Economic diplomacy and fiscal investment climate – code of conduct for NFIA

- The Dutch Cabinet is proud of its investment climate. It is geared towards strengthening the national economy and protecting employment. 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. Combined with our general location benefits, the Netherlands often matches competitive bids from other European countries or tops the list of locations considered.

- However, competing countries attempt to match these benefits. The UK for example is trying to catch up with the Netherlands by copying successful Dutch measures like the Innovation Box and participation exemption. The Dutch (fiscal) investment climate is a permanent matter of concern to the Dutch government.

- The Netherlands is not a tax haven (cf. OECD 2011). 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. This 25%-rate applies to all profits that can be attributed to business activities within the Netherlands. These rules apply to all native companies as well as companies from foreign origin (non-discriminatory). The tax rules are transparent and in accordance with all the international guidelines. In that respect information is exchanged if required by law or treaties.

- The NFIA is not allowed to disclose the content of any tax ruling, because this contains company confidential information. The company itself is allowed to disclose the agreement, if deemed necessary. NFIA can never 'pitch' low effective corporate income tax rates to prospects.

- Always refer to tax advisors to discuss tax opportunities 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 (solid legislation), with the aim of realizing a level playing field.

- When NFIA hosts seminars or other events including presentations on tax benefits (inside our offices or elsewhere) always convey to the audience that we only support companies that bring substance to the Netherlands. 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.

- 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.

On behalf of the Dutch government Minister Dijsselbloem recently reaffirmed the importance of economic diplomacy abroad and the fact that our country operates according to international fiscal standards.

Because of current sensitivities we have to be very consistent in the information we communicate to potential customers.

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
- 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 deduction facility for R&D operating costs and investments in R&D assets (RDA)
- Tax relief schemes for environmentally friendly investments (MIA/Vamil)
- Tax relief program for sustainable energy (EIA)
- Favorable participation exemption regime
- 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: access to the tax inspector
- Dutch Customs Authorities: practical and pro-active approach

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