

Member States capabilities in fighting tax crimes			
Relevant legal definition(s) of tax-related offences			
	Tax avoidance	Tax evasion	Money laundering
The Netherlands	is understood as a legal act - unless deemed illegal by the tax authorities or, ultimately, by the courts - of using tax regimes to one's own advantage to reduce one's tax burden.	is defined as an illegal act of evading taxes by concealing income, earned either legally or illegally, from detection and collection by the tax authorities.	refers to acts involving the processing of proceeds of crime to conceal their illegal origin and bring them back into the legal economy.
Legal text	N/C	Sections 68,69, 69a of the General tax Act and sections 64, 65, 65a and 66 of the tax Collection Act	Articles 420 bis, 420bis.1, 420 ter, 420 quarter and 420quater.1 of the Penal Code
Nature of the offence	N/C	Criminal	Criminal
Objective element	<p>No general definition, but targeted anti-abuse rules, such as:</p> <ul style="list-style-type: none"> • Section 17(3)(b) of the Dutch Corporate Income tax Act 1969 (CIT): A taxpayer holding shares with their main purpose or one of their main purposes being to avoid income tax or dividend tax and making use of an artificial structure. An artificial structure is a structure which is not set up for business reasons and does not reflect economic reality. • Sections 10a, 13l and 15ad CIT: tackle specific structural arrangements that enabled companies to circumvent rules limiting the deduction of interest. • Legislation implementing international agreement on the automatic exchange of information on tax rulings • Tax Act 2016: regulates individuals who hold a significant portion of shares in a company can no longer avoid tax by emigrating. • NTCA has introduced a specialised team that investigates wealthy individuals in particular. • <i>Fraus legis</i> principle developed by the Dutch Supreme Court: When the sole purpose or primary objective of the taxpayer is to realise a significant tax reduction by concluding a transaction (motive requirement) and is not in conformity with the purpose and scope of the relevant legislation (norm requirement). 	<ul style="list-style-type: none"> • Section 68: Failure to fulfil obligations relating to the levying of taxes, such as providing information, maintaining accounting records or retaining accounting records according to the requirements set by tax law. • Section 69: Anyone who deliberately fails to fill out his or her tax return or to do so on time - the same applies to individuals who fill out their tax return incorrectly or incompletely. • Section 69a: Partial or late payment of a tax 	<ul style="list-style-type: none"> • Article 420 bis: Anyone who: <ul style="list-style-type: none"> a. hides or conceals the true nature, the origin, the place where it was found, the disposal or the relocation of an object, or hides or conceals who the person holding title to the object is or who has it in his possession, whereas he knows that the object originates – directly or indirectly – from a criminal offence; b. acquires, possesses, passes on or sells an object, or makes use of an object, whereas he knows that the object originates – directly or indirectly – from a criminal offence; • Article 420quater: Anyone who: <ul style="list-style-type: none"> a. conceals or disguises the true nature, source, location, disposition or movement of an object, or conceals or disguises who has title to the object or has it in his possession, while he might reasonably have suspected that the object derives directly or indirectly from a serious offence; b. acquires, has in his possession, transfers, converts or makes use of an object, given that the object derives directly or indirectly from a serious offence; • Article 420bis1: Money laundering that solely consists of acquiring or having in possession an object that derives directly from an offence committed by oneself, shall be guilty of ordinary money laundering • Article 420quater1.: Negligent money laundering that solely consists of acquiring or having in possession an object that derives directly from an offence committed by oneself.
Mental element	N/C	<ul style="list-style-type: none"> • Section 68: No intent needed • Section 69: Intent needed 	<ul style="list-style-type: none"> • Intention • "reasonably have suspected"

Sanction	N/C	<ul style="list-style-type: none"> • Section 68: detention of not more than six months or a money fine of the third category. • Section 69: Imprisonment up to 4 years or a fine of the fourth category or, if this is more, not more than once the amount of the tax levied short. • Section 69a: Imprisonment up to 6 years or a fine of the fifth category, or a money fine not exceeding the amount of tax paid short, whichever amount is higher • For legal persons: Fine up to 820 000€(or related to the annual turnover: maximum of 10% of the legal person sales) 	<ul style="list-style-type: none"> • For natural persons: Imprisonment for up to 8 years or a fine of the fifth category • For legal persons: Fine up to 820 000€(or related to the annual turnover: maximum of 10% of the legal person sales) <p>Addition of these sanctions is also possible</p>
Other tax-related crimes		Forgery of a document (Article 225(1) of the Penal Code)	
Aggravating / mitigating circumstances	N/C	N/C	<ul style="list-style-type: none"> • Aggravating: Repetition • Mitigating: The person should reasonably suspect that the object originates– directly or indirectly – from a criminal offence
Legal persons/natural persons			
Other information			

