Part One: R&D incentives under domestic tax taw

1.1 Introduction

In the first part of this report, the reporters will provide a detailed overview of R&D incentives under Dutch tax legislation. The report will begin with a general overview of business income taxation (1.2) as well as with tax policy considerations relating to the introduction of R&D incentives (1.3). The discussion then moves specifically to input (1.4) and output (1.5) R&D incentives. The second part of this report will focus on the international context of R&D incentives.

1.2 Brief overview of business income taxation

Corporate income tax is levied from entities listed in article 2 (1) of the Corporate Income Tax Act 1969 (CITA). These include, among others, public companies (NV) and private companies (BV) as well as open limited partnerships, i.e. the limited partners can dispose of their share without the permission of all other limited or general partners (the profit share of the general partners is deductible).

Resident entities are subject to taxation on worldwide income. Non-resident entities of similar description are only subject to tax in case they derive certain types of Dutch source income, e.g. via a permanent establishment. Limited partnerships, other than the open limited partnerships mentioned above, and general partnerships are not taxed as companies. Their partners are taxed separately on their share of the profits against the applicable (personal) income tax rate. The principles to determine worldwide income are generally the same for corporate tax payers and self-employed individuals, apart from some exceptions.

Corporate income tax is levied at the following rates (2014):
€ 0 - € 200,000 20 per cent;
€ 200,000 and more 25 per cent.
The personal income tax rate (2014) is gradual from 36.25 per cent (including social security contributions) to 52 per cent.

Corporate tax payers may elect a special optional effective tax rate of 5 per cent for income attributable to (patented) intangible assets: the innovation box (Article 12b CITA), which will be discussed in more detail below.

1.3 Tax policy considerations relating to R&D incentives

1.3.1 “General tax climate” for R&D

The general tax climate for R&D companies in the Netherlands is favorable. In general, R&D expenses can be fully deducted from taxable income in the year these expenses occurred (the accelerated depreciation IP provision). Furthermore, the Dutch government has created a competitive tax regime that stimulates entrepreneurship and foreign investment in the Netherlands. Attractive features of the Dutch tax regime, apart from the R&D incentives, include:

- A statutory CIT rate of 25 per cent;
- Participation exemption (100 per cent for both dividends and capital gains);
- Fiscal unity regime;
- Favorable tax treatment for qualifying expats (tax free 30 per cent allowance);
- There is no capital tax and no withholding tax on interest and royalties;
- Extensive treaty network;
- The Netherlands has a one year carry back of losses and nine year carry forward of losses;
- Possibility of obtaining advance tax rulings.

1.3.2 Reasons for introducing R&D incentives

The Netherlands has attached great importance to innovative research for many years and introduced its first R&D tax incentive as early as 1994: the Wage Tax reduction for R&D (WBSO). In line with the European Union's Lisbon Strategy[1], the R&D incentives were further expanded. The ultimate goal of the Lisbon Strategy was to transform the European Union into the most competitive knowledge based economy of the world by 2010.[2] One of the key milestones was for EU Member States to create better conditions for private investments in R&D by targeting R&D investments of 3 per cent of gross national product.
This resulted in the introduction of the patent box per 2007 (per 2010 renamed in innovation box), an optional favorable tax regime for income attributable to patents, and the introduction of the research and development allowance (RDA) in 2012. The RDA aims to decrease the direct costs of R&D other than wage costs. Together with the innovation box, the combination of the WBSO and RDA is supposed to create a strong and complete package of tax incentives to stimulate innovative activities for Dutch taxpayers, high quality employment, increase private R&D investments and foster the innovative power of the Dutch economy.[3]
The tax incentives will be discussed in more detail in paragraph 1.4 and further.

The Netherlands' objective is to become one of the world's top 5 knowledge economies globally by 2020. In 2011, more details on the new R&D and innovation policy were presented in two main policy documents:

- *To the Top - Towards a new enterprise policy*, where new 'innovation policy' is presented by the Ministry of Economic Affairs, Agriculture and Innovation.

- *Strategic Agenda for Higher Education, Research and Science*, published by the Ministry of Education, Culture and Science and which is aligned with the aforementioned policy memorandum.

The new R&D and innovation policy aims for fewer specific subsidies (grants) and more generic R&D tax incentives. Some of the changes in Dutch innovation policy are based on the political assessment that grants are not the most effective way to stimulate innovation. Instead, tax reductions, credit schemes and regulatory reforms are seen as a better way. While all innovation policy instruments are regularly evaluated, the cabinet did not see sufficient 'hard' evidence that grant schemes had substantial effects on the innovativeness and competitiveness of the Dutch economy.

1.3.3 R&D incentives, equality of treatment and ability to pay

Most tax systems are subject to a constitutional framework requiring tax law to achieve equity and fairness. In particular, it is generally settled that tax rules must comply with the principles of universality and equality of taxation as well as with the ability to pay principle. The principle of equality requires that taxpayers in an identical situation be subject to an identical tax burden and taxpayers in a different situation be subject to a different tax burden.
The ability-to-pay principle is commonly interpreted as requiring higher earning tax payers pay a higher percentage of income towards taxes (a progressive rate structure).
By introducing R&D fiscal incentives, a tax system potentially creates a distortion in favor of a certain type of activity (i.e. R&D)[4]. The EU Commission has declared this distortion in itself does not make an incentive selective and therefore the incentive is not brought into the scope of the EU State aid rules. These rules contain the element of equality of taxation. The Dutch government has

[1] The Lisbon Strategy was an action and development plan for the EU economy between 2000 and 2010. It was developed by the European Council in Lisbon in March 2000.
[2] The EU Commission has incorporated the target of investing 3 per cent of gross national product in R&D again in the new strategy Europe 2020, which has succeeded the Lisbon Strategy.
[3] Kamerstukken II 2005/06, 30572, nr. 3, p. 10; Kamerstukken II 2005/06, 30572, nr. 8, p 25-26.
[4] See also OECD 2013, Supporting Investment in Knowledge Capital, Growth and Innovation, OECD Publishing, p. 132.

taken the compatibility of the tax incentives with the EU fundamental freedoms and the EU State aid rules into account. These incentives are generic and non-selective as there are no territorial restrictions, nor restrictions on potential beneficiaries. This issue will be further elaborated on when discussing the international context of the R&D incentives in the second part of this report.

