Taxes in a World without Distance

Taxation in relation to the mass-availability of information and communication technology: a preliminary impression

The State Secretary of Finance
The Hague, May 1998

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Preface

The policy document “Taxation in the 21st Century” [1] indicates that the advent of new information and communication technology, such as the Internet, will have a significant impact on our tax system. I was also requested by Parliament to compile an outline of the pertinent aspects. [2] At the end of last year, partly with this in mind, I went ahead and assembled an Advisory Group. [3] The present memorandum, which is partially based on the exchange of ideas and findings of the Advisory Group, encompasses a preliminary survey of the influence of developments in information and communication technology and the advent of electronic commerce on our tax system and the measures required to prepare for these developments.

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1) Parliamentary Papers II 1997/1998, 25 810, no. 2.
2) Parlimentary Proceedings II 1997/1998, 25 600, pp. 8-510.
3) This Advisory Group was announced in the policy document, “Taxes in the 21st Century”; see the appendix for the task and composition of the Advisory Group.

The book, “The Death of Distance” describes how the electronic highway is making the distance factor obsolete in economic traffic. [1] This will have significant consequences for all players in this area and therefore certainly also for taxation. It is therefore never too early to form an impression of what is currently happening and where this is likely to take us in the future.

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1) The Death of Distance: How the Communication Revolution will Change our Lives, Francis Cairncross, Harvard Business School Press, October 1997 (ISBN: 0875848060).

I would like to thank the members of the Advisory Group for their input and creative contribution to this memorandum. As this memorandum only offers a temporary impression, I have asked the Advisory Group to stay on. They will remain available to contribute to the continuing debate on fiscal policy in relation to information and communication technology and the thoughts embodied in this memorandum.

Willem Vermeend

1. Introduction

1.1. General

The Dutch tax system has a territorial starting point with respect to both direct and indirect taxation. In a general sense, under the system both the income of and consumption by tax payers residing in the Netherlands are taxed. Developments in the field of information and communication technology (hereinafter referred to as “ICT”), as embodied by the Internet, will lead to enhanced mobility and increasing internationalization of economic activities. It is becoming increasingly feasible for companies to establish themselves at greater distances from their customers. It is also increasingly possible to send and process the output of a more highly qualified labour force over greater distances.

The growth of electronic commerce is expected to escalate in the future. This concerns both electronic goods and services transactions and the trade of digital information. [1)] Due to this phenomenon, Dutch consumers will increasingly be able to buy goods and services from abroad, while businesses will be able to service foreign markets without the need to establish a physical presence in the relevant countries. Increasing failure to synchronise international tax systems could lead to an increase in the incidence of double taxation and non-taxation, both in the areas of direct and indirect taxation. This could culminate in an increasing imbalance in competitive relationships and loss of tax revenues.

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1) The Action Plan for Electronic Commerce published by the Ministry of Economic Affairs states the following concerning the scope of the concept of electronic commerce: “For many people electronic commerce is synonymous with trade via the Internet. The scope is however far more extensive. Electronic commerce includes all business activities concluded electronically in order to improve the efficiency and effectiveness of market and business processes.”

Existing forms of taxation still are effective with respect to electronic commerce in its present forms and on the scale it has today. Future developments will show to what extent this situation will be perpetuated. The highly dynamic digital world demands a constant state of alert to guarantee the effectiveness of taxation and the combat of fraud. The nature of these developments demands international co-operation to ensure an effective response. For this reason, the Netherlands is playing an active role in the EU and OECD initiatives to establish a broad international approach.

The growth of electronic commerce continuously poses new challenges with respect to taxation. This is however not the only area that demands attention. The growth of electronic commerce is of substantial importance for further economic growth and the consolidation of the competitive abilities of businesses. This position has been expressed at various international events, [1)] whereby the general conclusion was that taxation should not become an economic impediment. Taxation of electronic commerce should have a neutral effect and not lead to competitive disadvantages. In its National Action Program for the Electronic Highway, the Cabinet stated its aim for the Netherlands to take a leading position in the field of ICT. [2)] The memorandum is an assessment against the background of international attitudes, of the extent to which tax instruments could contribute to the realisation of this ambition.

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1) See e.g.: Global Information Networks, Ministerial Conference in Bonn, 6-8 July 1997; Joint EU-USA Statement on Electronic Commerce, Washington DC, 5 December 1997.
2) Ministry of Economic Affairs, December 1994.

1.2. Structure

In order to establish the consequences of developments in information and communication technology with respect to taxation and tax policy, it is essential to gain an insight into the broader technological and economic context. Chapter 2 deals with the technological aspects of ICT and anticipated developments in that field. Chapter 3 contains an outline of the consequences of ICT for commercial transactions, both on international level and in the Netherlands. Chapter 4 deals with tax policy. That chapter will deal with current discussions concerning electronic commerce and taxation in various international forums and the relative position of the Netherlands. The chapter further includes a number of ideas concerning national tax provisions that could contribute to the Netherlands assuming a favourable position in the field of electronic commerce. The potential budgetary implications of electronic commerce are also addressed. Chapter 5 deals with the practical consequences of developments outlined in the paper with respect to the implementation of taxation, as well as with future developments in Inland Revenue.

2. Technological aspects

2.1. Developments in ICT

In order to obtain a sound grasp of the current situation in ICT and its future potential, it is important to sketch a brief outline of developments in the field of ICT.

With the advent of the computer, the first processes that were automated were internal business administration processes. Due to the high cost of the hardware and the specialised knowledge required to operate it, the initial approach was to centralise the processes, while processing time had to be optimised. Each manufacturer built its machines on the basis of its own current insights, which made interconnection between the various systems offered by any single manufacturer questionable, let alone between systems from different manufacturers. This resulted in the creation of a variety of stand-alone automated information systems, each with its own specific infrastructure. The applications and accompanying data files were also set up in isolation. The first data communication and on line exchange of digital information occurred when punch cards were replaced by terminals. Using the new kind of data communication and time-sharing systems, it became possible to apply programmers and, eventually, users more efficiently. It was now possible to work at a greater distance from the computer. The terminals were connected to mainframe computers via telephone lines. The advent of graphical applications meant that greater demands were made on the capacity of the connections, because these applications had to relay larger volumes of information to the terminals.

Further technological developments followed in the form of mini-computers with enhanced price/performance ratios. This was soon followed by the first hobby computers and personal computers. It was the latter trend that brought the computer within the reach of private individuals. Companies could now apply the new generation of computers on a large scale as “smart” workstations, which could be interconnected by means of data communication technology. The tendency to centralisation was abandoned in favour of distributed processing and storage capacity. This approach imposed further demands on the capacity of existing data communication resources. Furthermore, for the first time companies began to exchange data (within the company structure) by means of Electronic Data Interchange.

All the above-mentioned developments demanded an increase in bandwidth to facilitate data communication. The use of advanced cable networks, satellite connections and the application of optic fibre connections relieved the demand for more bandwidth. These events coincided with increasing deregulation of the telecommunications market in recent years and growing mobility of the telecommunication media. Collectively these developments gave rise to the internationalisation of the telecommunications market, whereby more and more operators entered the market. The result was a drop in telecommunication costs.

The interconnection of the various systems gave rise to the first networks. Initially, this phenomenon occurred mainly within the buildings of separate companies, in the form of local area networks (LAN), but this soon led to the interconnection of various company buildings in various locations by means of a wide area network (WAN). The private data networks such as SITA for flight reservations and SWIFT for international banking traffic, formed the first international networks. ARPANET, in the United States, interconnected the computers of various universities to facilitate the exchange of project data. The number of connected computers rapidly increased and evolved into the current Internet. Due to the advances in technological resources, it became possible to offer an increasing range of products and services digitally. Currently the best known are text, image and sound products and software. Due to increasing digitisation and the implementation of networks such as the Internet, new services were introduced, including:

- E-mail;
- On line information databases;
- Electronic banking;
- Gaming;
- Video;
- Video conferencing;
- Electronic shopping.

Spectacular developments in the field of automation soon led to an increase in the use of personal computers. The growth in the processing and storage capacities of these machines contributed substantially to this phenomenon. Market expansion and the rise of international competition are bringing automation closer and closer to the consumer. Home computers are therefore becoming the order of the day.

The consumer is currently able to order these products and services from all over the world, 24 hours a day, from his home computer. The advent of the World Wide Web has created a user-friendly interface between man and the many computers that make up the Internet. As a consequence, the computer has become an attractive means of offering commercial services. Since 1995, the Internet has been available all over the world.

2.2. Future possibilities

The process of digitising (moving) images and sound generates enormous volumes of data that need to be transmitted via the networks. The current state of the technology that determines data transmission speeds leaves much to be desired and according to some it actually impedes the development of the Internet. A major drive is therefore currently under way to increase the network bandwidth. The use of new technology, such as ADSL creates an increase in the conventional capacity of copper wire connections. Numerous laboratories are claiming spectacular increases in bandwidth using optical fibre connections. The perpetual race towards miniaturisation is also leading to faster computers with ever-expanding memory capacity.
Networks, such as telephones and television, that traditionally use analogue technology are increasingly being converted to use digital technology. Thanks to the availability of digital technology, it is now possible to offer any conceivable form of informatics, telephony and audiovisual service using existing transmission systems. Due to increasing convergence, it is expected that the traditional borders between sectors such as

telecommunications, broadcasting and publishing will eventually disappear. It is too early to speculate about all the new possibilities this trend is likely to unlock, however, due to the use of digital technology, existing equipment used to access the various networks will more than likely be subject to increasing convergence. Already the telephone is being used as input equipment for bank transfers via bank computer systems. WebTV will possibly create mass access to the Internet and the computer is already being used for tasks such as telephony, viewing video films and video conferencing.
Although the current limitations of data transmission speeds and the absence of stable transaction environments place a restraint on these developments, there are nevertheless a number of clear examples of growing markets. While market researchers disagree about the degree of growth in these markets, they are unanimous regarding the growth phenomenon. Many observers believe that the market for electronic commerce will only be able to operate more efficiently once a number of preconditions have been met. Consumers need to be assured of the identity of their trading partners, in an environment where transactions conducted over a network can be effected in a confidential and honest manner. In addition, these markets will only perform optimally once electronic commerce payment systems have attained a more advanced state of maturity.

The technology that must meet these preconditions is known as encryption. (Public) Encryption systems will make it possible to use digital signatures and to conduct secure sessions between trading parties. The use of, e.g. Secure Electronic Transactions (SET) protocol makes it possible to send credit card numbers across public networks with relative safety and there are indications that it may be possible to use this technology in electronic banking. Encryption also opens the possibility of issuing electronic cash.

Currently, there are numerous systems in circulation and only the future will reveal which systems will find broad enough acceptance to meet the preconditions determined by the consumer.

3. The meaning of ICT for commercial transactions

3.1. Introduction

Currently, the meaning of ICT for commercial transactions is concisely expressed by the concept of electronic commerce. Since 1996 the international interest in electronic commerce has increased enormously, both internationally (EU, G7, OECD etc.) and in individual countries.

Electronic commerce is one of the most important areas of application in the information-oriented society. Given the rate of development, the time factor plays a crucial role with respect to the exploitation of available opportunities. The actual process of adjusting to electronic commerce is something the business community must do by itself. The Netherlands is favourably placed to assume an important role in electronic commerce, but a recent study suggests that the absorption capacity for the development of electronic commerce in the Netherlands is falling behind overseas competition.

3.1.1. What is electronic commerce

Electronic commerce is a relatively new term that was coined in the United States and Canada. While many consider electronic commerce to be synonymous with trading on the Internet, the actual scope is far greater. Electronic commerce encompasses all kinds of business actions, including transactions pertaining to the buying and selling of goods (“postal order” types of transactions), various kinds of services and digital information transfers (image, audio, text and software), all of which are conducted electronically in order to enhance the efficiency and effectiveness of market and business processes. [1)] Various forms of electronic commerce have their roots in the seventies. The first (big) companies began by sending salary information to their banks via special data lines. These larger companies also increasingly used electronic communication to manage their orders, supplies and invoicing with regular suppliers and consumers. In the 80s, this developed into a field known as electronic data interchange (EDI).

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1) A wide range of definitions are used in the literature, from very broad (see EITO) to extremely narrow (see OECD): “The term electronic commerce covers all forms of computerised buying and selling. It includes exchanges of data (Electronic Data Interchange or EDI), access to data (common databases, electronic bulletins) and automated data entry (bar codes, optical and magnetic character recognition) where these are directly linked to a conclusive commercial transaction). Partially due to this, it is hard to find reliable and comparable figures and statistics.

In 1996, the international turnover in products and services via the Internet was estimated at 2 - 3 billion dollars. [1)] Various forecasts indicate that the turnover volumes over the Internet will increase to 200-300 billion dollars (1% of the global GNP) by the year 2001. [2)] It is also revealing to observe the added value that can be realised by means of electronic commerce. In the United States this was estimated at approximately 5 to 6% of the total added value over 1997. [3)] The current market share of electronic commerce between companies is approximately 10 times the size of that between businesses and consumers. The number of commercial websites is growing exponentially. In 1997, some 30,000 business websites were set up in the Netherlands alone. [4)]

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1) Booz-Allen & Hamilton estimated the global turnover of electronic products and services at 90 billion guilders in 1997, of which 20 billion guilders was generated via the Internet.
2) Sources: Activmedia, Forrester Research, EITO, IDC. This concerns a range of extremely different estimates. See also OECD Report, “measuring electronic commerce”, in which the estimations for the period 2000-2003 vary between 580 million and 775 billion.
3) Source: Booz-Allen & Hamilton. It is estimated that this percentage may increase to 10 to 15% within 5 years.
4) Source: NIPO Business Monitor.

From all this one could simply conclude that the advent of the Internet has made the large-scale development of electronic commerce possible, thereby making the Internet the great “enabler” of global electronic business. Some forecasters predict that the effect of this development on the economic structure could be comparable in scope to the industrial revolution. This is largely due to the fact that distance and, by implication, time is of secondary importance to the potential consumer. Based on the actual changes currently taking place, it is quite likely that these predictions could be fulfilled. It is precisely the mass-availability of information and communication technology that compels closer scrutiny of the implications for taxation.

While the importance of the Internet in the development of electronic commerce should not be underestimated, it is equally important to keep track of other forms of electronic commerce that do not occur via the Internet. A chip card can, for instance, be used to place orders or transact purchases by telephone. As there is currently little or no information available on these “non-Internet” forms of electronic commerce, this chapter will concentrate on electronic commerce via the Internet.

