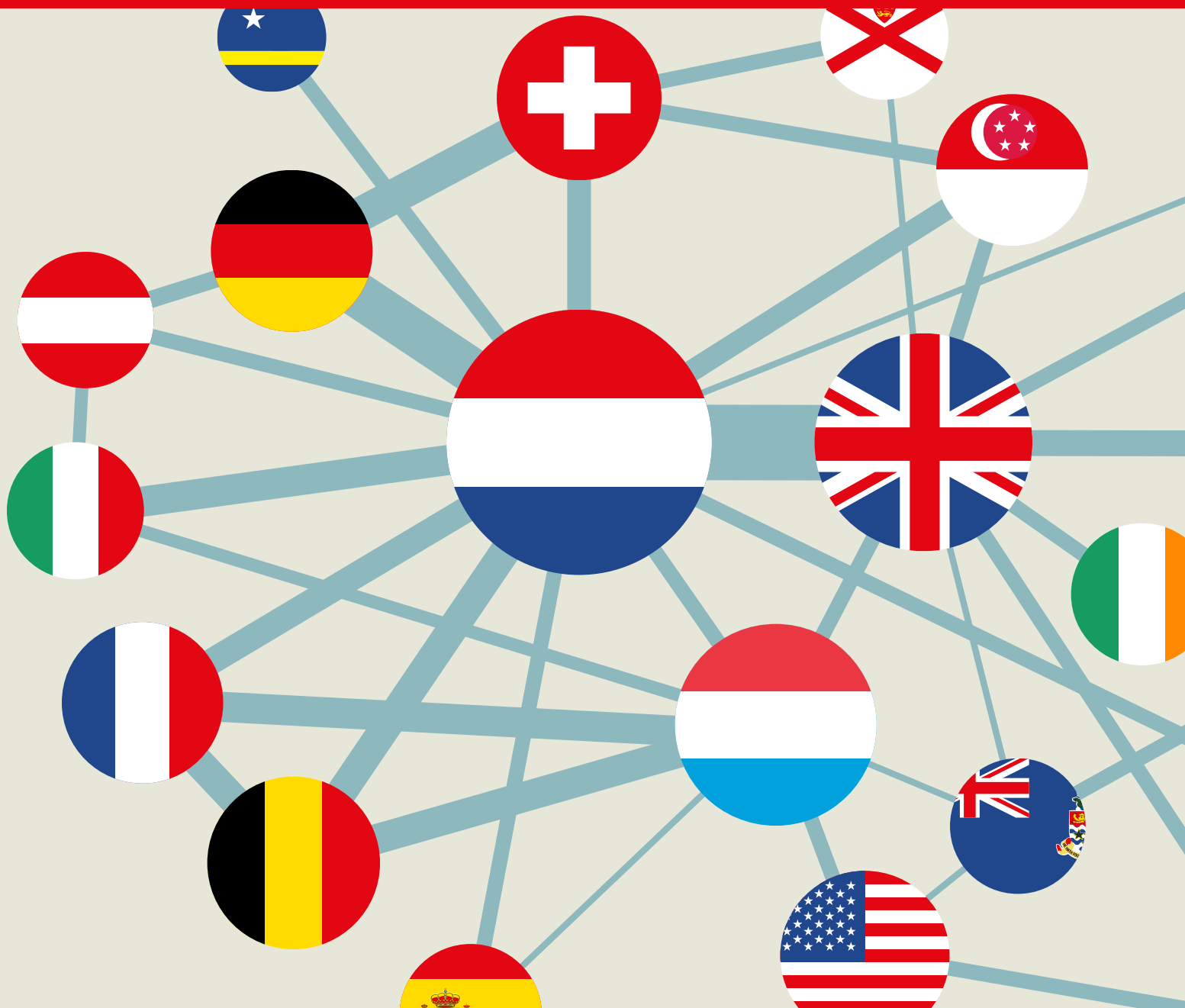


# SOMO



## The Netherlands – still a tax conduit?

June 2024

# Contents

<b>Introduction</b> .....	<b>4</b>
<b>Why the Netherlands?</b> .....	<b>5</b>
<b>Conduit entities</b> .....	<b>8</b>
<b>Financial and non-financial conduit entities</b> .....	<b>9</b>
<b>Conduit entities' relative importance</b> .....	<b>13</b>
<b>Conduit entities and countries categorised as low-tax jurisdictions</b> .....	<b>15</b>
<b>Changes to the Netherlands' role as a tax conduit</b> .....	<b>16</b>
<b>Conclusion and recommendations</b> .....	<b>21</b>
1. Implementation of a generic withholding tax .....	22
2. One agency responsible for publishing figures on conduit entities .....	22
3. Yearly update of all figures on conduit entities .....	22
4. Income flows per country .....	23
5. Research into trends and the companies involved .....	23
<b>Annex. Availability of periodic statistics on conduit entities</b> .....	<b>25</b>
<b>Endnotes</b> .....	<b>26</b>
<b>Colophon</b> .....	<b>29</b>

# List of figures

<b>Figure 1.</b> Largest 10 countries worldwide (plus the Netherlands) in terms of GDP ...	6
<b>Figure 2.</b> Largest 10 countries worldwide in terms of inward FDI stock.....	6
<b>Figure 3.</b> The three types of conduit entity by statistical sector .....	10
<b>Figure 4.</b> Size of assets and liabilities of financial conduit entities in the Netherlands .....	11
<b>Figure 5.</b> Financial income flows related to financial conduit entities in the Netherlands.....	11
<b>Figure 6.</b> Dutch outward FDI stock – conduit entities’ share, 2019 .....	13
<b>Figure 7.</b> Inward and outward financial income flows – share structured via conduit entities, 2019 .....	14
<b>Figure 8.</b> Outward financial income of S.127a (special purpose) conduit entities, specified for low-tax jurisdictions .....	19
<b>Figure 9.</b> Dividend flows to low-tax jurisdictions compared to all countries .....	20

# Introduction

This report assesses to what extent the Netherlands still acts as a conduit for tax purposes on behalf of foreign companies. We use the word ‘still’ here because the issue has been known about for some time, critics have voiced concerns about the harmful consequences and urged change, and the Netherlands government has made some (limited) efforts in recent years to end certain tax avoidance practices and has sought credit for this.

In the report we draw on a range of sources to analyse macroeconomic figures. Combining these data sources leads us to comprehensive insights that demonstrate that the Netherlands is very much still a tax conduit.<sup>1</sup>

At the end of the report we provide recommendations to the Dutch government and related institutes on aspects of data availability and on how to end conduit structures.

# Why the Netherlands?

Compared to the size of its economy in terms of gross domestic product (GDP), the Netherlands' incoming and outgoing investments are extremely large. Worldwide, the United States both receives and invests most foreign direct investment (FDI). This is unsurprising, because the USA is the world's largest economy in terms of GDP, followed by China, Japan, Germany and India.<sup>2</sup>

It would be reasonable to expect China, or any of the other largest economies (Japan, Germany, or India) to take second place. However, according to the most recent International Monetary Fund (IMF) statistics, China ranks third with regard to inward direct investment and fourth with regard to outward direct investment globally. So which country ranks second after the USA? The Netherlands (see Figures 1 and 2).<sup>3</sup>

Although the size of the Dutch economy is relatively small,<sup>4</sup> then, it attracts and invests most foreign direct investment worldwide after the USA. Together with Luxembourg, the Netherlands accounts for more than 50 per cent of all FDI into or out of the European Union.<sup>5</sup>

Multinational companies have been largely responsible for the worldwide increase in financial flows in recent decades as they have set up international tax structures and taken advantage of differences in countries' tax regimes, with the Netherlands playing a pivotal role.<sup>6</sup> The Netherlands attracts, in the words of the IMF, 'phantom investments'.<sup>7</sup> These are investments that have no real link with economic activities in the Netherlands and exist only on paper. They are usually structured via conduit entities – companies that are part of a multinational whose main purpose is to conduct financial intermediation with other entities within the group. The Netherlands is internationally known for the large number of conduit entities registered under its jurisdiction.