Corporate income taxes are usually defended on the ground of the benefit principle rather than the ability-to-pay principle. By introducing tax incentives, redistribution of contributing capacity takes place either by direct income transfers, negative income taxes (e.g. via reduction of taxable base) or refundable credits.
The WBSO is both applied by small and medium sized enterprises (SME's) and MNE's. The maximum amount of wage cost reduction per tax payer per calendar year amounts to € 14 million (2014). As a result, the SME's benefit relatively more than large multinationals, in line with the ability-to-pay principle. As regards to the RDA and innovation box this is not the case. The progressive income tax rate structure for self-employed individuals could potentially result in a relatively higher benefit of the RDA for the higher taxed individuals. The same applies to the corporate income tax payers benefitting from the RDA or the innovation box, as The Netherlands has a limited progressive corporate income tax rate. Therefore the ability-to-pay principle has only influenced the Dutch R&D tax incentives to a limited extent.

1.3.4 Eligible taxpayers

Eligible tax payers are tax payers who qualify as an entrepreneur. Entrepreneurs can be self-employed individuals or taxable bodies as listed in article 2 (1) CITA. Self-employed individuals are only eligible to R&D input incentives (WBSO and RDA), while corporate tax payers are eligible to both R&D input incentives as well as R&D output incentives (innovation box). This applies to both residents of the Netherlands as well as non-residents with a permanent establishment in the Netherlands.

1.3.5 R&D incentives: MNEs versus SMEs?

The Netherlands R&D tax incentives that apply to both corporate as well as to individual tax payers are generic and do not distinguish between SME's and MNE's. The Dutch Innovation Policy described before does however have special focus to SME's. In addition to the generic tax incentives, other incentive schemes are contemplated to stimulate the involvement of SMEs in innovation.

The RDA benefits SME's and MNE's relatively the same, however research learns execution is perceived to be complex and claims often cannot be filed without the help of a tax advisor due to lack of specific knowledge within the company. This may be a bigger barrier for SME's than MNE's, but practice shows, this barrier does not seem too high.

Per 2013 a simplified profit attribution for the innovation box is allowed to make this incentive more accessible for SME's.[5]

1.3.6 Definition of R&D for tax purposes

One of the critical issues when designing R&D incentives is the definition of R&D for tax purposes. Article 12b CITA (innovation box) does not define R&D nor an intangible asset. The question is if a specific definition is necessary taking the entry-tickets to the innovation box into account. The entry-tickets are a patent related self-developed IP or an R&D certificate[6] for unpatented IP (innovative activities). Article 1, letter n of the Wet vermindering afdracht loonbelasting en premie volksverzekeringen 1995 (WVA), and the Afbakeningsregeling speur- en ontwikkelingswerk 1997 (and later versions), define the innovative activities or search and development activities for which an R&D certificate can be obtained.

[5] Decree of 21 December 2012, DB 2012/475M, article 7aa Uitvoeringsbesluit vennootschapsbelasting 1971.
[6] R&D certificates are issued by RVO, an agency of the Ministry of Economic Affairs, if and when it has determined that the taxpayer's activities are sufficiently innovative and the tax payer employs personnel with regard to these activities.

The R&D activities have to be systematically organized and performed in an EU country in one of the following area's:

1. Development of products, processes, software or parts thereof. This development involves new technical solutions for the company, it is not relevant whether other companies may have knowledge of the respective topic already. It is important there are technical risks and uncertainties involved, otherwise no R&D certificate will be granted.
2. Conducting technical scientific research aiming at generating new technical knowledge; (this involves basic research which will in general not qualify for innovation box).
3. Technical feasibility studies of the R&D activities, with the exception of analysis mostly related to economic and financial feasibility thereof.
4. Technical research aiming at improvement of production processes or software used in the own company.

This definition of R&D has a lot of similarities with the definition provided by the OECD 2002 Frascati Manual which is generally regarded as a starting point of defining R&D by most jurisdictions. However, there is also a clear distinction between the R&D definition in the WVA and the Frascati Manual: the WVA definition of R&D is broader than the definition of R&D in the Frascati manual, i.e. has a lower threshold. Whereas an invention is patentable only when the invention is "new to the whole world", within the context of above WVA R&D definition it is only required that the result from the R&D activity is new to the taxpayer. In addition, the WVA R&D definition provides more possibilities to bring software development under one of the tax incentives, especially the innovation box.

Another frequently used starting point to define R&D is the 2005 Oslo Manual regarding guidelines for collecting and interpreting innovation data. This manual defines innovation as: "(1) the implementation of a new or significantly improved product (good or service), or (2) process, (3) a new marketing method, or (4) a new organizational method in business practices, workplace organization or external relations", so actually distinguishing four types of innovation. The Dutch definition focusses on (1) and (2) only.

1.4 R&D input incentives

1.4.1 General overview of R&D input incentives

The Netherlands provides R&D input incentives on costs related to R&D activities. The R&D input incentives are divided into two categories:

1. an incentive on costs of labor performing the R&D activities as defined in paragraph 1.3.6, the WBSO, and
2. an incentive on costs related to assets used for R&D activities and operational expenses other than labor costs or costs related to outsourced or contracted R&D, the RDA.

The general features of these incentives will be further discussed in paragraph 1.4.3.

In addition, based on article 3.30 CITA, the R&D expenses can be fully deducted from taxable income in the year these expenses occurred.

1.4.2 Privileged R&D expenditures

The definition of R&D tax qualifying expenditures is of critical importance when designing an R&D input incentive. The deduction under the WBSO for self-employed individuals fulfilling the criteria is a lump sum amount (the search and development deduction layed down in article 3.77 Personal Income Tax Act (PITA); hereafter: S&D deduction). The WBSO incentive for other tax payers with employees has the form of a wage cost reduction related to employees that perform R&D activities in one of the four categories described in paragraph 1.3.6.

The RDA aims to decrease the direct costs of R&D (within the definition of R&D in paragraph 1.3.6) other than wage costs. The qualifying costs are further specified in Article 1 of the RDA Decree.[7] These costs need to “burden” the tax payer (article 1(d) (3◦) RDA Decree), i.e. costs that are subsidized or otherwise reimbursed to the tax payer do not qualify. Article 5 of the RDA Decree classifies some cost categories which do not qualify for the RDA. For instance, depreciation of assets used to perform R&D activities, financing costs, costs of outsourced research and costs of hiring labor.

