



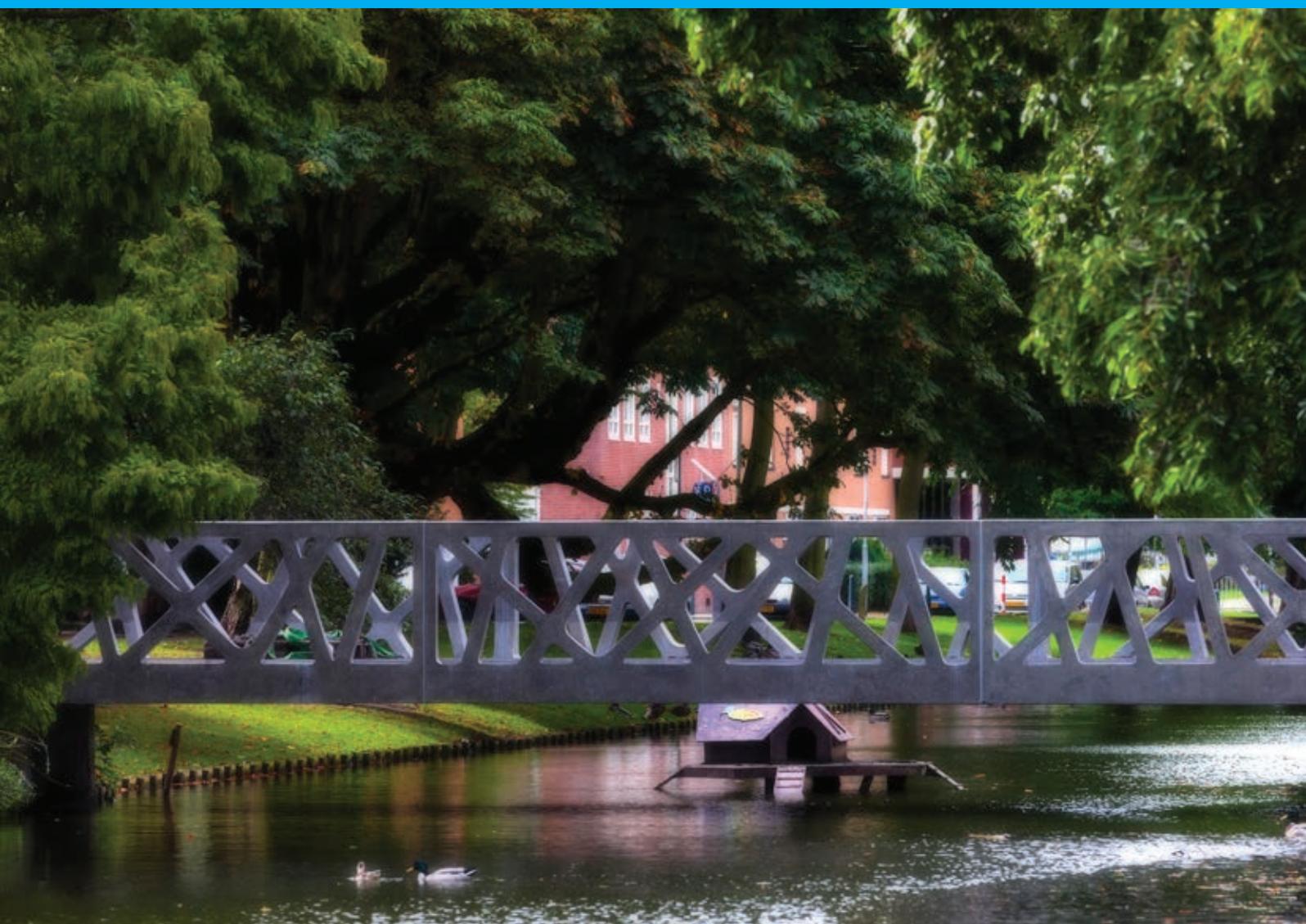
Netherlands Enterprise Agency

Manual

WBSO/RDA 2015

Commissioned by the Ministry of Economic Affairs

*>> Sustainable. Agricultural. Innovative.
International.*



Reader's guide

This Manual WBSO/RDA contains information about the WBSO (R&D tax credit) and the RDA (Research and Development Allowance). For your convenience, the last section of the Manual WBSO/RDA contains an alphabetical list of important terms and concepts, together with a brief explanation of their meaning.