In principle, multinational companies are free to organise internally as they see fit and to structure themselves in and through various jurisdictions. This freedom also allows multinationals to take advantage of the legal benefits of countries where they have few if any economic activities and to evade and avoid laws and regulations of countries where they do have operations.



Why would multinational companies want to structure investments specifically via the Netherlands? Or to put it differently, what does the Netherlands offer these companies? Although there could be multiple reasons, much of the rationale has to do with the Dutch legal and tax regimes. Due to the historic roots of Dutch fiscal legislation, and in response to deliberate Dutch government policies, it is often beneficial for multinational companies to structure their investments via the Netherlands.

The most important benefits are: (1) the participation exemption,<sup>8</sup> (2) the absence of generic withholding taxes on interest and royalties, (3) the absence of capital gains taxation, (4) the Netherlands' large number of tax treaties and (5) the ruling

practice.<sup>9</sup> There could be other, non-fiscal reasons: for example, the Netherlands' beneficial bilateral investment treaties with other countries and specific rules on corporate governance under Dutch law. Nonetheless, tax avoidance is generally the most important driver behind Dutch 'phantom investments'.

This particular conduit position of the Netherlands vis-à-vis multinational corporations comes at a cost. According to the Tax Justice Network, the Netherlands is responsible for 17 per cent of total worldwide tax avoidance by businesses. It inflicts an annual tax revenue loss of close to \$ 51 billion on other countries.<sup>10</sup> As we know, a large proportion of the tax losses are inflicted upon low-income countries.<sup>11</sup>

This has been the case for many years. From the end of the Second World War onwards, the Netherlands has created a favourable tax environment for international business. Its reputation as a tax conduit, however, caught global attention only in the late 1970s and early 1980s as globalisation took hold.<sup>12</sup> Although some governments, such as those of other EU member states, criticised the tax position of the Netherlands, the general public did not notice its conduit role in the global tax environment.<sup>13</sup>

This changed during the global financial crisis of 2008. Many governments had to bail out large multinational companies (especially commercial banks), using sizeable amounts of public money. This led people to take a more critical stance towards multinationals and their perceived economic contribution to society. As people increasingly realised that multinationals often did not pay their fair amount of tax, public pressure mounted for governmental action. One of the key countries under pressure, both at the national and the international level, was the Netherlands. The European Commission, the Organisation for Economic Co-operation and Development (OECD), the United Nations, national governments, and Dutch public opinion all pressured the Dutch government to take action.

How did the Dutch government respond? Initially the Netherlands remained obstructive. Behind the scenes, the government blocked EU plans to tackle tax avoidance by multinationals.<sup>14</sup> But after persistent pressure from both within and outside the country, the Netherlands began to change its position. In 2023, the State Secretary of Finance, Marnix van Rij, shared a letter with the Dutch Parliament;<sup>15</sup> this stated that the Netherlands had strongly combated tax avoidance and is preventing multinationals from using the Netherlands to minimise their global tax bills. To support his statement, van Rij added a list of measures that the Netherlands had implemented since 2016 to tackle tax avoidance. The Dutch government proclaimed that the Dutch tax conduit, as we have known it for a long time, no longer exists.

Is it indeed correct that multinational companies no longer use the Netherlands to minimise their global tax bills? Are there no longer any phantom investments passing through the Netherlands? Do the facts support these statements? Using data provided by De Nederlandsche Bank (DNB – the Dutch Central Bank) and Statistics Netherlands (CBS), this report investigates whether the position of the Netherlands as a tax conduit has ended.<sup>16</sup>

# Conduit entities

Most of the income flows and foreign direct investment (FDI) that multinational companies channel via the Netherlands pass through conduit entities. By definition, these entities have no substantive operations, physical assets, or employees in their country of incorporation. Instead, they exist primarily as entities on paper, used for transactions and asset holding, generally to exploit regulations, create opaque ownership structures, or reduce tax obligations.<sup>17</sup> The Dutch government's investigating committee on conduit companies (the Commissie Doorstroomvennootschappen), installed in 2021, states that conduit entities' activities consist of "receiving and paying substantial flows of money from and to foreign countries".<sup>18</sup>

Since the conduit entity is not located in a country to conduct real economic activities, the FDI that flows through the entity is not intended to be deployed in the country where the entity is registered. Hence, any FDI related to these conduit entities, the IMF's 'phantom investments', is only a 'paper reality'. It may be, however, that a conduit entity in the Netherlands is part of a company that does also have real economic activities in the Netherlands. A company can, for example, have a conduit for international tax purposes while also having shops in the Netherlands; examples include Ikea, Nike, and Starbucks.<sup>19</sup>

There are different ways to assess the magnitude of conduit entities. Here we consider the size of their activities in terms of the amount of FDI they structure and the size of the related income flows. As far as possible, we try to trace how multinationals geographically structure the conduit entities' FDI stock and income flows. These indicators can provide a helpful understanding of the entities' financial and economic importance.



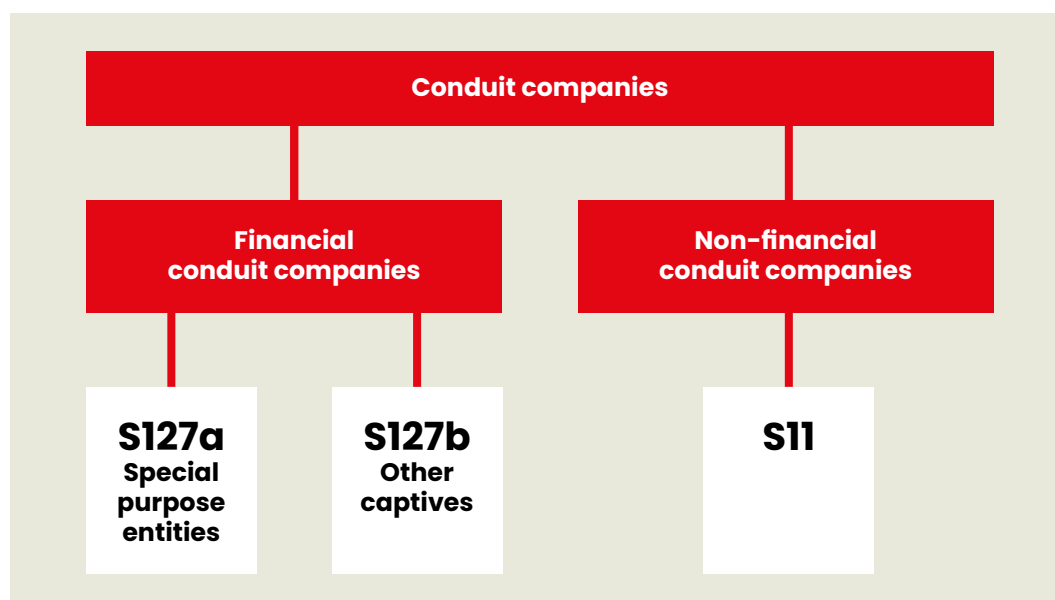
# Financial and non-financial conduit entities

To identify trends in the development of FDI and cross-border financial flows into and from the Netherlands, it would be useful to have all the information on conduits collected together in one place. The reality is that no single central Dutch authority keeps statistics on all conduits. But two statistical institutions, De Nederlandsche Bank (DNB) and Statistics Netherlands (CBS), separately maintain their own information on conduits from a different perspective.

Conduit entities are generally one of two types: financial and non-financial (see Figure 3). Financial conduit entities (belonging to statistical sector S.127<sup>20</sup>) consist of special purpose entities (S.127a) and other ‘captive financial Institutions’ (S.127b).<sup>21</sup> Special purpose entities (SPEs) are foreign owned and have as their main purpose the receipt from abroad of income flows (dividends, interest, and royalties) and the transfer of this income to foreign-based related entities. SPEs have by definition a maximum of five employees, no or little physical presence, and no or little physical production in the country of domicile.