1.4.3 Tax credit versus allowance

There has been hardly any debate during the Parliamentary discussion on why the law maker favored input and output R&D tax incentives over tax credit incentives. When the innovation box was introduced, it was noted that by introducing an R&D incentive in the form of a taxable base reduction, ultimately a taxable base remains to which the statutory tax rate applies, including the normal rules for loss compensation. This would prevent having to introduce a new, separate set of loss compensation rules (like in case of carry forward of unused tax credits), which was considered to be complex.

For self-employed individuals, the WBSO allows for a deduction of € 12.310 (2014) from his or her taxable base in case he or she spends more than 500 hours per year on R&D or innovative IT projects. For self-employed individuals who commenced a new business less than five years ago and have not yet claimed this deduction more than twice, the deduction is increased with € 6.157 (2014), provided the company is not converted into a sole proprietorship or partnership.
For other tax payers with employees, the WBSO takes the form of deductions of wage tax and social-insurance contributions with a slightly increased administrative burden compared to self-employed individuals. As a rule, in 2014 the R&D allowance amounts to 35 per cent of the first € 250,000 of the wage bill for R&D per calendar year, and 14 per cent of the remaining R&D wage bill. The maximum reduction per employer per calendar year is € 14 million. The R&D allowance for start-ups (so-called techno starters) amounts to 50 per cent of the first € 200,000 of the wage bill for R&D per calendar year, and 14 per cent of the remaining R&D wage bill. The income generated by qualifying R&D activities may qualify for the application of the innovation box.

The RDA is a general tax facility which seeks to reduce companies' R&D operating costs and investments in R&D assets. It does not apply to R&D wage costs or to costs related to outsourced or contracted R&D. The RDA is a super-deduction: in addition to the accelerated depreciation IP provision, a deduction from the annual taxable base of a percentage on every Euro spent will be applicable to R&D expenses which can be directly linked to the qualifying cost categories as described in the RDA Decree. The RDA deduction percentage for 2014 has been fixed at 60 per cent. The RDA has no limit as to the maximum amount that can be claimed in any given year.

1.4.4 Territorial scope

The scope of R&D input incentives depends on whether the latter are subject to certain territorial restrictions, for example the requirement that the research activity (or subcontracted research activity) be conducted in the country and/or that the IP be owned by a resident of the country. For the RDA as well as the provision on accelerated depreciation of IP no such restrictions apply. Obviously the WBSO only applies to employees subject to Dutch wage taxes.

1.4.5 Anti-avoidance provisions

Eligibility to the WBSO and the RDA requires an R&D certificate. Before obtaining an R&D certificate, RVO[8] checks whether the necessary requirements have been fulfilled. As a result of this, there is no need for (additional) anti-avoidance provisions related to R&D input tax incentives in the law.

[7] Decree of 21 December 2011, Staatsblad 2011, 657.
[8] See footnote 6.

1.5 Output R&D fiscal incentives (patent box or similar incentive)

1.5.1 General overview of output incentives

Per 2007, the Netherlands introduced the patent box, which was renamed into innovation box per 2010. In the meantime there have also been modifications to the box regime. This output incentive, to be further discussed below, may be used in combination with the aforementioned input incentives.

1.5.2 Definition of privileged IP rights

Under the innovation box companies can benefit from an effective tax rate of 5 per cent for allocable R&D income from self-developed patented intangible assets and also from self-developed unpatented intangible assets for which an R&D certificate has been obtained.[9] Intangible assets developed by another party for the risk and account of a Dutch taxpayer (contract R&D) can also qualify for the innovation box[10].

The innovation box is not applicable to income attributable to other types of intellectual property, like trademarks and logos. So the Netherlands has adopted a relatively narrow approach with regard to the identification of IP rights that will benefit from the innovation box. An adequate delimitation of the box was considered necessary to keep the measure practical and also controllable from a budgetary perspective. Also, legislature regarded a general term such as "know how" as being too vague. As the attribution of expenses and proceeds is already difficult enough, legislature intended to minimize discussion as much as possible on the question of which type of innovation qualifies for the purpose of the innovation box. Therefore access to the innovation box is linked to legally protected rights in a public register, which is an objective measure. Brands and logos are excluded, because the success of brands and logos largely depends on marketing strategies, in contrast to the clear relation with (technical) innovation in case of patents. As of 2008, the innovation box can also be applied to unpatented R&D for which an R&D certificate has been received from RVO. This way the tax-inspector doesn't have to evaluate the innovative nature of the activities and related costs himself.

1.5.3 Acquired IP

The innovation box is only available in case of self-developed IP or developed for the risk and account of the tax payer. During the parliamentary discussion about the innovation box, it was mentioned that in certain cases, acquired IP that will be further developed by the tax payer may become part of a new (larger) self-developed IP eligible for the innovation box. This will obviously depend on facts and circumstances.

In order to avoid the situation that both transferor and transferee can benefit from the innovation box, the transferee can only apply the reduced effective tax rate of 5 per cent to the proceeds of the further developed IP to the extent the acquisition price is exceeded (threshold amount).

1.5.4 Pre-existing IP

The innovation box is only applicable to patented IP developed or redeveloped from 2007 onwards and IP from approved R&D projects from 2008 onwards. In many cases, profit contributing IP already exists before applying the innovation box. That IP often still contributes to profits once the innovation box is applied for. As it will not be easy to determine a detailed asset driven profit split for existing IP, in practice often a functional split is applied. In such a split the profit contribution of the "old" IP, taking into account the actual technological development of the new replacing products, is considered to decrease gradually ("phase-in approach"). The reduced tax rate is only applicable as far as income exceeds the development costs of the "phased-in" IP.

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[9] See Innovation box Decree 1 September 2014, nr. BLKB2014/1054M, Staatscourant 2014 nr 25141.
[10] See for more discussion also "Verslag 36e Fiscale conferentie van de NOB 'De innovatiebox'", IJ. de Nies en A.M. Schure, WFR 2014/7039.

