BDO SCOPE

EXPERT UPDATES FOR INTERNATIONAL BUSINESS

‘The **tax situation** for companies is becoming **more uncertain’**

Ben van der Veer
Supervisory Director at Aegon and FrieslandCampina

THE PROS AND CONS OF Tax **transparency**

BDO

‘I can't define tax evasion, **but I know it when I see it’**

Fred T Goldberg Jr

TAX TRANSPARENCY ~ [tæks træn'spær.ən.si]

Tax transparency refers to the way an organisation clarifies the taxation of its profits and the amount of tax it actually pays.

In recent years, there has been growing public pressure on companies to be more transparent, not just to show that they are trying to achieve the lowest possible effective tax rate but also to demonstrate good governance.

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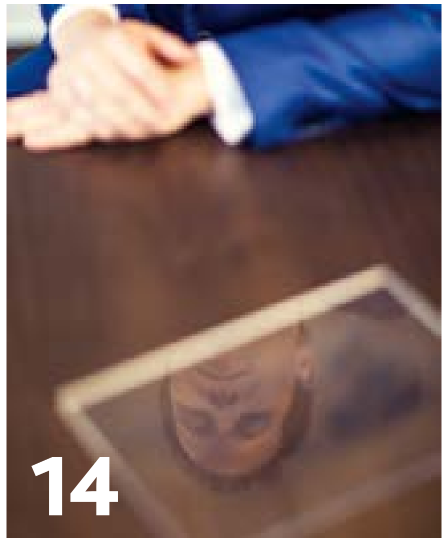

‘We always say:
tax follows business’

Joost van Zadelhoff,
Head of the tax department, Rabobank

COLOPHON

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TAX TRANSPARENCY:
For all to see?

Be honest now: as a company director, are you genuinely keen to be fully tax transparent? Do you want to be entirely open about your payments, internal settlements and tax choices? And are you prepared to provide full insight into your financial statements down to the last detail?

Very few directors of large corporates will answer these questions with a resounding ‘yes’ – regardless of whether or not they actually have anything to hide. After all, full transparency feels very much like being naked and exposed. Vulnerable. For all to see.

Nevertheless, calls for greater tax transparency are growing ever more insistent, especially from Supervisory Boards, tax authorities and the broader community, all of whom are demanding more clarity and a fuller account of tax strategies.

Obviously, you don’t always want to have to justify specific choices you make. It’s one thing to be fully open with your Supervisory Board, but who’s going to guarantee that competitors won’t read what you publish?

Even so, I believe that greater tax transparency is a good thing. More openness makes things easier to understand. It generates trust with partners and clients. And it saves a lot of work. After all, if you’re transparent, there’s nothing to hide.

I hope this magazine gives you useful insights to open up on your tax policy. If you think differently, or want to know more, please contact me at john.hijmans@bdo.nl. I’d be happy to help and make your tax business more transparent. As transparent as you want.

Sincerely,

John Hijmans,
Partner, BDO Corporate Clients
Utrecht

Out in the **open?**

Sources: OECD, VBDO's Tax Transparency Benchmark 2016, Oxfam Novib

1 6 PRINCIPLES

These are the Good Tax Governance principles:

1. Define and communicate a clear tax strategy.
2. Tax must be aligned with the business and is not a profit centre by itself.
3. Respect the spirit of the law. Tax-compliant behaviour is the norm.
4. Know and manage tax risks.
5. Monitor and test tax controls.
6. Provide tax assurance.

2 MEET THE TRANSPARENTS!

The top 5 multinationals in last year's Tax Transparency Benchmark.

1	DSM	28/37
1	Unilever	25/37
3	Shell	23/37
4	Randstad	22/37
5	Aegon	21/37

3 HOW TO...

Being transparent is easy – if you want it to be. It all comes down to five simple questions. And, of course, to open and honest answers.

1. Does your ETR deviate from the standard rate?
2. Is the board taking active steps to manage it?
3. Are the deviations acceptable within the 'spirit of the law'?
4. Are the deviations reconcilable with the business?
5. Is the ETR published?

4 CLEAR

The Tax Transparency Benchmark 2016 shows that of the 68 multi-national companies in the survey:

76% are transparent on their tax strategy.

69% state that business, not taxes, leads the setting up of international structures.

65% give detailed reports of their effective tax rate (ETR).

25% apply country-by-country r eporting on corporate income tax.

29% now explicitly describe their tax risk appetite.

5 COULD DO BETTER

Fighting poverty and striving for a fairer division of wealth around the globe, Oxfam Novib ranked the top 10 corporate tax havens that have some opening up to do.