Requests received from foreign FIUs			747	597	611	566	515	In 2016 predominantly by Belgium (164) to a lesser extent UK (31), US (23), Germany (23) and France (17).
Requests sent to foreign FIUs			270	496	558	716	827	In 2016 Predominantly to Belgium (105) and Germany (105), to a lesser extent Spain (66) Turkey (64) and The UK (50)
Audits conducted		6.462	4.356	5.165	6.817	7.352	6.516	Investigations
Court Cases								
Total number of proceedings started						1.203		
Number of pending/unresolved court cases								
Total number of convictions						908		
Including of natural persons convicted								
Including of legal persons								
Number of court cases resolved with an acquittal								
Number of court cases resolved in another way								
Number of court cases resolved in sentences								
Amount of seized financial means								
Including natural persons								
Including corporate bodies								
Including fines								
Amount of fines								
Including imprisonment								
of which, conditional sentence								
of which, unconditional imprisonment								

OTHER TAX-RELATED OFFENCES

Tax Agency: Belastingdienst, Netherlands Tax and Customs Administration (NTCA)								
Human Resources	29.964	29.010	28.107	28.857	30.015	29.689	29.087	Detection is approximately 1.198 FTE, monitoring 8.505 FTE and recovery is approximately 2.133 FTE.
Budget (€)								
Tax Evasion Unit: Financial Information and Investigation service (FIOD)								The FIOD is a specialised investigative body of the Ministry of Finance, embedded in the NTCA. Criminal investigations by the FIOD fall under the authority of the Public Prosecution Service ('OM'). The FIOD focuses on tax evasion, money laundering, corruption/bribery, and other types of financial offences. In cooperation with the NTCA, other investigative bodies and the OM, the FIOD contributes to the enforcement of and compliance with the policy frameworks of the responsible ministries.
Human Resources (FTE)	1096	1107	1127	1207	n/a	n/a	1200	During the NCTA 2014 hiring spree the FIOD received 100 additional FTE
Number of cases investigated								
Number of cases related to money laundering					106			
Value of seized assets resulting from these cases					€ 310.800.000			
Number of Tax Audits conducted								
Number of Site Visits								
Taxes Debited on the basis of Audits								

Number of tax offences reported								
Number of enterprises stopped concerning (carrousel)fraude	130	340	441	929				
Number of retracted VAT numbers	2000	27.500	65.000	34.000				The number for 2012 is exceptionally high due to a cleaning up of a database of VAT numbers of identified enterprises in previous years not yet removed from the agencies database.
Value of retrospective VAT reclaimed		€ 45.228.483	€ 92.000.000	€ 62.000.000				
Value of fines	€ 1.700.000	€ 2.777.958	€ 20.000.000	€ 5.900.000				
Customs Unit: Dutch Customs								
Human Resources	4.834	4.759	4.626	4.614				
Budget (€)								
Number of cases investigated								
Taxes Debited on the basis of Audits								
Number of tax offences reported								
Number of controls of the books executed	3.000	3.000	2.000	3.000				
National Central Bank: DNB								
Sanctions to Trust and Company Service Providers						24	20	
Out of which Instructions						3	n/a	
Out of which Fines						12	7	
Out of which Order for incremental penalty payments						6	7	
Out of which transfer of information to the Public Prosecution Service						1	2	
Out of which Withdrawal of licences						2	1	
Out of which Reassessment of Policy Makers						n/a	3	
Supervision Financial Markets: Autoriteit Financiële Markten (AFM)								
Human resources	474	483	526	541	560	548	603	
Number of cases reported to the FIU-NL	12	2	1	2	1	3	3	
Number of investigations related to tax avoidance, evasion and fraud						6		
Number of formal measures	366	261	187	110	106	52	99	
Number of fines imposed by AFM	53	36	22	20	31	17	15	The AFM imposed a total of 17 fines in 2015. This is considerably less than the 31 fines in 2014. The AFM has not changed its approach and policy regarding enforcement. In fines in 2014 were relatively much smaller cases that could be handled with a simple, more or less standardized process. The fines in 2015 were mainly for heavier and more complex cases at larger companies.
Value of these fines	€ 559.000				€ 7.327.287	€ 9.616.250	€ 8.500.000	
Number of Retracted licences	29	102	93	31			11	
Informal measures	673	919	543	522	471	481	513	

