Factsheet: Tax policy agenda and letter on tackling tax avoidance and tax evasion

The State Secretary for Finance sent two policy letters to parliament on 23 February setting out his priorities for the period to 2021. The first letter, on the tax policy agenda, explained the policy objectives of the government's tax measures. The second dealt with the government's ambitions to tackle tax avoidance and evasion.

Tax policy agenda

The tax policy agenda letter describes the State Secretary's five policy priorities:

1. Tackling tax avoidance and evasion. See below for further details.
2. Lower taxes on labour. The government will reduce the tax burden on individuals. The low rate of VAT, however, will be increased. On balance, all income groups will see an increase in their purchasing power in the years ahead.
3. Attractive business climate for real businesses. The tax burden on businesses will be reduced. Dividend tax, for example, will be abolished and corporation tax rates will be lowered to 16% and 21%. To finance these reductions, the tax base will be widened.
4. Further greening measures: the government wants to use taxation to factor into prices environmental costs that are not fully reflected in market prices, e.g. by introducing a national minimum price for CO_2.
5. Practicability: the government wants to ensure that tax laws can be properly enforced.

The tax policy agenda also considers the impact of the digitalisation of the economy on the tax system.

Combating tax avoidance and evasion

- The Dutch tax system places the fewest possible obstacles in the way of entrepreneurs wishing to do business abroad and foreign entrepreneurs wishing to invest in the Netherlands. This is in keeping with the Netherlands' open economy.
- One of the reasons for this letter is the national and international criticism of the Dutch tax system.

The downside of the Dutch tax system's international orientation is that it is open to abuse. It comes in for particular criticism for allowing funds to be channelled to tax havens. The Netherlands is therefore sometimes (incorrectly) labelled a tax haven. This damages the country's image and makes it less attractive to real businesses. Furthermore, it can undermine taxpayer compliance and weaken support for tax facilities that are important to multinationals, such as the extensive treaty network and the provision of certainty in advance. This is undesirable.

- Government policy to combat tax avoidance and evasion rests on two pillars:
    - protection of the tax base
    - measures to promote transparency and integrity.

First pillar: protection of the tax base

- To prevent the Netherlands' internationally oriented tax system from being used to channel funds to tax havens, in 2021 the government will introduce a withholding tax on interest and royalty outflows to low-tax jurisdictions and on arrangements that abuse the tax system. At the same time as it abolishes dividend tax, the government will introduce a withholding tax on dividend outflows to low-tax jurisdictions in 2020. Low-tax jurisdictions are countries that have low statutory tax rates or appear on the EU list of non-cooperative countries. Stricter substance requirements will also deter conduit financing arrangements (see figure 1).
- By means of the Multilateral Instrument (MLI), the government will make the treaty network less susceptible to abuse. The Netherlands' ambitions in this regard are demonstrated by the fact that it includes more anti-abuse provisions than many other countries (see figure 2).
    - One of the measures the Netherlands wishes to include in tax treaties by means of the MLI is a principal purpose test. This prevents a treaty partner incorrectly having limitations imposed on taxation if one of the principal purposes of an arrangement or transaction is to gain a treaty benefit. The test will thus make the Netherlands less attractive for undesirable conduit arrangements.
- The Netherlands will introduce measures from the first and second EU Anti-Tax Avoidance Directives (ATAD1 and ATAD2). When incorporating these directives into Dutch law, the government will go beyond their minimum requirements in important areas, such as the earnings stripping measure and the controlled foreign company (CFC) measure.
    - The earnings stripping measure limits the deductibility of interest payable by a taxpayer. The Netherlands will not include a group exemption in the earnings stripping measure. The threshold will be lowered from €3 million to €1 million. Furthermore, there will be no grandfathering rules for existing loans. This means that the measure will also contribute to the more equal treatment of debt and equity and thus to corporate stability and healthy economic conditions (see figure 3).
    - The CFC measure will prevent companies from avoiding taxation by shifting mobile assets to a CFC in a low-tax jurisdiction. In addition to the corrections that may arise from the application of the arm's length principle, the Netherlands has decided to implement the measure in a way that combats tax avoidance via entities in tax havens. The government has therefore opted for model A for CFCs in low-tax jurisdictions that do not carry on a substantive economic activity (see figure 4).
- The implementation of ATAD2 will prevent tax avoidance through hybrid mismatches as much as. Hybrid mismatches arise through differences between tax systems which companies may exploit. Measures will be taken to end the attraction of the most common mismatch, the limited partnership (CV)/private limited company (BV) arrangement (see figure 5).

