

Doing
Business

in the
Netherlands

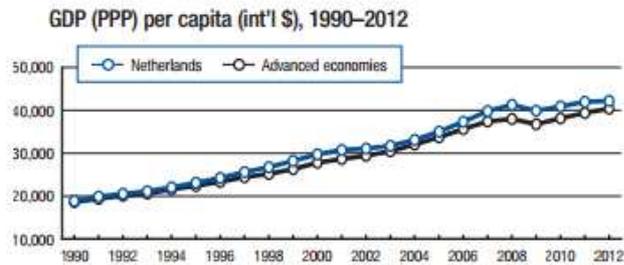


EXPATAX 
TAX | LEGAL | ACCOUNTING

Netherlands

Key indicators, 2012

Population (millions).....	16.7
GDP (US\$ billions).....	773.1
GDP per capita (US\$).....	46,142
GDP (PPP) as share (%) of world total.....	0.85



Global Competitiveness Index

	Rank (out of 148)	Score (1–7)
GCI 2013–2014	8	5.4
GCI 2012–2013 (out of 144).....	5	5.5
GCI 2011–2012 (out of 142).....	7	5.4
Basic requirements (20.0%)	10	5.9
Institutions.....	8	5.6
Infrastructure.....	7	6.1
Macroeconomic environment.....	45	5.2
Health and primary education.....	4	6.6
Efficiency enhancers (50.0%)	11	5.3
Higher education and training.....	6	5.8
Goods market efficiency.....	8	5.3
Labor market efficiency.....	21	4.8
Financial market development.....	30	4.7
Technological readiness.....	8	6.0
Market size.....	21	5.1
Innovation and sophistication factors (30.0%)	7	5.4
Business sophistication.....	4	5.6
Innovation.....	10	5.2

Stage of development



Table of contents

1. Why would you want to do business in the Netherlands?	4
2. Legal forms of doing business	5
2.1 Branch	5
2.2 Subsidiary	6
2.3 Branch versus subsidiary	6
2.4 Partnership	7
2.5 Agents and distributors	7
3. Private limited company: “Besloten vennootschap”	8
3.1 Incorporators	8
3.2 Deed of incorporation	8
3.3 Company name	8
3.4 Share capital	8
3.5 Capital tax	9
3.6 Ministry of Justice	9
3.7 Management board	9
3.8 Annual audit	9
4. Procedure setting up a private limited company	10
4.1 The different phases that need to be followed	10
4.2 Costs	11
5. Information required for establishing a limited company	11
6. Using the B.V. that is being formed in the start-up phase to do business	11
6.1 Risks	11
6.2 Recommendations	11
7. Opening a bank account in the Netherlands	12
8. Liabilities for directors and board members of a B.V.	13
8.1 Code of conduct	13
8.2 Negligence	13
8.3 Fiscal liability	13
9. Insurances that you can use to minimize risk	14
10. Tax obligations	15
10.1 Corporate income tax	15
10.2 VAT	15
10.3 Wage tax	16
11. Arranging a work permit in the Netherlands for your limited company	17
11.1 What IND will require of you for your stay	17
11.2 Friendship treaties: DAFT and DJFT	18
12. Payroll administration	19
13. Rules concerning working in the Netherlands	20
13.1 The employment contract	20
13.2 Temporary employment contract	20
13.3 Permanent employment contract	20
13.4 Trial period	21
13.5 Contract with an agency	21
14. Working conditions	21
14.1 Working time	21
14.2 The four-day week	21
14.3 Annual holiday	21
14.4 Sickness and illness	22
15. 30% ruling	22
15.1 Requirements	22
16. About Expatax	23

1. WHY WOULD YOU WANT TO DO BUSINESS IN THE NETHERLANDS?

A lot of foreign companies and individuals would like to start a business in the Netherlands. The Netherlands offer a number of key benefits:

BUSINESS ENVIRONMENT

Known for centuries as a nation of successful traders, the Dutch are internationally oriented by nature and know instinctively how to anticipate and fulfil the needs of a customer, no matter where he or she is based. The Dutch labor market in general is characterized by a low level of unemployment, a high level of education and good language skills (highest percentage of good command of the English language outside an English speaking country). Furthermore, the Netherlands offer political and legal stability and has a well-developed financial and economic infrastructure with extremely low corruption.

FLEXIBLE AND LIBERAL COMPANY AND TAX LAW

Compared with the laws in many other EU countries, Dutch corporate law provides a flexible and liberal corporate framework for the organization of branches and subsidiaries by (non-resident) companies or private individuals. There are no special restrictions on foreign owned companies planning to start a business in the Netherlands. Due to the high number of tax treaties double taxation will be prevented when business is done in other countries. The treaties can also offer additional tax benefits.

GATEWAY TO EUROPE

The Netherlands is an ideal location from which to penetrate markets throughout Europe, the Middle East, the Far East, Africa and beyond. Given its European gateway position, the Netherlands is particularly suited for so-called value-added logistics activities also with respect to the Reverse-charge mechanism on import: Article 23 VAT.

SUPERIOR LOGISTICS AND TECHNOLOGY INFRASTRUCTURE

The Port of Rotterdam is one of the world's largest seaports and Schiphol Airport is recognized as one of the major business hubs in Europe. The Netherlands is also classified as one of the most wired countries in the world, a dynamic force in electronic commerce, communications and outsourcing.

THIS BROCHURE

Although the system in the Netherlands seems flexible specific procedures must be followed. These procedures may require some time, so it is important that the right solution is chosen and that all required information is available on request.

In this brochure we will explain some of the rules involved and our fees if you would like us to assist you. Part of the text is copied from our website where you can find a lot more information.

If you have any questions just let us know.

