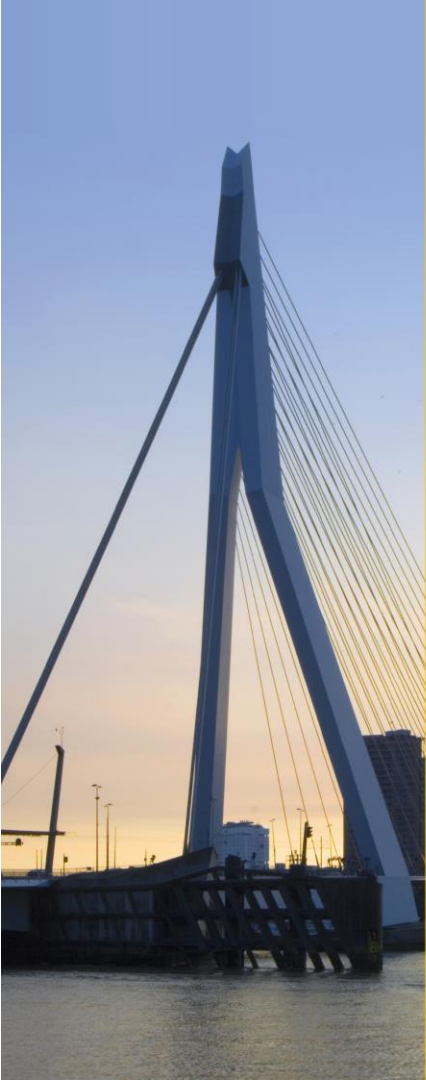


EFS Congres: Hebben Pillars I en II wel toekomst?

Erasmus Fiscal Studies

Rotterdam – Donderdag 3 oktober 2024

**Erasmus
University
Rotterdam**



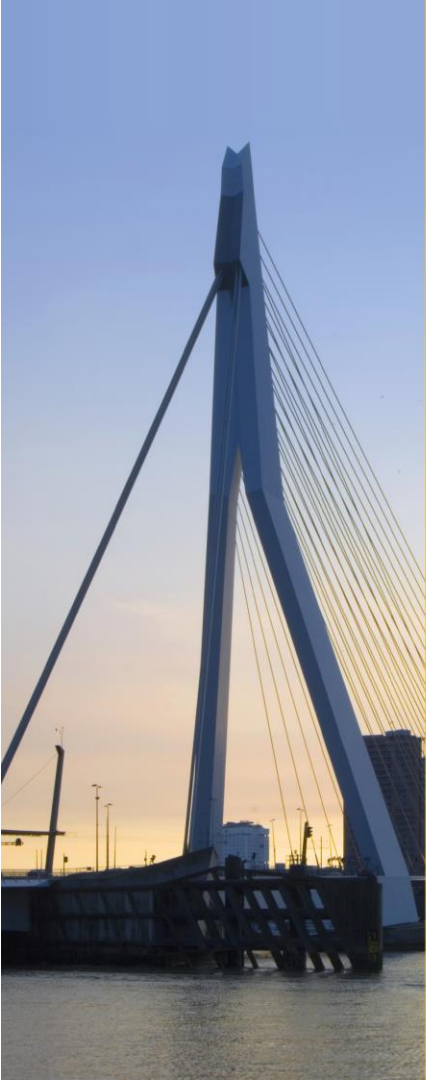
Welkomstwoord

Voorzitter van het congres: Ciska Wisman

Programma

Programma

- 13.30 – 14.00 **Ontvangst**
- 14.00 – 14.05 **Welkomstwoord** – Ciska Wisman
- 14.05 – 14.50 **Pillar I en II: setting the scene en stand van zaken** – Maarten de Wilde
- 14.50 – 15.35 **BEFIT, hoe gaan we Europese fiscale integratie tot stand brengen onder Pillar II** – Jaap Bellingwout
- 15.35 – 16.00 **Pauze**
- 16.00 – 16.45 **Alternatieven voor Pillar I en II** – Hans van den Hurk
- 16.45 – 17.45 **Discussie tussen sprekers en de zaal onderling** – plenair
- 17.45 – 18.45 **Afsluiting en borrel**



Hebben Pillars I en II wel toekomst?

Wat is waar?

Ciska Wisman

UvA

Rotterdam – 3 oktober 2024

Doel en strekking

- OECD Inclusive Framework on BEPS
 - Doel:
 - *‘Beperking belastingconcurrentie door staten’*
 - *‘Beperking belastingontwijking door belastingplichtigen’*
 - Middel:
 - Bijheffing tot 15%
- Preambule EU Richtlijn
 - Doel:
 - *“Op die manier wordt het wettelijke kader zo opgezet dat elke vorm van discriminatie tussen grensoverschrijdende en binnenlandse situaties wordt vermeden.”*
 - Middel:
 - Ook omvangrijke binnenlandse groep binnen reikwijdte

Maar: QRTCs, vervanging belasting- door subsidieconcurrentie (positie ontwikkelingslanden?), Pijler 2 heffing voor onderworpenheidstoets VPB (no benefit?)

- OECD Inclusive Framework on BEPS

- Doel:

- *‘Beperking belastingconcurrentie door staten’*
 - *‘Beperking belastingontwijking door belastingplanning’*

- Middel:

- Bijheffing tot 15%

- Preambule EU Richtlijn

- Doel:

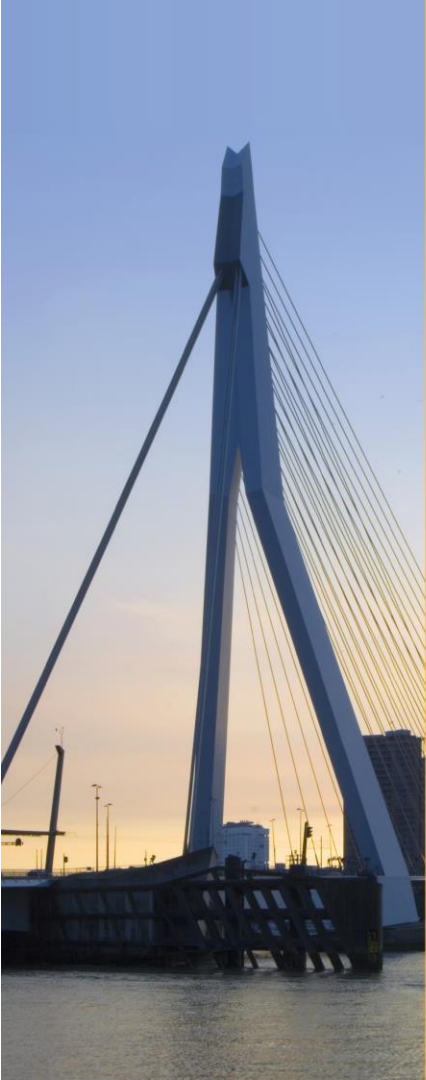
- *“Op die manier wordt het wettelijke kader zo opgezet dat elke vorm van discriminatie tussen grensoverschrijdende en binnenlandse situaties wordt vermeden.”*

- Middel:

- Ook omvangrijke binnenlandse groep binnen reikwijdte

Maar: onweerlegbare bewijsvermoedens (effectief tarief, kapitaal / immateriële activa) , nieuwe set planningsmogelijkheden

Maar: niet enkele binnenlandse entiteit, per jurisdictie benadering, geen tegenbewijs ‘misbruik’



Future of Company Taxation

Hebben Pillars I en II wel toekomst?

