained from innovation (Innovation Box)
- VAT on imported goods can be deferred to the VAT tax return (article 23 VAT license) , effectively avoiding unnecessary VAT payments.
- Skilled foreign employees working in the Netherlands can receive 30% of their Dutch wages tax free.

Financial Incentives to invest in the Netherlands

- Tax facilities: WBSO, R&D Allowance, Investment Allowances.
- General subsidies: Top sector policy.
- Regional subsidies: European Fund for Regional Development.
- Financial support: Credit Guarantees, innovation funds.

Why MFFA Tax Advice?

MFFA Tax Advice provides tax and tax-relating legal services to resident and non-resident individuals and companies. With our academic skills, practical approach and experience ranging from big four to the Dutch Tax Authorities we offer high-quality services at transparent rates. In addition we invest in our network to also be able to assist in other fields of expertise such as notary services, lawyers and foreign tax and legal services. This way, MFFA Tax Advice can offer its clients a single place for all tax and tax-relating legal matters.

A glance at the services we provide

- Tax opinions
- Global mobility of employees
- Cross border working
- Employment contracts
- Assistance with social security
- Migration of natural persons and companies
- Tax structuring and planning
- Investing in the Netherlands
- Assist in choice of business form
- Setting up a permanent establishment
- Incorporation of legal entities such as a Dutch B.V.
- Registration at the Dutch chamber of commerce and Dutch tax authorities
- Implementation and setting up payroll administration
- Accounting services
- Providing a business address
- Tax Compliance
- Billing and invoicing
- Transfer of domestic activities abroad
- Ruling requests, including 30% ruling
- Expat services and advice
- Relocation of employees
- Objection and appeal
- Transfer pricing documentation
- Article 23 VAT license
- Reclaiming VAT

In addition, we can assist you regarding all the topics you are about to read in this brochure.

The Netherlands

Geography

Situated in North Western Europe the Netherlands shares its southern and eastern boarders with Germany and Belgium, while the northern and western parts of its mainland adjoin the North Sea. Living in a delta partly below sea level the Dutch learned to life with the water, e.g. by building dikes and unique constructions to protect the people from flooding rivers and the North Sea, and to make use of it by building harbors and deepening waterways to accommodate world's largest ships. With a surface of just over 41 thousand km^2 of which 18% is water, the Netherlands is relatively small.

Cities and regions

The Netherlands is inhabited by over 17 million people. The most populated and urbanized region, called the Randstad, encompasses inter alia Netherlands' largest cities Amsterdam, Rotterdam, The Hague and Utrecht. The Randstad is comparable in size to Europe's largest urbanized regions like London and Paris. The Zuidas in Amsterdam is Netherlands' largest international business district conveniently located near Amsterdam Schiphol Airport. The Hague is the political center of the Netherlands. The Dutch king and the Dutch government reside here together with most international embassies. A relative large share of the inhabitants are expats creating an international atmosphere in the inner city that breathes history through its impressive classical buildings. The Hague shares an international airport with Rotterdam (Rotterdam The Hague Airport) situated just a few kilometers to the south in between the two cities. The city of Rotterdam, heavily bombed during WW II, nowadays represent Netherlands' modern architectural highlights. With structures combining various functions it anticipates on current and future people's needs.

The city of Eindhoven and its surrounding area, located in the south of the country and birth place of Philips, is heavily focused on innovation and design. With the High Tech Campus Eindhoven a place is created for companies (currently over 140 including ASML, NXP, Intel, IBM and Philips), researchers and students to work together and share knowledge, skills and R&D facilities primarily in the field of health, energy and smart environments.

Economics

The Netherlands has an open economy with a strong focus on international trade. Please find below some recent macro-economic data (2015 or more recently).

GDP	€ 676.531 (x million)
per capita	€ 40.000
Workforce	8,9 (x million)
Unemployment	€ 574.000 (6,4%)
Exports	€ 425.572 (x million)
Imports	€ 377.993 (x million)

Infrastructure

The excellent infrastructure provides ample opportunities for transportation via road, train and ship further into Europe or from Europe to the rest of the world. The Port of Rotterdam is the largest port in Europe and among the largest in the world. Schiphol Airport near Amsterdam is world's second largest aviation hub in the world easily accessible via road or train. The highly developed Dutch telecommunication system connects 94% of the household to internet via broadband.

Politics

Being a constitutional monarchy the head of state in the Netherlands is our king. However, his role is limited. The Netherlands is a parliamentary democracy with a multiparty system seated in The Hague. A coalition of parties, usually representing more than half of the seats (>75) in the parliament, forms the Dutch Government for a maximum period of 4 years. The Dutch Senate mainly act as a controlling body for the approval of new legislation. It is common practice stakeholders are given the opportunity to have their say about governmental policies (the so-called *Poldermodel*).

Education and Healthcare

The Dutch educational and healthcare system are one of the best of the world in all kinds of professions and specializations. In addition, due to the low costs and social security system both are accessible for all walks of live. The English language is widely spoken.

