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The Netherlands, the New Tax Shelter Hot Spot

By [LYNNLEY BROWNING](#)

Oh, a storm is threat'ning
My very life today
If I don't get some shelter
Oh yeah, I'm gonna fade away

"Gimme Shelter," The Rolling Stones

Amsterdam

LAST spring, Keith Richards, the craggy-faced and hard-partying lead guitarist for the Rolling Stones, fell from a tree at a beach resort in Fiji, slamming his head against the trunk on his way down. Mr. Richards was flown to New Zealand, where a surgeon provided emergency care to treat swelling in his brain. While the accident forced the Rolling Stones to cancel part of their summer tour, Mr. Richards, 62, handily survived his plunge.

"It's not the first brush with death I've had," Mr. Richards later told Rolling Stone magazine. "I guess what I learned is, don't sit in trees anymore."

What two of the other three Rolling Stones apparently learned, including [Mick Jagger](#) and Charlie Watts, was that Mr. Richards's near-death experience meant that it was time to think about their heirs. For that, the aging rockers turned to a reclusive Dutch accountant, Johannes Favie, whose company, Promogroup, has helped them minimize their tax bills for more than 30 years. (The fourth Rolling Stone, Ron Wood, handles his finances apart from Promogroup.)

And so, last August, according to details disclosed in documents maintained by the Handelsregister, the trade registry of the Netherlands, Promogroup helped the three performers set up a pair of private Dutch foundations that will allow them to transfer assets tax-free to heirs when they die. Other Dutch shelters that Promogroup has arranged for the three have already paid off handsomely; over the last 20 years, according to Dutch documents, the three musicians have paid just \$7.2 million in taxes on earnings of \$450 million that they have channeled through Amsterdam — a tax rate of about 1.5 percent, well below the British rate of 40 percent.

The Rolling Stones are not the only celebrities sheltering income in the land of tulips, windmills and Rembrandt. The rock powerhouse [U2](#) has transferred lucrative assets to Amsterdam, as have other pop singers and well-known athletes, all of whom have used or continue to take advantage of the Netherlands' tax shelters, according to a Dutch tax lawyer who requested anonymity because of client confidentiality agreements.

Entertainment companies and others that benefit handsomely from the Dutch shelters include EMI, the giant record label, and [CKX Inc.](#), the entertainment company that owns stakes in "American Idol," the [Elvis Presley](#) estate and the soccer pin-up idol [David Beckham](#).

When it comes to attracting celebrity wealth seeking shelter from taxes, the Cayman Islands and other classic

Caribbean tax havens are receding in favor like so many waves on the beach, according to tax experts here and overseas. While old-school, offshore tax havens — the warm ones with tropical fish, off-the-shelf holding companies sporting post-office-box addresses, and scant regulation or transparency — still attract money, they are largely patronized, tax lawyers and entertainment bankers say, by hedge funds and private equity firms looking to protect lush trading profits from taxes.

But for earnings derived from intellectual property such as royalties, the Netherlands has become a tax shelter of choice. With celebrities lending their names and images to clothing lines, licensing their hit songs to corporate sponsors, seeking roles in Hollywood and engaging in other ventures that generate significant taxable income, the Dutch system, which does not tax royalties, offers a nifty shelter.

As they flock to Amsterdam, celebrities are taking a leaf out of the playbook of major corporations that also use Dutch tax shelters to help reduce or eliminate the royalty taxes on patents, another form of intellectual property.

“The Caribbeans are thinking about trading profits, not royalties, so the smaller European countries like Holland have had to be creative, tax-wise,” said David Pullman, an investment banker in New York who caters to entertainers and athletes. “They are going for the high-end stuff and don’t want to be seen as shady like some Caribbean haven.”

Many of the world’s multinational corporations, like [Coca-Cola](#), [Nike](#), Ikea and [Gucci](#), have set up holding companies here in recent years to take advantage of tax shelters nearly identical to the ones that the Rolling Stones and U2 use. An additional draw is the Dutch Finance Ministry’s recent willingness to issue advance rulings that effectively bless the tax shelters, a fast-track process that has lured in companies and individuals seeking to use the Netherlands as a tax shelter.

