

## Dutch Government starts consultation on updated list of low-taxed jurisdictions to apply for FY 2020

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### Executive summary

On 7 October 2019, the Dutch Government initiated a consultation on the updated list of low-taxed and non-cooperative jurisdictions relevant to the application of certain Dutch measures against tax avoidance. Compared to the prior list,<sup>1</sup> the proposed updated list no longer includes the Kingdom of Saudi Arabia (KSA) and Belize but now includes Barbados and Turkmenistan.

If adopted, this new list will become relevant for fiscal years starting on or after 1 January 2020. Inclusion on the list could impact multinationals with entities or permanent establishments in one of the jurisdictions and controlled by or engaged in transactions with a Dutch taxpayer.

### Detailed discussion

The Dutch list of low-taxed and non-cooperative jurisdictions is updated annually to include jurisdictions that the Dutch Government has identified as having no profit tax regime or a profit tax regime with a statutory rate of less than 9% (low-taxed jurisdictions) as well as those jurisdictions that are included on the European Union (EU) blacklist of non-cooperative jurisdictions in tax matters as published in the calendar year prior to the calendar year in which the relevant fiscal year commences.

The list is particularly relevant for the Dutch controlled foreign company (CFC) rules, the revised Dutch tax ruling practice effective 1 July 2019 and the proposed conditional withholding tax on interest and royalties by Dutch companies to group companies residing in one of the listed jurisdictions as of 1 January 2021. Reference is also made to our recent EY Tax Alert on the Dutch Budget Proposals in this respect.<sup>2</sup>

The Dutch list published for consultation consists of the following jurisdictions: Anguilla, Bahamas, Bahrain, Barbados, Bermuda, British Virgin Islands, Guernsey, Isle of Man, Jersey, Cayman Islands, Kuwait, Qatar, Turkmenistan, Turks and Caicos Islands, Vanuatu and the United Arab Emirates (UAE).

The Dutch Government currently no longer considers the KSA to qualify as a low-taxed jurisdiction as the average local tax burden exceeds the aforementioned 9% tax over profit, considering the local corporate tax system and the levy of Zakat. Also, in relation to Belize, the Dutch Government has concluded that the local statutory levy over revenue results in a profit tax exceeding 9%.

Barbados reduced its statutory profit tax rate effective 1 January 2019 to vary between 1% and 5.5%. For Turkmenistan, the 8% rate (in addition to the 20% rate) was incorrectly not considered to be a general statutory rate. As a result, both jurisdictions were added to the preliminary list for FY 2020.

Furthermore, and separate from the Dutch list, the EU finance ministers agreed on 10 October 2019 to remove the UAE and the Marshall Islands from the EU Blacklist.<sup>3</sup>

The UAE is removed from the list because it recently adopted new measures with respect to offshore structures. Hence, the jurisdictions currently included on the EU Blacklist are as follows: American Samoa, Belize, Fiji, Guam, Oman, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu. It is important to note that the jurisdictions listed on the EU Blacklist do not form part of the aforementioned Dutch consultation. In addition, although the UAE is removed from the EU Blacklist, the UAE currently remains to be included on the proposed Dutch list, but this might change as a result of the publication of the updated EU Blacklist.

## Next steps

Parties can provide comments regarding the updated Dutch list up to and including 8 November 2019. The final Dutch list of low-taxed jurisdictions to become applicable to (book years starting in) calendar year 2020 is expected to be published in December 2019.

## Implications

Overall, multinationals with a business in one of the listed jurisdictions, either through an entity or a permanent establishment, should carefully review whether the above impacts their current structure, potential investments and restructuring plans.

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## Endnotes

1. See EY Global Tax Alert, [Dutch Government publishes list of low-taxed jurisdictions: Impact to the Middle East](#), dated 14 January 2019.
2. See EY Global Tax Alert, [The Netherlands publishes 2020 budget proposals](#), dated 18 September 2019.
3. The EU finance ministers further agreed to remove Albania, Costa Rica, Mauritius, Serbia and Switzerland from the EU grey list (i.e. the so-called "watch list").

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