1. Bermuda
2. Cayman Islands
3. Netherlands
4. Switzerland
5. Singapore
6. Ireland
7. Luxembourg
8. Curaçao
9. Hong Kong
10. Cyprus

6 OECD ON BEING TRANSPARENT

This is what OECD says about tax information exchange: *'Exchange of information for tax purposes is effective when reliable information, foreseeably relevant to the tax requirements of a requesting jurisdiction is available, or can be made available, in a timely manner and there are legal mechanisms that enable the information to be obtained and exchanged. (...) If any of these elements are missing, information exchange will not be effective.'*

THE RIGHT BALANCE BETWEEN OPEN AND CLOSED

Tax transparency: How far can you go?

How transparent is your tax policy? Directors of multinationals are increasingly facing this question because transparency is now a must. But how do you achieve it? What do you gain by it? And how far down the transparency road do you have to go?

A company can be more or less tax transparent to varying degrees. It's not an absolute requirement. However, in recent years, there has been growing public pressure on companies to be more transparent, not just to show that they are trying to achieve the lowest possible ETR, but also to demonstrate good governance. BDO partners Niek de Haan (International Tax Services), Maurice de Kleer (Tax Services and chairman of NOB, the Dutch Association of Tax Advisers) and Arnout van der Veer (Risk Advisory) discuss the various developments and options open to companies and offer some tips.

Why is it so important to be transparent?

Maurice de Kleer: 'Transparency is something multinationals themselves feel a growing need for. Previously, company tax officers reported to the CFO and at most only dealt with the tax authorities and fellow tax specialists. Otherwise, nobody paid any attention to tax issues, which were regarded as a purely technical preserve. In the past 20 years, however, public interest in corporate tax has skyrock- ›

> **'Corporate tax policy is now everybody's business'**

6 TIPS **FOR INCREASING YOUR TRANSPARENCY**

1. Compile an inventory of existing structures and current rulings.
2. Analyse them in the context of today's requirements. Do they tie in with current regulations and the new climate of ethical business practices?
3. Evaluate how compliant you are now. If you have a good overview, you can plan your tax forecasting more accurately and make better decisions about your tax return.
4. Conduct a (half-) yearly risk assessment and define your risk appetite.
5. Put in place a proper tax control framework.
6. Decide on your policy so that you can explain it to your stakeholders.

COUNTRY-BY-COUNTRY REPORTING

Under the OECD Base Erosion and Profit Shifting (BEPS) project, enterprises with a revenue of more than €750 million have since 1 January 2016 had to report their profit in each country in which they operate, their revenue from affiliated and unaffiliated transactions, their current and deferred taxes, their staff complement and the value of their non-current assets. The OECD has provided a template for submitting this reporting. Country reports are then exchanged by the tax authorities of the countries concerned.

Maurice de Kleer is Partner Corporate Tax Advice at BDO. He also chairs the Board of the Dutch Association of Tax Advisers (NOB).

Niek de Haan is Partner International Tax Services & Global Outsourcing at BDO. He is also a member of the European Law Board of the Dutch Association of Tax Advisers (NOB).

Arnout van der Veer is Partner at BDO Advisory. He previously served as Chief Risk Officer at Reed Elsevier and was a partner at KPMG.

› eted, with NGOs such as OxfamNovib beginning to scrutinise the role of multinationals in developing countries. The media also started taking a closer interest and the government followed suit. This interest further intensified with the financial crisis, when governments, faced with shrinking tax revenues, started looking more critically at who was paying tax where.'
Niek de Haan: 'Country-by-country reporting (see separate story on the previous page) now obliges companies to report their tax liabilities in line with specific formats.'
Arnout van der Veer: 'Some governments also increasingly resort to naming and shaming, as with Starbucks in the UK.'

We don't indulge in 'tax shaming' in the Netherlands, though, do we?

De Kleer: 'We've had similar debates in the Dutch newspapers and in parliament, where it was agreed that such practices cannot continue and that legal loopholes must be plugged. The European Commission is also setting stringent requirements, based on the Anti-Tax Avoidance Directive (ATAD), which go beyond existing declarations of intent. Developments such as these mean that corporate tax has now become everybody's business. As a result, even without tax shaming, more and more demands are made of companies regarding the transparency of their tax policies.'

Who now has to do what?

Van der Veer: 'These days, tax transparency is the responsibility of executive and supervisory boards. Risk officers also have a duty to guarantee fiscal transparency. An executive board must consider how the company addresses its broader social responsibilities. What is its policy on tax planning, what are the associated risks and how transparent does it want to be about them?'
De Kleer: 'One of the questions an executive board now has to ask itself is how the company answers to its stakeholders: NGOs, governments, customers, employees and shareholders.'

'A decision by a company to relocate production to another country can bring significant tax risks with it'

After all, it's your reputation that's on the line, isn't it?

De Kleer: 'Good governance presupposes that you're in control of how your company is run and that you understand the context you're operating in. You have to ask yourself what the outside world expects of you – and that assumes a degree of transparency. Of course, it's also about reputation management and levels of risk acceptance. We feel that multinationals must be fully transparent towards the tax authorities, who must, of course, handle the information they are given in confidence to protect commercial interests. Such information should not be allowed to leak into the public domain.'