Prof. dr. Maarten de Wilde

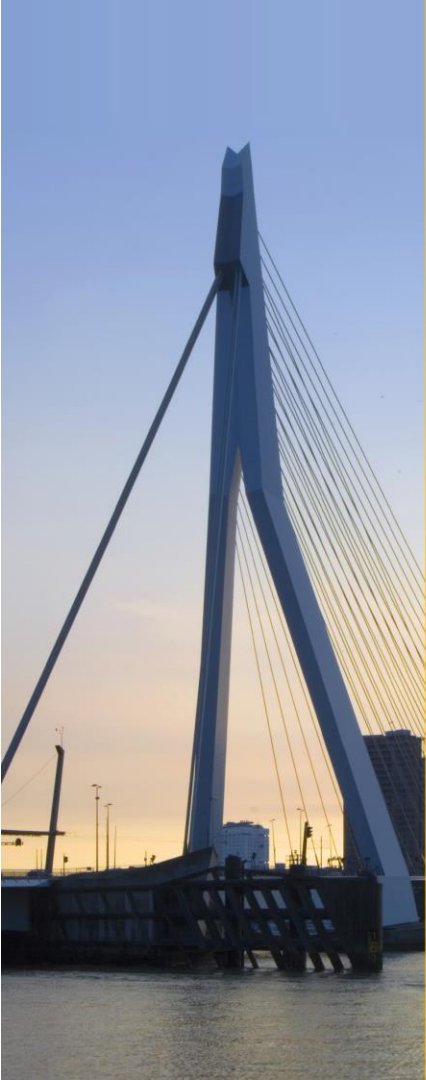
Erasmus Universiteit Rotterdam / PwC

Rotterdam – 3 oktober 2024



Today's topic: setting the scene

Future of Company Taxation



Question

‘Digital’: problem or symptom?

Taxing multinationals; some thinking behind

- **What we query...**
 - We seek to subject
 - *corporate groups*
 - *to single taxation on their (economic?) profits*
 - *side note: at a certain minimum?*
 - *in the relevant investment jurisdictions*
 - *side note: in the relevant market jurisdictions?*

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Taxing multinationals; some thinking behind

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Also how much to tax?

Taxing multinationals; some thinking behind

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 - Ideas
 - *Sovereignty*
 - *Benefits, ability to pay*
 - *Equity: equality, legitimacy, legal certainty, simplicity*
 - *Neutrality, efficiency: legal form, financing, investment location*
 - *Supply side (production): origin, territoriality*
 - *Side note: demand side (market)?*

Taxing multinationals; some thinking behind

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Fairness

The issue...

- **What we do...**
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 - » *"SAARs" & "GAARs"*
 - » *source taxes (nb. anti abuse or supply side taxation?)*
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Tax Avoidance

The issue...

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Tax Competition

The issue... (*cont'd...*)

- **What we have created...**
 - Distortions and incentives (arbitrary taxation)
 - *legal form*
 - *financing*
 - *investment location, investment direction (inbound, outbound)*
 - Inequities and incentives (arbitrary taxation)
 - *domestic operations v. cross-border operations*
 - *business/industry A v. business/industry B*
 - *Country A v Country B (mismatches/disparities)*

The issue... (*cont'd...*)

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 - *Country A v Country B (mismatches/disparities)*
 - Racing to the bottom...
 - And the ensuing societal debate...

The envisaged solution(s)...

- **What we consider doing tomorrow...**
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Tax Competition

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Fiscal Competition

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Why is that?

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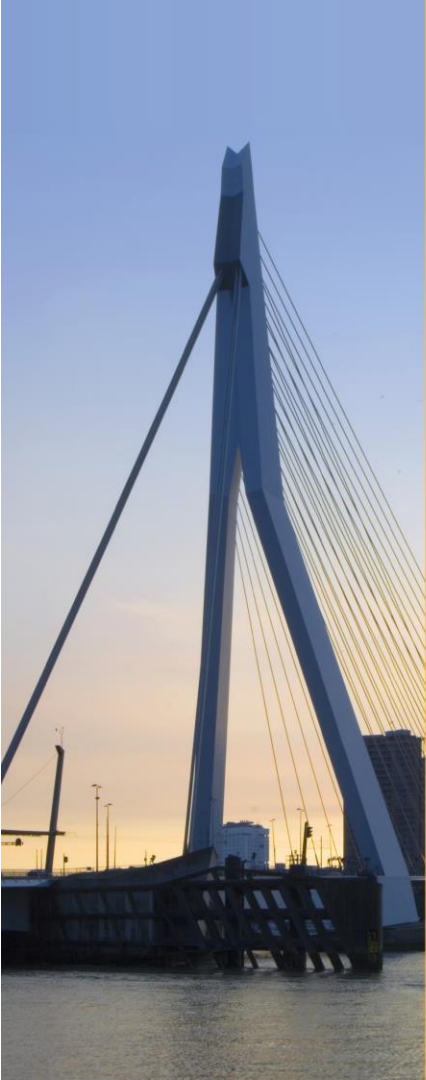
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Fairness?



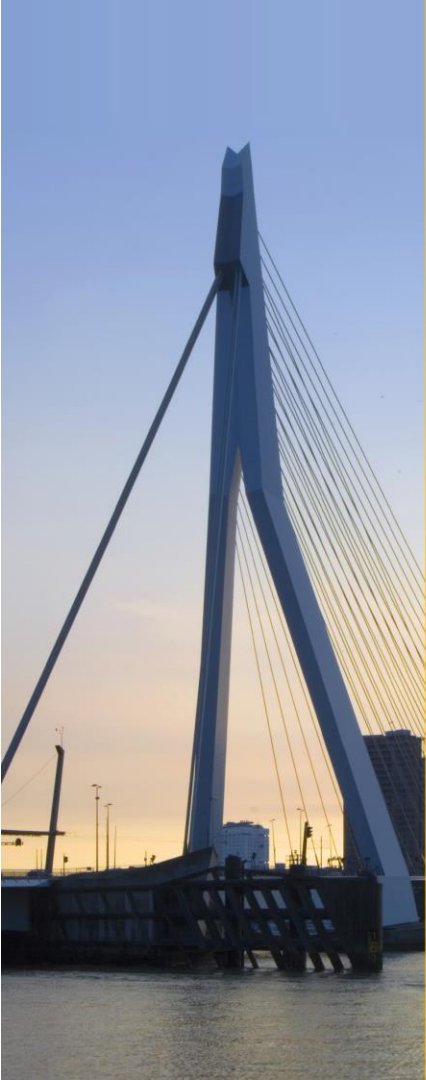
Any good?

“Are we on the right way?”



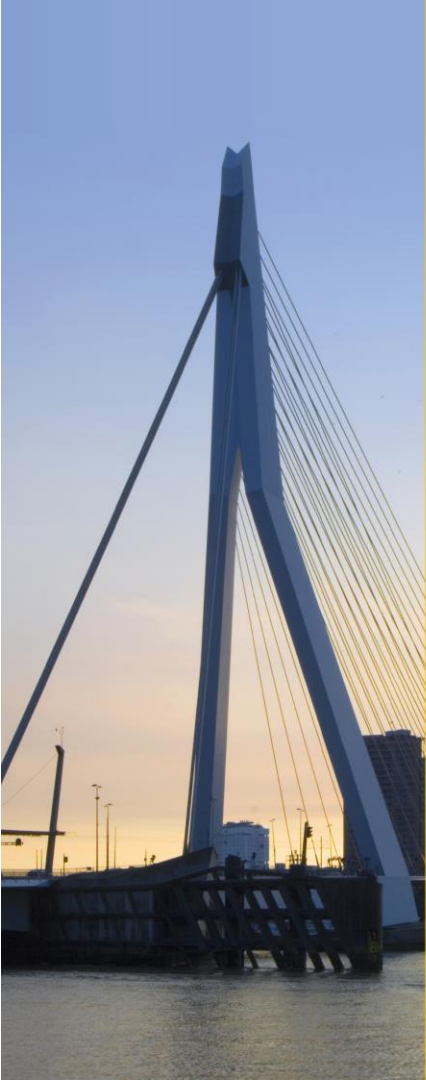
Any good? (cont'd...)

