

Editorial

The Dutch Presidency

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As of the first of July until the end of 2004, the Netherlands has the honour of being the President of the EU. Being the State Secretary for tax matters, I am of course very eager to use this opportunity to get some tax matters one step further within the EU or at least put some issues on the European negotiation table for further discussion. Before mentioning the different tax matters on which the Dutch Presidency will try to make some progress, I would like to give you an impression of the conditions under which our Presidency has to be carried out.

The most important difference with former presidencies is that the Dutch Presidency is the first which deals with an enlarged Union during the whole period of time. Since the beginning of May 2004 the EU is enlarged from 15 Member States (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the UK) to 25 (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic and Slovenia). One of the effects of the enlargement is that it will take much more time to reach an agreement on anything, because naturally every Member State has the right to make its position clear to all other Member States and decisions on taxation issues require unanimity. As a consequence of enlargement another time-consuming factor is the translation of formal documents in nine extra languages. Before the first of May there were 11 official languages, which have now become 20. Especially on such a technical subject as taxation, each Member State wishes to see what they are supposed to agree with in their own language before coming to their final conclusion.

Another condition which complicates operating under the Dutch Presidency is the fact that there were elections for the European Parliament last June. The starting up of the new European Parliament takes some time, during which the European Parliament is not as active as it normally is. This also is of consequence for tax matters because the European Parliament has to be consulted on tax matters and the reaction of the Parliament could now take up more time than usually is the case.

The last hampering condition under which the Dutch Presidency has to operate is the fact that as of November 2004 the European Commission will resign and new Commissioners will be appointed. The consequence of which is that the current Commissioners do not want to make decisions, which can be

postponed to the new Commissioners. Deciding on important matters could offend the newcomers. Despite these difficulties, which will definitely effect the Dutch Presidency, we will of course nonetheless try our utterly most to make the best of this important task.

In general one could say that the Dutch Presidency will focus on lowering the administrative burden on businesses and simplifying tax legislation, but now not only from a national point of view, but also from a European point of view. As you may probably know lowering the administrative for businesses (and individuals) is one of the main goals of the current Government.

So, what are we going to do on taxation to achieve our goal? In the field of indirect taxation we will emphasize the new VAT proposals. As direct taxation is concerned, we will carry on with the proposal for amending the Merger Directive and hopefully come to an agreement on this Directive.

The two new VAT proposals which the European Commission will present this autumn will be the proposal for a VAT one-stop shop and the proposal for rationalizing derogations adopted under Art. 27 of the Sixth Directive (77/388/EEG), that allow Member States to take anti-abuse measures which the Directive does not foresee. Under the Dutch Presidency both new VAT proposals will be key issues.

The European Commission's VAT proposal with regard to the one-stop system is considered to be an opportunity to simplify the current VAT system and decrease administrative burdens for businesses which do not have a permanent establishment or a subsidiary in another Member State. Under current rules the place of taxation of a taxable transaction determines the Member State in which the tax obligations relating to returns and payment of VAT for this transaction are to be discharged. The one-stop proposal is expected to introduce a single registration point for taxpayers. Taxpayers will only have to register for VAT in their own Member State, even if they are also liable for VAT in other Member States. This means that a taxpayer can deal with the tax authorities of 25 Member States through this one-stop shop system and does not have to worry about all the different return and payment forms. The one-stop system will enable taxpayers to fill in one tax return, including a specification per Member State. Furthermore, I expect that this electronic one-stop will include the right to deduct VAT and replace the current paper procedure for VAT refunds

under the Eighth VAT Directive, without amending the VAT rules.

The second new proposal, which will be expected later this year, will be the proposal to rationalize the numerous adopted by the Council derogations on the basis of Art. 27 of the Sixth VAT Directive, which allow the different Member States to take anti-abuse and simplification measures. The European Commission's proposal will expectedly broaden the scope of currently Member State specific anti abuse and simplification measures derogations into more general measures which can be applied by all Member States. It is essential to combat VAT fraud, evasion and avoidance, because the current European VAT system is susceptible to VAT fraud, evasion and avoidance. The Netherlands for example suffers from VAT avoidance schemes with regard to valuable movable and immovable property. The avoidance does not only have impact on government revenue but disrupts fair competition as well. In addition, the whole EU suffers from VAT carousel fraud (missing trader fraud). In this respect we will welcome the European Commission proposal regarding legislative measures to combat VAT fraud and avoidance and we will start discussion on this matter during our Presidency. This subject does not directly relate to the lowering of administrative burden for businesses, but it will simplify the VAT system and make it more transparent, which I believe is a benefit not only for tax authorities but business as well. The same could be said for the now following issue.

In the field of direct taxation our focus will be on the proposed amendments to the existing Merger Directive (90/434/EEG) to improve, clarify and broaden the scope of this Directive. These amendments were presented by the European Commission on 21 October 2003 and are now under discussion in Brussels. The modification of the Merger Directive is needed to abolish still remaining fiscal distortions in the case companies located within the European Union would like to merge or divide. This will help to lower the administrative burden for businesses,

because in more situations than is the case at this moment, businesses do not have to pay tax at the moment a merger, exchange of shares, exchange of assets, division or partial division occurs. Such a reorganisation would normally lead to a taxable profit. But because the former hidden profits only exist on paper and aren't tangible at that moment, tax due will be deferred till the moment the profits will become tangible. For example when the shares or assets are sold. In practice the already existing Merger Directive does not seem to cover all the situations in which the Member States would like to give the benefits of the Directive. The major amendment in this proposal is the broadening of the scope. Not only will a number of national entities be added to the Annex to the Directive, but also the *Societas Europaea* (SE) and the *Societas Cooperativas Europaea* (SCE). This has as a consequence that there also will be some entities on the annex which will be seen as transparent by one Member State, but as opaque by the other. The proposal also deals with this situation. Another major amendment is that the proposal deals with the change of seat of the SE and SCE, in which case the Member States are not allowed to levy a liquidation charge. Amendments which are less sensitive to the Member States are the broadening of the scope to partial divisions, to the alteration of a branch in a subsidiary and the lowering of the participation percentage from 25 to 10 per cent. Taking into account the progress the Irish Presidency made already, the Dutch Presidency will certainly try to come to an agreement on this matter in an Ecofin council later this year or otherwise take this dossier a big step further than it already is.

Besides the before mentioned priorities, the Dutch Presidency will continue the work on the running tax issues, like for example the proposal regarding the VAT place of supply for services. Taking into account the conditions mentioned earlier, I feel challenged to do the best we can to get the different European tax issues a big step further and if possible get an agreement on one of the issues by the end of this year and I am sure that you will all watch me closely.