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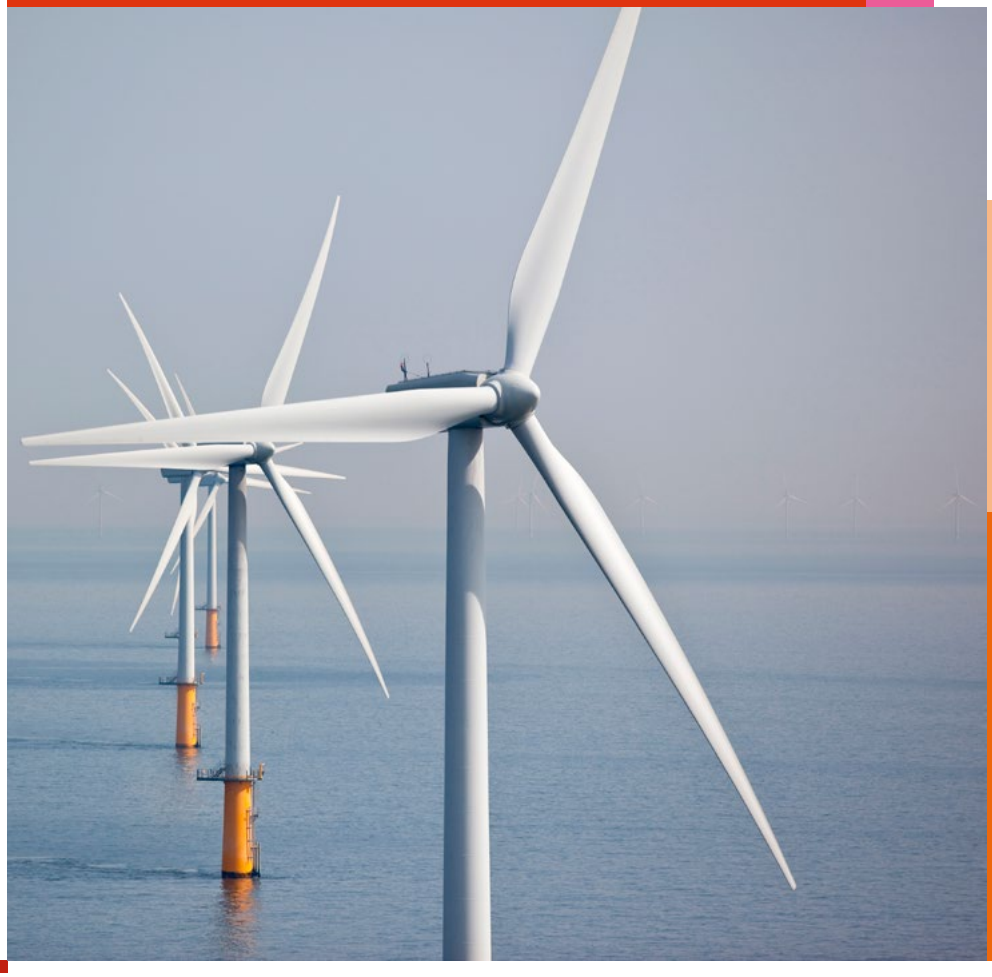
Tax benefits for innovative and sustainable business practices

Investment facilities 2016



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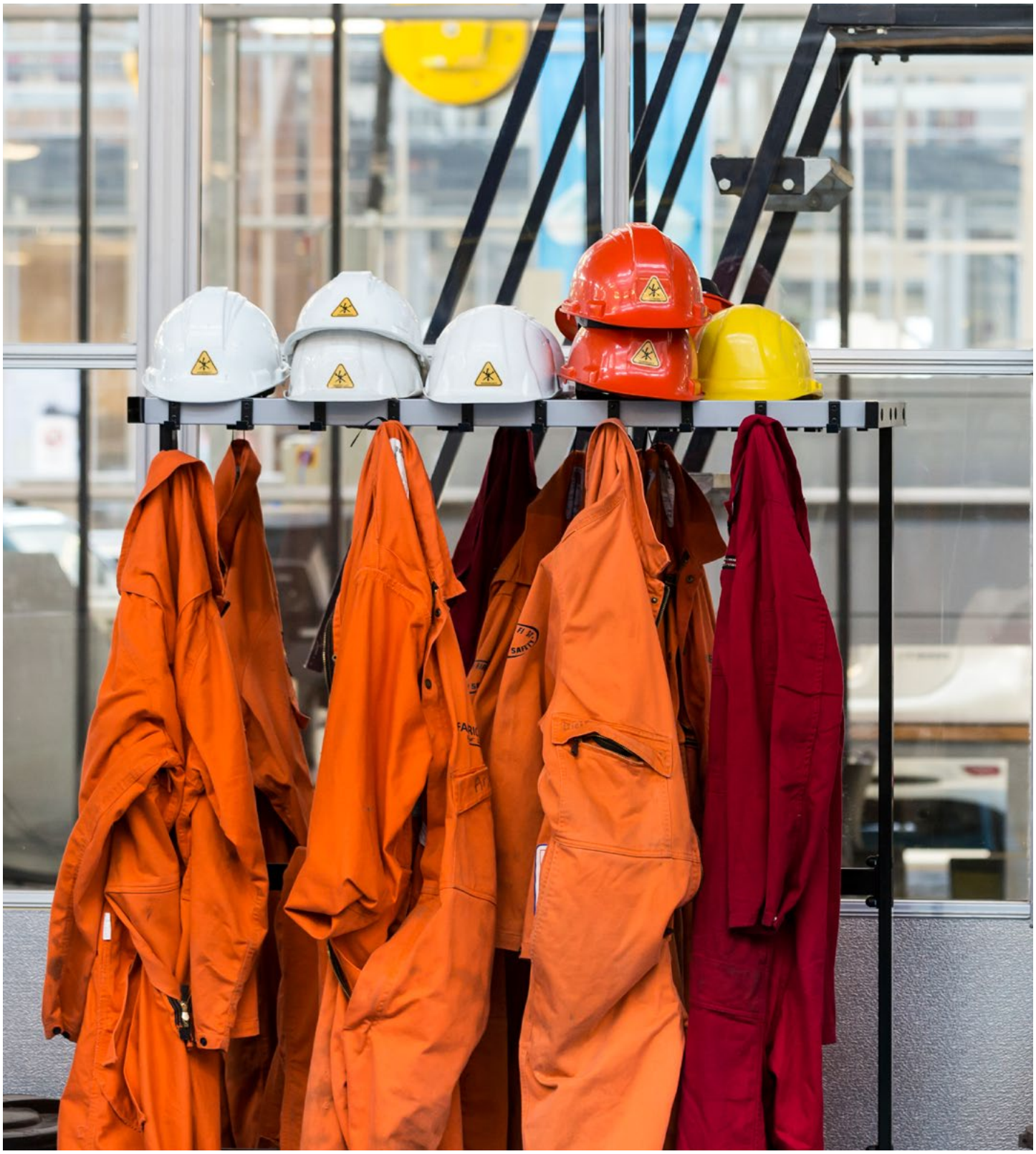


Introduction

In this publication *'Tax benefits for innovative and sustainable business practices - Investment facilities 2016'* we will bring you up to date with the tax facilities being offered to businesses by the Dutch government in 2016 to strengthen the economy and make it more sustainable. This year, the main focus areas of fiscal policy are in particular innovation and investment in sustainable business assets.

You may be able to benefit from the measures that have been taken to provide additional incentives for entrepreneurship and innovation. The diversity of the schemes means that it is quite conceivable that your enterprise will qualify for one or more facilities. When compared to last year there are several changes to tax schemes that could have an impact on your situation. For example, the additional research & development allowance was included as from 1 January 2016 in a scheme for reduced payment of payroll tax and national insurance contributions. There have also been changes to the Energy and Environment List.

The facilities are described in broad outline, giving you a good overview of the key aspects. The following facilities will be addressed: the investment allowance, the additional Research and Development Allowance that has since lapsed, the allowance for research and development work, arbitrary depreciation, combinations of investment facilities, the rebates for payroll tax and national insurance contributions, the practice-based learning subsidy scheme, the innovation box, the refund of energy tax/excise duty and refund for bulk users, subsidies and refund of the turnover tax (VAT) on solar panels of private citizens. We will also consider some formal aspects.

Formal rules must be complied with in order to make use of the various investment facilities. For example, it is important that any notification deadlines are duly observed. In addition, it is possible to object to (and to appeal against) the refusal of a request for application of an investment facility.

The information we have included here will help you to achieve tax benefits on your investments. We have also described the key changes relative to last year, so that you can compare the current schemes with those of previous years more easily. However, this publication principally concerns the potential applications of the facilities in 2016.

PwC, Rotterdam, 15 February 2016

Investment allowance

As an entrepreneur, you can reduce your enterprise's taxable profit by making use of the investment allowance. This is an additional deductible item charged to the profit supplementary to the regular costs of business assets. The background of this facility is to promote certain investments. Key words in this context are energy efficiency, environmental friendliness and smallness of scale. The level of the investment allowance is related to the investment amount.

The Income Tax Act 2001 (ITA 2001) provides for:

- the Energy Investment Allowance (EIA);
- the Environmental Investment Allowance (MIA); and
- the Small-scale Investment Allowance (KIA).

Target group

Entrepreneurs for income tax purposes and corporate income tax purposes may qualify for the investment allowance. One of the conditions is that they invest in business assets.

Minimum investment amount

Certain minimum amounts must be invested in order to qualify for the investment allowance. For the EIA or the MIA, the minimum investment requirement is EUR 2,500 per business asset. For the KIA, the minimum requirement is EUR 450 per business asset.

Investment

Investment is defined as assuming obligations to purchase or improve a business asset. This includes production costs. The obligations or costs must be for the taxpayer's account. The time at which the entrepreneur assumes a payment obligation is, inter alia, relevant for the determination of the moment of investment. Sound documentation is of great importance in this respect. Your PwC advisor will be pleased to assist you in determining the moment of investment.

Additional deductible item

When an entrepreneur invests in a business asset, he may qualify for the investment allowance. This is an additional deductible item charged to the profit supplementary to the regular depreciation costs of the business asset. The investment allowance may take the form of the KIA, EIA and MIA. If the taxable profit is lower, less tax is due. The actual tax saving differs per investment and per entrepreneur. It depends on the specific investment allowance, the invested amount and the applicable tax (income tax or corporate income tax).

The Netherlands Enterprise Agency

Many facilities require timely notification to the Netherlands Enterprise Agency (RVO.nl). This organisation is the result of the merger on 1 January 2014 between NL Agency and the National Service for the Implementation of Regulations, both of which were implementing agencies of the Ministry of Economic Affairs. RVO.nl offers support to entrepreneurs who are implementing sustainable, agrarian, innovative or international business practices.

Business asset

A business asset is an asset that is used for conducting the business. Contrary to stock, business assets last for more than one production process. The place and function of the relevant asset within the business must be taken into account when determining whether an investment may be designated as a business asset or as stock. In view of the sometimes complex nature of this assessment, it is advisable to contact your PwC advisor for this purpose.

Not all business assets qualify for the scheme. Certain business assets are explicity disqualified. Excluded from the investment allowance are business assets intended primarily (i.e. for at least 70 per cent) to be used directly or indirectly in carrying on an enterprise to which a double taxation avoidance agreement applies, such as a foreign permanent establishment in a country with which the Netherlands has concluded a tax treaty. The same is true of land, houses and houseboats, private motor vehicles not intended for carriage for hire or reward on the road, vessels, animals, securities, claims, goodwill, as well as permissions, exemptions, concessions and other dispensations of a public-law nature.

In addition, for the KIA business assets primarily intended to be made available to third parties are not taken into account. By way of an exception to the general exclusions, investments in houses and houseboats and investments in electric cars may qualify for the MIA.

Excluded obligations

Business assets for which obligations have been entered into between certain legally defined family members are, in principle, also excluded from the investment allowance. The same is true of obligations concluded between a shareholder and the body in which that shareholder has a qualifying interest (of at least one third) and that have been concluded between affiliated bodies. An approving decision shows, however, that in these situations, the obligations can - under certain conditions - sometimes nevertheless be taken into account for the investment allowance. Your PwC advisor can provide you with more information.

Taking the investment allowance into account

The entitlement to the investment allowance arises as soon as the investment is made. However, until the business asset is taken into commission, the investment allowance is only taken into account up to the amount already paid for the business asset. The remaining investment allowance is then deducted in a later year.

Taking the business asset into commission

When assessing whether a business asset has been taken into commission, the moment at which the business asset is used for the purpose for which it is intended is, among other things, taken into account. In view of the complexity of this assessment, it is advisable to contact your PwC advisor for this purpose.

Energy Investment Allowance (EIA)

The ITA 2001 contains an Energy Investment Allowance (EIA) for investment by entrepreneurs in energy-efficient, previously unused business assets that meet the Energy List criteria (energy investments). Changes to existing business assets also qualify for the EIA to the extent that the modified business asset meets the scheme's energy-performance criteria. The EIA is directed towards energy efficiency and thus encourages energy-saving investments

The additional allowance amounts to 58 per cent of the energy investments (2016). As an additional tax deductible item, the EIA provides a direct tax benefit. On top of the regular deductible costs, 58 per cent of the investment may be deducted from the taxable profit. In the context of corporate income tax, the EIA provides for a tax saving of around 14.5 per cent per investment. In an income tax context, this can increase to 26 per cent.

allowance of 58%

Example

Energy investment

This year, an entrepreneur invests EUR 10,000 in a new business asset that meets the conditions of the Energy List 2016. This constitutes an energy investment. The taxable profit after deduction of the regular deductible costs but before application of the EIA is EUR 250,000. In 2016, the corporate income tax rate is 20 per cent for the first EUR 200,000 profit and 25 per cent for the excess profit. If the entrepreneur does not claim the EIA, the corporate income tax due will be EUR 52,500. By claiming the facility, he can achieve a tax saving.

Tax saving

Application of the EIA results in an additional deductible item of 58 per cent of EUR 10,000, i.e. EUR 5,800. The investment allowance reduces the taxable profit to EUR 244,200, i.e. the EUR 250,000 profit less 5,800. The corporate income tax owed then amounts to EUR 51,050. In the context of corporate income tax, the application of the EIA to an investment of EUR 10,000 results in a tax saving of EUR 1,450 (25 per cent of EUR 5,800). This is more than 14 per cent of the investment.

