

NOTE ON COUNTRY-SPECIFIC ANALYSIS: THE NETHERLANDS

Through the collaboration of members of the Inclusive Framework on BEPS, [Anonymised and Aggregated Country-by-Country Report \(CbCR\) statistics](#) have been published. Further information about these data can be found in the [Corporate Tax Statistics publication](#). While these CbCR statistics represent an important new source of data on the global tax and economic activities of multinational enterprises (MNEs), they are subject to a number of data limitations. These limitations are detailed in the [disclaimer](#) accompanying the dataset.

A number of jurisdictions have carried out analysis on their CbCR data to investigate the potential impact of some of the limitations for their country data. This document contains analysis carried out by the Netherlands.

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Dividends and other mismatches in the Dutch CbCRs – 2016-2022 update

Summary

The Netherlands analyzed the bias in CbCR-profits due to the inclusion of dividends and other participation results in CbCRs over the period 2016-2022. An exact estimate is not possible, but the order of magnitude of the biases in CbCR-profits is very large. Under reasonable assumptions, these biases lead to an average estimated profit of a yearly average of 20.2 billion euros in 2016-2022, instead of 34.0 billion euros for the companies with positive profits, meaning that profit is overstated by almost 70%. The biases relate to dividends (7.0 bln) as well as other participation results (6.8 bln).

In the OECD-database the figures for corrected profits in 2018-2022 are only adjusted for dividends, leading to an average ETR of 17.2%. With a full correction for both biases the ETR for the Netherlands would be 22.2% instead of 12.5% in the period 2016-2022. As CIT is in principle calculated over profits and losses during the life-cycle, the impact of loss carryovers should be taken into account to calculate an unbiased ETR. Taking this into account, and removing the MNEs with losses after correction, would bring the average ETR to 23.4%.

The biases are relevant for the calculations of the budgetary effect of the Pillar One and Pillar Two. If these biases (dividends as well as other participation results) are neglected, budgetary effects of these measures will be overestimated.

- The possible inclusion of dividends and other participation results (mostly capital gains) in reported CbCR-profit figures has been discussed in the brochure and the health warning of the OECD. As guidelines were not clear on this point, companies will have made different choices.¹ This analysis aims to indicate the size of the bias in profits due to the inclusion of dividends, participation results and other mismatches in CbCRs filed in the Netherlands over the period 2016-2022.
- The Netherlands received on average 164 CbCR-reports from Dutch ultimate parent entities over the years 2016-2022. Of these, on average 113 MNEs reported positive profits and the other 51 reported losses in the Netherlands. The MNEs with positive profits reported a total profit of 34.0 billion euro and a total tax accrued of 4.3 billion euro in the Netherlands, resulting in a reported 'effective tax rate' of 12.5%.²
- CbCR filings were compared to company's corporate income tax ("CIT") filings and annual reports. Even with case-by-case analysis it is not possible to determine the differences between CbCRs, CIT filings and annual reports as differences like various accounting standards, included transactions or revaluations are unknown. Therefore, the analysis requires assumptions and a certain bandwidth in the comparisons. However, the analysis does show the large order of magnitude of the overstatement in profits.
- From the fiscal filings it could be retrieved that dividends included in the profit account for an overstatement of on average approximately 7.0 billion euros of profit. A correction for these dividends would lead to an ETR of 15.8%.
- In the OECD-database the figure for corrected profits is only adjusted for these dividends for the years 2018-2022.
- Besides this, based on annual reports, it was found that other biases account on average for another 6.8 billion euros of overstated profit approximately. This is probably due to capital gains, shares of result in associates and joint ventures, differences in accounting standards between the two reports, one-off (de)mergers, takeovers or disposals. As the results of all entities are aggregated, the same intracompany transaction (such as a

¹ Only per November 2019 has the OECD issued guidance stating that: "This guidance clarifies that, consistent with Revenue, Profit (Loss) before Income Tax excludes payments received from other Constituent Entities that are treated as dividends in the payer's tax jurisdiction." This guidance at least deals with the issue of dividends in profits, but still does not cover the exclusion of other participation results from profits.

² Inspections showed MNE's reporting a negative tax with a positive profit. After checks with the paid tax according to the fiscal files of the Dutch Tax authorities, the negative tax accrued was recoded to a positive tax accrued. This recoding was only done in case of a positive CbCr-profit in combination with a positive fiscal profit.