3.1.2. The importance of electronic commerce

The following are some of the advantages of electronic commerce:
- companies (including small- and medium-size businesses) can establish and maintain a global presence at limited extra cost;
- producers have access to fast, enhanced feedback concerning consumer habits, which can be translated into tailor-made products;
- reduction of inventory, advertising and transportation costs;
- trade between the producer and the consumer is more direct, thereby cutting distribution costs. For some products and services (music, information and software), no physical distribution equipment is needed;
- it offers socio-economic benefits due to the fact that the cost reductions and quality improvements realised in each transaction in an efficient market will translate into more competitive pricing and enhanced trading options.

3.1.3. Starting point for the Netherlands

The Netherlands intends to become a pre-eminent force in the field of electronic commerce and the preconditions are favourable for the following reasons:

- high PC penetration and large number of Internet connections;
- extensive use of PIN cards and familiarity with “Tele-banking”;
- in comparison with many western countries, the Netherlands has a high level of EDI usage and chip card ownership;
- the Netherlands has many important providers, many of which are European market leaders in sectors that are important for electronic commerce, such as transport, business and financial services, trade and publishing;
- the Netherlands has a sound basic infrastructure and maintains a central position in the fields of logistics and distribution;
- its international orientation, education levels and linguistic skills are further advantages.

3.1.4. Impediments to electronic commerce

On the other hand there are several factors that impede the chances of success, most of which pertain to the small local market. A number of applications (software, access services provisioning, information services/databases) are more scale-sensitive. In addition, there are segments in which American businesses have a dominant position due to their market leadership. This particularly applies to software for end users, hardware, browser software and content.

Paragraph 3.2, below, outlines potential developments in the scope of electronic commerce in the years to come. While this yields a relatively positive picture, it must be borne in mind that this outline presupposes that current impediments to the large-scale introduction of electronic commerce will (largely) be removed.
Most of the impediments are economic, legal and technical in nature, but it is partially due to these factors that the Dutch community is hesitant to embrace electronic commerce. This reluctance is most evident in small- and medium-sized companies and start-ups due to the high investment required in manpower and hard and software, while “return on investment” is still relatively uncertain in the ICT context.

This is mainly due to a lack of clarity and uncertainty concerning potential turnover, particularly as consumer demand for electronic services and products is still limited. In addition, there is an evident lack of knowledge about the possibilities and advantages of electronic commerce. In this context it is important to observe that there is already a looming shortage of adequately trained experts to implement the required adjustments to the business processes.
Furthermore, given the global character of electronic commerce, there are numerous legal uncertainties, which can only be removed through internationally synchronised efforts. Seen from within this framework, the most important aspect with regard to the present memorandum is the lack of clarity concerning an unambiguous and stable international fiscal environment.
Finally, a number of technical impediments would have to be removed in order to realise the potential outlined below. This concerns issues such as

network inter-connectivity, technical standards and bottlenecks in the networks.
The Plan of Action for Electronic Commerce, that was recently submitted to Parliament, outlined a number actions that could facilitate the removal of many of the above-mentioned impediments.

3.2. Overview of on line markets and related developments

The comparative international benchmark study “Towards an Information Society”, conducted by Booz, Allen & Hamilton, generated a substantial body of data concerning electronic commerce. [1)] The following is a representation of the outcome of that study.

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1) Countries studied: France, Germany, Sweden, United Kingdom, United States, The Netherlands.

3.2.1. Market segmentation

A survey of the on line electronic commerce market reveals four main segments: Information, communication, transaction and entertainment services (see figure 1). Where possible and relevant, a further distinction is made between the types of interaction between user and provider: business-to-business, business-to-consumer or mutually between consumers.

Figure 1

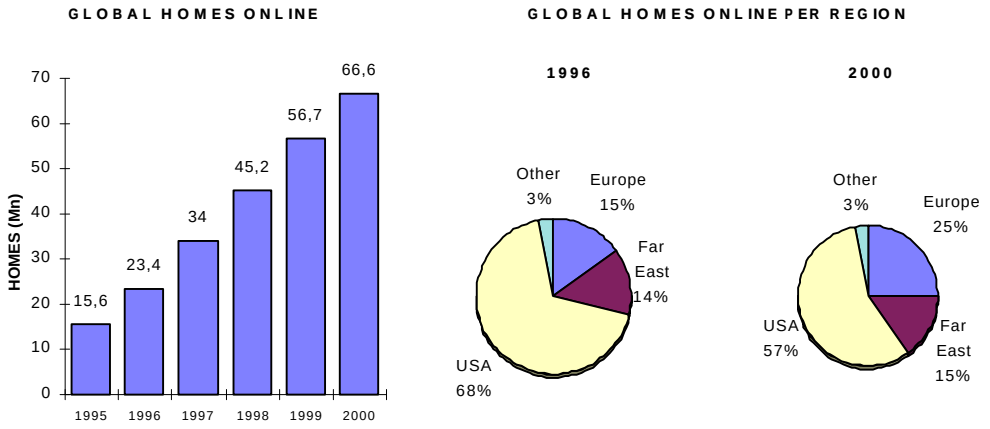
SEGMENTATION OF ON LINE SERVICES

type OF INTERACTION	TYPE OF SERVICES OFFERED ON LINE			
	Information	**Communication**	**Transaction**	**Entertainment**
Business-to-business	News Information: travel, traffic, health, supply, etc. Advertising, productinfo On line databases Directories "Search Engines"	E-mail Video conferences Help desks Direct marketing PC fax Discussiongroups/ interest groups Bulletin boards	EDI Patient monitoring Telework Training Telediagnosis Telebanking	--
Business-to-consumer	News Information: travel, trafic, health, stock, etc. Advertising, productinfo Directories "Search Engines" Navigation software	E-mail Direct marketing PC fax Helpdesks / customerservices Discussiongroups/ interestgroups Bulletin boards	Telebanking E-brokerage E-insurance Teleshopping E-reservations – Travel – Cultural / Events Donations Tele-Education	Music Video – Pay-per-view – Video-on-demand – Pay TV / plus packages Games Edutainment Lotteries, gambling
Business-to-administration	Statistics-databases Government information (Services etc.)	--	EDI for contracts Tax forms Application for tax forms	--
Administration-to-consumer	Community information Government information (Services etc.)	--	Tax forms Statistics forms Application for tax forms Elections	Edutainment Lotteries, gambling Travelguides
Between consumers	Homepages Advertising	E-mail Chat rooms PC fax Discussion groups/ interestgroups Bulletin boards		Multiplayer games

3.2.2. Use of on line services

Market analysts and researchers expect that some 66 million homes world-wide will use on line services by the year 2000, either via closed networks or via Internet access (see figure 2).

Figure 2



NB: 'Online Homes' definition: users of Web Programs (e.g. America Online, EuroNet) and Internet.
Source: Jupiter Online Markets

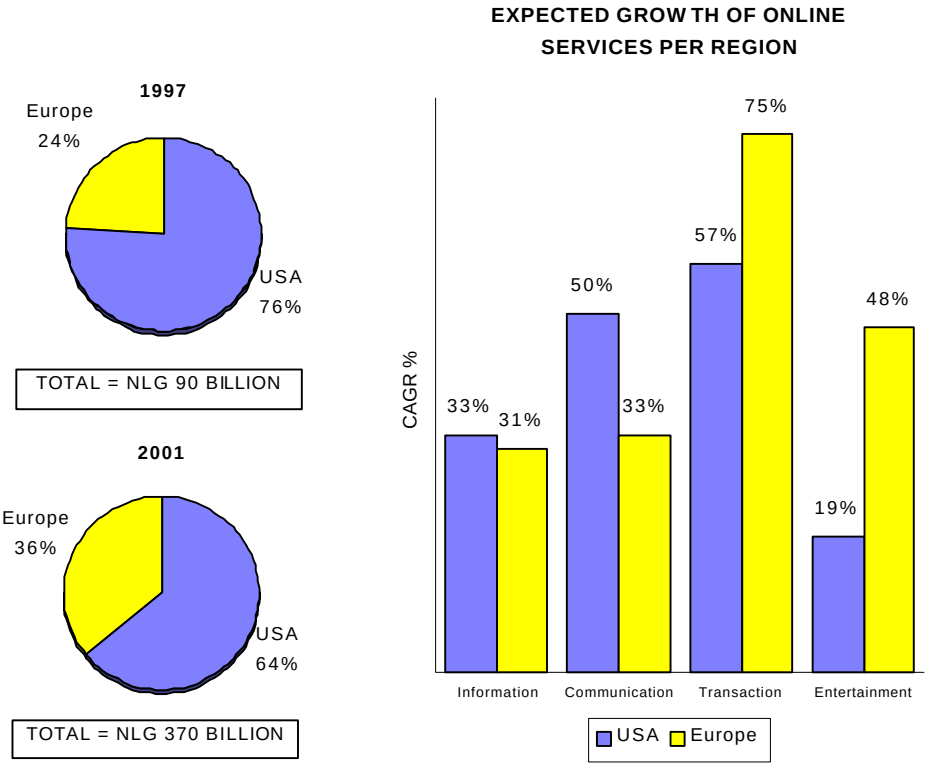
As all European countries develop from a limited starting position, they will show a higher relative growth rate in the use of on line services than the USA. This will especially apply once telecommunication rates and PC prices fall and consumers show a greater acceptance of on line services. It is anticipated that, by the year 2001, Germany, Sweden and the Netherlands will achieve a penetration level of 20 to 25% in on line services. Lower growth is expected in the UK and France. The market in the UK is already quite advanced, but in France, the aging technology of the Minitel system that was introduced in the eighties creates a barrier for further on line development.

It is generally expected that the European share of worldwide on line homes will have risen from 15% to 25% by the year 2000. It is further anticipated that, by the year 2000, the vast majority of big businesses and at least half of all small- and medium-sized business in the countries studied will use on line services.

3.2.3. Market size and expansion - Europe versus the USA

European on line services are currently lagging behind its counterparts in the USA. The present size of the market in the five countries studied in Europe is estimated at approximately 20 to 25 billion guilders, which is roughly equivalent to one third of the size of the market in the USA. Due to the high anticipated growth rate in transaction and entertainment services, it is expected that the European on line services market will grow to approximately 130 billion guilders by the year 2001 or roughly half of the American market (see Figure 3).

Figure 3

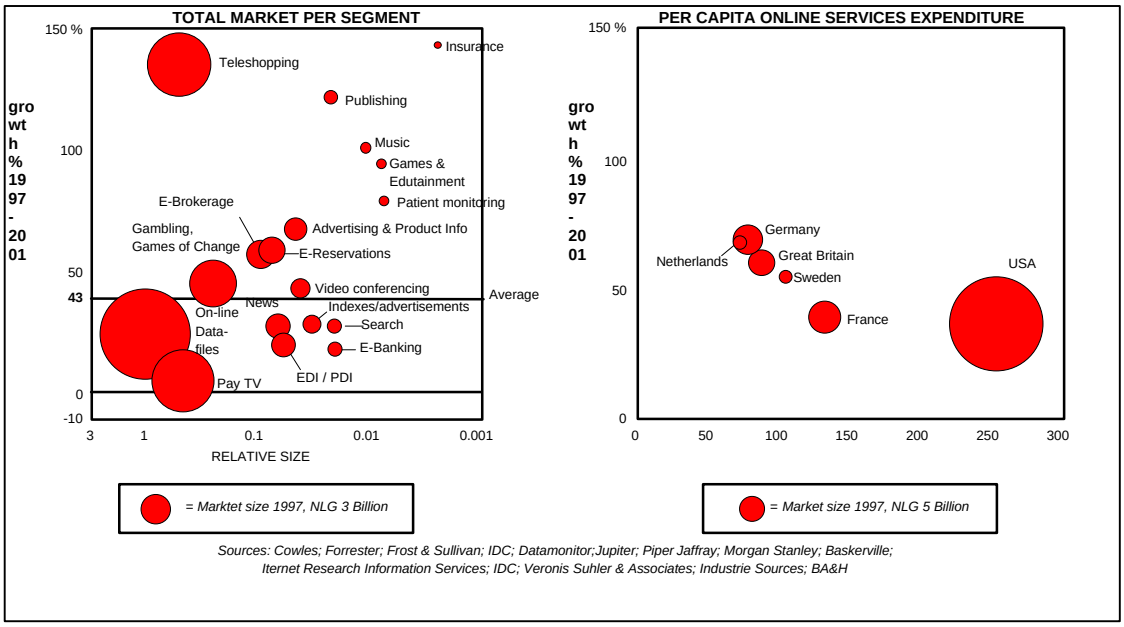


3.2.4. Anticipated market expansion - General

To date, the growth in on line services has mainly been determined by business users and early adopters in the consumer market. The mass market for on line services only took off recently in the USA. Due to enhanced access and the fact that on line service providers are increasingly oriented to commercially viable models, the next growth wave in the USA and Europe will be in attractive and feasible services for the consumer market.

It is expected that transaction services such as Teleshopping and electronic brokerage (shares, bond trade) will rapidly develop into a mass market. Together with the more developed on line database, pay TV and electronic gambling markets, these services will constitute the greater part of the global on line market, while other services will retain their niche character (see figure 4; this figure shows the relative size of market segments as circles: the larger the circle, the greater the segment. To illustrate the relative sizes in numerical values, the circles, depending on their size, are placed above the corresponding figures on the horizontal axis. The higher the projected growth of the segment, the higher the corresponding circles are placed in the figure. The vertical axis represents the projected growth percentage).