Year 2016	*Without EIA*	*With EIA*
Taxable profit before EIA	€ 250,000.00	€ 250,000.00
EIA (58% of € 10,000)	€ 0.00 -/-	€ 5,800.00 -/-
Taxable profit	€ 250,000.00	€ 244,200.00
Corporate income tax:		
20% over first € 200,000	€ 40,000.00	€ 40,000.00
25% over surplus	€ 12,500.00 +	€ 11,050.00 +
Total	€ 52,500.00	€ 51,050.00

Tax saving:
25% of € 5,800 = € 1,450
≈ 14% saving on investment

Current developments with regard to the EIA

- In 2016, the EIA is 58 per cent. In 2015, this rate was 41.5.
- The EIA scheme 2016 applies to obligations entered into or production costs incurred on or after 1 January 2016.
- To qualify for the EIA in 2016, the investment amount must be at least EUR 2,500 per business asset.
- A few amendments have been made to the Energy List as per 2016. For example, some sections lapsed, were changed or included anew. For example, the description of LED lighting was simplified and the option of registering a diesel-electric propulsion system was added to the energy-efficient ship's engine. In addition, a distinction is no longer made for horizontal screens between lighted and unlighted cultivation, but it is now required that at least two energy screens comply with the description.
- The budget available for the EIA budget for 2016 is EUR 161 million.

In 2016, a maximum of EUR 120 million in qualifying investments will be taken into account. If the amount invested is higher than this, no EIA will be granted on the excess.

Target group

The EIA scheme applies to taxpayers liable to pay income tax or corporate income tax that carry on an enterprise and invest in a business asset that meets the criteria of the Energy List.

Declaration

The right to the EIA must be declared with the income tax or corporate income tax return. To claim the facility, RVO.nl must be notified of the investment in good time. When imposing an income tax or corporate income tax assessment, the Tax Authorities may check whether the facility is being used correctly.

Minimum notification amount

Whilst an investment can be notified to RVO.nl in several phases, a lower limit of EUR 2,500 does apply to the notification.

Application

The business assets that qualify for the EIA for the year 2016 are set out in the Energy List 2016. The list contains more than 160 energy-saving technologies and is divided into five categories:

1. business premises;
2. processes;
3. means of transport;
4. renewable energy;
5. energy advice.

The EIA is applied to the costs of acquisition and production of an energy investment. Acquisition costs include costs made with third parties, such as the purchase price plus all incidental costs that are necessary for and in exclusive furtherance of getting the relevant business asset ready for operation, such as assembly costs, pipes and controls.

Qualifying costs

The EIA can be applied to the acquisition costs and production costs of (parts of) business assets that meet the energy-performance criteria, including facilities (such as piping, accessories[1] and measuring and regulating equipment) that are technically necessary, and exclusively used, for these business assets.

Production costs apply if the business asset is manufactured in the entrepreneur's own enterprise. All costs incurred in one's own enterprise, such as the cost of materials and the labour costs of employees, form part of the production costs.

Capitalised costs for the modification of existing business assets, such as new materials and assembly, are also taken into account. Maintenance costs are, however, excluded.

If an investment grant is received for the business asset concerned, the amount of the grant must be deducted from the costs of acquisition or production.

Generic business assets too

In addition to the business assets on the Energy List 2016, other business assets may also qualify for the EIA. For these so-called generic business assets, the required energy saving must be proven by means of a calculation. Given the complexity of the conditions, we recommend that you contact your PwC advisor for this purpose.

If costs are incurred for energy advice, an Energy Performance Advice (EPA customised advice) or an action plan for electric motors, these costs may, under certain conditions, qualify for the EIA together with the energy investment.

Suggestions for Energy List 2017

As an entrepreneur, you can personally nominate business assets for the Energy List for the next calendar year. These must be business assets with which an energy saving can be achieved. The closing date for the submission of proposals for business assets for the Energy List 2017 is 1 September 2016. Your PwC advisor will be happy to assist you in this regard.

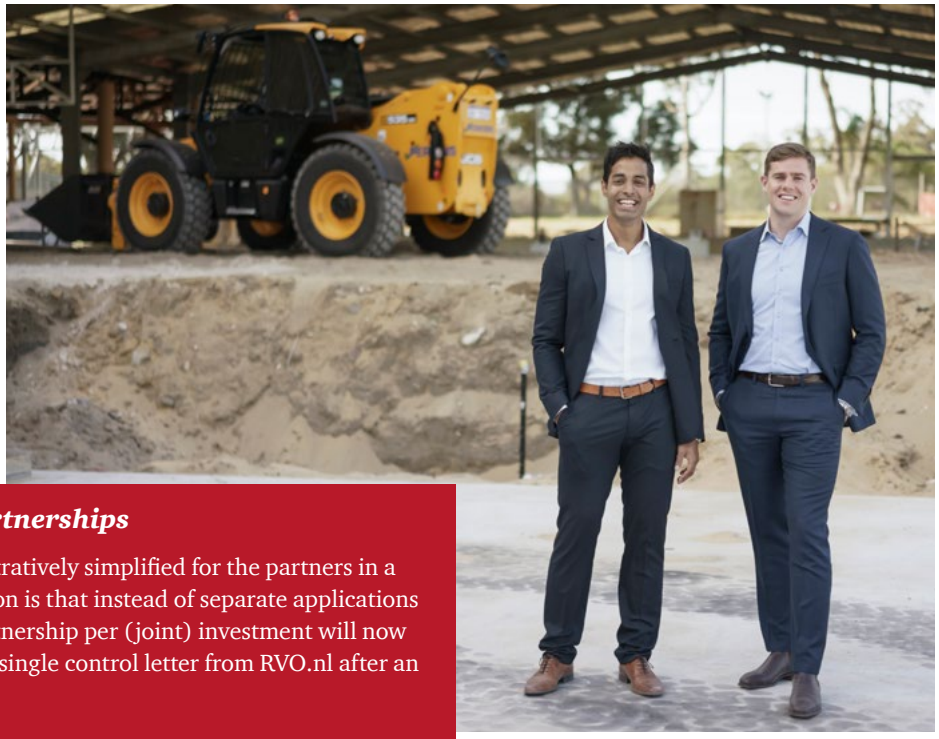
The EIA for partnerships

Investments may be made by partnerships such as professional partnerships, general partnerships ('vof') or limited partnerships ('CV'). Then, too, there may be a right to the EIA. In that case, the individual partners, rather than the contractual partnership, may claim the EIA.

An assessment is made per business asset as to whether the required minimum investment amount has been met, irrespective of the scale of the partnership. The EIA is applied per member, based on their share in the relevant investments within the partnership. Under certain conditions, the scheme applies with a number of simplifications.

The correct application of the EIA for a partnership requires determination of the extent of the members' participation in the investment. The point of reference here is the entitlement to the profits of the partnership. However, for application of the EIA (just as for the MIA, see 'Environmental Investment Allowance (MIA)' on pages 15 to 18), the partners in a partnership may opt for a different allocation of the investment obligation between themselves. The Decree of 17 March 2014, BLKB 2014/106M, sets out the conditions that must be met in this regard. The two most important conditions are that all partners must use the same

1) Small accompanying appliances and parts that serve to complete a machine or installation.



Simplified EIA application for partnerships

Applications for the EIA have been administratively simplified for the partners in a partnership for several years now. The reason is that instead of separate applications per partner, a single application for the partnership per (joint) investment will now suffice. The partnership may then receive a single control letter from RVO.nl after an audit.

allocation criterion and that the allocation must be made on a reasonable basis.

If the partnership consists of one or more limited partners/natural persons, an allocation will not be reasonable if the investment is fully allocated to the managing partners while the limited partners/natural persons are legally excluded from the facility. In principle, limited partners/natural persons do not qualify for the investment allowance because they generally do not qualify as entrepreneurs. However, a natural person/limited partner does qualify for the EIA if this partner is an entrepreneur on some other ground and, based on the asset allocation rules, the participation in the limited partnership belongs to his enterprise assets.

In determining the maximum amount of energy investments in the case of partnerships, the only energy investments that are included are those of entrepreneurs liable to income tax rules and corporate income taxpayers; accordingly, those of limited partners are not taken into account. The ceiling is subsequently allocated to those entrepreneurs on a proportionate basis. The example calculation to the right illustrates what this means.

Permits

Some investments require a permit. The integrated environmental permit was introduced with effect from 1 October 2010 to replace the building permit and the environmental permit, amongst others. The necessary permit for the building part or environmental part must have been obtained at the time that the EIA application is made, but the permit need not be final at that stage. Final means that there is no objection or appeal procedure pending as regards the permit and that no such procedure may still be opened. In certain cases, a Renewable Energy Production Incentive Scheme + decision is required.

Example

Investment by a partnership

A partnership consists of two managing partners and four limited partners. The total energy investment amounts to EUR 250 million. Each managing partner is entitled to 40 per cent of the energy investment (EUR 100 million each) and each limited partner to 5 per cent (EUR 12.5 million each). The ceiling for 2016 amounts to EUR 120 million. For application of the facility, the ceiling for the managing partners must be determined.

Determining the ceiling for managing partners

The ceiling for each managing partner is determined as follows: EUR 100 million / EUR 200 million (rather than EUR 250 million) * EUR 120 million = EUR 60 million.

Renewable Energy Production Incentive Scheme + (SDE+)

The SDE Scheme was recast into a more efficient '+' version of the Scheme as per 1 January 2011. SDE+ is an operating grant, which means that producers receive the grant for the renewable energy generated, rather than for the acquisition of the production facility as is the case with an investment grant. A grant application may be made for the production of renewable electricity, renewable heat or the combined generation of renewable heat and electricity or green gas. Wind energy is one of the technologies that qualifies for the grant.

Feasibility study

In respect of certain applications for the SDE+ 2016, a feasibility study needs to be conducted for the production facility. Part of the feasibility study of the project concerns the operating calculation, which must at least include a statement of all costs and benefits of the production facility. A calculation of the project return must also be added. The financial substantiation must in any event comprise a financing plan for the project and a statement of the financial position of the applicant. There is an additional criterion if the share of equity is less than 20 per cent of the investment. In that case, a letter of intent from a financier is required.

Geological survey

A geothermal heat project can only qualify for the SDE+ 2016 if the geological report is sent along with the application form. Further criteria are set as regards the geological survey. It must comply with the Model Geological Survey and it will be tested by experts from the Netherlands Organisation for Applied Scientific Research. A mandatory layout applies to the survey report.

Application tips for the SDE+

- Applications for the SDE+ 2016 are made with the electronic form from RVO.nl's electronic service desk.
- The SDE+ 2016 has two opening rounds; the first in March, the second in September. SDE+ 2016 will be opened up for the first round at 9 a.m. on March 1, 2016. The second round will be opened up at 9 a.m. on August 30, 2016.
- SDE+ is applied for using the digital form from the RVO.nl digital service desk.
- The first application may be submitted from 9 a.m. March 1, 2016. In anticipation of this, you could prepare your application in advance and have it ready to send electronically as soon as the scheme is open.
- Applications for the SDE+ 2016 must be made within the period prescribed for this purpose. Various application periods apply for the respective parts. The SDE+ 2016 closes on September 29 at 5 p.m.
- In 2016, the budget for supporting projects with the SDE+ EUR 8 billion (excluding the tender for certain wind energy at sea).

Wind energy at sea regulation

The promotion of generating energy at sea was not included in the regular SDE+ opening. This is rolled out by means of different tenders. The Dutch government considers the upscaling of wind energy to be important, and that is why tax incentives are possible; it is indicated at which locations and under what conditions a wind park can be realised ('plots'). The party that is selected to realise a wind park on the plot as well as the connections for this project will receive a subsidy and a permit for exploiting the park. The plots relate to wind area Borssele (2016) and wind area Hollandse Kust Zuid (2017/2018) and Hollandse Kust Noord (2019). It is expected that applications for plots III, IV and V concerning Borssele can be submitted during the course of 2016. Your PwC advisor can provide you with more information.

Minimum notification amount

The costs notified must be no less than EUR 2,500.

Timely notification

To use the EIA, you must notify RVO.nl of the investment in good time. In principle, the investment must be notified to RVO.nl's electronic service desk within three months of entering into the investment obligation. This is done with an electronic form. Written notification is not possible. Production costs must be notified within three months of the end of the calendar quarter in which they are incurred. If the business asset is taken into commission in the same quarter, the production costs must be notified within three months of the asset being taken into commission. No audit opinion is required for the EIA.

Application for the EIA by a fiscal unity

Pursuant to the Decree of 17 March 2014, BLBK 2014 /106M, the rules that apply for notification and application for the EIA are more flexible for a fiscal unity (as is also the case with regard to the MIA and the application of arbitrary depreciation of environment-improving assets (Vamil)). This pertains to the following situations:

- If the subsidiary makes an investment and subsequently becomes part of a fiscal unity (meaning that the parent company is the taxpayer, rather than the subsidiary), under certain conditions the application is deemed to have been made by the parent company.
- If the parent company of a fiscal unity has notified the investment by a subsidiary and subsequently the subsidiary becomes part of another fiscal unity, the application is deemed to have been made by the new parent company.
- If the parent company of a fiscal unity has notified the investment by a subsidiary and, by the time that the business asset is taken into commission, the fiscal unity has been broken up, the subsidiary nevertheless has the right to the EIA.

No combination of the SDE+ and the EIA

Projects that receive a SDE+ decision with effect from 2014, do not qualify for the EIA. There are, however, slightly higher basis amounts. Projects with a SDE+ decision from 2013 or earlier, which have not yet made use of the EIA, fall under a transitional regime.

Early termination of the EIA

In principle, the EIA scheme (as well as the MIA/Vamil scheme) is not closed when its annual budget is exhausted. From that day onwards, it is possible to draw on part of the budget for the subsequent year. Unused budget may also be carried over to a subsequent year. Nonetheless, the legal possibility still remains that, if the budget is exceeded very substantially, the Minister of Finance may restrict the EIA or suspend it altogether by premature amendment of the Energy List or by capping. If you intend to invest in energy-efficient business assets in 2016, do bear in mind this possibility that the EIA may close at an earlier stage.

The point in time at which the investment obligation is entered into is decisive, although RVO.nl must have received the notification within three months of the date on which the scheme was suspended.

Exclusions

Not all business assets qualify for the Enterprise Investment Allowance. The investment amount must be at least EUR 2,500 (the threshold amount) per business asset. Until 31 December 2013 (inclusive), this lower limit was EUR 450 per business asset and EUR 2,300 for the total of the

investments. When the investment is made in a dependent part of a business asset, the threshold is tested against the investment amount as a whole, but only the investment amount pertaining to the part qualifying under the Energy List is eligible for the EIA. However, if the dependent part was not acquired at the same time as the business asset, the threshold amount is tested independently. It should be noted that business assets that have already been used by another party do not qualify for the EIA.