European Union and Euro Zone

The single European market provides many benefits for the Netherlands being focused an international trade. Free movement of goods and people removes barriers reducing the costs of trade. Although there are still some challenges to deal with the Euro Zone showed its strengths by overcoming the financial crisis with a stable currency.

Top Business Sectors

There are nine business sectors labeled as top sectors in the Netherlands. These are: Agri & Food, Chemical, Creative, Energy, High Tech, Logistics, Life Sciences & Health, Horticulture and Water. By investing in these Dutch top sectors the Dutch government wants to contribute in retaining their top world positions. These contributions include tax incentives, guarantees, investments and reduced legal hurdles.

Starting a company in the Netherlands

Starting Business

Performing business activities in the Netherlands does not require setting up a Dutch legal entity. It can be done by using a branch being an establishment of an existing foreign legal entity. However, for a variety of reasons setting up a Dutch legal entity may be desirable. In the Netherlands there are two types of legal entities with limited liability: the "*BV*" (private limited liability company) and "*NV*" (public limited liability company). Besides these, other commonly used business forms are "eenmanszaak" (sole proprietorship), "*VOF*" (general partnership), "*CV*"(limited partnership) and the "*Co-op*" (Cooperative).

Many foreign companies doing business in the Netherlands use a Dutch legal entity instead of a branch. Most important reason to do this is, is because of the limited liability. In general, the foreign company's liability (the parent company) is limited to the extent of its capital contribution to the Dutch legal entity (the subsidiary). In case the foreign company is doing business in the Netherlands with a branch, it is fully responsible for all the obligations and liabilities of the branch. One of the other aspects to choose for a legal entity or a branch is because of differences in tax treatment.

Forms of Business

Branch

In essence, a Dutch branch is the establishment of a legal entity over the borders of its home country. A branch is not a separate legal entity but an integral part of the foreign legal entity. The foreign legal entity therefore remains ultimately liable for actions carried out by the branch. Depending on time span and the activities carried out by the branch it may qualify as a permanent establishment for tax purposes. If so, the branch will generally speaking be treated as a separate Dutch entity for tax matters.

Setting up a Dutch Branch

The action plan below provides a three step approach for setting up a Dutch branch. The registration process may take as less as a week.

Step 1: Registration at the Dutch Chamber of Commerce

Step 2: Registration at the Dutch Tax Authorities

Step 3: Registration at the Dutch Social Security Office

Setting up a Dutch branch requires a registration at the Dutch Chamber of Commerce one week prior until one week after the operations start. This means filling in certain forms and supplying substantiating documents. The registration process is transparent and clear and can be done from abroad. Depending on the activities to be performed by the branch a registration at the Dutch Tax Authorities and Social Security Office is required.

Advantages

- Only limited formalities are required: the registration at the Dutch Chamber of Commerce and the application for Dutch tax identification numbers.

- Possible tax advantages/deductions in the home country of the foreign legal entity.
- From a practical point of view it takes less effort as the branch performs activities in the name of an already establish entity (same name, website, email address, etc.).
- Closing does not trigger liquidation and settlement process.
- Management decisions can be made from abroad.
- Administration can be maintained at the home country.

Disadvantages
- Foreign entity of the branch is fully liable.
- Potential stakeholders, e.g. clients and suppliers, may prefer domestic businesses as unknown foreign rules and regulations brings uncertainty.

Private limited liability company (BV)

A Dutch BV is a privately held limited liability company with its capital divided into shares. As a BV has legal personality the liability of its shareholder(s) is generally limited to the capital contributions. As of 2012 new rules apply to the Dutch BV, making it more flexible to tailor it to specific needs.

Share Capital
There is no minimum capital requirement. This means that the share capital of the Dutch BV can be incorporated with one share with a value of at least € 0,01 and one voting right. The shares cannot be publicly traded and the transfer can be subject to provisions, in accordance with the articles of incorporation. The transfer of shares may for instance be subject to the approval of other shareholders. Different types of shares can be issued. Making it possible to differentiate in dividend and voting rights.

Governance
A Dutch BV is governed by the board of directors (one-tier or two-tier) and the general meeting of shareholders. Dependent on its size a BV can be obliged to have a supervisory board. This is the case if it is considered to be large, i.e. if it meets at least two of the following criteria: 1) assets of over €17.5 million, 2) net turnover of over €35 million; 3) more than 250 employees.

The articles of incorporation state the authorization given to each member of board of directors. In general, directors are appointed and discharged by the shareholders. The board of directors as a whole is authorized to represent the BV, at law and otherwise. Furthermore, each managing director is authorized to represent the BV. In the event that there is more than one director the articles of incorporation may provide that a director may only act jointly with one or more managing directors or other persons.