Arjan Enneman
Managing Director Expatax

2. LEGAL FORMS OF DOING BUSINESS

A company can be engaged in business in the Netherlands via a subsidiary or branch. Compared with other EU countries, in the Netherlands corporate law provides a very flexible and liberal corporate framework for the organisation of branches and subsidiaries by non-resident companies or individuals. There are no special restrictions on foreign-owned companies starting a business in the Netherlands, nor are there restrictions on foreign ownership of land or on repatriation of capital and profits.

2.1 BRANCH

The organisation in the Netherlands of a branch of a foreign company does not require prior governmental approval. The foreign head office only needs to file certain documents and information with the trade register of the Chamber of Commerce in the district where the branch will be located. The following particulars have to be disclosed:

For the branch:

- the trade name of the branch, a brief description of its activities, the number of people working at the branch, the amount of invested funds and the full address of the branch.

For the branch manager (who need not be a Dutch national):

- surname, first name, full address, date and place of birth, nationality, and the extent of his/her power and authority to represent the branch; the branch manager's signature and a copy of an identity document must be deposited.

For the foreign company:

- the name and legal form of the company, the (foreign) trade register with which it is registered, the number associated with that registration and the particulars of its managing directors and supervisory directors;
- the Deed of Incorporation, Articles of Incorporation and bylaws (if any) of the company (may be submitted in Dutch, English, German or French);
- the annual accounts of the company as drawn up, audited and disclosed pursuant to the law of the country of origin (may be submitted in Dutch, English, German or French);
- an extract from the foreign trade register or document of registration, issued no longer than one month earlier.

The following additional information must be disclosed if the company is established outside the European Union:

- the law by which the company is governed, its registered office and objects and, at least once a year, the amount of the company's issued share capital.

2.2 SUBSIDIARY

Dutch law distinguishes two types of limited liability companies: the public limited liability company (Naamloze Vennootschap or N.V.) and the private limited liability company (Besloten Vennootschap or B.V.). The main differences between these two entities are that:

- (a) B.V.'s (as opposed to N.V.'s) can't issue share certificates evidencing the shares and can't issue bearer shares;
- (b) the transfer of shares in B.V.'s (as opposed to N.V.'s) can be subject to the blocking provisions of the deed of incorporation, which blocking provisions may contain a prior approval of the general meeting of shareholders or another corporate body as designated under the company's deed of incorporation, or a right of first offer to the other shareholders; and
- (c) B.V.'s can be formed with a minimum share capital of € 1 (i.e. there should be at least one share with voting rights and one share with profit rights or one share with a combination of both), while N.V.'s must have a minimum share capital of € 45,000.

A Dutch subsidiary may be established and owned by one or more shareholders. The shareholders may be either individuals or legal entities; their nationality is irrelevant. If the shares in the company are owned by only one shareholder, any agreement between that shareholder and the company must be in writing. Shareholder resolutions must also be in writing. In addition, such a company is obliged to file the name and domicile of the sole shareholder with the trade register of the Chamber of Commerce in the district where the company is situated. B.V.'s are, in most cases, the best vehicle for a foreign company to establish a wholly owned Dutch subsidiary.

The issuance and transfer of registered shares or the transfer of a restricted right to the shares (for instance, a pledge) must take place by means of a notarial deed drawn up before a civil-law notary authorized to practice in the Netherlands. This obligation does not apply to N.V.'s whose shares or share certificates are listed.

2.3 BRANCH VERSUS SUBSIDIARY

If you want to do real business in the Netherlands we advise you to set up a subsidiary instead of a branch because of the following reasons.

- Because the subsidiary and the parent company are distinct legal entities, the parent company is not exposed to any liabilities of its subsidiary. The liability of the Dutch subsidiary is limited to its own assets. By contrast, a foreign investor is always liable for the activities of its Dutch branch. This means execution of the branch's liabilities can be enforced at the expense of the foreign investor's assets, even if these are located abroad. So in light of risk management setting up a subsidiary will limit the liability.
- From a commercial point of view, a subsidiary will be considered a Dutch or European company rather than a foreign company. Clients in the Netherlands often prefer to do business with a company which is set up according to Dutch law. A Dutch limited company may look more trustworthy to them compared to a foreign Ltd. Clients will know that Dutch law will be applicable and not foreign law.
- A subsidiary may enjoy certain tax advantages.

- Annual tax filing requirements are less stringent for subsidiaries than for branches. A branch's annual filing will reveal financial information about the foreign entity that it may prefer to keep confidential. Besides that a branch can be confronted with double filing obligations of the annual accounts, for the trade register in the Netherlands and the trade register in the country of residence whereby the filing requirements may not be exactly the same.
- For opening a bank account, signing contracts with organisations, a subsidiary in the Netherlands set up under Dutch law may be required.

For a single project a branch may be the best option though, since it can be registered quickly.

2.4 PARTNERSHIP

A partnership, whether a general partnership (Vennootschap Onder Firma or V.O.F.) or a limited partnership (Commanditaire Vennootschap or C.V.), can be formed by at least two partners, who may be either individuals or legal entities. The parties must conclude a partnership agreement and the partnership (not the contract) must be registered with the trade register of the Chamber of Commerce in the district where the partnership maintains its office. The partners in a general partnership (V.O.F.) are jointly and severally liable for all obligations of the partnership. In a limited partnership (C.V.), however, the limited or "silent" partner is liable only up to the amount of his capital contribution, provided that he does not in any way take part in the management of the partnership versus third parties. His identity is not registered with the trade register.

There are no restrictions on foreign nationals entering into a partnership with Dutch residents.

2.5 AGENTS AND DISTRIBUTORS

A commercial agent is a person or company that, as a self-employed intermediary, negotiates agreements and/or concludes them on a commission basis in the name and for the account of the principal. The commercial agent does not acquire title to the goods. A distributor, on the other hand purchases goods in his own name and at his own risk and sells them to third parties.