[Sun Microsystems](#), the giant American software and computer manufacturer, operates Dutch holding companies and is candid about why it does so. Until recently, on the Web site of the Netherlands Foreign Investment Agency, www.nfia.com, Sun offered the following blurb about the country’s accommodating tax laws: “Let’s face it: ask foreign companies why they’re really located here, and nearly everyone will reply that it’s because of the favorable tax ruling. The combination of this with the country’s political stability, well-trained labor force, their linguistic skills and international attitude as well as the stable infrastructure for roads and telecommunications — this is why we’re here.” (A Sun spokeswoman declined to comment.)

The Netherlands is home to almost 20,000 “mailbox companies,” Dutch shorthand for corporate shells set up by foreign companies and wealthy foreigners who use them to relieve taxes on royalties, dividends and interest payments, according to a report last November by SOMO, the Center for Research on Multinational Corporations, a nonprofit group in Amsterdam that monitors the business practices of large companies. Globally, some 1,165 companies use Dutch tax shelters to reduce or eliminate taxes on royalties and patents, according to SOMO.

The report, which is critical of the emergence of the Netherlands as a tax haven, says that the number of mailbox companies “has been increasing rapidly in recent years” and that the shelters undermine efforts by governments worldwide to “ensure that a level playing field is created where each country receives the fair taxation due to it as a result of the commercial activities undertaken within its borders.”

OFTEN mentioned as a candidate to receive the Nobel Peace Prize, or, perhaps less seriously, to run the [World Bank](#), U2’s 46-year-old lead singer, [Bono](#), has toured Africa with senior American officials to campaign against AIDS, and hobnobbed with financiers and policymakers while speaking out on global poverty issues at the [World Economic Forum](#) in Davos, Switzerland. He even mugged for the cameras in 2000 with [Pope](#)

[John Paul II](#), who tried on his sunglasses.

U2's riches are equally well-traveled and, like the Rolling Stones, the band has become sophisticated about finding overseas shelters for its money. When Ireland announced last spring that it would sharply curtail a lucrative tax break for musicians, painters, writers and sculptors, the shift posed a financial threat to U2, which has made the Emerald Isle its financial power base for nearly three decades. The Dublin-born-and-bred rockers built their fortune on hit songs and, in part, on Irish laws that forgive taxes due on royalties.

As of last year, U2 had amassed a net worth of 629 million euros — around \$908 million — according to the annual “Rich List” of top earners in *The Sunday Times* of Britain. Royalties are the income that artists and athletes earn from recordings, performances, trademarks, brands, patents, copyrights, film rights, product endorsements, videos, films and the ever-extending commercialization of those assets — in short, the major portion of an artist's or an athlete's income.

Last June, with the Irish tax break about to shrink, U2 heeded the advice of its longtime business manager, Paul McGuinness, and moved its most lucrative asset — a song-publishing catalog with hits like “Where the Streets Have No Name” and “It's A Beautiful Day” — from Mr. McGuinness's firm, located near the Liffey River in Dublin, to Promogroup, which operates beside the elegant Herengracht canal in the heart of elegant, old Amsterdam.

Promogroup's headquarters are in a maroon-brick town house built four centuries ago for slave traders and spice merchants. Mr. Favie did not respond to repeated requests for an interview. To date, his company has not filed any information on funds flowing through U2 Ltd., the Dutch entity that holds U2's song catalog.

In another Amsterdam neighborhood known as the Financial Mile, not far from Promogroup's headquarters, Dutch firms like TMF, EQ Management Services, and Fortis Intertrust also cater to this high-end niche of tax-shelter devotees.

On its Web site, Fortis boasts that its clients are “the world's top composers, performing artists and personalities such as classical musicians, pop artists, DJs, and fashion models.” The firm says it specializes in offering the “tax efficient exploitation of image rights,” among other things.

“A lot of sponsor-sensitive sports people are also doing this — tennis players, golf players, soccer players,” said Frank Lhoëst, an intellectual-property specialist at Fortis. The Dutch government is also in on the act, drafting an extensive network of tax treaties with countries worldwide that make it easy to shuffle money from Dutch companies to foreign subsidiaries, and creating other tax incentives.

