

The Netherlands Should Not Be Included on Oregon's "Tax Havens" List

Important Trading Partner

The Netherlands is a highly-developed industrial and trading center, with the largest port in Europe. *Oregon's only year-round direct flight to Europe is to Amsterdam*, one of the busiest airports in the world. Estimates from 2011 attribute 211 Portland airport jobs to this connection, as well as 1,341 Oregon tourism jobs. This impact has likely grown since 2011.

Direct investment in US companies: \$275 billion in 2012, making the Netherlands the world's third-largest investor in US business.¹ These ties support nearly **685,000 US jobs**. In Oregon, these investments include AkzoNobel Wood Finishes & Adhesives in Salem, EcoFys sustainable energy consultants in Corvallis and several other companies in the Portland area.

Not a Tax Haven

The Netherlands' tax laws cannot constitute grounds to justify treating it as a tax haven. As a major industrial and trading country, deeply integrated in the European Union, *the Netherlands depends on the rule of law for its own success*.

1. Transparency, international cooperation, reporting abuse. Historically, every nation has developed its own tax system independently. Due to the absence of integration between the various national legal systems, mismatches can occur that taxpayers can use to minimize their tax burdens. However, the Netherlands works together with the European Union, the Organization for Economic Cooperation and Development and other international organizations to promote tax compliance, to avoid aggressive tax planning by international businesses and to increase tax transparency. The Netherlands was one of the first to begin negotiating with the US Federal Government to report taxpayer information under the Foreign Account Tax Compliance Act (*FATCA*), resulting in the signing of an agreement in December 2013. The US-Netherlands tax treaty dates from 1992, and was updated in 2004.
2. Tax rate, incentives, avoiding double taxation. The Netherlands has a robust general tax system with a rate of 25% on corporate income and a 20% rate on income below €200,000. Also, the Netherlands has an internationally comparable effective tax rate. Like many countries and US states (including Oregon), the Netherlands also uses tax incentives to *stimulate economic development* and takes steps to *prevent double taxation*. This concerns:

¹ Netherlands Embassy, June 19, 2014, available at <http://dc.the-netherlands.org/news/2014/06/economic-ties-2014.html>

- a. Special rate for R&D investment income. Recognizing the value of attracting innovative investments, the Netherlands allows a 5% tax rate that is limited to income from qualified investments. Real business activities in the Netherlands are thereby required. ***Non-R&D income remains taxed at 25%.*** Also other EU Member States have special regulations for R&D investment income. Currently, in the EU and the OECD different proposals on the scope of tax-related innovation regimes are under discussion (e.g. a modified nexus approach for innovation boxes).
 - b. Participation exemption (received dividend) regime. Dutch tax law ***prevents double taxation*** of the same income by allowing a company that holds at least a 5% interest in a subsidiary to exempt dividends and capital gains from tax in the Netherlands. This “participation exemption” does not apply if the subsidiary is a low-taxed portfolio investment, in this case a credit system applies. Many other (European) countries implemented a similar participation exemption regime. Other countries and US states use methods such as consolidated returns and dividends-received deductions for a similar purpose. Within the EU the parent & subsidiary directive applies, which effectively provides for a similar regime, namely exemption of dividends received from subsidiaries engaged in active business. This Council of the EU recently agreed to amend this directive so as to counter situations of tax avoidance.²
3. Actively combating abuse. The Netherlands actively supports the initiatives of the G20, OECD and EU have taken to combat tax avoidance ***and evasion***, for example by actively participating in the Base Erosion Profit Shifting project of the OECD. These initiatives include, as important spearheads, proposals to improve transparency and automatic exchange of information and to modernize bilateral tax treaties. Further, the Netherlands actively seeks to update its tax treaty network by including anti-abuse provisions. For example, as per 30 August 2013 the Netherlands government announced to actively approach 23 developing countries so as to update the double tax conventions with these countries by including of an anti-abuse provision.³

Conclusion

The legislature should not add the Netherlands to the list of tax haven jurisdictions. As an important trading partner governed by the rule of law, the Netherlands maintains a highly regulated tax system, with typical incentives for active businesses; and is actively working on the domestic and international fronts to combat tax abuse and international tax avoidance.

² http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/146127.pdf

³ <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/08/30/kabinetsreactie-op-seo-rapport-overige-financiele-instellingen-en-ibfd-rapport-ontwikkelingslanden.html>