Excluded from the EIA are business assets primarily (i.e. for at least 70 per cent) intended, directly or indirectly, for use in running an enterprise to which a scheme for preventing double taxation applies, such as a foreign permanent establishment in a country with which the Netherlands has concluded a tax treaty. The same is true of land, houses and houseboats, certain private motor vehicles, vessels, animals, securities, claims, goodwill, as well as permissions, exemptions, concessions and other dispensations of a public-law nature.

Also excluded are business assets that are primarily (i.e. for at least 70 per cent) intended, directly or indirectly, to be made available (e.g. leased) to persons residing abroad or bodies established abroad, or to persons or bodies for their enterprise, the profit of which is subject to a double taxation avoidance agreement.

Business assets for which obligations have been entered into between certain legally defined family members are also excluded from the investment allowance. The same is true of obligations concluded between a shareholder and the body in which that shareholder has a qualifying interest (of at least one third) and between affiliated bodies. An approving decision dated 17 March 2014, BLBK 2014 /106M shows, however, that in these situations it is sometimes possible, subject to conditions, to take the obligations into account for the investment allowance. Your PwC advisor can provide you with more information in this connection.

Recapture of the investment allowance

Suppose you have applied the investment allowance and subsequently - *within five years* of the start of the calendar year in which the investment was made - you alienate the business asset which was taken into account for the investment allowance. In that case, the investment allowance must be recaptured if the transfer price is more than EUR 2,300. The recapture of the investment allowance takes place in the year of the alienation and is calculated over an amount up to that for which the investment allowance was received, at the same rate. Here, alienation not only means sale but also, for example, withdrawing a good from the enterprise or a change in the designated use, resulting in an excluded business asset.

Environmental Investment Allowance (MIA)

Entrepreneurs who invest in environment-friendly business assets can gain a tax benefit. Two facilities are available to this end: the Environmental Investment Allowance (MIA) and the arbitrary depreciation of environment-improving assets (Vamil). With these facilities, the government aims to encourage businesses to invest in environment-friendly equipment. The MIA provides for an additional allowance in respect of the taxable profit; the Vamil offers a liquidity and interest benefit. These different schemes are often applied in combination with each other.

The MIA is available for investments by entrepreneurs in environment-friendly, previously unused business assets that meet the criteria of the Environment List 2016 (environmental investments). The facility stimulates investment in business assets that are in the interest of the protection of the Dutch environment, as does the Vamil. The latter facility pertains to investments by entrepreneurs in designated, environment-friendly business assets (environment-improving assets).

See *'Arbitrary depreciation of environment-improving assets (Vamil)'* on page 27.

In 2016, a maximum of EUR 25 million in qualifying investments will be taken into account for the MIA per taxpayer. This is also the case for the Vamil.

Current developments with regard to the MIA/Vamil

- To qualify for the MIA in 2016, the investment amount must be at least EUR 2,500.
- A budget of EUR 97 million is available for MIA in 2016. The budget for Vamil is EUR 40 million, which is slightly more than last year.
- The incentive rates of generic business asset codes in Chapter 1 (raw materials and waste) have been increased in the Environment List 2016 in order to promote circular innovations for sustainable economic growth.
- Hydrogen cars, hydrogen buses and natural gas and electric trucks have been included in the Environment List 2016.
- Plug-in hybrid cars (CO_2 emissions between 31 and 50 g/km) have lapsed.
- Charging or petrol stations only qualify if they are used for private purposes.
- Mobile machines that comply with the phase IV emission requirements no longer qualify.
- The positive oil list for 2016 has been adjusted, whereby not all oil types from 2015 still qualify.
- The requirements for mobile cooling installations have been adjusted in 2016.
- More budget has been made available in 2016 for agricultural facilities. This has ensured, among other things, that there are more benefits for dairy farms that operate on a free-range basis for the purpose of combating waste being washed from land. Sustainable stables must comply with the Sustainable Cattle Farming System (MDV) version 10.
- New items on the Environment List 2016 include insect farms and processing equipment for insects, sprayers for field cultivation with a drift reduction of at least 90 per cent, telemetry systems for controlled sewerage system discharge, storage of plastic waste on fishing ships and polyculture growing systems for aqua culture.
- Investments in 2016 related to the replacement of roofs, gutters or façades that contain asbestos possibly combined with the installation of solar panels can no longer be registered for MIA/Vamil. The new subsidy scheme for the removal of roofs containing asbestos entered into effect on 4 January 2016.

Relationship between MIA and Vamil

You can apply the MIA and/or the Vamil to the costs of acquisition or production of business assets that appear on the Environment List 2016. Acquisition costs include costs made with third parties, such as the purchase price plus incidental costs that are necessary to get a business asset ready for operation, e.g. assembly costs. Production costs apply if the business asset is manufactured in the entrepreneur's own enterprise. All costs incurred in one's own enterprise, such as the cost of materials and the labour costs of employees, form part of the production costs.
If a grant is received for the business asset concerned, the amount of the grant must be deducted from the costs of acquisition or production.

Changes to existing business assets may also qualify if the modified business asset meets the criteria of the Environment List. The costs of modification and/or newly added parts will then qualify for the MIA and/or the Vamil.

Certain facilities (such as piping, accessories[2] and measuring and regulating equipment) that are technically necessary for and in exclusive furtherance of such business assets, and that thus have no independent significance, may also count as parts of the same.

Maintenance costs and business assets that have already been used by another party do not qualify for the MIA and the Vamil. A business asset for which the investment amount - including improvement costs - is less than EUR 2,500 (the threshold amount) is excluded from the MIA. This exclusion applies to an investment amount pertaining to an item which must be deemed to be an independent business asset. When the investment is made in a dependent part of a business asset, the threshold is tested against the investment amount as a whole but only the investment amount that pertains to the part qualifying under the Environment List is eligible for the MIA. However, if the dependent part was not acquired at the same time as the business asset, the threshold amount is tested independently.

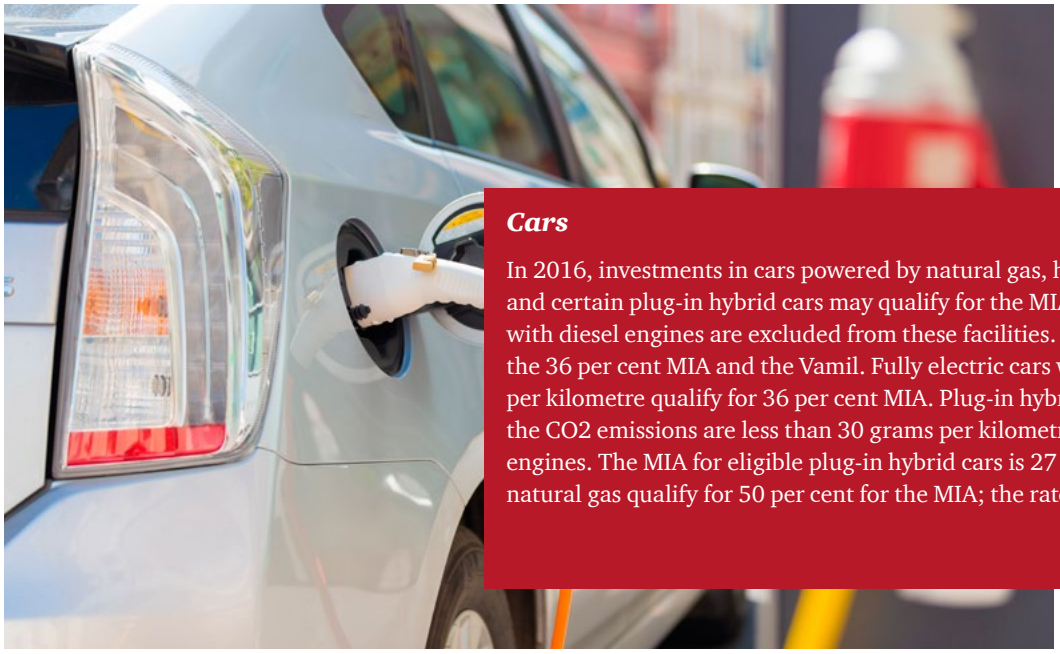
Environmental costs are considered part of the production costs. The scheme can also be applied in some cases when replacing business assets that are worn out or obsolete. The replacement does have to constitute an improvement of the environment or animal welfare, in the form of a reduction of emissions, an increase of the raw materials savings, waste prevention or animal welfare. The MIA cannot be applied to investments to which the Energy Investment Allowance (EIA) has already been applied.

We will now first discuss the Environment List 2016, and then deal with the MIA. The Vamil will be addressed in more detail at 'Arbitrary depreciation of environment-improving assets (Vamil)' on pages 27. Finally, a few policy rules will come to the fore that apply to both the MIA and the Vamil.

Environment List 2016

The Environment List 2016 is divided into a number of environmental themes. The groups are:

1. Theme-transcending environmental innovation;
2. Raw materials and waste;
3. Food supply and agricultural production;
4. Mobility;
5. Climate and air;
6. Use of space;
7. Built environment.



Cars

In 2016, investments in cars powered by natural gas, hydrogen cars, fully electric cars and certain plug-in hybrid cars may qualify for the MIA/Vamil. A cap does apply. Cars with diesel engines are excluded from these facilities. Hydrogen cars qualify for both the 36 per cent MIA and the Vamil. Fully electric cars with a CO2 emission of 0 grams per kilometre qualify for 36 per cent MIA. Plug-in hybrid cars only qualify for MIA if the CO2 emissions are less than 30 grams per kilometre and they do not have diesel engines. The MIA for eligible plug-in hybrid cars is 27 per cent. Cars powered by natural gas qualify for 50 per cent for the MIA; the rate is 13.5 per cent.

2) Small accompanying appliances and parts that serve to complete a machine or installation.

The business assets to which the MIA and/or the Vamil apply are set out in the Environment List. The list includes a business asset code (A to G) to indicate which tax scheme applies, and whether any limitations apply.

Business assets whose codes in the Environment List begin with the letters A, B or F qualify not only for the MIA but also for the Vamil. For business assets with the letter C only the Vamil applies, whilst business assets with the letters D, E or G only qualify for the MIA.

Suggestions for Environment List 2017

As an entrepreneur, you can personally nominate business assets for the Environment List for the next calendar year. These must be business assets:

- that make an important contribution to the environment;
- that have additional costs when compared to the alternative that is less environmentally-friendly;
- that are not yet common practice in the Netherlands (before the Vamil);
- that go beyond what is required by law at this time;
- whose (further) introduction to the market is desirable in the short term;
- whose stimulation can be covered by the available budget.

The final date for submission of nominations of business assets for the Environment List 2017 is 1 September 2016.

The MIA

As an additional tax deductible item, the MIA provides a direct financial benefit in the form of a tax saving assuming that the entrepreneur enjoys a positive amount in taxable profit. On top of the regular deductible costs, a certain percentage of the investment may be deducted from the taxable profit. Depending on the sort of business asset, the MIA comprises 36, 27 or 13.5 per cent of the amount of environmental investments. The percentage to be applied is determined according to the category in the Environment List 2016 in which the relevant business asset falls.

The MIA has an investment ceiling of EUR 25 million per taxpayer.

In contrast to the Vamil, the MIA delivers a permanent tax benefit, as part of the investment amount may be charged directly to the profit in the year of investment. Consequently, income tax or corporate income tax is owed on a smaller amount.

Taking a business asset into commission

The right to the MIA arises as soon as the investment is made. However, until the business asset is taken into commission, the investment allowance is only taken into account up to the amount already paid for the business asset. The remaining investment allowance is then deducted in a later year.

Target group

The MIA is available on income tax and corporate income tax for entrepreneurs who invest in environment-friendly, previously unused business assets that meet the criteria of the Environment List 2016.

Declaration

The right to the MIA must be declared in the income tax or corporate income tax return. However, to claim the facility,

Rates unchanged

The MIA rates remain unchanged at 13.5, 27 and 36 per cent. Until 2011, these rates were 15, 30 and 40 per cent. While the reductions were only supposed to be temporary, the lower rates are being maintained.

RVO.nl must be notified of the investment in good time. When imposing an income or corporate income tax assessment, the Tax and Customs Authorities may check whether the facility is being claimed correctly.

Application

If a business asset is acquired whose code in the Environment List 2016 begins with the letter A, B, D, E, F or G, that asset qualifies for the MIA. The investment must, however, be more than EUR 2,500 per business asset. The minimum notification amount should also be borne in mind. You may also obtain the MIA (and/or apply the Vamil scheme) in respect of environmental advice. However, such advice must be notified for the purposes of the MIA and/or the Vamil at the same time as the environmental investment to which the advice relates. Briefly put: notification of environmental advice by itself is not possible. You are required to deduct any subsidies from the investment amount

Example

Later commissioning

This year, an entrepreneur invests EUR 10,000 in a new business asset that meets the conditions of the Environment List 2016. The MIA is EUR 3,600, i.e. 36 per cent of EUR 10,000. On top of the regular depreciation costs, an extra amount of EUR 3,600 can therefore be charged to the profit. At the end of the calendar year, the business asset has still not been taken into commission.

Because of the later commissioning, the MIA will at most be equal to the amount that was actually paid for the business asset. If only EUR 1,000 was paid for this business asset in the relevant year, the MIA will not be EUR 3,600 but EUR 1,000 instead; the remaining EUR 2,600 will be deducted in a later year of payment, but no later than in the year in which the business asset was taken into commission.

to be declared. You have to state the investment costs exclusive of VAT. You may declare the investments inclusive of VAT if you are exempt from VAT.

The rate of the allowance depends on the category to which the investment belongs. The Environment List contains three categories of environmental investments:

- Category I. The MIA for this category is 36 per cent.
- Category II. The MIA for this category is 27 per cent.
- Category III. The MIA for this category is 13.5 per cent.

The MIA for partnerships

As a rule, for professional partnerships, general partnerships and the like, application of the MIA is determined in the same way as for the EIA, see 'Target group' on page 9. As from 1 January 2013, you have to submit only one declaration for partnerships such as professional partnerships and general partnerships.

Timely notification

Applications for the MIA/Vamil for investments in 2016 are made with the electronic form of RVO.nl's electronic service desk. Written notification is not possible. The application must be made within three months of the obligation being assumed. Production costs must be notified within three months of the end of the calendar quarter in which the production costs are incurred. If the business asset is taken into commission during the course of the same calendar year, the costs must be notified within three months of the asset being taken into commission. No audit opinion is required for the MIA.

Application for the MIA by a fiscal unity

Just as with the EIA, the rules that apply to a fiscal unity as regards notification and application for the MIA are more flexible. In this respect, see 'Application for the EIA by a fiscal unity' on page 13.