Contents

1. In brief	5
1.1 Lower R&D and wage costs	5
1.2 The WBSO and RDA in 8 steps	6
2. Who comes into consideration?	9
2.1 WBSO—Entrepreneurs	9
2.2 RDA	10
3. WBSO—Which R&D projects come into consideration?	11
3.1 Development projects	11
3.2 Technical scientific research	14
3.3 Analyses of the technical feasibility	15
3.4 Process-oriented technical research	16
4. WBSO—Which work does <u>not</u> come into consideration?	19
4.1 Work that does <u>not</u> come into consideration	19
4.2 Preconditions	20
5. RDA—Which costs and expenditure come into consideration?	21
5.1 General	21
5.2 Conditions attached to costs and expenditure	21
5.3 Examples of costs that come into consideration	22
5.4 Examples of expenditure that come into consideration	22
6. RDA—Which costs and expenditure do <u>not</u> come into consideration?	23
6.1 General exclusions	23
6.2 Exclusions of costs	23
6.3 Exclusions of expenditure	24
6.4 Examples of WBSO projects with costs and expenditure	24
7. What do you gain from the WBSO and RDA?	26
7.1 WBSO—Tax credit for companies acting as withholding agents	26
7.2 WBSO—Tax credit for R&D taxpayers (self-employed persons)	27
7.3 WBSO—Extra tax credit for start-up companies and entrepreneurs	27
7.4 RDA—Calculation of the RDA	29
7.5 RDA—Tax allowance for corporate income tax	29
7.6 RDA—Tax allowance for income tax	29
7.7 RDA—You didn't make a profit?	29
8. How and when do you submit an application?	30
8.1 The time of submission	30
8.2 Submitting the application	31
8.3 Completing the application	31
8.4 Submission of Citizen Service Numbers	32

9. Administrative records	33
9.1 Why are you required to keep administrative records?	33
9.2 What R&D administrative records must you keep?	33
9.3 WBSO—What are the consequences of incomplete administrative records?	35
9.4 WBSO—How long must you retain the R&D administrative records?	35
9.5 RDA—What RDA administrative records must you keep?	35
9.6 RDA—What are the consequences of incomplete administrative records?	36
9.7 RDA—How long must you retain the R&D administrative records?	36
10. An R&D Declaration—and then...	37
10.1 Deduction of the R&D withholding tax credit for R&D tax withholding agents	37
10.2 Deduction of the R&D tax credit for R&D taxpayers (self-employed persons)	41
10.3 Statement of the actual number of R&D hours worked	41
10.4 Settlement of correction R&D Declarations	42
11. A RDA Decision—and then...	44
11.1 Deduction	44
11.2 Mandatory statements	44
11.3 Correction RDA Decision	45
12. Retrospective inspections	46
12.1 Company visits by RVO.nl	46
12.2 WBSO—Corrections and fines	46
12.3 RDA—Corrections and fines	47
12.4 Objections	47
13. Glossary	48
14. WBSO/RDA quick scan	52

1. In brief

Technological innovation is of great importance to your company's competitive position. Innovation is essential, because your competition is also active. You, as an entrepreneur, will be continually occupied with process innovations, new products and new software. The WBSO (R&D tax credit) and RDA (Research and Development Allowance) enable you to reduce these costs. The Ministry of Economic Affairs has commissioned RVO.nl to implement the WBSO and RDA.

1.1 Lower R&D and wage costs

The WBSO (R&D tax credit) is a Dutch Government tax incentive scheme that provides you compensation for part of your research and development (R&D) wage costs.

In practice, this scheme reduces the amount of your payroll tax. Self-employed persons are granted a fixed tax-deductible item for their R&D. In addition, start-up entrepreneurs benefit from a supplementary credit.

The RDA has been introduced to supplement this contribution towards R&D wage costs with a contribution to the other costs and expenditure incurred for R&D projects. The RDA is an extra deductible item for your taxable profit.

This Manual is based on the Tax and Customs Administration's Plan for 2015.

New: WBSO/RDA quick scan

Are you interested in finding out quickly whether you may come into consideration for the WBSO and RDA? A useful quick scan is enclosed in Section 14 of this Manual. Work through the flowchart from top to bottom. If you cannot reach the bottom of the flowchart then you probably do not come into consideration. Consult the information in this Manual. If you have any doubts, contact RVO.nl.

