

# NOB Tax Principles

adopted on and effective from 7 April 2022

## *Note on translation:*

*This is an English translation of a document drawn up in Dutch. Every effort has been made to render the source text as accurately as possible without compromising continuity. In the event of any disparity between the Dutch original and this translation, the Dutch text will prevail.*

*In this translation, Dutch legal concepts are expressed in English terms and may not necessarily be identical to the concepts described by those English terms under the laws of other jurisdictions.*

## 1. Introduction

The general professional rules of conduct for members of the Dutch Association of Tax Advisers ('NOB') are recorded in the Code of Conduct. These are based on the honour and dignity to be observed by members. The rules in the Code of Conduct also cover various aspects of the services, including independence in relationships with clients, confidentiality, maintaining professional competence, professional liability, and financial aspects of the services provided to clients.

NOB members can be expected to provide clients, upon request, with details of the relevant legal opportunities and options available with regard to tax and other issues raised. Members act lawfully and with integrity at all times and expect the same from their clients. Members must never knowingly incite tax evasion when giving advice. Members may obviously support clients seeking to remedy their tax position and may provide legal assistance.

Advice must always be based on applicable legislation and regulations and, insofar as possible, take account of legislation and regulations forthcoming or announced. Members must include societal aspects in their discussions with clients, wherever this can reasonably be considered necessary.

The NOB Tax Principles provide members with a framework so that they and their clients can understand and appreciate the societal acceptability of tax positions.



## 2. Objective and scope of the Tax Principles

The NOB has compiled these Tax Principles, which supplement the professional rules of conduct set out in the Code of Conduct, to promote the quality of advice given by NOB members, to protect the reputation of members and the profession, and to ensure that concerns arising in societal discussions of taxation are addressed. These principles are to be observed by members when providing advice. The Tax Principles build on the general professional rules of conduct and are intended to supplement rather than replace them.

The Tax Principles describe what is expected of members in their role as advisers. The guidelines accompanying the Tax Principles are intended to help members to understand the essence and purport of the Tax Principles and provide guidance on applying them in practice. The Tax Principles apply to all individual members providing advice on tax matters, regardless of their employment contract or membership of other professional organisations.

In the case of compliance services and dispute-resolution support (objections and appeals), the professional rules and standards set out in the Code of Conduct continue to apply in full. However, the nature of these activities is such that the Tax Principles do not apply in all respects.

The Tax Principles are a means of reinforcing the quality standards of the NOB and are not intended as a yardstick for the tax authorities, given that taxpayers must always be able to call on a tax adviser for assistance and, based on the principle of fair play, to be able to rely on the principle that tax documentation designed to explain or advise on the client's tax position does not have to be disclosed to the tax authorities.

## 3. Tax Principles

### Adopting a position

1. Tax advice must be based on a realistic assessment of all relevant and known facts and on defensible interpretations of the applicable national and international tax legislation and regulations.
2. As well as being based on relevant sources of legal opinion, members' advice on matters of interpretation must also take account of the legislator's intentions and the extent to which positions can reasonably be defended.
3. Tax positions adopted must at least be defensible (*pleitbaar*).





## Transparency and disclosure

4. Members must comply with all statutory duties of disclosure and reporting rules, and clients are also expected to do the same.
5. Members do not perform work where the advice relies on or results in information knowingly being withheld from the relevant tax authorities.
6. Any member entering into prior consultations with tax authorities must correctly and fully disclose all facts relevant to the request and known to the member.

## Real economic objective

7. Members must ensure they are aware of the real economic objective of the transactions to which their advice relates. If a real economic purpose is not sufficiently plausible and achieving a tax benefit is the primary aim, members must discuss the aspects referred to in 9 below in their advice.
8. If no real economic purpose can be identified, but the tax benefit is explicitly envisaged or recognised by the legislator or accepted by the relevant tax authorities, it may nevertheless be advisable for members to include the aspects referred to in 9 below in their advice.

## Societal aspects

9. As well as complying with legislation and regulations and technical standards, members' advice must also, where relevant, explicitly take economic, business and reputational risks, as well as the interests of the client's internal and external stakeholders, into account.
10. These Tax Principles do not restrict members from discussing all defensible tax positions with clients. A request for advice may even result in members having to provide information to their clients on the various possible options, with due observance of these principles. Details of any objections members may have to one or more of the options included in their advice will be included in the advice.





## **Concurrence with other or supplementary principles**

11. In addition to the Tax Principles, members are free to apply other principles, providing these do not conflict with the Tax Principles.
12. Members are free to apply other standards instead of the Tax Principles, providing these other standards are fundamentally in accordance with the Tax Principles.
13. Members will inform clients of the tax principles applied in the advice.

## **Entry into force**

14. The Tax Principles enter into force after being approved at the general meeting of members of the NOB. A resolution to amend the Tax Principles can be adopted only if approved by a majority of the votes cast at a general meeting of members.
15. The Tax Principles describe what is expected of members in their role as advisers. If a member is unable to comply with the Tax Principles, the principle of 'comply or explain' applies until 31 December 2023. Members must explicitly state the extent to which they apply the principles set out in these Tax Principles and otherwise explain why and the extent to which they do not apply these principles.