Figure 4



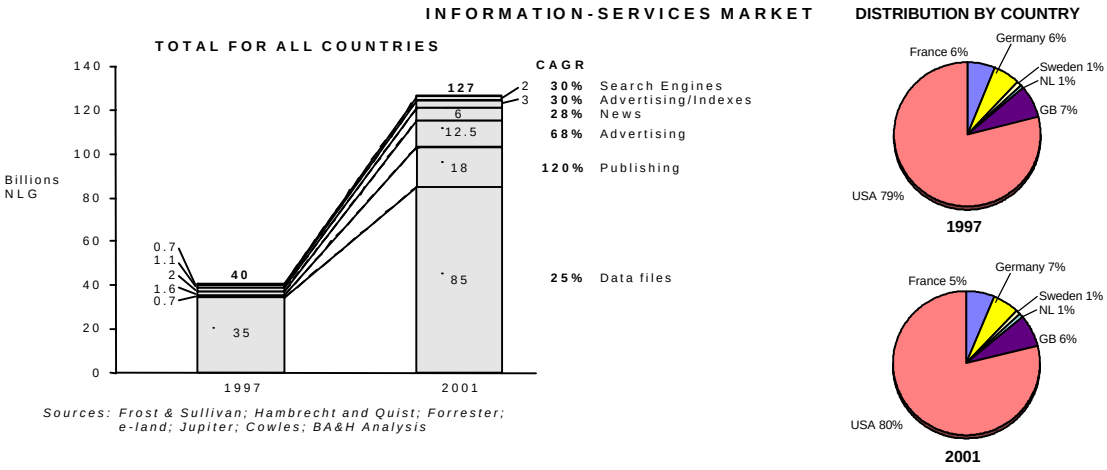
Sources: Cowles; Forrester; Frost & Sullivan; IDC; Datamonitor;Jupiter; Piper Jaffray; Morgan Stanley; Baskerville; Iternet Research Information Services; IDC; Veronis Suhler & Associates; Industrie Sources; BA&H

The relatively small market size and limited expansion, especially in Europe, are mainly due to the low per capita use of on line services. In 1997, the American consumer spent approximately 250 guilders on on line services. This is twice the amount spent by “experienced” Minitel consumers in France and 2.5 to 3.5 times the amount spent in other European markets. It is however anticipated that these markets will show the highest growth percentage over the next few years (with the exception of France, where aging Minitel technology forms a barrier). In the Netherlands, it is expected that per capita expenditure will increase from less than 80 today to more than 550 guilders in the year 2001.

3.2.5. Anticipated market expansion - Information Services

On line information services are the largest and most advanced markets in all countries studied, while databases, valued at 35 billion guilders, constitute by far the largest market segment. High average growth percentages (approx. 70% to 120%) in electronic publishing and advertising will ensure their market share (see fig. 5). The growth in electronic publishing is driven by an increasing global demand for business and scientific literature and greater availability of digital content, both in the professional and the consumer markets. It is expected that advertising in the electronic media will grow even more rapidly as the on line distribution channel develops into a mass medium. In the years to come, burgeoning on line penetration in the domestic and business environments, in combination with electronic direct marketing instruments, will make up a substantial proportion of advertising spending.

Figure 5



Sources: Frost & Sullivan; Hambrecht and Quist; Forrester; e-land; Jupiter; Cowles; BA&H Analysis

3.2.6. Anticipated market expansion - Communication Services

The size and growth of the communication services market are closely related to the development of the Internet and on line services in general. Of these segments, electronic mail (E-mail) is the fastest growing and is generally considered to be the “killer application” that persuades most people to go on line. In most countries, e-mail software is available at low prices or free of charge, as a result of which its market value is extremely limited. Further E-mail penetration will be realized by means of the continued availability of free services and its growing use in business, mostly in combination with Electronic Data Interchange and Product Data Interchange (EDI/PDI applications).

In 1997, direct marketing companies apparently found an attractive distribution instrument for advertising, enquiries and intelligent marketing through the use of E-mail and Internet applications. On line direct marketing yielded only approx. 25-30 million guilders globally, but new applications, the replacement of other direct marketing channels and intelligent direct marketing will lead to a large increase in E-mail database marketing (expected to amount to 1.6 billion guilders by the year 2002). Video conferencing has shown limited growth in recent years. Due to limited transmission bandwidth, the quality of desktop video-conferencing is still unacceptably low. Other factors that contributed to the slow growth in this market include incompatibility between video-conferencing systems and the fact that providers are slow to reach agreement concerning technological standards.

3.2.7. Anticipated market expansion - Transaction Services

While on line transaction services are currently still limited in scope, they will undergo strong growth, mainly because they will partially replace an enormous market for more traditional “physical” services. “Transaction services” include the supply of goods, including the supply itself, services whereby the service itself is rendered on line and services whereby the entire transaction is settled on line, such as the sale of digitized information.

Many users will eventually embrace cheaper, time-saving on line financial services, especially in countries such as the USA, where traditional banking services are underdeveloped.
In the next few years, enormous growth is also anticipated in electronic shopping, with an estimated global goods transaction value of approximately 120 billion guilders by the year 2000. [1)] An increasing number of products are now being sold via on line distribution channels rather than via the traditional retail channels. For example, the fast-growing American PC manufacturer, Dell is expecting to sell more than a quarter of its products on line within three to five years. General acceptance of electronic direct mail and the recent development towards safer payment systems will contribute to an annual growth in Teleshopping by an expected 70% by the year 2001 (see figure 6). By that time, Teleshopping will overtake electronic databases as the largest on line segment.

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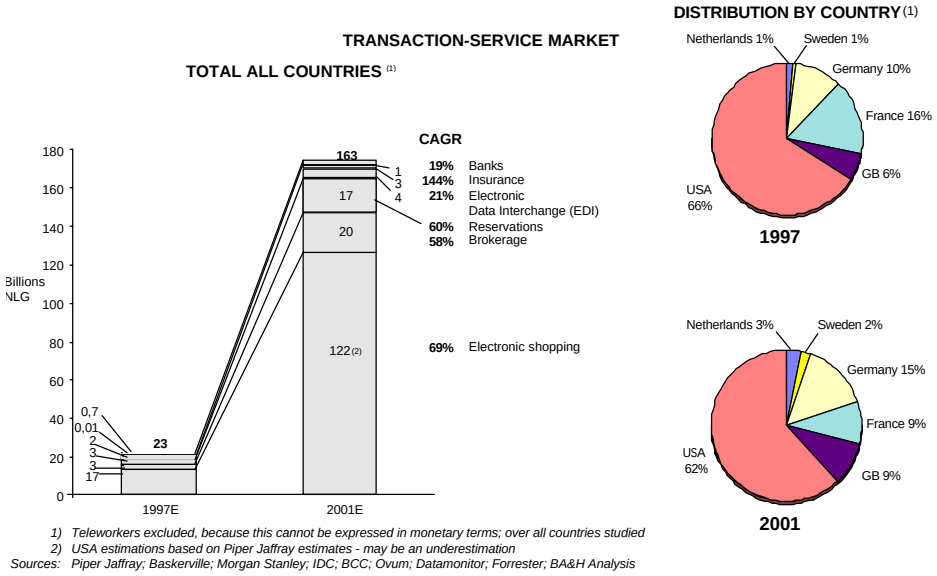
1) Value of the product or the service being traded.

Figure 6



1) Teleworkers excluded, because this cannot be expressed in monetary terms; over all countries studied
2) USA estimations based on Piper Jaffray estimates - may be an underestimation
Sources: Piper Jaffray; Baskerville; Morgan Stanley; IDC; BCC; Ovum; Datamonitor; Forrester; BA&H Analysis

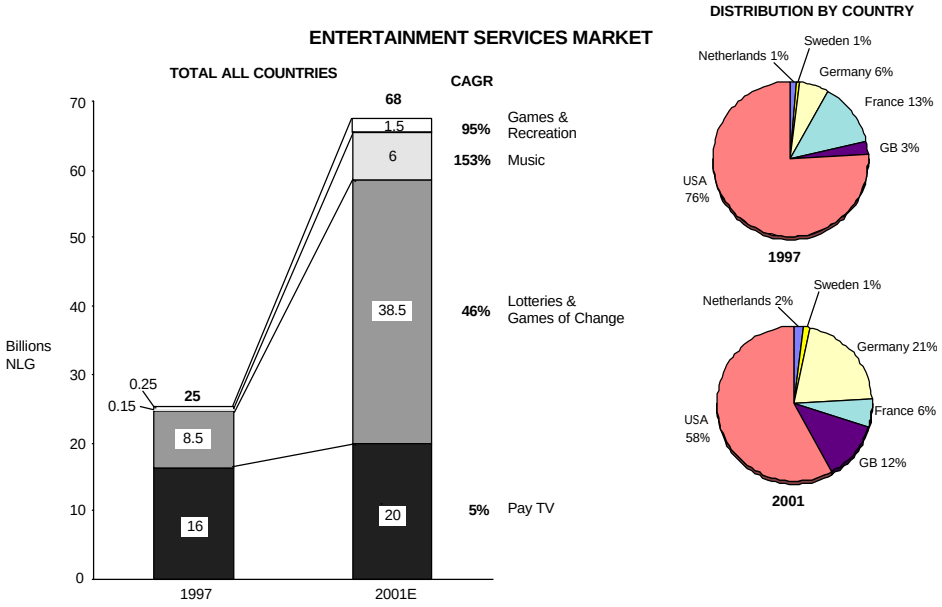
A number of other transaction services, such as Telework, Telediagnosis and Electronic Data Interchange and Product Data Interchange (EDI/PDI) applications defy estimates in monetary terms, because they are entirely or partially internally developed. EDI/PDI services are relatively well developed in business, but still largely based on closed software and systems.

All other transaction services will show healthy growth, especially as usage expands from large companies to medium and small businesses.

3.2.8. Anticipated market expansion - Entertainment Services

On line entertainment services currently consist mainly of so-called Plus Packages in Pay TV and on line gambling (see Figure 7). Pay TV is relatively highly developed and will probably show modest growth, even when taking into account the potential of digitization and interactivity. Pay TV penetration varies amongst the countries studied and is largely dependent on the development of and the competition between TV broadcasters that are financed by advertising revenue.

Figure 7



Sources: Music Business International; Kagan; Datamonitor; Industry Sources; BA&H Analysis

Mainly in the USA, on line gambling is the second largest entertainment sector. This market is already large and is expected to grow substantially in the next five years. The so-called offshore gambling services could eventually become the largest entertainment segment. Gambling is, however, sensitive to amendments in (international) regulations and future legislation may significantly influence the projected market growth. On line music covers less than 1% of the total world market for music; over the next few years, growth is mainly expected from on line CD orders (categorized as transaction services). On line games will partially replace CD-ROM products, especially once the technology (broad-band infrastructure, software) offers full interactivity on a large scale.

3.2.9. Summary of market overview

It is expected that on line services will become a mass medium that, in some instances, will replace the “traditional” media within the next five to ten years, but that it will also generate new parallel demands. On line services show substantial growth in all the countries studied. It is anticipated that the European markets will catch up with the USA, which currently has a clear lead in the use of these kinds of services. While on line distribution will not entirely replace other distribution channels, the latter channels will be substituted gradually.

Completely new services, such as teleporting, telemedicine and “remote maintenance” will develop on a parallel basis.

The Dutch on line services market is currently estimated at approximately 1.2 billion guilders, which amounts to 1 - 1.5% of the world market. In comparison with other countries studied, the per capita use of these services in the Netherlands is still low. As with the other countries, the Dutch market will see substantial growth in the next five to ten years. It is

expected that the growth in the Netherlands will be above average as it takes increasing advantage of its favorable position in those sectors that drive economic growth (retail, financial services etc.). As a result, Dutch per capita consumption will grow from 80 guilders today, to more than 550 guilders by the year 2001.

3.3. The bridge between tax policy and electronic commerce

From the perspective described above, the rapid development of the new media, the growth potential of the market (especially for on line services) and the potentially favorable entry position of the Netherlands, the present study attempts to determine which fiscal aspects deserve attention within this general framework. This includes aspects of taxation pertaining to the supply of goods and services and on line transactions using digital products. An important aspect in this framework (described in the book “The Death of Distance”) is the disappearance of distance between market parties, which creates the impression that providers from different countries are based in close physical proximity. For this reason, the differences in tax regimes under which the various businesses operate and the consequences for consumer and provider assume greater importance in the purchasing (orientation) process than has been the case until now.

Clear regulation and recognizability
In the first place, it has been established that the market needs a clear and transparent regime. This position was supported at international level during the congress, “Dismantling the Barriers to Global Electronic Commerce”, convened in November 1997 by the OECD and BIAC in Turku, Finland. It transpired that governments can make a valuable contribution by implementing consistent and simple regulations and by preventing undue administrative burden on sectors entering the new market. These points of departure may also be helpful in directing fiscal developments. The implementation of unambiguous and recognizable regulation and the removal of fiscal impediments, whereby entrepreneurs could be placed at a disadvantage in the international market, is of substantial importance.

Risks and financing
The characteristic uncertainties and risks in new markets provide further motivation to consider a number of measures to support the financing needs of new entrants to the market.

Accessibility of the new media
Another important aspect of the exploration of policy options is to find ways to make the new media more accessible to the consumer. In this context it is important to develop new educational options and to elevate the general level of knowledge. The present memorandum also examines ways of effectively linking the tax system to the new media.

Fair Tax System
The ambition to create a balance between the needs of a solid tax system and the points of departure mentioned above, forms the backbone of the exploration of potential solutions.

4. Broad outline of tax policy

4.1. General

One of the topics being debated by the 29 member countries of the Organization for Economic Co-operation and Development (OECD) is international taxation. For several years, the OECD has focused its attention on the influence of the telecommunication revolution on both direct and indirect tax. The Netherlands plays an active role in this discussion, which is the subject of growing concern both at national and EU level.
In view of the cross-border nature of the problem, the Dutch point of departure is a broad international consensus concerning pertinent regulations and prescriptions (existing and new). For this reason, the Netherlands intends to maintain the competitive neutrality of the existing fiscal regime in both national and international context (by preventing double taxation and non-taxation, among other things) while, at the same time, preventing the loss of tax resources. For the time being, this will be attempted by means of the existing tax system. However, there is a clear understanding that administration issues will pose new challenges as new dimensions are attached to concepts such as accessibility, traceability and auditability. In addition, certain tax regulations may need to be amended in order to maintain the necessary measures of control in the electronic environment. If, eventually, it does become necessary to change (components of) the tax system (for example, due to changes in trade traffic caused by electronic commerce), then this should be effected by means of legislation and regulation that are not inextricably tied to current technology. At this stage, it is too early to draw any conclusions concerning the desirability of new regulation.

4.2. Corporation Tax

4.2.1. Introduction

Modern means of communication (with the Internet as principal exponent) has led to the disappearance of borders. Individuals and businesses are thereby freer in their choice of where to do business. There is no longer any compelling need to maintain a physical presence in any specific location. Previously, to manage a business effectively, it was essential to be physically present to synchronize the various business parts. The new media have made this practice obsolete. Management can now live and work in different countries, without ill effect to the company. In theory this means that management can be practiced from different countries. Practices which have been valid in other types of activities for years are now also valid with respect to management. In certain instances, production and other activities can now be relocated to other countries.

Literature on the subject questions whether the fundamentals of the current tax systems are still competent to deal with the changes brought about by these new developments. In view of the cross-border nature of electronic commerce, it is argued that this issue demands an entirely new approach. The following subjects have already been discussed in OECD context:
- residence;
- permanent establishment;
- transfer pricing;
- characterization of income.

The OECD discussions are intended to culminate in a tax framework, which is suited to electronic commerce. According to the current schedule, the ministers of the countries involved are expected to determine this framework in Ottawa in October 1998.