Amendments to the WBSO and RDA in 2015

The parameters for the WBSO in 2015 are:

- the percentage for the 1st tax bracket remains unchanged at 35%; the ceiling for the 1st tax bracket remains unchanged at € 250,000;
 - the percentage for the 2nd tax bracket remains unchanged at 14%;
 - the ceiling remains unchanged at € 14 million;
 - the percentage for the 1st tax bracket for start-up entrepreneurs remains unchanged at 50%;
 - the self-employed deduction remains unchanged at € 12,310;
 - the supplementary deduction for start-up self-employed persons remains unchanged at € 6,157;
 - the contract research facility for non-entrepreneurs has been withdrawn.
 - the WBSO budget is set at € 756 million for 2015.
-
- the RDA percentage remains unchanged at 60%.

The aforementioned amendments are subject to the approval of the Tax and Customs Administration's Plan for 2015 by the House of Representatives of the States-General.

1.2 The WBSO and RDA in 8 steps

The following brief explanation of the manner in which you apply for and use the WBSO and RDA is based on a number of steps. This explanation is based on the submission of a joint WBSO/RDA application. Are you planning to submit an application for the WBSO but not for the RDA? If so, you can ignore the RDA sections. You cannot submit an RDA application without a WBSO application.

Step 1: You intend to carry out R&D

You plan to carry out R&D. When you are making the decision whether to begin your R&D project you will also give consideration to the costs of the project. The WBSO and RDA help you with the financing of your project or projects.

The WBSO and RDA reduce your technological R&D costs, even when the project fails to yield the desired result. Every Dutch entrepreneur planning to carry out R&D can submit an application for the WBSO/RDA. The size of your company and your business sector are not of relevance.

You may submit an application for four types of projects. These are:

- development of technically new products, production processes or software;
- technical scientific research;
- an analysis of the technical feasibility of an in-house R&D project;
- process-oriented technical research.

Step 2: You submit your application

You can submit a WBSO/RDA application using one of two methods. Both methods require your use of eRecognition (*eHerkenning*) security level 2+, and your submission of your electronic application via eLoket:

1. Submit your WBSO/RDA application form online via eLoket. eLoket enables you to login from any workplace and submit or view your WBSO/RDA application online. Surf to www.rvo.nl/eloket
2. Are you still using the stand-alone WBSO/RDA application software? If so, you can download the WBSO/RDA application software for 2015 from the following website: www.rvo.nl/wbso.

Have you already received an R&D Declaration in 2013, and have you already carried out R&D Work? If so, you will also need to submit the Citizen Service Numbers (BSNs) of your R&D employees for 2013. These are required for the calculation of the average R&D hourly wage. Section 8 contains further information about the completion and submission of your application.

Step 3: You organise your administrative records system

Your R&D administrative records for the WBSO must list the nature and content of, progress in and scope (number of hours) of your R&D Work. Have you been granted an RDA on the basis of costs and expenditure? If so, you are under the obligation to keep administrative records of the costs and expenditure incurred for each R&D project and the payments (you do not need to keep separate RDA administrative records when you applied for the RDA on the basis of a standard amount). Make sure that you keep these administrative records from the very beginning of the project(s), even if you have yet to receive your R&D Declaration and RDA Decision.

Section 9 contains an explanation of the requirements imposed on your administrative records.

Step 4: Consultants inspect your application to verify it is complete

After your application has been received consultants from Netherlands Enterprise Agency (RVO.nl) inspect your application to verify that it is complete. When your application is complete, technical consultants will review its contents. You are issued a confirmation of receipt.

When your application is *not* complete, you are offered *one* opportunity to supplement the application with the additional information that is required. Make sure that RVO.nl receives this information within the specified time. Your application will not be processed if you do not submit this information in time. Once your application is complete, you are issued a confirmation of receipt.

Step 5: Consultants review the contents of your application

Once your application is complete, technical consultants will review the contents of your application for the WBSO: they review the projects listed in the application against the relevant laws and the R&D delimitation regulations. They may ask you questions if the specifications of your projects contain insufficient information for the review of your application. They may ask questions in writing or by telephone or e-mail. A technical consultant uses all the information you have submitted to reach a decision on your application and records this in a Decision. This WBSO Decision is issued to you or (where relevant) to your intermediary.

When your application for the WBSO has been approved in full or in part this Decision will be issued to you together with an R&D Declaration. The Decision specifies the number of hours allocated to each project and the projects that do not come into consideration for the WBSO.

