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An end to The Netherlands as an IP tax haven?

Piter de Weerd (Institute for Information Law (IViR)) · Friday, April 20th, 2012



Yesterday, the European Parliament adopted a [resolution](#) by which it urges EU Member States to combat tax fraud and evasion. The resolution was adopted by a large majority, 538 votes in favour to 73 against. What could make this tax-resolution of interest for copyright holders and holders of other IPR's is the suggestion that very popular (and completely legal) tax constructions with regard to royalties might be abolished as a result of this resolution.

The so-called Dutch mailbox-construction, [reportedly](#) used by many non-Dutch rock stars and sports stars, but also by large multinationals as Coca-Cola, Ikea and Gucci, is one of the constructions that is targeted by the resolution. According to one of the initiators of the resolution, Dutch MEP [Dennis de Jong](#), “the Parliament wants an a fundamental modification of existing tax treaties between EU Member States, so that taxes are levied at the source, where the actual work has been done, and not where a company has nothing more than a mailbox.”

The popularity of the mailbox-construction is said to result from the fact that royalties (from copyrighted material, but also from merchandising and image rights) that flow into or out of a holding company in the Netherlands are exempt from taxes. Media reports [suggested](#) that the Netherlands may lose approximately 1.5 billion in tax revenue and several thousands of jobs, if the construction is indeed abolished.

However, following the news about the resolution, local media in the Netherlands have [reported](#) that alleged frequent use of the mailbox-construction can be doubted. Since 2001, an “actual presence” is required for license companies (e.g. at least half of the board members must be Netherlands residents, major decisions have to be made in the Netherlands and books and bank accounts must be held in the Netherlands) . Because of this requirement the [license companies](#) cannot be seen as mere mailbox-companies.

One Dutch financial newspaper [concluded](#) that “The resolution of the European Parliament is just for show. A short-term end to the practice of Dutch mailbox companies and the loss of thousands of jobs, as some media report, is simply not realistic.” The European Committee and the European Council have indicated that they will present more specific plans in the beginning of June.

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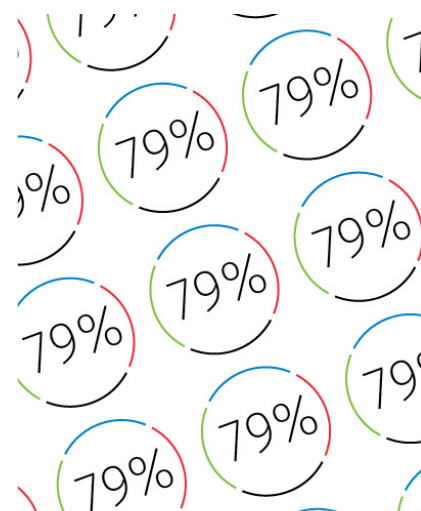
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