The other entities in the sector S.127 are the ‘other captives’ (S.127b). These are also financial conduit entities but either have more nexus with the Dutch economy (for example, by employing more than five people in the Netherlands) or are listed on a stock exchange without a majority owner.<sup>22</sup> See Figure 3. (We discuss non-financial conduit entities below.)

**Figure 3. The three types of conduit entity by statistical sector<sup>23</sup>**

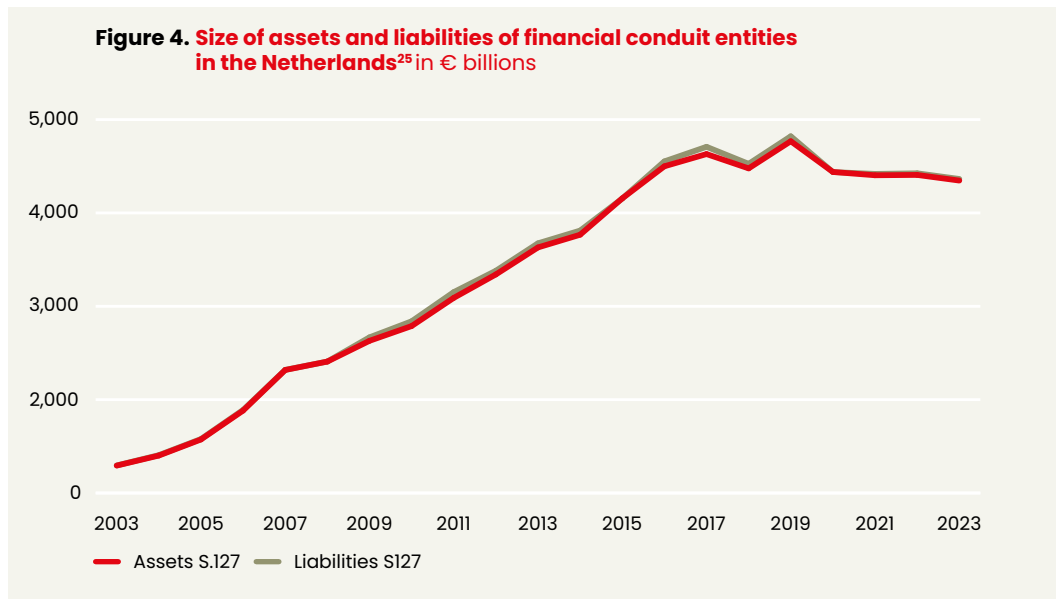


No dataset in the Netherlands covers both financial and non-financial conduit entities however. Also, no dataset distinguishes between the S.127a and S.127b entities. Nonetheless, regularly updated information is available for financial conduit entities (both S.127a and S.127b). We start with these statistics, provided by Statistics Netherlands (CBS).

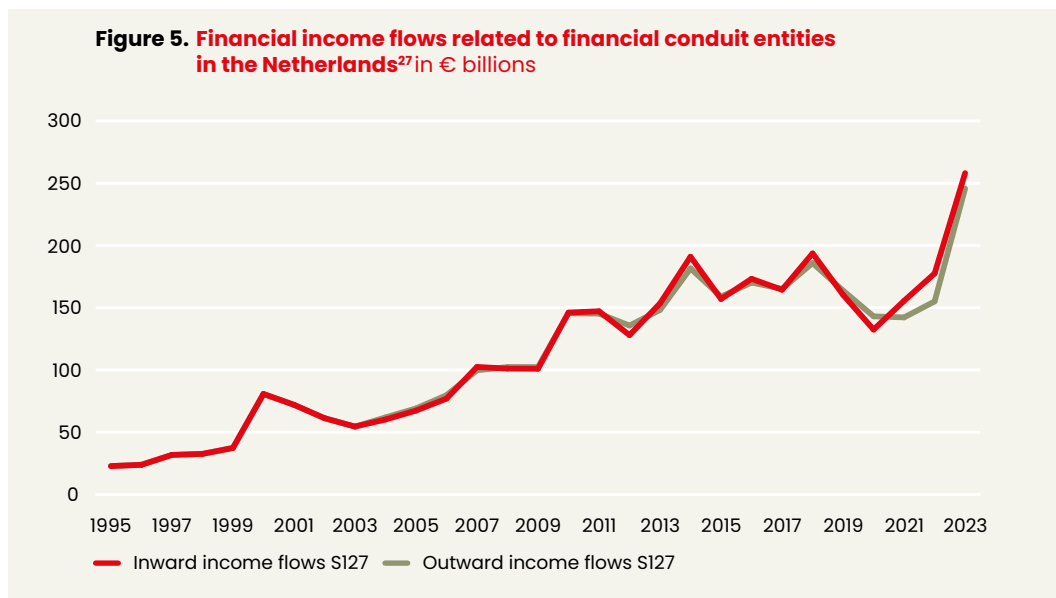
The CBS presents the data on the S.127 entities through the Dutch National Accounts. Within this dataset, there are so-called ‘sector accounts’. These accounts describe the income distribution, financing, and asset formation, among other elements, for captive financial institutions and are therefore different from the FDI statistics that the DNB provides.<sup>24</sup>

We can use the CBS’s information on captive financial institutions (i.e. S.127 financial conduit entities). Figure 4 represents the balance sheet of these entities and shows that both their assets and their liabilities grew steadily to 2016 and have stabilised since then.

Based on the provisional statistics for 2023, financial conduit entities’ assets and liabilities both had a value of approximately €4,350 billion in that year.



Another important statistic, related to the assets and liabilities, is the financial income flows.<sup>26</sup> Interest and dividends are the rewards for making capital available, in the form of either loans or equity. As can be seen in Figure 5, both inward and outward financial income flows have increased substantially over the years. While the financial income flows were less than €40 billion during the late 1990s, they increased to almost €200 billion in 2014 and 2018. The strongest year-on-year increase was in 2023, when outward financial income flows reached an all-time high of €246 billion and inward flows an all-time high of €258 billion.<sup>27</sup>



The composition of inward income flows has changed considerably over time. While interest was the main source (close to 45 per cent) of financial income during the late 1990s, its share of total financial income has diminished to only 17 per cent in recent years. Dividends are currently the main source of financial income, reaching up to 85 per cent of total financial income during the most recent years.<sup>29</sup>

The information on financial conduit entities clearly shows their presence in the Netherlands is as strong as ever, with regard to both their balance sheet size and their financial income flows. Most interestingly, while the size of their assets and liabilities reached its highest point so far at the end of the third quarter of 2019<sup>30</sup> – and is according to the latest figures still above €4.3 trillion – financial income flows have increased strongly again since 2021. This shows that financial conduit entities continue to have a strong position in the Dutch economy despite the introduction of anti-tax avoidance measures both EU-wide and unilaterally in the Netherlands.

The statistics discussed above cover only financial conduit entities. However, there is a group of conduit entities that falls outside this category: the S.11 group of non-financial corporations (as per Figure 3). Entities in the S.11 group are subsidiaries of companies with real physical business activities in the Netherlands. These activities involve, for example, production or the work of a regional headquarters.<sup>31</sup> The S.11 entities themselves, however, are conduits.

Although the Netherlands has been used as a conduit country for more than half a century, no specific statistics on non-financial conduit entities were available before the government established the investigating committee in 2021. Upon request from the investigating committee, the CBS provided this information at the end of September 2021. The CBS noted, however, that identifying these entities within the assigned time frame was a challenge and that the produced statistics were only experimental.<sup>32</sup> The data provided for S.11 covers only the years 2015 to 2019. No statistics relating to non-financial conduit entities have been provided since then.