De WBSO en de RDA in 8 stappen



The R&D Declaration specifies the maximum amount of the R&D withholding tax credit that you may deduct from the payroll tax due from the payroll tax number specified in the R&D Declaration during the period covered by the R&D Declaration. Once your R&D Declaration has been issued consultants review the contents of the RDA application: they review the costs and expenditure specified for the various R&D projects against the RDA Decree. They may ask you questions if the specifications of the costs and expenditure contain insufficient information for the review of your application. They may ask questions in writing or by telephone or e-mail. A consultant uses all the information you have submitted to reach a decision on your application and records this in a

Decision. This RDA Decision is issued to you or (where relevant) to your intermediary. When your application for an RDA has been approved in full or in part, you will receive the RDA Decision. The Decision specifies the costs and expenditure allocated to each project. The RDA Decision specifies the maximum RDA you may deduct from your income or corporate income tax.

Note!

The date stated on your RDA Decision is important. When RVO.nl has issued your RDA Decision in 2015, then you apply the amount of the RDA in your tax return for 2015.

When can you expect a decision?

A technical consultant will reach a decision on your application for the WBSO within three calendar months after the date on which the period covered by the application begins. Once your R&D Declaration has been issued a consultant will reach a decision on your RDA application within eight weeks. The processing period will be suspended when consultants reviewing your application need to submit a written request for supplementary information.

Opportunity to lodge an objection/appeal

You may lodge an appeal against the full or partial rejection of your application for the WBSO and/or RDA by submitting a notice of objection, with reasons. If you are unable to agree with RVO.nl's decision on your notice of objection then you can lodge an appeal with the Trade and Industry Appeals Tribunal. The Decision contains more information about the opportunities to lodge an objection/appeal.

When the objection or appeal procedure results in your objection or appeal being upheld either in full or in part, you will be issued a supplementary R&D Declaration and/or RDA Decision. It is possible that this supplementary R&D Declaration and/or RDA Decision will then be issued after the expiry of the period covered by your application.

Step 6: You deduct the financial gain from your tax return

You deduct the R&D withholding tax credit you have been granted from your payroll tax return. When you are a self-employed person and you have spent 500 hours or more on R&D then you may deduct your R&D tax credit from your income tax return. You deduct the approved amount of the RDA from your income or corporate income tax return.

Sections 10 and 11 contain information about the manner in which you deduct these allowances and the time at which you make these deductions.

Step 7: You submit a statement of your actual R&D hours worked, and the costs and expenditure

You submit a statement of the actual R&D hours worked and the actual costs and expenditure incurred, where relevant, within three months after the end of the calendar year covered by the R&D Declaration and RDA Decision.

This mandatory statement may result in RVO.nl's issue of a correction R&D Declaration or correction RDA Decision.

Subsection 10.3 explains how you must submit your statements and when.

Step 8: Consultants may visit your business to carry out an inspection

RVO.nl may visit you to make a (retrospective) inspection of your R&D Work and R&D hours worked against your R&D administrative records. When you have also been issued an RDA Decision on the basis of costs and expenditure then RVO.nl's inspection at your business may also extend to a review of the costs and expenditure you have incurred and your payments against your RDA administrative records. If any errors are identified in your R&D administrative records, then you will be issued a correction R&D Declaration. If any errors are identified in your R&D administrative records, then you will be issued a correction R&D Declaration. RVO.nl may also impose a fine on you.

Section 12 contains an explanation of retrospective inspections and the potential consequences.

2. Who comes into consideration?

Every Dutch entrepreneur planning to carry out R&D can submit an application for the WBSO/RDA. The size of your company and your business sector are not of relevance. This Section contains an explanation of these regulations and also explains what you need to do when a tax entity or an operating company with a holding company is involved. Subsection 2.1 relates to the WBSO and Subsection 2.2 to the RDA.

2.1 WBSO—Entrepreneurs

The WBSO makes a distinction between entrepreneurs liable to withhold payroll tax and entrepreneurs liable to pay income tax. Both categories can come into consideration for the WBSO.

Entrepreneurs liable to withhold payroll tax: company employees carry out R&D

Do you conduct a business in accordance with the corporate income tax regulations? Do you employ staff who carry out R&D? If so, you can come into consideration for a deduction from the payroll tax you are required to pay.