The articles of association may also provide that certain acts of directors are subject to prior approval of the supervisory board (if any) or of the general meeting of shareholders. Such restrictions, however, cannot be invoked by or against third parties and, therefore, do not restrict a director's power to represent the company

Directors can be held responsible by the BV and third parties. Under strict conditions this can mean that the board of directors is liable for bankruptcy deficits in order to prevent fraud. The general meeting of shareholders is held at least once a year. In accordance with the articles of incorporation the shareholders may give specific instructions to the board of directors in addition to its power to discharge them.

Profit distribution

The general meeting of shareholders decides on the distribution of profits. However, the board of directors may refuse their decision based on the equity and liquidity test if this distribution may threaten the continuity of the company. This also applies to the repayment of capital. In order to protect creditors, failing to refuse will make the shareholders and board of directors liable for the resulting deficit.

Setting up a private limited liability company (BV)

Please find below a step-by-step approach of the process for the incorporation and formation of a Dutch BV. On average this process will take two to three weeks.

Step 1: Executing the deed of incorporation by a Dutch civil notary.
Deed of incorporation is in Dutch and include the articles of incorporation. These have to include the registered seat and address of the BV, which has to be in the Netherlands.

Step 2: Signing the deed of incorporation.
Incorporator (or representative) appear in person before the civil notary or provide notary with a power of attorney. PoA's have to be signed by representative and or incorporator duly authorized to do so and duly apostilled.

Step 3: Opening a Dutch bank account.

Step 4: Registration at the Dutch Chamber of Commerce

Step 5: Registration at the Dutch Tax Authorities

Step 6: Registration at the Dutch Social Security Office.

Advantages

- Limited liability
- Separate administration

Disadvantages

- Startup costs
- Compliance costs

Sole Proprietorship / Self-employment / Freelancing (eenmanszaak)

Self-employed professionals ("zelfstandigen zonder personeel, zzp-er"), i.e. freelancers or independent contractors, qualifying as entrepreneurs can choose to use a sole proprietorship ("eenmanszaak") to perform their activities. In essence, the "eenmanszaak" is a way for an individual to present itself as a business to the outside world without setting up a legal entity. The individual remains fully liable for all the actions he or she performs through the "eenmanszaak".

Qualifying as entrepreneur

Not every individual performing activities qualifies as an entrepreneur. If you occasionally perform activities or only for family and friends your activities will most likely qualify as a hobby. It may also be the case that due to a lack of independence, e.g. principal acts de facto as employer, you will be qualified as an employee.

The following conditions, in random order, are of importance to qualify as entrepreneur:

- Intention to make reasonable profit
- Independence
- Availability of capital to invest (depending on the nature of the business)

- Time spend on business activities
- Amount of principals
- Appearance to the outside world (e.g. logo, website, marketing, business cards, company paper)
- Entrepreneurial risks (e.g. credit risk, investment risk)

Qualifying as entrepreneur means you need to register your business at the Dutch Chamber of Commerce. In addition, Dutch Tax Law provides for a number of beneficial facilities available to entrepreneurs only, like the start-up allowance, self-employed allowance and SME-allowance.

Setting up a Sole Proprietorship (eenmanszaak)

Setting up an eenmanszaak takes little effort (step 3 and 4). It takes two prior steps (step 1 and 2) in order to register a Sole Proprietorship as a non-European individual.

Step 1: Registration at the Dutch immigration office. Individuals from outside the European Union and not from Iceland, Lichtenstein, Norway or Switzerland will need a residence or working permit.

Step 2: Registration at the local municipality to obtain a Dutch citizen service number ("burgerservicenummer").

Step 3: Registration at the Dutch Chamber of Commerce

Step 4: Registration at the Dutch Tax Authorities

Advantages

- Easy and fast to start a business

Disadvantages

- Privately liable for business risks

Working in the Netherlands / Personnel

Working in the Netherlands or having Dutch or non-Dutch employees on the payroll of your Dutch company or Dutch branch is subject to various Dutch legislation. Below various aspects regarding working in the Netherlands are discussed.

Dutch Work and Residence Permits

Nationals of the European Economic Area (EEA: EU countries, Liechtenstein, Norway and Iceland) and Switzerland are not required to obtain a work or residence permit. However, if the stay exceeds four months this person is obliged to register at the municipality in the city of residence. Furthermore, a registration at the municipality is required to obtain a Dutch citizen service number (*"Burgerservicenummer"*), which is needed for Dutch taxes and the registration of a business.

Depending on the circumstances non-qualifying nationals either need a work permit (TWV) or a combined residence and work permit (GVVA). A GVVA permit is required for a working period of more than 3 months and is requested at the Dutch Immigration Office (IND).

The following groups need to request a TWV at the Dutch Employee Insurance Agency (UWV):

- Employees working for a period not exceeding 3 months;
- Seasonal workers;
- Students;
- Refugees;
- Employees of multinationals

In addition, these groups need to request for a residence permit at the IND.