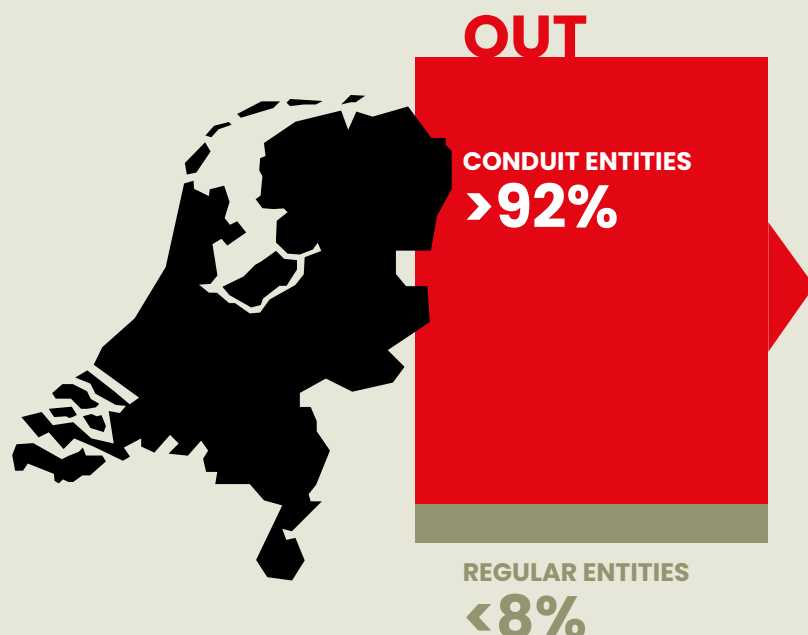
The CBS estimated annual financial income flows linked to non-financial conduit companies as between €28.1 billion and €43.9 billion in 2019.<sup>33</sup> It estimated total assets related to non-financial conduit companies in 2019 as between €705 billion and €1,122 billion.<sup>34</sup>

# Conduit entities' relative importance

The CBS and DNB both provide statistics on the generic international investment position of the Netherlands and more specifically about the financial conduit entities. For this chapter we take the year 2019 as reference, as it covers the most recent data available for S.11 non-financial conduit entities.

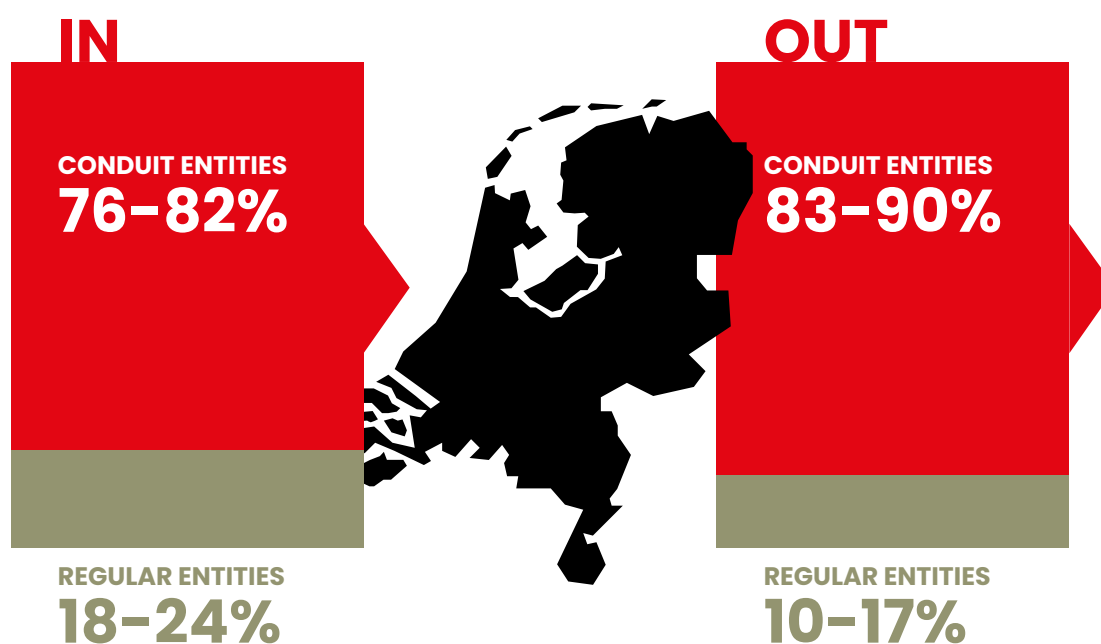
The total amount of outward direct investment from the Netherlands in 2019 was €5,937 billion.<sup>35</sup> Of this total, financial conduit entities owned about €4,768 billion.<sup>36</sup> The balance sheet size of non-financial conduit entities (S.11) in 2019 was estimated as between €705 billion and €1,122 billion (see above), meaning that the combined assets of all Dutch conduit entities (S.11 and S.127) in 2019 totalled between €5,473 and €5,890 billion.<sup>37</sup>

**Figure 6. Dutch outward FDI stock – conduit entities' share, 2019**



Financial income flows connected to the Netherlands' FDI show a similar pattern. Of all the outward financial income flows<sup>38</sup> for 2019 (€ 232 billion),<sup>39</sup> a minimum of €191.9 billion and a maximum of €207.7 billion is linked to conduit entities (divided between €163.8 billion for financial and from €28.1 to €43.9 billion for non-financial conduit entities).<sup>40</sup> Relative to the total amount of financial income that flowed through the Netherlands in 2019, therefore, between 83 per cent and 90 per cent related to conduit entities (Figure 7).<sup>41</sup> Inward financial income flows are calculated in the same way.<sup>42</sup> Table 1 shows the underlying numbers.

**Figure 7. Inward and outward financial income flows – share structured via conduit entities, 2019**



**Key information with regard to conduit entities in the Netherlands**

Year = 2019	Financial conduit entities S.127a + S.127b	Non-financial conduit entities S.11	Total (all companies)
Number of entities	12,400 <sup>43</sup>	103 - 1,133 <sup>44</sup>	N/A
Inward financial income (billion, €)	160.3 <sup>45</sup>	29 - 61 <sup>46</sup>	249 <sup>47</sup>
Outward financial income (billion, €)	163.8 <sup>48</sup>	28.1 - 43.9 <sup>49</sup>	232 <sup>50</sup>
Outward FDI (billion, €)	4,768 <sup>51</sup>	705 - 1,122 <sup>52</sup>	5,937 <sup>53</sup>

# Conduit entities and countries categorised as low-tax jurisdictions<sup>54</sup>

We have shown that the assets of financial conduit entities in the Netherlands, with a combined value of €4,768 billion in 2019, link to annual financial income flows of €163.8 billion that year. These financial income flows mainly consist of payments of dividends and interest.<sup>55</sup> Although it would be of interest to see the geographical dimension of the conduit entities' activities, little information is available about the intermediate sources and destinations.

No information is available on the geographical dimension for all conduit entities together (both S.127 and S.11). The only information we have is for financial conduit entities (S.127) and only with regard to certain countries and country clusters. This information is available only for specific years, the latest being 2019.<sup>56</sup>

From 2015 to 2019, 25 per cent of the total annual income flows (including royalties) connected with Dutch financial conduit entities were directed towards countries that the Dutch government has identified as low-tax jurisdictions.<sup>57</sup> Since then, this share has decreased.

# Changes to the Netherlands' role as a tax conduit

Is there reason to believe that multinational companies no longer use the Netherlands as a tax conduit? What has changed since 2019 with regard to the position of Dutch financial and non-financial conduit entities?

We have shown above that, relative to the total amount of the financial income that flows out of the Netherlands, in 2019 between 83 per cent and 90 per cent related to conduit entities.<sup>58</sup> The Dutch State Secretary of Finance noted in 2022 that total income flows (including royalties) directed to countries the Dutch government has listed as low-tax jurisdictions (see Box 1) decreased from € 38.5 billion in 2019 to € 6.0 billion in 2022.<sup>59</sup> Since then the Dutch government has frequently used this fact to support its argument that the Netherlands has been successful in fighting tax avoidance.



## **Box 1. Low-tax jurisdictions and the Dutch conditional withholding tax**

Unlike neighbouring countries, the Netherlands did not impose any withholding tax on interest or royalties until 2021. To meet criticism of the lack of these taxes, it then introduced a conditional withholding tax. This is a tax on outward royalties and interest, but only when they flow to low-tax jurisdictions and to countries on the 'EU list of non-cooperative jurisdictions for tax purposes'. According to the newly introduced law, low-tax jurisdictions are countries with a statutory profit tax rate below 9 per cent.