1.5.5 Development condition

In order to be eligible for the benefits of the innovation box, the IP needs to be either self-developed or developed for the risk and account of the tax payer. In case of contract R&D for the risk and account of tax payer the innovation box can be applicable. In the November 2013 Transfer Pricing Decree[11] the State Secretary of Finance has issued guidelines as to which extent activities can be outsourced. Based on the Parliamentary history, a taxpayer is under certain circumstances still eligible for the innovation box if the taxpayer has carried out more than 50 per cent of the R&D activities itself or has supervised the R&D activities. In the case of supervising activities, it is essential that R&D certificates are obtained (at least in part) for the R&D supervising activities. In the line with EU law, it is not required the (contracted) R&D activities resulting in a patent are taking place in the Netherlands.
The parliamentary history of the innovation box confirms that participating in a cost contribution agreement does not necessarily preclude the application of the box. This is because in a cost contribution agreement, parties share the ownership of the IP and therefore in their co-ownership qualify for the innovation box.
For the unpatented IP, the R&D activities have to be performed by the tax payer's own employees in order to obtain an R&D certificate. So this requirement implicitly also applies to the innovation box.

1.5.6 Privileged IP income

The innovation box regime is optional. Under the current regime, income derived from a self-developed patented intangible asset developed after 31 December 2009 is subject to an 80 per cent corporate income tax base discount. This results in an effective tax rate of 5 per cent on qualifying profits, provided the patent right contributes at least 30 per cent to the profit derived from the use of this intangible asset. In practice this profit attribution is determined using transfer pricing principles. The principles are depending on whether R&D is a key function (usually: indirect residual profit method) or whether the taxpayer only markets the IP through licensing and the receipt of royalties (then usually a direct method is more appropriate, e.g. a cost-plus).

Effective 1 January 2011, the reduced rate also applies to profits derived from the use of an intangible asset starting in the year in which a patent was requested until the year in which the patent was granted.

The innovation box also applies to unpatented intangible assets which result from R&D activities for which an R&D certificate was obtained as well as breeders rights (a form of agricultural patents). From 2010, there are no restrictions as to the maximum amount of eligible net earnings. Furthermore, operational losses incurred under the innovation box are deductible at the statutory corporate income tax rate (25 per cent). However before using the innovation box, previous losses must first be recaptured at the regular tax rate.

The reduced effective tax rate of 5 per cent is only applicable to income derived from the use of an intangible asset that exceed the asset's development costs (threshold amount). The development costs are all costs incurred for the development of the innovation, regardless of the operational function. The costs for fundamental research are excluded from the development costs to the extent that they are not directly linked to the developed innovation.

Capital gains derived from the transfer of qualifying intangible assets are also subject to the 5 per cent rate.

For royalties derived from a self-developed patented intangible asset developed after 31 December 2006 and before 1 January 2010, the innovation box applies only up to a maximum of four times the production costs of the intangible asset. However, under a transitional regime, income derived from those intangible assets is now also subject to an effective tax rate of 5 per cent up to this

[11] Link to English translation of the decree: http://www.government.nl/documents-and-publications/decrees/2014/03/25/ifz2013-184m-international-tax-law-transfer-pricing-method-application-of-the-arm-s-length-principle-and-the-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-oecd-guidelines.html

maximum amount. Any excess is taxed at the statutory tax rate. In the case of a transfer of the assets, the maximum amount is reduced with the gain derived on such transfer.

Effective 1 January 2013, the taxpayer may opt to attribute 25 per cent of profits, with a maximum of € 25,000, to the innovation box if he has developed an intangible asset qualifying for the box in the current year or 2 preceding years, rather than applying the full innovation box regime. This simplified regime may only be applied in the year in which the intangible asset was developed and the 2 subsequent years.

1.5.7 Anti-avoidance provisions

The innovation box has two clear defined entrance tickets for the innovation box. There is not much room for debate on this aspect, because of the clear design of the measure. Profit allocation to the innovation box is based on transfer pricing principles. Therefore there is no need for specific anti-abuse rules in the law.

1.5.8 Credit for foreign withholding taxes

Article 36 paragraph 1 of the Decree on the avoidance of Double Taxation 2001 (hereafter: DADT 2001) intends to grant double taxation relief for withholding taxes on, inter alia, royalties that are included in the Dutch tax base to the amount of withholding taxes actually withheld, but in any case to no more than the Dutch corporate income tax levied on the (net) royalties. As a result of the Dutch innovation box, the profits (among other royalty income) are excluded from the Dutch taxable base for 80 per cent, eventually resulting in an effective tax rate of 5 per cent. Therefore, article 36a DADT 2001 was introduced to avoid any possible undesired outcome of article 36.[12] Article 36a DADT 2001 does not require that the royalty is included in the Dutch taxable base, but requires that article 12b CITA applies to the received royalty.

Article 36 and article 36a DADT 2001 grant a tax credit amounting to the lowest of the two limits, being:

a) The amount of paid foreign withholding taxes; or
b) The pro rata Dutch corporate income tax due over the foreign income in comparison to the worldwide income.

Unfortunately, the wording of article 36a DADT 2001 is not fully clear. Different readings of article 36a DADT 2001 could result in a different amount of tax credit. This analysis is however beyond the scope of this report.[13]

Based on article 37 DADT 2001 withholding tax for which no credit was granted, can be carried forward to future years. The text of article 37 does not distinguish between innovation box royalties and other foreign income. However current view of the Tax Authorities is that the distinction between article 36 and 36a carries forward as well.

1.6 Procedural requirements

In order to take advantage of the input and output R&D incentives described in this report, certain procedural requirements must be fulfilled.

All input incentives require that an R&D certificate is received. For the wage tax reduction under the WBSO this declaration can be requested for a period of between three and six consecutive calendar months within a calendar year and for up to three periods per calendar year. An application for such declaration must be filed at least four weeks prior to the beginning of the period in which the R&D activities are initiated.

[12] Kamerstukken II, 30 572, NV II, nr. 8, p. 85-86 en NVT bij AMVB van 20 december 2007 tot wijziging van enige fiscale Uitvoeringsbesluiten, Stb. 2007, 537.
[13] See more extensively “Verrekening van bronbelasting op octrooiboxroyalties”, T. Bender en R. Hamers, WFR 2009/6785 and see footnote 9 and 10.

Also in case a self-employed individual would like to take advantage of the deduction of € 12.310 per calendar year, an R&D certificate is required and can be requested for ultimately three months before the end of the calendar year.

In case the RDA is applied, the tax payer is obliged to keep a proper account of his R&D costs and expenses for five years from the end of the period to which the authorization to deduct R&D costs relate. In addition, within two months after the calendar year to which the R&D certificate relates, the books and accounts must be available for a tax audit and the tax payer has to give notice to all costs and expenses to the department issuing the R&D certificate.