What is needed for transparency towards stakeholders?

Van der Veer: 'First of all, you've got to fully understand the situation you're presenting to them, which is sometimes quite difficult. In large complex organisations, for instance, it's no longer always easy to know what implications certain decisions will have on tax policy. One department might, for example, decide to relocate production to another country. In the age of the internet, such relocations are very easy to bring about. It's something an executive board may not even need to be aware of, yet it can bring with it significant tax risks. Even moving an activity, say, from the UK to France can involve transfer pricing issues, which many people might not realise.'
Satisfying laws in different countries also isn't necessarily the end of the story. De Kleer: 'For example, if you're operating in a developing country, you may think you're complying with its laws yet you may ›

'MORE INFORMATION DOESN'T ALWAYS MAKE THINGS CLEARER'

'The current focus on tax transparency hasn't yet led to any new guidelines from international accounting organisations, such as the International Accounting Standards Board (IASB) or the Dutch Accounting Standards Board. But it has prompted them to discuss whether financial statements should contain more information on how companies pay tax, where, how much and on what. As a result, large corporates are now being advised to reconcile the differences in their financial statements between the applicable and actual tax rate. As it is, they are already legally required to justify any reduction in tax rate from the previous year.
'The accounting organisations could ask them to include more details in their financial statements about payments to governments, as they already do with respect to extractive industries and the forestry sector. On the other hand, adding more pages of tax-related statistics doesn't always make things any clearer. It would be more meaningful to ask companies to explain the difference between their nominal and actual tax burden.
'That said, stakeholders can already see in the financial statements whether a company's actual tax burden is much lower than the nominal Dutch tax rate, and if so, ask themselves if it is genuinely paying its fair share of tax.'

Leon Jansen (47) is a member of the BDO Audit & Assurance Board and responsible for BDO Financial Accounting Advisory Services (FAAS).

'YOU HAVE TO **STRIKE THE RIGHT BALANCE'**

'Without transparency, people are tempted to let their moral standards slide. If you know nobody's watching and the chances of being found out are minimal, your standards are always slightly more relaxed. In the wake of the financial crisis and after several fiscal scandals, the G20 ruled that "all taxpayers must pay their fair share". This was followed by more effective exchange of information between states, a trend that has continued since. Nevertheless, a lot is still hidden and it isn't easy for the national tax authorities to gain a clear overall picture of the international tax structure. What's more, a head start on information can put a company at a competitive advantage.

'NGOs working to end tax evasion are sometimes accused of not knowing what they're talking about. But whose problem is that exactly? Businesses are also to blame if they can't explain the complex structures that sometimes allow them to pay suspiciously little tax. 'Aristotle gave us the Doctrine of the Mean, which states that a foolhardy soldier is just as dangerous to an army as a cowardly one. In other words, no one is asking you to pay more than your fair share in tax, but you should at least keep to the spirit of the law. After all, what kind of reputation do you want?'

Richard Happé (70) is Emeritus Professor of Fiscal Law, Tilburg University.

› still being held responsable for your behaviour in the field of taxation.'
Van der Veer: 'What's more, you often hear multinationals say that they're opposed to child labour yet they can't substantiate their actual practices. Nothing can ever be 100% watertight.'

So achieving full transparency is quite a challenge?
De Haan: 'You simply can't be on top of everything all the time. For instance, even concluding agreements with organisations that are opposed to child labour isn't always enough. But the advantage of tax is that you can oversee and manage it yourself far more easily than you can control child labour or environmental aspects.'
De Kleer: 'It's also more IT-driven and less reliant on individual action.'
De Haan: 'Companies often lack technical expertise in certain areas. That's why you need a good tax control framework, which is in any case often a condition for horizontal supervision by the tax administration.'
De Kleer: 'But if a company has 400 subsidiaries located in different countries, achieving tax transparency becomes a bit of a challenge.'
De Haan: 'Of course, all multinationals want to avoid double taxation, and to do that, you've got to have a good overview. That knowledge can also be used to aid tax transparency.'

Isn't it natural for companies to try to minimise their tax burden?
De Kleer: 'Yes, although in the past, it has sometimes gone too far. For example, some tax directors were paid a bonus if they managed to reduce their company's effective tax rate.'
De Haan: 'This is something that has been practised mainly in the US, but as far as I know, it's still going on. In my experience, the moral desire to be prepared to pay more tax isn't yet a reality there. Whenever I discuss changes to EU tax rules with representatives from the US, they still often ask: "How do I plan around it?" I don't know, though, if the attitude of European companies is so very different.'

'Even if you can conclude a tax ruling with the local tax authorities, should you?'