Since the commercial agent negotiates or concludes agreements in the name of the principal and generates goodwill on the principal's behalf, it is of great importance to the agent that an appropriate and satisfactory remuneration for services rendered is arranged.

Distributor agreements are often laid down in writing, although the law does not require a written contract. Consequently, oral agreements and even agreements by tacit consent are binding upon the parties; the claimant has the burden of proving the existence of a distribution agreement.

EU and Dutch competition rules have a significant effect on distribution agreements.

The supplier usually claims retention of title until the distributor has paid for the goods, and requests specific guarantees on the use of trade names, brands and logos. Contracts may also contain minimum turnover requirements that the distributor must meet.

For more information on which type entity serves your goal the best, go to www.expatax.nl/legalforms.

3. PRIVATE LIMITED COMPANY: “BESLOTEN VENNOOTSCHAP”

A “besloten vennootschap” (B.V.) is a company limited by shares, whose shares are privately registered and not freely transferable.

3.1 INCORPORATORS

A B.V. may be incorporated by one or more 'incorporators', being either individuals and/or legal entities. One single individual or entity alone, whether Dutch or foreign, may be the only incorporator and full management board at the same time; no secretary is needed. If there is only one shareholder, this fact will not entail personal liability, but his name will be registered as such in the certificates of registration of the B.V. issued by the trade register. Each incorporator shall contribute to the initial capital for a certain number of shares. Shareholdings are registered in the shareholders register that must be kept in the office of the company.

If the shareholder is an individual who wants to come to the Netherlands please look into the rules concerning residence and work permits. If the shareholder is not living in the EU or in the US, the Dutch government may not grant a permit if it concerns a main shareholder (more than 25%).

3.2 DEED OF INCORPORATION

The deed of incorporation will be executed before a public notary and filed at the trade register. The official deed of incorporation shall be in Dutch; it contains firstly (personal) details of the incorporator(s) and the initial member(s) of the board, as well as the amounts of their participation(s) and payment(s) to the initial capital. Furthermore, the deed contains the articles of association, consisting of at least the company name, the city where the company shall have its registered seat, the object of the company, the share capital in Euro and its division in shares, as well as the conditions for share transfer.

3.3 COMPANY NAME

It is advisable to check whether the company name or a similar name has already been registered as a trade name or trademark, as in that case the holders of such prior registrations may force the company to change its name afterwards. This is however not an obligation. The company name must begin or end with the letters 'B.V.'. Apart from its company name however, the B.V. may freely choose and register one or more different trade names, for labelling the whole or one or more parts of its business.

3.4 SHARE CAPITAL

The share capital of the company can consist of one or more shares. Required is that there is at least one share which has voting rights and one share which has profit rights or one share with a combination of both. Dutch law doesn't require a minimum value per share. A share capital of € 1 is therefore possible. If the company will have more than 1 shareholder the share capital should be higher. In light of flexibility a (slightly) higher capital is advised since it will make it easier to issue new shares in the future without the need to adjust the articles of association. A share capital below € 500 can be funded in cash money, otherwise a bank transfer to a bank account in the name of the limited company is required. As long as the share capital is not funded the shareholder is (personally) liable for all transactions of the company.

3.5 CAPITAL TAX

Till 1 January 2006 capital tax was due from the company on incorporation and on any subsequent issuance of shares, at a rate of 5.5 per mil of the issued capital or of the paid up capital, whichever is greater. Since 1 January 2006 the capital tax has been reduced to zero.

3.6 MINISTRY OF JUSTICE

To reduce the administrative burden a certificate of no objection from the Ministry of Justice is no longer required since 1 July 2011. Before this date the Ministry of Justice had to agree upfront with every formation of a limited company by its shareholders.

Instead a different procedure was introduced, but this doesn't mean that the establishment of the B.V. is no longer monitored. There is now a more informal procedure in cooperation with the public notary. The Ministry of Justice will monitor the company in the background after its formation.

3.7 MANAGEMENT BOARD

The management board has unlimited powers to act for the company, as do the individual board members unless restricted by the articles of association. The only restriction allowed, however, is to require joint signatures. Therefore, if one wishes to grant limited powers to a director, he or she should either not sit on the board, or only be granted joint powers after which the board if desired can supplement these powers with any type of standing or specific power of attorney granted to the same director, in addition to his statutory powers. The only case where a board member will be precluded from validly representing the B.V., is when he has a personal interest in a specific transaction, unless the articles of association overrule this restriction. Usually, the board is appointed for an indefinite period. After incorporation, the authority to appoint and discharge members of the management board rests with the general meeting of shareholders, unless such authority has been vested in a supervisory board in which a works council is represented. A B.V. however can do without a supervisory board, as long as it employs less than 50 workers in the Netherlands.

3.8 ANNUAL AUDIT

The B.V. must maintain an administration in the Netherlands, file periodic VAT and wage tax returns, prepare annual accounts and file a corporate tax return each year. Expatax can assist with this. After incorporation we will provide a quotation for our accounting and tax services.

An audit must be performed by external auditors when the company's turnover exceeds € 7 million and balance sheet totals over € 3.5 million. So if turnover and balance sheet are below these amounts an audit is not required. Our accountants will keep you informed.

4. PROCEDURE SETTING UP A PRIVATE LIMITED COMPANY

Expatax can assist you if you would like to set up a limited company in the Netherlands. Be aware though that due to increased (inter)national attention we only focus on the incorporation of companies who will have substance (i.e. real activities) in the Netherlands, so it should not just be a tax vehicle.