Example

Environmental investment

This year, an entrepreneur invests EUR 10,000 in a new business asset that meets the conditions of the Environment List 2016. The MIA is EUR 3,600, i.e. 36 per cent of EUR 10,000. The taxable profit after deduction of the regular deductible costs but before application of the tax facility is EUR 250,000. In 2016, the corporate income tax rate is 20 per cent for the first EUR 200,000 profit and 25 per cent for the excess profit. If the entrepreneur does not claim the fiscal facility, the corporate income tax due will be EUR 52,500. By claiming the facility, he can achieve a tax saving.

Tax saving

Application of the MIA results in an additional deductible item of 36 per cent of EUR 10,000, i.e. EUR 3,600. By using the investment allowance, the taxable profit is reduced to EUR 246,400, i.e. the EUR 250,000 profit less EUR 3,600. The corporate income tax owed then amounts to EUR 51,600. In the context of corporate income tax, the application of the MIA to an investment of EUR 10,000 results in a tax saving of EUR 900 (25 per cent of EUR 3,600). This is nine per cent of the investment.

Early termination of the MIA

It you are planning to invest in environment-friendly business assets in 2016 then you will need to bear in mind the possibility - as with the EIA - that the MIA may close at an earlier stage. The point in time at which the investment obligation is assumed is decisive. For further explanation, see 'Early termination of the EIA' on page 13.

Exclusions

To a large extent, the business assets and the obligations excluded from the MIA are the same as those described for the EIA (see 'Exclusions' on page 14). An exception is that investments in houses and houseboats and investments in electric cars may qualify for the MIA. In the case of environmentally-friendly cars, the MIA is subject to the requirement that the car must be new. This means that the car must have been taken into use for the first time no more than 6 months ago, or that it has driven no more than 6,000 kilometres.

Recapture of the investment allowance

The same recapture of the investment allowance applies as regards the MIA that was already described for the EIA (see 'Recapture of the investment allowance' on page 14).

Simplified MIA application for partnerships

Applications for the MIA have been administratively simplified since 2013 for the partners in a partnership. Instead of separate applications per partner, a single application for the partnership per (joint) investment will now suffice. The partnership will then receive a single control letter from the Netherlands Enterprise Agency after an audit. The simplification applies to investments made since 2013.

The basic premise is that the partners notify their investment amount fiscally in proportion to their share in the profit. However, just as with the EIA (see 'Target group' on page 9), another allocation may be agreed.

Small-scale Investment Allowance (KIA)

Entrepreneurs who annually invest a limited amount in business assets may claim the Small-scale Investment Allowance (KIA). The scheme stimulates investment by small and medium-sized enterprises.

With investments on a modest scale, it may be possible to claim the KIA. Such investments are typically made by small and medium-sized enterprises. However, application of the KIA is not based on the size of the enterprise but instead depends on the total investments in a year.

Target group

Entrepreneurs for income tax and corporate income tax purposes may qualify for this type of investment allowance.

Declaration

The right to the KIA must be declared in the income tax or corporate income tax return. When imposing an income tax or corporate income tax assessment, the Tax Authorities may check whether the facility is being used correctly.

Application

You may qualify for the KIA if the total amount of investments in 2016 is greater than EUR 2,300 but no more than EUR 311,242. A business asset for which the investment amount is less than EUR 450 (the threshold amount) is excluded from the investment allowance.

As from 1 January 2016, the KIA comprises:

- for an investment amount greater than EUR 2,300 but no more than EUR 56,024: 28 per cent of the investment amount;
- for an investment amount greater than EUR 56,024 but no more than EUR 103,748: EUR 15,687;
- for an investment amount greater than EUR 103,748 but no more than EUR 311,242: EUR 15,687 less 7.56 per cent of the part of the investment amount that exceeds EUR 103,748 for an investment amount greater than EUR 311,242: nil.

The KIA is highest where the investment amount ranges between EUR 56,025 and EUR 103,748, in which case it amounts to EUR 15,687.

Example

Limited investment

This year, an entrepreneur invests EUR 75,000 in business assets. The taxable profit after deduction of the regular costs but before application of the tax facility is EUR 250,000. In 2016, the corporate income tax rate is 20 per cent for the first EUR 200,000 profit and 25 per cent for the excess profit. If the entrepreneur does not claim the fiscal facility, the corporate income tax due will be EUR 52,500. By claiming the facility, he can achieve a tax saving.

Tax saving

Application of the KIA results in an additional deductible item of EUR 15,687 (statutory amount for 2016). The investment allowance reduces the taxable profit to EUR 243,313, i.e. the EUR 250,000 profit less EUR 15,687. The corporate income tax owed then amounts to EUR 48.578. Consequently, in the context of corporate income tax, the application of the KIA for investments totalling EUR 75,000 results in a tax saving of EUR 3,922 (25 per cent of EUR 15,687).

The KIA for partnerships

A so-called 'aggregation provision' applies to partnerships for application of the KIA. This entails that, in respect of partnerships, to determine the investment amount and thus the resulting investment allowance that applies, the investments of all participants in the partnership must be aggregated rather than the investments of each participant being considered separately. The level of the investment allowance is then converted in accordance with the mutual profit appropriation between the participants, or on the basis of a different, "reasonable" appropriation. The conditions for application of a different appropriation are:

- All partners appropriate according to the same criterion;
- Appropriation takes place on a reasonable basis (for example on the basis of the capital ratio, shares in the undisclosed reserves, shares in the profit or equal shares);
- The appropriation applies to all forms of investment allowance;
- The appropriation applies to all corporate investments by participants in the partnership;
- When calculating the recapture of the investment allowance you are not allowed to assume a different appropriation than the one that was applied to the recapture of the investment allowance;
- A joint application that includes the allocation formula and accepts the conditions is submitted before the income tax or corporate income tax assessment of one of the participants in the partnership has become final.

Exclusions

In addition to the general exclusion from investment allowance, business assets that are specifically excluded from the KIA are those that are primarily (for at least 70 per cent) intended, directly or indirectly, to be made available (e.g. leased) to third parties. In this connection, an assessment is made as to whether making the assets available is the main activity of the enterprise. This means that the exclusion from the KIA is broader than the exclusions for the EIA and the MIA (see 'Exclusions' on page 14 and 'Exclusions' on page 18).

An entrepreneur who wishes to qualify for the KIA cannot decide himself that one or more business assets will be disregarded for the purposes of the KIA scheme. The legislator did not wish for a taxpayer to be able to maximize its investment allowance in this manner. However, pursuant to the Decree of 17 March 2014, no. BLKB 2014/106M, this is possibly subject to certain conditions if, as a result of a calamity (e.g. fire) that takes place shortly after the investment, the business asset can no longer be used and a new business asset is acquired the same year. In that case, the amount of the first investment does not count towards the KIA, so that a higher allowance may result from the application of a lower bracket.

Example

Purchase in 2012 and disposal in 2016

In 2016, a business asset is sold for EUR 150,000. EUR 200,000 was invested in the business asset in 2012. This constitutes a disposal. In 2012, the KIA for such an investment was EUR 8,085. This is the statutory amount for 2012 of EUR 15,470 less the statutory reduction of 7.56 per cent for the portion of the investment that exceeds EUR 102,311 (the statutory limit). The reduction was 7.56 per cent of (EUR 200,000 less EUR 102,311), i.e. EUR 7,385, and the resulting investment allowance was thus EUR 15,470 less EUR 7,385, i.e. EUR 8,085.

Extent of allowance recaptured

On the sale in 2016 of the business asset acquired in 2012, the rate for the recapture of the investment allowance was 4.04 per cent (8,085 / 200,000 * 100 per cent). When this rate is applied to the sales price (EUR 150,000), the resulting recapture of the investment allowance is EUR 6,060.

Recapture of the investment allowance

Suppose you have applied the investment allowance and subsequently - within five years of the start of the calendar year in which the investment was made - you alienate the business asset which was taken into account for the investment allowance. In that case, the investment allowance must be recaptured if the transfer price is more than EUR 2,300. The recapture of the investment allowance takes place in the year of the alienation and is calculated over an amount up to that for which the investment allowance was received, at the same rate. In addition to sale, alienation (also in the event of cessation of the enterprise) also means:

- Designation of the business asset for letting;
- Transferring the business asset to your private capital (also in the event of cessation of the enterprise);
- Not taking the business asset into use within 12 months after the investment, and not yet paying 25 per cent of the purchase price within that period either;
- Not taking the business asset into use within three years after the start of the calendar year in which you made the investment.

The Decree from 2014 (BLBK 2014/106M) approves that no recapture of the investment allowances have to be taken into account if an enterprise is transferred or liquidated in view of death, provided several conditions are satisfied. These conditions include the fact that there must be a direct causal connection between the transfer or liquidation of the enterprise and the death of the entrepreneur, and that the opportunities provided by the Income Tax Act 2001 - for concluding an agreement that leads to a tax settlement not taking place until the death of the entrepreneur - could not be taken.

Since 2010, the same rate has been calculated by dividing the KIA received in the calendar year in which the business asset was acquired by the total amount of investments from the calendar year to which the KIA was applied, and multiplying the resulting fraction by 100.

Under certain conditions, entry to or exit from a partnership may constitute an investment or a disposal. Your PwC advisor can provide you with further information.

Example

Investment by a partnership

Two persons have entered into a general partnership (a 'vof') together. The profit appropriation is 50 per cent each. In 2016, the general partnership invests EUR 100,000 in business assets. For application of the facility, the level of the KIA for the partners must be determined.

Determining the KIA for the partners

For the general partnership as a whole, the level of the KIA is EUR 15,687 (statutory amount for 2016). For each of the partners, the KIA is EUR 7,844 (i.e. 50 per cent of EUR 15,687).

No KIA for fuel-efficient cars

Fuel-efficient cars ceased qualifying for the KIA on 1 January 2014.

Integration of the RDA in the WBSO

To encourage businesses to invest in research and development work (R&D) an additional Research and Development Allowance (RDA) applied between 1 January 2012 and 31 December 2015. The RDA was a facility for the R&D component that does not pertain to labour costs. The scheme encouraged innovation. This facility was included on 1 January 2016 in the regulation for reduced payment of income tax or corporate income tax (WBSO). R&D costs are part of a different tax facility as from that date.

Target group

The RDA was intended for entrepreneurs liable to income tax or corporate income tax who perform R&D.

Declaration

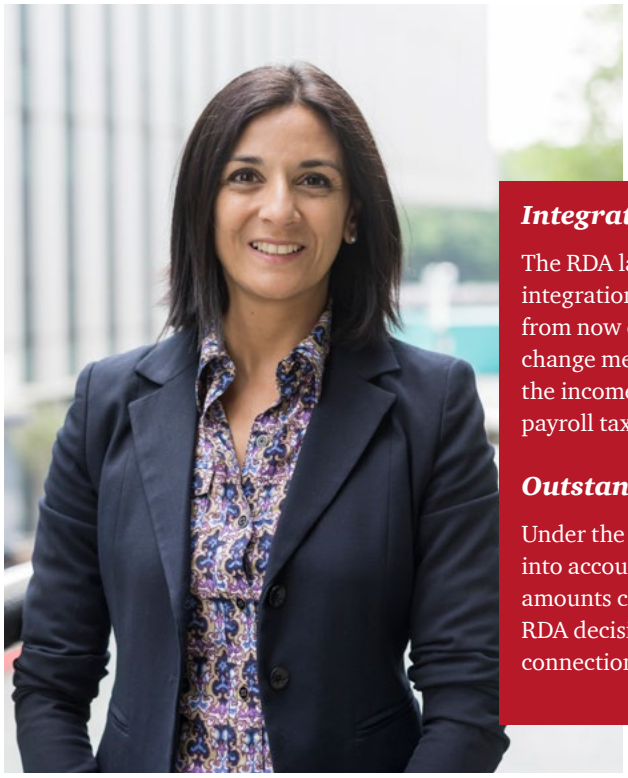
The right to the RDA must be declared with the income tax or corporate income tax return. To claim the facility, a decision on the RDA does need to be requested from RVO.nl in good time. When imposing an income tax or corporate income tax assessment, the Tax Authorities may check whether the facility is being used correctly.

Additional deductible item

The RDA was an additional deductible item for the determination of taxable profit and is supplementary to the regular tax-deductible costs. It was a facility for costs and expenditure that are directly attributable to R&D performed by the taxpayer.

The RDA reduces the taxable profit; in loss situations the RDA increases the loss.

In addition to the regular deductible costs, it was allowed in 2015 to deduct 60 per cent of the R&D costs and expenditure from the taxable profit. In the context of



Integration of the RDA in the WBSO

The RDA lapsed on 1 January 2016 and was de facto integrated in the WBSO. This integration leads to a simplified application and settlement procedure because from now on the WBSO application relates to all R&D costs and expenses. The change means that settlement of the tax incentive benefits does not take place via the income or corporate income tax, but as part of the settlement of the payment of payroll tax.

Outstanding amounts

Under the RDA regulation, R&D expenses exceeding EUR 1 million were taken into account divided over five years. Under the new regulation, any outstanding amounts can be added to the R&D application each year in accordance with the RDA decision. Your PwC advisor can provide you with more information in this connection.

corporate income tax, the RDA means a tax saving of around fifteen per cent per R&D performed. In an income tax context, this can increase to upwards of 26 per cent.

Base for RDA amounts 2015

For 2015, the RDA is 60 per cent of the costs and expenditure that are directly attributable to R&D performed by the taxpayer (the RDA amount), with the exception of labour costs. The definition of R&D is in line with the definition in the Salaries Tax and National Insurance Contributions (Reduced Remittances) Act (see 'Rebates' on pages 35). Costs are understood to include all payments made for the implementation of one's own R&D. Expenditure is understood to include all payments made for the acquisition of newly manufactured business assets that serve one's own R&D. Expenditure is not taken into account until, at the earliest, the calendar year in which the business asset to which the expenditure relates is taken into commission.

The following are not included in costs and expenditure:

- outsourced research;
- costs of insourcing labour;
- financing costs;
- costs of acquiring or improving land;
- costs for business assets that are made available through a taxpayer associated with the applicant and for which this taxpayer has already received an RDA decision;
- investments that qualify for the EIA or the MIA.

Expenditure can only be included in an RDA decision once per calendar year (see next paragraph). As a departure from this general rule, where the expenditure exceeds EUR 1 million per year, one-fifth thereof may be taken into account for the RDA amount. A kind of transitional rule was drawn up with a view to the integration with the WSBO regulation.

As a general rule, the actual costs (other than labour costs) form the starting point for determination of the RDA base. However, for taxpayers who generate less than 150 R&D hours per month, there is a fixed sum of EUR 15 per R&D hour. The fixed sum is not applied if the taxpayer's actual costs and expenditure in the year are greater than EUR 50,000. In that case, the starting point is the amount of the actual costs and expenditure.