One of the major shortcomings of the conditional withholding tax, the way it is implemented in the Netherlands, is that it considers the statutory tax rate instead of the effective tax rate to determine whether a country is a low-tax jurisdiction.<sup>60</sup> This leaves out countries offering special tax regimes that result in lower effective tax rates. Some of these countries, such as Singapore, are also not on the EU's list of non-cooperative jurisdictions, so interest and royalty flows to these countries are exempt from the conditional withholding tax.

However, it is notable that the sharp decrease occurred in 2020,<sup>61</sup> while the Netherlands' conditional withholding tax came into force in 2021. The Dutch Ministry of Finance assumed, without conducting any research, that this was probably the result of companies' anticipatory behaviour in adjusting their structures in advance of the legislation. The ministry also mentioned that research by DNB indicated that legislative changes in Ireland and the USA in the same period had probably influenced the income flows. Although the ministry acknowledged the influence of Irish and US legislative changes in its letter to Parliament,<sup>62</sup> it wrote a press release entitled 'Tax avoidance via the Netherlands has decreased significantly due to measures',<sup>63</sup> not mentioning international policy developments such as implementation of the US Tax Cuts and Jobs Act.<sup>64</sup>

Since it's not publicly known which companies restructured their business ahead of 2020 we cannot know their underlying motives – with the exception of one company: Google (parent company: Alphabet). Most of the changes in outflowing royalty flows from the Netherlands to the aforementioned low-tax jurisdictions seem to relate to change in the structure of Google.<sup>65</sup>

Although it is difficult to assess what induced Google's restructuring, there are strong indications that it had to do with Irish and US legal changes.<sup>66</sup> Google alone accounted for a €26 billion lower outgoing income flow from the Netherlands from 2019 to 2020, which explains most of the decrease. Up to that point, the company had profited from an intellectual property licensing scheme known as the 'double Irish, Dutch sandwich'. As Google confirmed it would no longer use this licensing structure, it referred to the US Tax Cuts and Jobs Act.<sup>67</sup> This US legal change would prevent Google from using the conduit structure to shift revenue through the Netherlands to its Bermuda-based Irish holding.<sup>68</sup>

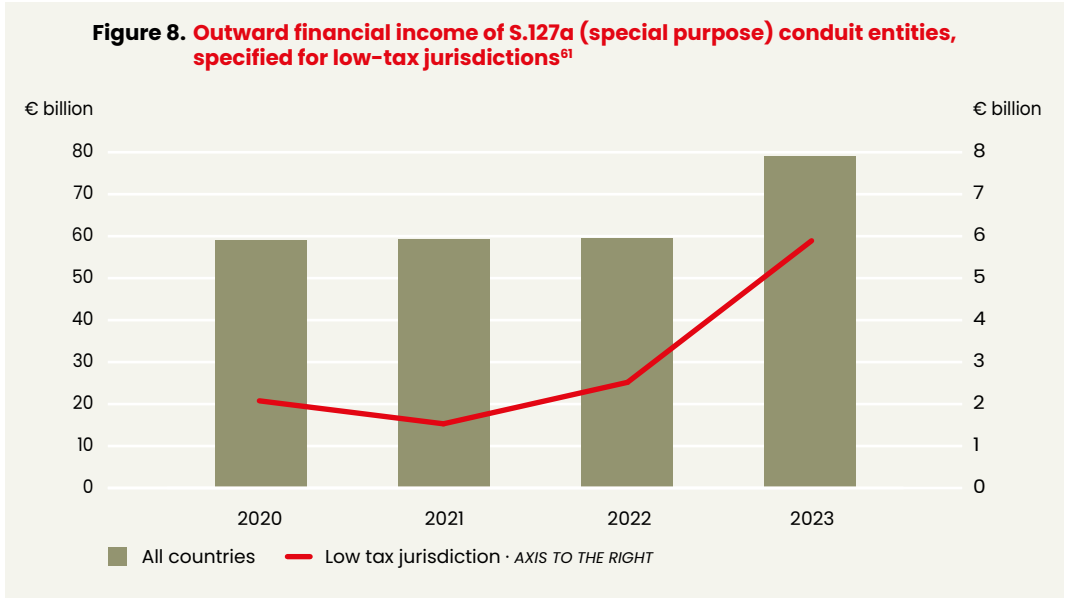
Under international pressure, Ireland had decided a few years earlier, in 2014, to phase out the arrangement, which would end Google's tax advantages in 2020.<sup>69</sup> This was the year of the sharp decrease in outward royalty payments from the Netherlands, which accounted for most of the decrease in total outward income flows to low-tax jurisdictions that year (€31 out of €33 billion). Outgoing interest flows to these jurisdictions also reduced, but this decrease was comparable to the fall in interest flows to all countries.<sup>70</sup>

Statistics Netherlands (CBS) studied some large-scale corporate restructurings within multinationals operating in the Netherlands<sup>71</sup>, assuming these companies might have restructured their business operations in anticipation of the conditional withholding tax, thereby ceasing to channel interest and royalty payments through the Netherlands. It noticed, however, that of the eight countries whose imports or exports had shrunk the most due to restructuring, seven countries were not targeted by the withholding tax. Out of the eight countries, only Bermuda appeared on the Dutch list of low-tax jurisdictions; this was to be expected since most of the decrease in outgoing royalties was because of corporate restructuring by Google.

Would the outward royalty flows to low-tax jurisdictions have decreased in same way without legislative changes in Ireland and the USA? This is hard to say, if only because there is no way to know how this counterfactual scenario would have affected the introduced Dutch law, since lawmakers take into account relevant foreign legislative changes.

What therefore happened regarding total outward income flows through conduit entities in the period after that? Although recent data on the FDI income distribution for S.127b or S.11 is unavailable, there is data for the special purpose entities (S.127a). Figure 8 shows this information.

As we can see in the figure, both the total outward income flow and the specific flow to countries the Dutch government has listed as low-tax jurisdictions are on the rise again.<sup>72</sup> Income flows to low-tax jurisdictions initially fall in 2021 but then increase in the following years.



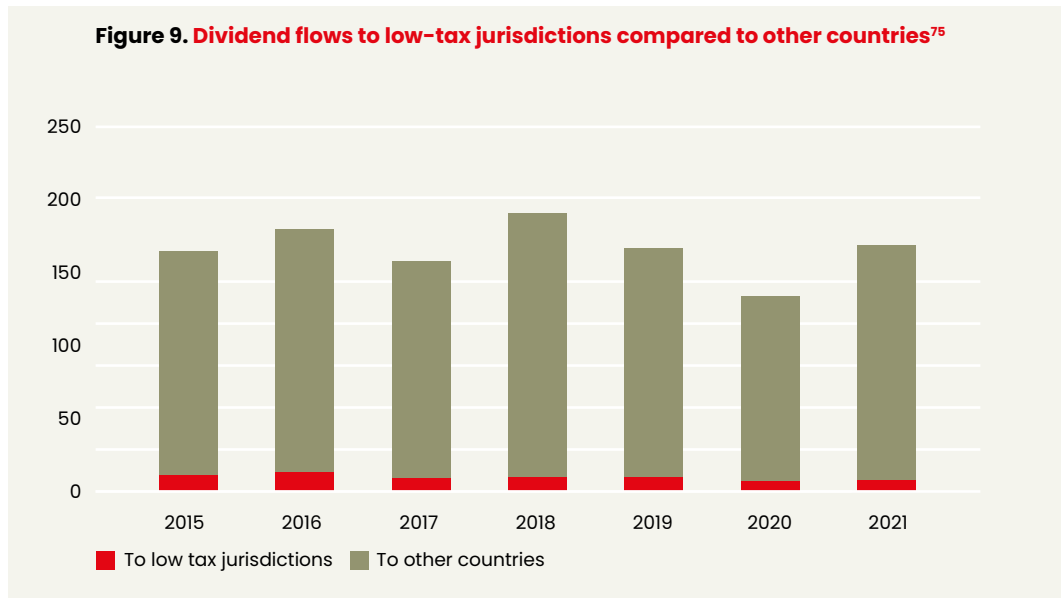
Income flows directed to countries that the Dutch government has listed as low-tax jurisdictions are, however, only a small part of total income flows related to conduit entities.<sup>74</sup> So if income flows to low-tax jurisdictions account for only a few per cent of all income flows through Dutch-registered conduit entities, what about income flows through these entities that are not linked with low-tax jurisdictions?