“On a proper basis?”



Any good? (cont'd...)

“Making things better?”



“Not sure...”

Suggestions and discussion

- **True system reform?**
 - Building blocks
 - *entities or groups?*
 - *turnover, profit, or economic profit?*
 - *third party comparison or division key?*
 - *supply side or (also?) demand side?*
 - *global minimum rate?*
 - *country sovereignty?*
- **Discussion**

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- **Discussion**

2019

What stands out?

STATE APPORTIONMENT OF CORPORATE INCOME

(Formulas for tax year 2019 -- as of January 1, 2019)

ALABAMA *	Double wtd Sales	MONTANA *	3 Factor
ALASKA *	3 Factor	NEBRASKA	Sales
ARIZONA *	Sales/Double wtd Sales	NEVADA	No State Income Tax
ARKANSAS *	Double wtd Sales	NEW HAMPSHIRE	Double wtd Sales
CALIFORNIA *	Sales	NEW JERSEY	Sales
COLORADO *	Sales	NEW MEXICO *	Sales
CONNECTICUT	Sales	NEW YORK	Sales
DELAWARE (3)	75% Sales, 12.5% Property & Payroll	NORTH CAROLINA *	Sales
FLORIDA	Double wtd Sales	NORTH DAKOTA *	3 Factor/Sales
GEORGIA	Sales	OHIO	N/A (2)
HAWAII *	3 Factor	OKLAHOMA	3 Factor
IDAHO *	Double wtd Sales	OREGON	Sales
ILLINOIS *	Sales	PENNSYLVANIA	Sales
INDIANA	Sales	RHODE ISLAND	Sales
IOWA	Sales	SOUTH CAROLINA	Sales
KANSAS *	3 Factor	SOUTH DAKOTA	No State Income Tax
KENTUCKY *	Sales	TENNESSEE	Triple wtd Sales
LOUISIANA	Sales	TEXAS	Sales
MAINE *	Sales	UTAH	Sales
MARYLAND (4)	66.6% Sales, 16.6% Property & Payroll	VERMONT	Double wtd Sales
MASSACHUSETTS	Sales/Double wtd Sales	VIRGINIA	Double wtd Sales/Sales
MICHIGAN	Sales	WASHINGTON	No State Income Tax
MINNESOTA	Sales	WEST VIRGINIA *	Double wtd Sales
MISSISSIPPI	Sales/Other (1)	WISCONSIN *	Sales
MISSOURI *	3 Factor/Sales	WYOMING	No State Income Tax
		DIST. OF COLUMBIA	Sales

Source: Compiled by FTA from state sources.

Notes:

The formulas listed are for general manufacturing businesses. Some industries have a special formula different from the one shown.

* State has adopted substantial portions of the UDITPA (Uniform Division of Income Tax Purposes Act).

Slash (/) separating two formulas indicates taxpayer option or specified by state rules.

3 Factor = sales, property, and payroll equally weighted.

Double wtd Sales = 3 factors with sales double-weighted

Sales = single sales factor

(1) Mississippi provides different apportionment formulas based on specific type of business. A single sales factor formula is required if no specific business formula is specified.

(2) Ohio Tax Department publishes specific rules for sims of receipts under the CAT tax.

(3) Delaware are phasing in a single sales factor for businesses through 1/1/2020.

(4) Maryland is phasing in a single sales factor for tax years after 2022.

(5) Missouri will use a single sales factor only for tax years 2020.

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2019

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2023

What stands out more?

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Slash (/) separating two formulas indicates taxpayer option or specified by state rules.

3 Factor = sales, property, and payroll equally weighted.

Double wtd Sales = 3 factors with sales double-weighted

Sales = single sales factor

(1) Mississippi provides different apportionment formulas based on specific type of business. A single sales factor formula is required if no specific business formula is specified.

required if no specific business formula is specified.

(2) Ohio Tax Department publishes specific rules for situs of receipts under the CAT tax.

2023

What stands out more?

Sales!!

ALABAMA *	Sales	MONTANA *	Double wtd Sales
ALASKA*	3 Factor	NEBRASKA	Sales
ARIZONA *	Sales/Double wtd Sales	NEVADA	No State Income Tax
ARKANSAS *	Sales	NEW HAMPSHIRE	Sales
CALIFORNIA *	Sales	NEW JERSEY	Sales
COLORADO *	Sales	NEW MEXICO *	3 Factor/Sales
CONNECTICUT	Sales	NEW YORK	Sales
DELAWARE	Sales	NORTH CAROLINA *	Sales
FLORIDA	Double wtd Sales	NORTH DAKOTA *	3 Factor/Sales
GEORGIA	Sales	OHIO	N/A (2)
HAWAII *	3 Factor	OKLAHOMA	3 Factor
IDAHO *	Sales	OREGON	Sales
ILLINOIS *	Sales	PENNSYLVANIA	Sales
INDIANA	Sales	RHODE ISLAND	Sales
IOWA	Sales	SOUTH CAROLINA	Sales
KANSAS *	3 Factor	SOUTH DAKOTA	No State Income Tax
KENTUCKY *	Sales	TENNESSEE	Triple wtd Sales
LOUISIANA	Sales	TEXAS	Sales
MAINE *	Sales	UTAH	Sales
MARYLAND	Sales	VERMONT	Sales
MASSACHUSETTS	Sales/Double wtd Sales	VIRGINIA	Double wtd Sales/Sales
MICHIGAN	Sales	WASHINGTON	No State Income Tax
MINNESOTA	Sales	WEST VIRGINIA *	Sales
MISSISSIPPI	Sales/Other (1)	WISCONSIN *	Sales
MISSOURI *	Sales	WYOMING	No State Income Tax
		DIST. OF COLUMBIA	Sales

Source: Compiled by FTA from state sources.

Notes:

The formulas listed are for general manufacturing businesses. Some industries have a special formula different from the one shown.