A few exemptions apply to non-qualifying nationals:

- Highly skilled workers
- Employees with a residence permit that specifically states that working is permitted (possibly for a certain period)
- Self-employed professionals qualifying as entrepreneur performing activities as stated on their residence permit.

For these groups no working permit is required, only a residence permit.

Employee rights

Employees working in the Netherlands enjoy certain rights. These include for instance:

- A save place to work;
- Minimum wage of € 1.615,80 per month excluding 8% holiday allowance;
- Paid holiday leave for at least 4 times the average working days per week;
- Limited number of temporary contracts and a maximum total duration of 2 years of consecutive temporary employment. A next contract is deemed to be a permanent contract;
- Severance payment if employer does not extend or ends a contract if the employee worked for the employee for at least 2 years. The severance payment amounts 1/3 of the gross monthly wage times the years of service for the first 10 service years and half of the gross monthly wage times the years of service for further service years. The severance payment is maximized at € 81.000 gross or a gross annual wage if the annual gross wage exceeds € 81.000. This does not apply in case of summary dismissal.

- Collective labor agreements can provide further rights specific to certain professions or branches. This may include the obligation to participate in a pension scheme.

Wage Tax and Social Security

In principle, all remuneration in respect of an employment is considered taxable income. Such remuneration includes, among others, stock options, private use of a company car, accommodation and home-leave allowances and bonuses. Costs of relocating for a new job and contributions to a pension scheme paid or reimbursed by the employer are however not taxable.

On income received by an employee working in the Netherlands, wage tax must be withheld by the employer. For this the employer needs a wage tax number. The wage tax withheld is a pre-levy by the employer on the personal income tax due by the employee and therefore is deductible by the employee from his the personal income tax due. The employer withholds the national insurance premium and wage tax due from the gross wage and subsequently pays this amount to the Dutch tax authorities. Based on the labor contract, the wage tax is calculated on the value of the remunerations received by the employee. As the wage tax is a pre levy of the income tax the same rates apply.

The Dutch social security system consists of a national insurance, levied from natural persons who pay wage and or personal income tax, and an employee insurance. The latter, including unemployment, illness and disability, is levied from the employer.

In addition to the social security contributions by employees and employers, an employee (as all Dutch residents) is obliged to conclude a health care insurance. The employer is required to make an annual contribution.

30% ruling

Expats working in the Netherlands can make use of the so-called “30% ruling” essentially getting 30% of their wage tax free (strictly speaking, an untaxed reimbursement of extra-territorial costs). In order to apply for this facility the expat must fulfill certain requirements such as living 150 km from the Dutch border during more than 2/3 of the 2 years prior to signing the labor contract in the Netherlands. Another requirement is that the expat must earn at least a taxable income of € 37.743 for the Dutch employment. A reduced amount of €28.690 applies for expats below 30 years with a masters’ degree. A request should be filed within 4 months after the start of the Dutch employment to make use of it from the start of the employment.

Another way to make use of this ruling is to set up an own Dutch BV or company instead of working as a self-employed professional or even as employee. It does not matter if the company is foreign or Dutch as long as the company is a legal entity paying taxes in the Netherlands.

Taxation

Personal Income Tax

The Dutch personal income tax taxes natural persons distinguishing between residents and non-residents and between various sources of income. Below you will find a basic description of tax residency and an introduction to the Dutch personal income tax system. Subsequently, the taxable income of self-employed professionals and director-owners will be discussed. Tax matters concerning employees are covered in the previous chapter.

Residents and non-residents

Dutch residents are taxed on their worldwide income (domestic taxpayers), whereas non-residents are taxed on specific Dutch income only (foreign taxpayers). The place of residence of an individual is determined by the facts and circumstances, where the place of the one's home, family (in case of marriage) and social life are important factors. Most non-Dutch European residents earning at least 90% of their income in the Netherlands can opt to be treated as domestic taxpayers for income tax purposes to make use of certain tax facilities only available to Dutch residents (so-called qualifying non-resident taxpayer). Furthermore, employees residing in the Netherlands and for whom the 30% ruling applies (see the previous page) can opt to be partially treated as domestic taxpayers (so-called partial non-resident taxpayer). In practice, this means you pay less taxes for income from substantial interest (box 2) and savings and investment (box 3), while still having access to beneficial tax facilities regarding income from work and home ownership (box 1).

Dutch personal income tax system: Boxes

Dutch income tax for individuals is classified into three separate boxes, each with its own rules and rates. A source of income can only be part of one of the three boxes. Negative income can only be compensated by positive results in prior or future years of the same box.

Box 1: Taxable income from work and home ownership

Taxable income from work and home ownership is the sum of:

- Taxable business profit;
- Taxable wages;
- Taxable result from other activities;
- Taxable periodic allowances and payments;
- Taxable income from home ownership (in essence, making a mayor share of the financing costs of purchasing, remodeling or maintaining a home deductible);
- Negative expenses for income provisions (repayments) and
- Negative personal deductions.

