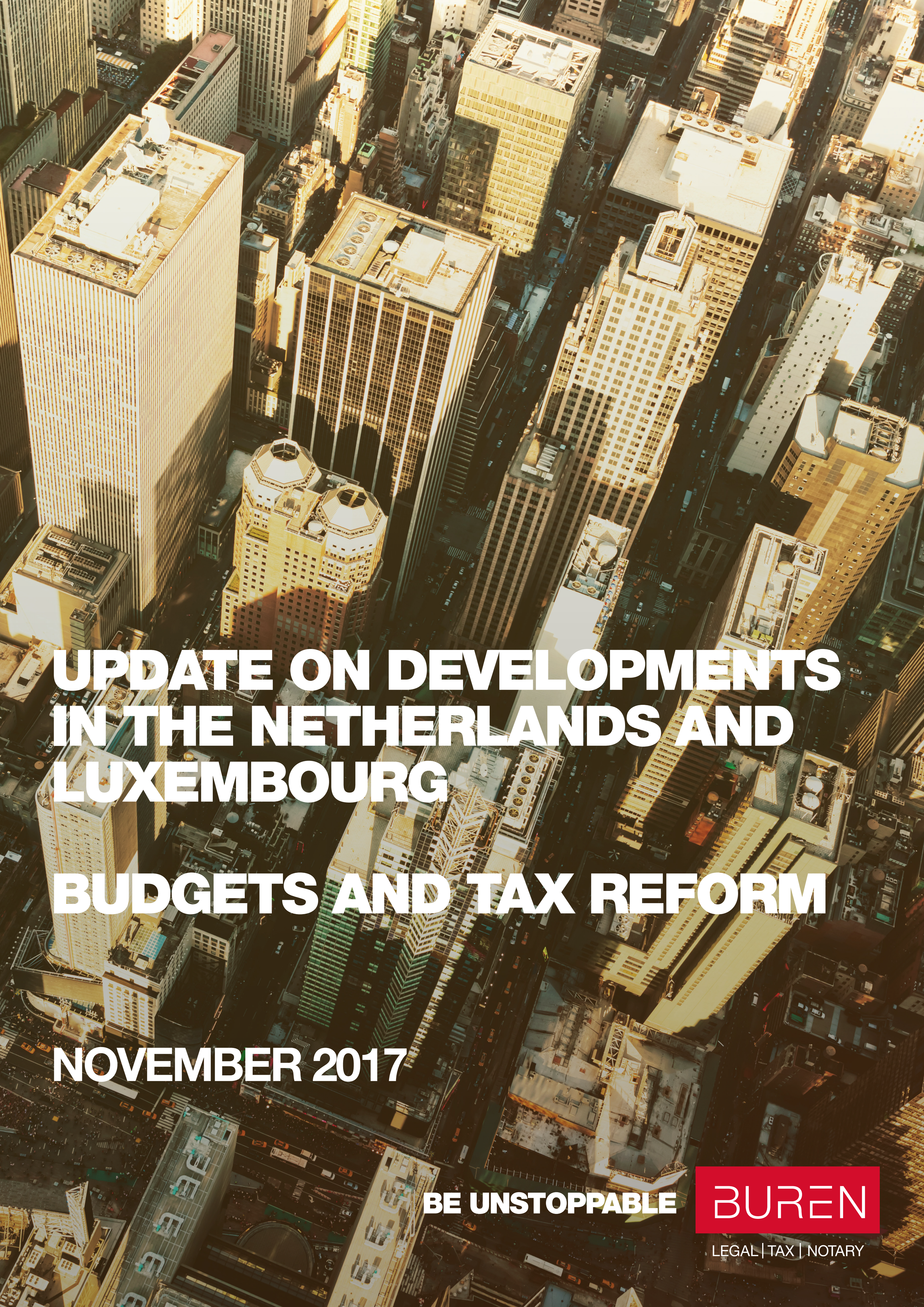


UPDATE ON DEVELOPMENTS IN THE NETHERLANDS AND LUXEMBOURG

BUDGETS AND TAX REFORM

NOVEMBER 2017

BE UNSTOPPABLE

BUREN

LEGAL | TAX | NOTARY

The Netherlands

After many months of negotiations following the Dutch general elections in March 2017, a new Dutch coalition government presented on 10 October its policy roadmap for its four year term.

With left wing and populist parties now in the opposition, the new Dutch government aims to improve the investment climate in the Netherlands by proposing robust measures to benefit companies that add real value to the Dutch economy and target tax avoidance by e.g. discouraging the use of letterbox companies by introducing a breaking withholding tax on interest and royalty payments. It is the ambition of the Dutch government that the Netherlands becomes shortlisted by foreign investors that genuinely wish to invest in the Dutch economy opposed to those that are solely using the Netherlands as a hub for structuring overseas investments.

Proposed key measures to increase the attractiveness of the Netherlands are the abolishment of the dividend withholding tax as from 2020, phased reduction of the headline corporate income tax rate from 25% to 21% in 2021, introduction of anti-abuse withholding tax on dividends, royalties and interest paid to low tax jurisdictions and certain steps to protect the tax base (such as the introduction of an earnings stripping rule without group escape option). Anticipating the abolishment of the dividend withholding tax, the former government who was responsible for preparing the Budget for 2018, proposed to extend the existing dividend withholding tax exemptions to qualifying foreign corporate shareholders in non-abusive situations which requires significant (payroll) substance to be in place at the level of the direct shareholder.

Where the former government already unequivocally embraced the recommendations under the OECD BEPS project and the coordinated and coherent implementation thereof by way of the ATAD in the EU member states, it also showed a strong commitment to be a frontrunner and early adapter. The new government eagerly continues this approach. It is noted however that the new Dutch government from a subsidiarity perspective recently expressed its reservations with respect to the CCCTB proposal of

the European Commission. On the other hand, the new Dutch government seems to have engaged itself in the race of international tax competition by the phased reduction of the headline tax rate.