Only a small fraction of the conduit entities that use the Netherlands connect their investments directly with countries the Dutch government has listed as low-tax jurisdictions. The overwhelming majority of the assets and liabilities the conduit entities place on their balance sheets (and related income flows) have no direct link with such low-tax jurisdictions. Even so, using the Netherlands as a conduit country can save these companies billions of dollars in tax payments – and prevent other countries from collecting billions of dollars of tax that they might wish to spend on public goods such as healthcare and education.

If this is the case, why has the State Secretary of Finance celebrated the end of the Netherlands acting as a tax conduit country? This is mainly because interest and royalty flows to countries listed as low-tax jurisdictions have diminished, as we have noted. But other income flows linked with conduit entities, such as to the USA, the United Kingdom, Ireland, Switzerland, Hong Kong, Singapore, and other countries the Dutch government has not categorised as low-tax jurisdictions, are still the same or have increased.

Hence the Netherlands’ introduction of withholding tax on interest and royalties payments to designated low-tax jurisdictions has not prevented or reduced artificial capital flows directed directly to other countries. In other words, most of the conduit activities structured via the Netherlands have been left untouched.

Besides the conditional withholding tax on interest and royalties, at the beginning of 2024 the government introduced another conditional withholding tax, this time on outgoing dividends flowing to low-tax jurisdictions.<sup>75</sup> As we have seen, the outgoing income flows are mainly dividends. So how has the new law affected the total outflow of dividends? As Figure 9 shows, most dividends don't flow to the Dutch-designated low-tax jurisdictions, averaging only 6 per cent since 2015.<sup>76</sup>



Most dividend flows will therefore be unaffected by the newly introduced law. This means that this law will also have very limited influence on the rapid increase in income flows through financial conduit entities shown in Figure 5.

The question remains, then, what has caused this increase? If the role of the Netherlands as a conduit country were diminishing, it would be reasonable to expect income flows through financial conduit entities to decrease. To analyse this and arrive at a better understanding of the situation, much more data would be needed on all conduit entities and all income flows for each individual country. As the Annex to this report makes plain, there is a marked lack of available data. This makes it hard to achieve a clear view of the current state of affairs regarding tax avoidance via the Netherlands.

# Conclusion and recommendations

Despite measures the Dutch government has taken in relation to tax avoidance in recent years, multinational companies still use the Netherlands as a conduit country. Inward and outward foreign direct investment (FDI), not linked to real economic activities, has stayed at a very high level, while related income flows have increased rapidly.

The vast majority of income flows through the Netherlands continue to go through conduit entities. Outward income flows from these conduit entities have experienced substantial growth in the recent period, mainly because of an increased flow of dividends. The introduction of a conditional withholding tax on outward dividends is not expected to affect this increase very much, since only a few per cent of this dividend flow comes within this law's scope.

While this research focuses on conduit entities in the Netherlands and the related income and investments flows, it does not answer the question as to why these flows are so large. To investigate this will require more information on the conduit entities. We include recommendations on this point below.

## 1. Implementation of a generic withholding tax

The Netherlands' current conditional withholding tax has very limited scope. It leaves most income flows through conduit entities untaxed. Our report has shown the limitations of focussing only on low-tax jurisdictions defined by the Netherlands.

### Recommendation

Instead of a conditional withholding tax, the Netherlands should implement a generic withholding tax, as most of its neighbouring countries have done. The Dutch government's investigating committee on conduit companies made this recommendation in 2020, stating that a non-conditional withholding tax is more effective against base erosion in the Netherlands and abroad than a conditional withholding tax.<sup>77</sup>

## 2. One agency responsible for publishing figures on conduit entities

Two bodies currently publish partial figures on Dutch conduit entities: the Dutch Central Bank (DNB) and Statistics Netherlands (CBS). This gives a very fragmented view of Dutch conduit entities.

### Recommendation

A single agency in the Netherlands should have responsibility for publishing all figures on conduit entities and thereby provide a comprehensive picture.

## 3. Yearly update of all figures on conduit entities

Information on conduit entities is both fragmented and incomplete, making it very difficult to obtain an accurate overview of the situation regarding conduits and the extent to which the Netherlands is making progress in tackling tax avoidance. Apart from 2019, for which figures are available on all three categories of tax conduits together (S.127a, S.127b, and S.11), for other years these number are not available. In particular, very little data is available on royalty flows.

### Recommendation

The Netherlands should publish statistics on conduit entities not only on an occasional basis (such as following a request from the Ministry of Finance) but annually. Annual publication should include at least:

- the number of conduit entities;
- inward and outward interest, dividends, and royalty flows for all conduit entities (S.127a, S.127b, and S.11);
- inward and outward FDI for all conduit entities.

For an overview of relevant data currently missing for conduit entities and the related FDI and income flows, see this report's Annex.

## 4. Income flows per country

### Recommendation

There should be a geographical country-by-country breakdown of the above statistics, both for conduit entities and for all entities. To properly understand how and why income flows occur between the Netherlands and other countries and the related trends, we need to see the flows to and from all countries individually.

This information is currently publicly unavailable because of so-called disclosure risk (the risk of recognition of which companies cause which flows). As companies grow larger, and especially because a number of companies channel very large flows through the Netherlands, there is an increasing chance of recognition of the companies involved. To avoid this, the argument runs, there is a need to cluster larger and larger groups of countries.

The Netherlands government should re-examine the rules underlying this restriction, which preclude a good understanding of the nature of financial income flows through the Netherlands. (As this report has shown, for example, there is a reason why large amounts of royalties have flowed from the Netherlands to Bermuda for many years. In fact, if there is a large income flow between two countries, the question always arises whether this is due to a combination of laws of both countries and the agreements between them.) Currently, with information provided for clusters of countries, because there can be considerable diversity within clusters, it is difficult to draw conclusions.<sup>78</sup>

## 5. Research into trends and the companies involved

Despite the lack of transparency at micro level,<sup>79</sup> investigative journalism has provided some insight into the kind of companies that make significant use of conduit entities in the Netherlands. At macro level, however, little if any statistics-based research exists.

### Recommendation

To support policy making, it is desirable to know more about the kind of companies involved in Dutch-registered conduit entities. More research is also needed on key trends. FDI and financial flows to and from individual countries can fluctuate considerably, sometimes caused by only a few companies' acquisitions or large-scale restructurings. Research should provide more insight into such restructuring and the extent to which it is fiscally driven. For example, is there a diversion of financial flows? If so, how are financial flows diverted? If any trends can be detected, what are the underlying drivers? Are there changed circumstances or new legislation at home or abroad that companies mention themselves?

To determine whether the Netherlands is a tax haven, it is first important to define what a tax haven is. No generally accepted definition of tax havens exists.<sup>80</sup> Reference is sometimes made to four criteria the OECD drew up more than 25 years ago:<sup>81</sup> no or low taxes; lack of effective exchange of information; lack of transparency; and no requirement of substantial activity.

After the financial crisis of 2008, the OECD started to compile a 'List of uncooperative tax havens', but in 2009 it removed the last remaining three countries from the list, which then remained empty.<sup>82</sup> It turned out that the OECD's criteria were too limited to capture all countries engaging in facilitating tax avoidance.

The need to address tax avoidance received renewed attention as a result of scandals such as Lux Leaks, the Panama Papers, and the Pandora Papers. There was increasing recognition of the need to determine what a tax haven is.