4.1 THE DIFFERENT PHASES THAT NEED TO BE FOLLOWED

Phase 1: preparation phase

- Inform Expatax about your intention to set up a limited company.
- Think about a name for your company.
- Decide who will be the shareholder(s) and what will be the amount of the share capital.
- Think about an address in the Netherlands, Expatax can also arrange an address for the company with a Dutch business centre.
- If you are in the Netherlands a personal meeting can be arranged.
- Fill out our online questionnaire: see www.expatax.nl/limitedcompany and upload the requested documents (documents which will confirm the identity of the individual or company shareholder).

Phase 2: forming phase

- Expatax will draw up and check the deed of incorporation together with a public notary (which is required by Dutch law) and arrange a full translation in English.
- A meeting will be arranged to sign the deed of incorporation or a power of attorney will be drafted so that an employee of the notary can sign the deed in your place if you will not be able to come to the Netherlands (which requires additional legalisations).

Phase 3: finishing phase

- Expatax will arrange the registration in the trade register of the Chamber of Commerce.
- Expatax will draw up notes from the first shareholders' meeting in which any transactions which have taken place during the formation phase will be confirmed by the company.
- Expatax will correspond with the Dutch tax authorities to
 - register the company and arrange the necessary tax numbers,
 - request a so called article 23 declaration if the company will regularly import goods from outside the EU (a filing history with the Dutch tax authorities is required),
 - request a fiscal unity in case of multiple companies,
 - if applicable opt for taxed lease.
- Expatax will assist with opening a business bank account.
- Expatax will provide templates of required contracts like for example:
 - employment contract;
 - pension letter;
 - lease regarding property;
 - current-account shareholder with company.
- Other things:
 - check which insurances you require;
 - check if you have the required permits;
 - make terms of delivery and payment, note paper, website etc.;
 - create a business administration.

4.2 COSTS

Expatax charges a fixed fee of € 1,800 for the entire procedure which includes the costs of the notary. A discount will be applicable in case more companies are incorporated in the same procedure. You will receive a proposal from us which confirms that we will take care of the entire incorporation and what the fee will be. If an address with a Dutch business centre is needed an additional monthly fee will be applicable which needs to be paid to the business centre directly. VAT may be charged on our invoices but the VAT can be claimed back in the first VAT return of the new company.

The whole procedure will normally take between 2 and 4 weeks. It may take longer if a group of companies is involved and depending on the complexity of the (foreign) shareholder structure. The B.V. can also be set up provisionally, so that at least business can be done while the formation hasn't been finalized yet.

5. INFORMATION REQUIRED FOR ESTABLISHING A LIMITED COMPANY

To be able to set up a B.V. we need several official documents. Please provide us with as many documents as possible to prevent delay with the incorporation.

We use an online questionnaire to gather the necessary information and documents. This questionnaire uses SSL technology to secure the form (<https://>) and field encryption to hide the answers given in the form. You can access the form on www.expatax.nl/limitedcompany.

Sometimes a license or permit is required to start a certain business. For a small overview of which companies need a permit, see www.expatax.nl/permitsanddiplomas.

Please provide all the requested information, preferably in one package. Since a part of the costs has to be paid upfront by us we will send you an invoice for 50% of the incorporation fee when the procedure starts. Once the deed of incorporation is prepared you will receive an invoice for the other 50% of the costs. Only if the remainder of the invoice has been paid the company can be finalized.

6. USING THE B.V. THAT IS BEING FORMED IN THE START-UP PHASE TO DO BUSINESS

If you want to start with your business immediately, but do not want to wait till the incorporation procedure is finalized, then there is a possibility for your company to start doing business in the setup phase of the B.V. You can start making use of the: "B.V. i.o.". The "B.V. i.o." means: limited company in a start-up phase. This means you are in the proceedings at the notary to create the articles of association and the "B.V. i.o." is registered as such in the trade register of the Chamber of Commerce.

6.1 RISKS

The risk of doing business in the "B.V. i.o." form is that a shareholder is personally liable for all transactions which take place while the incorporation is not finalized yet and the company has not taken over the liability yet.

6.2 RECOMMENDATIONS

When using the "B.V. i.o." it is advisable to be careful when entering in a contractual agreement, because when the contractual party does not withhold its part of the contract there is no possibility to place a claim. That is why it is recommended to wait after the "B.V." is formed to enter into contractual agreements.

7. OPENING A BANK ACCOUNT IN THE NETHERLANDS

If you want to do business in the Netherlands you may want to open a bank account for the B.V. You can also use a foreign bank account if you wish. Especially with the new SEPA rules it will become easier to use a foreign bank account. A Dutch account however may be preferred, also since it will make it more visible that the B.V. is indeed based in the Netherlands.

As a starting business there are different banks that you can contact to open a bank account. We have contacts with banks who can help you. We will make an appointment to open a bank account as soon as the deed of incorporation has been signed (and the company has been registered in the trade register of the Chamber of Commerce). The appointment can take place at the same day.

The bank needs to identify the limited company itself plus the board member(s) and/or Ultimate Beneficial Owners.

To be able to identify the limited company the following documents are required:

- an original, recent (not older than 3 months) certified extract from the Chamber of Commerce that the B.V. is registered in the trade register;
- the articles of association (deed of incorporation).

For the identification of the board members it is important what their responsibility is when it comes to decision making.

- Separate responsibility of the board members, showing in the extract from the Chamber of Commerce, boards can decide to let only one board member identify himself in order to open the bank account.
- Joint responsibility of the board members, showing in the extract from the Chamber of Commerce, the boards that choose this structure need all of the members to show up and identify themselves to open the account.

The directors must be identified and verified.

Identification and verification can be done by providing:

- an original valid identity paper to an employee of the bank who can then identify the person directly or
- a copy of a valid identity paper which is legalized by a notary located in the Netherlands.

Other board members must be identified through the delivery of:

- the name, address and date of birth + residence data;
- a completed and signed UBO statement.

Expatax will arrange that the bank receives a copy of the deed of incorporation and the extract from the Chamber of Commerce and where necessary the legalized copy passport(s) of the shareholder(s).