As the innovation box is an optional regime, taxpayers have to check-the-box in the respective corporate income tax return to apply this regime. Taxpayers can apply for an agreement with the local tax inspector (ruling). The Dutch tax authorities have installed a group of inspectors specialized in innovation box who monitors and process all ruling requests.

Part two: R&D incentives in an international context

2.1 Introduction

In the second part of this report the reporters will discuss R&D incentives in an international context. The reporters begin with the topic eligible taxpayers and territorial scope of R&D incentives (2.2) as well with patent box regimes and harmful tax competition (2.3). This part ends with a discussion on intangible assets and BEPS situations (2.4).

2.2. Eligible taxpayers and territorial scope of R&D incentives

2.2.1 Compatibility with the non-discrimination provision of DTCs

The Dutch DTC's have a similar non-discrimination provision as article 24 (3) OECD MC. Therefore, according to the DTC's, taxation of Dutch PE's of foreign enterprises may not be less favorable than taxation levied at Dutch residents carrying on the same activities.
In national tax law, article 18 (1) CITA determines the taxable profit of Dutch PE's of foreign entities. This article states that (1) the accelerated depreciation IP provision; (2) the RDA; and (3) the innovation box equally apply for Dutch PE's of foreign resident entities.
Article 7.2 (1) and (2) PITA determines the taxable profit of Dutch PE's of foreign individuals. This article states that (1) the accelerated depreciation IP provision; (2) the RDA; and (3) the S&D deduction for entrepreneurs equally apply to Dutch PE's of foreign individuals.
Also the WBSO applies equally to Dutch resident taxpayers as to Dutch PE's of foreign entities or foreign individuals.[14] The non-discrimination provision could also be relevant in case of crediting withholding taxes. For triangular cases with a Dutch resident entity who also conducts business through a PE in another country, the Netherlands applies under DTC's in principle the exemption method as a method to avoid double taxation. It is possible that part of the PE income consists of a royalty from a third country, to which the third-country levied withholding taxes. The question in such a case is whether the Netherlands, in addition to the exemption from the profits of the permanent establishment, based on the tax treaty with the third country will also need to give a credit of foreign withholding taxes. The Supreme Court[15] ruled that Japanese withholding taxes on royalties attributable to a Swiss permanent establishment is not creditable in the Netherlands. The State Secretary for Finance[16] took a similar position in a case regarding a Dutch NV who received interest from Canada, Italy and Japan that was attributable to a permanent establishment in Belgium. The Canadian, Italian and Japanese withholding taxes are not deductible in the Netherlands because the interest income is allocated to Belgium, and on balance, no tax is payable in the Netherlands as the Belgian income is exempt by the Netherlands.

The provision of article 12 (3) OECD MC for the taxation of royalties, which should be allocated to a PE in the other treaty State, shall apply only with respect to royalties derived from that other treaty State. This provision therefore does not apply to royalties derived from third States. According to article 7 OECD MC royalties received from third states are taxable in the PE State. With regard to withholding taxes withheld by third states on royalties received by Dutch PE's of foreign enterprises a distinction can be made between the situation that a DTC with the third state is applicable or not. When a DTC applies between the Netherlands and the third royalty paying state the Netherlands as PE state must give relief for double taxation.
For so-called "foreign passive income" like interest and royalties, there are little or no effective economic activities of the Dutch PE in the third source state. In those cases, the income is included in the Dutch tax base and the Dutch taxpayer is only entitled to credit the foreign withholding taxes against the Dutch taxation of that income. In a situation without a DTC, according to an unilateral measure, only a credit for withholding taxes levied by developing countries for Dutch resident

[14] Article 1 (1) (l) WVA.
[15] BNB 2002/184
[16] Question and answer Decree international tax, Decree 16 November 2004, IFZ 2004/828M.

entities[17] is under certain conditions possible. Instead of a credit the taxpayer can opt for deducting foreign taxes as costs.

All the more recent Dutch DTC's have a similar non-discrimination provision as article 24 (4) OECD MC. Therefore, according to these DTC's, interest, royalties or other disbursements paid by an enterprise of a contracting State shall be deductible under the same conditions as it was a payment to a local creditor.

Article 5 of the RDA Decree classifies some cost categories which do not qualify for the RDA. For instance costs of outsourced research and costs of hiring labor. This limitations both applies to Dutch costs as to foreign costs. So there is no difference in this regard. Qualifying RDA costs may be both paid to Dutch as foreign suppliers.

2.2.2 Compatibility with EU fundamental freedoms

The Netherlands must as EU Member comply with the fundamental freedoms (free movement of goods, services, persons and capital) mentioned in the EC Treaty. Territorial restrictions, like restriction of R&D incentives solely for domestic activities, are an infringement of the freedom of establishment.[18]
As explained in par 1.4.4 there are no territorial restrictions to the RDA and the provision on accelerated depreciation of IP. With regard to the innovation box part of the R&D can be outsourced. The part of the R&D that is outsourced, can be outsourced to related or unrelated parties and can be carried out everywhere in the world as far as it concerns patented self-developed IP. The R&D however must be done at the expense and risk of the taxpayer, for example based on a service contract. It is also not possible to outsource all R&D functions. For the innovation box both foreign patents as Dutch patents qualify as entry-ticket for the innovation box.

The Dutch R&D incentives do not distinguish between the place where R&D incentives are performed, or where costs are made.

2.2.3 Compatibility with EU State aid rules

The Commission 1998 Notice on fiscal State aid[19] describes four cumulative criteria before a measure can be interpreted State aid within the meaning of article 107 (1) Treaty on the Functioning of the European Union (TFEU) et seq. The criteria are:

- the measure must confer on recipients an advantage;
- the advantage must be granted by the State or through State resources;
- the measure must affect competition and trade between Member States; and
- the measure must be specific or selective.