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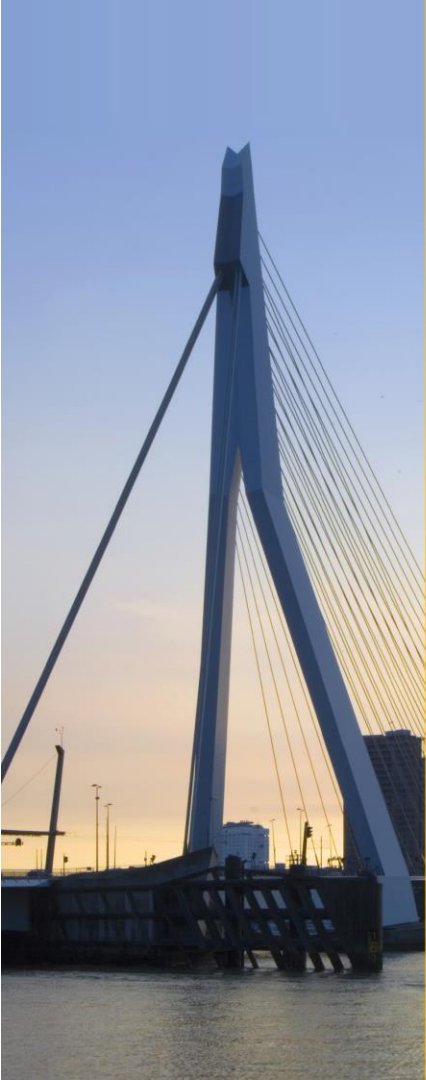
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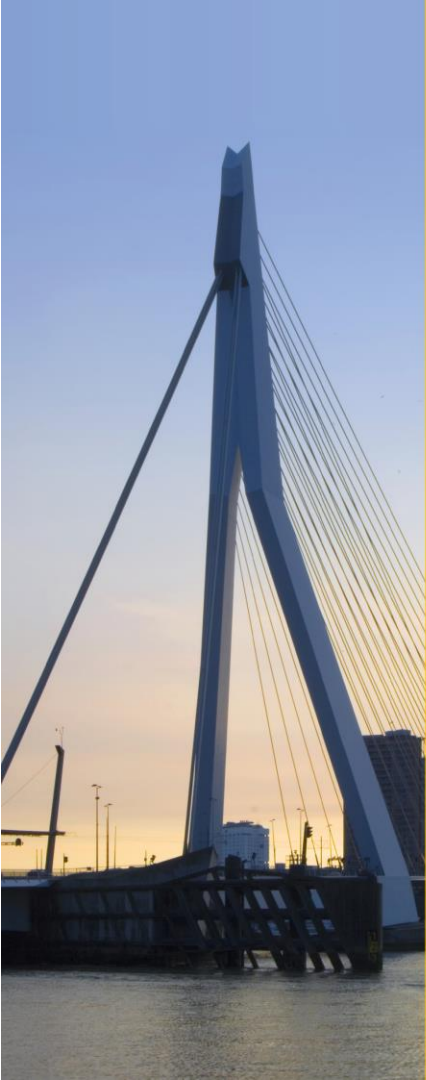
Statement

***“The Endgame:
Destination Based Company Taxation”***

**Erasmus
University
Rotterdam**

Wrap-up

- Prof.dr. M.F. (Maarten) de Wilde
 - dewilde@law.eur.nl
 - My papers: ssrn.com



Business in Europe: Framework for Income Taxation (BEFIT)

Prof. dr. Jaap Bellingwout
Vrije Universiteit, Amsterdam

Rotterdam – 3 oktober 2024



EUROPESE
COMMISSIE

Brussel, 12.9.2023
COM(2023) 532 final

2023/0321 (CNS)

Voorstel voor een

RICHTLIJN VAN DE RAAD

**betreffende een kader voor de belastingheffing van de inkomsten van bedrijven in
Europa (Befit)**

{SWD(2023) 308 final} - {SWD(2023) 309 final}

BEFIT – voorgeschiedenis

- **Neumark** (1962), Van den Tempel (1970), Ruding (1992)
- EC 2001: kick off richting CCTB
- CCCTB voorstel 2011
- C(C)TB voorstel 2016
- EC 2021: Business Taxation in 21st Century
- BEFIT concept richtlijn sept 2023

BEFIT – stand van zaken

- Spaans vz-schap EU (H2 2023): geen formele meetings
- Belgisch vz-schap (H1 2024): geen prio
- Hongaars vz-schap (H2 2024): geen voorstander (?)
- positie lidstaten: ‘winner’ & ‘loser’ states; complexiteit (CIT, P2, BEFIT); admin burden; soevereiniteit (cross-border loss relief), open einde formula apportionment
- zie ook BNC fiche Nederland: kritisch ivm complexiteit (oa samenloop P2), formule, budgettair risico ivm cross-border loss relief
- voorkeur NL: geen consolidatie, meer alignment met P2

TK: behandelvoorbehoud & motie Tony van Dijck (PVV)

Nr. 1981

MOTIE VAN HET LID TONY VAN DIJCK

Voorgesteld 26 oktober 2023

De Kamer,

gehoord de beraadslaging,

overwegende dat de Europese Commissie met BEFIT een Europese vennootschapsbelasting introduceert;

overwegende dat de Tweede Kamer al twee keer eerder een gele kaart heeft getrokken ten aanzien van vergelijkbare voorstellen (C(C)CTB) mede vanwege de negatieve gevolgen voor de Nederlandse economie;

verzoekt de regering niet in te stemmen met BEFIT en dat ook onomwonden kenbaar te maken aan de Europese Commissie in Brussel,

en gaat over tot de orde van de dag.

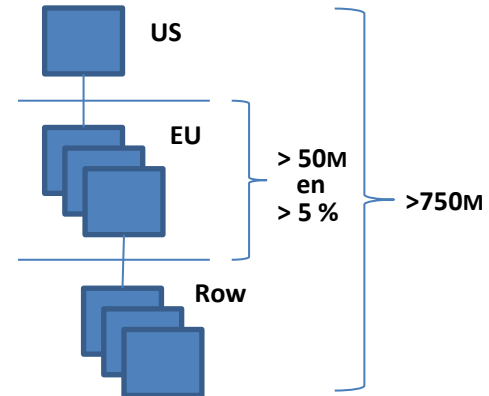
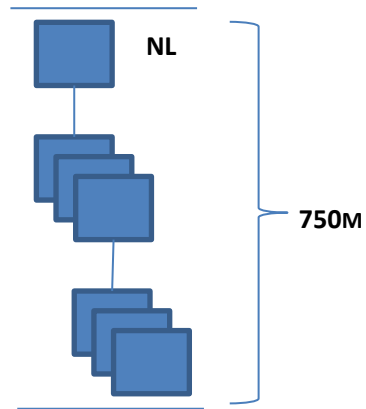
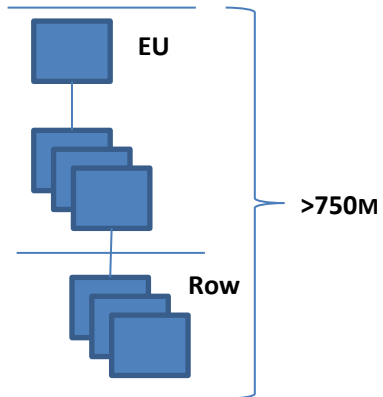
Tony van Dijck

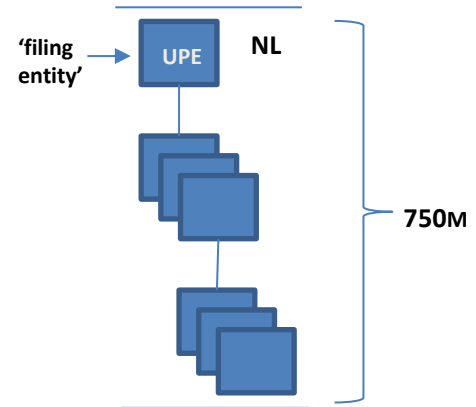
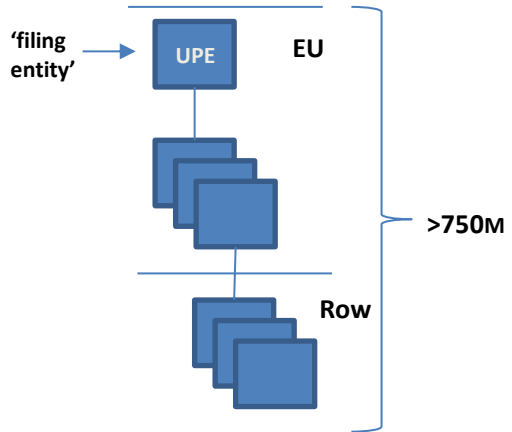
BEFIT – doelstellingen