The EU introduced its 'list of non-cooperative jurisdictions for tax purposes' in 2016. Again, a corresponding definition of what constitutes a tax haven was lacking. Of the world's 20 worst tax havens that the Tax Justice Network identified in its Corporate Tax Haven Index, only one country appeared on the EU list.<sup>83</sup>

The problem is the highly politicised nature of the debate about what constitutes a tax haven and which countries should be on the list of tax havens. In 2019, the European Parliament expressed its dissatisfaction that the EU list did not include any European countries and stated that the Netherlands, Ireland, Luxembourg, Malta, and Cyprus should be added to the list.<sup>84</sup>

Since countries dislike being called a tax haven, because of the risk of reputational damage, governments usually respond with a strong denial when their country appears on any list of tax havens, including the Corporate Tax Haven Index. The Netherlands government has done the same.

So what definition should be used? From the perspective of tax justice, we take an integral look at the role of a country in the international community to see if its policy and practice cause other countries to lose tax revenue. To put it simply: a tax haven is a country that facilitates tax avoidance in any way or is at the forefront of the international race to the bottom in terms of tax. Being a tax conduit country falls under the category of facilitating tax avoidance.



# Annex.

## Availability of periodic statistics on conduit entities

Periodic availability in DNB and CBS statistics	Special purpose conduit entities S.127a	Other financial conduit entities S.127b	All financial conduit entities S.127a + s.127b	Non-financial conduit entities S.11 (CBS)	Total
Number of entities	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
FDI income flows including royalty flows	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	✓ <sup>85</sup>
FDI income flows excluding royalty flows	✓ annual <sup>86</sup> ✓ quarterly <sup>87</sup>	<b>X</b>	✓ <sup>88</sup>	<b>X</b>	<b>X</b>
Size of balance sheet assets/liabilities	quarterly <sup>89</sup> ✓ liabilities <sup>90</sup> ✓ here (assets)	<b>X</b>	✓ <sup>91</sup>	<b>X</b>	✓ <a href="#">here</a>
Geography – balance sheet	✓ <a href="#">here</a>	<b>X</b>	<b>X</b>	<b>X</b>	✓ <a href="#">here</a> ✓ <a href="#">here</a>
Geography – FDI income flows	✓ <a href="#">here</a> (excluding royalties)	<b>X</b>	<b>X</b>	<b>X</b>	✓ <a href="#">here</a>

## Endnotes

- 1 The text box on page 20 considers what constitutes a tax haven and how being a tax conduit relates to this.
- 2 Based upon the latest available figures (2022) of the World Bank: [World Development Indicators](#).
- 3 IMF CDIS: Inward direct investment position, [Top 10 reporting Economies in the World \(2022\)](#); Outward direct investment position, [Top 10 reporting Economies in the World \(2022\)](#).
- 4 With regard to size of the economy (GDP, current \$), the Netherlands ranks position number 18 for the year 2022. [World bank: World Development Indicators](#).
- 5 Eurostat: [Foreign direct investment – stocks](#).
- 6 [What shall we do with pass-through? DNB's experiences with special financial institutions](#), September 2016.
- 7 IMF: 'The Rise of Phantom Investments', September 2019.
- 8 Through this participation exemption the parent company is exempt from paying tax on dividends received from its (qualifying) subsidiaries.
- 9 Report Committee on Conduit companies: ['The road to acceptable conduit activities'](#), pp. 10-11 and 75, October 2021.
- 10 [Tax Justice Network: Country profile The Netherlands](#).
- 11 Foreign affairs: 'How the Netherlands built one of the world's worst tax havens', November 2019.
- 12 SOMO: 'The Netherlands: A tax haven?', 2006.
- 13 [Inside the EU Code of Conduct Group: 20 Years of Tackling Harmful Tax Competition](#), Martijn Nouwen.
- 14 NOS: ['Zo kunnen bedrijven nog belasting ontwijken, dankzij Nederland'](#), December 2017
- 15 Letter minister to Parliament, April 2023 (in Dutch).
- 16 Statistics Netherlands is the English name of the Centraal Bureau voor de Statistiek (CBS), the Dutch state agency that gathers and publishes statistical information.
- 17 EU Tax Observatory: 'Mapping of the global geography of shell companies', December 2023, p. 4.
- 18 Report Committee on Conduit companies: ['The road to acceptable conduit activities'](#), p. 20, October 2021.
- 19 [The Guardian: 'EU investigates Nike's tax status in the Netherlands'](#), January 2019; [The Greens: Ikea: flat pack tax avoidance](#), February 2016.
- 20 Codes starting with an S refer to the sector accounts, a classification by sector, according to the European System of Accounts.
- 21 "Captive financial institutions and money lenders are mainly holding companies and intra-group entities, such as financing conduits or special purpose entities that raise funds in open markets to be used by their parent corporation", [European Central Bank](#).
- 22 Report Committee on Conduit companies: ['The road to acceptable conduit activities'](#), p. 25, October 2021.
- 23 Original figure by the author.
- 24 CBS: [What are the national accounts?](#)
- 25 CBS table: ['Financial balance sheets and transactions by sectors'](#); National Accounts, March 2024. Asterisks (\*) indicate provisional data.
- 26 The financial income flow consists of 95% interest and dividend flows in 2023. The remaining 5% are mainly reinvested profits on foreign direct investment.
- 27 For outward financial income flows, an increase of almost 60% compared to 2022; for inward flows, an increase of more than 45% compared to 2022.
- 28 CBS table: [Current transactions by sectors](#); National Accounts. Asterisks (\*) indicate provisional data.
- 29 CBS table: [Current transactions by sectors](#); National Accounts.
- 30 With more than €4,928 billion in liabilities and more than €4,866 billion assets.
- 31 As stated by the CBS in email correspondence with SOMO.
- 32 [Letter CBS to Committee on Conduit Companies](#), 28 September 2021, p. 1 (in Dutch).
- 33 [Letter CBS to Committee on Conduit Companies](#), 28 September 2021, pp. 3 and 4 (in Dutch).
- 34 *Ibid.*
- 35 DNB table 12.15 ['Direct investment \(stocks; total figures\) from 2015 onwards'](#).
- 36 CBS table: ['Financial balance sheets and transactions by sectors'](#); National Accounts, March 2024.