Second pillar: Promoting transparency and integrity

- To increase transparency and integrity, the statutory right of non-disclosure enjoyed by lawyers and civil-law notaries in tax matters will be clarified and fines for culpable negligence will be made public if they participate in a finable offence. These financial service providers will therefore be more accountable for the arrangements on which they advise.
- To strengthen the integrity of financial markets, the government is drafting legislation to establish a register for ultimate beneficial owners. Existing laws on trusts and company service providers will be tightened up.
- The government supports European Commission proposals to increase transparency. More specifically, the Commission has proposed:
    - a directive on mandatory disclosure, under which financial intermediaries (e.g. tax advisers, lawyers, civil-law notaries, trust and company service providers) must inform the tax authorities of cross-border, potentially aggressive, tax arrangements;
    - a directive to implement public country-by-country reporting to reveal the extent to which multinationals fulfil their tax obligations.

Figure 1: Withholding tax on dividends, interest and royalties

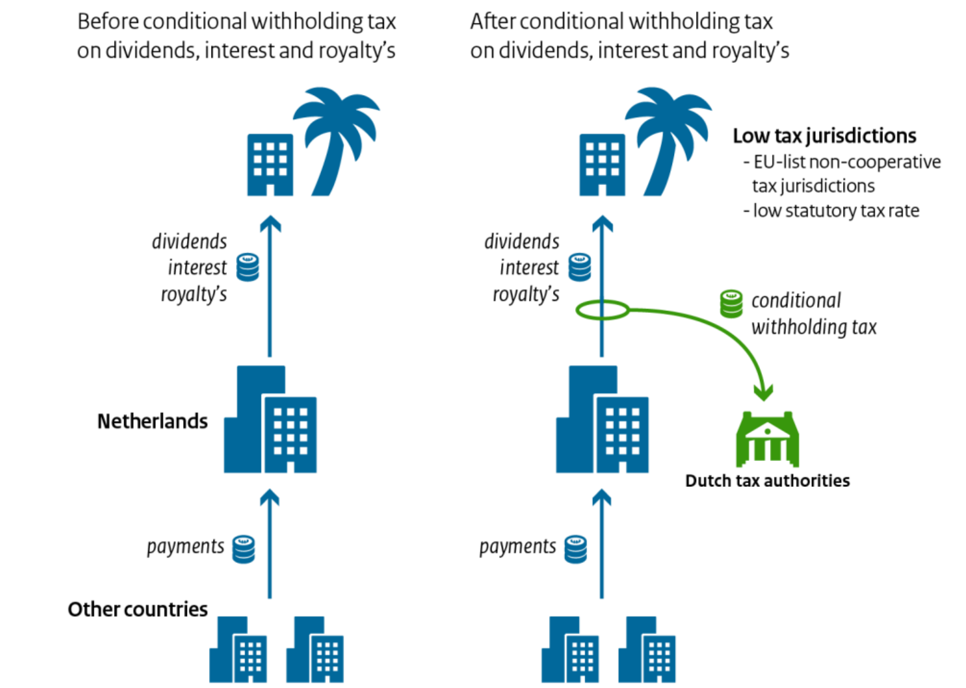

Figure 2: The Netherlands' position on MLI compared with neighbouring countries

	Netherlands	Ireland	France	Belgium	Germany	Luxembourg	United Kingdom	Switzerland
Limit treaty benefits in case of hybrid mismatches	■	■	□	■	□	■	□	□
Determine residency of dual resident entities by mutual agreement with treaty partner	■	■	□	□	□	□	■	□
No exemption in case of differences in interpretation	■	□	□	□	□	■	□	■
One year minimum holding period to counteract dividend stripping	■	■	■	■	■	□	□	□
One year look-back period for interests in immovable property entities	■	■	□	□	■	□	□	□
No treaty benefits for passive income in low tax permanent establishments	■	□	□	□	■	□	□	□
Permanent establishment in case of commissionaire arrangements and similar strategies	■	□	■	□	□	□	□	□
Limit scope of permanent establishment exception for preparatory or auxiliary activities	■	■	■	■	■	■	□	□
Measure against fragmentation to avoid permanent establishment status	■	■	■	■	□	□	■	□
Measure against splitting-up of contracts to avoid permanent establishment status	■	■	■	□	□	□	□	□

■ country elects to include measure through MLI
□ country does not elect to include measure through MLI