Please note that the RDA only applies to costs or expenditure for R&D that is conducted between 1 January 2012 and 31 December 2015.

RDA decision

The RDA amount is set by RVO.nl in an RDA decision. The application is submitted at the same time as the application for an R&D statement. If it transpires that the amount of costs and expenditure realised is lower than the amount for which the RDA decision(s) was/were received, or if the number of R&D hours implemented is lower than the number of hours on which the RDA decision(s) was/were based, an amended RDA decision will be issued.

An appeal against an RDA decision (or against an amended RDA decision) may be lodged with the Trade and Industry Appeals Tribunal.

Requirement to keep records and duty of disclosure

An entrepreneur in possession of an RDA decision who claims the RDA based on costs and expenditure must maintain records. He must also keep these records for five years for the purposes of audit by RVO.nl. The records must be available for audit within two months of the end of the calendar year to which the RDA decision pertains.

In addition, after the calendar year has ended, a party who has received an RDA decision must make a mandatory disclosure of the actual costs, expenditure and R&D hours to be taken into account in the period to which the RDA decision pertains. An entrepreneur who has received an RDA decision based on a fixed sum is only required to declare the R&D hours actually to be taken into account.

Administrative penalty

Failure to comply with these obligations and/or the provision of incorrect or incomplete data or documents is regarded as an offence, subject to an administrative penalty of up to EUR 100,000 or - if higher - twice the amount of the RDA decision.

Allowance for research and development work (R&D allowance)

For income tax purposes, entrepreneurs who perform research and development work (R&D) may qualify for an additional deductible item: the allowance for research and development work (R&D allowance). The scheme encourages innovation and is part of the tax innovation package.

Where an entrepreneur performs a minimum number of hours of research and development work himself, an additional tax-deductible item can be claimed: the R&D allowance. This additional deductible item is a fixed amount, independent of the costs incurred and hours spent. For 2016, it is set at EUR 12,484.

Target group

The facility is open to entrepreneurs for income tax purposes who devote at least 1,225 hours to their enterprise per year and perform at least 500 hours of research and development work in that context and for which an R&D statement has been issued. The scheme does not apply for corporate income tax purposes.

Application

The definition of R&D corresponds to the definition in the Salaries Tax and National Insurance Contributions (Reduced Remittances) Act (see 'Rebates' on pages 35 to 38). As a precondition, an R&D statement must have been issued for the work.

Additional deductible item

The R&D allowance is an additional deductible item for the determination of taxable profit. In 2016, the allowance is EUR 12,484, which can be increased by EUR 6,245 for start-up enterprises.

Declaration

The right to deduct R&D must be declared in the income tax return. A R&D declaration must have been issued in order to be eligible for the facility. When imposing an income tax or corporate income tax assessment, the Tax Authorities may check whether the facility is being used correctly.

Example

Performing R&D work

An entrepreneur for income tax purposes performs 600 hours of research and development work this year for which he has received an R&D statement. The R&D allowance is a fixed amount of EUR 12,484. The taxable profit after deduction of the regular costs but before application of the tax facility is EUR 100,000. By claiming the facility, the entrepreneur can achieve a tax saving.

Tax saving

Application of the R&D allowance results in an additional deductible item of EUR 12,484. By using the R&D allowance, the taxable profit is reduced to EUR 87,516, i.e. the EUR 100,000 profit less EUR 12,484. As the amount of taxable profit is lower, less income tax is due.

Arbitrary depreciation

In certain cases, entrepreneurs are permitted to apply a special depreciation regime whereby a higher or lower depreciation rate may be selected, depending on which would be the most suitable at the time. This can be effected using the scheme for arbitrary depreciation. The facility may be used to influence the extent of the taxable profit in certain years.

The Income Tax Act 2001 provides for the following facilities with regard to arbitrary depreciation:

- one-off depreciation of the production costs of intangible assets;
- arbitrary depreciation of environment-improving assets (Vamil);
- arbitrary depreciation of other designated business assets for starting entrepreneurs and seagoing vessels.

Depreciation

In determining the annual taxable profit, you depreciate the business assets that are in use. Depreciation expresses the utility consumed. The costs are allocated to the years in which the business asset expends its utility. Depreciation is an application of good business practice. The usual methods are straight-line depreciation or, in particular cases, declining balance depreciation over the period of use of the business asset. However, in certain cases the law permits a special depreciation regime whereby you may select a higher or lower depreciation rate depending on what suits you best at the time. There is no fixed depreciation regime; often, both accelerated and decelerated depreciation are possible. In principle, you are free to distribute the depreciation potential over the useful economic life of the business asset as you see fit. In view of the complexity of this assessment, it is advisable to contact your PwC advisor for this purpose.

Less than EUR 450

Low-value items, i.e. those whose costs are less than EUR 450, are charged in one go to the profit in the year of acquisition or production.

Production costs of intangible assets

A facility for one-off depreciation has been included for the production costs of intangible assets. The costs of such business assets can be charged fully to the profit in the year in which they are incurred. The scheme encourages innovation.

A special scheme applies for costs incurred in production of an intangible asset in one's own business. These costs can be charged directly to the profit.

Target group

The option of one-off depreciation applies to taxpayers of income tax or corporate income tax who incur expenditure for the production of intangible assets in the context of an enterprise or activity. It pertains to costs incurred to produce an intangible asset in one's own business. For example, in certain circumstances the production costs of new software can be taken into account in one go.

Application

The law allows the production costs of intangible assets to be charged in one go to the profit in the calendar year in which they are incurred. In this respect, the facility departs from the basic premise that costs are allocated to the years in which the business asset expends its utility.

If you, as an entrepreneur, do not make use of the option to depreciate in one go in the calendar year of production, then the facility remains available for future use. In view of the purpose and purport of the statutory provisions, the costs may still be depreciated in one go at a later date. However, this depreciation cannot take place after the year in which the asset is taken into commission.

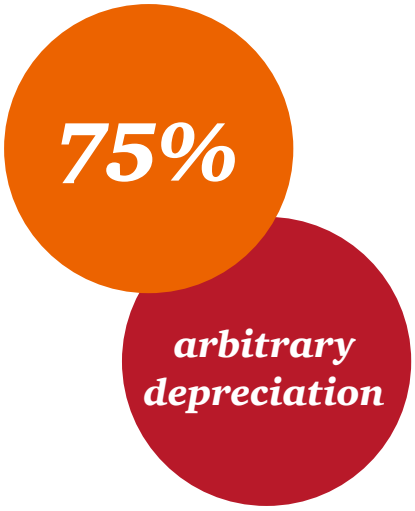
In addition, the option only applies for costs incurred after the entry into force of the statutory provision in 2007, and no incidental tax benefit may be envisioned.

Production costs and innovation box

If the production costs of intangible assets for which a patent or R&D statement was subsequently issued are taken into account (in one go), this will have consequences for the application of the innovation box as regards corporate income tax. It is advisable to consult your PwC advisor about this.

Environment-improving assets (Vamil)

The option of arbitrary depreciation of environment-improving assets (Vamil) applies to certain investments in business assets on the Environment List 2016. This scheme encourages entrepreneurs to invest in environment-improving assets.



The Vamil offers a liquidity and interest benefit. Seventy-five per cent of the costs of acquisition or production of environment-improving assets may be arbitrarily depreciated. The remaining 25 per cent follows the regular depreciation regime. In a year in which more is depreciated, less income tax or corporate income tax will be due. Less will then be depreciated in the remaining years. Payment of the tax shifts to the future.

Target group

The Vamil applies to entrepreneurs for the purposes of income tax or corporate income tax who invest in business assets that are designated on the Environment List 2016 as being in the interest of the protection of the Dutch environment. The scheme applies to the total investments made in business assets or parts thereof. Such investments qualify for the Vamil up to EUR 25 million per taxpayer per year.

In contrast to some other investment schemes, rather than a permanent tax benefit the Vamil only offers a possible liquidity and interest benefit.

Application

The Vamil offers the option of arbitrary depreciation of the investment cost. When applying the Vamil, the point in time at which the business assets are depreciated can be accelerated as well as decelerated. A combination of these two options is also possible, i.e. the depreciation or part of it may take place at any arbitrary moment. Thus the depreciation does not need to be proportionate or to occur at a predetermined point in time during the depreciation period. However, the entire depreciation must take place within the regular depreciation period.

Current developments with regard to the Vamil

- The Vamil remains unchanged compared to last year.
- A total of at most EUR 25 million in investments may be arbitrarily depreciated.
- A lower limit has applied to the amount to be notified to RVO.nl since 1 January 2014. The costs notified for the Vamil must be no less than EUR 2,500 per notification.
- The budget for 2016 for the Vamil is EUR 40 million, which was EUR 38 million in 2015.

Example

Investment in the interest of the environment

This year, an entrepreneur invests EUR 10,000 in an environment-friendly asset that is in the interest of the Dutch environment. The life of the business asset is five years and its residual value is nil. The depreciation takes place on a straight-line basis. Without application of the tax facility, the depreciation amounts to EUR 2,000 per year, being one-fifth of the investment. Assuming a profit of EUR 250,000 before depreciation, the annual taxable profit is then EUR 248,000 for five years. That is the EUR 250,000 profit less EUR 2,000 depreciation. In 2016, the corporate income tax rate is 20 per cent for the first EUR 200,000 profit and 25 per cent for the amount above this. With regular depreciation, the corporate income tax owed by the entrepreneur will be EUR 52,000. Arbitrary depreciation can be used to influence this amount.

Impact on annual profit

If the Vamil is applied in a year, the depreciation in that year will be the sum of the arbitrary and regular depreciation. In that case, up to EUR 8,000 may be taken into account as depreciation costs, which is the EUR 7,500 in arbitrary depreciation (75 per cent) plus EUR 500 in regular depreciation. The arbitrary depreciation reduces the profit to EUR 242,000, being the EUR 250,000 profit less 8,000 depreciation. The corporate income tax owed will then amount to EUR 50,500. In the other four years, the annual depreciation is EUR 500. In those years, the tax due remains EUR 52,375.

Example

Investment

This year, an entrepreneur invests EUR 10,000 in an environment-friendly asset that is in the interest of the Dutch environment. The life of the business asset is five years and its residual value is nil. The Vamil can be applied. The depreciation in that year is the sum of the arbitrary and the regular depreciation. In that case, up to EUR 8,000 may be taken into account as depreciation costs, which is the EUR 7,500 in arbitrary depreciation (75 per cent) plus EUR 500 in regular depreciation. At the end of the calendar year, the business asset has still not been taken into commission.

Later commissioning

If the business asset still has not been taken into commission by the end of the calendar year, then the arbitrary depreciation amount cannot be greater than the amount already paid. If only EUR 1,000 is paid in respect of the business asset in the relevant year, the Vamil thus can amount to no more than EUR 1,000. The rest will be arbitrarily depreciated in the later year(s) in which further payments are made but, at the latest, in the year that the business asset is taken into commission.

If a business asset is acquired whose code in the Environment List (see 'Environment List 2016' on page 16) begins with the letter A, B, C or F, this asset qualifies for the Vamil. Please refer to the chapter concerning the MIA for further information concerning the Environment List 2016.

Taking a business asset into commission

In contrast to 'normal' business assets, which can only be depreciated once a business asset has been taken into commission, investments under the Vamil scheme can be depreciated from the point at which an enterprise purchases such an asset or incurs costs to this end. However, the amount of arbitrary depreciation before a business asset is taken into commission cannot be higher than the amount paid for that asset.

Timely notification

In order to use the Vamil, timely notification must be made of the obligations entered into and the production costs incurred. A three-month time limit applies in this regard. For obligations, the time limit commences when the obligation is entered into. For production costs, the time limit begins to run with effect from the calendar quarter following the quarter in which the costs are incurred, or when the business asset is taken into commission.

Application for Vamil for a fiscal unity

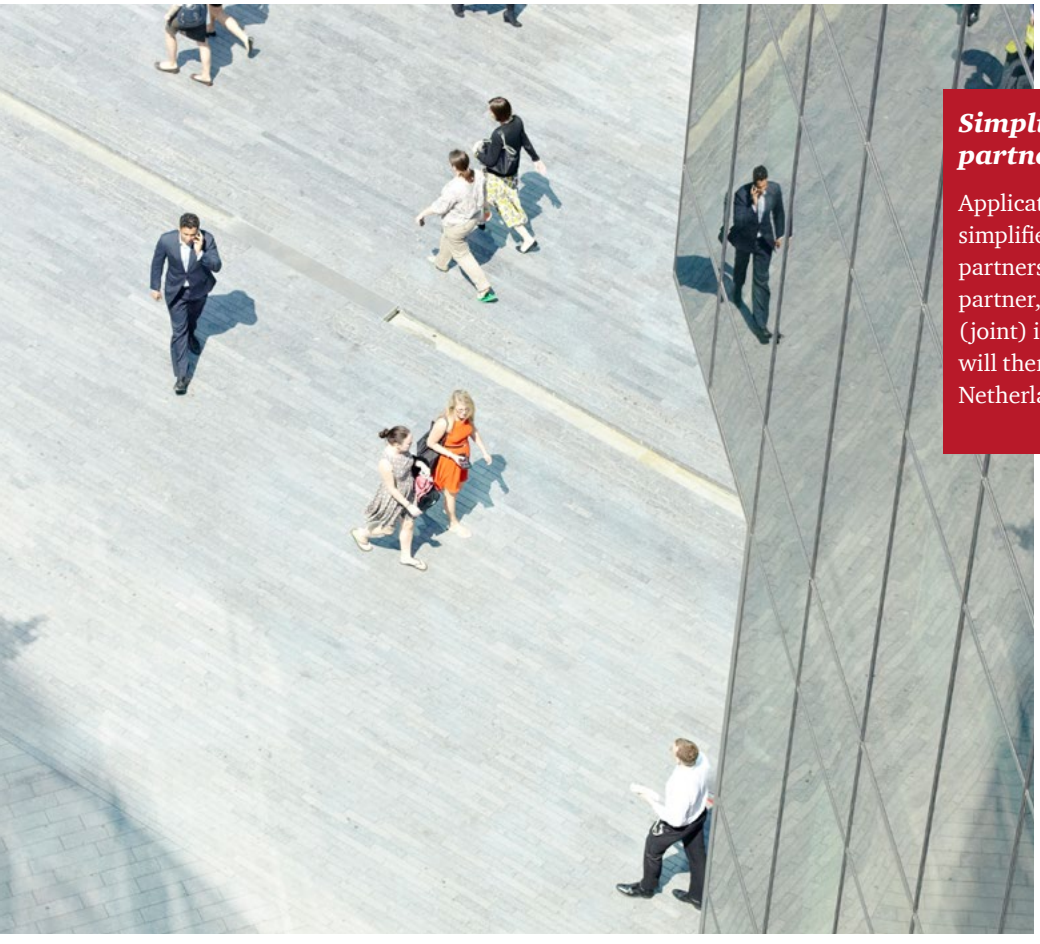
As with the MIA and the EIA, the rules that apply to a fiscal unity as regards notification and application for the Vamil are more flexible. In this respect, see 'Application for the EIA by a fiscal unity' on page 13.

