Position statement on corporate tax policy and tax transparency
Adopted on 15 January 2019

1. INTRODUCTION

Tax avoidance and tax transparency by companies is high on the agenda of regulators, policy makers and the general public. Institutional investors are also aware of the complexity of tax issues. They are increasingly confronted with tax related dilemmas in respect to their own approach to tax and when engaging with companies on this subject. Eumedion generally supports the actions taken by governments and regulators to promote a responsible approach to tax by multinational companies and to increase tax transparency. Examples of such initiatives include the Action Plan to address Base Erosion and Profit Shifting (BEPS) from the Organisation for Economic Co-operation and Development (OECD) and the proposal for a directive from the European Commission which requires multinational companies to report on profits and tax paid in each country where they have operations (country-by-country reporting)[1].

Eumedion aims to contribute to the ongoing discussion by issuing a position statement on corporate tax policy and tax transparency. The first version of this statement was published in 2015, the statement was reviewed in 2018 to reflect current regulatory developments and investor initiatives (annex 1). The updated version also includes three new examples of good practices in tax reporting by companies (annex 2).

[1] The European Commission's proposal for a directive on country-by-country reporting is still subject to negotiations.

2. EUMEDION POSITION

Tax transparency and board accountability

Eumedion participants expect companies to have a responsible approach to tax, as part of their strategy for good corporate citizenship. Eumedion participants believe that it is the responsibility of the Board to strike an appropriate balance between the financial benefits of reducing tax expense and any heightened reputational and regulatory risks that accompany specific tax practices. Companies are expected to act in the spirit of the law and comply with the legal and regulatory framework that is applicable to their business activities. Investors need insightful information on identified tax risks and an overview of where taxes are paid (‘country-by-country reporting’). The Board should assess the risks associated with the company’s approach to tax and match it with the appetite for risk and the critical need to maintain the trust of stakeholders. It is the role of the supervisory board to monitor compliance with the company’s tax policy and approach. To improve transparency and accountability on tax issues by companies, Eumedion generally supports the actions for sound tax practices currently taken by governments and regulators.[2]

Tax policy and risk analysis

Companies are expected to disclose a tax policy in their annual report and to demonstrate a responsible approach regarding the management of tax related issues. Any possible short-term financial benefits of engaging in excessive tax planning may not outweigh in the long term negative outcomes to brand value, stakeholder relations and the social license to operate. These factors are critical for a company’s long-term success and should therefore be addressed in a tax policy. Promoting greater disclosure of taxes paid per country increases overall transparency and allows for a more detailed analysis by investors. Eumedion participants will ask company management and supervisory boards to demonstrate sound tax practices and tax policies, and clarify how these issues are supervised[3].

Investors need better information

To better understand and model a company’s tax position, investors would like to have forward looking information on taxes, preferably in the annual report, on how the future effective corporate tax expense rate and the effective corporate taxes paid rate are expected to develop. Furthermore, this should include an explanation of the deferred tax assets and deferred tax liabilities. Meaningful disclosures on a company’s tax positions allows for an in-depth analysis of where taxes are paid, and where potential risks stemming from excessive tax optimisation may exist.

Annex 2 to this memo provides three examples of good practices on tax reporting by Dutch listed companies.

[2] Reference is made to annex 1.
[3] Eumedion Focus Letter 2016; http://eumedion.nl/nl/public/kennisbank/speerpuntenbrief/speerpuntenbrief-2016.pdf

ANNEX 1: MOST RELEVANT REGULATORY ACTIONS AND INVESTOR INITIATIVES

a) In April 2016, the European Commission adopted a proposal for a directive which requires companies to publish an annual report on taxes paid in each country where they are active (country-by-country reporting)[4]. After a year of negotiations between the Legal Affairs Committee (JURI) and Economic and Monetary Affairs Committee (ECON) of the European Parliament, a number of amendments were proposed to, and adopted by the European Parliament in July 2017[5]. As of then, the proposal is subject to negotiations within the EU Council which has not come to a conclusion yet.

b) Country-by-country reporting is one of the minimum standards within the OECD/G20's Base Erosion and Profit Shifting package (BEPS), which entered into force on 1 January 2016[6]. Action 13 of BEPS requires multinational enterprises to report annually and for each tax jurisdiction in which they do business on taxes paid to governments. Over 100 countries committed to BEPS, so far 71 jurisdictions have implemented an obligation for relevant companies to file country-by-county reports, including the Netherlands.