Figure 3: Interest limitation

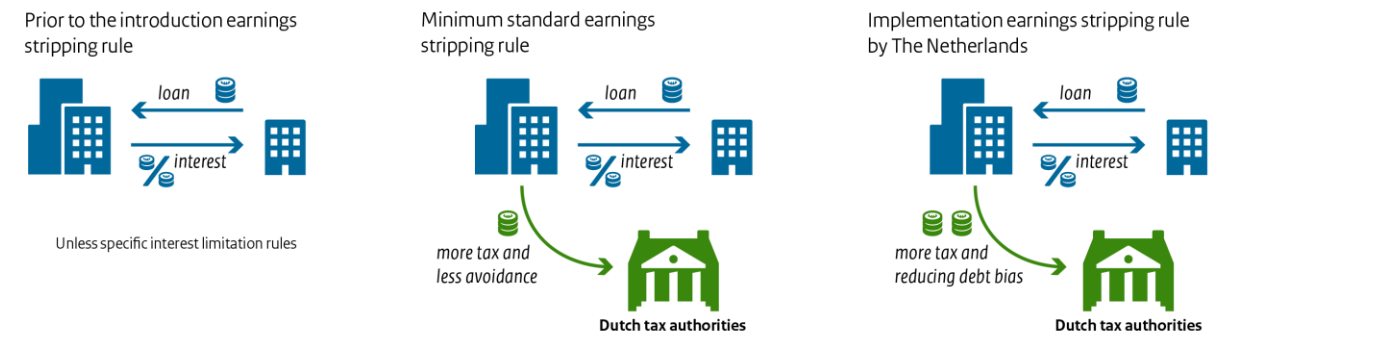

Figure 4: CFC measure

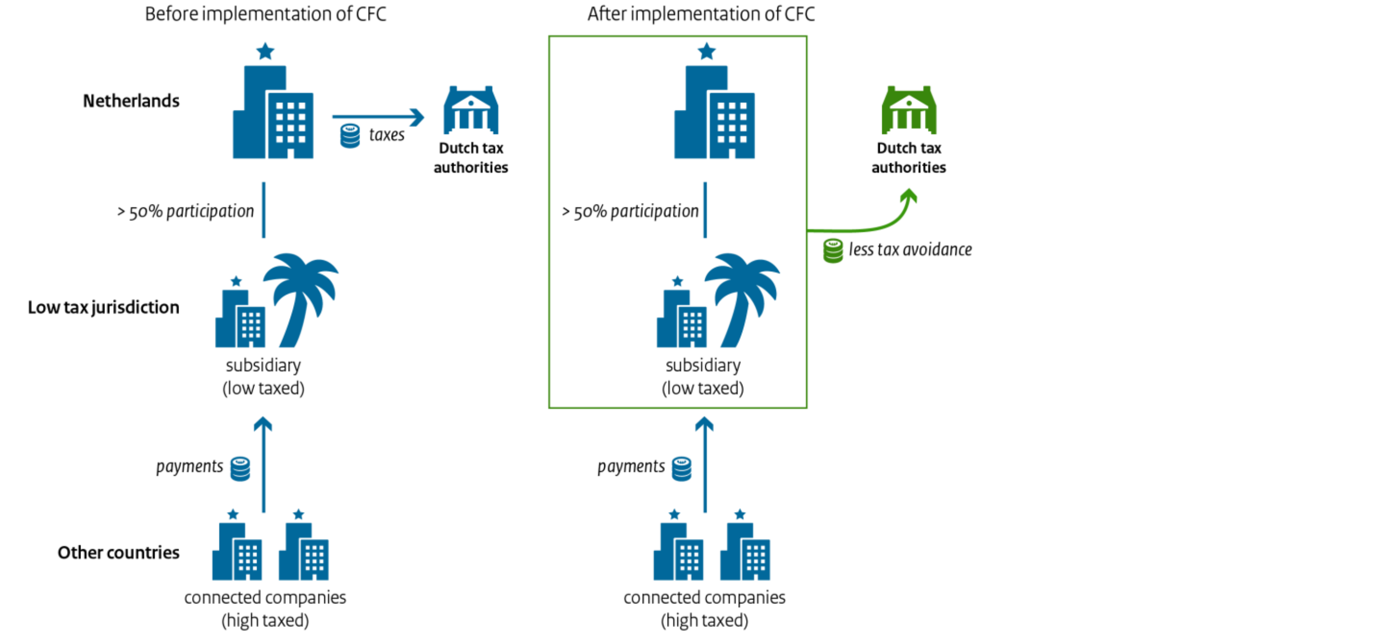

Figure 5: Hybrid mismatches (CV/BV)