

Dutch Tax measures against the credit crunch

The first measure is the lower rate of corporate income tax that is applicable for the years 2008 (retroactively), 2009 and 2010. As per 1 January 2007, the Dutch corporate income tax rate is divided into three brackets. For the year 2008, the second bracket of the corporate income tax, which has a rate of 23,5%, has been cancelled. As a result of this, the corporate income tax rate for 2008 is 20% for profits up to €275.000 and 25,5% for the amount exceeding €275.000.

Lower rate of corporate income tax

For the years 2009 and 2010, the 23,5% rate of the second bracket is lowered to 20%. This makes the applicable tax rates for the years 2009 and 2010 to be as follows: For profits up to €200.000 a corporate income tax rate of 20% applies. The highest corporate income tax rate of 25,5% applies to profits exceeding € 200.000.

From the year 2011, the corporate income tax rates will be as they were in 2007, leading to the application of the 23,5% rate for the second bracket again.

Advanced depreciation

Another temporary fiscal measure aims to encourage investments by companies and entrepreneurs. The measure allows them to depreciate their investments made in 2009 in two years. The allowed depreciation is therefore 50% in 2009 and 50% in 2010. The advanced depreciation only applies to investments in new assets and is not applicable to assets obtained within the scope of a takeover. For some specific assets, the advanced depreciation does not apply.

These assets are (in brief):

- Buildings, animals, intangible assets (including software) and cars. In exemption of this, the advanced depreciation does apply to taxi's and so called green or eco cars. A car is regarded as an eco car if the CO₂ – emission is lower than 95 grams per kilometer (for cars running on diesel) or 110 grams per kilometer for other cars.
- All assets that are mainly intended to be put at the disposal of third parties.

The advanced depreciation is possible as soon as in 2009 the obligation to invest arises or costs haven been made with regard of the production of the asset. However, the amount of the advanced depreciation can not exceed the amount paid with regard to the investment. The application of the advanced depreciation expires when the asset is not in use in 2012.

Other tax novelties in 2009

SAR's deduction limited

In coherence with the new fiscal regulations with regard to the taxation of excessive remunerations, the deductibility of certain Stock Appreciation Rights (SAR's) has been limited for specific SAR's as per 1 January

The limitation applies to SAR's that have been issued to employees to who the regulations with regard to excessive remuneration applies. This implies that the limitation only applies to employees whose income exceeds an amount of €500.000. For all other employees, the limitation does not apply. For SAR's that were already issued before 1 January 2009, a transitional regulations has been agreed upon: if these SAR's are taxed as employment income of the employee before 1 January 2010, the SAR's remain deductible for corporate income tax.

Dutch REIT-regime

For company or funds that apply for a taxation based on the Dutch Real Estate Institution Tax-regime (REIT) the investment possibilities have been broadened as per 1 January 2009.

Due to the fact that more and more REIT's hold their real property investments through subsidiary companies, the allowed investments for the REIT now also include:

- Warranties issued by the REIT in behalf of related companies;
- Loans that are originally received from third parties (banks) and issued to related companies by the REIT

These investments are only allowed for the REIT if they were done for related companies (in which the REIT directly or indirectly holds a 1/3 interest) whose (consolidated) assets consist for at least 90% of real property.

In addition, a maximum is set for the financing of the REIT with debt: The debt is the maximum of 60% of the book value of the real property and 20% of the book value of the other investments of the REIT.

For additional information regarding any of the issues raised in this Taxmail, please contact any of the professionals of Van Oers International listed below or your local Van Oers contact person.

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