4.2.2. Starting point for the allocation of income to a state

A country's tax system must specify who should pay tax and which forms of income should be subject to taxation. International tax law uses the concepts of residence and source of income to define those parameters. The country of residence may thereby claim tax on all taxable income generated by the company, regardless of where the income is sourced. Only specific components of the income of non-residents are taxable in a source country. Tax treaties must ensure that no income is subject to double taxation. Most tax treaties are based on the OECD model treaty.

With respect to the allocation of income to the state, the Netherlands traditionally adopts the position that taxation should have a neutral character. A company that invests in a state other than its own domicile, should receive the same fiscal treatment as a resident company. The business profit that was obtained with the aid of the economic infrastructure (financed with the tax funds) of another state should only be taxed by that state. These taxes should be exempted in the company's home country.

4.2.3. Residence

4.2.3.1. Introduction

In the situation described above, it would be essential to establish in which country a company is resident. In principle, the country in which the company is resident can tax all of the company's income, regardless of where the income was sourced. The Dutch General Tax Act (*Algemene Wet Rijksbelastingen*) determines the company's residence according to a number of circumstances. For present purposes, it is essential to establish the location from where the company's effective management is exercised. According to the OECD model, if a company is a resident of more than one state, then the place where the effective management of that company is situated is the decisive criterion in determining in which country the corporate body is deemed to be resident.

4.2.3.2. Consequences of electronic commerce

To a certain extent, new communication technology frees the managers of an organization from the traditional restraints that physical location places on effective company management. The increasing trend in this direction

suggests a theoretical possibility that management could be based in two or more separate countries. Using this situation as a point of departure, it is conceivable that two or more states may claim that the effective management of the corporate body is based in their country and that both countries are thereby entitled to claim tax over the company's total income. The new communication technology makes the criterion, "effective place of management" harder to apply.

4.2.3.3. Possible solution

Suppose two states claim that a company's effective management is located in their respective countries then, on the basis of the existing text of the OECD model treaty, if country A is the company's registered domicile, state B can claim that the company maintains a permanent establishment in country B. Profit allocated to a permanent establishment is taxed in the country where the permanent establishment is based. Conversely, if country B is the domicile, then the company has a permanent establishment in country A. Consistent application of this rule should eliminate most problems in this context and each state would receive its due share. This is consistent with the point of departure for the allocation of income to the state, as described above. From this point of view, a new decisive criterion would be of limited value.

This situation is still feasible in the above-mentioned example, however, if more than two countries or countries that are not party to a treaty are involved, then the situation becomes more complex.

A concerted international effort may be required to refine existing regulations concerning residence before serious differences of opinion emerge in practice.

4.2.4. Permanent establishment

4.2.4.1. Introduction

Normally, when a company wishes to expand its operations to other markets, it does so by, e.g., establishing a subsidiary to manage the local market. Usually a physical presence is required in the other country and taxation is linked to this. If a company establishes business activities of a specific nature and scope in another country, then the company may incur tax duties in that country. Profits allocated to a so-called permanent establishment are taxable in the country where the permanent establishment is located. Profits may only be taxed in as far as they can reasonably be allocated to that permanent establishment. The permanent establishment should be treated as if it were an independent company operating "at arm's length". To establish the existence of a permanent establishment, the OECD model treaty assumes the existence of a physical presence in that country.

4.2.4.2. Consequences of electronic commerce

The advent of electronic commerce provided companies with new opportunities to offer their goods or services globally without actually maintaining a physical presence in another country. As a result, the consumption country no longer has a point of contact for taxation and can therefore no longer raise taxes on the profits generated by the company

through the sale of its goods or services in that country. Improved communication resources also allow “knowledge workers” to perform their work from remote locations. Knowledge workers can be based anywhere in the world and it is expected that, for fiscal reasons, many of these people will move to alternative countries (partially) in the course of time.

4.2.4.3. Possible solution

If, due to enhanced technology, there is no need to maintain a physical presence in another country and no profits are generated by means of the economic facilities provided by that country (which merely serves as a market for the company’s goods or services), then it follows that the country in question should no longer be entitled to tax those profits. This solution is consistent with previously quoted points of departure for the allocation of income to the state. In this respect, electronic commerce is comparable to traditional mail order businesses that operate in foreign markets without maintaining a physical presence in the market territories. There is a general consensus within the OECD that the mail order business does not generate a permanent establishment abroad. In this context, knowledge workers who work remotely can also only be taxed in the country where they are residents. This situation also prevailed in pre-Internet times. In accordance with internationally accepted regulations, the services of consultants (who do not operate from a permanent establishment abroad), can only be taxed in their country of residence. The extent to which these people will move abroad en masse and thereby erode the tax base, cannot be foreseen, especially as there may be many other factors involved other than mere fiscal motives. In principle, I am of the opinion that electronic commerce as such does not present a persuasive argument to question the accepted points of departure concerning the allocation of income to the state.

If a company uses an independent webserver, the equipment and software needed to operate it must be physically located in a building on some location or the other. If this equipment is based in another country, then it is valid to argue that an investment has been made in another country. In accordance with the points of departure concerning the allocation of income to a state, as described above, it follows that the profit generated by means of that investment should therefore only be taxed in the country in which the investment was made. In this instance it would be accurate to refer to a fixed place of business through which the business of an enterprise is wholly or partly carried on. If the functions performed by the webserver extend beyond preparatory activities and include more than auxiliary activities, then the webserver complies with the definition of a permanent establishment. This also appears to be the case where the server performs functions beyond those traditionally associated with the mail order business, such as independently accepting, settling and delivering orders for digital goods and/or services via, e.g., the Internet.

Subject to the resolutions of the current international discussion, the Advisory Group proposed that clear lines should be drawn with respect to the implementation of this policy. A non resident company conducting business in the Netherlands purely by means of an “electronic presence” (e.g., a server) should not be deemed to have a permanent establishment in the Netherlands. The Netherlands must therefore provide unambiguous reassurance that it will adopt a passive position if it wishes to contribute to a stable fiscal environment.

4.2.5. Profit allocation and transfer pricing

4.2.5.1. Introduction

Once there is a permanent establishment, the question is how much of the profit should be allocated to this permanent establishment. When independent market parties do business, the business conditions are generally determined by market factors. In the case of permanent establishments and affiliated businesses, this is not self-evident. In these instances, profit on individual transactions should be determined in accordance with international (tax) regulation on the basis of the arm's length principle. According to this principle, to determine profit for fiscal purposes, (parts of) the affiliated companies should be viewed as independent companies doing business with one another. The economically relevant characteristics of the businesses being compared should be similar enough to allow meaningful comparison. Functional analysis plays a key role in this respect. This entails an analysis of the specific functions performed, the assets used and the risks to which the various parts are exposed.

4.2.5.2. Consequences of electronic commerce

In the most far-reaching situation, it is conceivable that the webserver manages the entire communication with the customer, collects payments, delivers products and maintains financial records. Such a machine could operate independently and human activities would only be required periodically for maintenance purposes. The question that springs to mind in this situation is whether it would be valid to view the machine as a traditional affiliate and whether profit allocation should be settled correspondingly.

In addition, electronic commerce enables more (small) businesses to operate internationally. It also facilitates the relocation of a variety of business functions to other parts of the world. The problems associated with profit allocation and transfer pricing are therefore likely to occur more frequently and to become increasingly complex in nature.

4.2.5.3. Possible solution

The activities performed by the webserver are, to a great extent, comparable to the traditional functions of an affiliate company. The characteristic difference is that this only concerns work at executive level. The equipment only performs pre-programmed routine activities and cannot react to changing economic conditions. The activities that determine the profits of the company are performed at a strategic and, to a lesser extent, tactical level by human beings. The capital investment required to install a webserver is relatively limited. If a part is exposed to high material risk, then the lion's share of the profit should be allocated to that part. A part that is exposed to little or no risk does not demand the allocation of marginal profit. Any part to which risk is apportioned should also be able to carry that risk. It does not seem realistic to allocate a substantial risk to the activities of a company that operates solely by means of a server. It follows that it does not seem realistic to allocate profit to an independently operating webserver. The activities that determine company profits are performed by human beings and the profit allocation should be linked to that element.

However, a wide range of options can be conceived between the extremes of fully automated and completely manual activities, so each situation should be judged on its own merits.

The Advisory Group proposes that, where a foreign business establishes a permanent establishment in the Netherlands or where subsidiaries of foreign companies provide Internet services via the Netherlands, it would be defensible to determine profits on specific activities on a cost-plus basis, in as far as this concerns limited functions and limited risk (OECD transferpricing guidelines for multinational enterprises and tax administrations, paragraph 2.32 ff.). What the Advisory Group has in mind, is an electronic commerce system, whereby the product offered is produced elsewhere and sold via a Netherlands-based webserver (which is installed and maintained with a view to selling the products of a foreign business, settling payment and performing related administrative activities). In practice, companies frequently these kinds of support activities to specialist companies. As these activities constitute the principal business operations of such companies, they do not qualify as auxiliary or side activities in the sense intended by the cost-plus method. Depending on the facts and circumstances, the contact person for foreign investors at Inland Revenue is already able to provide answers to these questions.

While a resident business would normally be able to make do with a server in the Netherlands, it is equally conceivable that, for technical reasons, it would (also) want to set up a server in another country. If, in contrast to the position of the Netherlands, the other country more promptly viewed the server as a permanent establishment and also incorrectly allocated an unfair amount of the profit thereto, this would lead to an instance of double taxation. The Netherlands has an extensive network of bilateral treaties, whereby it would be possible for the responsible authorities of the two countries to negotiate a solution on the basis of the treaty. In this context the Advisory Group proposes that, for the time being, the Netherlands should unilaterally apply the rules that prevent double taxation until such time as consensus is reached at international level. The attractive aspect of this proposal is that it would reduce the exposure of Dutch businesses to the (temporary) risk of double taxation. However, there are a number of objections to this idea.

In principle, the objection is that the rules of international tax law would no longer be applied symmetrically and the risk arises that one of the Netherlands' treaty partners could abuse the prescience that the Netherlands would act to prevent double taxation. Depending on the scope of the underlying problem, it may demand further consideration.
While, in practice, this conclusion is not very likely to be drawn anytime soon, the above suggests that a webserver or similar independently operating machine could qualify as a permanent establishment. While it is not generally possible to allocate profit to such a structure, there seems to be sufficient cause to plead the case that this and similar types of equipment should not constitute a permanent establishment under the conditions of the OECD model treaty.

With respect to the problem of a higher frequency and more complexity of transfer pricing issues, it should be added that it will become more difficult to determine with any degree of certainty which functions are performed where, which in turn exacerbates the problem of conducting effective function analyses. The question concerning the allocation of risk also

becomes increasingly complex with respect to international companies. Currently, the common consensus is that the advent of electronic commerce has not created any fundamentally new problems and that the existing conceptual framework is adequate for dealing with this phenomenon.

4.2.6. Characterization of income

4.2.6.1. Introduction

The tax treaties make a distinction between different types of income, such as dividend, interest and royalties. The importance of this is that some countries apply a withholding tax to income such as royalties. The characterization of income is therefore important.

4.2.6.2. Consequences of electronic commerce

The advent of the new telecommunication technology has made it possible to represent a great variety of products in digital form and to make an infinite number of copies that are indistinguishable from the original. Where this concerns products subject to copyright, the product may not be copied without the prior permission of the copyright holder. Where the copyright holder authorizes copying in return for payment, the payment is characterized as royalties. If a business in country A downloads a computer program from country B and the program is only intended for own use, then this transaction qualifies as an ordinary sale and the revenue qualifies as business profit. If, however, the same business wants several copies and, to that end, obtains one physical copy along with the right to reproduce the program (perhaps to make these copies available to third parties), then the remuneration assumes the character of a royalty.
The OECD model treaty defines a royalty as payments of any kind received as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. The advent of digital products could obfuscate the parameters of the concept of copyright, which may in turn lead to confusion about the nature of specific types of income.

4.2.6.3. Possible solution

The question concerning which concrete instances do and do not qualify as royalties, merits international discussion, whereby the definition of the concept of royalty could be further clarified.

4.2.7. Summary

- Current international regulation concerning the question of residence could be further refined.
- As such, electronic commerce does not seem to provide any valid arguments to question the established points of departure concerning the allocation of income to a state.
- A webserver that operates independently could qualify as a permanent establishment if its activities extend beyond functions of preparatory nature and entail more than mere auxiliary activities. This applies in instances where the webserver independently accepts, settles and

delivers orders of digital goods and services, e.g., via the Internet. It does not, however, seem realistic to allocate profits to a webserver that operates independently, whereby it seems logical to appeal for exemption status under the provisions of the OECD model treaty.
- Depending on the facts and circumstances, the framework of the cost plus method provides satisfactory solutions to the question of profit allocation with respect to activities that fall between completely automated and completely manual, in as far as this concerns supporting or comparable activities that, per se, entail limited entrepreneurial risk and generally do not form an essential part of the core business activities. Foreign companies can obtain certainty about this kind of solution by contacting the foreign investment contact at Inland Revenue.
- The definition of “royalties” requires further refinement at international level to dispel the illusion that anything pertaining to electronic commerce can simply be bundled under the concept of royalties.

4.3. VAT and electronic commerce

4.3.1. VAT, a general consumer tax

VAT is a general consumer tax, which is subject to a number of general principles, one of these being that it operates on a territorial basis. A second is that it must comply with the requirement of neutrality, in other words, in principle it may not interfere with commercial traffic. VAT may not influence a company’s competitive strength, i.e., the tax pressure on national products must be the same as on imported products and exported goods and services must be VAT-free. It is precisely in the field of VAT that the disappearance of distance will have a substantial effect. A competitor who is physically based thousands of kilometers away will now be able to operate via the electronic highway as if based around the corner. The use of electronic commerce can thereby lead to an increase in the number and volume of international transactions which, in turn, could lead to increased interaction between various VAT systems. In as far as VAT systems are able to influence relative competitive strength, it is important to realize that the electronic highway will now make those effects visible on the local market. To put it bluntly, someone operating just around the corner may not be paying VAT. It is therefore essential to view the VAT aspects of electronic commerce in the international context and to assess potential amendments from that perspective. A broad international consensus will be required to achieve these objectives. Since the Dutch VAT system is largely determined by European legislation (of which the Sixth VAT Guideline is the most important), it is clear that it will only be possible to implement amendments on the basis of general European consensus.