- 37 Financial conduit entities in the Netherlands had in 2019 total assets of €4,768 billion on their balance sheets. Combining this with the estimated balance sheet size of non-financial conduit entities in 2019 of between €705 and €1,122 billion provides totals of minimum €5,473 billion and maximum €5,890 billion: CBS table: 'Financial balance sheets and transactions by sectors' + letter CBS to Committee on Conduit Companies, 28 September 2021, pp. 3 and 4 (in Dutch).
- 38 The statistics for inward and outward financial income flows for financial (S.127) and non-financial (S.11) conduit entities exclude royalty payments. Total inward and outward income flow reported by DNB does include royalty payments. To make a correct comparison, we subtract the share of royalties from the income flow as reported by DNB. DNB table 12.4: 'Services account from 2015 onwards'.
- 39 DNB table 12.21: 'Geographical distribution income (interest, royalties and dividends)'. Total outward FDI income in 2019: €268 billion – share of royalties not specified; DNB's services account reports royalties in 2019 as €36 billion. Hence outward FDI financial income in 2019 excluding royalties was around €232 billion (€268 billion minus €36 billion).
- 40 CBS: 'Lopende transacties; sectoren, nationale rekeningen' and letter CBS to Committee on Conduit Companies, 28 September 2021 (in Dutch).
- 41 Relative to €232 billion, €191.9 billion is 82.72% and €207.7 billion is 89.53%.
- 42 The inward financial income is at least €188.4 billion (€160.3 billion + €28.1 billion) and at most €204.2 billion (€160.3 billion + €43.9 billion). Relative to €249 billion, €188.4 billion is 76% and €204.2 billion is 82%.
- 43 Report Committee on Conduit companies: 'The road to acceptable conduit activities', p. 10, October 2021.
- 44 letter CBS to Committee on Conduit Companies, 28 September 2021 (in Dutch).
- 45 CBS table: Current transactions by sectors; National Accounts.
- 46 letter CBS to Committee on Conduit Companies, 28 September 2021 (in Dutch).
- 47 DNB table 12.21: 'Geographical distribution income (interest, royalties and dividends)'. Total inward FDI income for 2019 was €286 billion – share of royalties not specified; DNB's services account reports inward royalties in 2019 as €37 billion. Hence inward FDI financial income in 2019 excluding royalties was around €249 billion (€286 billion minus €37 billion).
- 48 CBS table: Current transactions by sectors; National Accounts.
- 49 letter CBS to Committee on Conduit Companies, 28 September 2021 (in Dutch).
- 50 DNB table 12.21: 'Geographical distribution income (interest, royalties and dividends)'. Total outward FDI income for 2019 was €268 billion – share of royalties not specified; DNB's services account reports outward royalties in 2019 as €36 billion. Hence outward FDI financial income in 2019 excluding royalties was around €232 billion (€268 billion minus €36 billion).
- 51 CBS table: 'Financial balance sheets and transactions by sectors'; National Accounts, March 2024.
- 52 Letter CBS to Committee on Conduit Companies, 28 September 2021 (in Dutch).
- 53 DNB table 12.15 'Direct investment (stocks; total figures) from 2015 onwards'.
- 54 No information is available about the geographical spread of non-financial conduit entities, while this information is available to an extent for financial conduit entities, but only for certain years, the latest being 2019.
- 55 CBS table: Current transactions by sectors; National Accounts.
- 56 Report Committee on Conduit companies: 'The road to acceptable conduit activities', pp. 32 and 33, October 2021.
- 57 Report Committee on Conduit companies: 'The road to acceptable conduit activities', p. 33, October 2021 These income flows consist mainly of royalties. On average, from 2015 to 2019, 79% of royalty flows passing through the Netherlands went to countries listed by the Dutch government as low-tax jurisdictions.
- 58 Minimum €191.9 billion (€163.8 + €28.1 billion) and maximum €207.7 billion (€163.8 + €43.9 billion) relative to a total of €232 billion (2019).
- 59 Letter minister to Parliament, June 2022 (in Dutch).
- 60 SOMO: 'Conditionele bronbelasting, drie tekortkomingen' (in Dutch).
- 61 The decrease in 2020 was from €39 billion to €6 billion, a year before the introduction of the conditional withholding tax. In 2021, when the measure came into force, the outgoing income flow remained €6 billion. DNB: Mapping conduit flows through the Netherlands'.
- 62 Letter to Parliament on monitoring the effects of tackling tax avoidance, June 2022 (in Dutch).

- 63 Press release Dutch government: 'Belastingontwijking via Nederland flink afgenomen door maatregelen' (in Dutch).
- 64 Position paper Henk Vording, March 2021 (in Dutch).
- 65 See Google Netherlands Holdings B.V., Annual Report, 2021, p. 3, and CPB report: Conduit country the Netherlands in the spotlight, p. 7, January 2019.
- 66 Reuters: 'Google to end "Double Irish, Dutch sandwich" tax scheme', December 2019.
- 67 Guardian: 'Google says it will no longer use "Double Irish, Dutch sandwich" tax loophole', January 2020.
- 68 In the preceding eight years Google had funnelled €128 billion through its Dutch subsidiary to Bermuda. NOS: 'Belastingontwijking Google leverde Nederland ruim 25 miljoen euro op', January 2021 (in Dutch).
- 69 CNBC: 'Google to end "Double Irish, Dutch sandwich" tax scheme', December 2019.
- 70 For the years 2019, 2020, and 2021, interest flows to low-tax jurisdictions fell from €4 billion to €2 billion to €1 billion. Interest flows to all countries fell from €63 billion to €32 billion to €15 billion: DNB: Mapping conduit flows through the Netherlands'. These were the first years of the Covid-19 pandemic.
- 71 CBS longread 'De internationale dienstenhandel in woelige tijden', 2022 (in Dutch).
- 72 This data is not yet available for the other financial (S.127b) and non-financial (S.11) conduit entities. However, based on Figure 5, it would be no surprise if outward income flows to these low-tax jurisdictions had also increased for S.127b conduit entities.
- 73 DNB table 15.6: 'Income flows of SPEs by geography'.
- 74 Although we know this with certainty for the period until 2019, after this period we lack specific data for S.127b and S.11 conduit entities. We know, however, that on average for the period 2020 to 2022 only about 3.5% to 4% of total inward and outward income flows were directly connected with low-tax jurisdictions as categorised by the Dutch government. DNB table 15.6: 'Income flows of SPEs by geography'.
- 75 Law introducing conditional withholding tax on dividends.
- 76 Tables 1a and 3a in DNB analysis 'De doorstroom via Nederland in kaart'.
- 77 Rapport Adviescommissie belastingheffing van multinationals. April 2020 (in Dutch).
- 78 Offshore financial centres, for example, are a group of countries for which official Dutch statistics present information on income flows only in a clustered form. Yet FDI flows to and from these countries are known, and the related trends among these countries show a wide variety. Hence statistical aggregation for this diverse group of countries obscures much valuable information.
- 79 Information on conduit entities is very limited in the Netherlands because of exemptions that are absent in neighbouring countries. The Committee on Conduit companies pointed out the risk that multinational companies will avoid reporting requirements by using these exemptions. Therefore, the committee made proposals to improve transparency, such as removal of the exemption in article 2:403 of the Dutch Civil Code, as a result of which companies would have to report separately on subsidiaries they use as conduit entities.
- 80 CPB report: Conduit country the Netherlands in the spotlight, p. 4, January 2019.
- 81 OECD, Harmful Tax Competition: An Emerging Global Issue, 1998, p. 23.
- 82 OECD: List of Unco-operative Tax Havens, June 2018.
- 83 Oxfam, 'EU tax havens list: a nonsense exercise', October 2023.
- 84 DutchNews: 'The Netherlands is a tax haven alongside Ireland, Malta and Cyprus, say MEPs', March 2019.
- 85 DNB table 12.21: 'Geographical distribution income (interest, royalties and dividends)'.
- 86 DNB table 15.6: 'Inkomensstromen BFI's naar geografie' (annual).
- 87 DNB table 15.6: 'Inkomensstromen BFI's naar geografie' (quarterly).
- 88 CBS table: Lopende transacties; sectoren, nationale rekeningen.
- 89 DNB table 15.3: 'Geografie directe investeringen BFI's'.
- 90 DNB table 12.16: 'Buitenlandse directe investeringen in Nederland uitgesplitst naar land (jaar)'.
- 91 CBS table: Lopende transacties; sectoren, nationale rekeningen.

# OMOS

## Colophon

**The Netherlands – still a tax conduit?**  
June 2024

**Authors** Maarten Hietland and Arnold Merkies  
**Editor** Miles Litvinoff  
**Layout and graphics** Frans Schupp  
**Cover** based on Corpnet graphic

**Acknowledgements** Indra Römgens (Radboud University), Arjan Lejour (Tilburg University), Wouter Leenders (University of California), Henk Vording (Leiden University), Vincent Kiezebrink (SOMO), CBS and DNB

**SOMO**  
Stichting Onderzoek Multinationale  
Ondernemingen  
Centre for Research on Multinational  
Corporations

KNSM-laan 17  
1019 LA Amsterdam  
The Netherlands  
Tel: + 31 (20) 6391291  
Email: [info@somo.nl](mailto:info@somo.nl)  
Website: [www.somo.nl](http://www.somo.nl)

SOMO investigates multinationals. Independent, factual, critical and with a clear goal: a fair and sustainable world, in which public interests outweigh corporate interests. We conduct action-oriented research to expose the impact and unprecedented power of multinationals. Cooperating with hundreds of organisations around the world, we ensure that our information arrives where it has the most impact: from communities and courtrooms to civil society, media and politicians.

This document is licensed under the Creative Commons Attribution-NonCommercial-NoDerivate Works 4.0 License.