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

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1. The Netherlands has never been a tax haven

The Netherlands has traditionally been a trading nation. It wants to do business with the world and believes that international trade and investment increase prosperity for all. This view is reflected in the tax code, which aims to provide foreign companies with an attractive business climate to trade and invest in the Netherlands. For the same reason the Netherlands avoids imposing additional taxes on income earned outside the Netherlands, so that Netherlands companies can have a level playing field when doing business abroad. It does so through the participation exemption and a large network of bilateral tax treaties. Having a competitive tax regime, however, is not the same as being a tax haven. Safeguards ensure that the tax code only attracts investments that create jobs and lead to innovation:

- **No bargain tax rate.** The Dutch tax rate on corporate income is 25%, with a rate of 20% for income below €200.000. This is line with the average for developed countries.
- **Full transparency.**[1] The Netherlands was one of the first countries to begin negotiations with the US Federal Government to report taxpayer information under the Foreign Account Tax Compliance Act (FATCA). This resulted in an agreement signed in December 2013. The Netherlands is also in full compliance with the internationally agreed Common Reporting Standards. The US federal government and the Netherlands have had a bilateral tax treaty since 1992.
- **Incentives are limited to real business activities.** Like many countries and US states (including Oregon), the Netherlands uses tax incentives to stimulate economic development. In particular, the Netherlands allows a 5% tax rate on income from innovation. Checks ensure that the income is the result of real activities in the Netherlands. Recently both the Organization for Economic Cooperation and Development (OECD) Forum on Harmful Tax Practices and the European Union (EU) Code of Conduct Group designated these incentives as non-harmful.
- **Measures against double taxation are fully in line with international standards.** The Dutch "participation exemption" 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. The exemption does not apply if the subsidiary is a low-taxed portfolio investment. This practice is internationally accepted: many other European countries have a similar participation exemption regime, while other countries and US states use different methods for a similar purpose.

Oregon's tax haven law strictly defines the characteristics of a tax haven jurisdiction. In 2015 the Oregon legislature rightly concluded that the Netherlands tax code does not meet these criteria. Since then there have been no substantive changes to the tax code that might lead to a different outcome today.

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1 https://www.government.nl/topics/taxation-and-businesses/contents/preventing-tax-evasion-abroad-by-businesses

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An in-depth audit of tax avoidance by the independent Court of Audit, at the request of Parliament, confirmed that the Netherlands tax system is in line with international standards, transparent and implemented carefully by the Tax and Customs Administration.[2] The report also noted, however, that an international approach is needed to combat tax avoidance by multinational companies. Based on these findings, the government's policy has been to contribute actively to international efforts against tax avoidance, while maintaining an attractive business climate.[3] In the past year significant steps have been taken in this area, as will be explained hereafter.

2. The Netherlands is at the forefront of international actions combating tax evasion

Historically, every nation has developed its own tax system independently. Because national legal systems are not integrated, mismatches can occur. International companies can use the resulting loopholes to minimize their tax burdens. This leads to the perception of many taxpayers and smaller- to mid-size enterprises that multinationals do not pay their fair share of taxes. Also, the mismatches can distort investment decisions by companies.

By definition these mismatches between national systems can only be solved at the international level. The Netherlands leads and supports international anti-avoidance efforts by actively engaging in discussions within the **G20**, the **OECD** and the **EU**. In 2016, an agreement was reached under the Netherlands Presidency of the Council of the European Union on the **Anti-Tax Avoidance Directive (ATAD)**. This directive addresses situations where corporations, mostly multinational groups, take advantage of differences between national tax systems for aggressive tax planning. The Netherlands and other EU members will implement ATAD in their national laws as of 1 January 2019. In February 2017 the European Union agreed on a second directive (**ATAD2**), targeted specifically at preventing mismatches between EU and third countries. This directive will be implemented in national laws by 2020.

Together these directives will prevent companies from abusing mismatches between national tax systems for the purpose of tax avoidance. They apply to all EU member countries, including the Netherlands, who are obliged to implement the directives into national law within the agreed terms.

The determination of the Netherlands' government to fight international tax avoidance is also reflected in its proactive use of the **OECD Multilateral Instrument** (MLI) to reform tax treaties in order to combat base erosion and profit shifting (BEPS). The government will sign the convention in June 2017 and has committed to accept the vast majority of the measures included in the MLI. These will subsequently be applied to as many existing tax treaties as possible.

3. The Netherlands is an important business partner to the US and Oregon

A major industrial and trading nation, the Netherlands is the world's 18th largest economy in terms of gross domestic product. Due to the openness of the Netherlands economy, its contribution to the global trade is much greater than its size would suggest: the Netherlands is the

2 http://www.courtofaudit.nl/dsresource?objectid=21032&type=org

3 https://www.government.nl/documents/letters/2016/09/29/letter-to-the-house-of-representatives-on-the-tax-climate

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world's 5th largest exporter and the 7th largest importer. Economic ties between the Netherlands and the US are particularly strong; they support nearly 740,000 American jobs, including about 4,330 in Oregon. Direct investment in US companies amounted to $305 billion in 2013, making the Netherlands the world's third-largest investor in US business.[4]

Investments from Netherlands companies in Oregon include AkzoNobel Wood Finishes & Adhesives in Salem, EcoFys sustainable energy in Corvallis and several companies in the Portland area. 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.

4 www.economicties.org