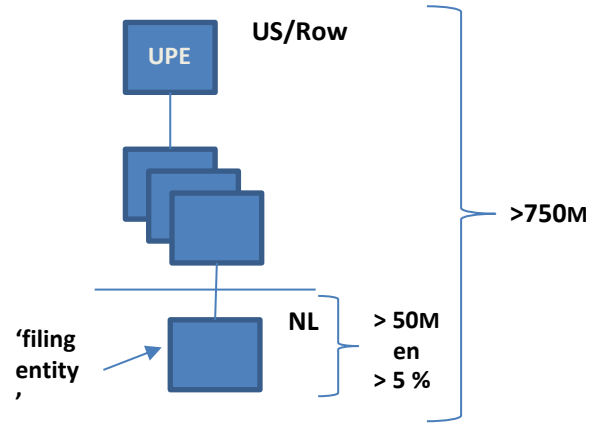
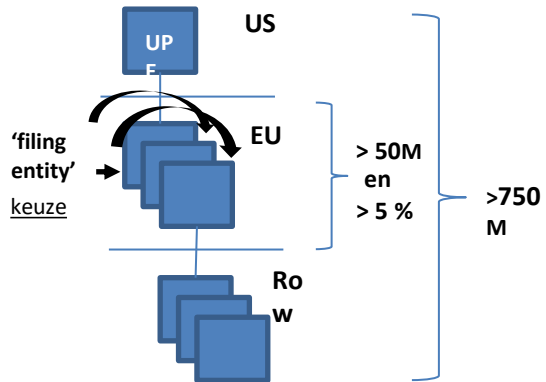
- vereenvoudiging t.o.v. 27 belastingsystemen
 - level playing field binnen EU
 - zekerheid voor belastingplichtigen
 - reductie compliance kosten
 - stimulans grensoverschrijdend ondernemen binnen EU
 - vergroten concurrentiekracht EU – interne markt
 - nieuwe bron van eigen middelen EU
-
- beoogde implementatie: 1 januari 2028
 - beoogde inwerkingtreding: 1 juli 2028
(FY=kalenderjaar: 1 januari 2029)

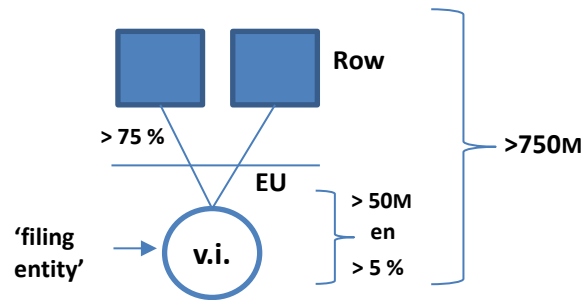
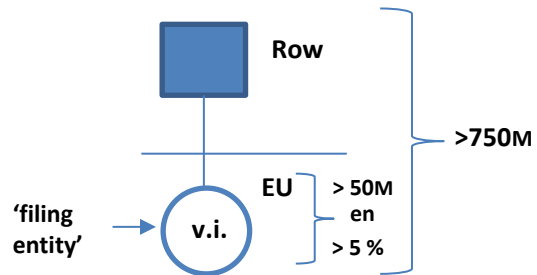
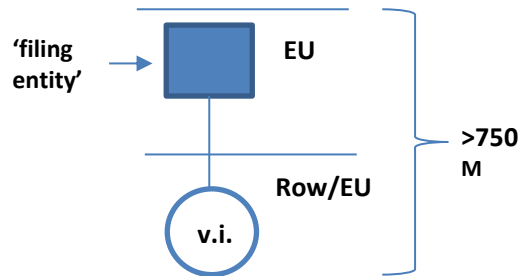
‘BEFIT Group’ – artt. 2, 3, 5, 6

- EU groep, non-EU groep met EU presence, binnenlandse groep
- omzet > EUR 750M (+ opt-in voor kleinere groepen)
- de minimis uitzondering: EU omzet van non-EU groep < 5% vh totaal, of < 50M
- EU resident groepsmij, EU vaste inrichting
- rechtsvorm (Annex 1), onderworpen aan winstbelasting (Annex II)
- consolidatie o.b.v. ownership/control, UPE-belang tenminste 75% (direct/indirect → % = tier x tier)
- entiteit met een v.i. (of meerdere v.i.’s)
 - EU entiteit met EU of non-EU v.i. (>75% winst)
 - non-EU entiteit met EU v.i. (geen rechtsvorm eis, wel onderworpenheid)









Rechtsvormen – Nederland – Annex I

- “De vennootschappen naar Nederlands recht, geheten: “naamloze vennootschap”, “besloten vennootschap met beperkte aansprakelijkheid”, “open commanditaire vennootschap”, “coöperatie”, “onderlinge waarborgmaatschappij”, “fonds voor gemene rekening”, “vereniging op coöperatieve grondslag”, en “vereniging welke op onderlinge grondslag als verzekeraar of kredietinstelling optreedt”, alsmede andere vennootschappen die zijn opgericht naar Nederlands recht en die onder de Nederlandse vennootschapsbelasting vallen.”
- Non-EU rechtsvorm, binnenlandse vestigingsplaats: geen BEFIT entiteit!
- Verschil met P2/GMT

Vennootschappen - vestigingsplaats

- Art. 2(1):
 - ‘vennootschappen ... gevestigd in een lidstaat’
 - ‘in lidstaat gevestigde vaste inrichtingen van ... (“entiteiten uit een derde land”)
- geen definitie van vestigingsplaats
- geen ondergrens aan mate van onderworpenheid - niet ‘fully liable to tax’
- sluit dual residence niet uit - binnen EU en EU/derde land
 - en lost dual residence niet op (IBFD-punt)

BEFIT grondslag – standing on the shoulders of P2

- geharmoniseerde EU-cross-border geaggregeerde grondslag
- met elementen van Pillar 1 (TP compliance) en Pillar 2 (tax base)
- basis: jaarrekening entiteit – obv consolidatiesysteem
- afwijkingen o.a. deelnemingsvrijstelling (95%!), objectvrijstelling v.i., rente (30% EBITDA – muv IC-BEFIT), CT, QDMTT, afschrijving, HIR, timing verschillen (OHW, langlopende contracten), roll-over cfm. Fusierichtlijn
- IC-BEFIT-transacties disregarded (echter: pas na overgangstermijn 7 jaar) – dus TP blijft relevant
- geen EU WHT op intra-BEFIT group transacties (al direct)

BEFIT grondslag – techniek

- eerst financial accounting grondslag per entiteit afzonderlijk incl. BEFIT-afwijkingen
- dan alle BEFIT-entiteiten aggregeren (winst en verlies): cross-border loss relief
- vervolgens terug-alloceren aan de BEFIT group members:
 - eerste 7 jaar: obv procentuele bijdrage aan totaal, obv 3-jaar gemiddelde
 - na 7 jaar: ‘formulary apportionment’ (details nog onbeslist)
- tot slot: lidstaat past ‘post-allocation adjustments’ toe (+ en -/-, incl. tax incentives) + eigen tarief
ondergrens: Pillar 2 (hoe? Separate P2-berekening?)