4.3.2. Historical developments

Consumer taxes that preceded VAT were originally aimed at transactions involving goods. In addition to the taxation of local transactions, tax was traditionally also collected on imports. It was only later that tax was levied on services. Due to the “location-bound” nature of many types of services, this originally only affected local transactions. However, the internationalization of services later contributed to the development of VAT systems in that area.

4.3.3. Consequences of electronic commerce

Electronic commerce will lead to a situation where substantial volumes of transactions are concluded between providers of goods and services and consumers based at greater distances from each other. Goods, services and digitized information (text, image, sound and software) can be purchased by or supplied to consumers located abroad, at great distances from their suppliers; in several situations these “cross-border” transactions will not concern tangible products. The use of the new media offers consumers the opportunity to gain faster insight into the global supply of goods and services. Already there are Internet websites that keep track of a broad range of products available on the Internet and refer potential consumers to those suppliers that offer the best value. As pricing is a dominant factor in determining consumer behavior, it is crucial to consider the influence of VAT on pricing. It is also worth mentioning that in most VAT systems (including the European system) the supply of digitized information is deemed to be a service.

4.3.4. Delineation of the problem area

4.3.4.1. Businesses entitled to deduct prepaid tax

In business-to-business transactions, where the consumer is entitled to deduct prepaid tax, VAT cannot be counted as an expense. [1)] The VAT payable by the provider of goods or services will invariably be paid by the consumer (transferred), while VAT paid in preceding links will invariably be returned. In certain international transactions the law allows for reverse charge regulations, whereby VAT obligations are transferred from the foreign supplier to the local consumer. An example is the recent amendment to the regulations that apply to telecommunications in the Value Added Tax Act of 1968 (Wet op de Omzetbelasting 1968). If the tax is payable in the country of consumption (in the case of a business) the business can reclaim the VAT in the country where it is based. No VAT is payable in the Netherlands where such services are “exported” to a foreign business. At this stage, wherever this is required by business service providers, reverse charge regulations apply with respect to the country where the tax is payable.

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1) Administrative aspects may be experienced as complicating factors in international transactions.

4.3.4.2. Consumers not entitled to claim prepaid tax

For consumers who are not entitled or only partially entitled to deduct prepaid tax, VAT is an expense. In the first place, this concerns businesses (including certain corporate bodies) that perform exempted services. These businesses are at all times required to maintain a verifiable administration. [1)] The reverse charge regulations, outlined above, also apply to these businesses. In principle, this guarantees VAT collection in the Netherlands, whereby transactions with foreign suppliers of goods and services are subject to the same duties as their national counterparts. Because VAT, payable on the basis of the reverse charge regulations, cannot be deducted or can only be deducted partially, the business experience VAT as an expense. This also applies to private persons. In contrast to administrating tax payers, auditing options are limited in the latter instance. While the possibility of further attention to auditing is not excluded with respect to businesses and corporate bodies that are not entitled to deduct prepaid tax and while double or non-taxation occasionally occurs in this group, discussions in international committees reveal that the central focus is on private consumers.

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1) Small businesses are the exception to this rule. The VAT systems in Europe and other countries have special regulations for this group, whereby these businesses are often exempted from VAT and whereby behavioral effects may occur that are comparable to private consumers and businesses that are not entitled to deduct pre-paid tax.

4.3.4.3. Goods

The sale of goods by a Dutch provider to a Dutch private consumer within the Netherlands is subject to VAT duties. (The formal rule is that the place of supply of the goods is the place where the goods are located at the moment of delivery or from where the dispatch begins. If this location is in the Netherlands, then the VAT will be collected in the Netherlands.) An over the counter sale of a CD to a private customer in Amsterdam is subject to VAT duties. If the same individual buys the CD or other goods in another EU country, then the VAT is payable in the purchase country. If a private individual from another EU country buys the CD in the Netherlands, then the VAT is payable in the Netherlands. In other words, EU citizens must pay the VAT due under the VAT system of each EU country of purchase (origin). A special rule applies to mail orders in the EU. If a mail order company sells more than a specified amount (currently NLG 230,000 in the Netherlands) to private individuals in another EU country, then the VAT must be paid in the other country, i.e. the country where consumption takes place. If a private customer orders a CD or other goods from outside of Europe, then VAT is payable upon importation, except in the case of smaller shipments which are subject to special regulations. These regulations stipulate that shipments of a value of less than NLG 65 (including shipping costs) are not subject to VAT.

If a Dutch business exports goods to a company in another EU country, the goods are subject to a zero rate with deduction of prepaid tax. The goods therefore leave the Netherlands VAT free. If a business sells goods to a private individual, the transaction is subject to Dutch VAT rates, except in case of a mail order in excess of the threshold amount of NLG 230,000. A zero rate also applies for exports to other countries. Put concisely, this means that citizens of EU member countries generally pay VAT in the (EU) country of purchase at the prevailing rate in that country. In the case of imports from other countries, the VAT rate of the pertinent (the import) country applies. In case of imports from a third country (non-EU), payment

of VAT may be exempted under the exemption rules that apply to shipments of a value of less than NLG 65. For businesses, a zero rate with deduction of prepaid taxes also applies to goods exported to a third country. The export is therefore VAT-free. VAT will generally be payable on the goods in the destination country, however, in many instances small shipments will be duty free. In most instances the European VAT system is perfectly synchronized with prevailing systems in third countries. Non-taxation or double taxation is therefore generally not possible (with the exception of small shipments, for which the threshold value may differ from country to country). Electronic commerce will only affect the VAT system for goods if the number of international transactions begins to affect the control capacity or upon development of new technology for the control of the traffic of goods.

4.3.4.4. Services

Services are subject to a different regime in the Dutch (and European) VAT systems. The principal rule here is that the service is performed (and taxed) at the location of the service provider. [1)] There are, however, numerous exceptions to this rule, such as services pertaining to movable and immovable goods (estate agents, architects etc.), transport, cultural events and entertainment. [2)] The services are considered to be performed and are therefore taxed at the location of the goods to which they apply or where the actual services are performed. A specific group of services is considered to be performed at the location where the customer is based. This applies where the consumer is a corporate body or a private individual residing outside of the EU. The latter rule mainly concerns patents, advertising, services by consultants and accountants, information supply and processing, financial services and rentals of specific types of movable goods, in other words, mainly services that are available in the business environment.

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1) Where the business that provides the service is resident or based or has a permanent establishment.
2) The Value Added Tax Act of 1968 provides a complete definition in article 6.

Put concisely and in as far as it is relevant to services in this framework, the following applies:
Purchases, by private individuals from businesses in the Netherlands are subject to VAT duties. Services purchased from other countries (inside and outside the EU) that fall under the main rule, are subject to VAT in the country of the service provider (if a VAT or similar regime exists there). In a number of exceptional instances, mainly where the consumer is a business, VAT is payable in the country of the consumer. However, the latter rule does not apply to transactions involving private customers. In rare instances (such as telecommunications), in case private consumers are involved, the location where the service is rendered and therefore the place where VAT is payable, is the country of consumption and foreign service providers are therefore required to pay the VAT in the country of consumption.

It is notable that in other (non-European) VAT systems there are regulations that deviate from the above. Research conducted in the framework of the OECD has shown that in certain countries no VAT is charged on services. In other countries certain services are taxed in the country of consumption, while the European (and therefore also the Dutch) system requires duties to be paid at the location of the service provider. This practice leads to double taxation. Unlike goods, services are therefore vulnerable to both non-

taxation and double taxation. While this mainly applies to services involving private individuals, it can also occur in the case of transactions with businesses and corporate bodies not entitled to deduct prepaid tax. It is precisely due to developments in the field of electronic commerce (in as far as it concerns products or services that can be delivered in digital form) that different approaches in different countries substantially affect the competitive position of Dutch and European service providers.

Where digital transactions are not subject to VAT or similar duties in any specific country (as is the case in a number of countries), then the providers of digital products situated in those countries have a substantial competitive advantage. Due to the fact that Internet consumers are easily able to orientate themselves to the global market, chances are that they will turn to the cheaper providers.

There is one other important aspect to add to the above. As the application of the various rules is often subject to the definition of the services, it is important that there is certainty concerning the interpretations of the definitions and that the interpretations are applied uniformly. Only once the interaction between different tax systems leads to a satisfactory system of single taxation, will it be possible to apply these systems unambiguously. Currently, there is still a substantial degree of confusion in this area, certainly in as far as this concerns the transfer of digitized information.

4.3.4.5. Non-taxation and double taxation

As mentioned above, one of the main characteristics of a VAT system is its competitive neutrality. It is further possible to differentiate between internal and external neutrality. Internal neutrality refers to competition in the local market, while external neutrality (our main concern here) refers to competition with respect to international transactions. As this concerns both import and export, the parties concerned could be consumers or providers of goods or services. The condition of competitive neutrality entails that, where goods or services are offered in other countries, VAT duties may not, in principle, generate competitive advantages or disadvantages. Double taxation as well as the failure to impose VAT duties are in conflict with this principle. Failure to impose duties on imported goods and services can generate a substantial competitive disadvantage for national providers who are required to pay duties on similar goods and services. Regardless of whether the failure to collect duties is caused by the absence of tax regulations or due to tax evasion or fraud, the economic effect remains the same. This differentiation also has no effect with respect to the loss of tax resources. Double taxation also leads to disturbed competitive relations and, more specifically, to the competitive advantage of national providers of goods and services who are not faced with similar accrued taxes and thereby to the disadvantage of international providers situated in other countries.

Not all instances of non-taxation necessarily culminate in undesirable results. In a number of instances, failure to impose duties can be justified for the sake of expediency. Many VAT systems apply exemptions to travelers' luggage and small shipments, as mentioned above. In these instances, the costs associated with tax collection and monitoring would be unjustifiably high in relation to the actual VAT collected. In other words, as long as the economic and fiscal impact of these regulations remain acceptable, there is no place for the imposition of duties in an efficient tax system.

It is however crucial that, in this context, the fragile balance between national economic and fiscal interests and expediency is conscientiously monitored.

4.3.5. International consultation

Two years ago, the European Commission, with the support of the OECD secretariat, created a working group consisting of delegations from Sweden, the United Kingdom and Canada which, under the chairmanship of the Netherlands, took a first step towards exploring the effects of electronic commerce on VAT systems in the OECD countries. In addition, the Netherlands participates in the activities of European Commission working groups that contribute to the internal synchronization of tax policies within the European Union. The OECD working group determined that there is a broad support base for taxation in the country of consumption. To that end, the rules that apply to VAT collection on services (including digital products) would have to be amended in many OECD member countries. It further established that, due to the fact that the taxpayer in this kind of tax system is often located at a great distance from the tax authorities, special control instruments would have to be instituted. Before any final decisions can be made concerning a tax collection system, the OECD working group (meanwhile expanded to include representatives from Japan, France, and the United States and a working group of the European Commission) will conduct further studies concerning execution modalities for a VAT system that would be suitable for electronic commerce. In this context, an important instrument would be mutual assistance in the area of indirect taxation. In this area the Netherlands intends to expand the number treaty partners and participates in the activities of an OECD working group working on this subject.

In October 1998, a ministerial follow-up to the OECD and the Business and Industry Advisory Committee (BIAC) conference held in Turku in November 1997, will be convened in Ottawa (Canada). The focus of this conference will be on electronic commerce. The first conference, which had a more exploratory character, studied general tax aspects and more specifically, VAT-related issues. The aim of the ministerial meeting in Ottawa, for which the groundwork has already been done, is to continue to develop the fiscal framework. To this end, various discussions have been held in the Netherlands and Canada (within the framework of the OECD) with representatives of the national and international business community. The aim is to investigate the options and possibilities available to implement a fair system of VAT collection in the electronic commerce environment. In June 1998, a follow-up meeting will take place in Paris. The outcome of these activities will partially determine the options available with respect to the amendment of existing VAT systems to the new market for electronic commerce.

4.3.6. Possible solutions

The neutrality of the VAT systems, which among other things, determines competitive relations in the digital product environment, demands careful attention. There appears to be international support for the idea that VAT and similar taxes should be collected in the country of consumption. As long as its integrity is guaranteed, a suitable system would also be capable of preventing the loss of tax revenue. Dutch exporters that supply private

customers and customers not entitled to deduct prepaid tax (businesses and corporate bodies not entitled to deduct prepaid tax) will thereby effectively be relieved of VAT obligations in the Netherlands with respect to transactions with consumers based outside the EU (currently these duties create a substantial competitive disadvantage). The application of a zero rate for export to third countries fits perfectly into the European VAT framework (where the general point of departure for VAT collection is national consumption). In addition, the European and (by implication) the Dutch export position on the Internet would benefit thereby. These possibilities, as well as viable execution modalities are currently being investigated by the OECD and working groups of the European Commission. The studies include the investigation of technical solutions, such as telecommunication and information technology and the involvement of intermediaries, such as financial institutions, in the collection and control process.
To prevent electronic commerce from disturbing competitive relations in the local market (for example, too many tax-free CD imports) it is also recommended that these developments are monitored closely and that existing policies are amended wherever necessary. To prevent national suppliers from being disadvantaged, it may be necessary to adjust threshold amounts stipulated in the regulations for small shipments and, where necessary, to implement new technologies to streamline import procedures.

The amendments required for the collection of VAT on services can only be expected in the long term as the international synchronization required for this will take much more time. Meanwhile, in some instances, due to regulation that applies to the location where services are taxed, the existing European VAT system (despite disagreement on the interpretation of certain regulations) will continue to levy tax on the export of certain digitized products. This may put some national providers at a disadvantage, especially where competitors are based in countries where no VAT or related duties are levied on comparable transactions. This aspect is certainly important in the international context (some tax systems do not levy duties on service transactions) as this can adversely affect the competitive position of the Netherlands and other European countries in the initial phases of the international electronic trade.

On this basis some in the Advisory Group resolved that, at least in the early stages of the development of electronic commerce, a VAT zero rate is desirable with respect to transactions involving digital products (for example, in the first three years). This zero rate could be realized on the basis of a provision in the sector that determines the VAT rates. As some believe that it would be hard to determine the location of the consumer and because certain types of electronic transactions would be hard to trace with existing technology, in the Advisory Group an alternative approach to these problems was discussed. It would - if transactions should fictitious be deemed to take place with consumers in third coutries - also be possible to apply a zero rate to electronic transactions. By deducting the prepaid tax linked to the zero rate it would be possible to completely exempt a series of digital products from VAT duties. This approach would play an important role in determining the international competitive position of Dutch providers of digital products. The zero rate will stimulate the development of electronic commerce (specifically transactions with digital products) and Dutch providers wouldl thereby be in a more favorable position relative to providers in countries that do not charge VAT duties on digital products delivered via the electronic highway. It can also be argued that, where the

consumer has a choice between a product in digital form and in physical form, the choice in favor of the former contributes to the conservation of natural resources (no production process and no physical transport required!). If, in this framework, the position of the consumer of digital products is still unclear, in the Advisory Group was suggested to use a general zero rate on transactions involving digital information, including transactions within the Netherlands. The advantage of this approach in the early stages of electronic commerce is that Dutch /European providers will be on an equal competitive footing with suppliers elsewhere in the world. As it will be hard to change consumer patterns established in this initial period at a later stage, it is crucial to prevent Dutch/European suppliers from being faced with an insurmountable handicap. In addition, the Advisory Group felt that the scope of digital delivery of products/services will be so limited during this three-year period, that the anticipated negative effects (reduced VAT revenue, although unfair in relation to the supply of the same products/services in non-digitized form) will be small.