Reduced by:

- Deductions resulting from (virtually) not having a home loan;
- Expenses for income provisions (e.g. annuity insurance); and
- Personal deductions (e.g. certain medical and educational expenses).

Reductions regarding expenses for income provisions and personal deductions only apply to domestic taxpayers. Losses in box 1 can be compensated with positive box 1 income of the previous 3 years and subsequent 9 years.

Box 2: Taxable income from substantial interest

This includes gains, e.g. dividends and capital gains, from (rights to) equity holdings of 5% or more in a company, which has its capital (partially) divided into shares. Costs incurred to acquire, collect and uphold these gains are deductible. Foreign taxpayers are only taxable on (rights to) holdings in companies residing in the Netherlands. The tax rate is 25%. Losses in box 2 can be compensated with positive income of the previous year and subsequent 9 years. If there is no longer a substantial interest (<5%) remaining losses can be converted into a tax credit of 25% of the remaining losses. The credit can be used to reduce box 1 income tax of the current of subsequent 7 years.

Box 3: Taxable income from savings and investment

The sum of private assets and debt at the 1st of January is deemed to generate a yield of 2,017% for amounts up to €70.800, 4,326% for amounts from €70.800 to €978.000 and 5,38% for amounts above € 978.000. This presumed yield is taxed at 30%. For domestic taxpayers a threshold of € 30.000 applies to the sum of assets and debt. Common assets and debt are savings, real estate, stocks and loans. Foreign taxpayers are only taxable on a limited scope of Dutch assets and debts, e.g. Dutch real estate (not taxable in box 1) and corresponding debt. Due to the presumed yield a negative income is not possible and hence no loss compensation applies.

Personal Income Tax Rates 2019 *(before retirement age)*				
Taxable Income		**Tax Rate**	**National Insurance Premium**[1]	**Total**
Box 1				
From	*Up to*			
€ 0	€ 20.384	9,00 %	27,65 %	36,65 %
€ 20.384	€ 34.300	10,45 %	27,65 %	38,10 %
€ 34.300	€ 68.507	38,10 %	-	38,10 %
€ 68.507	€ ∞	51,75 %	-	51,75 %
Box 2		25%	-	25 %
Box 3		30%	-	30 %

1. National insurance premium include old age pension (AOW), long-term care (Wlz) and survivor benefit (Anw).

National Insurance Scheme

The national insurance scheme is part of the Dutch social security system paid via personal income tax (first two tax brackets) by natural persons receiving taxable income in Box 1. The annual contribution is capped at € 9.484 from which several levy rebates may be deducted.

Income tax due

Taxable income for domestic taxpayers may be reduced by foreign tax relief based on tax treaties and/or unilateral relief regulations and levy rebates before the income tax due is determined. The vast amount of tax treaties offers ample opportunities to prevent taxpayers from double taxation. In case a tax treaty is not present the Dutch unilateral foreign tax relief regulation may be applicable. Depending on the amount of taxable income in box 1 and personal circumstances levy rebates further reduce the personal income tax due.

Self-employed professionals

Natural persons running a business, e.g. as a self-employed professional or freelancer possibly by using a sole proprietorship ("eenmanszaak"), and qualifying as entrepreneur are taxed on their business profit in box 1. Profit is any net income resulting from the business, e.g. from business activities, receivables and selling of assets. Not qualifying as entrepreneur and not being an employee means the results will be taxed in box 1 as results from other activities. Below you will find some interesting Dutch tax allowances and beneficial Dutch tax facilities only applicable to entrepreneurs that may reduce business profit substantially. Most of them are granted in case the business plays a major part in generating income, i.e. if at least 1225 hours are spend on the business on a yearly basis.

The following tax allowances can be deducted from the profit on a yearly basis:

- Self-employed allowance of € 7.280.
- Start-up allowance of € 2.123 for the first three years after start-up.
- R&D allowance of € 12.623 if certain qualifying activities are carried out. This amount is increased by €6.315 for start-ups.
- Co-operating partner allowance of 1,25% to 4% of the profit depending on the amount of hours per year (525-1750 hours) a partner performs activities for the business without being compensated.
- Liquidation allowance limited to € 3.630.
- SME-profit allowance of 14% of the remaining profit after the above mentioned allowances are taken into account.

Further beneficial Dutch tax facilities:

- Fiscal old age reserve. Allocating funds to this reserve lowers net income, effectively saving tax-free for retirement. The annual amount can be no more than € 8.775.
- Investment allowances. Investments in certain assets or for certain annual amounts can give rise to additional deductions besides the usual depreciation expenses. For instance an investment of €50.000 in a certain year results in a deduction of €14.000. Furthermore, investing in energy-saving (or renewables) and environmentally friendly assets can also qualify for generous additional deductions.
- Re-investment allowance. In order to avoid realizing a gain (profit) on selling an asset for more than its book value, the difference in value can be added to a reserve to be used to buy an economically comparable asset in the next three years.