Besides this three CbCR-reports were yearly submitted by pension funds and university hospitals. These MNEs are tax-exempted for the Dutch CIT. These CbCR were excluded from the statistics as the size of these foundations is that large that the statistics would be breaching confidentiality standards. In a few cases the CbCR made an explicit statement to the Dutch Tax authority about the size of the dividends in the CbCR. These CbCR-profits were corrected according to the statement.

received dividend) can also be included multiple times in the worldwide CbCR-profit of a company. A correction for this effect results in an ETR of 21.1% over the period 2016-2022.

- The correction showed on average 12 MNEs to have a negative CbCR-profit after the corrections instead of the originally reported positive CbCR-profit.
- Correcting for these biases results in an average profit reported in the Netherlands of 21.9 billion euros instead of 33.0 billion euros for the 98 companies with positive profits.
- The definition of 'tax accrued' could also lead to interpretation differences³. In the case of the Netherlands, it was found that UPEs report on average 4.2 billion euros as tax accrued whereas their actual paid amount was on average 3.6 billion euros.
- These MNEs often made losses in earlier years. As CIT is normally calculated over the total of profits and losses during the life-cycle, the impact of loss carryovers should be taken into account to calculate an unbiased ETR. Dividing the 4.2 billion by the corrected CbCR-profit after loss carryovers (18.7 billion) leads to an ETR of 22,2% over the period 2016-2022.
- There remains a discrepancy between corrected profits from CbCRs and fiscal profits. It is not possible to analyze the remaining differences from the available data sources. This discrepancy could, in addition to commercial-fiscal differences, also relate to, among others, the use of different data sources (including different accounting standards), commercial revaluations, and (de)mergers, takeovers or disposals. The profits can be further decomposed to match the taxable base in the Netherlands by adding non-deductible costs and interest and subtracting the base for the IP-box, liquidation losses, and other deductions. A final correction relates to loss-making subsidiaries. These items are further analyzed in this note.

Table 1: Corrected CbCR- profits (2016-2022)

	2016	2017	2018	2019	2020	2021	2022	Average 2016-2022
CbCR-positive profits	24 839	36 802	43 034	29 739	27 066	42 423	34.118	34.003
- Correction for dividends/based on CIT filings	-2 706	-5 794	-20 844	-4 236	-2 988	-5 109	-7.319	-6.999
CbCR-positive profits corrected for dividends	22 133	31 008	22 190*	25 503*	24 088*	37 314*	26.799	7.005
- Correction for other biases/ based on annual reports	-6 530	-10 016	-7 572	-4 541	-3 788	-9 228	-5.949	-6.803
CbCR-profits including correction for other biases	15 601	20 991	14 617	20 961	20 294	28 086	20.850	20.200
 CbCR-with positive profits after corrections	 17 263	 23 087	 20 343	 21 200	 20 417	 28575	 22769	 21.951
- Loss carry-overs (CIT-filings)	-4 211	-4 722	-4 276	-5 596	-1 482	-1.786	-452	-3.218
 CbCR-(after correction for biases, and after loss carryovers)	 13 052	 18 365	 16 067	 15 604	 18 935	 26.789	 22.317	 18.733
Tax accrued	2 512	3 669	4 042	4 646	3 402	5.705	5.113	4.156
ETR	19.2%	20.0%	25.2%	29.8%	18.0%	21,3%	22,9%	22,2%

* Only these corrections are included in the OECD-database, as the corrections are probably related to dividends

³ See Klaassen, P. and Bobeldijk, A. (2019), Country-by-Country Reporting and the Effective Tax Rate: How Effective Is the Effective Tax Rate in Detecting Tax Avoidance in Country-by-Country Reports?, INTERTAX, Volume 47, Issue 12

Technical assumptions with respect to the analysis

The Netherlands received on average 164 CbCR-reports from Dutch ultimate parent entities over the period 2016-2022. Of these, 113 reported positive profits and the other 51 reported losses in the Netherlands. The MNEs with positive profits reported on average a total profit of 34.0 billion euro and a total tax accrued of 4.3 billion euro in the Netherlands, resulting in a reported 'effective tax rate' of 12.5%.⁴ However, as stated in the accompanying OECD-brochure and health warning the reported profits lead to biased effective tax rates for various reasons.

