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TAX NEWS BULLETIN
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On December 18, the Tax Act 2014 was officially approved by the Senate of the Dutch Parliament. The Tax Act contains tax measures that enter into effect on 1 January 2014. The tax measures which are most important to the (international) corporate tax practice are summarized in this Tax News Bulletin.

1. Accelerated depreciation of environmental assets

The accelerated depreciation of environmental assets is applicable to qualifying assets listed on the 'Environment list' ('Milieulijst'). It remains applicable to 75% of the costs minus the residual value. The accelerated depreciation of environmental assets is capped (per taxpayer) at a total amount of € 25 million of investments.

2. Investment facilities

Small scale investment deduction
The small scale investment deduction continues to apply. However, as of 2014 the small scale investment deduction is no longer available for investments in fuel efficient cars.

Energy investment deduction
The energy investment deduction is applicable to qualifying assets listed on the 'Energy list' ('Energielijst') if the investments exceeds an amount of € 2,500. The current threshold is an amount of € 2,300. The deduction rate remains at 41.5% of the investment amount (including consultancy fees) of the qualifying assets up to an amount of € 118 million.

Environmental investment deduction
The environmental investment deduction is applicable to qualifying assets listed on the 'Environment list' ('Milieulijst') if the investments exceeds an amount of € 2,500. The current threshold is an amount of € 2,300. The deduction rate remains at 36%, 27% or 13.5% (depending on the class of the specific asset) of the investment amount (including consultancy fees) of the qualifying assets up to an amount of € 25 million.

3. Research and development

Deduction
As of 2014 the research and development deduction amounts to 60% of the taxpayers costs (other than wage costs) directly related to research and development activities. Previously, the deduction amounted to 54%.

Wage tax reduction
As of 2014, taxpayers can receive a 35% reduction for the wage tax costs of employees performing qualifying research and development activities up to a level of € 250,000 ('first bracket'). As from € 250,000 up to a level of € 14 million ('second bracket') a 14% reduction applies. Previously the level of the first bracket was € 200,000 and a 38% reduction applied.

The reduction can be offset with all tax returns of the calendar year in which the research and development statement has been received. Further, the reduction can be requested and provided for a period up to maximum of one full calendar year. Previously the maximum period was six months.

4. Corporate income tax

Tax rates
The corporate income tax rates for 2014 will be equal to the rates of 2013.

Fiscal investment institution
As of 2014 an exempt fiscal investment institution investing in real estate may also perform business-support activities in relation to the real estate held provided that the activities are performed by a subsidiary that is subject to tax. A fiscal investment institution investing in real estate was already allowed to perform project development activities via a subsidiary that is subject to tax.

5. International exchange of information

Challenging the exchange of information
The exchange of information procedure can only be challenged with a civil law procedure. Previously it was possible to file an objection with the Dutch tax authorities, followed by a administrative law procedure.

Intermediary financing companies
From 2014, all intermediary financing companies need to inform the Dutch tax authorities voluntarily whether they meet the substance requirements. If a company does not meet the substance requirements and it has applied for a measure to avoid double taxation in a foreign country, the Dutch tax authorities will spontaneously exchange information with the relevant foreign tax authority.

6. Trust assets

Anti-abuse rules in relation to the contribution of a substantial interest
The contribution of a substantial interest (5% or larger interest in a company with a capital divided into shares) to a trust (afgezonderd particulier vermogen) will be treated as if a sale has taken place, i.e. a taxable event. If this taxable event results in a loss this loss can be taken into account, unless the transaction was mainly conducted for tax reasons. In case of a tax driven transaction, the loss can only be taken into account when the shares are sold to a third party, the former shareholder passes away, or 10 years after the contribution of the substantial interest to a trust.

Profit drainage
In order to be able to apply the interest deductibility restriction rules in legal structures using trusts (afgezonderd particulier vermogen ('APV'), the trust can be disregarded when determining the affiliation between parties for corporate income tax purposes.

Rotterdam, December 24, 2013