BEFIT Information Return (BIR) en lokale BEFIT-aangifte

- één filing entity: 'BEFIT Information Return' (BIR)
- elke BEFIT entiteit voorts een eigen 'post allocation' aangifte
- per BEFIT-groep een BEFIT-team van de gezamenlijke belastingdiensten
- correctiemechanisme indien afwijkingen vastgesteld in een lidstaat – werkt door naar total tax base en daarmee naar post-allocation andere lidstaten
- bezwaar- en beroep mogelijk tegen BIR en tegen lokale aanslag

Grondslag - capita selecta -deelnemingsvrijstelling

- Deelnemingsvrijstelling:
 - dividend (art. 8) en capital gains (art. 9)
 - EU en non-EU
 - geen anti-misbruik
 - echter: art. 48(2)
 - 10% 'belang': winst, kapitaal, reserves, of stemrecht
 - niet: voor handelsdoeleinden aangehouden
 - niet: beleggingen tbv levensverzekeringsspolis
 - annaal bezitseis (moet aan voldaan zijn t.t.v. dividend)
- Verhouding met Nederlandse 5%-bezitseis? Géén CFC?
 - nationale afwijking mogelijk? (art. 48(2)?)

Grondslag - capita selecta - rentekosten

- art. 13: earnings-stripping (30% EBITDA / € 3M)
- echter: n.v.t. op rente intra-BEFIT-groep
 - ratio? ter voorkoming asymmetrie binnen Total Tax Base?
 - winstverschuiving binnen EU
 - ruimte voor post-allocation adjustment?
- ruimte voor aanvullende renteaftrekbeperkingen?
 - art. 48(2)? voorwaarde: rentelast in allocatie?

Foreign tax credit – art. 44

- Inkomsten uit andere lidstaat of 3^e land
 - niet beperkt tot dividend/rente/royalty
 - ook vaste inrichting igv switch-over?
- Ftc conform bilateraal belastingverdrag
 - tussen vestigingsland BEFIT-entiteit en bronland
 - grondslageis (BEFIT entiteit)
- Ftc berekend per lidstaat en per type inkomsten -> verdeeld over groep
- 2^e limiet: Vpb over aan lidstaat gealloceerde inkomsten (= alle inkomsten?)
wat indien geen /gedeeltelijke allocatie aan lidstaat van ontvangst?

Ingehouden bronbelastingen – art. 43

- Verbod op WHT intra-BEFIT-groep
 - tenzij de ‘beneficial owner’ geen BEFIT-entiteit is
- WHT op uitgaande rente/royalty:
 - aan non-BEFIT-entiteit
 - opbrengst te verdelen tussen lidstaten cfm baseline allocation method (art. 45)
- Verdelingsmechanisme geldt kennelijk niet voor dividendbelasting

BEFIT – allocatie grondslag aan lidstaten - overgangperiode

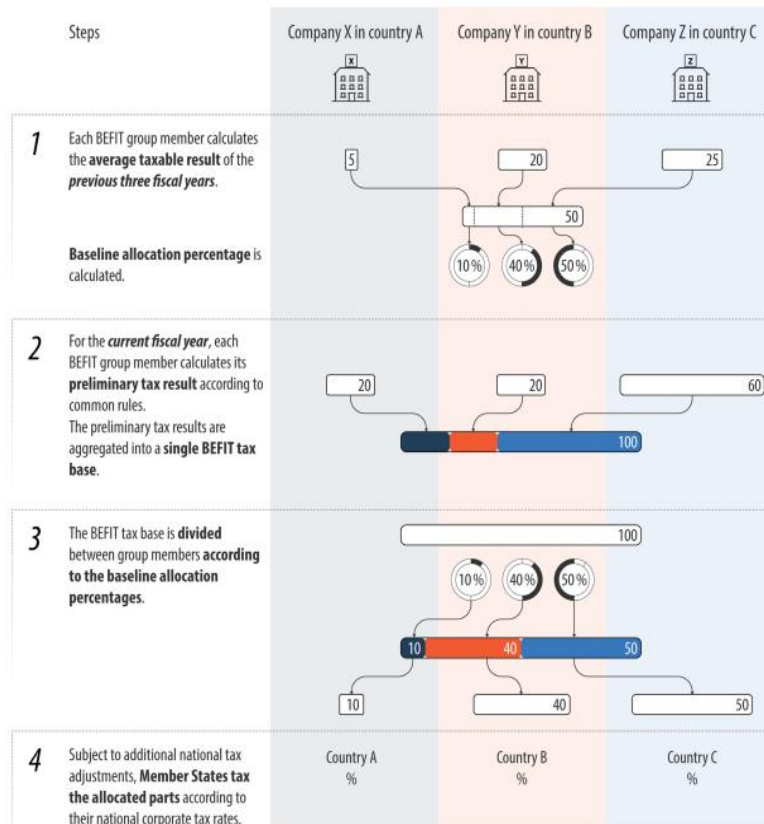
- art. 45 - overgangperiode 7 jaar (t/m 30-6-2035)
- voorstel EC inz. formula apportionment < 30-6-2031, dus open einde
- preliminary tax result: per entiteit
- aggregated tax base = optelsom 'preliminary tax result' alle BEFIT-entiteiten
- Indien aggregated tax base = negatief:
 - géén allocatie (aan geen enkele lidstaat)
 - onbeperkte carry forward naar aggregated tax base volgend jaar

BEFIT – allocatie grondslag aan lidstaten - overgangperiode

- Baseline Allocation Percentage (BAP):

‘taxable result’ per entiteit / ‘total taxable result’ of BEFIT group
- ‘taxable result’ = gemiddelde voorgaande 3 jaar
 - gemiddelde van wat? tekst: taxable results
 - bedoeld: preliminary tax results?

Figure 1 – Allocation of the BEFIT tax base: Example



Graphic by G. Macsai, EPRS.

Baseline allocation method – cijfervoorbeelden (ontleend aan...)

- Average taxable results (t-3, t-2, t-1):
A: 25M / B: 20M / C: 5 M \Rightarrow 50M Total taxable results
- Preliminary tax results (t-0):
A: 40M / B: 35M / C: 5M \Rightarrow 80M Aggregated tax base
- Baseline allocation:
A: 50% = 40M
B: 40% = 32M
C: 10% = 8M

Baseline allocation method – cijfervoorbeelden (ontleend aan...)

- Average taxable results (t-3, t-2, t-1):
A: 25M / B: 20M / C: 5 M \Rightarrow 50M Total taxable results
- Preliminary tax results (t-0):
A: 50M / B: 40M / C: <10>M \Rightarrow 80M Aggregated tax base
- Baseline allocation:
A: 50% = 40M -> GMT grondslag (incl SBIE) = 50 \Rightarrow ETR < 15%?
B: 40% = 32M
C: 10% = 8M

Baseline allocation method – cijfervoorbeelden (ontleend aan...)