Early termination of the Vamil

It you are planning to invest in environment-friendly business assets in 2016 then you will need to bear in mind the possibility - as with the MIA and the EIA - that the Vamil may close at an earlier stage. The point in time at which the investment obligation is entered into is decisive. For further explanation, see 'Early termination of the EIA' on page 13.

Reversal of arbitrary depreciation

If arbitrary depreciation takes place, and at some point in time the conditions for arbitrary depreciation are no longer met within a time limit set by ministerial regulation, then the arbitrary depreciation will be reversed. This is done by setting the book value of the business asset at the relevant point in time at the book value that would have been achieved had the arbitrary depreciation not taken place. Profit must then be taken amounting to the difference between the depreciation applied and the ordinary depreciation calculated. However, for the Vamil, no time limit has been set within which the sanction of reversal of the arbitrary depreciation can be applied.



Simplified Vamil-application for partnerships

Applications for the Vamil has been administratively simplified since 2013 for the partners in a partnership. Instead of separate applications per partner, a single application for the partnership per (joint) investment will now suffice. The partnership will then receive a single control letter from the Netherlands Enterprise Agency after an audit.

Other designated business assets

In addition to the one-off depreciation of the production costs of intangible assets and the arbitrary depreciation of environment-improving assets (Vamil), the ITA 2001 includes a third facility pursuant to which entrepreneurs may arbitrarily depreciate business assets. These are the so-called 'other designated business assets' that are in the interest of the promotion of economic development or the economic structure, including the promotion of entrepreneurship. In fact, this is a residual category.

The designated business assets are:
- the arbitrary depreciation for starting entrepreneurs; and
- the arbitrary depreciation of sea-going vessels.

For investments made in 2009, 2010 and 2011, and in the period from 1 July 2013 to 31 December 2013 inclusive, a temporary depreciation option also applies in connection with the economic crisis. This option does not apply to investments made in 2016.

Target group

There are various target groups. The arbitrary depreciation is open to starting entrepreneurs for income tax purposes, while the arbitrary depreciation of sea-going vessels and designated business assets due to the economic crisis applies to entrepreneurs liable to income tax or corporate income tax.

Applicability to starting entrepreneurs

An entrepreneur for income tax purposes to whom the increased deduction for self-employed persons applies can arbitrarily depreciate the costs of acquisition or

Arbitrary depreciation of sea-going vessel

The application of the arbitrary depreciation and the temporary arbitrary depreciation with or without simultaneous application of the tonnage tax regime has led to several questions, These questions concern inter alia the interpretation of the terms "investor" and "business asset", but also concern the implications of the ban on state aid under European law. Several of those questions are before the Supreme Court for assessment. Your PwC advisor can provide you with further information.

production of business assets incurred that year in relation to the enterprise for up to a maximum of EUR 311,242. Investments to which a right to arbitrary depreciation applies under another scheme do not count towards this ceiling.

Where the arbitrary depreciation for start-up enterprises has been applied and within a certain period the conditions are no longer met - for example because the business asset has since been leased to a third party - the arbitrary depreciation will be reversed. This is done by setting the book value of the business asset at the relevant point in time at the book value that would have been achieved if the arbitrary depreciation had not taken place. Profit must then be taken amounting to the difference between the depreciation applied and the ordinary depreciation calculated. For start-up enterprises, the sanction of reversal of the arbitrary depreciation applies for a period of five years calculated from the calendar year in which the costs of acquisition or production are incurred.

Application to sea-going vessels

Each calendar year, taxpayers who operate sea-going vessels can arbitrarily depreciate up to 20 per cent of the acquisition or production costs to be depreciated. The arbitrary depreciation can only be applied to the extent that the calculation of the profits from sea shipping activities without that depreciation results in a positive amount. If, in a particular year, the arbitrary or ordinary depreciation is less than the maximum amount that can be arbitrarily depreciated in that year, the difference will be added to the maximum amount that can be arbitrarily depreciated the following year.

Simultaneous application of the tonnage tax regime and the arbitrary depreciation of sea-going vessels is not possible. Under the tonnage tax regime, the taxable profit is determined on the basis of the ship's tonnage. The actual costs and revenue are not taken into account in this respect. However, concurrence is conceivable as a result of consecutive application of the arbitrary depreciation in one year and the tonnage tax regime in a subsequent year. This is not the case if the temporary arbitrary depreciation option due to the economic crisis is applied to sea-going vessels (see the box 'The economic crisis and sea-going vessels' below).

Where the arbitrary depreciation for sea-going vessels has been applied and within a certain period the conditions are no longer met - for example because the vessel has been given another designated use - the arbitrary depreciation will be reversed. This is done by setting the book value of the business asset at the relevant point in time at the book value that would have been achieved if the arbitrary depreciation had not taken place. Profit must then be taken amounting to the difference between the depreciation applied and the ordinary depreciation calculated. For sea-going vessels, the sanction of reversal of the arbitrary depreciation applies for a period of ten years calculated from the calendar year in which the costs of acquisition or production are incurred.

Crisis measures

To counter the effects of the economic crisis, a temporary option for arbitrary depreciation of investments has been created, applying to investments made in certain new business assets in the years 2009 to 2011 inclusive. The option of accelerated depreciation has been created for investments made in new business assets in the period between 1 July 2013 and 31 December 2013 inclusive.

The economic crisis and sea-going vessels

- In the years 2009, 2010 and 2011, when investing in sea-going vessels one could choose, due to the economic crisis, to apply the temporary arbitrary depreciation option to sea-going vessels, instead of the regular arbitrary depreciation.
- As regards a vessel for which obligations were entered into or production costs were incurred in the calendar year 2010 or 2011, it is only possible to make use of the temporary arbitrary depreciation (see 'Crisis measures' on pages 31-32) if the profit will not be determined on the basis of the tonnage tax regime for at least 10 years thereafter.
- For investments in 2010 or 2011, the profit will be determined according to the standard tax regime rather than the tonnage tax regime until at least 1 January 2020 or 1 January 2021, respectively. If the switch is made to the tonnage tax regime at any time during this period, then the arbitrary depreciation will be reversed. It may be deduced from the amended scheme that, at such time, firstly the book value of the vessel is set at the book value that would have been achieved without application of the arbitrary depreciation, and only then is the profit determined by application of the tonnage tax regime. The objective of the State Secretary of Finance here is to prevent an unintentional double benefit arising in respect of investments in sea-going vessels.
- However, if a vessel is alienated to a third party before the end of the period and tax settlement has taken place regarding the capital gain achieved, the next owner is free to apply the tonnage tax regime. This is because in such a case the difference between the value of the vessel and the lower book value resulting from the temporary arbitrary depreciation has already been included in the profit, and thus the additional depreciation has already been reversed.
- The sanction in the event of concurrence does still apply in the event of a tax-neutral transfer such as a change of corporate form to a private limited liability company, a company merger or a legal merger.

These measures do not apply to investments made in 2012, in the period 1 January to 30 June 2013 inclusive or in 2014. Consequently, there is no right to these facilities for investments made in those periods. However, the schemes are still relevant. The arbitrary depreciation takes place when the profit is determined for the year in which the obligation was entered into or the production costs were incurred (in the years 2009, 2010 or 2011) and, next, when determining the profit for the subsequent year (2010, 2011 and 2012 respectively) and the years thereafter. Application of the temporary arbitrary depreciation to investments made in 2013 will have consequences for the level of the regular depreciation in subsequent years.

The exact operation of the temporary schemes differs in some respects. For investments in the years 2009, 2010 and 2011, the depreciation in the year in which the obligation was entered into or the production costs were made is at most 50 per cent of the acquisition/production costs to be depreciated. No minimum or maximum percentage applies in respect of the subsequent years. Both accelerated and decelerated depreciation are possible. Investments in the period 1 July 2013 to 31 December 2013 can be directly depreciated in an accelerated manner for up to 50 per cent of the acquisition/production costs in the year of acquisition or production. Arbitrary depreciation is not permitted in subsequent years. Your PwC advisor can provide you with further information.

The conditions attached to these schemes include the following:

- The business assets must be new.
- The investment obligation or the production costs must have been entered into and/or incurred in 2009, 2010 or 2011 or in the period from 1 July 2013 to 31 December 2013 inclusive.
- The following business assets are excluded (among others): buildings, geotechnical, road and hydraulic engineering works, animals, intangible assets (including software) and cars (with the exception of highly fuel-efficient cars).
- The business assets must not be primarily intended to be made available to third parties. Business assets intended to be leased to successive parties in the short term (such as special equipment, aerial platforms, delivery vans and trailers) do qualify for the temporary arbitrary depreciation, provided that the other conditions are also met.
- The business asset must have been taken into commission before 1 January 2012, 1 January 2013, 1 January 2014 or 1 January 2016 respectively.

The amount of arbitrary depreciation before a business asset is taken into commission cannot be higher than the amount paid for the investment obligation in a year or incurred in respect of production costs in a year.

Concurrence with another form of arbitrary depreciation, such as for environment-improving assets (Vamil), start-up enterprises or sea-going vessels, is not possible. In those cases, a choice must be made.

If use is made of the temporary arbitrary depreciation option and, at some point before 1 January 2012, 1 January 2013, 1 January 2014 or 1 January 2016 respectively, the conditions are no longer met, for example because in the meantime arbitrary depreciation is taking place under another scheme, then the arbitrary depreciation based on the applicable wording of the scheme since 1 January 2010 will only be reversed where the business asset is not taken into commission in good time. This is done by setting the book value of the business asset at the relevant point in time at the book value that would have been achieved if the arbitrary depreciation had not taken place. Profit must then be taken amounting to the difference between the depreciation applied and the regular depreciation calculated.

If the business asset is not taken into commission before 1 January 2012, 1 January 2013, 1 January 2014 or 1 January 2016 respectively, while that expectation did exist when the investment obligation was entered into or the production costs were incurred, then the arbitrary depreciation will be reversed with the assessment for the book year that ends on 31 December 2011, 31 December 2012, 31 December 2013 or 31 December 2015 respectively (or, in the case of a split financial year, with the assessment for the book year in which the date referred to falls).

Confirmatory policy

In the Decree of 7 December 2005, no. CPP2005/1402M, the State Secretary of Finance addressed a number of issues pertaining to arbitrary depreciation. This concerns the following situations:

- items on the Environment List that form a dependent part of business assets that do not appear on the Environment List;
- arbitrary depreciation for start-up enterprises without an investment obligation;
- exemption for excluded obligations in certain situations of relationship by blood or affinity;
- application of the maximum amount of arbitrary depreciation in a split financial year.

Combinations of investment facilities

As the scope of various investment facilities is broad at times, a business asset may qualify for more than one scheme. Some schemes can be applied alongside each other, but certain combinations are explicitly excluded.

It may be the case, for example, that an investment pertains to a business asset that qualifies not only for the Vamil but also for the MIA, EIA or other (temporary) arbitrary depreciation option. Another possibility is that an investment pertains to a business asset that qualifies not only for the MIA but also for the EIA. It is also conceivable that an investment might qualify for the MIA and/or EIA and an arbitrary depreciation option, or for the KIA. A final possibility is that an investment pertains to a business asset that potentially qualifies not only for the WBSO but also for the MIA and/or EIA. A summary of the possible combinations is set out below.

Vamil and MIA

Business assets whose codes in the Environment List begin with the letters A, B or F qualify not only for the Vamil but also for the MIA. A combination of both facilities is possible.

Vamil and EIA

In the event that an investment pertains to a (part of a) business asset that qualifies for both the EIA and the Vamil, both schemes may be used. In that event, the business asset must be separately notified for both schemes.

Vamil and another arbitrary depreciation

For investments made in 2009, 2010 or 2011, or in the period from 1 July 2013 to 31 December 2013 inclusive, a temporary arbitrary depreciation option applies to a large number of business assets. If this option is used, it is not possible to apply another form of arbitrary depreciation (such as the Vamil) as well. In that case, a choice must be made. The temporary schemes for arbitrary depreciation do not apply for 2016. Thus the issue of concurrence and combined application of the Vamil and the temporary schemes for arbitrary depreciation does not arise for investments made (or to be made) this year.

MIA and EIA

Use of both the EIA and the MIA is not possible for the same part of the investment. The schemes can be applied alongside each other to different parts. The MIA encourages investment in environment-friendly assets. The business assets to which this scheme applies are different to the business assets that are encouraged by the EIA. If an investment pertains to a (part of a) business asset that qualifies for the EIA as well as to (part of a) business asset that qualifies for the MIA, both schemes may be used on the basis of different acquisition or production costs. Splitting the investment into an EIA part and an MIA part may be of interest, given that the benefit from the EIA may be greater than that from the MIA.

MIA or EIA and arbitrary depreciation due to crisis

For certain investments made in 2009, 2010 or 2011, or in the period from 1 July 2013 to 31 December 2013 inclusive, both the MIA or the EIA and the arbitrary depreciation option - which is temporary, due to the crisis - can be applied to a large number of business assets. The temporary arbitrary depreciation was not extended for the years from 2014 onwards. Thus the issue of concurrence and combined application of the MIA or EIA and the (temporary) arbitrary depreciation option due to the crisis does not arise for investments made in 2016.

KIA and MIA or EIA

Investments can qualify for both the MIA or EIA and for the KIA. These facilities can be used cumulatively.

WBSO and MIA or EIA

Investments that qualify for the MIA or the EIA are not taken into account for the WBSO. Thus the WBSO cannot be applied alongside the MIA or the EIA.

Combined arbitrary depreciation

Concurrence between the temporary arbitration option in connection with the economic crisis and another form of arbitrary depreciation, such as that for environment-improving assets (Vamil), start-up enterprises or sea-going vessels, is not possible. In those cases, a choice must be made.

Rebates

As an employer, you can reduce labour costs by making use of the scheme for reducing the payroll tax and national insurance contributions to be remitted. The original objectives of this facility are to promote employment and labour participation and to promote education and research by providing an allowance for the costs incurred by employers in making work placements available. The allowance takes the form of a reduction in the payroll tax and national insurance contributions to be remitted.

As the withholder, when paying the employee's salary you withhold the payroll tax and national insurance contributions in accordance with the normal rules, but you are not required to subsequently remit the full amount withheld. This results in lower labour costs. Employers are encouraged by this burden reduction to recruit certain groups of employees or to have certain types of work performed. Application of the rebate by the employer has no tax consequences for the employees.

