

Innovation Box

Dutch corporate income tax incentive for innovative enterprises

September 2024

Innovation Box in a nutshell

Favourable corporate income tax rate of 9% instead of 25.8%

Profits derived from innovative self-developed intangible assets are taxed at a CIT rate of 9% instead of the statutory Dutch CIT rate of 25.8%. Hence, only profitable innovations are eligible for the incentive.

Two requirements or 'entry keys' for larger taxpayers*



(1) Intangible asset entry key

The possession of a **self-developed intangible asset** that has resulted from activities for which a so-called **R&D certificate (WBSO)** has been issued



(2) Legal entry key

Patents, breeder's rights, approval of medicines and other legal rights (also possible via exclusive license)

Or

Software development

*Larger taxpayers that are part of a group with a consolidated turnover of at least € 50 million or a gross income from innovations of at least € 7.5 million in that current year and the four preceding years must adhere to both entry tickets. Smaller companies not meeting these size-criteria only have to be in possession of the Intangible asset entry key.





➤ Intangible asset entry key further explained

The possession of a **self-developed intangible asset** that has resulted from activities for which a **R&D certificate (WBSO)** has been issued.

Intangible asset

- Source of income (ownership of asset).
- Identifiable, separable and transferable.

Self-developed

- 'Arising' from own WBSO activities.
- Implies developed in the Netherlands itself, meaning that the R&D is **coordinated and directed** in the Netherlands. **Coordinating and directing in the Netherlands** such as, but not limited to:
 - Personnel with expertise on the matter bearing responsibility for the choices made during the research and development process as well as its planning;
 - Budgeting;
 - Assessing whether the conducted research is successful.

Outsourcing and purchased IP

- An intangible asset can under circumstances still be considered self-developed in the Netherlands if R&D is outsourced to third parties. It is important that the R&D is coordinated and directed in the Netherlands.
- Similar to outsourcing to third parties, R&D can be outsourced to group companies if the R&D is coordinated and directed in the Netherlands. However, if more than ~23% of R&D is outsourced to group companies, the innovation box benefit will be reduced. Permanent establishments of the Dutch company applying for the innovation box are not considered group companies.
- An intangible asset that was not originally self-developed by the taxpayer (for example, purchased IP) is only eligible for the innovation box if it is further developed by the taxpayer. Only benefits attributable to the further development will be eligible for the innovation box.



Determining the benefit

To determine the benefit of the innovation box, typically the following **three** methods of are applied. In practice the 'peel-off' method is most common.

The 'Peel-off' method ('*Apfel*methode')

- This method is used when R&D is considered a **core** function of an enterprise.
- On a high-level, with regard to the determination of the benefit a distinction needs to be made between '**innovative**' and '**general**' profit. The innovation box is only applicable to the '**innovative**' profit.
- **Transfer Pricing methodology** is used to determine the appropriate percentage to allocate to the R&D, which is based on several criteria.
- **Generally**, 30-40% of the EBIT after accounting for routine functions is allocated to R&D. For companies with consistently high WBSO hours, this percentage can range from 40-60%.

The Cost-plus method

- This method is applied when R&D is considered a **support** function for the company.
- To determine the profit with this method, typically, the **transactional net margin method** is applied, with a cost-plus markup ranging from 10-15%.

The Determination of benefit per asset

- This method can be applied if the benefits and costs can be determined for **specific intangible assets**. For instance, some royalty payments.
- Furthermore, this approach is generally applicable if the company produces **incidental innovations**.

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