“For non-U.S. musicians that receive a substantial portion of their income from non-U.S. source royalties, the use of a back-to-back licensing arrangement in the Netherlands provides significant tax savings,” said Jeffrey L. Rubinger, a tax lawyer in Fort Lauderdale, Fla., at Holland & Knight.

The Dutch shelter is simple: royalties that flow into or out of a Dutch holding company are exempt from taxes. Although the nominal corporate tax rate in the Netherlands is around 30 percent, analysts say that domestic tax shelters bring that rate down substantially.

“For 90 percent of the people who do this, the motivation for using these structures is tax minimization, or avoidance,” said Ton Smit, a tax lawyer at Tax Consultants International in Rotterdam, a firm that caters to celebrities, athletes and multinational corporations seeking to minimize their taxes.

HISTORICALLY, of course, the Netherlands has always looked outward, building global trading links and

establishing the world's first stock exchange in the 17th century. That outlook has spawned legendary leniency, generosity and openness. Prostitution and some drugs are regulated but legal. State-funded benefits are substantial. Even witches are treated well: the government offers tax breaks to students studying witchcraft.

"It's not only tax-motivated, it's our culture — Dutch people are traders all over the world," Mr. Smit said.

Some experts see a darker side to the emergence of the Netherlands as a sought-after tax shelter. In 2000, the [Organization for Economic Cooperation and Development](#), based in Paris, black-marked the country as one of the world's top five industrialized tax havens for promoting "treaty shopping" for low-tax jurisdictions. The Netherlands tightened certain rules, requiring more substance for Dutch companies set up solely to reduce or eliminate taxes. But some analysts say that troubles persist.

In its report last fall, SOMO, the research group, said the Dutch shelters affect "both the capacity of developing-country governments to supply essential services to their populations and the capacity of developed-country governments to provide finance for development in the form of debt relief and official development aid." The report also said that "tax haven features of the Netherlands also facilitate money laundering and attract companies with a dubious reputation."

While no one has suggested that any of the entertainers, athletes or celebrities making use of Dutch shelters are laundering illicit funds or engaging in illegal acts, the fact that some of them are gaming the tax system has invited criticism.

When news of the Rolling Stones' Dutch tax shelter first emerged last summer in Dutch and German newspapers, it did not particularly roil fans or the British tax authorities. After all, the Rolling Stones are widely regarded as one of the world's most commercial bands, with hundreds of officially licensed products ranging from Mick Jagger "quality resin" bobble-head dolls, Rolling Stones "Classic Rock" twin-bell alarm clocks, and "It's Only Rock and Roll" lava lamps to Rolling Stones Zippo lighters, Rolling Stones lounge pants and lingerie, leather jackets, diamond-encrusted gold and silver jewelry, and the band's ubiquitous trademark and calling card, the thick red Rolling Stones tongue.

But critics say that U2's tax move to Holland is threatening to tarnish the halo surrounding the well-regarded, affable and articulate Bono, by lending him a whiff of hypocrisy. After all, unlike Bono, Mr. Jagger is not out campaigning against third-world debt, or writing a foreword for "The End of Poverty," the most recent book by the prominent economist Jeffrey D. Sachs.

"Bono is a worldwide advocate for greater aid to the developing world, and I applaud him for that," said Joan Burton, the spokesperson for the Irish Labor Party's finance unit and a former cabinet minister, in a telephone interview. "But obviously the money for that comes from taxation, so it's very difficult to ask other people to pay tax to contribute to something very worthwhile while at the same time not paying taxes in a very modest environment."

IRELAND'S taxation of artists is, indeed, modest. Ireland currently allows unlimited tax-free earnings for artists from the sale of their work, but not from licensing or merchandising deals. The government set it up in 1969 to benefit resident struggling artists for whom books like "Blessed Art Thou a Monk Swimming" and "The Wild Red Deer of Killarney" — to name just two titles protected under the exemption — are unlikely to generate big licensing deals.