- Average taxable results (t-3, t-2, t-1):
A: 25M / B: 20M / C: <5> M \Rightarrow 45M Total taxable results
- C telt nu niet mee!
- Preliminary tax results (t-0):
A: 50M / B: 40M / C: <10>M \Rightarrow 80M Aggregated tax base
- Baseline allocation:
A: $25/45 = 55,6\% = 44,4\text{M}$
B: $20/45 = 44,4\% = 35,6\text{M}$
C: nihil

BEFIT – hoe verder? Phase 1

Integratie in 4 fases:

- 1. Grote schoonmaak:** BEFIT vervangt P2/GMT in de EU alsmede 27 nationale winstbelastingen (voor in-scope MNE's -> 'decluttering EU tax rules')
 - implementatie, heffing, inning per EU-lidstaat
 - volledige aansluiting 'groep' bij P2/GMT
 - volledige aansluiting grondslag bij P2/GMT (per entity/fiscale eenheid)
 - tarief lidstaat: 15% ETR-ondergrens (jurisdictional blending), SBIE carve-out
 - geen allocatie-sleutel nodig, geen QDMTT, wel IIR (UTPR?)
 - ruimte voor incentives? (boven de 15% ETR, of als QRTC)

BEFIT – hoe verder? Phase 2

Integratie in 4 fases:

2. Opschalen van lidstaat naar EU

- conform huidig BEFIT voorstel
- dus nog géén consolidatie
- wel grensoverschrijdende verliescompensatie (cfm huidig BEFIT voorstel)
- één gezamenlijke EU-IIR (en één EU UTPR?)
- allocatie grondslag (incl. IIR) aan afzonderlijke EU-lidstaten (cfm huidig BEFIT voorstel of obv formule)
- elke lidstaat heft 15% (of meer - incentives boven 15% of als QRTC)
- SBIE carve-out op niveau lidstaat

BEFIT – hoe verder? Phase 3

Integratie in 4 fases:

3. Opschalen naar EU consolidatie

- grondslag: niet per entiteit; consolidatie EU BEFIT-entiteiten
- geen TP tav IC-BEFIT; wèl TP tav non-BEFIT
- één EU regime voor non-EU of non-BEFIT verhoudingen (DNV, WHT, FTC, base erosion, etc.)
- één gezamenlijke EU-IIR (en één EU UTPR?)
- allocatie grondslag (incl. IIR) aan afzonderlijke EU-lidstaten (kan dan alleen obv formule)
- elke lidstaat heft 15% (of meer - incentives boven 15% of als QRTC)
- SBIE carve-out: op niveau lidstaat ?

BEFIT – hoe verder? Phase 4

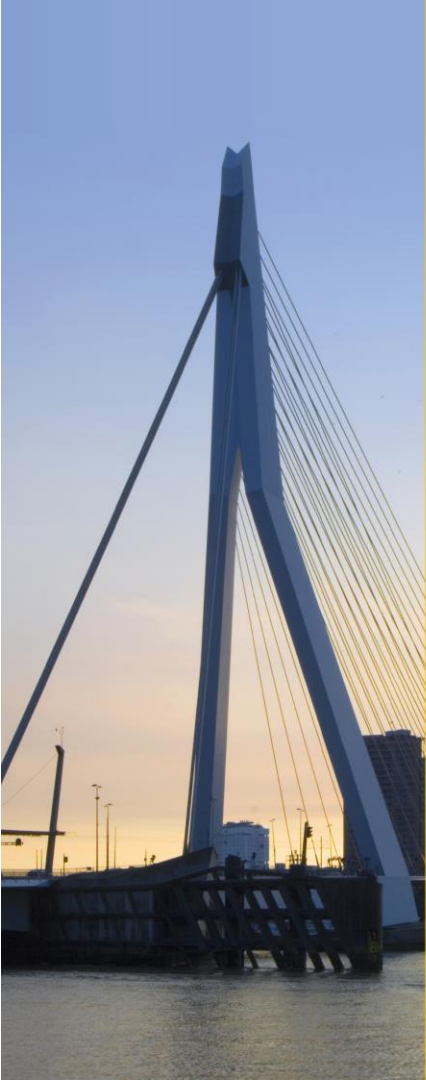
Integratie in 4 fases:

4. Opschalen naar wereldwijde consolidatie als grondslag

- wel/geen EU entiteiten: niet meer rechtstreeks van belang
- IC-transacties niet meer relevant
- geen afbakening meer tov non-EU deel van de groep (double (non-) taxation)
- Formule alloceert grondslag aan EU (en evt. vervolgens aan EU-lidstaten)
- EU heft (cq EU-lidstaten heffen) 15% (of meer – incentives nog zinvol?)
- geen behoefte meer aan IIR (en UTPR)
- SBIE carve-out: op niveau lidstaat ?



Dank voor het meedenken!



Pauze:

15.35-16.00

EFS Agenda 2025

- **Post-Master Internationaal en Europees Belastingrecht (Nederlandstalig)**
Module 1: maandag 3 maart tot vrijdag 7 maart
Module 2: maandag 2 juni tot vrijdag 6 juni
- **Post-Master EU VAT (Engelstalig)**
Module 1: maandag 3 maart tot vrijdag 7 maart
Module 2: maandag 2 juni tot vrijdag 6 juni

Geïnteresseerd?

Neem een kijkje op de website: <https://www.erasmusfiscalstudies.nl>

Wat is de toekomst van Pillar One en Pillar Two vanuit een Rotterdams perspectief?

Join at menti.com | use code 6162 5021

De hoofdrol in een mooie tentoonstelling over recente fiscale dwalingen in het Belastingmuseum...



Option	Count
Eens	11
Oneens	22

Me

- Account
- Content
- Design
- Settings
- Help &



De toekomst van Pillar One en Pillar Two

Prof. dr. Hans van den Hurk
Maastricht University / Herreveld Van Den Hurk & partners

Rotterdam – 3 oktober 2024

Pillar Two

- If it is too good to be true it probably isn't
 - If it is too complex to understand, it probably isn't (understandable)
- Even een kort stuk geschiedenis:
 - BEPS (2013-2015/2017-2020)
 - Trump government en de invoering van de GILTI in 2017
 - Frankrijk en Duitsland wilden ook wat...
 - Italië deed graag mee
 - En wie is er tegen een minimumbelasting voor multinationals?

Pillar Two

- Minimum belasting
 - QDMTT
 - IIR
 - UTPR
- Problemen....
 - Complex
 - Probleem opgelost als OESO 2000 tijdelijk uitgeleende inspecteurs vrijmaakt om ontwikkelingslanden te ondersteunen?
 - Mijn ervaringen met ontwikkelingslanden

Alternatieven

- Meer transparantie én vertrouwen tussen staten
- Heft het andere land 15%, dan is dat goed
 - Niet van die ingewikkelde regels toepassen dat dit inkomen eerst in de grondslag... (qualified) refundable tax credits... etc...
 - Maken landen er misbruik van, dan zijn er altijd alternatieven
- Mijn voorstel in WFR, niet perfect maar wel veel minder complex
 - Ook met het oog op STTR
 - Het zou ook wellicht de goedkeuring van de US kunnen krijgen als alternatief voor de Alternative Minimum Tax

Pillar One

- Alternatieven:
 - Iets conform artikel 5, 6 UN MTC?
 - Iets aanpassen in artikel 5, 1 OECD en UN MTC?
 - Naast een 'fixed place' ook een 'virtual fixed place' bilateraal definiëren
 - En bij voorkeur in combinatie met een fatsoenlijke geschiloplossing, zodat beide landen wat te winnen hebben
 - Toch artikel 12b UN toepassen
 - Onder voorwaarde van een effectieve geschilbeslechting

En wat vinden ze er bij de Verenigde Naties van?