Van der Veer: 'After all, can you imagine any company director saying: "If I pay €50 million in tax, I'm fulfilling my obligations, but if I pay €100 million, perhaps I'll be regarded as a better citizen"?'
It's clear that you'd win in terms of good governance and reputation management, but how much are companies prepared to pay for that? Even if we can't answer that exactly, says de Kleer, it's certainly clear nowadays what's no longer acceptable. 'Paying interest in one country and then deducting it in three – what's known as a triple dip – is difficult to justify to the wider public.'

What are the chances for tax transparency?
De Haan: 'Until now, US multinationals have often preferred to "float" their capital between the US and Europe so that they can eventually park it in the most tax-efficient location. It's highly likely this practice will end if the forthcoming US tax reforms cut the 35% corporate income tax rate by half. Any "parked" capital will then presumably return to the US to benefit from the low rates there.'
Van der Veer: 'That will make it easier for companies to become more transparent, since their actual tax rate will move closer to their effective tax rate, which is easier to explain. This may not be the intended goal of the tax reform, but that is the effect it will have.'

How will this change things for company tax specialists?
De Kleer: 'They'll no longer be able to rely solely on arrangements made in the past, since those rulings may no longer apply. Assessing this now requires different skills. Company tax officers must be able to evaluate technical information against new public perceptions of tax. Only then can their companies devise appropriate policies.'
De Haan: 'But you can't expect company tax officers to do it all themselves. They'll often need to coordinate their work more closely with the local tax authorities. But even if you can successfully conclude rulings, there may be reasons for not concluding them.'
Van der Veer: 'For this reason, corporate risk officers and external consultants need to team up with tax specialists.'
De Haan: 'The tax adviser should also provide ethical input and be able to explain the various options available. After all, the million-dollar question is: what's your fair share?' ‹

VASTNED RETAIL NV

Sector and product European listed real estate company with focus on the best retail property in popular shopping streets in historic European city centers.
Staff complement 50
Active in The Netherlands, Belgium, France and Spain.
Value of portfolio €1.5 billion. Pre-tax rental income: €89.5 million (2016)

'Our compliance risk profile is zero'

'What we **say** is what we **do**'

Reinier Walta (42) is CFO of Vastned. Between 1999 and 2014, he worked as a property tax consultant for PwC, Tax Manager and Director of Investor Relations at ING and Transaction Manager for the Abu Dhabi Investment Authority.

Do you associate real estate more with money laundering or tax transparency? Real estate firm Vastned scored highly in last year's transparency benchmark of the Dutch Association of Investors for Sustainable Development (VBDO). Vastned CFO Reinier Walta explains how and why.

Vastned leases exclusive retail premises in leading European cities, such as Meir in Antwerp and Rue de Rivoli in Paris. The company's offices in Amsterdam's Zuidas business district are comfortable yet sober by comparison. Assisted by Investor Relations Manager Anneke Hoijtink, Reinier Walta discusses the huge leap achieved by the company in the VBDO transparency benchmark between 2015 and 2016.

Your score shot up from seven to 20, taking you to joint sixth place just eight points behind the front-runner, DSM. How did you manage it?

'People know what to expect from us and that reassures our investors'

Reinier Walta: 'By being clear about what we do. You've got to start by setting out your risk profile on tax and explaining why you are transparent. Our annual report also records that we've delivered on our earlier promises. We do this for each country we're active in. Tax is an inherent part of our corporate governance. It's something we want to be open about and "best in class".

'Last year, we also posted our tax policy on our website, which explains, for instance, that we pursue a cautious risk policy. I'm obviously delighted we've been given a high benchmark score, which I see as a reward for our transparent tax policy.'

Why did you want to become more transparent?

'It was more a case of "why not?". Tax has become a very hot topic in the public arena over the last two years. What's more, many people don't associate the real estate sector with transparency. That's another reason why we were keen to be transparent, so as not to be tarred with that negative image. As an investment company, we invest capital and distribute the income generated. We operate in the Netherlands, Belgium, France and Spain. We don't have much of a tax liability in the first three countries, but because people are increasingly keen for businesses to be accountable, we want to be clear about how our tax policy works. Tax transparency isn't really an issue for our stakeholders, but it does matter to an organisation such as VBDO.'

Why are you only starting now?

'The topic has only recently moved much higher up the public agenda, so it wasn't really something we were looking at before. It may also have something to do with my becoming CFO at the end of 2014. The new Supervisory Board is more focused on it, too. But I'd also like to pursue transparency in other areas. We have nothing to hide.'

Why are you exempted from paying corporate income tax?

'We don't pay corporate income tax in three of the countries we operate in because we qualify as a Real Estate Investment Trust (REIT) under their tax regimes. This implies that we pay-out the majority of our direct result to our shareholders, who are taxed accordingly. That's not the case in Spain.'

Of course, if you're not paying much corporate income tax, it's easier to be transparent. You don't have to divert to countries with the lowest tax rates.

