

## TAX FRIENDLY TREATMENT OF R&D ACTIVITIES IN THE NETHERLANDS APPROVED BY PARLIAMENT – TRANSFER PRICING ASSOCIATES PROVIDES YOU WITH APPLICATION QUESTIONNAIRE (SEE ATTACHED)

Amsterdam, January 2010 –

The recently enacted “Innovation Box” is intended to promote the carrying out of R&D activities in the Netherlands. In order to ensure correct application of this tax incentive a functional analysis of different roles and responsibilities is required. Transfer Pricing Associates has developed a suitable questionnaire for this purpose. The questionnaire is divided into five modules, each of which contains a set of questions intended to elucidate relevant points. The questionnaire further contains two Appendices. Appendix A mentions a list of “product and process IP”. Appendix B provides a list of cost categories.

Transfer Pricing Associates trusts that the questionnaire will enable the business community to benchmark the right to qualify for the low Corporate Income Tax rate as foreseen in the Innovation Box tax law.

For further information on the transfer pricing aspects of the innovation box regime, please contact:

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About Transfer Pricing Associates:

Transfer Pricing Associates is the leading independent provider of global transfer pricing and valuation services and part of the Transfer Pricing Associates Global group. The Transfer Pricing Associates Global group is an independent and specialist provider of expert transfer pricing, tax valuation and customs services, headquartered in Amsterdam and with our own offices and coverage in over 25 countries around the world. Transfer Pricing Associates provides high quality transfer pricing advice and assistance to multinationals of all sizes, wherever they are located. For more details of our innovative services, please visit our website at [www.tpa-global.com](http://www.tpa-global.com)

# Questionnaire - 'innovation box'



## **1 Definition of Intellectual Property (threshold module)**

- a. Please describe name/functionality/applications of the IP
- b. Please label IP as product IP/process IP/marketing IP/combination
- c. Is or will the IP be patented
- d. Insofar IP is not patented, is the wage tax credit facility for qualifying non-patentable R&D obtained (i.e. the 'speur- & ontwikkelingswerk' application and grant)
- e. Please 'check the box' which type of IP is covered within the scope of the 'innovation box' (see Appendix A for list/check boxes).

## **2 Financial history and future of Intellectual Property (financial module)**

- a. Which portion, if any, is acquired from third parties or affiliates, and which portion is 'own development of Dutch taxpayer'?
- b. What is the accounting treatment (US GAAP/IFRS and Statutory) of the IP (past and future)?
- c. What are the cost of development,<sup>1</sup> specified per type and per 'gate' (assuming a research/development roadmap with 'gates' is being defined) for past and future (please specify per year per type of cost)?
- d. What are the anticipated proceeds of the IP, once developed?
- e. What is the timing at which the proceeds of the IP will start and at what level?
- f. For a full list of 'types of cost' involved see Appendix B.

## **3 Functional analysis of technological innovation activities and risk (functional analysis module)**

- a. Is the IP owned by one or more group companies (within 1 multinational)?
- b. Is the IP used by third parties. If so, at what conditions (specify per user)?
- c. Is the IP used by affiliates (non-owners). If so, at what conditions (specify per user)?
- d. Is the IP being transferred to third parties. If so, at what conditions (specify per user)?
- e. Is the IP being transferred to affiliates. If so, at what conditions (specify per user)?
- f. Did the IP owner subcontract of research and development activities wholly or partly to other Dutch companies (third parties/affiliates)?
- g. Did the IP owner subcontract of research and development activities wholly or partly to other non-Dutch companies (third parties/affiliates)?

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<sup>1</sup> Development also encompasses 'process IP'.

#### **4 Choice of method (pricing method module)**

- a. What is the pricing method between IP owner and IP user?
- b. What is the profit allocation between IP owner and IP user?
- c. Do you have any 'third party references' to quantify the profit allocation between an affiliated IP owner and affiliated IP user. If so, please specify all details on source and level of comparison?
- d. What is the pricing method between IP owner and R&D contractor?
- e. What is the profit allocation between IP owner and R&D contractor?
- f. Do you have any 'third party references' to quantify the profit allocation between an affiliated IP owner and affiliated R&D contractor. If so, please specify all details on source and level of comparison?

#### **5 Operations and management of IP (organisational module)**

- a. Who is in charge of the IP management?
- b. Who is in charge of the IP development?
- c. Who is in charge of the IP usage and concluding contracts with IP users?
- d. What are the locations of R&D activities?
- e. How many FTEs are involved in R&D activities. Please include organisational chart.

#### **Appendix A - List of “product and process IP”**

#### **Appendix B - List of cost categories**

## **APPENDIX A**

### **List of “product and process IP”**

- Software
- Hardware
- Recipes
- Models
- Industrial design
- Mechanical inventions
- Instrumentation
- Electrical and Electronic inventions
- (Bio) - medical inventions
- Formula
- Show how
- Know how
- Embedded workforce
- Patents
- Inventions
- Processes
- Copyrights (Only product and process related)
- Programs
- Methods
- Systems
- Procedure
- Surveys
- Studies
- Forecasts
- Estimates
- Technical data

## **APPENDIX B**

### **List of cost categories**

- Material costs
- Labor costs
- Capital costs
- Overhead costs, e.g. facilities (e.g. laboratory)
- Patent or WBSO application and registration costs
- Other