Withholding agents who conduct a business and carry out R&D are referred to as ‘R&D withholding agents’. A holding company can also be deemed to be an R&D withholding agent when at least one employee carries out R&D. You are a withholding agent for the purposes of payroll tax when you employ staff and the Tax and Customs Administration has issued you a payroll tax number.

A withholding agent usually consists of one accounting entity. This is usually indicated by the ‘01’ following the ‘L’ in the payroll tax number. The L and the following figures are referred to as the ‘sub-number’. An accounting entity is a part of the withholding agent which maintains its own accounts or operates in autonomy from the withholding agent. A withholding agent may encompass a number of accounting entities that each employ staff: each accounting entity may then be issued an individual sub-number. When sub-numbers have been issued, a payroll tax return must be filed for each sub-number.

However, an application may be submitted for only one payroll tax number, although the credit may then be deducted from more than one sub-number.

Note!

A change in your company’s legal entity creates a new withholding agent! Make sure that you always submit your application for the correct withholding agent.

An R&D Declaration cannot be transferred to another legal entity.

Holding company/operating company

Do employees of your holding company and employees of your operating company carry out R&D? If so, both the operating company and the holding company must submit an application.

Tax entity

Do you hire out R&D employees to a third party? If so, these employees fall under the WBSO only when they organise the R&D work at the third party’s company. However, an exception is made for hiring in or hiring out employees within a tax entity for the purposes of corporate income tax. Employees may be hired in or out for R&D, for example, by an employment agency or by companies within a tax entity that are carrying out work on a specific project. When employees are hired in and out by companies within a tax entity then each company employing those employees shall need to submit an application. In other words, when employees of two companies—A and B—are working on a specific R&D project and company A also hires in employees from company B then both companies A and B shall need to submit an application. However, supplier B will then be deemed to be carrying out the R&D work that takes place at company A. The companies shall also need to demonstrate that they are hiring employees in and out to each other.

Trainees

The R&D hours worked by trainees and students working on their final project may be included in the specification of R&D hours worked for the WBSO only when they are employed by the company and all the R&D conditions are met.

Entrepreneurs liable to pay income tax: self-employed persons carrying out R&D

Are you a self-employed person? Do you conduct a business in the meaning of the Income Tax Act? And do you work on R&D for at least 500 hours in a calendar year? If so, you can come into consideration for an R&D tax credit. This category of self-employed persons is referred to as 'R&D taxpayers'. Self-employed persons who conduct business via two or more companies they (jointly) own that are engaged in R&D may submit more than one application.

2.2 RDA

You must meet two conditions to come into consideration for the RDA:

- 1) your company is liable to pay Dutch corporate income tax or you, as a self-employed person, are liable to pay Dutch income tax.
- 2) your company carries out R&D and you make use of the WBSO for this R&D.

The RDA is linked to the WBSO. As a result, you must carry out R&D and you must have been issued an R&D Declaration to come into consideration for the RDA. A joint application can be submitted for the WBSO and RDA. Consequently, when your application for the WBSO is rejected or you withdraw your application for the WBSO, your application for the RDA will also be rejected or withdrawn.

Tax entity for the purposes of corporate income tax

It is conceivable that the employees carrying out the R&D are not placed with the same legal person (or legal entity) that incurs the R&D costs and expenditure. The legal entity that employs the R&D employees then submits the WBSO/RDA application. The costs and expenditure incurred by carrying out this R&D can nevertheless come into consideration for the RDA by including the costs and expenditure incurred by other companies within the tax entity in the relevant legal person's WBSO/RDA application.

The RDA Decision for a tax entity is made out in the name of the legal entity that has been issued the R&D Declaration and is accompanied by a statement of the name of the parent company and the Legal Entities and Partnerships Information Number (*Rechtspersonen en Samenwerkingsverbanden Informatie Nummer*, RSIN).

3. WBSO—Which R&D projects come into consideration?

Every entrepreneur in the Netherlands planning to carry out research and development can submit an application for the WBSO/RDA.

The WBSO provides support for four types of projects:

1. **Development projects**
These include, for example, the development of technically new (parts of) products, production processes or software.
2. **Technical scientific research** This includes explanatory research of a technical nature.
3. **Analyses of the technical feasibility of in-house R&D**
This includes the research you carry out to reach a decision on a specific in-house technical scientific research or development project.
4. **Process-oriented technical research**
This includes research focused on a significant improvement and substantial modification of your production process or the software you use.

The four types of project are explained in more detail below. Each type of project is governed by specific assessment criteria. These are always based on the principle that the applicant is the party that carries out the work.