'That's quite true. But even in Spain, where we do pay corporate income tax, we don't pursue aggressive tax structures such as tax havens or offshore constructs. We do, though, withhold tax on dividend distributions to shareholders. And we obviously also pay payroll tax, VAT, transfer taxes, local rates and so on.'

You occasionally hear of multinationals incurring unexpected tax risks – for example, when someone decides to relocate an activity to another country without telling the Managing Board.

'That doesn't happen to us because we know exactly what's happening in the company and that way we aren't confronted with unexpected tax risks. We're a small team of 50 specialists where we know each other. Moreover, these decisions are taken at board level.'

Can you always ensure transparency even when you hire in people to do work on your properties?

'Yes. We invite tenders from a range of reputable companies, as specified in our policy on governance. We are, after all, a listed company. So we need to have watertight provisions in place – just in case someone were to fall off a scaffold, for example. Our compliance risk profile is zero and we're also cautious when it comes to making investments. So we're very conservative both in terms of compliance and in our approach to tax.'

That must make your job pretty easy.

'Well, it all depends on the tone af the top. The CEO and I are in full agreement on how we want to play the tax and compliance card. And that cascades down to the rest of the company. In tax matters, there are always grey areas you can dispute with the tax authorities. Occasionally, we'll be prepared to go to court to argue our case. If we lose, we've got reserves to cover our losses, and if we win, that's a bonus. Other than that, the position's quite clear: we publish a transparent annual report and pursue a clear strategy. People know what to expect from us and that reassures our investors. What we say is what we do.' ‹

'People don't tend to associate real estate with transparency, which is why we're so keen to be transparent'

HOW TRANSPARENT?

What score does **Reinier Walta** give Vastned for tax transparency?

'An 8 out of 10. There's always room for improvement, after all.'

RABOBANK

Sector and product financial services
Staff complement 45,567
Active in 26 countries
Annual turnover € 12,805 million (2016)

‘Tax follows the business’

Joost van Zadelhoff (47) is head of Rabobank's tax department. He began his career as an accountant and tax adviser at PwC. He joined Rabobank in 2001, working in the transactions practice that devised financing solutions for corporate clients. He was appointed International Tax Manager in 2014 and he was promoted on 1 January this year to the position of Head of Tax.

HOW TRANSPARENT?

What score does **Joost van Zadelhoff** give Rabobank for transparency?
'An 8 out of 10. We've got a well-structured risk management and transparency policy, thanks to our excellent tax professionals, who are close to the business and know what is happening. We're also given strong support by our Executive and Supervisory Boards.'

NGOs and other stakeholders keep a close eye on how financial institutions conduct their tax policies. Is that a reason why **Rabobank** is working so hard to achieve tax transparency? Joost van Zadelhoff: 'We've got our own ambitions but follow developments in the market, too.'

Oxfam Novib recently published its findings in a review of the country-by-country reports that internationally active banks are legally obliged to publish. The report concludes Rabobank is not an aggressive tax planner and pays its fair share of taxes.

You must have been pleased to read that.
Van Zadelhoff: 'Our long-standing policy has been for tax to follow the business, but it was gratifying to see it confirmed by others. We only operate in countries where we pursue commercial interests. We don't just go there for tax reasons.'

And presumably you're doing your best to keep things that way?
'Absolutely. We put in place a tax control framework (TCF) over a decade ago and this gave us a clear overview of our activities, the associated risks and what we had to do to mitigate them. We have a policy on what we do and don't want to do in tax terms and this has been evolving over the years. External communication has become increasingly important in the past five years. We were always committed to being transparent with the tax authorities. But these days, businesses are also asked to do more outreach, so we're also telling our stakeholders more about our tax affairs. And we discuss our tax policy with NGOs such as Oxfam Novib and the Dutch Association of Investors for Sustainable Development (VBDO), pension funds and the public sector. Our dialogue with external stakeholders is enriching because they often have a different take on things.'

What kind of tax risks are you keen to avoid at Rabobank?
'Our TCF covers a wide spectrum of risks. For instance, we don't conduct transactions if we have doubts about the counterparty's tax intentions. That's why we tell our clients that we expect them to comply with certain (tax) requirements. Rabobank will, for example, discuss the purpose of a financing with our clients.'

Do you ever refuse to take on clients?
'We certainly refuse, or end our relationship with, clients who commit tax fraud. We don't engage in any highly aggressive tax financing structures proposed by clients, either. So the answer is yes.'

Presumably, you can't have tax transparency without a tax control framework in place, can you?
'The term "framework" may sound very static but it consists of many processes, structures and, above all, people. The tax department works very closely with Relationship Managers, so that they know what we want to achieve with our tax policy and can help us. People are the key linchpin. Structures and processes may be important, but the intrinsic knowledge that's in people's heads is vital. And that's perhaps the greatest challenge, especially in a company with more than 40,000 people.'

