The State Secretary for Finance, Menno Snel, sent two policy letters to parliament on 23 February 2018 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.

**Letter on 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. The two corporation tax rates will gradually be lowered to 15% and 20.5%. These reductions will be financed mainly by widening the tax base.
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 CO2.
5. Practicability: the government wants to ensure that tax legislation can be properly enforced.

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

**Tackling tax avoidance and evasion**

- The Dutch tax system places the fewest possible obstacles in the way of businesses wishing to operate abroad and foreign businesses 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 – and incorrectly – labelled a tax haven. This damages the country’s image and makes it less attractive to real businesses. It can also 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 on combating tax avoidance and evasion comprises two pillars:
  - protecting the tax base
  - promoting transparency and integrity.
First pillar: Protecting 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. 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 unjustified restrictions being placed on a treaty partner’s taxation powers if one of the principal purposes of an arrangement or transaction is to gain a treaty benefit. The test will therefore 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 far as possible. Hybrid mismatches arise when companies exploit differences between tax systems. 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.
- The government intends to revise the procedure for issuing rulings with an international character. It wants to ensure that these rulings are issued only to businesses that make a real contribution to the economy. By introducing tougher substance requirements, for example. It will also explore how to make the issuing of rulings even more transparent.
- To strengthen the integrity of financial markets, the government is drafting legislation to establish a register for ultimate beneficial owners. In addition, existing legislation on trusts and company service providers will be tightened up.
- To improve transparency, the government will implement the European Commission’s proposed directive on mandatory disclosure. The directive requires financial intermediaries (e.g. tax advisers, lawyers, civil-law notaries and trusts and company service providers) to inform the tax authorities of cross-border, potentially aggressive tax arrangements.
Figure 1: Withholding tax on interest and royalties

Before withholding tax

- EU-list non-cooperative tax jurisdictions
- low statutory tax rate

Interest
Royalty's
Netherlands
Payments
Other countries

After withholding tax

Interest
Royalty's
Conditional withholding tax
NL tax authorities

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

Hybrid mismatches
Dual residence entities
No application of exemption method for avoidance of double taxation
One-year minimum holding period to counteract dividend stripping
Previous year taken into account for interests in real estate entities
Anti-abuse provision for permanent establishment in third jurisdictions
Permanent establishment status through commissionaire arrangements and similar strategies
Artificial avoidance of permanent establishment status through exceptions for specific activities
Anti-fragmentation
Splitting contracts

Figure 3: Interest limitation

Before introduction of ATAD1

After introduction of ATAD1

Netherlands goes beyond ATAD1

loan
% interest

loan
% interest

loan
% interest

more tax revenue
NL tax authorities

even more tax revenue
NL tax authorities
**Figure 4: CFC measure**

Before introduction of ATADz

- Netherlands
  - 100% ownership interest
  - Tax haven
    - subsidiary (low taxed)
  - interest etc.
- Other countries
  - group companies (high taxed)

After introduction of ATADz

- Netherlands
  - 100% ownership interest
  - Tax haven
    - subsidiary (low taxed)
  - interest etc.
- Other countries
  - group companies (high taxed)

**Figure 5: Hybrid mismatches (CV/BV)**

Before introduction of ATADz (tackling CV / BV arrangement)

- United States
  - intellectual property
  - royalties etc.
- Netherlands
  - tax

After introduction of ATADz (tackling CV / BV arrangement)

- United States
  - intellectual property
  - royalties etc.
  - if US does not act, NL levies
- Netherlands
  - NL tax authorities
  - less avoidance

NL tax authorities