Examples of projects are used to explain why specific projects are classified as R&D projects whilst others are not.

3.1 Development projects

The WBSO provides support for developments that are technical innovations for you. This can relate to the development of (parts of) products, production processes or software. The work in the development of products and production processes must relate to tangible, physical objects. The following explanation begins with a review of physical products and production processes.

Development work always involves carrying out a search and collecting proof. You intend to develop something new, but you encounter a technical problem. You then search for a new technical solution for this problem and intend to demonstrate

the operating principle of your solution, for example with a prototype. A development programme shall always need to be accompanied by technical risks or uncertainties: work that is not accompanied by these risks or uncertainties cannot be regarded as R&D. The WBSO covers the development work up to the stage in which the operating principle is demonstrated. This can, for example, be demonstrated with a prototype, model or application that has no commercial value. An object has commercial value when it can be used for commercial purposes or deployed as company equipment. When the object has commercial value then the hours spent on the construction of the prototype, model or application may not be included in the specification of the R&D hours worked.

Technical innovation for the applicant

The most important criterion to be met for development work is: does the object constitute a technical innovation for you? Development work is not always R&D Work: routine development work is not R&D Work. Your technical ability and your technical knowledge always serve as the benchmarks. Technical innovation requires the presence of a research element in the project or technical uncertainties or risks relating to the achievement of the required result. Your application will need to contain an explicit specification of the technical problem or the bottleneck that you are addressing and of the outline solution that you have adopted or intend to research. This technical innovation criterion is applicable to each individual applicant, even when the work has been commissioned or will be carried out in a collaborative arrangement.

The following examples explain the development of a prototype with or without commercial value and the meaning of the 'technical innovation' term.

Example of development: prototype without and with commercial value (company equipment)

A pharmaceuticals manufacturer develops a sorting machine for the in-house production lines. The operating principle is tested using a prototype made from structural steel. As there is then a risk of the pharmaceutical products becoming contaminated with rust, it will be clear that this prototype is not suitable for use in the production lines and, consequently, has no commercial value. The hours spent on the construction of this prototype are regarded as R&D hours. However, the hours the manufacturer spends on the construction of the definitive version from high-grade stainless steel are no longer regarded as R&D hours. The reason is that the operating principle of the sorting machine has been demonstrated with the first prototype and this definitive version does have a commercial value.

Technically new software

In addition to 'development', two additional terms are of importance when determining whether the development work on software can be regarded as R&D, namely 'software' and 'technically new'. Software is defined as the non-physical, logical sub-system of an information system that determines the structure of the data and its processing. The work must pivot on the applicant's actual resolution of technical bottlenecks. This includes the demonstration of the operating principle. In practice, this is usually achieved by the actual construction of (prototypes of) technically new software. The time spent on describing models, formulating algorithms or describing the architecture when no technical bottlenecks are being resolved is not regarded as work on the construction of technically new software. 'Technically new' relates to the work you carry out. This requirement is met when you introduce new technology in your company, you work on the further development of existing technology or you develop a technical solution for a specific information technology problem.

'Technically new' has a meaning different from that of 'new'. Virtually all software which is constructed is new, as it did not exist before it was constructed. However, this does not imply that the software is 'technically new'. The distinction between 'new' and 'technically new' is made clear by the answer to the question: Does the software incorporate a new information technology principle? The development of a new principle or the further development of an

existing principle developed in house can both result in software that is 'technically new' for the applicant. The development of interactions between or the integration of software components primarily developed and used by your company is also deemed to constitute R&D.

Example of development: technical innovation of a purification plant

One of the elements of the development of a production process includes the development of a purification plant. The design of a purification plant on the basis of tried and tested technology does not involve the development of a technically new product, process or process step and does not involve R&D Work. This work is often referred to as engineering. However, the development of a purification plant which incorporates a new operating principle *does* involve R&D Work. The application shall then need to include an explicit specification of the technically new elements of this purification plant as compared to the customary design of purification plants. What does this add to the applicant's technical knowledge? Which technical bottlenecks cannot be resolved with the existing knowledge and expertise?

When the development work is limited to the development of a technically new element of the purification plan, the R&D Work is also limited to the development of that part. The R&D Work ends once the operating principle of that element has been demonstrated. Consequently, the design and construction of the entire purification plant and the use of the technically new element of the plant is not regarded as R&D.