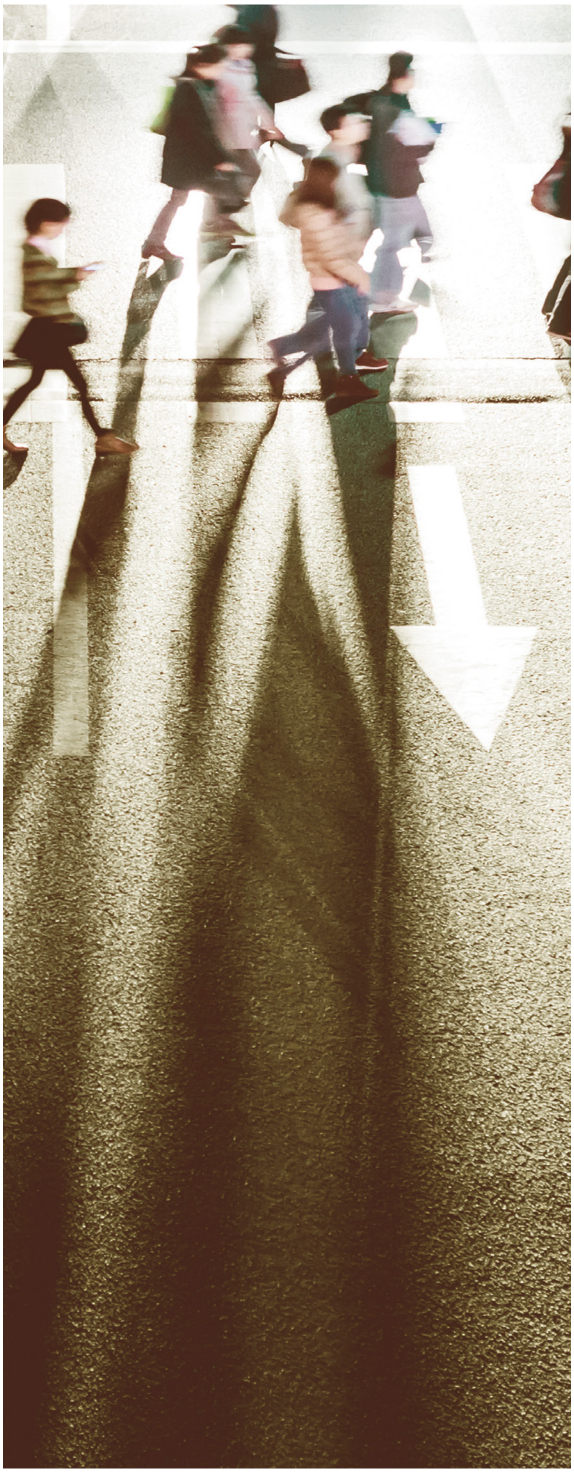
With respect to the implementation of ATAD 1 in Dutch law, the Dutch government released a consultation document with a legislative proposal to follow early 2018 in order implement ATAD 1. It will be interesting to see which policy choices the Dutch government will make, e.g. with respect to the implementation of article 6 requiring a member state to introduce a CFC rule as this is likely to have an effect on the participation exemption, that is considered to be one of the pillars of the Dutch investment climate.

Luxembourg

The Luxembourg economy heavily depends on the global financial and investment fund industry. In the past years the Luxembourg investment climate has been exposed to many challenges initiated by the European Commission, the OECD with its BEPS project and legislative actions by the EU member states. Despite all of this the Luxembourg government shows remarkable resilience and determination to maintain its position as a preferred investment hub and go-to market place for private and institutional investors, in particular in a post Brexit environment. Part of the Luxembourg strategy is that it pushes for a harmonized approach of BEPS recommendations and EU initiatives as well as a global level playing field. This also explains why Luxembourg takes the role of a late adapter with respect to introducing changes to its tax framework.

The recently announced Budget Tax Bill 2018 does not contain significant changes. Noteworthy is the lowering of the headline corporate income tax rate to 18%. Earlier changes during the year related to the modification of the Luxembourg IP regime to be changed inspired by BEPS in a modified nexus approach with an effective tax rate of 5.2%

With respect to MLI Luxembourg respects the minimum standards, but does not go much beyond.



Key contacts

Cees-Frans Greeven
Partner
c.greeven@burenlegal.com
T +352 2644 0919

Peter van Dijk
Partner
p.vandijk@burenlegal.com
T +31 (0)70 318 4834

BUREN

LEGAL | TAX | NOTARY

Amsterdam
World Trade Center
Tower C - level 14
Strawinskylaan 1441
1077 XX Amsterdam
The Netherlands

PO Box 78058
1070 LP Amsterdam
The Netherlands

T +31 (0)20 333 8390
F +31 (0)20 333 8399

Beijing
Zhong Yu Plaza, Room 1602
No. 6, North Gongti Road
ChaoYang District
100027 Beijing
The People's Republic of China

T +86 (10) 8 5235 780
F +86 (10) 8 5235 770

The Hague
Johan de Wittlaan 15
2517 JR The Hague
The Netherlands

PO Box 18511
2502 EM The Hague
The Netherlands

T +31 (0)70 318 4200
F +31 (0)70 356 1340

Luxembourg
5, Rue Goethe
L-1637 Luxembourg
Luxembourg

T +352 (0)2644 0919
F +352 (0)2717 7700

Shanghai
Room 2505B, ICC-Tower
No. 3000, North Zhongshan Road
200063 Shanghai
The People's Republic of China

T +86 (21) 6 1730 388
F +86 (21) 6 1730 386