First, there is evidence that in many cases dividends and participations results (such as capital gains) are included in the profits. These intragroup results are generally speaking already taxed at the level of the subsidiary and are therefore generally exempt in the UPE country, leading to overstatements of profit. As the guidelines prior to the submissions were not clear on this point, companies have made different choices. Secondly, accounting standards differ between countries, using different data sources, and MNEs are not required to adjust for differences in these standards between the various tax jurisdictions. This effect can sometimes be determined by use of the CIT filings. But, in case total figures in the CbCR are determined by way of aggregation and without the elimination of transactions that are included multiple times (like in consolidated financial statements), the same dividend passed on through multiple entities could show up several times in CbCR profit.⁵

To analyze the quantitative importance of possible inclusion of dividends and other participation results, and the differences in accounting standards, for the Dutch MNEs the reported CbCR-profit before tax has been compared with both fiscal profits filed to the Dutch Tax Administration as well as the reported profit before tax in the financial statements of the MNEs. If the worldwide CbCR-profits are comparable with the profits in the annual consolidated report, it is concluded that no dividends are included in the CbCR-profits and that the same accounting standards have been used for the CbCR and the financial statements. In that case, any difference between the fiscal profit and the CbCR-profits is a result of commercial-fiscal differences. In the other cases the CbCR-report could be biased by the treatment of dividends, other participation results or by accounting bias.

Corrections based on annual reports and fiscal filings

In many cases the annual report was publicly available. In case the sum of the worldwide CbCR-profits was comparable with the profit before tax as reported in the annual report, no corrections were applied for dividends or other biases.⁶

In the other cases the worldwide CbCR-profit clearly differed from the annual report, showing a clearly higher profit in worldwide CbCR-profits or lower profit. In a first step these MNEs were compared with the Dutch CIT-filings. This included a comparison with the total filing of the parent company as well as the filings of the subsidiaries. This comparison with the CIT-filings is useful as in the fiscal filings the MNE reports the fiscal profits as well as the amount of dividends and participation results, from which the latter are tax-exempt. In case a match could be found between the fiscal profits including dividends, the fiscal filings showed a necessary correction on the dividends.⁷ This also shows that the dividend-problem mostly relates to the parent company as the parent company receives most of the dividends and also includes the participations results in case of a (de)merger, a takeover or disposal. In case the dividends from the fiscal filings are lower than the total difference between total worldwide CbCR-profits and the financial statements, the remaining difference is very probably due to different accounting standards or other participation

⁴ A close inspection showed MNE's reporting a negative tax with a positive profit. After a check with the paid tax according to the fiscal files of the Dutch Tax authorities, the negative tax accrued was recoded to a positive tax accrued. This recoding was only done in case of a positive CbCr-profit in combination with a positive fiscal profit.

Besides this a few CbCR-reports were submitted by pension funds and university hospitals. These CbCR were excluded from the statistics as the size of these foundations is that large that the statistics would be breaching confidentiality standards. In a few cases the CbCR made an explicit statement to the Dutch Tax authority about the size of the dividends in the CbCR. These CbCR-profits were corrected according to the statement.

⁵ See Klaassen, P. and Bobeldijk, A. (2019) for an elaboration.

⁶ Using a margin of 10%.

⁷ There is a strong correlation between the correction based on annual reports and the fiscal filings. This relation was tested with a log-log regression and was significant at the 1%-level.

results. For each company, the correction with respect to dividends was estimated by scaling down to the lowest of the two differences (difference with financial statements or fiscal filing profit).

In the other cases where a clearly higher worldwide CbCR-profit was reported in comparison to the annual report, no clear relationship could be found between the Dutch fiscal profits, be it excluding or including dividends. These MNEs also reported higher Dutch CbCR-profits with respect to the fiscal filings, which could be fully related to participation and other biases.

Together the companies are thus corrected for 7.0 billion euros worth of dividends and 6.8 billion of other participation biases. The correction showed 12 MNEs to have a negative CbCR-profit after the corrections. The total loss of these MNEs was 1.8 billion euro while these MNEs reported about 0.1 billion euros tax accrued. These 12 MNEs were left out of the further analysis.

Results

The 99 MNEs with on average a positive CbCR-profit (after corrections) of 22.0 billion euro report a tax accrued of 4.2 billion euro. The definition of 'tax accrued' could also lead to interpretation differences.⁸ In the case of the Netherlands, it was found that these UPEs report 4.2 billion euros as tax accrued whereas their actual paid amount was 3.6 billion euros. Dividing this 4.2 billion by the corrected CbCR-profit of 20.8 billion euros leads to an ETR in the Netherlands of 18.9%. This is still lower than the statutory rate of 25.8%, but this difference can be explained by the IP-box, loss carryover and other deductibles. Table 2 shows a decomposition of the fiscal profit to the taxable base.