Are they given daily or weekly guidelines to abide by?
'They're given training in client integrity and how to tackle money laundering. We, in the tax department, also seek contact with the support departments and the Relationship Managers in the business, telling them what to look out for using case studies as illustrations. A list of dos and don'ts isn't enough, because standards governing tax are constantly evolving. Social norms are always shifting, too. Legislators and regulators anywhere in the world can set new requirements each day – for example, in relation to client tax integrity. If you regularly talk to colleagues in the business, you soon find out which risks are the most common and can adapt your policy promptly. It's a dynamic process.'

Are you never taken by surprise?
'We have a very solid system in place, but that doesn't mean you can anticipate absolutely everything. If something unexpected does happen, we'll take learning from it and adapt our policy accordingly. The policy has to be fit for purpose and you've got to ensure that unwanted risks don't arise.'

So you don't deliberately steer clear of countries with high rates of taxation?
'No. We always say: tax follows business. In Australia, Brazil and the US – where we do a lot of business – the tax rate is at least 30% and that's what we pay. This is reflected in our country-by-country report.'

Do you also tailor your policy to what your rivals are doing?
'We have our own goals in relation to transparency and what we do and don't ask of our clients. For us, tax is an intrinsic part of corporate social responsibility [CSR]. And we naturally monitor developments in the market, too, not just what our competitors are doing.'

What advice would you give to tax directors and CFOs who want to become more transparent?
'First and foremost, be close to the business. Then you'll be in a position to identify the potential tax risks affecting your company. A good relationship with your internal stakeholders, such as the Supervisory and Executive Boards, is absolutely essential, given that tax is progressively moving up the agenda. Ensure clear communication and link your tax and CSR policies. Finally, just get on and do it. Outline your tax policy in the context of your CSR and keep on developing it over the years. I can really summarise everything I've said so far as follows: make sure that, as a tax department, you're not sitting in an ivory tower. After all, if you want to be transparent, you've got to start by being right at the heart of the organisation and ensuring the best possible internal and external relations.' ‹

'Make sure that, as a tax department, you're not sitting in an ivory tower'

PLANTRONICS

Sector technology

Product lightweight communications equipment

Staff complement approx 145 in the Netherlands

Active in 46 countries in the world by legal presence

Annual revenue $600 million (fiscal year 2016)

'Only what's strictly necessary'

Rob Frankfort (66) established Plantronics BV in 1996. He is now responsible for the tax aspects of the company's European operations, of which he is CEO/CFO.

HOW TRANSPARENT?

What score does CFO **Rob Frankfort** give Plantronics' tax transparency?

'A 9 out of 10. We're fairly transparent in terms of the statutory requirements but won't be joining other companies in using our financial statements as a marketing tool. Plus, there's always room for improvement.'

As CFO of the European arm of multinational Plantronics, Rob Frankfort hears demands for more tax transparency every day but he doesn't let it intimidate him. 'We only publish what we have to, no more,' he says.

Tax transparency has become a hot topic in recent years, but not everyone is equally happy about it. 'It can send shivers down the spines of corporate tax officers,' Frankfort says. 'Until roughly five years ago, everyone went around in the firm belief that people paid the right amount of taxes. Thirty or so years ago, we still had inspector shopping and treaty shopping: in other words, identifying which tax inspectors were more inclined to do a deal or in which countries you could pay the least tax. That's a thing of the past. Everyone now seems to have an opinion about taxation without necessarily knowing what they're talking about.'

Country-by-country reporting

Frankfort knows all there is to know about his own company but won't tell outsiders more than is strictly necessary. 'Plantronics certainly isn't completely transparent and that's deliberate. Being completely transparent would mean revealing the details of our standard contracts, why we do what we do and what effects this may have, such as how head office allocates its costs. It's something we just don't do. The law specifies what we're required to include in our tax return and we don't go further than that, partly because we don't want to give information to our competitors.

'In the UK, on the other hand, it's now a legal requirement to publish information about your tax policy, so we'll supply it over there. I'm currently also working on country-by-country reporting for the various national tax authorities we deal with. That means conducting a whole series of interviews with the decision makers in this company so I can explain how the organisation is structured.'

Each tax authority wants to know a lot, but Frankfort is highly circumspect in answering their questions. 'When you're doing your operational planning, you ask yourself: can I generate a large part of my revenue in countries with low tax rates while still getting the same return on investment? Where should I try to achieve the most profit? What costs should I, can I, allocate where? And where should I invest? Obviously the tax authorities will expect a convincing explanation of why we're allocating our costs elsewhere and what we want to earmark as extra revenue. For example, we may be prepared to accept a lower profit in the Netherlands because we're keen to penetrate the market in Brazil, even though we can't generate a profit there.'