8. LIABILITIES FOR DIRECTORS AND BOARD MEMBERS OF A B.V.

As a starting board member you will have to be aware of what you can and can't do with your B.V. The Dutch government has certain provisions when it comes to a limited company and it is really important to uphold those provisions to prevent future risks of liability when dealing with the following situations: bankruptcy, contractual disagreements or fiscal problems.

8.1 CODE OF CONDUCT

All the liabilities are to the B.V. when it can be shown that the company was directed correctly, the administration kept accordingly and law provisions are met. The board of directors should have handled in accordance with the good governance code. Dutch law requires directors to fulfill their duties towards the legal entity with due care and attention. Should they fail this duty of care, the directors are personally liable for any damage caused to the company as a result thereof. The Dutch Supreme Court has ruled that such is the case if the directors have acted in a manner that constitutes serious misconduct. The Supreme Court stated that if the actions of the directors held liable would not have been taken by any other reasonably acting and experienced director in their stead, this constitutes serious misconduct. Examples of circumstances wherein directors have been held liable by their company are:

- diverting the company's funds for personal use;
- fraudulent or illegal practices;
- taking large and unsecured financial risks.

8.2 NEGLIGENCE

In some cases if it can be proven that the board of directors has been negligent, it is possible for a supplier (or any 3rd party) to sue an individual board member for not anticipating the possible financial state of the company which means that the board member may have to pay the bill that is still outstanding and the lawyer fees of the opposing party.

In the situation of a bankruptcy the law states that on the bankruptcy of a B.V., each director shall be jointly and severally liable to the bankruptcy estate for the amount of the company's debts that can't be satisfied out of the liquidation of its assets if the management has manifestly performed its duties improperly and it may be assumed that these actions constituted an important cause of the bankruptcy. The law automatically holds that the directors have performed their duties improperly in the following circumstances:

- the management has not filed the company's accounts within 13 months of the end of the financial year;
- the books and accounts of the company have not been kept in accordance with good accounting practices and do not provide a true insight into the financial position of the company.

It is therefore very important that the administration is always up to date and all tax returns are filed on time. Expatax can take care of the administration for you.

8.3 FISCAL LIABILITY

Directors of a B.V. can also be held personally liable for unpaid tax debts of the company, in such cases where the directors have not reported the inability of the company to pay the tax authorities. This form of liability regards taxes such as wage tax and VAT, owed by the company to the Dutch tax authorities. Once the tax authorities have made a director liable for overdue taxes imposed on the company, it is up to the director to prove that the tax debt was left unpaid for reasons not attributable to him. Fiscal liability often occurs after bankruptcy, as the company is then no longer able to pay its own tax debts.

9. INSURANCES THAT CAN MINIMIZE RISKS

When doing business you can face many types of business related risks, the most common being: damaged inventory, debtors who can't pay, fire, burglary etc. Those types of risks can be limited to a certain extent by having the right insurances to cover the financial risks. These insurances are not required by law. It is up to you to decide which risk needs to be insured.

COMPANY LIABILITY INSURANCE

This insurance covers the liabilities that might arise due to accidents. For example: if an employee drops a brick stone on a random car, then it is possible to get the damages paid through the insurance company. In case the company provides a service which is not according to the standards of the customer and the customer decides to submit a damages claim, the insurance will not cover the damages, but your company will be liable for the damages costs. That is your business risk when undertaking projects.

PROFESSION LIABILITY INSURANCE

Profession liability insurance insures the damages you have caused to third parties when providing your services in accordance to your profession. Profession liability insurance concerns jobs where your role is the advisory role, for example: lawyers or consultancy offices. In the case of a claim the insurance will cover the claim, it covers part of the business risks associated with the job that is undertaken. The insurance is only available for certain professions.

DEBTORS INSURANCE

Debtors insurance covers the outstanding debtors to a certain extent.

OFFICE BUILDING INSURANCE

Office building insurance covers damages to an owned office building as result of fire, lightning or explosion.

COMPANY DAMAGES INSURANCE

In the case of burglary it is often so that you will only suffer material damages. There is a chance that your company will also come to a standstill. In the case of a standstill you will not be able to have an income and the costs will continue to sum up. In those cases it is possible to get a company damages insurance to cover the suffered costs.

LEGAL ASSISTANCE INSURANCE

With a legal assistance insurance, you get insured for legal assistance when you have certain disputes with employees, suppliers, government or business partners.

EMPLOYEE INSURANCE

Certain risks with respect to having employees can be insured like for example illness and disability of the employee. In the Netherlands employers must continue to pay salary if the employee is not able to work due to illness or disability. At the same time another employee may have to be hired to do the work instead. An insurance can cover the salary of the absent employee.

10. TAX OBLIGATIONS

Once the B.V. is incorporated it will also be registered with the tax authorities so that the necessary tax numbers can be issued to the B.V. The B.V. has certain obligations and needs to file several tax returns.

- An administration must be set up and kept up to date. VAT returns must be filed (normally every quarter). Annual accounts must be prepared including a publication report for the Chamber of Commerce. The accountants of Expatax can take care of this for you.
- A corporate income tax return must be filed every year. Tax year is (in principle) the calendar year. The tax advisors of Expatax can prepare the tax return for you.
- Wage tax returns must be filed when employees are hired. The payroll managers of Expatax can arrange this for you.

10.1 CORPORATE INCOME TAX

Corporate income tax is levied on companies established in the Netherlands (resident taxpayers) and on certain companies not established in the Netherlands, which receive income from the Netherlands (non-resident taxpayers).