However, this approach should adopt a broader view of related aspects. In the first place, it will have to be considered at EU level. Furthermore, it does not only affect the mutual differences between the fiscal treatment of different forms of digitized information, but also between products delivered on line and products not delivered on line, for example, the difference between music sold on a CD and music delivered on line or digital material sold on a CD-ROM versus the digital equivalent delivered on line. Just as it is important to maintain the balance between the market positions of the various products, it is also important to avoid differences in the fiscal treatment that may culminate in undesired disturbances in competitive relations.

The consequences only affect consumers who are not entitled to deduct prepaid tax. If a rate adjustment is expressed in the sales price, it is mainly this group of customers who will opt to increase digital delivery in preference to non-digital delivery on the basis of the price difference. This will result in a loss of VAT revenue. However, current insight into the scope of on line digital sales is limited. While the tax loss due to the zero rate may be negligible in scope today, the policy is integrally aimed at future growth. There is therefore a hidden budgetary risk of unknown magnitude in the general application of the zero rate with respect to digital information (especially if the number of digital products were to increase and substitution became a reality), while such a precedent could also create undesirable effects in other sectors.

In addition to the above-mentioned aspects of VAT in relation to electronic commerce, in the Advisory Group the general aspect of VAT rates that would apply to digital products was discussed. As traditional printed information products, such as newspapers and magazines are taxed at a low VAT rate , the Advisory Group considered it logical to extend this rule to other information carriers (CD’s) and products that reach the final consumer via the Internet. Therefor the possibility to create a situation whereby as many Dutch providers as users of information products would benefit from lower VAT rates should be investigated in the context of the international renegotiation of VAT agreements (to prevent non-taxation and double taxation). Such a provision would encourage the electronic distribution of the above-mentioned products (for payment) both within the Netherlands and outside. At the same time, it would partially remove the competitive disadvantage of Dutch businesses in relation to foreign businesses (based

outside the EU and not required to pay VAT) that offer similar services via the Internet to private consumers in the Netherlands. As this option is not provided for in the Sixth Directive, the Netherlands would have to propose the relevant amendments to the Directive. However, the Advisory Group observed that outward appearances and problems pertaining to the delineation of such a provision, along with the fact that amendment of the Sixth VAT Directive would require a unanimous decision by the European Union, would probably hinder or prevent implementation. It is also important to recognize that the nature of a digital product is not always easy to define (does a CD-ROM contain a book or a programmed reference system?). This complicates delineation of the target product of rate policy, which is an aspect that generally complicates differentiation in rates.

Within this framework, the Advisory Group also mentioned a rate provision for on line equipment and the cost of telecommunication. The aim of this is to make the application of the new media cheaper and more attractive. The Advisory Group further established that the arguments outlined above would also apply without prejudice to such a rate provision.

The Advisory Group therefore presented a number of recommendations to serve as a basis for a balanced approach to electronic commerce. The above-mentioned transitional developments merit special attention at EU level. From that point of view it is essential that the various aspects are studied and thoroughly evaluated as soon as possible. Finally, it is important (also at international level) to observe that the business community needs clarity and a minimum of administrative burdens.

4.4. Other taxes

4.4.1. Customs

There is an on-going international discussion of customs-related aspects of electronic commerce, whereby the above-mentioned line of thinking is systematically gaining clarity in the contexts of the WTO, the WDO and the EU. From a customs perspective, the central question concerns the consequences of digitization for import laws, import-related VAT, import duties, agricultural duties and anti-dumping duties.

An important aspect thereby is the potential shift towards increasing volumes of private shipments via mail and courier companies, which may affect the actual control measures as well as the need for more customs personnel at mail and courier companies and overseas sales channels. A central question in this context is whether current tax exemptions to shipments of limited value are still meaningful in view of recent developments or whether those should be set at a lower value.

A second important question addresses transactions concerning the transmission of data collections. There is an international consensus that for the time being these transactions should continue to fall outside the ambit of customs duties. Substituting the trade in physical goods with electronic commerce in data collections has further consequences for the maintenance of non-fiscal customs legislation, e.g., legislation in the field of imitation and piracy. For customs, the traditional point of contact (the physical goods), is thereby no longer available.

Changes are forthcoming in the areas of documents and files. Paper invoices will increasingly be substituted by digital information. The pertinent questions thereby are: How will this affect fraudulent practices and how will customs control it. Fortunately, modern technology also provides customs with more efficient resources for the management of control procedures. An example of this is improved linkage to the logistics processes of the business community, whereby the administrative burden is also reduced.

4.4.2. Salaries tax

For the time being, no significant complications are expected with respect to salaries tax. The existing tax system seems to be equally applicable in the future. It is nevertheless theoretically possible that developments in ICT may complicate the means of determining salaries tax and tax deductions (employment, employee, employer/party responsible for withholding tax) as well as the grounds for taxation. The most likely cause for this will be the fact that, due to developments in ICT (e.g. intellectual work) taxation becomes less location bound. The main impact would be felt in the areas of control and collection. The possibility that such developments could lead to the amendment of regulations governing administrative duties, such as salary administration, should therefore not be excluded in advance.

In the Advisory Group it was suggested to introduce the possibility that once every three years, an employer might be able to offer an employee a tax-free computer or money for an Internet connection at home. Whether in combination with the aforementioned or not, it is generally agreed that private Internet projects in business should be fiscally stimulated. It is therefore important that the threshold values at which private PC projects become subject to salaries tax are elevated (art. 11, paragraph 1, letter u, Salaries Tax Act). Advanced multimedia equipment is required to fully optimize the possibilities presented by the Internet. The cost of this kind of equipment is generally higher than allowed by the present thresholds. In conjunction with tax-exempted compensation for Internet connection, the authorities should consider the possibility of imposing salaries tax over a low fixed amount (in the present tax situation, making equipment available to employees is viewed as payment in kind). This could eventually be limited to groups of employees for whom the Internet is useful at professional level.

4.4.3. Tax on games of chance

The supply of games of chance on the Internet is enormous. The providers of these games can be based almost anywhere in the world. It is assumed that, in spite of its large-scale availability on the Internet, actual participation in games of chance is not (yet) that extensive in the Netherlands. An important explanatory factor in this respect is the absence of reliable payment systems. There currently is no Internet payment system available that consumers consider acceptable, safe and inexpensive. Limited familiarity with the providers of the games of chance on the Internet and limited knowledge of their reliability are further inhibiting factors. Participation in games of chance could see forceful growth as soon as a generally accepted, secure and inexpensive means of payment becomes available (such as electronic cash, mentioned in paragraph 2.2 above). Increasing familiarity with and confidence in the trustworthiness of the providers of the games will further stimulate participation.

Games of chance offered on the Internet are still being taxed on the basis of existing legislation (article 1, section b and c, of the Betting and Gaming Act). Anyone who wins a prize in an electronic game is required to pay normal taxes. If a resident of the Netherlands wins a prize abroad, the winner is obliged to declare the gaming and betting tax in his tax returns. However, article 17 of the Resolution on Double Taxation of 1989 allows for a number of exemptions.
The question as to how to ensure that the winner of an Internet game of chance, offered from abroad, will declare the betting and gaming tax due. This problem is comparable to monitoring participation in overseas games of chance in more traditional ways (such as by mail) due to limited availability of control resources.

4.5. "Digilegislation"

4.5.1. Policy framework

One of the main features in the Cabinet policy document "legislation for the electronic highway", is the government's laissez-faire attitude to this issue. The government has two main duties with respect to developments concerning the electronic highway, namely to guarantee the fundamental norms and values of the democratic state in the electronic environment and to facilitate electronic social traffic.

The first task encompasses the following;
- protection and regulation of constitutional rights (privacy, confidentiality of mail, freedom of expression);
- ensuring law enforcement in the digital domain;
- providing legal certainty.

The second task encompasses the following;
- promoting market operation;
- promoting the reliability of electronic traffic;
- removing legal impediments in the existing juridical framework;
- stimulating support provisions (such as TTPs) and standardization.

An important point of departure in the fulfillment of these tasks is to allow self-regulation to follow its course wherever possible. This is complemented by the fact that the development of the electronic highway is characterized by such technological turbulence that it is virtually impossible to direct it by means of legislation. This limitation is further complicated by the international character of the electronic highway, whereby national regulation can only have a limited effect. The principle of self-regulation should only be abandoned where the development of the electronic highway specifically demands the implementation of the main tasks outlined above. In such instances conditional and, where necessary, corrective legislation is called for.

4.5.2. Desirability of "digilegislation"

Electronic messaging traffic is assuming an increasingly important function within the operations of Inland Revenue, not only internally, but also in its communication with the taxpayer.

Legislation intended to enable electronic tax returns is fully operational and ensures adequate support in the current state of technological development. It is however expected that within the medium term, the legal instruments currently available will be inadequate to support the extension of the electronic media into the area of communication with the taxpayer.
In this context, two specific issues immediately come to mind, namely the electronic signature and rapidly advancing technological developments such as the burgeoning use of the Internet. At the moment, the Ministry is working on mapping out possible solutions. It seems, however, that real solutions to these problems could only be obtained by means of coherent technological and legislative measures. At the same time, the ideal is to create legislation that will remain as independent as possible from the media and technology. In practice this means that the head line is determined in the formal legislation, while legislation that is more closely bound to media and technology is incorporated into the guidelines based upon this legislation.
On the basis of information available about the agenda of the above-mentioned Ministerial Conference in Ottawa, it can be deduced that the technological developments surrounding the Internet and specifically concerning the matter of digital signatures will receive the necessary attention during this meeting.

4.5.3. Character of “digilegislation”

In view of the fact that the juridical bottlenecks currently mainly concern taxation, it would seem logical to consider it to be of a strictly formal fiscal-juridical nature. This would however be a limited approach. The problem of the electronic legal act and accompanying authorization applies to all juridical areas.
The electronic signature is one of the most important bottlenecks in the quest for electronic tax returns. How does one determine the identity of the sender and thereby the authenticity of the message? At the current stage of development of the tax return diskette for private individuals, the problem is solved by means of a one-off written application for authorization to submit an electronic tax return. The authorization is issued with a PIN code and signed, whereupon the tax return is signed by means of the PIN code that was issued with the application.

The system is however neither ideal for the taxpayer who needs to remember the PIN code nor for Inland Revenue that needs to save the PIN code. A more advanced digital tax return with a fully electronic signature would benefit both parties. These options are, however, limited within the existing juridical framework.

As mentioned before, this does not only apply to Inland Revenue, but to the government in general. The relationship between the state and the individual is affected more directly by these limitations, as uncertainties in administrative relations cannot be settled contractually. A clear set of rules is also required for electronic juridical traffic in private law. While the government’s laissez-faire attitude seems to have been an appropriate response, it seems that in practice some anchor points are essential in an otherwise open playing field, especially with respect to the electronic signature and the evidential status of electronic documents. This could possibly be effected by means of a basic juridical provision for electronic legal acts and a legal framework for facilities such as TTPs (Trusted Third Parties that act as independent administrators of the electronic signature).

Both options have been included for further study in the aforementioned Cabinet policy document.

4.5.4. Future developments

In addition to these general administrative issues, a number of related points concerning the implementation of taxation, control and collection also play an important role for Inland Revenue. For instance, it is extremely important that the obligation to retain administrative records is maintained in the digital environment. In electronic commerce, the place where electronic administration is located and where it can be sighted, must be established unambiguously. The new media are characterized by a certain degree of volatility, whereby Inland Revenue's ability to control the primary records of business administration (so-called audit trail) could become jeopardized. It would however be possible to secure insight into administrative records by means of so-called audit files, which are created within a company's automated system and which contain relevant data for tax purposes that can be made accessible to Inland Revenue. The role of the electronic invoice also becomes interesting within this framework. This begs the question as to whether procedural requirements concerning the electronic exchange of transaction information and related legislation and regulation are really necessary and meaningful in order to guarantee Inland Revenue's right of insight. After all, these requirements are also essential for the internal management of company administration and other forms of external accountability.
Developments such as the Intranet and Extranet, which function as communication media for the business community, compel re-evaluation of the juridical instruments used by Inland Revenue. While it is still too early for any final pronouncements, digital legislation will eventually be essential to satisfy Inland Revenue's information requirements.

4.6. Other conditions

Numerous facets play a role in the development of the Netherlands as a pre-eminent force in electronic commerce. Many of these do not have any direct fiscal relevance. Conversely, in many instances the tax factor will not only be important, but decisive with respect to determining business location and investment decisions. For this reason it is essential to ensure a fiscally attractive climate for the development of electronic commerce. There are many possible approaches, but they can be split roughly into the supply- and demand-side. The supply-side consists of companies that are based in the Netherlands and are active in electronic commerce. This group includes companies that are already based in the Netherlands as well as companies that are new to the Netherlands. The latter category includes the broad spectrum between start-up companies and expanding foreign multinationals. The demand-side naturally includes the consumer who buys via the Internet, but could also be viewed more inclusively. The broader view must take into account the distribution of knowledge and skills in the ICT field and the familiarity of the man in the street with electronic commerce. The stimulation of Internet usage and the development of knowledge are inextricably bound. If the Netherlands seriously intends to become a leader in the field of electronic commerce, then it is of considerable importance that the Dutch market is developed thoroughly. It is thereby possible to nurture a climate in which new applications and technological innovations are developed that will break new ground and contribute to a dynamic electronic infrastructure.

The “human capital” factor (adequate numbers of fully trained ICT developers, implementers and users) plays an important role in this respect. In addition, electronic providers of a variety of goods and services must be stimulated to realize the full potential of electronic commerce.