c) In June 2016, the International Corporate Governance Network (ICGN) published a viewpoint on Corporate Tax Policy.[7] The viewpoint expresses the belief that 'shareholders can and should ensure that the companies in which they invest have a responsible approach to tax practices which takes into account the broader economic and social view'. In addition, ICGN encourages investors to explore how they can use country-by-country reporting by companies in investment analysis and/or company engagement.

d) The Dutch Association of Investors for Sustainable Development (VBDO) and PwC cooperate in publishing the annual Dutch Tax Transparency Benchmark[8]. The benchmark ranks 76 Dutch multinational companies on the transparency which they provide regarding their tax strategy and its implementation. Following the results of the benchmark, recommendations are outlined for, amongst others, companies, tax authorities and investors.

e) In May 2018, the Principles for Responsible Investment (PRI) launched an updated guidance for institutional investors which helps them engaging with companies to improve tax disclosure.[9] The guide aims to address investor concerns over potential legal, operational, reputational, financial and/or governance risks associated with corporate tax malpractice. The first edition of the guidance was complemented in 2017 with the investors' recommendations on corporate income tax disclosure, a set of disclosure recommendations to strengthen transparency on corporate income tax, tax policy, governance and risk management areas.

[4] https://ec.europa.eu/info/publications/proposal-directive-corporate-tax-transparency-country-country-reporting_en
[5] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2017-0284+0+DOC+PDF+V0//EN
[6] http://www.oecd.org/tax/beps.htm
[7] https://www.icgn.org/policy/viewpoints/corporate-tax-policy
[8] https://www.pwc.nl/nl/actueel-publicaties/assets/pdfs/pwc-tax-transparency-benchmark2018.pdf
[9] https://www.unpri.org/download?ac=4668

f) Principle 1.5 of the Dutch Corporate Governance Code that deals with the role of the supervisory board contains a section on duties and responsibilities of the audit committee. The code states that the audit committee of companies should focus on, among other things, monitoring the management board with regard to the company's tax policy.[10]

[10] https://www.mccg.nl/?page=4738

ANNEX 2: GOOD PRACTICES IN TAX REPORTING

This annex provides three good practices of tax corporate reporting by a large-, mid- and small-cap company listed on the Dutch stock exchange. Overall, the quality of tax policies at large Dutch listed companies varies, only some companies disclose tax payments on a country-by-country basis.

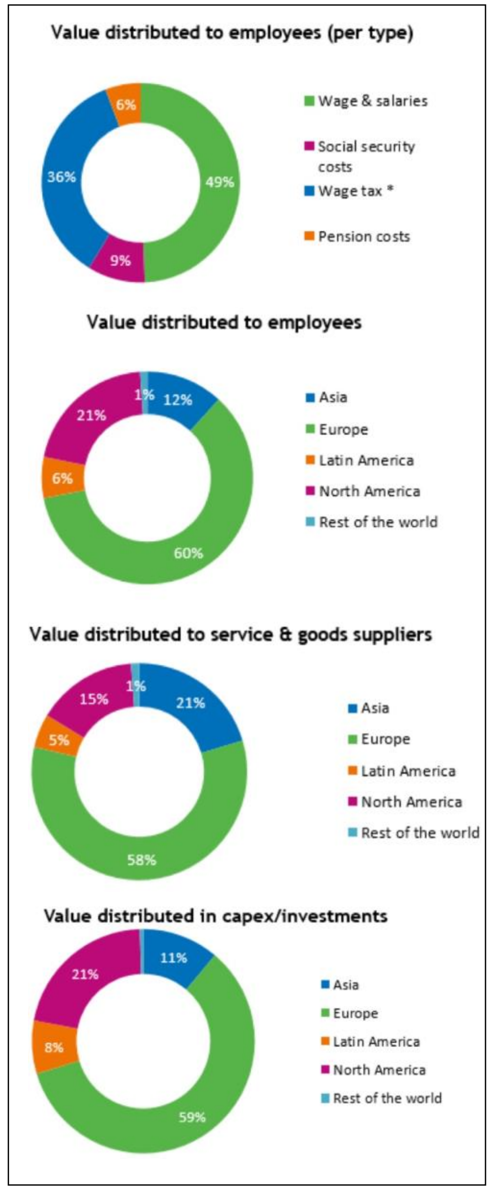
I. DSM

In its annual statement 'Taxation at DSM', the company explains its approach to tax, its tax policy and principles on tax governance. The policy also includes a section that explains the economic value created and distributed by DSM and the effective tax rate of the company.

In 'Taxation at DSM', the company states that it 'believes a responsible approach to tax is an integral part of doing sustainable business in a robust, well-functioning society'. DSM's tax policy is compliant with the OECD initiative on Base Erosion & Profit Shifting, including topics such as country-by-country reporting.