Example of development: prototype without commercial value

A manufacturer of central heating boilers is developing a new type of central heating boiler. This central heating boiler will ultimately be manufactured in mass production. A prototype being constructed by the applicant during the development process will be used to test the operating principle. Once the operating principle has been demonstrated, the prototype will be scrapped. The hours spent on the construction of this prototype are regarded as R&D hours.

A project that qualifies for the WBSO is characterised by a specific technical problem that you are trying to resolve. Your outline solution involves the development of technically new principles, methods or technology for your company or the further development of existing technology. Within the context of the WBSO, ‘technically new software’ always relates to an information technology problem.

It is necessary to make a distinction between projects and problems. A project can, for example, relate to the design of a new route-planning system. This could be confronted by an information technology problem, namely that the required specifications cannot be achieved with the existing algorithm. You will then need to specify this problem as clearly as possible in your application. The development of a new and more efficient algorithm may require the development of new methods and techniques, i.e. technically new software.

As from 2009, projects in which software is developed to integrate existing components or allow them to work together in a technically new manner are also regarded as R&D projects. This is based on the understanding that the creation of a sound underlying ICT infrastructure is essential for the operation of an innovative service. Pursuant to a supplementary condition, you will need to have developed the existing software components primarily in-house and to have implemented them in your company.

The explanation of the definition reveals that not all the activities involved in the development of software come into consideration for the WBSO.

Activities focused on the application, collation or implementation of software are deemed to be construction work and not R&D. Nor are projects focused on the design and construction of new functionality (building blocks, modules and packages, etc.) based on existing or available technology deemed to constitute R&D projects. This is still applicable even when you first need to become familiar with the technology and train staff, perform a study or make purchases.

The demarcations of ‘developing new software’ are explained in the following examples.

Example of development: technical innovation of a purification plant

One of the elements of the development of a production process includes the development of a purification plant. The design of a purification plant on the basis of tried and tested technology does not involve the development of a technically new product, process or process step and does not involve R&D Work. This work is often referred to as engineering. However, the development of a purification plant which incorporates a new operating principle *does* involve R&D Work. The application shall then need to include an explicit specification of the technically new elements of this purification plant as compared to the customary purification plants designed by the applicant. What does this add to the applicant’s technical knowledge? Which technical bottlenecks cannot be resolved with the existing knowledge and expertise? When the development work is limited to the development of a technically new element of the purification plan, the R&D Work is also limited to the development of that part. The R&D Work ends once the operating principle of that element has been demonstrated. Consequently, the design and construction of the entire purification plant and the use of the technically new element of the plant is not regarded as R&D.

Example of the non-development of software

An entrepreneur constructs an App for a client that will serve as the frontend for a webshop. HTML5 will be used, as it must be feasible to approach this from a number of platforms. The applicant has demonstrable experience with this existing technology. Technical complexity is not an issue and the applicant will not develop any technology. Although new software will be constructed, this is not technically new to the applicant.

Example of the non-development of software: new database and network environment

One example of a project that is not an R&D project because it involves the use of existing technology is a project for the construction of a new information system in which the new aspects are a new database environment and a new network environment. The project is primarily focused on the applicant's design of an application and the achievement of the necessary functionality. The search for the optimum design and most suitable components are not regarded as R&D, as the work is application-oriented rather than technology-oriented.

Example of the non-development of software: new development environment

The fact that a development environment is completely new to a software developer and that the developer will need to begin by learning new methods and techniques (first use) does not mean that a project is deemed to be an R&D project. This project consists of construction work. The learning phase is regarded as consisting of becoming familiar with the technology. The work involved is regarded as involving the implementation and modification of purchased existing software or software components and, for this reason, is not deemed to be R&D.

Example of the development of software

A business is specialised in the construction of Apps for mobile phones. The applicant intends to construct an App that can serve as a voice-controlled search engine. Augmented Reality is involved, in the sense that the user can initiate a search command to search for text information about the user's current surroundings. This search for content can range from information about the history of a region or building to information about restaurants in the area. The business develops the software for both the speech processing on the mobile phone and for the reduction of the smartphone's power consumption.

3.2 *Technical scientific research*

Research projects you carry out to generate new technological knowledge can, subject to certain conditions, be deemed to constitute technical scientific research. The meaning of technical scientific research is explained further below on the basis of the terms 'technical' and 'scientific'.