In literature there is not much debate on the question if the innovation box fulfills the first three criteria of State aid. However with regard to the fourth criteria some controversy can be found in tax literature.[20] The majority view in literature[21] is that the Dutch innovation box regime is a generic tax measure that applies to all companies who are subject to tax under the Dutch CITA (both Dutch based companies as foreign companies), independent of the economic sector in which they operate or the economic activities they perform. The innovation box is open to large and small businesses and is not limited to certain regions. There are no restrictive requirements as turnover thresholds, minimum number of countries to operate, or minimum number of staff. The minority view in literature[22] concludes that the innovation box is selective. The reasoning is that the innovation box is

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[17] Article 36 DADT 2001, lastly changed on 18 December 2013, Stb. 2013, 569.
[18] See also COM (2006) 728 final.
[19] Commission Notice 98/C 384/03.
[20] E.g. A. Rust & C. Micheau, State aid and Tax Law, Kluwer Law International, Alphen aan den Rijn.
[21] See for instance R.H.C. Luja, Boxen, beleggingsinstellingen en staatssteun, WFR 2006/819, Q.W.J.C.H. Kok and J.C.M. van Sonderen, Octrooibox, groepsrentebox en renteaftrekbeperkingen, TFO 2006/155, F.A. Engelen and P.C. van der Vegt, De octrooi- en rentebox: dispariteit, distorsie of steunmaatregel?, WFR 2006/1181.
[22] J.J.D. Veraa, Fiscale Geschriften nr. 25: De octrooibox, The Hague: SDU Uitgevers 2009, p77.

only applicable to taxpayers which are subject to CITA and is not applicable to entrepreneurs who are subject to the Dutch PITA. A reference is made to the ECJ Decision Cassa di Risparmio di Firenze SpA.[23]
During the law making process the question came up if the innovation box also should be possible for taxpayers subject to the Dutch PITA. The State Secretary for Finance argued that it is possible to transfer a (successful) business tax neutral[24] from the PITA to a company (legal entity) which is subject to CITA. A taxpayer can choose without tax burdens the most beneficial option for his/her position. In this regard it is important to mention that in such a case the application of the innovation box is also possible for inventions made by an entrepreneur (subject to PITA) before the transfer of the business to his/her company (CITA regime). Furthermore the reporters believe that natural persons and companies are not in the same position which is legally and factually comparable in respect of direct income taxation. Another conclusion would ultimately mean that differences between the tax rate applicable to undertakings of individuals and undertakings of companies would in itself amount to State aid for one of the categories. Clearly, this cannot be true. As a result, selectivity analysis should be performed within the corporate income tax act alone.

With respect to accelerated depreciation of IP, both corporate taxpayers and taxpayers subject to personal income tax, can use the facility of article 3.30 PITA and deduct all production costs in the year of production. Also the RDA of article 3.52a PITA is both applicable to both corporate taxpayers and taxpayers subject to personal income tax. The Wage Tax reduction for R&D (WBSO) is applicable for both corporate taxpayers and taxpayers subject to personal income tax who have employees performing the qualifying activities. Also for small personal enterprises which are subject to personal income tax, which have no employees and where the entrepreneur is doing the qualified activities by itself, can get a similar R&D deduction in the PITA.[25]

The reporters believe that the R&D incentives in the Netherlands are general measures. There is no case of selectivity and therefore no question of State aid within the meaning of Art. 107 paragraph 1 TFEU. The R&D incentives are open to any taxpayer who satisfies certain objective criteria.

2.3. Patent box regimes and harmful tax competition

2.3.1 Under the OECD BEPS Action Plan

The 1998 OECD report “Harmful Tax Competition” mentions four key factors and eight other factors to identify harmful preferential tax regimes. The four key factors are: (1) no or low effective tax rates; (2) “Ring fencing” of regimes; (3) lack of transparency; (4) and lack of effective exchange of information. The eight other factors are: (1) an artificial definition of the tax base; (2) failure to adhere to international transfer pricing principles; (3) foreign source income exempt from residence country taxation; (4) negotiable tax rate or tax base; (5) existence of secrecy provisions; (6) access to a wide network of tax treaties; (7) the regime is promoted as a tax minimization vehicle; and (8) the regime encourages purely tax-driven operations or arrangements. The current work of the forum on harmful tax practices (FHTP) focuses on regimes which apply to globally mobile activities, including IP. The 2013 OECD BEPS report calls for “solutions to counter harmful regimes more effectively, taking into account factors such as transparency and substance.” The OECD BEPS Action Plan explicitly mentions tax rate deductions for particular types of income, this includes patent Box regimes. Action item 5 of the OECD BEPS Action Plan focusses on transparency and “requiring substantial activity for any preferential regime”. The reporters expect that new criteria will be added to identify harmful preferential regimes, based on transparency and substance. This next to the requirement of “substantial activity” for a preferential regime. At this moment it is not clear how the “substantial activity” criteria will be determined. Will it be: (1) a transfer pricing approach; (2) a nexus approach; or (3) a value creation approach?

To be able to apply the innovation box, first a preliminary question has to be answered: are the functions performed in the Netherlands sufficient to be the economic owner of the IP? Only when from a transfer pricing point of view the income allocated to the Netherlands is at arm’s length, and

[23] ECJ, 10 January 2006, C-222/04.
[24] Art. 3.65 PITA.
[25] Art. 3.77 PITA.

formal box criteria are met, part of that at arm's length profit can be allocated to the innovation box. Because of the different functions performed, never all income can be allocated to the innovation box. Thus part of the income will be taxed at the general statutory CIT rate of 25 per cent (or 20 per cent for profits up to € 200.000) and a part effectively at 5 per cent.

The Dutch innovation box is an output facility with the aim of stimulating successful innovation, by means of active non-mobile R&D activities in The Netherlands. As a side effect less aggressive tax planning occurs with regard to the relocation of Dutch-based IP to low substance/low-taxed jurisdictions. The innovation box focusses on R&D activities conducted in the Netherlands.[26] Therefore the box only applies to self-developed patents and registered intellectual property. A key element is that the innovation box is not open for IP developed by someone else. Therefore the innovation box is not a measure which intends or has the effect to shift mobile activities from third countries to the Netherlands. In the reporters view the innovation box should therefore fall outside the current scope of harmful tax practices. But even when the innovation box is regarded a preferential regime, the Dutch innovation box has, because of its active rich nature, very good cards to fulfill the new "substantial activity" criteria.
Will the transfer pricing approach as currently applied in relation to the innovation box be sustained under the new FHTP criteria? At this very moment, Chapter VI of the OECD Transfer Pricing Guidelines (TPG) are substantially amended and made BEPS proof (action items 8-9-10). It seems logical that the FHTP criteria regarding substance and IP are in line with the latest views as laid down in the OECD TPG. The reporters therefore believe that the transfer pricing approach from a theoretical as well as a fairness point of view is the best solution. If however the nexus approach will be decided for, the reporters believe that in a lot of cases the nexus approach will lead to a similar result as the transfer pricing approach because of the active rich nature of the Dutch innovation box. The reporters do believe though that larger countries may benefit over smaller countries if the nexus approach is decided for as in case of smaller countries borders tend to be crossed sooner than in case of larger countries.
In the recent Tax Treaty with Germany, one of the main trading partners of the Netherlands, a provision in the treaty was included regarding the innovation box. Germany recognizes the resident state taxation of the Netherlands for the innovation box in its current form. In the case the Dutch innovation box in the future also applies to acquired (German) IP, the treaty partners will contact each other to discuss if the treaty must be amended.[27] The interpretation of the reporters is that Germany recognizes the non-harmfulness of the Dutch innovation box.