Financial Supervision Office: Bureau Financieel Toezicht (BFT)									The BFT has been designated as one of the supervisors on compliance with the provisions under the anti-money laundering regulations in the Netherlands. The FTT is responsible for supervising (junior) notaries and added notaries, tax consultants, chartered accountants, accounting consultants, or one another independent professional or business they perform comparable activities such as administration offices, tax advisers and business consultants.
Human resources	41,5	38,1	41,3	41,4	45,2	44,7	41,8		
Of which in the WWFT unit (dealing with the law AMF/CTF)	12,9	12	12	12	12,8	11,6	10,5		
Number of 'regular investigations' conducted	29	36	43	52	58	52		No specific cause for investigation. For example, every 5-10 years every notary is investigated.	
Number of 'irregular investigations' conducted (investigation following specific risks / signals)	15	6	13	15	19	24	33		
Number of cases reported to the FIU-NL					68	56	245		
Out of which related to tax fraud							16		
Number of formal measures taken (warnings, administrative fine, penalty, recovery, complaint) related to the law on Money Laundering and Terrorist Financing (WWFT)	26	35	30	39	30	75	73		
Court Cases									
Total number of proceedings started						124			
Number of pending/unresolved court cases									
Total number of convictions						57			
Including of natural persons convicted									
Including of legal persons									
Number of court cases resolved with an acquittal									
Number of court cases resolved in another way									
Number of court cases resolved in sentences	65	92	103	146					
Amount of seized financial means									
Including natural persons									
Including legal person									
Including fines									
Amount of fines									
Including imprisonment									
of which, conditional sentence									
of which, unconditional imprisonment									

Member States capabilities in fighting tax crimes

The Netherlands	Interventions in response to the publication of the Panama Papers
Processing and analysing the Panama Papers data	<p>The Panama Papers database contains 986 links to the Netherlands. After a comparison with the Offshore Leaks and the removal of duplicates, there appear to be 683 unique, new links with the Netherlands. Approximately 411 taxpayers have been identified by the NTCA. Of that group, 60% can be classified as small and medium-sized entities, 25% as private individuals and 15% as large enterprises. The classification of the remaining links is still a work in progress; additional information is required for further identification.</p>
Supervisory activities	<p>Pursuant to the publication of the Panama Papers, the Authority for the Financial Markets (AFM) has initiated a project called 'Fiscale Risico's' ('Tax risks') starting in 2017. It will select companies under the AFM's supervision for a thematic research. This research focuses on the companies' risk management in relation to tax risks.</p> <p>With regard to 237 of the taxpayers identified, a primary assessment took place. After this primary assessment, a letter of notification was sent to 194 taxpayers. Subsequently, 105 reactions were received. Furthermore, the files of 237 taxpayers have been forwarded to different teams consisting of specialised tax inspectors that are able to request further information. These teams have already taken concrete steps in this matter. For instance, questionnaires (to which taxpayers have to respond) have been sent and the first tax assessments have been imposed. The examination and retrieval of information is a time-consuming process, partly because only names are mentioned in the Panama Papers and no source files are available. The NTCA has developed a tool which can be used to analyse unstructured (or semi-unstructured) data, and expects to put this tool to use when the source files become available.</p>
Investigations initiated	
(Pre) trial proceedings initiated	
Fines and sentences	

Other information	<p>The Panama Papers Inquiry Committee specifically requests information on the activities of the national supervisory authorities and the investigations that have been started or planned further to the Panama Papers and Bahama Leaks, as well as information on supervisory activities in relation to tax-related cases.</p> <p>The national measures that were announced by the State Secretary for Finance in his letter to Parliament of 17 January 2017 are:</p> <ul style="list-style-type: none"> - Termination of the voluntary disclosure arrangement. - Additional requirements for bearer shares: The legislative proposal should result in lifting the anonymity of bearer shares issued by unlisted Dutch public limited companies. This is already common practice for listed Dutch public limited companies. - Clarification of right to refuse to answer requests for more information about third parties: The scope of the statutory provisions on the privilege of certain designated professional practitioners to refuse to testify or give evidence in tax matters (legal privilege) will be clarified in the sense that, in the case of notaries and lawyers, it focuses on certain legal activities - Publication of fines: The Netherlands intends to disclose fines for offences imposed on legal professionals. - Structural arrangements aimed at avoiding collection of tax: The Netherlands also intends to introduce measures widening the liability of donation recipients for the benefactor's tax debts. These measures should ensure that arrangements that allow the collection of tax debts to be evaded by donating capital to third parties are no longer possible. <p>The Netherlands is also developing a bank account register, which will be accessible to competent authorities involved in the prevention and prosecution of money laundering, terrorism financing and tax evasion. This register is due to be up and running in 2018.</p> <p>Another measure aimed at countering practices uncovered by the Panama Papers is a revision of the Dutch Act on the supervision of trust and company service providers (Wet toezicht trustkantoren). This Act requires that trust and company service providers pay attention to signs of clients being involved in tax evasion or tax avoidance in their mandatory integrity risk analysis, client due diligence processes and transaction monitoring. If the trust and company service provider is unable to effectively mitigate the identified risks, it is required to end the business relationship. A legislative proposal, due to enter into force in 2018, provides for inter alia the following revisions to further strengthen the rules for trust and company service providers:</p> <ul style="list-style-type: none"> - Provisions to safeguard the controlled and sound business operations of trust and company service providers, similar to the provisions currently in place with regard to financial institutions. This entails provisions with regard to the internal procedures and (integrity) risk profile. - A legal basis to prohibit the provision of services that entail an integrity risk that cannot be sufficiently controlled.
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