Director-owners

Natural persons owning a private limited liability company (BV) for at least 5% while at the same time are on the payroll of their BV are subject to box 1 and box 2 taxes. The Dutch tax code requires a director-owner to have a wage of at least € 45.000 (so-called common wage, *"gebruikelijkloon"* in Dutch), which is taxed in box 1 at progressive rates. Under circumstances this amount can be lower or higher, depending on what is usual in comparable situations. Income derived from (partly) owning the company is taxed in box 2. This includes for instance gains on selling the company (generally selling price minus acquisition costs) and dividends. A tax rate of 25% applies.

Corporate Income Tax

The Dutch corporate income tax generally applies to Dutch resident companies (legal entities) on their worldwide income and to non-resident companies on their income with a Dutch source. Below you will find a basic description of tax residency, after which we will highlight certain relevant aspects of the Dutch corporate income tax.

Residents and non-residents

As with natural persons the place of residence of a company is determined by the facts and circumstances. For companies an important factor is the place of effective management and control. Companies incorporated under Dutch law are deemed to be Dutch residents. Dutch tax residency requires substance, or presence in other words, in the Netherlands, like a business address with skilled staff. For holding companies this can be a bit of a struggle. Therefore, a Dutch financial service company (Trust) or other company providing the same services can be used.

These services include for instance:

- Providing at least half of the management directors of the company with a Dutch residence;
- Facilitate board meetings in the Netherlands where key decisions are taken;
- A Dutch bank account;
- Regular Dutch business address;
- Maintain financial administration.

Taxable income

The taxable income of a company is the annual profit less deductible losses. The loss relief rules make it possible to offset the profit of the previous year and losses can be used to offset profits of the subsequent 9 years. Basically, profit should be determined on sound commercial practices which should be consistently applied. Therefore basic principles of realization, matching and prudence apply. Dutch tax law contains specific rules that diverge from commercial practices. For instance, income from participations is excluded from taxable income under the Dutch participation exemption, depreciation expenses of certain assets can be accelerated or are limited, (intra-group) interest expenses can be restricted, and certain investments (environmental friendly, energy saving) can trigger additional deduction opportunities.

Examples of fully deductible expenses: travel, marketing, communication, legal, accountancy, equipment, services from a third party can be deducted as business expenses.

Examples of partially deductible expenses: dinner, gifts, study trips and conference attendance.

Not deductible are clothes, fines, personal devices, personal computers, general literature.

If you need a car for your business, then you have two options. Use your own private car for the business or put a car on the balance of the company. With the first option (private car), you can claim the business kilometer against € 0,19 per kilometer. The last option (on the balance) it is possible to deduct all the expenses (fuel, insurance, taxes). However, at the end of the year you must add the car to your personal income because of the personal use. As a result, you will have higher income. Which described option is best, must be calculated and depends on the facts and circumstances.

Tax Rates

The taxable income is taxed according to the following tax rates per tax bracket. Income for which the Innovation Box applies is effectively taxed at a rate of only 5%.

Corporate Income Tax Rates 2019		
Taxable Income		**Tax Rate**
From	*Up to and including*	
€ 0	€ 200.000	19 %
€ 200.001	€ ∞	25 %

Participation Exemption

The Dutch participation exemption plays an important role in eliminating economic double taxation on profits within a group of companies. In essence, it prevents profit already taxed at a subsidiary from being taxed again at the Dutch parent company after distribution in any form (dividends, gains on sale, revaluations, etc.). The parent should participate in the subsidiary for at least 5% of the nominal paid-in capital. If the participation exemption applies dividends are also excluded from dividend withholding tax for distributing Dutch resident companies.

In general, the participation exemption does not apply to participations which are held as investment (motive test). However, there are exemptions to this exclusion (qualifying investment participation). The participation exemption still applies if:

- The participation is subject to an effective tax rate of at least 10%; or
- Less than 50% of the assets of the participation (directly or indirectly owned) are low taxed investments.

Non-qualifying investment participations may still make use of a tax credit system for foreign taxes.

In general, the application of the participation exemption also means that negative results from participations are not deductible. However, under certain conditions liquidation losses can be deductible.

Recently, all EU member states, including the Netherlands, implemented specific rules to combat double non-taxation. As a result the Dutch participation exemption and participation credit are not regarding distributed profits which are deductible at the level of the participation.

Transfer Pricing

Intra-group transactions should be at arm's length. This means that the prices and terms should be comparable to non-related independent parties who enter into similar transactions. Therefore, Dutch companies are required to keep and maintain transfer pricing documentation which state the method used in which transfer prices are determined and how this method results in the applied transfer prices. The documentation should for instance contain a comparability and functional analysis, intercompany agreements and payments among others.

Since the results of the anti-base erosion and profit shifting (BEPS) project by the OECD are presented, OECD participants are implementing legislation which concerns detailed rules regarding transfer pricing documentation, depending on the size of the group. In the Netherlands each individual entity of a multinational group is required to keep a master file and local file if the consolidated turnover is at least € 50 million, while a multinational group with a consolidated turnover of at least € 750 million should also file a country-by-country report if the ultimate parent company resides in the Netherlands.