A number of the proposals formulated by the Advisory Group have already been outlined in the descriptions above. As a conclusion to the summary of proposals, the following is a brief survey of measures which, to a greater or lesser extent, stand apart from those mentioned above. Both the latter proposals and those mentioned above still need further consideration with respect to the dual aspects of international law and implementation possibilities. This concerns the following:

It may be possible to extend the venture capital loans, known in the Netherlands as “tante Agaath” loans, into the area of ICT start-ups.

Introduction of an increased investment deduction, specifically for electronic commerce systems. Existing regulation concerning higher investment deductions is mainly interesting for relatively small investments and mainly benefits the small- and medium-size business sector and the energy sector. Similar higher deductions should also be considered with respect to investment in electronic commerce.

Companies could be stimulated to invest in general-interest Internet projects, such as in schools, community centres and old-age homes. These companies should then be able to fully off-set those costs against profits, but it would also be desirable to introduce measures that would lead to tax reductions. It would also be meaningful to launch a campaign whereby computers, which are normally written off after three years, are made available to users that would not normally buy such equipment. The company that makes the computers available would qualify for an extra deduction leading to a further tax cut.

Demand could be stimulated substantially by offering Internet access free of charge in public places. These locations could be supported financially by companies (in return for favorable tax conditions).

In addition, it is recommended that the certainty that cost capitalization required to set up electronic commerce systems in the company (due to the rapid developments and high commercial risks connected to electronic commerce) will not be taxed, is provided in advance (in the framework of sound business practice). This includes internal staff costs and external technical consultation costs, as well as the costs incurred to purchase specific hardware and software to conduct electronic commerce (in effect, to allow capital expenditure to be written off in the year of purchase). This would offer businesses the necessary security and stimulate investment in electronic commerce. An alternative would be to apply arbitrary write-off regulations. In the latter instance, electronic commerce systems would have to be classified as high-grade technological business resources, which would require consultation with the Ministry of Economic Affairs.

Companies that train personnel in computer systems and specifically for electronic commerce, would need explicit confirmation that they would qualify for tax deductions with respect to investment in education and training.

While young people are not generally attracted to technical and scientific studies, the demand for technical education is soaring in the IT sector. Companies could be encouraged to stimulate young people's interest in a career in technology by being allowed to deduct the costs thus incurred (in as far as they are not already deductible).

Companies can make use of increased educational deductions introduced this year. However, the options are more limited for individual taxpayers with respect to educational deductions.
It should be possible for private individuals to deduct part of the cost of (extra) schooling at levels required in the field of ICT (post initial training and education).

It is further recommended that measures be introduced to stimulate the conservation of the environment (e.g., by stimulating the use of digital delivery rather than physical delivery).
These include:
- lower VAT rates;
- "Vamil" [1)] status for investments in business resources that enable electronic commerce;
- "green investment" status for all investments that contribute to the development of digital delivery systems.

. . . . .
1) Accelerated depreciation for environment-friendly fixed assets.

4.7. Budgetary aspects

4.7.1. Estimation of current budgetary interest

With respect to the consequences of electronic commerce for the national budget, a clear distinction needs to be drawn between the existing situation and future expectations. While the (technical) resources in the field of electronic trade are developing rapidly, it is safe to say that this has not led to significant developments for the Dutch national budget. Studies by American research agencies Forrester, Active Media and IDC show that the present scope of electronic trade on the Internet is still relatively limited. In 1996, the global turnover was no more than 8 billion US dollars [1)] (by comparison, the total volume of world trade in 1996 amounted to approximately 5,350 billion US dollars). This figure not only reflects pure digital transactions, but includes transactions that are partially conducted on line. The fact that products sold on the Internet are often more expensive than similar products available in traditional shops, partially explains the relatively low sales volumes [2)]. Another impediment is the persisting lack of trust in the security of on line transactions.

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1) According to Booz-Allen & Hamilton this amount increased to 20 billion US dollars in 1997.
2) A March 1997 study conducted by the OECD indicates that, on average, books sold on the Internet are 4% more expensive than the same books sold in traditional bookshops. According to the same study, the average price difference is 12% for CDs and 1.9% for software. Shipping costs were not incorporated into these calculations.

To illustrate the budgetary significance of electronic trade, it would be interesting to view this in relation to the consequences for a number of sectors that would (in principle) be best suited to a shift towards electronic trading. An example is the sale of audio carriers and sales and rentals of videos and films. The Dutch Association of Producers and Importers of

Visual and Audio Carriers (NVPI) expects that, in the near future, nearly 10% of all consumer spending in the audio-carrier market will take place on the Internet. If all these sales are generated from abroad and current legislation and regulation remain unchanged, this will lead to a VAT income loss of approximately 20 million guilders. [1)] A comparable shift in the video sector will lead to a loss of approximately 6 million guilders. Over and above the loss of VAT revenues, a shift to electronic trading will result in lower salaries tax and income tax due to reduced work opportunities, as well as lower income tax and company tax due to the reduction of taxable profits generated in the Netherlands. This tax loss will, to a large extent, be compensated by taxes levied on transportation services.

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1) This calculation incorporates existing VAT exemption for imports of products of limited value (< NLG 65).

4.7.2. Anticipated future budgetary interest

In view of future expectations with respect to the growth of electronic commerce, it would be reasonable to assume that these developments will have substantial long-term budgetary consequences for the Netherlands. Unfortunately it is no simple matter to predict the exact scope with any certainty and it is equally unclear whether, on balance, it will lead to any real loss of or increase in tax revenue. The Telecommunication Union (ITU) estimates that, by the year 2000, annual Internet expenditures could increase to 330 billion dollars, but the budgetary consequences for the Netherlands depend on a number of factors. In this context it is worth keeping in mind that an increase in electronic trading will only lead to budgetary consequences in the case of an increase or decrease in the Dutch ratable value. However, in the case of an exclusive shift from traditional turnover in Netherlands-based companies to electronic trade turnover in Netherlands-based companies, an increase in electronic trade will have no budgetary consequences. If the turnover of Netherlands-based companies is displaced by the turnover of non-Netherlands-based companies, there will be a resulting budgetary loss. Conversely, increased turnover for Netherlands-based companies at the expense of overseas-based companies will lead to a budgetary increase. This applies equally to the displacement of traditional sales, but also to the creation of entirely new economic activities and products that stimulate a real increase in supply and demand. However, a necessary prerequisite is that Netherlands-based companies (or prospective Netherlands-based companies) win a share of this new market. These conclusions are, however, subject to legislation and regulation concerning the point where tax on electronic trade is collected. A different picture may emerge if amendments were to be made to the regulations that determine the place where a service is rendered and the existence of a permanent establishment. It is also worth mentioning that electronic trade is expected to lead to an increase in fraud (or the chances thereof). It is therefore essential to modify the control technologies and procedures for international information exchange in order to prevent an increase in international tax losses.

5. Influence of electronic commerce on tax administration

5.1. Administration by Inland Revenue

A surge in electronic commerce will probably have substantial consequences for tax administration. As electronic transactions take place in a virtual world, it is hard to predict whether or to what extent it will affect the classical contact points of tax administration such as VAT, income tax and company tax. Most probably it will compel Inland Revenue (in close co-operation with other national and foreign law enforcement bodies) to develop new concepts in control policy and the combat of fraud.

Technology also contributes to the development of new and enhanced administrative resources for Inland Revenue. Trusted processes based on paper information carriers are replaced by electronic processing. The ability to work without the restrictions of time and place will have enormous consequences for data and information processing. The currency, completeness and reliability of information will be enhanced. Reaction times will be reduced. All in all, these are the conditions required to keep up with the day to day business off the taxpayers. Electronic communication with the relevant environment enhances Inland Revenue's interactivity as a service provider and enforcer (supervision and control).

Being present here and now is essential for effective law enforcement. It is essential to be present wherever fiscally relevant events take place, either at the moment it occurs or preferably even before. Customs already operates on this basis: pre-arrival information enhances the quality of control and speeds up logistics processes. This shift of attention will be further improved through the large-scale introduction of automated technology. Improved and extended selection profiles and computerized counter intelligence will further increase automated settlement. Human intervention will only be required in the event of specific control signals, such as signals coming from physical supervision and intensive, high-quality control systems. It also includes signals from intelligence generated by third party files and infrastructures, whereby Inland Revenue will be able to investigate data and information about individuals and specific target groups. It further includes signals from (risk) models of segments and target groups, sectors and business columns. All in all these developments will orientate enforcement towards early detection and risk prevention. After all, prevention is always better than cure.

5.2. The authority of Inland Revenue

Assuming that Internet orders are placed via the computers of customer and supplier, the General Tax Law (AWR) rules concerning right of inspection, auditing and obligation to retain records continue to apply. After all, this law assumes the existence of an administration consisting of books, files and other data carriers. It can reasonably be assumed that the ease with which an order can be placed via the Internet will lead to an increased flow of goods from abroad. This will demand more intensive control of the outer borders of the EU than previously required to ensure efficient VAT

collection. More intensive border control will not, however, solve the problems pertaining to digital delivery of goods and services. As the supply of digital goods and services is no longer visible to Internal Revenue, the control of resources other than VAT will also become increasingly difficult, especially where a business consciously keeps orders off its administration records. If both the consumer and the supplier are businesses, counter information may be available in these types of transactions. Where the consumer is a private customer and/or the supplier is situated abroad, the potential for fraud increases (substantially). However, it is likely that this problem could be solved with the use of information collected from financial institutions or other parties with access to the necessary information.

5.3. International mutual assistance

Due to increasing volumes of electronic commerce, an increasing number of taxpayers are operating in an international environment. As a result, there is an increased risk of tax loss and tax evasion, as well as the looming prospect of disturbed competitive relations. It is in the interest of both the business community and Internal Revenue to implement preventative measures to contain the risk of cross-border exploitation and the improper and undesirable application of fiscal regulations. Internal Revenue must be empowered to react effectively to instances of cross-border fraud. International co-operation between tax and customs administrations is crucial to effectively monitor the activities of the taxpayer and to combat international fraud.

The principal objective of mutual assistance is to enhance international co-operation in the areas of information exchange and control and to intensify and expand international recovery efforts.
To increase mutual assistance in accordance with the resolutions of the international fiscal (treaty) policy document (Parliamentary Papers II 1996-1997, 25087, no. 1), the Netherlands should actively participate in the activities of multinational organizations such as the EU and the OECD and establish bilateral agreements with other countries. Wherever possible, agreements with other countries should include the exchange of (counter) intelligence, the improvement of international recovery efforts and cross-border controls.

International information exchange could occur on the basis of a request or spontaneously or automatically. The emphasis should fall on the mass exchange of similar data in specific categories. An essential element in this context is information concerning businesses and private individuals that practice electronic commerce. Quite often, information collected from another country can be used directly in dealing with the taxpayer for purposes of taxation and collection. In addition, the analysis of this kind of information is useful for purposes of early detection and the description of trends in fraudulent behavior.

Inland Revenue must be in a position to effectively monitor companies with Internet activities and administration in countries outside the Netherlands. It is therefore essential that control instruments are available outside the country so that Dutch tax officials can be present under certain circumstances. The aim of the policy is to establish agreements with other countries concerning the presence of tax officials on each other’s national

territory, such as the recent agreement between the Netherlands and Canada.

Multilateral controls are crucial to gain insight into the cross-border activities of multinational companies, whereby participating countries are able to enhance both taxation and collection. This type of control will eventually become a normal component of Inland Revenue's annual strategic objectives.

International recovery off due taxes is an effective method for coping with international fraud. The situation cannot be allowed to arise where the perpetrator of fraud escapes the jurisdiction of the Dutch Inland Revenue simply by moving his recoverable objects abroad (digitization makes it easy to move bank assets all over the world). The Netherlands should actively promote incorporation of the model treaties of the OECD and WTO into bilateral tax treaties to enhance mutual assistance with respect to tax collection, customs collection and premiums.

5.4. Digital Inland Revenue

5.4.1. Introduction

In the last few years, digital service provision has increased rapidly in the government and business sectors. In a very short space of time diskettes, CD-ROMs, Internet sites and telephone applications have become permanent features in the approach of the consumer and the citizen. In recent years, Inland Revenue contributed substantially to the augmented presence of the authorities in the digital environment. The use of electronic aids to supply tailor-made transaction and information services directly to target groups and individuals helps to enforce compliance and combat fraud. Recently, Inland Revenue launched an Internet website under the name Digital Inland Revenue (www.belastingdienst.nl), a website for the youth (www.belastingdienst.nl/jongeren), a business website (www.belastingdienst.nl/ondermers), a Tax Return diskette (downloadable from www.belastingdienst.nl/aangifte) and various EDI applications (Teletax and Editax modules: LB, OB, IB, IB/VPB-VA, EKA, VAT no. Verification).

Tailor-made information goes further than a website dedicated to a target group, because a user's profile inside the website further orientates information to the requirements of the visitor. Information is laid out on the basis of fiscally relevant events and there are no thresholds to control access to the information.

Inland Revenue is also involved with the Central Bureau for Statistics (CBS) and and the Branche Organisation for Social Security (LISV) in an attempt to reduce the burden of delivery of information by means of electronic services. In this context it is currently investigating the possibility of locating the output side of corporate administrations on a single website. This could be achieved by compiling specifications for the submission of the information required. The aim is to keep a clear and unambiguous digital record of basic information for businesses and government services. This could expedite mutual information exchange that is cheaper, simpler, more current and of higher quality.

The following figures show that citizens are making increasing use of the Digital Inland Revenue services. The number of digital tax returns submitted to Inland Revenue has risen substantially: 15.6% of all IB/VB returns for 1997 were digital in relation to 6.8% in 1996. The number of hits on the various Internet sites are increasing (approx. 2.5 million hits in January 1998 compared to approx. 1 million in January 1997). In 1997 there were 80,000 downloads of the T-form(for tax-refund) and 15,000 downloads of the J-form(for tax-refunds for youth). The total number of EDItax modules issued (for businesses and intermediaries) in 1997 rose by 134.1% in 1997 in relation to 1996. Translated to index figures (where 1996 is set at 100) this amounts to 113 for businesses and as high as 200 for private individuals in 1997.

As society becomes more and more digitized, expectations concerning Inland Revenue's performance level are bound to rise. Its services can therefore not be allowed to lag behind rapid developments in the digital environment. Inland Revenue therefore plans to apply extensive IT resources to enhance its service provision, client-management and professional skills. The broad aim of the Digital Inland Revenue program is to optimize the application of digital technology in the primary and supporting processes of the service.

5.4.2. Starting points and development strategy

5.4.2.1. External orientation

The Digital Inland Revenue is primarily externally oriented. First of all the development pace of the Digital Inland Revenue is determined by the pace that society demands. In this respect it is important to observe that Inland Revenue implemented new developments at the time when a substantial percentage of the taxpaying population demanded this. This actually means that Inland Revenue must move ahead in order to be operational on time.