Basis of the assessment are profits in the widest sense, with a number of additions and deductions. Losses from other years can be deducted. Certain categories of profit are exempted. Furthermore the participation exemption applies to all dividends, gains and losses related to the holding of at least 5% of the shares in a subsidiary. This rule, preventing economic double taxation, is in general equally applicable to dividend deriving from domestic and foreign subsidiaries. The loss related to the winding-up of a subsidiary is, under certain conditions, deductible by the parent company. The deductibility of interest paid on non-functional loans and loans related to a reshuffle of participations within the group is restricted to certain circumstances. Another amendment permits companies to depreciate loss-making participations of 25% or more during the first five years after acquisition.

A company which holds 100% of the shares in a Dutch subsidiary may request to be qualified as a fiscal unity. However, certain conditions apply. It is possible for a fiscal unity to be consisted of more than two companies. The subsidiaries are considered to be absorbed by the parent. As a result, negative results of companies belonging to the unity can be compensated horizontally with positive results of the others. Interest paid to a group company in respect of the acquisition of shares in Dutch operating companies cannot be set off against the profit of these operating companies.

The tax amount is assessed annually by the tax authorities on the basis of the taxpayer's tax return. If no such tax return is submitted, the amount due is assessed directly by the tax department.

Tax rate for 2014: 20% over the first € 200,000, 25% over the rest.

Dividends are currently taxed at a rate of 15%.

10.2 VAT

The value added tax system in the Netherlands corresponds with that currently used by all other EU-states.

The following transactions are subject to VAT:

- the provision of goods and services by businesses within the Netherlands;
- intra-community purchases of goods in the Netherlands in the course of business operations by entrepreneurs and corporations;
- intra-community acquisitions of new means of transport;
- imports of goods from outside the EU.

The tax is levied on the sale price and the general rate is 21%. A lower rate of 6% applies for certain goods and services, such as food products, books, medicines, art, antiques, entry to museums, zoos, theatres and sports. Visible exports (of products) are zero-rated. A number of exemptions apply for special goods and services such as educational, medical and cultural services. Also services provided to companies in other EU countries can be exempted from VAT.

Companies may deduct VAT paid on purchases and other business expenses from the VAT payable on their sales. If an exemption applies, VAT payments are not deductible.

VAT returns are normally filed per quarter. If the turnover is high the filing period can be changed to monthly. The period can also be changed to yearly if the turnover is very low. The tax authorities will send an invitation to file a VAT return every period. Expatax can take care of the VAT returns for you.

10.3 WAGE TAX

Wage tax needs to be withheld for:

- persons resident in the Netherlands receiving a wage or salary from an employer established in the Netherlands for work they are doing or have done;
- persons resident abroad receiving a wage or salary from an employer established in the Netherlands for work they are doing or have done in the Netherlands;
- persons resident abroad who are members of the board of management or the supervisory board of a company established in the Netherlands for work they are doing or have done;
- persons resident abroad receiving a wage or salary from a Dutch public corporation for work they are doing or have done;
- non-resident artists and professional sportsmen who in accordance with an agreement of short duration or in pursuance of any short term cause or reason perform in the Netherlands, except where the Netherlands has not been granted the right to collect taxes under an agreement to prevent double taxation .

The rates are progressive. Some costs can be deducted and tax free allowances can be provided.

The employer or body paying the benefit deducts the tax and contributions directly from the salary or benefit, and pays these to the tax department. Many persons pay only salaries tax, and are not subject to income tax. For persons with a high income or many tax-deductible items, the salaries tax serves as an advance levy, and they are subsequently issued with an income tax return and an assessment.

11. ARRANGING A WORK PERMIT IN THE NETHERLANDS FOR YOUR LIMITED COMPANY

As a shareholder or executive of your private limited company you might want to consider moving to the Netherlands. If you are a resident of the EU you have the right to work in the Netherlands for your own company, you will not need a residence or work permit. If you are not a resident of the EU, the best thing to do is to first go to the IND (their website is: <https://ind.nl/en>). On the website you will find everything you need to know to be able to apply for your stay in the Netherlands. Things you will find on the website are: fees for the different procedures, requirements your business needs to fulfil in order to be able to apply and if your type of business is of added value to the Netherlands.

When you want to stay in the Netherlands for more than 3 months, for what is considered “long stay” as an independent entrepreneur, you should apply under this category: MVV (provisional residence permit).

11.1 WHAT IND WILL REQUIRE OF YOU FOR YOUR STAY

The IND will see if you meet these conditions:

- applicant must not constitute a risk to the public;
- applicant should not be suffering from tuberculosis;
- applicant should have sufficient funds to establish a business in the Netherlands and maintain living;
- applicant must be below the age of 60 years;
- applicant must meet the specified requirements for practicing his/her profession in the Netherlands;
- applicant must start a new company in the Netherlands;
- applicant's business activities should be which can support Dutch economic purpose;
- applicant must live in the Netherlands to control and run his/her proposed business activities.

Documents that you will be asked to bring to the consulate/embassy/IND:

- valid passport;
- legalised birth certificate of the applicant;
- declaration of background duly signed;
- proof of the applicant's International Health Insurance with coverage in the Netherlands;
- two passport sized photographs;
- documentary evidence that the applicant will be working in the Netherlands as an independent entrepreneur;
- copy of the documents showing that the entrepreneur is authorised to run a business in the Netherlands (where applicable);
- if registration is compulsory: documentary evidence from the chamber of commerce not older than 3 months;
- copy of the business plan of the applicant, containing: information on the applicant's personal details, his/her family and income situation, financial commitments, his/ her education/ training and professional experiences.

Other business related information which you will have to have to explain:

- business information: sector in which the applicant will be operating, starting date of the business location of the business and other such related details.
- commercial aspect of the applicants business: description of the type of company and products, the innovative ideas thereof and the marketability (including target groups and competitors).
- legal aspects of the business: legal form of the company, trade name, liability, licences required to start the business, insurance and delivery terms & conditions.
- financial aspects of business: financial plans, investment budget, repayment plan, operational budget and liquidity forecast.
- management aspects: description of the organisation including the size of the staff complement.