Keep asking questions internally

Regardless of whether you're for or against tax transparency, the corporate tax department has to know the company through and through, Frankfort insists. 'My advice is: know your organisation!' he says. 'That's why we hold all those interviews. You've got to know exactly where decisions are taken and what the reporting lines are. Then you'll know where the profit should be allocated. You can't simply rely on what people say, because everyone likes to make their work look more attractive. They'll say: "I report to the US". But what exactly does that mean? You've got to keep asking questions and ascertaining from the replies you get exactly what people do. And you've got to be completely on top of what's happening in the organisation. If you publish something that turns out not to be true, you'll be jumped on.'

Sensitive information

Plantronics discloses only as much as it's legally required to, and no more. Frankfort: 'After all, there's no sense in compiling your financial statements in such a way that allows competitors to extract sensitive information from it. We've no plans to float the company on the European stock exchange and I'm not influenced by public opinion. So there's no pressure on us to include more in our financial statements than the statutory minimum. What's more, there's no remuneration for the extra work involved.' ‹

‘Keep using **common sense’**

‘Rulings concluded in the past may take on a different hue’

Ben van der Veer (66) is a member of the supervisory boards of TomTom, Aegon and FrieslandCampina and a non-executive director of RELX. He was previously on the supervisory boards of Siemens Nederland (2009-2013) and Imtech (2014-2015). Between 1976 and 2008, he worked at KPMG.

HOW TRANSPARENT?

What score would **Ben van der Veer** give himself as a supervisory board member for tax transparency?

'An 8 out of 10. Although the trend is for companies to disclose more and more about their tax position, that's not necessarily a guarantee of better information. What's important is that you always keep using common sense.'

'A tax director must be able to express things in plain and simple language'

How will supervisory boards respond to the growing demand for corporate tax transparency? And what tools are available to help them? Ben van der Veer, a supervisory director for several large enterprises, gives his view on how companies should get to the bottom of tax issues.

Tax transparency starts with reassurances designed to satisfy shareholders and stakeholders, such as the tax authorities. How can a supervisory board ensure there's more to these claims than mere words?

'You start by checking that the company has a tax policy. This will often include stating that tax is a cost item, that it's a key part of company strategy and that the company wants to be a responsible taxpayer that stays in active contact with the tax authorities and has a good working relationship with them. This includes maintaining optimum fiscal transparency.'

Surely these principles can be formulated easily enough and posted on the company's website and in the annual report. That doesn't cost much…

'These days, every self-respecting company has a series of tax principles. Things have changed a lot in the eight years I've been on supervisory boards. NGOs can now ask critical questions about tax at shareholders' meetings, although they don't expect you to pay more tax than you need to or actively seek out the highest rates. Sometimes, they'll also compliment you for having good transparency. Whatever the case, companies that try to duck their tax liabilities will damage their reputations.'

What can supervisory board members do to prevent this?

'Once you've understood the company's tax principles, you must take a critical look at how they're implemented. For instance, what evidence is there that the company has a good working relationship with the tax authorities? We need to see proof.'

How do you check they're doing what they say they will?

'I ask for a report at least once a year from the head of the tax department, who's also invited to attend the meeting of the audit committee. I want to see who they are, whether they're competent and if they're taking ownership. That person then has to inform you of important developments in taxation, changes in tax rulings, tax rates and any changes in supervision or other agreements concerning the disclosure of information. You also want to know how many people work in the tax department, where they come from and how they've been trained. Basically, you need to get a feel for the quality of the department. Are they on top of things?'

So it's initially about the quality of the people?

'You also need to be sent an analysis of the company's ETR a couple of times a year. You might want to know, for instance, why it diverges from the statutory tax rate and what the general trend is. You also want an overview of any deferred tax payments. And at least once a year, you've got to look through the contingency reserves the company keeps to cover potential risks. Are they still current? You want to agree on how many times a year you're updated, especially if the company is involved in a major long-running tax dispute. You want to know what the dispute is about, the respective standpoints of the company and the tax inspector, and the possible impact. And decide whether you're going to disclose anything about that risk or whether it's covered by the general provisions. After all, you, as a supervisory director, bear co-responsibility. If a risk is borne out, you don't want to be blamed for having said nothing about it in the annual report.'

But if you say too much, won't you be doing the company's rivals a favour?

'Competitors and tax authorities alike are always interested in such information, which is why you don't always openly discuss all the potential risks in detail. On the other hand, shareholders want to be warned of any material risks in good time. But while they may be in favour of low tax rates, we see them increasingly rejecting inappropriate tax structures in the interests of corporate responsibility. As supervisory directors, we also believe it's important to achieve a positive score for transparency.'

Do supervisory board members have to be tax experts?

'No, but you do have to be interested in tax, as well as curious and critical. The tax director and the CFO need to be able to explain things in plain and simple language. Occasionally, a tax matter may be so complex that the company tax department has to call in the external auditor and their tax experts. That's better for a supervisory board, since it gives its members an expert opinion from two perspectives.'

So have taxes become a more complex subject?

