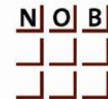
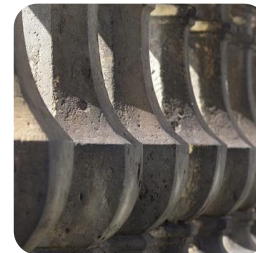




## TAXE Committee visit

Bartjan Zoetmulder  
Chair NOB International Tax Affairs Committee

*29 May 2015*



de Nederlandse Orde van Belastingadviseurs  
The Dutch Association of Tax Advisers



## Tax ruling practice in the Netherlands

- Transparent system
  - Published policy / approved by Dutch parliament
- Positive appreciation by European Commission on 11.06.14 and ARK 06.11.14
- Certainty in advance / pre-clearance
  - Application of rules and principles consistent with existing rules and policy
- Explanation of Dutch tax law (ATR)
  - Clarification or interpretation of law in specific circumstances
- Agreement on transfer pricing analysis (APA), based on OECD guidelines
- Pro active exchange of information





## **NOB's view on Dutch tax ruling practice (1)**

- Certainty in advance: very important for businesses
- Very professional APA/ATR team
- Well organised, easy to approach for new and existing businesses
- Robust and clear set of rules (2001/2004/2014 ruling decrees)
- Coordination with 'knowledge groups' / country wide uniform policy
- 2014 changes to ruling policy put more emphasis on substance and give more possibility for foreign (source) country to express view
- Also companies without APA /ATR must meet substance requirements





## **NOB's view on Dutch tax ruling practice (2)**

- APA/ATR has maximum term
- APA/ATR becomes void when facts, law or case law change
- Rather strict interpretation of the law and case law
- Need for solid OECD based transfer pricing analysis
  - Profit allocable to Dutch operations
  - Determine level of expenses in the Netherlands
- Company must have sufficient nexus in Netherlands to get APA/ATR
- No deals on tax rates





## **NOB's view on Dutch tax ruling practice (3)**

### Transparency and compliance:

- ‘Good faith for treaty partner’ – rule
- Integrated (holistic) client approach
- Compliance / checks / audits
- Fines for incorrect presentation of substance in tax return
- NOB supports active monitoring rulings and compliance
- NOB supports policy of Dutch government on pro active exchange of information on tax rulings between tax authorities (level paying field)





## **NOB's role in Dutch tax ruling practice**

- Give input on issues arising in practice
- Discuss changes in policy
- Annual meeting to allow APA/ATR team to 'broadcast' policy





## **NOB's view on work TAXE Committee**

- Appreciate and support work of TAXE Committee
- Work should comprise tax rulings and administrative practices in all EU Member States
- Produce report on administrative practices in EU Member States without published ruling policy (reference is made to unpublished report from 1999)
- Focus on transparency of ruling policy
- Pre clearance is important for businesses and EU Member States