- proof as to what makes the applicant to go to the Netherlands in order to run the business.
- proof that the applicants company is a new company.

Other requirements:

- if the applicants company is a public limited company, private limited company or partnership firm, copy of the deed of incorporation showing the authorities and responsibilities of the partners and their profit sharing arrangements;
- if the applicant is an independent freelancer: copies of the contracts with Dutch clients for the preceding year;
- proof of registration with collective industrial or professional organisations (if applicable);
- proof from the concerned department showing that the entrepreneur has a VAT obligation (if applicable);
- copies of purchase or lease contracts of the business premise (if applicable);
- financial forecasts duly drafted by a chartered accountant (if applicable).

This can be done from your home country or depending if your country needs visa for your stay or not you can do it from the Netherlands. It is advisable to have legal support when going through these proceedings, in order to help you go through the different processes.

11.2 FRIENDSHIP TREATIES: DAFT AND DJFT

The Dutch American Friendship Treaty and the Dutch Japanese Friendship Treaty make it easier for Americans and Japanese to start a business in the Netherlands. Part of the preferential treatment gives them an easier procedure for arranging a residence permit in the Netherlands. American and Japanese entrepreneurs don't have to prove that they will be adding value to the Dutch economy.

To be able to apply for the conditions of the treaty the applicant must have the following:

1. registration of the business in the trade register of the Chamber of Commerce;
2. a business plan demonstrating commercial activities in the Netherlands;
3. a financial report, prepared by a qualified accountant or tax advisor;
4. a valid passport valid for at least one year from the application date;
5. health insurance;
6. substantial personal capital invested in the business. Borrowed funds are not considered.

The amount of capital required is determined on a case-by-case basis. For a limited company the required capital investment is € 4,500.

12. PAYROLL ADMINISTRATION

Once your company is registered in the Netherlands and you start employing staff here, you must deduct payroll tax from their salaries. Payroll tax consists of wage tax, social insurance contributions and income-dependent Care Insurance Act contributions.

If you employ staff, the following must be done.

- The company must be registered as an employer with the tax authorities. They will issue a wage tax number and provide the required forms. The wage tax number must be used in all contacts with the tax authorities.
- You ask your employee to provide you with a written statement including at least the following data:
 - surname and initials;
 - address, postcode and place of residence;
 - country and region of residence;
 - date of birth;
 - citizen service number (BSN).
- You verify and record each employee's identity. In the case of a foreign worker, you must also check whether he or she is permitted to work in the Netherlands. If a so called "knowledge migrant" is hired it can be easier to get a work permit. For this the company will need to be registered as a "recognized referent". If you want to do this from the start of the company it may be good to involve the NFIA (Netherlands Foreign Investment Agency).
- You create a payroll administration.
- You determine the elements of the employee's wage and calculate the correct contributions and taxes.
- You file a tax return on time and pay the contributions and taxes. The tax authorities will inform you about how and when to file returns.

If you or your employee fail to comply with the obligations relating to payroll tax or the verification of the employee's identity, you will have to apply what is known as the "anonymous person rate". This is the maximum tax rate without any tax credits.

Expatax can assist you with the whole procedure and take care of your payroll administration, including the creation of employment contracts, application of the so called 30% ruling and advice about the applicable tax allowances.

13. RULES CONCERNING WORKING IN THE NETHERLANDS

13.1 THE EMPLOYMENT CONTRACT

The legal rights and obligations differ per type of contract, so you have to consider what option suites you most. To help you make this decision, the basic principles of the different contract options are explained below.

There are three rather common employment contract options. These are:

- temporary employment contract;
- permanent employment contract;
- contract with an agency.

13.2 TEMPORARY EMPLOYMENT CONTRACT

An employment contract between the employer and employee is nothing more than an agreement between both parties. The employee obliges him or herself to work for the employer and the employer obliges him or herself to pay a salary for the work delivered by the employee.

We strongly advise that the contract is in writing, although a verbal agreement is also valid. The employer has the obligation to inform the employee about the main issues covered in the employment contract. Within the legal limits and applicable Collective Labour Agreement, employers and employees are free to decide what will be covered in the employment contract.

A temporary employment contract will end automatically and legally on the date agreed. This means that there is no dismissal procedure involved. A different situation occurs if either parties or one of them want to end the contract before the agreed date. In this case the option for termination of the contract before the final date, needs to be part of the contract. If the employer wants to end the contract before the date agreed, a legal dismissal procedure must be followed.

If repeating temporary contracts are used, the rules for a permanent contract can apply (if four temporary contracts with the same employer have been agreed within less than a three-month break between each contract).

13.3 PERMANENT EMPLOYMENT CONTRACT

The most important difference between a temporary employment contract and a permanent employment contract is the fact that a permanent employment contract has no ending date (including no indication or any other intention to limit the duration of the contract - such as "for the duration of the project"). This means that the item "the day the contract will end" included in the temporary employment contract will not be part of a permanent contract.

A permanent employment contract can be ended by one of the parties. The legal terms of "notice time" need to be respected. The rules are different for employers and employees. The employee has the legal right to end the contract without a procedure, but he or she has to respect the legal and agreed termination period, which usually is a one-month notice minimum. The employer needs to apply for a dismissal permit. The term of notice depends on the duration of the contract on the day the employer applies for the dismissal permit.

13.4 TRIAL PERIOD

The trial period is a very common part of an employment contract. A trial period will apply for both parties and needs to be agreed in writing. If the duration of the contract is less than 2 years, the maximum trial period is 1 month. Exceptions can only be made in case this is agreed by a Collective Labour Agreement. In any way the legal maximum trial period is never any longer than 2 months. An extension of this period is not possible.