New technology may not lead to a situation whereby Inland Revenue's focus shifts towards consultancy. The new technologies do however make it easier to provide individualized information, both active and passive. This is precisely what citizens expect from governmental bodies the authorities. Simply providing access and reference to a pile of documents is not good enough. On the other hand, Inland Revenue does not want the taxpayer to experience a patronizing attitude.

Inland Revenue is basically not a software supplier. Wherever possible, it attempts to ensure that the market develops tools to communicate safely with Inland Revenue. However, where the market is not capable of providing low-threshold products in extensive demand, Inland Revenue will take care of this need, at least to the extent that the products facilitate greater efficiency for the tax authorities. Inland Revenue traditionally produced free tax return forms and information materials, so it would be reasonable to expect the same in digital form.

5.4.2.2. Choice of media

In the development of the Digital Inland Revenue, due care is taken to evaluate which media and/or channels can most effectively be utilized with respect to the proposed objectives and target groups. The outcome of the

evaluation may be different for the various objectives and target groups. For instance, the current diskette may be a good medium for private individuals in the context of salaries tax. However, the use of EDI on the basis of X400 protocols is very effective for import shipments. It is most likely that the use of diskettes and, to a lesser extent, CD-ROMs will diminish in the medium term. For certain target groups (those whose transactions with Inland Revenue occupy a substantial part of their business operations) EDI will continue to be a meaningful medium for the foreseeable future. Telephony and the Internet are the strategic channels for mass transaction and information services. Again, it is essential to draw a distinction between internal and external. The option to send a tax return to Inland Revenue within seconds is not meaningful if this is followed by a waiting period of several months before receiving a reaction. The development of the website must therefore be harmonized with the development of the back office.

5.4.3. Broad outline of the administrative process

Over the next few years, Digital Inland Revenue will modify the implementation of tax legislation. Both taxation and tax collection will undergo a substantial metamorphosis.

5.4.3.1. Gradual settlement over the tax year

Where the traditional tax-return was due to be sent in the first quarter of the following year a major shift from settlement after the tax year, in favor of gradual settlement in the course of the tax year will come about. This primarily affects income tax and company tax.

The provisional tax system will ensure that Inland Revenue maintains accurately in contact with the fiscal whereabouts of the taxpayer during the course of the fiscal year. Where necessary, an initial provisional assessment will be followed by a revised provisional assessment. The importance of the tax return and final assessment will decrease gradually.

In the near future, Inland Revenue will begin to send each registered taxpayer a provisional assessment at the beginning of the tax year (possibly by e-mail). From this assessment the taxpayer will be able to tell exactly what the basis of the calculation is. With the payable amount, the statement will include the composition of the taxable income.
Unregistered taxpayers will automatically be registered whenever the Inland Revenues files give course to do so. Anyone registered in the course of the tax year will automatically be issued with a provisional assessment.
Whenever Inland Revenue gains access to important new information (such as a tax return form), the assessment will be revised, where necessary on a monthly basis. In the near future provisional salaries tax will be calculated by a centralized computer service on the basis of the available (historical) data. Revision of the provisional assessments of private individuals will be effected by computer over the past year. Only a small part of these revisions will require individual, manual assessment by Inland Revenue staff.

In the case of businesses, provisional tax will soon be adjusted by computer on the basis of generic developments in market and profit forecasts or by means of a voluntary tax return submitted by EDI or the Internet. Inland Revenue consultants will only be required to assist in person in the event of changes due to either pro-active or real time risk covering.

More than half of the risks will soon be detected and covered “live”, i.e., before actual submission of the tax return (via on line/real-time data exchange with other (semi-) government authorities and other bodies). As a result, most of the work will be accomplished during the course of the actual tax year and not peak wise afterwards.

This way of client management results in a shift towards the assessment and, where necessary, adjustment of the provisional tax assessment. The final tax return will serve as a safety net for any risks that were not detected at an earlier stage.

In addition to data concerning wages, interest, immovable asset value, housing premiums and study finance, the Inland Revenue data files will include information pertaining to mortgage bonds, notarial deeds (received in digital form) and annuities. The data files will also be used increasingly to detect specific details about events such as business start-ups, amendments in legal form, authorizations (incidental risks) as well as information on income (traffic) and costs (structural risks).
In the near future, the employer will be able to replace the annual salaries tax return and card for each employee with a monthly electronic submission of wage data for each employee. This will ensure that data pertaining to each individual employee is more readily available.

5.4.3.2. “Submitting tax returns”

In future (this may take some time), tax payers may not be invited by means of a tax return form, but with an (electronic) letter with a tax return diskette (if necessary). Tax return software is already available at the Inland Revenue website.

In certain (simple) instances tax return forms will be replaced by a proposal for a final assessment. The proposal will be based on data which is already known to the authorities independent of the information yielded by the tax return form. The data will be proposed to the taxpayer with a number of simple yes/no answer options, whereby the taxpayer will simply have to indicate whether any given statement is correct or incorrect. Initially, this method will only be used for specific potential T- form (refund) taxpayers. It will later be expanded to include other taxpayers.

Tax returns-forms and the accompanying explanatory information will soon be oriented to more specific target groups (tailor-made forms). This will simplify tax returns, which will enable many more taxpayers to complete their own tax return forms. The taxpayer will be supported by an electronic manual to complete his salaries tax and VAT returns. The manuals (with integrated options for completing tax returns) are available on CD-ROM and the Internet.

The deferment rule that applies to tax consultants will soon be replaced by a surrender rule, which is distributed evenly over the whole year. Working in actuality will further ensure that most of the tax advisor’s work will take place in the course of the current tax year.

The taxpayer will forward all tax returns to a central point at Inland Revenue, where it will be entered directly into the system. The same applies to all paper data and counter information received.

In the near future Inland Revenue will have no paper records on tax payers. All information will be entered into an automated system. Data will be available at all times and accessible from any authorized computer in the country. To prevent outsiders from accessing it, the data will be protected by extensive security measures. It will also be possible to print the data. In the near future, all current information about a company will be available in the information system.

5.4.3.3. Tax assessment

Within a few working days of submitting the tax return (final and provisional), the taxpayer will receive a completion statement by return of post. Prompt settlement is important, not only for the inland revenue purposes, but also in instances where final information is required by other authorities.

Advance risk detection and risk cover will eventually yield a situation whereby, for most taxpayers, the final tax return will balance with the provisional returns. An Inland Revenue official, working with a detailed handling assignment, will assess outstanding returns partially (with a view to potential further risk). The handling assignment will contain instructions and relevant information on relevant aspects and segments. In most instances, the final tax return will result in settlement within 5 workdays. Outstanding returns will be settled by means of a provisional settlement, followed by a final settlement, within a period of 3 months.

5.4.3.4. Tax collection

Within a few years the taxpayer will soon be able to indicate his preferred means of settlement in advance and it will be possible to settle payments due by means of an automatic debit account that can be authorized electronically.

Inland Revenue is also actively participating in experiments with new forms of payment, such as payment via the Internet (I-pay etc.), credit card and one-off or continuous authorization.
Where return payments are due after final settlement, Inland Revenue will immediately specify the means of settlement, i.e., transfer by giro/bank account or offset against outstanding tax debts. In the latter case Inland Revenue will administrate the transaction and notify the taxpayer within 3 working days by return of post of mutations in his debt/credit balance.

5.4.3.5. Objections

In future, it will be possible to submit objections electronically (where necessary, completed and issued by Inland Revenue). Objections will also be settled electronically and interactively (where possible), preferably by return of post, but in any event within the period of 6 weeks as prescribed in the General Administration Law (AWB).

5.4.4. Electronic mail

Wherever possible, provisional and final tax returns, invitations to submit tax returns and balance statements will be forwarded by electronic mail. Inland Revenue assumes that owners of electronic addresses consciously elect to send and receive electronic mail wherever possible, although this is subject

to the continuous evolution of social protocol concerning e-mail. Paper mail will eventually become obsolete. Due to the disappearance of the printed media and traditional mail, the taxpayer can soon expect to receive his post one week to 14 days earlier.
In the near future, tax advisors will be notified whenever Inland Revenue forwards assessments and balance statements to clients.

5.4.5. Actively managed service provision

Inland Revenue has opted for an active approach to the taxpayer's fiscal obligations. "Push" technology will be used in all instances where the message target group can be clearly defined, e.g., linked to the fiscal moment.
The following are further examples:

- On the basis of the electronic submission of notarial deeds, Inland Revenue will immediately know that someone has bought a house. If the buyer is not registered and has not previously applied for an assessment, he will immediately be informed by direct mail of the fiscal aspects pertaining to the purchase of a house.
- Inland Revenue will be alerted immediately via its electronic connection with the Chamber of Commerce when a new business is started. The taxpayer concerned will be informed by direct mail concerning the fiscal obligations of a new company and the identity of his/her client manager.
- Taxpayers that qualify for refunds (holiday workers, school leavers etc.), will receive a final assessment proposal in March or April.
- In the case of legislative amendments, the target groups concerned will be notified promptly.

All messages will be mailed electronically to listed electronic addresses. This rule will apply universally unless the taxpayer specifically opted not to receive unsolicited e-mail. In that case paper will be sent.

5.4.6. Contact initiated by the taxpayer

5.4.6.1. The taxpayer can choose

Inland Revenue distinguishes between contact on the initiative of the taxpayer and contact on the initiative of Inland Revenue. Contact on the initiative of Inland Revenue are usually substantive by nature. Contact on the initiative of the taxpayer could be about general information or progress status, whereby the taxpayer will receive assistance in all matters via a help desk (such as a single national telephone number). The taxpayer will be free to choose the medium and will no longer need to know which departments are authorized to deal with which issues.

The contents, time and medium of all contacts will be recorded. Any subsequent contact will immediately call up a record of previous contacts, irrespective of the identity of the attendant or the medium used. Another reason to record contacts, is to be able to further improve the services.

5.4.6.2. Accessibility

Taxpayers will have access to the most complete information services during weekly office hours. From Monday to Thursday until 22.00 hours, the taxpayer will be able to make personal telephonic contact with Inland

Revenue staff. During those hours, the taxpayer can expect to receive the same level of service as during the day. However, after-hours' services may not be fully equipped to deal with more complex fiscal and process information, in which case the taxpayer would be better advised to contact the relevant specialist during normal office hours.

If the taxpayer contacts Inland Revenue physically or by means of telecommunication during the day, the matter will normally be settled there and then. Complete settlement entails that:
- the taxpayer immediately receives a complete answer to his question;
- instead of the current standard request for a written application, all applications will be concluded immediately (e.g. for reduction of the provisional assessment);
- further reference will only be required in more complex cases.

In addition, Inland Revenue can be reached electronically 24 hours a day for a broad range of information, irrespective of whether or not personal particulars are required.

Where no personal particulars are required, the enquirer can simply apply the information provided to his own situation. Naturally, the borderline between this type of information and tailor-made consultancy is carefully drawn, as the latter type continues to be the exclusive domain of the tax consultant.

The following information (requiring personal particulars) will be available 24 hours a day:
- data concerning provisional assessment, final assessment, IB, Vpb, LB and OB tax returns and objections;
- status information;
- balance statements.

If the information leads to the submission of a tax return, an objection etc., this can be effected electronically during the same contact session. If the electronic contact occurs outside office hours, the taxpayer can leave a request to be contacted at a specified time.

5.4.6.3. Customs

Authorities at Schiphol airport and the port of Rotterdam are currently investigating the possibility of linking up to the communication system that already links the entire air traffic and seaport community (shipping agents, stevedores, ship brokers etc.). This will enable Customs to monitor goods received more effectively, with minimal delays for transshipment and distribution companies. This will be realized by data-based selection of commercial (electronic) transport documents (including cargo manifest data) prior to the arrival of the goods (pre-arrival information).

Customs tariffs will be available on the Internet for internal and external users and an integrated information supply system is planned for import and export purposes (also for non-tax purposes). This implies the option of a direct connection to the source, which will most probably be located in Brussels.

Appendix: Institutional composition of the Advisory Group for electronic commerce and taxation

22 December 1997/no. AFP97/489M

The State Secretary of Finance,
Upon consideration of the need to appoint an Advisory Group for electronic commerce and taxation;

Hereby decides:

§1. Institution and task

Article 1
To appoint an Advisory Group for electronic commerce and taxation.

Article 2

1. The task of the Advisory Group shall be to advise the State Secretary of Finance concerning various aspects of taxation in relation to developments in the area of electronic commerce, with special reference to the Internet and thereby to consider to what extent tax instruments can contribute to the establishment of a favorable position for the Netherlands in the area of electronic commerce.

2. In the course of its activities the Advisory Group shall consider international aspects, specifically the interface with developments within the Organization for Economic Cooperation and Development and the European Union as well as their coherence with relevant, non-fiscal regulations.

§2. Composition and work method

Article 3

1. Appointed as member and chairman of the Advisory Group: J.C. de Waard

2. Appointed as member and secretary of the Advisory Group: P.W. Havelaar

3. Appointed as members of the Advisory Group:

J. Baan	**M. de Hond**
J.C. Barnard	H. Hijmans
T.J. van Beek	M.V. Lambooij
J.U. Bekius	J. van Moorsel
J.R. Borst	G.A. Scholten
A. Bottema [1)]	W. van Teeseling *(J. Warmerdam)*
F. Eisner	J. Thunnissen
P.W.J. de Graaf	A.H. van Wijck

. . . . .

1) Amendments to the original composition of the Advisory Group are printed in italics.

Article 4
In order to fulfill its task, the Advisory Group may approach third parties directly in order to obtain information and may further invite said third parties to meetings in order to provide explanations in detail.

Article 5
The Advisory Group undertakes to release its findings to the State Secretary of Finance before 1 May 1998.

§3. Further provisions

Article 6
Members of the Advisory Group who are not currently employed in the service of the state will receive fees and compensation for travel and accommodation expenditures in accordance with existing regulations and in as far as they do not presently receive remuneration from state coffers under any other provisions.

Article 7
All persons concerned with the activities of the Advisory Group and thereby party to data, the confidential nature of which they are aware or can reasonably be expected to suspect and who are not presently bound by conditions of secrecy by virtue of office, profession or legal prescription to which the said conditions of secrecy apply, shall be bound to secrecy with respect thereto, unless otherwise required by legal prescription or by the nature of the assignment itself.

Article 8

1. The present decree shall be published in the Government Gazette.

2. A copy of the present decree shall be forwarded to the General Auditor.

The State Secretary of Finance,