As CIT is in principle calculated over the total of profits and losses during the life cycle, the impact of loss carryovers should be taken into account to calculate an unbiased ETR. This amounts to 3.2 billion euro, which has a significant effect on the effective tax rate. The fiscal profit after correcting for loss carryovers then comes down to 18.7 billion euro, resulting in an ETR of 22.2%.

⁸ See Klaassen, P. and Bobeldijk, A. (2019), Country-by-Country Reporting and the Effective Tax Rate: How Effective Is the Effective Tax Rate in Detecting Tax Avoidance in Country-by-Country Reports?, INTERTAX, Volume 47, Issue 12

This still leaves a discrepancy with respect to the fiscal profits. This could be due to other biases in CbCR-reporting, as well as differences in commercial and fiscal accounting (6.8 billion euro). However, as the CIT-filing in the Netherlands does not require companies to state the commercial profit in the Netherlands, it is impossible to further analyze this difference.

Besides this, various tax base broadeners and deductions apply. A major correction is the addition of non-deductible costs (4.5 billion) and non-deductible interest (0.4 billion). Costs related to participations are not deductible. As these costs are included in the calculation of the commercial CbCR-profits, a correction of the fiscal profits is made by adding the costs to the fiscal profits. The same line of reasoning holds for the non-deductible interest payments.

Two other major deductions are included in this calculation. First the IP-box showing a reduction of profits of 2.7 billion euro, and a reduction of profits of 0.7 billion euro due to liquidation losses.

A final correction relates to the losses of subsidiaries who are included in the CbCR-filing of the UPE, but filing an individual CIT file in the Netherlands. These losses reduce the commercial CbCR-profits. However, as these losses of independent filing subsidiaries cannot be transferred to the parent MNE, the profit has to be corrected with that amount. This amounts to 1.5 billion euro. The total corrections result in a taxable profit of 15.1 billion euro for the Dutch CbCR-filing MNEs.

Table 2: Detailed table CbCR-analysis

	2016	2017	2018	2019	2020	2021	2022	Average 2016-2022
Number of CbCRs	108	109	117	104	100	123	127	113
CbCR-profits	24 839	36 802	43 034	29 739	27 066	42 423	34.118	34.003
- Correction for dividends based on for tax filings	-2 706	-5 794	-20 844	-4 236	-2 984	-5 109	-7.319	-6.999
- Correction for other biases based on annual reports	-6 530	-10 016	-7 572	-4 541	-3 788	-9 228	-5.949	-6.803
CbCR-profits after corrections	15 601	20 991	14 617	20 961	20 294	28 085	20.850	20.200
Number of CbCRs	96	95	96	94	92	117	116	101
CbCR-positive profits after corrections	17 263	23 087	20 343	21 200	20 417	28 575	22.769	21.951
- Loss carry-overs (from CIT-filings)	-4 211	-4 722	-4 276	-5 596	-1 482	-1 786	-452	-3.218
CbCR-profits	13 052	18 365	16 067	15 604	18 935	26.789	22.317	18.733
- Commercial-fiscal differences (estimated)	-5 520	-9 105	-10 419	-3 440	-5 673	-5 337	3.838	-5.094
- Non-deductable interest	276	22	204	1 529	232	138	322	389
- Non-deductable costs	3 576	2 731	8 850	2 731	1 414	6 868	5.388	4.508
- IP-box deduction	-2 125	-1 704	-2 866	-2 270	-2 353	-3 714	-4.197	-2.747
- Liquidation losses	-481	-251	-551	-866	-706	-175	-2.072	-729
- Other deductions	-35	-105	-853	-1 374	-591	-317	304	-424
- Correction for subsidiaries with losses	2 239	2 564	1 443	535	1 047	534	2.456	1.545
Taxable profits	10 980	12 515	11 874	12 449	12 305	24 786	21.100	15.144
CIT	2 725	3 125	2 965	2 814	3 015	6 032	5.237	3.702
- Tax credits	267	152	251	84	202	83	23	152
CIT-payable	2 457	2 973	2 714	2 729	2 812	5 949	5.214	3.550
Tax accrued								
- all profit reporting MNEs	2 637	3 860	4 330	4 703	3 427	5 712	5.168	4.262
- MNEs with positive profit after correction	2 512	3 669	4 042	4 646	3 402	5 705	5.113	4.156

All figures (excluding number for MNEs) are in million euros