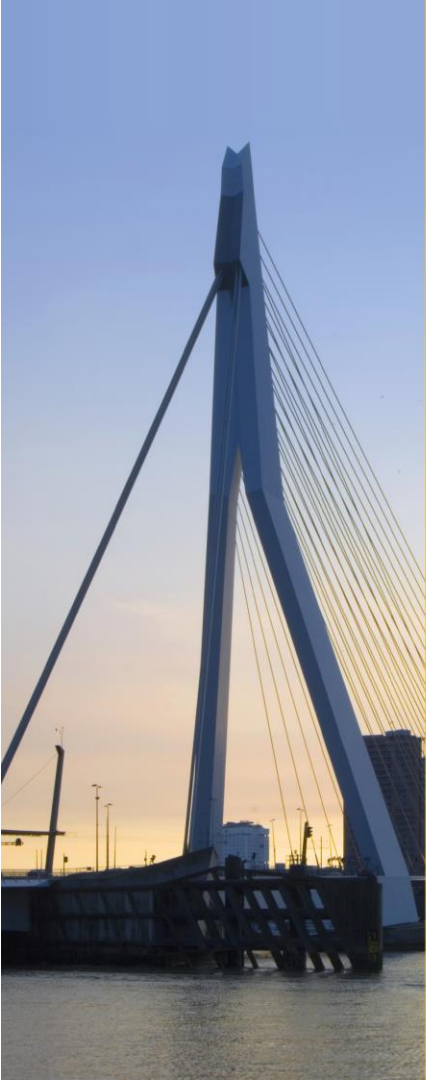
- P1
- P2
- Nadeel VN: ‘consensus decision making’
 - Is toch een vorm van met elkaar tot een enkele oplossing komen
 - En bijv. bij artikel 12b was dat lastig
 - Niet vanwege de vorm maar omdat veel staten meenden de voordelen al te kunnen belasten via een extensieve interpretatie van artikelen 12 en 12a

Neem gerust contact op als je vragen hebt...



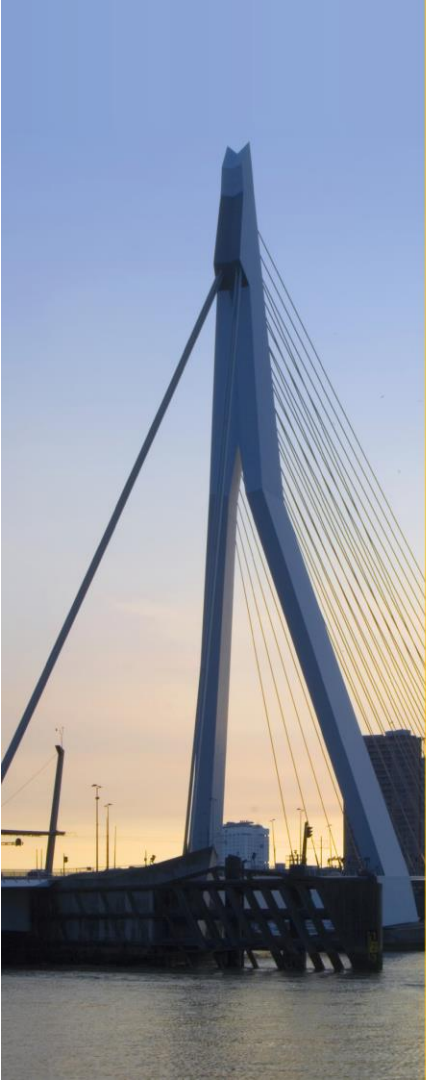
hans@hnp.law

Mobile:
+31(6)20438568



Discussie

Met inbreng van Marlies de Ruiter



Statement

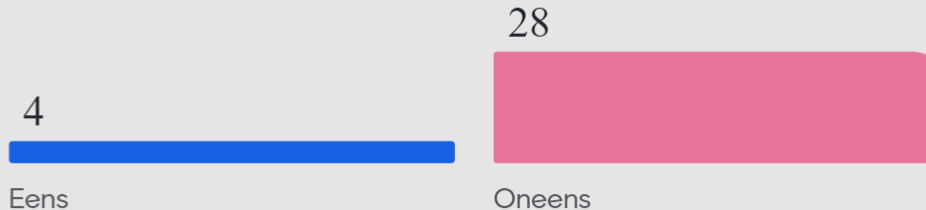
De tweepijleroplossing brengt stabiliteit en duurzaamheid in de vennootschapsbelasting

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Mentimeter

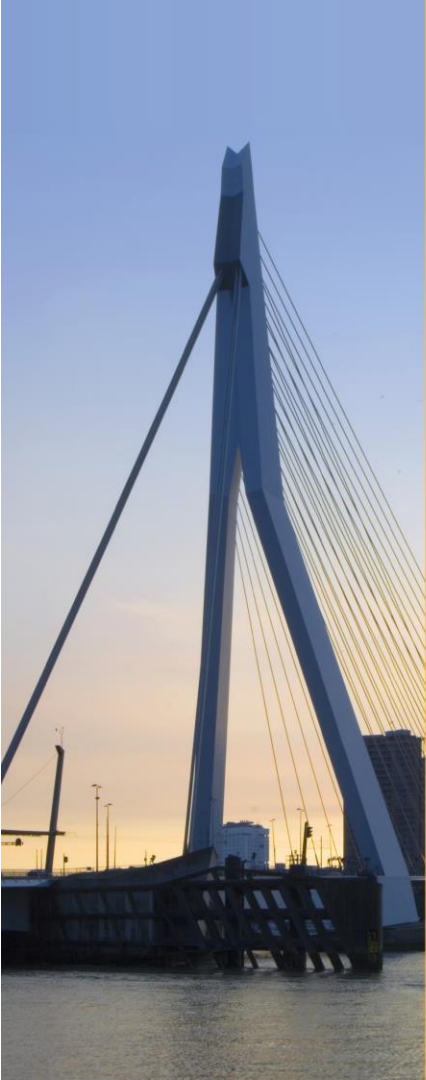
De tweepijleroplossing brengt stabiliteit en duurzaamheid in de vennootschapsbelasting

▶ Start Menti



32





Statement

***Verdere harmonisatie/integratie van winstbelastingen in de EU is onvermijdelijk.....
en de Pillar 2 accountinggrondslag is daarbij het juiste vertrekpunt***

Verdere harmonisatie/integratie van winstbelastingen in de EU is onvermijdelijk ...

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Mentimeter

En de Pillar 2 accountinggrondslag is daarbij het juiste vertrekpunt



16



Eens

▶ Start Mentimeter

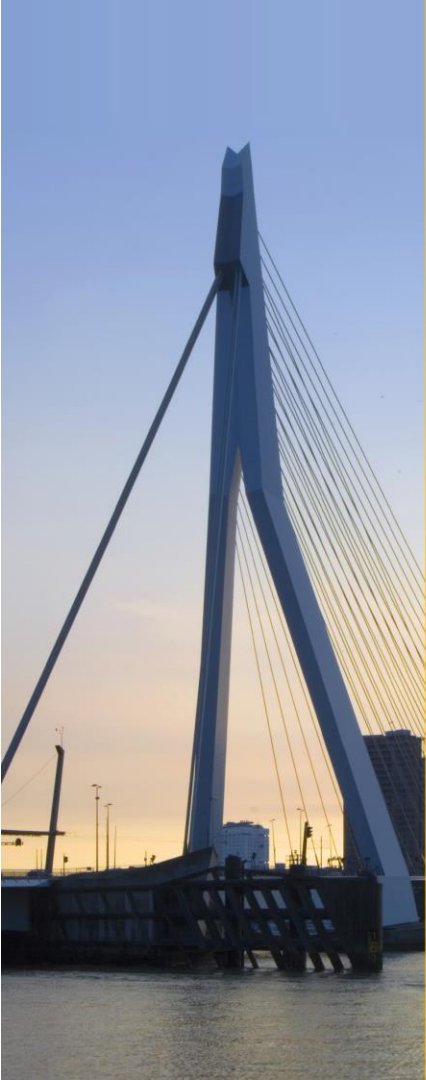
12



Oneens

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Statement

Wat is de toekomst van Pillar One en Pillar Two vanuit een Rotterdams perspectief?

De hoofdrol in een mooie tentoonstelling over recente fiscale dwalingen in het Belastingmuseum...

**Dank voor het bijwonen van
deze conferentie!**

Vergezel ons bij de netwerkborrel!