Next January, Ireland will cap the benefit at 250,000 euros, or around \$319,000, after which a sliding tax scale sets in. The country already has a low corporate income tax rate of 12.5 percent.

Some tax advisers in Holland relish extolling the benefits of their service when compared with classic Caribbean tax regimes. In a pitch for the merits of the Dutch tax system, Gerwin de Widle, a tax lawyer at Greenberg Traurig in Amsterdam, observed that “it’s better to be here than sit on an island, where they don’t even take euros.”

Amid such jousting, the fact that U2 is financially decamping to Holland has raised some eyebrows.

Jeff Swystun, a global director at Interbrand, a brand consulting firm based in New York, said that “the Stones will always be credible because of a very simple proposition: we want to have a great party.” But U2, he said, “almost project themselves as a nonprofit, so the tax move doesn’t really fit with the brand values that they’re trying to communicate.”

Not so, says U2.

“U2 is a global business and it pays taxes globally,” said Mr. McGuinness, the band’s business manager, who, in an unusual arrangement, shares equally in the band’s earnings. “At least 95 percent of U2’s business — including record and ticket sales — takes place outside of Ireland and as a result the band pays many different kinds of taxes all over the world. U2 is fully compliant with all Irish tax laws.”

Mr. McGuinness said that Bono and U2 “continue to remain Ireland-based and are personal investors and employers in the country.”

“Innovative tax policies have been the bedrock of Ireland’s current prosperity,” he added. “Like any other business, U2 operates in a tax-efficient manner.”

A spokeswoman for the Rolling Stones, Fran Curtis, declined to comment, other than to say that the band members “don’t like to talk about their business.” But Mr. Jagger, in a declaration filed last June in a civil lawsuit against his band in an unrelated matter, offered a glimpse of some of the machinery that supports the Rolling Stones’ money machine.

In the declaration, Mr. Jagger noted that some of the revenue from his group’s recordings flows through the Netherlands. He pointed out that “the recording services of the Rolling Stones are provided by companies that have the right to such services to Promotone B.V., which in turn owns the recordings of the Rolling Stones. My understanding is that Promotone licenses exploitation of those recordings to EMI Music Netherlands B.V., which releases and distributes those recordings through other companies in the United States.”

A spokeswoman for EMI declined requests for comment.

According to documents from the Dutch trade registry, Promogroup’s Mr. Favie, the principal director of the Stones’ holdings in the Netherlands, is now also the main director of U2 Ltd., the Dutch-based entity that holds the lucrative master tapes to U2’s song library. Song catalogs typically account for a large portion of successful band’s royalty income, so U2 Ltd. is likely to be the recipient of a major piece of U2’s income, analysts say. Likewise, U2’s financial move to the Netherlands is likely to save it substantial sums it might otherwise have paid in royalty taxes.

Not everyone has access to Dutch shelters. Dutch tax benefits are typically available only to artists who are not citizens of the United States. While the Netherlands does not tax royalties going in or out of a Dutch company, the Treasury Department in the United States typically levies its standard corporate income tax rate of 35 percent on royalties coming into America from a Dutch entity.

Dutch holding companies set up to protect royalties often work in tandem with offshore Caribbean companies, shuffling money around to escape taxes, analysts say. For example, part of the Rolling Stones' Dutch-run assets are funneled through the Netherlands Antilles, a Dutch protectorate and a classic Caribbean tax haven, according to company registration documents.

"Ethically in my opinion, Bono's tax arrangements are entirely inconsistent with his calls upon government to support anti-poverty drives," said [Richard Murphy](#), who runs Tax Research LLC, a research institute based in Norfolk, England, and was one of three co-authors of the SOMO report on Dutch tax shelters. "You cannot be demanding that resources be allocated to anti-poverty drives and then deny those resources to government."

Other tax experts say that such views are overly prim and that rock stars are simply following the leads of some of the world's biggest companies. U2 and the Stones "are taking advantage of this in the same way that all the drug companies are putting all their patents in favorable tax jurisdictions," said Prof. Michael J. Graetz of Yale, an authority on tax shelters and a self-described die-hard Rolling Stones fan. "I wouldn't go so far as to say it's fair, but it's not shocking either."

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