Tax News Bulletin
17 September 2014

Budget plan 2015 released

On September 16, the Budget Plan 2015 was officially published by the Dutch Ministry of Finance. The Budget Plan contains Dutch tax measures that should become effective as from 1 January 2015. The Budget Plan contains no tax measures which are relevant for the international corporate tax practice. Hereinafter, we will describe the headlines of the Budget plan.

Employment cost arrangement

The employment cost arrangement ("ECA") concerns the remuneration of costs with both a private as a business character by employers to their employees. As from 1 January 2015, employers will be obliged to introduce the so called "ECA", which will replace the old arrangement that contained many specific tax free reimbursements. Under the new employment costs scheme, only a few specific tax-free will reimbursements remain. Furthermore, an employer may grant a tax-free general employment cost compensation in the amount of 1.2% of the total gross salary of its employees. Any excess is taxable at the level of the employer at the rate of 80% unless the employer treats the excess as taxable wage of the employer.

Quasi tier 1 capital of insurance companies treated as debt

In line with the treatment of quasi tier 1 capital issued by banks (applicable as from 2014), the quasi tier 1 capital issued by insurance companies will also be treated as debt (rather than equity) and therefore the remuneration on this capital will be tax deductible. Consequently, also insurance companies are less restricted by tax measures when trying to meet the Basel III capital requirements.

Non-deductibility of foreign (non-EU) penalties

Until 2015, penalties from non-EU institutions were deductible for Dutch CIT purposes, while penalties from Dutch and EU institutions were not tax deductible. As from 2015, this distinction in tax deductibility will be abolished. Therefore, all penalties from Dutch, EU and non-EU institutions are not deductible.

Minimum salary for employees with a substantial shareholding

Employees with a substantial shareholding in the company for which they perform labour are obliged to pay themselves a minimum salary for wage tax purposes. For the year 2015, this minimum salary has to be determined by taking the highest of:

a) 75% of the salary in the most comparable employment relationship;
b) The highest salary of the other employees of the company;
c) € 44,000

Interest compensation

Based on case law of the European Court of Justice (case Irimie, C-565/11), a Member State is required to compensate a taxpayer in case tax was levied contrary to EU law. Interest should be calculated as from the date following the date on which the taxes were unduly paid. The Dutch legislation will be amended accordingly.