The Salaries Tax and National Insurance Contributions (Reduced Remittances) Act (WVA) also provides for:

- the maritime shipping rebate; and
- the rebate for research and development work (R&D).

In brief, you can use the WVA to reduce the payroll tax and contributions remitted for various groups of employees, lowering certain (labour) costs that you incur.

Maritime shipping

Employers can reduce the labour costs for seafarers by using the allowance in the form of a reduction in the payroll tax and national insurance contributions to be remitted. This facility supports Dutch merchant shipping.

An employer can reduce the labour costs for persons such as the captain, ship's officer or ship's mate working on a specified vessel by claiming the rebate for payroll tax and national insurance contributions.

Target group

In certain circumstances, the employer is entitled to the maritime shipping rebate for employees who qualify as seafarers. The maritime shipping rebate applies to seafarers, i.e. persons such as the captain, ship's officer or ship's mate, working on a specified vessel. A certificate of registry must have been obtained for the vessel and it must be operated at sea for more than 50 per cent. In addition, a number of vessels and activities are expressly excluded from the scheme.

Application

When paying the employee's salary, the employer, as the withholder, withholds the payroll tax and national insurance contributions in accordance with the normal rules. Due to the rebate, however, he is not required to subsequently remit the full amount withheld. This results in lower labour costs.

The maritime shipping rebate consists of the following percentages of the salary per period (whereby, for seafarers on certain vessels, not all of the salary is taken into account):

- 40 per cent for residents of the Netherlands, other EU Member States and EEA countries;
- 10 per cent for countries other than the Netherlands, EU Member States and EEA countries, which are liable to pay payroll tax or national insurance contributions in the Netherlands.

The rebate must be recorded per seafarer.

Research and development work (WBSO)

Employers can reduce the costs of research and development work by using the allowance in the form of a reduction in the payroll tax and national insurance contributions to be remitted. The scheme encourages innovation. The basis for the reduction consists of all R&D costs, consisting of the R&D wage costs, other R&D costs and R&D expenses.

Entrepreneurs who employ employees who perform research and development work (R&D) for which an R&D declaration has been issued, can reduce the total R&D costs they incur by claiming the rebate for payroll tax and national insurance contributions. The tax facilitation of R&D work takes place in the form of a reduction of the payroll tax to be paid.

Target group

You, as a withholder, are entitled to the R&D rebate in certain circumstances for employees who are directly involved in research and development work for which an R&D statement has been issued.

Application

As from 1 January 2016, the rebate is expressed as a percentage of the qualifying R&D costs (R&D wage costs, other R&D costs and R&D expenses). These percentages are recalculated each year. In 2016, the maximum benefit amounts to the total amount that is owed in payroll tax.

All periods

As from 1 January 2014, the rebate may be set off against all periods of time in the calendar year in which the period falls to which the R&D statement pertains.
An application for an R&D statement may from now be made for a maximum of twelve months per calendar year. Until 31 December 2013, certain employers could only make such an application for up to six months.In 2016, the R&D rebate is as follows:

- 32 per cent of the first EUR 350,000 R&D costs (40 per cent for starters); and
- 16 per cent of the costs for R&D above this.

If you, as a withholder, apply for WBSO, you may choose in your first application during a calendar year whether you wish to include the actual costs of your own R&D in the calculation of the rebate, or whether you would like to use a fixed-amount approach to the costs and expenses.

The amount of the fixed amount per calendar year is:

- EUR 10 per R&D hour for the first 1,800 hours of R&D.
- EUR 4 per R&D hour for all R&D hours in excess of 1,800

All R&D costs

As from 1 January 2016, the base for the rebate consists of all R&D costs, which consist of R&D wage costs, other R&D costs and R&D expenses. This change is related to the lapse of the RDA as from the same date. The RDA has actually been integrated in the WBSO. This integration leads to a simplified application and settlement procedure. The regular WBSO application relates to all R&D costs and expenses as from that date.

Changes to the definition of R&D

The definition of research and development work was adjusted effective as from 1 January 2016. This means that certain activities no longer qualify for the R&D rebate. For example, the performance of an analysis of performing R&D work yourself that is structured in a systematic manner has lapsed. The same applies to the performance of technical research into a substantial change to the production method (in case of production processes) or into modelling processes (in case of software). Both types of work no longer qualify for the facility.

If you choose the fixed amount, this will apply to all of your applications during the calendar year.

The labour costs for research and development work (R&D salary) are calculated using the data included in the benefit entitlement database of the Employee Insurance Agency UWV on the reference date. This concerns data regarding taxable salary and paid hours of employees who have performed R&D in the second calendar year prior to the calendar year to which the rebate pertains. This is what is known as the R&D reference year. This means that the reference year for 2016 is 2014. The reference date for the salary data from the reference year is set at 1 April of the year following the R&D reference year. The reference date of the salary data for 2014 has been set at 1 April 2015.

If no research and development work was performed in the R&D reference year for which an R&D statement was issued, a fixed hourly salary applies (EUR 29 in 2016). If an R&D statement was issued in the R&D reference year, the R&D hourly salary will be calculated by dividing the R&D salary by 0.85 times the sum of the paid hours of all R&D employees. The factor of 0.85 is compensation for leave of absence. The result of the calculation is rounded up to the nearest euro.

The R&D rebate is set off in the payroll tax return (income tax and national insurance contributions). Setoff with respect to employee insurance schemes contributions and Healthcare Insurance Act contributions is not possible.

With regard to start-ups, an extra allowance applies: they receive a higher rebate over the R&D salary up to the salary threshold (first bracket). A start-up enterprise is one that has employed personnel for a maximum of four years

Year	*2014*	*2015*	*2016*
Salary threshold	€ 250,000	€ 250,000	€ 350,000
Rebate R&D salary to salary threshold (first bracket)	35%	35%	32%
Rebate R&D salary to salary threshold (first bracket) for starters	50%	50%	40%
Rebate for excess R&D salary	14%	14%	16%
Maximum rebate per taxpayer	€ 14 million	€ 14 million	Total amount in payroll tax

Figure 1: R&D rebate table

out of the last five calendar years. This does not need to be a consecutive period. In addition, during that period an R&D statement may have been issued for at most two calendar years. If the enterprise continues the activities of another enterprise, the R&D statements of the previous enterprise are in some cases taken into account when determining the start-up status of the new enterprise.

Obligation to maintain records and notify. If you wish to apply the rebate (or the R&D reduction), your records will have to provide clear insight into the nature, content, progress and extent of the R&D work that has been performed. The number of hours the employees spent each day on the project must be clear from the records. Insight will have to be provided into the records if the enterprise opts for the R&D rebate on the basis of the actual costs and expenses. You are obliged to retain the R&D records for a period of seven years.

You are obliged to report the number of R&D hours that have been realised. If the R&D statement was issued on the basis of the actual costs and expenses, the costs and expenses that were actually realised will also have to be reported.

Concurrent rebates

It is not possible to combine the maritime shipping rebate and the R&D rebate.

Practice-based learning subsidy scheme

As an employer, in certain cases you may claim the practice-based learning subsidy scheme for offering practice-based and work-based learning placements. This new scheme entered into effect on 1 January 2014 and will lapse on 1 January 2019. As per that date, the employee education and training tax rebate has ceased to apply.

Employers who offer the combination of learning and work to certain groups of pupils/students or employees can claim an allowance for costs. The scheme aims to encourage employees to offer such placements. The combination of learning and work must contribute to the adequate training of the working population.

The subsidy scheme is aimed at groups in a vulnerable position, addressing high youth unemployment, for example. However, it also includes sectors in which a shortage on the labour market is foreseen as well as scientific personnel who are vital to the Dutch knowledge-based economy.

Target group

Employers can obtain an allowance for the costs associated with offering a combination of learning and work. It pertains to the costs of supervision or labour costs.

Subsidy for supervision

The employer can also receive a subsidy for supervision for part of the calendar year. The amount of the subsidy per placement is recalculated relative to the period of supervision. If the supervision lasts for six months, half of the amount will be paid.

Application

Employers qualify for the subsidy scheme in respect of the supervision of the following groups:

- pupils following a pre-vocational secondary education (vmbo) training-employment scheme;
- pupils following the senior secondary vocational education (mbo) vocational learning track (beroepsbegeleidende leerweg, BBL);
- students following a higher vocational education programme in engineering (including agriculture and the natural environment), where the combination of learning and work forms part of the programme;
- PhD students with a temporary appointment or who have an employment contract at a university or at an institute of the Royal Netherlands Academy of Arts and Sciences (KNAW) or the Netherlands Organization for Scientific Research (NWO), the labour costs being borne by the employer;
- employees of a legal entity under private law who conduct doctoral research or are following a programme to become a design engineer (so-called 'toio').

The subsidy for PhD students and 'toios' does not apply for research organisations that receive public funds.

Qualification for the subsidy is also subject to further conditions. Your PwC advisor can provide you with further information.

Allowance

Employers who meet the conditions may claim an allowance (subsidy). The subsidy is provided per placement, and the level is determined after the end of the academic year. To this end, the available budget is divided in proportion to the number of practice-based and work-based learning placements in the sector. The amount to be received is capped at EUR 2,700 per placement.

There are four sectors that each have their own budgets. The following subsidy ceilings apply:

- vmbo sector: EUR 1.4 million;
- mbo sector: EUR 188.9 million;
- hbo sector: EUR 8 million;
- PhD students and 'toios': EUR 6.7 million.

If the budget in one of the sectors is not exhausted, it will be divided proportionately between the other sectors.

Applications

Applications for the subsidy are made per academic year with the electronic form from RVO.nl. The form must be submitted before 5 p.m. on 15 September following the academic year for which the subsidy is requested. Subsidy applications for the 2015-2016 academic year can be submitted from 2 June 2016 up to and including 15 September 2016 (17:00 hours).

Innovation box

In the context of corporate income tax, there is a favourable tax scheme for profits made with intangible assets developed in-house for which a patent has been granted or that originate from R&D work for which an R&D statement has been issued (R&D assets): the innovation box. The scheme encourages in-house innovation.

Various schemes apply for the promotion of innovation. Not only are there facilities as regards the costs incurred, there is also a favourable tax scheme for the profit resulting from innovation. Innovation profits are subject to lower effective rates of corporate income tax.

Target group

The innovation box applies to entrepreneurs who fall within the corporate income tax regime. It does not apply to entrepreneurs for income tax purposes.

Declaration

The innovation box is optional. The choice of whether to apply the scheme may be made per qualifying asset. That choice is declared when the tax return is filed.

Example

Production of intangible assets

An entrepreneur has produced an intangible asset for which a patent has been granted. This constitutes a patent asset. This year, the benefits of the asset amount to EUR 500,000 while the costs are EUR 120,000. The costs are directly taken into account. There are no other enterprise activities. The taxable profit is EUR 380,000. In 2014, the corporate income tax rate for 2016 is 20 per cent for the first EUR 200,000 profit and 25 per cent for the amount above this. If the entrepreneur does not claim the innovation box, the corporate income tax due will be EUR 85,000. With respect to the taxable profit, this is an effective rate of more than 22 per cent.

Year 2016	*Without Innovation box*	*With Innovation box*
Benefits	€ 500,000.00	€ 500,000.00
Costs	€ 120,000.00 -/-	€ 120,000.00 -/-
Taxable profit	€ 380,000.00	€ 380,000.00
Corporate income tax:		
20% over first € 200,000	€ 40,000.00	€ 15,200.00
25% over surplus	€ 45,000.00 +	€ 0.00 +
Total	€ 85,000.00	€ 15,200.00
Effective CIT rate	**22%**	**4%**

Tax base reduction

By using the innovation box, the taxable base is only EUR 76,000, i.e. a 5/25 share of the taxable profit of EUR 380,000. The corporate income tax owed will then amount to EUR 15,200. With respect to the taxable profit, this is an effective rate of 4 per cent.

Effective rate 4% instead of 22%

Eventual implementation of the 'modified nexus approach' in the patent and innovation boxes of several countries has, among others, been discussed within the OECD and the EU. The starting principle for this approach is a substantial economical presence as a condition for application of such a box. The Dutch Cabinet highly values innovation and works actively to keep innovation available for innovative organisations. Your PwC advisor can provide you with more information.

Application

The intangible assets that qualify for the innovation box are those which are expected to result to a significant degree (30 per cent or more) in benefits from patents granted to the taxpayer, plant breeders' rights or from R&D assets. The definition of R&D is in line with the definition in the Salaries Tax and National Insurance Contributions (Reduced Remittances) Act (see 'Rebates' on page 35).

Benefits from trademarks and logos produced fall outside the scope of this scheme.

Lower effective rate

The innovation box is a separate box in which the profit made with the qualifying assets is taxed at an effective rate of up to five per cent. This corporate income tax rate is significantly lower than the standard rates of 20 and 25 per cent.

The statutory scheme takes the form of a reduction in the tax base. To the extent that the balance of the revenues and costs - such as research and development costs - from the intangible asset(s) produced in-house is positive, only a 5/25 share is taken into account. The standard corporate income tax rate is applied to this limited tax base.

If the balance of the benefits and the costs is negative, the innovation box is not applied. A loss from a patent or R&D asset is taken into account at the standard corporate income tax rate.

Before the innovation box can be used, the revenues from the asset developed in-house must exceed a threshold. This threshold comprises the production costs of the asset concerned, which are deducted from the taxable profit in full at the standard corporate income tax rate. Incidentally, production costs of intangible assets can be charged directly to the profit. See 'Production costs of intangible assets' on page 26. The threshold is raised by any losses from the patent asset or R&D asset.

Flat-rate scheme for small and medium-sized enterprises

As from 1 January 2013, measures have been taken to make the innovation box more accessible to small and medium-sized enterprises. In order to limit the costs (e.g. administrative costs) to some extent, it is now possible to determine the benefits that can be allocated to the innovation box using a flat-rate method. Each year a choice can be made between the actual or flat-rate determination of the benefits that are achieved with intangible assets.

If the flat-rate scheme is applied, 25 per cent of the profit is taxed in the innovation box. The flat-rate amount is capped at EUR 25,000. The fixed sum may be applied in the year in which you produce the intangible asset and in the two subsequent years.