2.3.2 Under EU State aid rules and the Code of Conduct for business taxation

2.3.2.1 Under the Code of Conduct for business taxation

The Code of Conduct[28] for business taxation is intended to discourage EU Member States from introducing tax measures that constitute harmful tax competition. The Code of Conduct is a political commitment, with peer group pressure, and not a legally enforceable rule. Measures are harmful when they effect in a significant way the location of business activity and benefit from a significant lower taxation than normally applies in that countries tax system. The focus lies on mobile activities. The Code describes the following criteria: (1) tax advantages only for non-residents; (2) ring-fencing, not affecting domestic tax base; (3) granting advantage without real economic activity/substance; (4) non-arm's length pricing; (5) lack of transparency. The 1999 report[29] gives inter alia a positive evaluation on royalty regimes when "they provide a specific exemption or a reduced nominal rate of tax for royalty income".

To be the economic owner of the IP substantial activities must be performed by the taxpayer in the Netherlands. It is not possible to set up a shell company in the Netherlands and outsource all R&D activity to an entity outside the Netherlands. As described earlier, the aim of the box is an incentive to deploy active R&D activities and not to attract mobile activities. A key element is that the

[26] Outsourcing is possible (see paragraph 1.5.2), provided there is sufficient relevant substance in the Netherlands.
[27] Article 12 juncto XI of the Protocol of the German-Dutch Tax Treaty 2012.
[28] O.J. No. C 2 of 6 January 1998, p. 1.
[29] Report, Code of conduct (Business Taxation), SN 4901/99, 23 November 1999.

innovation box is not open for IP developed by someone else. At the 19 September 2007 meeting of the Code of Conduct Group on Business Taxation the description of the Dutch patent box has been addressed.[30] There was decided that the description of the patent did not give rise to undergo a further examination. The group also concluded that the Dutch patent box is a non-harmful tax measure. Below we apply the five criteria of the Code to the Dutch innovation box the successor of the 2007 Dutch patent box:
(1) the innovation box applies for resident companies, not just for non-resident companies;
(2) the innovation box applies for resident companies, no ring-fencing;
(3) to be able to apply the innovation box the key economic activity must be performed in the Netherlands;
(4) income allocation to the innovation box is based on transfer pricing principles;
(5) the legislation is publicly available and therefore the regime is transparent.
The reporters believe that the innovation box under the current Code criteria is not harmful.

2.3.2.2 Under State aid rules

For the general criteria for State aid we refer to the previous section 2.2.3.
According to the Communication on State aid and direct taxation of December 10, 1998, paragraph 13 Member States have the power to decide on the economic policy which they consider most appropriate and, in particular, to spread the tax burden as they see fit across the different factors of production. Provided that they apply without distinction to all firms and the production of all goods, the measures pursuing general economic policy objectives through a reduction of the tax burden related to certain production costs, for instance R&D, do not constitute State aid.
In 2008 the Commission concluded that the Spanish IP box regime is a non-selective measure and does not constitute State aid.[31] The Dutch innovation box has many similarities with the Spanish measure (wide accessibility, de facto a diverse group of users, self-developed intangible assets, no discretion in applying the measure).
In 2007 the Code of Conduct Group on Business Taxation concluded that there was no need for the Dutch patent box to be assessed against the Code criteria. Although the outcome of the Code of Conduct Group formal is not decisive on State aid, it provides a good direction for the answer to that question.
The Netherlands notified the Commission of the intention to introduce the patent box and asked for a decision “no aid”.[32] After informal exchange of views with the Commission, The Netherlands became comfortable on the State aid topic (no State aid). Therefore the formal notification was withdrawn by The Netherlands.[33]
The Dutch innovation box regime is a generic tax measure that applies to all companies who are subject to tax under the Dutch CITA (both Dutch based companies as foreign companies), independent of the economic sector in which they operate or the economic activities they perform. The innovation box is open to large and small businesses and is not limited to certain regions. There are no restrictive requirements as turnover thresholds, minimum number of countries to operate, or minimum number of staff. There is no case of selectivity and therefore no question of State aid within the meaning of Art. 107 paragraph 1 TFEU.

2.3.2.3 Harmful tax competition and fundamental freedoms

In section 2.3.2.1 above the criteria of the Code of Conduct regarding harmful measures are described. Criteria 3 of the Code calls for “real economic activity/substance”. This means that there must be a real nexus of the taxpayer with a jurisdiction. On the other hand the EU fundamental freedoms do not allow territorial restrictions. From a Dutch point of view these two sets of rules do not conflict per see with each other. Before the innovation box can be used, an arm’s length profit has to be allocated between countries based on functions performed, assets used and risks assumed. Low value added functionality means low profits and important high value added

[30] Referred to in the letter of the Dutch State Secretary for Finance to Parliament,1 October 2007 (Kamerstukken II 2007/08, 30572, nr. 27).
[31] State aid N 480/2007 – Spain – The reduction of tax from intangible assets, O.J. C. 80, 1 April 2008.
[32] TK 2005/2006, 30 572, no. 8, p. 30.
[33] Staatsblad 2007, 44. On 8 July 2009 the EU came to the conclusion that the group interest box did not provide State aid. See IP/09/1100.

functionality means high profits. Profits must be aligned with economic activities. Only part of that arm's length profit can be allocated to the box. This is not as such a point of fundamental freedoms, but more a factual analysis.

The patent itself can be Dutch or foreign but it must have been developed by the corporate tax payer which bears the corresponding risks. The box is in principle not open to income from acquired IP.

2.4 Intangibles and BEPS situations

2.4.1 Introduction

Transfer of intangibles to low tax jurisdictions and the use of so-called "intermediary IP companies" are items that have been highlighted by the OECD BEPS work.