Depreciation

Depreciation expenses are deductible from the annual profit of a company. For immovable property Dutch tax law limits the amount of cumulative depreciation to a base value depending on the usage (own use or investment). The depreciation period for goodwill is set at 5 to 10 years depending on the circumstances. Accelerated depreciation applies to environmental protecting assets or investments by start-ups.

Fiscal Unity

If a parent company directly or indirectly owns at least 95% of the shares and voting rights of its subsidiary (or subsidiaries), both (or all) companies can submit a request to be treated as a single entity for corporate income tax purposes. The major advantage is that losses of one company can be offset by the profits of another company. In addition, transfers of assets and liabilities do not have corporate income tax consequences. A fiscal unity is only possible for Dutch resident companies, including sister companies with an EU or EEA parent and a parent and sub-subsidiary with a EU or EEA intermediate company.

Interest expense

The Dutch corporate income tax law provides for certain restrictions of the deductibility of interest expense. For instance the interest expense on excessive debt and the combination of a fiscal unity and a debt-financed takeover. Specific conditions do however apply to the non-deductibility (or the amount of) of these interest expenses.

Innovation Box

Profits, including royalties, from developed intangible assets can under certain conditions be taxed at a lower effective tax rate of 7%. It is not required to have a patent granted for the intangible asset. However, an R&D declaration is required. To apply the innovation box regime at least 30% of the company's profit should be attributable to intangible assets among other conditions. Brands, software, logos and copyrights fall outside the scope of the innovation box.

Preventing double taxation

The vast amount of tax treaties offers ample opportunities to prevent Dutch resident companies from double taxation if not exempt already under the participation exemption. In case a tax treaty is not present the Dutch unilateral foreign tax relief regulation may be applicable.

Value Added Tax

The Dutch VAT system is based on European regulation and therefore compatible with other EU member states. There is however plenty of room for member states to differentiate, for instance on tax rates.

VAT system

VAT is charged on goods and services as a percentage of the price and is paid by the purchaser to the supplier given the supplier qualifies as taxable person for VAT purposes. The supplier has to take care of paying the VAT to the tax authorities. In essence it's a tax on the added value of taxable persons by taxing the output while allowing a deduction of the VAT charged on the input (input VAT). Thereby, effectively taxing the end user. A person performing business activities in the Netherlands is considered a taxable person for VAT purposes. This can be a legal entity or a natural person, resident or non-resident. In addition, VAT is due on imported goods into the Netherlands regardless of whether the importer is a taxable person or not.

Dutch VAT Rates

Value Added Tax Rates 2019	
Category	**Tax Rate**
Standard	21 %
Low	9 %
Export	0 %

The standard tax rate on goods and services is 21%. For certain goods and services a lower rate of 9% applies, e.g. for food, non-alcoholic drinks, medicines, haircuts, bike repairs, etc.. Mainly export is subject to a 0% tax rate. Certain transactions are exempt from VAT. This includes for instance educational services, health care services and various financial services. Please note that a 0% tax rate is not equal to being exempt from VAT. Only the former can deduct (claim a refund) of input VAT.

Small Business Regulation

Under certain conditions small businesses are eligible to pay less or no VAT and are relieved from administrational obligations. If the sum of output VAT less input VAT is less than € 1.883 a reduction applies to the amount of VAT due. If this sum is less than € 1.345 no VAT is due. In case no VAT is due and the expectation is that this will continue if the subsequent years you can request for a relief from administrative obligations.

The conditions are as follows:
- The business concerned is a sole propriety (“eenmanszaak”) or a partnership of natural persons;
- The business is established in the Netherlands;
- Less than € 1.883 VAT is due; and
- The business complies to the VAT administrative obligations.

Import VAT deferral

One of the major advantages of the Dutch system is the possibility to defer import VAT, by the so-called article 23 license. This license enables importers to avoid immediate payment of VAT upon import. For example, when a non-EU company imports goods into the EU, it needs to file a VAT return and pay the 21%

VAT immediately. Consequently, the importer can reclaim this VAT later (usually next month) in his next VAT return. From a cash flow perspective this is undesirable. With the article 23 license the initial payment can be deferred to the moment it needs to file a VAT return. In essence, this means no VAT has to be paid.

In order to apply for article 23 license one of the following is required:
- a Dutch legal entity (Dutch BV); or
- a fiscal representative (Dutch VAT agent) in the Netherlands.

Dutch VAT Refund

In accordance with the VAT refund procedure, taxable persons who are not established in the Netherlands and also do not have a permanent establishment in the Netherlands from which they are performing taxable activities may, under certain conditions, reclaim Dutch VAT. These refunds are based on the so-called Thirteenth VAT Directive (applicable to entrepreneurs outside the European Union).