13.5 CONTRACT WITH AN AGENCY

The contract with a temp agency or commercial employment agency differs fundamentally from a contract with the employer as described above. In the temp construction the temp agency is the legal employer. In particular the protection against dismissal during a certain temp period will not be arranged. This on the other hand means that also the employee is free to leave during the same period of time. Temp agencies have their own Collective Labour Agreement. There is an 'Allocation of Workers by Intermediaries Act' which regulates certain issues related to temp agencies.

14. WORKING CONDITIONS

14.1 WORKING TIME

The law lays down a maximum working time of 12 hours per shift and 60 hours per week (over a period of 4 weeks maximum 55 hours on average per week and over a period of 16 weeks maximum 48 hours on average per week). The average working week is 40 hours. The working week is usually organised over five days, with a mandatory legal minimum of one day of rest, normally Sunday. Persons, whose religion observes a day of rest on another day than Sunday, may opt for Friday or Saturday.

Note: the maximum duration of work may be exceeded for certain activities or under certain exceptional circumstances.

14.2 THE FOUR-DAY WEEK

In all sectors it is more and more common that people make longer working days, which allows them to work only four days a week. Because this is not the regular agreement, an agreement has to be made with the employer.

14.3 ANNUAL HOLIDAY

The number of days of paid statutory annual leave is equivalent to the number of working days a week multiplied by four, i.e. in most cases 20. Employers often allow five extra days. Workers receive normal pay from their employer, plus a bonus equivalent to 8% of annual earnings as holiday allowance, normally paid in May. Accumulation of leave entitlement is possible; employees can "save up" their days of paid leave. Collective agreements often provide for more days of statutory leave in the main sectors of industry: 22-25 days or more depending on length of service or age. There are also more favourable arrangements for holiday pay.

14.4 SICKNESS AND ILLNESS

In case of illness the employer has to continue to pay the salary for at least 2 years. The first year the salary will be 100% of the 'old' salary, the second year the salary will be 70% of the 'old' salary. After these two years the government will take over payment. This is done to push employers to get employees back to work as soon as possible. The employer therefore has to take certain actions. Otherwise the term of 2 years may even get longer.

This rule can cost the employer a lot of money. Not only must the employee who is ill be paid, but also the employee must find somebody else to do the work instead. If the ill person takes a lot of time to recover, it will lead to double costs for the employer.

To reduce this risk insurance companies have created several policies to cover this risk. In case of illness the insurance company will then take over the payment of the salary. The height of the premium depends on what will be insured. Relevant is the salary, the period the employer will continue the salary himself (one month, two months), the number of employees etc.

Besides the risk of having to pay the salary during illness the employer will also have to pay the premiums for the state disability insurance (plus for the state health insurance if applicable).

Roughly said, the extra costs for the employer will be 110% of the agreed gross salary. On top of this the employer can pay a premium for a private illness insurance, pension premium etc.

15. 30% RULING

For employees who come to the Netherlands the government has created the so called 30% ruling. This is very beneficial tax wise for the employee.

15.1 REQUIREMENTS

The expatriate must be an employee who is hired in another country by an employer with a specific expertise that is scarce or absent on the job market in the Netherlands. Specific expertise is measured based on the applicable salary. A tax free allowance can be paid to cover the so called extra territorial expenses.

Remuneration and provisions to extraterritorial employees to compensate or prevent expenses outside the country of origin shall, with respect to employees arriving at the joint request of the employee and the employer, in any case be considered remuneration for extraterritorial expenses up to 30% of the salary which is paid in the Netherlands. Also tuition fees which are paid for children of the extraterritorial employee to participate in primary or secondary education at an international school can then be reimbursed tax free.

Additional requirements are applicable. Expatax can assist with the application procedure. For more information about the 30% ruling see: <http://www.expatax.nl/30-percent-ruling>.

16. ABOUT EXPATAX

Expatax was set up in 2001 and has grown to a fully licensed tax and accountancy firm employing a team of qualified advisors. These advisors come from Big 4 firms, have a solid background and are interested in the client. Permanent education is part of our policy, which means that our advisors stay up to date.

We are specialized in assisting expatriates and foreign businesses who want to work and do business in the Netherlands.

Our approach is very personal and direct. Lines are short and we do all we can to find a solution around the client's needs. By focussing on the international tax advice we can keep our knowledge high, the procedures clear and the fees reasonable.

Due to our client base all our outgoing correspondence like tax reports, annual accounts, etc. are prepared in English. Specifications are provided so that you can see exactly what we have done and what the result will be.

SERVICES

Besides assistance with setting up a company in the Netherlands we provide the following services:

- tax advice and tax compliance - filing of tax returns
- application of the 30% ruling (www.expatax.nl/30-percent-ruling)
- accounting (www.expatax.nl/bookkeeping)
- providing payroll solutions (www.expatax.nl/payroll-administration)
- financial planning (www.expatax.nl/financial-planning)

COOPERATION'S

Cooperation's have been set up with other specialized advisors like tax advisors, lawyers, payroll providers, banks and financial planners. This way we can serve our clients in area's which are not our expertise.

CONTACT DETAILS

Visiting address: Keizerstraat 3, 3512 EA, Utrecht

Post address: P.O. Box 9310, 3506 GH, Utrecht

Phone: +31 (0)30-2468536

Fax: +31 (0)30-2468537

Website: www.expatax.nl

Email: info@expatax.nl

Knowledge Base: www.expatax.nl/kb

The material contained in this brochure is not intended to be advice in any particular matter. No reader should act on the basis of any matter contained in this brochure without considering appropriate professional advice.

Expatax BV expressly disclaims all and any liability to any person, in respect of anything and of the consequences of anything done or omitted to be done by any such person in reliance upon the contents of this brochure.