2.4.2 Transfer of intangible to low tax jurisdictions

The Netherlands does not have specific rules in the CITA to prevent the transfer or location of IP to low-tax jurisdictions. However, the general rules give the tax inspector powerful instruments to target low substance structures. The reporters recognize that low tax and low substance structures go often hand in hand. In our view the tax inspector has at least (or a combination of) the following possibilities:

(1) transfer pricing approach, non-recognition of the transaction;
(2) transfer pricing approach, valuation of the transaction;
(3) targeting the residence of the local IP company;
(4) assessing a PE of the local IP company in the Netherlands;
(5) denying the participation exemption of the foreign (indirect) IP subsidiary.

(1) The November 2013 Transfer Pricing Decree states clearly that an IP held by or transferred to a party which adds no value to the IP because the required functionality is absent and therefore is not able to control the risks of the IP, is a non-arm's length situation. In such a case the tax inspector will challenge the (re)location of the IP and will apply a substance over form approach. Compare also paragraphs 1.65 and 9.169 of the OECD transfer pricing guidelines.
(2) When a transaction of IP from a two sided perspective is rational, in other words it makes business sense for both parties, the transaction will normally be respected by the tax administration. In this situation the buyer of the IP adds value with his functional profile. Thus there is clearly no more attractive alternative available to them, included not to enter the transaction. The question then becomes a valuation issue. What is the value of the transferred IP? In practice the comparable uncontrolled transaction (CUT) or discounted cash flow method (DCF) are mostly used. Paragraph 6.150 to 6.177 of the OECD on transfer pricing aspects of intangibles give guidance on valuation methods. In the event of a transfer of IP, it can be difficult to determine the value of this at the time of the transfer because there is insufficient insight into the future benefits and risks. The earlier mentioned decree mentions the use of price adjustments clauses when the valuation is highly uncertain at the time of the transaction, since independent parties in a similar situations would not agree on a fixed price. In such cases a price adjustment clause must be included in the arrangement between the associated enterprises whereby the price also depends in subsequent revenues. With respect to round-trip transactions, a sale by the Netherlands and a license back to the Netherlands, a price adjustment clause will generally deemed to be agreed, unless the taxpayer demonstrates otherwise (shift burden of proof).[34]
(3) The residence question of the local IP company is a fact driven issue. First has to be identified which relevant decisions are made with reference to the IP company, then who made the decisions within the group (the board of the IP company or someone else?), and then where these decisions are made. Also the quality and quantity of the board of the IP company are relevant factors. Harlequin management does not satisfy.

[34] See also IFA Branch report 2007 of the Netherlands from M. van Herksen and E. Visser, Transfer Pricing and Intangibles, The Hague.

(4) When a significant part of the key functions are performed in the Netherlands, the question arises if there is a PE of the low substance entity in the Netherlands.
(5) The participation exemption is not applicable when a participation directly and indirectly, on an aggregated basis holds for 50 per cent or more low-taxed free portfolio assets. IP is generally deemed to be free portfolio assets. An exception applies to active IP providing companies. The tax regime of the country of the subsidiary is considered low-taxed if the statutory rate is below 10 per cent, substantial deviations of the countries tax systems compared to the Dutch tax system are taken into account.[35] If the participation exemption is not applicable, a switch-over clause applies and the taxpayer can claim a 5 per cent credit against the Dutch taxation. In the case of a dividend from an EU Member State the taxpayer can apply the real credit instead of the flat 5 per cent rate.

Transfer of IP is not only possible between related entities, but also within a legal entity. With regard to Dutch resident entities the Netherlands applies a full exemption of foreign profit and losses of permanent establishments. An exception is made for passive low taxed PE's, like passive IP PE's. In the latter case a switch-over clause applies and the taxpayer can claim a credit against the Dutch taxation. Because of the lack of contracts within a legal entity, from a transfer pricing perspective the allocation of IP to the PE depends on the day to day significant people functions performed.[36] The Dutch PE Decree gives guidance on dealings between head office and PE, like internal royalties.[37] The outcome must be in line what independent companies would do and in this regard the allocation of the IP based on the significant people functions is crucial.

2.4.3 Royalty payments to intermediary IP companies

In the Netherlands interest and royalty income is taxed at the statutory tax rate of 25 per cent (or 20 per cent for profits up to € 200.000), unless the royalty income qualifies for the innovation box.[38] The innovation box can't be applied by Dutch intermediary IP companies. The Netherland does not levy withholding taxes on outgoing interest and royalties. The Dutch policy of zero withholding taxes for intra-group interest, royalties and dividends is in line with EU-policy.[39] Therefore for the Netherlands as a source country the topic intermediary IP companies has hardly any relevance. In tax treaties the Netherlands seek to agree on exclusive resident state taxation for interest and royalties. On request of the treaty partner, the Netherlands is willing to consider reasonable anti-abuse provisions.[40] The starting point of this policy is that it should not be harmful to the development of developing countries. A 2013 IBFD research shows that the five Dutch treaties with the least developed countries are little different from their treaties concluded with other countries. Since the end of 2013 the Netherlands is offering all, in total 23, developing countries to include treaty-abuse provisions in their tax treaty with the Netherland.[41] It is important to realize that the Dutch policy on zero withholding taxes in no way limits source countries to tax their resident and non-resident companies (PE's) on their local profit with corporate income taxes. To help developing countries with capacity building the Netherlands is an active participant in the OECD project Tax Inspectors without borders. The Netherlands has local substance and genuine risk requirements for financial Dutch service entities. If the conditions are not met, the Netherlands will exchange relevant information with treaty source countries.[42]

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[35] For a detailed description see IFA Branch report 2013 of the Netherlands from M. Boterman and B. van der Gulik, The taxation of foreign passive income for groups of companies, Chapter 3, SDU, The Hague.
[36] See also the Authorized OECD Approach (AOA) in the OECD-report "Report on the Attribution of Profits to Permanent Establishments" July 2010.
[37] Decree of the State Secretary for Finance of 15 January 2011, IFZ2010/457M, para. 4.2.
[38] We refer to previous section 1.5.1 for details on the innovation box.
[39] See the EU Interest and Royalty Directive and the Parent Subsidiary Directive.
[40] Memorandum on Dutch Tax Treaty Policy 2011.
[41] http://www.rijksoverheid.nl/documenten-en-publicaties/brieven/2013/08/30/onderzoek-belastingverdragen.html
[42] Art. 3a Uitvoeringsbesluit Internationale bijstandsverlening bij de heffing van belastingen.