

TAX NEWS BULLETIN

3 January 2013

Dutch Innovation Box (DIB) Decree published to simplify allocation rules for small companies (fictitious allocation of €25.000 profit, meaning maximum annual tax savings of €5.000)

The Netherlands Ministry of Finance has published a decree which gives tax payers the possibility to opt for a simplified DIB allocation system.

According to the current tax law a tax payer is entitled to allocate all qualifying innovative profit to DIB. This DIB profit is taxable against an effective tax rate of 5% (instead of regular tax rate of 20-25%).

In daily practice, finding the approved allocation method takes time from tax payers and tax authorities. The methods used are often based on methods developed in the transfer pricing practice ("transfer pricing light").

Many smaller and midsized companies, as well as the Dutch tax authorities, find the transfer pricing based allocation methods troublesome and burdensome. Therefore, the Dutch tax authorities have developed the alternative, fictitious method. Starting in 2013, the fictitious method allows tax payers to opt for a DIB-allocation of 25% of the taxable profit, however maximized at an amount of profit of € 25.000.

Conditions nevertheless to be fulfilled:

- Entry ticket (patent or R&D certificate) must be available
- Innovation must qualify as intangible property (IP)
- IP costs must be administered in light of DIB allocation next years.

The taxpayer is not required to:

- Provide tax authorities with an allocation method (i.e. transfer pricing light not necessary)
- Deduct IP costs from above mentioned fictitious profit.

Therefore, the decree may solve issues for small size companies with minimal DIB activities. Please be aware that the IP-conditions remain in place.

Companies for which innovation is a core activity will not opt for the fictitious method because the DIB allocation is (too) limited.

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3 January 2013

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