'Yes. Large corporates can quickly find themselves having to maintain a reporting structure covering dozens of countries. If a company holds a meeting somewhere in the Netherlands, it shouldn't incur a tax risk in China that head office is unaware of. And that doesn't just apply to corporate income tax but also to VAT, import duties and so on… These days, it's more difficult for companies to conclude rulings with the tax authorities. Rulings that were concluded in the past don't automatically continue to be valid and they may take on a different hue. And then there's the growing importance of regulations governing transfer pricing. The tax situation for companies is becoming more uncertain. So it's more important than ever for audit committees to get together at least once a year to ensure they're on top of everything.' ‹

'You want to be sure of the quality of your tax department. Are they on top of things?'

And you, **do you want to be** crystal clear?

There's no doubt about it: tax transparency is an absolute prerequisite for good governance and a top priority for Managing and Supervisory Boards. BDO can help you make your tax as transparent as you'd like it to be.

How transparent are you as an organisation – or would you like to be in the future? How do you respond to your duty to be transparent and your need to be accountable to your stakeholders? And are you sufficiently in control of your organisation's tax risks?
With thousands of tax and transparency experts in our worldwide network – spanning 158 countries, more than 1,400 offices and a staff complement over 67,000 professionals – we can offer you all the knowledge you need for truly cross-border tax transparency to exactly the level you wish.

Why BDO?
At BDO, we offer our clients new perspectives based on a focused and timely service using effective coordination and teamwork within our global network. BDO is the answer if you are looking for:

- Centralised planning, management and control by our dedicated, proven client teams.
- A customised client portal through which progress can be monitored.
- Timely and constructive feedback.

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X-RAY YOUR TAX RULINGS

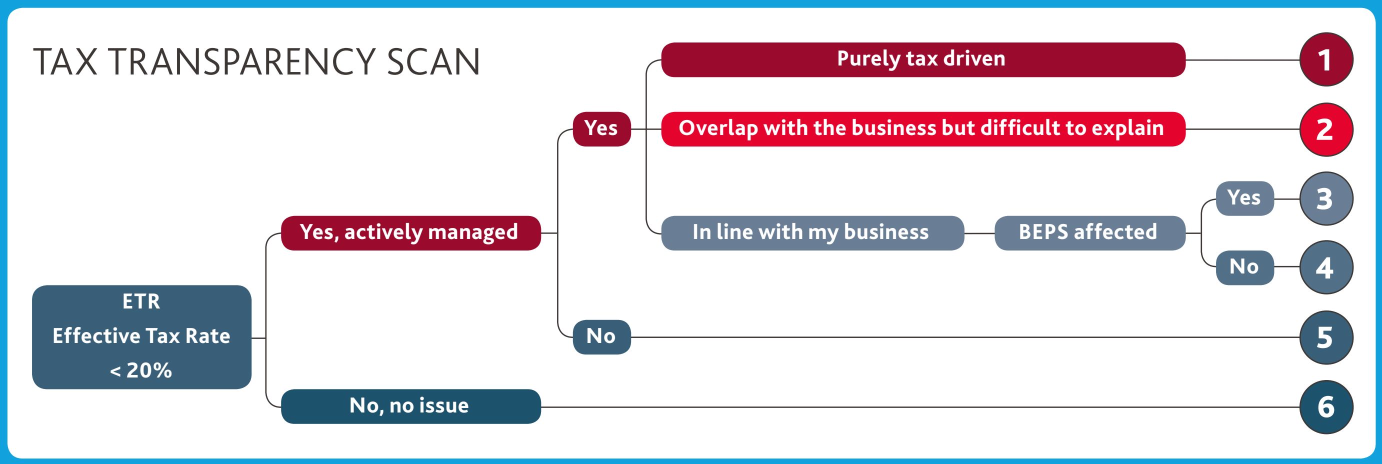
'Transparancy: check!'

Want a quick scan of your tax transparency? The BDO Tax Transparency Scan will give you a useful first impression – within minutes. It measures your taxable scope using an objective yardstick: from your corporate (international) structure, tax strategy and financing to your ETR and any relevant rulings.

It's a picture that'll yield valuable insights fast. You'll see where you stand and where you want to go. What's more, the scan is a good way to give stakeholders a clear snapshot of your tax position.

We'd be happy to help you with:

- A transparent overview of your tax situation.
- An analysis of the outcomes, plus any risks.
- Advice about any follow-on steps you should take.
- Implementing these adjustments.



THE WORLDWIDE
BDO NETWORK

BDO Countries

COUNTRIES
158

LOCATIONS
over 1,400

PROFESSIONALS
more than 67,000

REVENUE IN 2016
$7.6 billion

‘**Taxes**, after all, are dues that we pay for the **privileges of membership** in an **organized society**’

Franklin D Roosevelt

‘The difference **between tax avoidance** and **tax evasion** is **the thickness of a prison wall’**

Denis Healey

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