The paragraph 'Economic value generated and distributed' discloses information on the economic contribution by DSM as a company operating in over 50 countries. The value generated by the company includes its net sales. The value distributed by the company includes, amongst others, employee benefits, goods and services purchased from suppliers, dividend and interest payments to capital providers, philanthropy, customs duties and other payments to governments, including taxation.

The Taxation at DSM-report is available on the company's website.



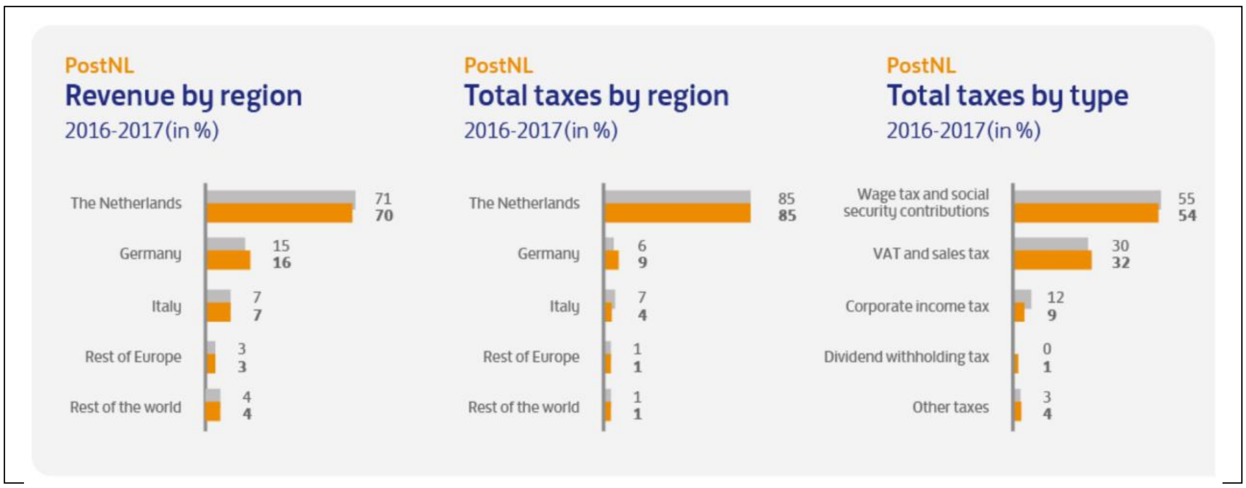
Economic value distributed by DSM (source: Taxation at DSM)

II. PostNL

In its annual report, PostNL provides a tax policy, a set of tax principles and an explanation on the mechanism in place for application of the tax policy. The company states that it aims ‘to comply with the letter as well as the spirit of the laws’. Also, the company states that it operates in compliance with the OECD guidelines in this regard.

The company’s guiding principles on tax state that PostNL does not use ‘(i) contrived or abnormal structures or (ii) secrecy jurisdictions or so-called tax havens for tax avoidance’. Considering these principles it assesses its ‘tax risk appetite as moderate’.

PostNL’s tax policy also includes a statement on governance and accountability. The company acknowledges that ‘a robust governance framework is required to maintain control over tax matters and related risks’. PostNL operates a Group Tax department which ensures that tax matters are dealt with according to the mandate given to it by the Board of Management.



A breakdown of taxes paid by PostNL, by type and region (source: PostNL 2017 annual report)

The full tax policy and set of tax principles of PostNL are published in the company’s [2017 annual report](#).

III. Royal Wessanen

The starting point of Wessanen's corporate tax policy is the believe that paying taxes is ordinary behaviour and part of the company's corporate social responsibility. The company's policy contains a set of proclamations that describes Wessanen's approach to tax. 'Wessanen is tax compliant and pays the tax that is due and owed', the policy reads.

Furthermore, the policy emphasizes that paying taxes should be aligned with commercial business. As a result, the company does not establish 'artificial tax driven structures that are not in line with (the spirit of) any tax regulations'. Wessanen states that it does not maintain or implement aggressive tax planning structures or entities located in tax havens.

The tax policy is a matter of discussion during the company's tax department meetings, that are joined by the CFO. Wessanen states that the effective tax rate is not a KPI of the tax department, instead the department is measured against compliance targets and adherence to tax regulations. Also, the policy is subject to discussions with the stakeholders of Wessanen, including investors, NGO's and tax authorities.

All the proclamations of Wessanen's tax policy are published in the company's 2017 annual report.