Advance certainty

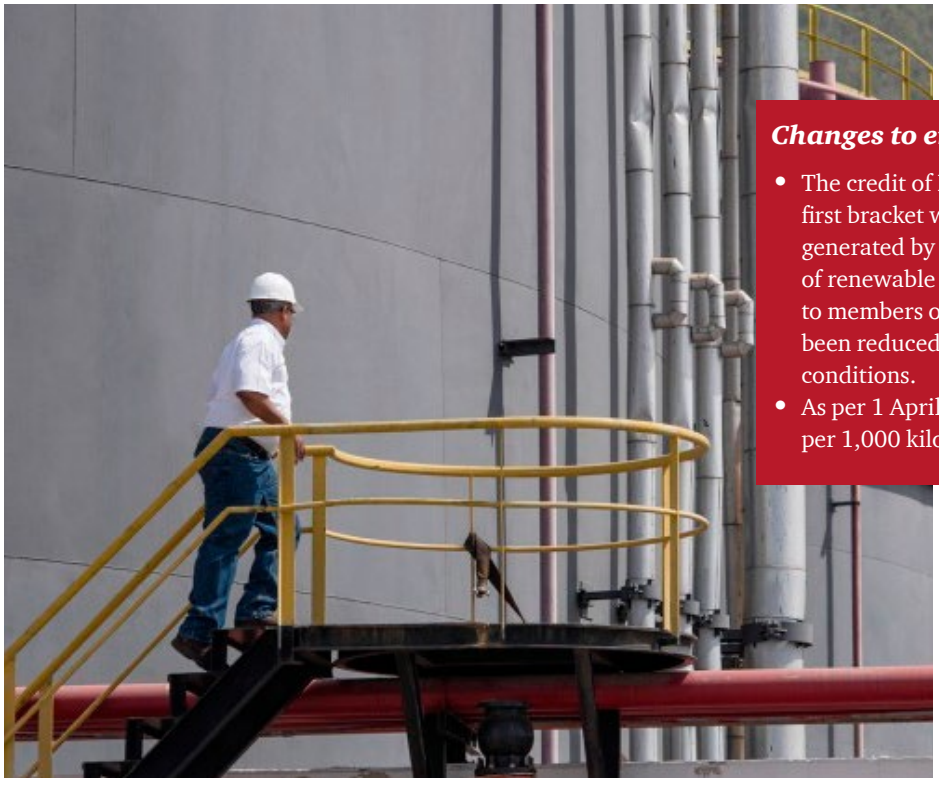
It is possible to obtain advance certainty as to whether the innovation box is applicable to your company profits. You can make arrangements with the Tax Authorities regarding the allocation of the profit to the innovation box. These arrangements are laid down in an Advance Tax Ruling, which is how the Tax Authorities aim to support entrepreneurs in their use of the scheme. Your PwC advisor would be happy to assist you further.

Refunds

Under certain conditions, it is possible to obtain a partial refund of the energy tax paid. This is also the case as regards excise duty. A refund is also granted to bulk users on request.

A few levies owe their existence to environmental considerations. For example, under the Environmental Taxes Act (WBM), a tax is levied on tap water and coal, and waste tax and energy tax apply. Such levies are regulating taxes, the extent of the tax that is payable being influenced by changes in behaviour - the objective being, of course, that this behaviour is environment-friendly and/or energy-saving.

The WBM includes various provisions that offer exemptions and tax credits for certain bulk users, producers and consumers. Many provisions are specific. Only a few will be discussed below. The other effects of provisions, such as with regard to turnover tax, are not discussed. Your PwC advisor can provide you with further information.



Changes to environmental levies

- The credit of EUR 0.075 on the energy tax rate in the first bracket was introduced for the supply of energy generated by a cooperative/owners' association by means of renewable energy sources and subsequently supplied to members of a cooperative/owners' association has been reduced to nil in 2016. This is subject to further conditions.
- As per 1 April 2016, the waste tax rate will be EUR 13.07 per 1,000 kilo of landfill waste.

Refund of energy tax/excise duty

Refund of part of the energy tax paid for natural gas and electricity is, under certain conditions, possible. Entrepreneurs who have remitted excise duty on LNG can request a tax refund. The scope for refund of excise duty for mineral oils has been extended as from 2014.

Refund scheme for excise duty on LNG

For the years 2014 to 2018 (inclusive), a temporary refund scheme applies for liquefied natural gas, liquefied methane and liquefied biogas (LNG) that is taxed at the rate for liquefied petroleum gas (LPG). The refund consists of EUR 125 per 1,000 kilo and is requested by the entrepreneur who remits the excise duty on the LNG.

Refund of excise duty for mineral oils

The scope for refund of excise duty for mineral oils that are used in the generation of electricity in a plant with minimal capacity has been extended as from 2014. The lower limit has been reduced to 60 kilowatts, replacing the 1 megawatt limit that applied in 2013.

Increased excise duty

The excise duty on liquefied petroleum gas (LPG) was increased by 2 eurocents per litre on 1 January 2016. The excise duty on diesel increased by almost 6 eurocents per litre.

Organisations of a religious nature, charitable, cultural or scientific organisations, public benefit organisations (ANBIs) and social benefit organisations (SBBIs) qualify, under certain conditions, for a partial refund of the energy tax paid for natural gas and electricity. Organisations in the areas of healthcare, sport and education are expressly excluded, because they are compensated in another way (by means of subsidies). The energy tax is paid to the power company and is stated on the annual final settlement. The refund is 50 per cent of the energy tax actually charged to the power company, i.e. after deduction of the energy tax credit.

Conditions are attached to the refund of energy tax/excise duty. Your PwC advisor can provide you with further information.

Refund for bulk users

Under the WBM, upon request a tax refund will be granted regarding electricity supplied for business consumption to the extent that, after deduction of the part of the business consumption that is already exempted under other provisions, the business consumption is higher than 10,000,000 kWh per connection per period of consumption of twelve months and a long-term agreement has been concluded with the government for the purpose of improving energy efficiency.

Conditions are attached to the refund of energy tax for bulk users. Your PwC advisor can provide you with further information.

Combining connections

Your energy supplier calculates the energy tax owed per connection. A connection is defined as a connection of an immovable property located in the Netherlands to a Dutch distribution network that supplies electricity or natural gas to the consumer. Immovable property is defined as a Valuation of Immovable Property Act (WOZ) object in accordance with the WOZ. Each property under the Valuation of Immovable Property Act (WOZ) comprises a separate connection for energy tax purposes. If a combination of built or undeveloped properties - or a part of such - is in use by the same legal entity and, judged in the circumstances, belongs together, then this also concerns a single WOZ property (combination definition). It is not sufficient in this connection that this combination is used by the same legal or natural person; there has to be a unit. The physical criteria are decisive when assessing the actual situation, for example, a house with a shed and a garden or a factory complex consisting of an office building, factory space and a storage area. If an object has been designated within the context of the WOZ decision as an independent immovable property or has been treated as part of a combination within the meaning of the combination definition, the energy tax will seek alignment therewith. A clarification of the combination definition has been provided in the Decree dated 3 April 2015, BLKB 2015/370M. Your PwC advisor can provide you with further information.

Subsidies

The European Union, the Dutch government and various local authorities provide a range of subsidies or credits for enterprise activities. Subsidies are provided by the government to encourage businesses to make particular investments or perform particular activities. Examples include developing new business, supporting innovation, promoting international collaboration with other businesses, achieving energy savings or using renewable energy, as well as the recruitment of specific target groups to the business.

Many subsidy schemes have been converted into tax schemes in recent years. In other words: schemes that involved a cash subsidy have been converted into tax 'subsidies' that result in an additional tax deduction. Thus the investment facilities already dealt with in this publication likewise form the greater part of the Dutch policy instruments for the promotion of R&D, renewable energy, sustainable development and training & employment.

Top sector policy

The remaining schemes to encourage innovation that have not yet been dealt with are, for the most part, currently connected to top sector policy. Top sectors are those areas in which Dutch business and research centres excel on a global scale.

To further enhance the competitive position of these sectors, the Minister of Economic Affairs has made budgets available to encourage research and innovation projects by businesses and knowledge institutes. Within each top sector, relevant parties have joined together in one or more Top Consortia for Knowledge and Innovation (TKI). These TKIs have set research agendas and objectives for the years ahead. All innovative organisations can reach out to join a TKI, and each TKI has its own financial instruments that can be claimed by an organisation affiliated with the TKI. These can vary from funding for R&D projects by making additional research capacity available from knowledge institutes to engaging innovation brokers for the (further) development of an innovation plan or the participation in networking activities by small and medium-sized enterprises.

Horizon 2020

The new European financial instrument for innovation (Horizon 2020) - with a budget of EUR 80 billion for the years 2014-2020 - grants subsidies for intensive collaboration between public and private parties and application-oriented research. Horizon 2020 has been made available to a wider group of applicants via the integration of the European Seventh Framework Programme (FP7), the Competitiveness and Innovation Framework Programme (CIP) and the European Institute of Innovation and Technology (EIT). Whereas the emphasis previously lay on research that was remote from the market (fundamental research), the new programme is inviting projects that are closer to the market and in respect of which collaboration within the chain is preferred. This means that Horizon 2020, the most significant European financial instrument for innovation, has become more accessible to industry.

Nine top sectors

The nine top sectors are: Agri & Food, Chemistry, Energy, Water, Creative Industry, High Tech Systems and Materials, Horticulture and Source Materials, Logistics, and Life Science & Health.

Three pillars

Horizon 2020 has the following three pillars:

1. Excellent Science

The programmes under Excellent Science aim to strengthen and secure the European scientific research base in order to enhance the competitiveness of European knowledge and innovation on a global scale. The programmes in Excellent Science are primarily aimed at academic researchers and research groups. In most cases, the programmes are bottom-up, meaning that when submitting a proposal the applicant has a free choice of topic, albeit within the parameters of the programme. It concerns programmes within the European Research Council, Future Emerging Technologies, Marie Curie and Research Infrastructure.

2. Industrial Leadership

The aim of the Industrial Leadership programme is to make Europe a more attractive and successful location to invest in research and innovation. Programmes within this pillar are strongly driven by an industrial agenda. At the programme's core are the Key Enabling Technologies (KETs), in which European industry wishes to take the lead and which may impact on various sectors.

The following KETS have been identified by the European Commission as being strategic for Europe:

- Information and Communication Technologies (ICT);
- microelectronics and nanoelectronics;
- photonics;
- nanotechnologies;
- advanced materials;
- biotechnology;
- advanced manufacturing and processing;
- space.

3. Societal Challenges

Within the third pillar of the Horizon 2020 programme, societal challenges play a significant role. By formulating specific themes as challenges here, Horizon 2020 aims to bring together funds and knowledge from various area of technology in order to find innovative and effective solutions for the societal challenges identified.

The funding of projects is centred around the following topics:

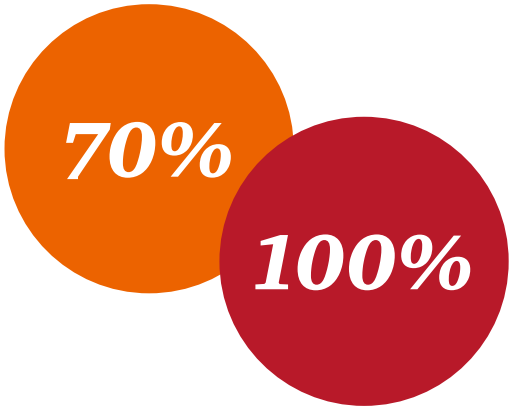
- health, demographic change and wellbeing;
- food security, sustainable agriculture and forestry, marine and maritime and inlands research and the Bio-economy;
- secure, clean and efficient energy;
- smart, green and integrated transport;
- climate action, resource efficiency and raw materials;
- inclusive, innovative and reflective societies;
- secure societies.

Project proposals

For most of the aforesaid themes, tenders ('calls for proposals') will be invited by the European Commission, for which businesses, as well as knowledge institutes - often in the form of international consortia - can submit proposals. Projects will be assessed by independent experts based on criteria of 'Science & technology', 'EU impact' and 'Implementation'.

Financing of 70 to 100 per cent is possible for the project proposals adopted by the European Commission.

PwC can help you to test and further develop your project idea into a fully-fledged project plan or business plan, to attract the necessary public or private partners for successful implementation and to raise the related public funding, including subsidies. Where necessary, the PwC Global Incentive Services Network (PwC GIS) will be deployed to assist your organisation in tapping and exploiting local funding sources outside the Netherlands. In addition, PwC has specific experience in advising universities, businesses and cluster organisations on acquiring and managing EU financing, and has advised the European Parliament on the creation of Horizon 2020.



Financing of 70 to 100 per cent is possible for the project proposals adopted by the European Commission

Solar panels of private individuals

Private individuals who purchase solar panels and thus supply power to their energy supplier are conditionally entitled to a refund of the turnover tax (VAT) that was charged in respect of those panels.

Target group

Private individuals who purchase solar panels in 2016 for the purpose of generating energy are entitled, subject to conditions, to a refund of the VAT that was charged in respect of the purchase and installation of those panels if they supply power to their energy supplier by means of those panels.

Conditions

In order to qualify for the refund of the VAT that was charged, you will have to register with the Tax Authorities as an entrepreneur for turnover tax. The first VAT return must be submitted in the year of purchase.

VAT due

You owe VAT in respect of the supply of power. If you choose to do so, you have the right to apply fixed amounts that have been determined in advance for the calculation of the VAT that is due. These amounts are dependent on the generating capacity of the panels. You do not charge VAT to your energy supplier if you assume a fixed amount.

Exemption from administrative obligations

If you owe less than EUR 1,345 in VAT in the years after the purchase, you will have the right to apply for an exemption from the administrative obligations. You will not be required to submit a VAT return either.

Formal rules

Compliance with formal rules is a precondition to being given access to the various investment facilities. For example, it is important that any notification deadlines are duly observed. In addition, you may object to (and appeal against) the refusal of a request for application of an investment facility.

Notification deadlines

For entitlement to investment facilities, it is important that any notification deadlines are duly observed. For example, a claim for the EIA, MIA and/or VAMIL must be made within three months of entering into the obligation (obligatory agreement) or after expiry of the calendar quarter in which the production costs were made. The application for the WBSO (R&D allowance and R&D rebate) must be submitted to RVO.nl. As regards the refund of energy tax, a request may be made once a calendar month has ended, but must be made within thirteen weeks of the end of the calendar year.

It is advisable to check what the notification deadline is per individual scheme.

Objection and appeal

Naturally, it is possible to object to (and appeal against) the refusal of a request for application of an investment facility. However, sometimes different rules apply. We therefore recommend that you consult your PwC advisor if you wish to enter an objection or lodge and appeal against a decision of an administrative body such as RVO.nl or the Tax Authorities.

Contact

Further information?
Would you like more information about these investment facilities? Or do you need an overview of the options available for your organisation? If so, please contact your PwC advisor, who will gladly provide further assistance.

This is a publication of the Knowledge Centre Tax. If you have any questions about this publication, please contact below mentioned contact person, the author, or your PwC advisor.

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