Foreign entrepreneurs are eligible for a claiming refund of Dutch VAT in accordance with the special refund procedure if they:
- do not supply taxable goods or services in the Netherlands;
- only render services for which, under the reverse charge rules, the VAT liability is shifted to the customer; or
- render specific exempted (zero-rated) transportation services and services ancillary thereto.

Foreign entrepreneurs may use the refund procedure if they perform activities in their own country which would be liable to VAT and lead to a refund or deduction of input VAT if carried on in the Netherlands.

A refund form must be submitted by 30 June of the year following the year in which the VAT was incurred. In practice the Dutch tax authorities grant refunds with a retrospective effect of 5 years. A first refund could take about 6 months before it is dealt with by the tax authorities. However, our experience is that this process in general does not take that much time if all required documentation has been sent to the tax authorities in a complete and timely manner.

Only VAT in excess of € 200 may be reimbursed for a refund period of more than 3 months but less than a calendar year. If the application relates to a calendar year or a period shorter than 3 months, VAT claims in excess of € 25 can be granted.

Invoice Requirements

If clients are invoiced, certain invoice requirements must be met. The invoice must contain the date of issue, invoice number, full name and address of you and the client, description of the provided goods and or service, Netherlands VAT rate, the amount, chamber of commerce number. In EU situations the EU-VAT number of you and the client abroad must be stated on it.

Other Taxes

Withholding tax

Dutch tax law includes dividend withholding taxes. There is no Dutch withholding tax on interest nor on royalties. Profit distributions among company's shareholders, e.g. dividends, share repurchases and liquidation distribution, are taxed at a rate of 15%. However, tax treaties oftentimes lower or eliminate the tax rate. Profit distributed by a Dutch cooperative are not subject to dividend withholding tax if the reason of using a Dutch cooperative is for business reasons.

Dividend withholding tax can be credited against the personal and corporate income tax of Dutch natural persons and companies. Except if the participation exemption applies.

No dividend withholding tax is withheld:

- If the participation exemption applies in domestic situations
- If the dividends are paid to a company residing in an EU member state and that company holds at least 5% of the shares of the Dutch company.

In order to optimize your tax position regarding dividend withholding taxes in the Netherlands and other EU-countries might be necessary.

Customs and Excise

In the Netherlands an excise duty is levied on alcohol, tobacco, fuel and mineral oils. Traders, importers and manufactures are paying excises duties to the Dutch revenue. The Dutch Excise Duty Act is harmonized with all the applicable EU directives. The EU directives contains general rules with respect to storage, movement and monitoring excise goods in the EU states. Furthermore, tax suspension rules for the movement of excise products between tax warehouses, comprehensive definitions and rules with respect to excise duty rates and exemptions.

Tax Compliance

Dutch Tax Return Deadlines	
Tax	**Deadline**
Personal Income Tax	Each year before the 1st of April of the following year
Corporate Income Tax	Within 5 months after end of financial year
Value Added Tax	*Resident* Last day of the month following the tax period (month or quarter). *Non-resident* Last day of the second month following the tax period (month or quarter).
Wage Tax	Last day of the next month following the tax period (usually a month), including the payment.
Dividend Withholding Tax	Within one month following the distribution of profits

Deadline extension

For personal income tax and corporate income tax it is possible to request the Dutch tax authorities for more time to file the tax return. This should be done before the deadline. For personal income taxes the extension may vary depending on the situation, e.g. resident or non-resident, from 1 month or more. For corporate income taxes the extension may be 5 months. Tax advisory firms, like MFFA Tax Advice, are under oftentimes able to get a longer extension.

Value Added Tax

The usual tax period of a VAT return is a quarter of a year. However, a monthly return may be filed after approval. This can be beneficial from a cash flow perspective in refund positions. Adjustments to the VAT return can be filed within 6 weeks after the file date of the VAT return. No extension of the deadline is possible. In addition, transactions with taxable persons for VAT in other EU member states (Intra-Community Transactions) needs to be filed (*"ICP opgaaf"*). This includes inter-company transactions that cross an EU border.

The filing period depends for instance on the total value of the transactions and the subject of the transaction (goods and/or services). This can be monthly, quarterly or annually.

Wage Tax

The employer is required to file a correct wage tax return in time for each wage period (usually per month). The return also requires to supply detailed information regarding the employer and the employee. This information is used by various governmental institutions for instance for determining payments and allowances. It is therefore very important that the wage tax return is correct, complete and includes up-to-date information.

Contact

For more information and questions regarding doing business in the Netherlands please contact us.

MFFA Tax Advice
Keizersgracht 62
1015 CS Amsterdam

Laan van Kronenburg 14
1183 AS Amstelveen

Luchthavenweg 81
5667 EA Eindhoven

Witterweg 2
9421 PG Bovensmilde

Schenkkade 50
2595 AR The Hague

Contact info
T: 085 0030140
T: +31 20 2615615 (from abroad)
E: info@mffa.nl
I: www.mffa.nl