Technical

'Technical' refers to research in fields such as physics, chemistry, biotechnology, production technology and information and communication technology. Research into fields such as economy, sociology or psychology cannot be deemed to constitute technical scientific research. The results from the research do not need to be suitable for application in a technically new physical product or production process.

Scientific

'Scientific' relates to the objective of and results from the research, as well as to the manner in which the research is designed and implemented:

- **Objective and results:** the objective of scientific research is to find an explanation for a phenomenon that cannot be derived from generally available knowledge. Your research generates theoretical or practical knowledge. The sole collection of data or information does not constitute scientific research. Scientific research explains. Research that does not extend beyond noting, describing, observing, surveying, coding, classifying or interpreting is not scientific research. Scientific research is accompanied by the risk of failing to find the explanation for a phenomenon. The results from the research are determined on the basis of facts.
- **Design and implementation:** the design of the research must be known at the time of the application. Scientific research is designed and carried out in a structural and planned manner. The research is not of a routine nature. Clear records of the research programme and the results are required. The results from the research do not need to be reproducible and the determination of the statistical confidence is not required. Nor is it necessary to develop new concepts, laws or theories, or to explain unknown operating principles.

The following examples explain the meaning of 'technical scientific research' (TSR) in more detail.

Example of non-TSR: dairy producer

An entrepreneur wishes to prolong the shelf life of dairy products by the addition of a preservative in combination with a heat treatment. However, this may not be detrimental to the flavour of the product. The entrepreneur carries out experiments with combinations of various levels of preservatives and heat treatments. The results are used to determine the treatment that yields the best product. The experiments do not try to find an explanation for the phenomenon.

Example of TSR: dairy producer

A producer of dairy products is unaware of the manner in which microorganisms are influenced by a heat treatment. For this reason the producer carries out a microbiological study of the cellular mechanisms that take place when microorganisms are exposed to heat. The objective of the research is to find an explanation for the differences in heat tolerance between various species of micro-organisms in dairy products.

Example of non-TSR: catalyst supplier

A catalytic afterburner is used to convert hydrocarbons into less polluting compounds. The supplier is of the opinion that the conversion efficiency can be improved. Experiments are carried out with a variety of process conditions. The temperatures and flue gas velocities are examined to determine the optimum process set-points. The experiments do not try to find an explanation for the phenomenon.

Example of TSR: catalyst supplier

An entrepreneur wishes to increase his knowledge of catalysts to prolong their service life. His research is focused on the reaction kinetics. The entrepreneur seeks explanations for both the fouling and degeneration of the catalyst. Laboratory experiments are carried out to test the theoretical backgrounds.

3.3 Analyses of the technical feasibility

These analyses are focused on the technical feasibility of the in-house research or development. An analysis reviews a potential in-house technical scientific or development project to determine whether it will be feasible for you to carry out the in-house technical scientific or development project. An analysis of the technical feasibility of technical research does not come into consideration for the WBSO. The preconditions attached to these analyses are explained below.

Planned and structural

Pursuant to the definition of R&D, the analysis must be planned and structural. Consequently, the design of the structured analysis must be known at the time the application is submitted. The application must contain an explicit specification of the design.

In-house research or development

The analysis must relate to a potential in-house technical scientific or development project and must yield the answers to questions including the following: Is the project technically feasible? Will your organisation be able to carry out the ultimate project? Economic and financial aspects play a marginal role in these technical analyses (for example, as one of the decision-making criteria when assessing the alternatives). Analyses that primarily focus on the economic and financial feasibility do not come into consideration.

Aspects that are not part of the analysis of the technical feasibility

Your analysis may not be focused on an investment project, a request for a tender or specifications for the purchase of products or processes. Nor do economic studies, cost-price studies, the preparation of estimates, price comparisons or market research come into consideration for the WBSO. The following examples explain the meaning of 'analysis of the technical feasibility' in more detail.

3.4 Process-oriented technical research

Process-oriented research focuses on the improvement of your production process or the software you use. Process-oriented technical research provides you an insight into the potential for the achievement of significant improvements in your production process or software.

A company can apply for the WBSO for a technical research project focused on the improvement of the company's production process or in-house software. An exception is made for a company that hires out employees to another company within the tax entity. This company can apply for the WBSO for a technical research project focused on the improvement of the company's production process or in-house software, provided that the hirer uses the production process or software in its company. Knowledge institutions cannot make use of the WBSO for a technical research project.

Improvement of the physical production process

The objective of process-oriented technical research is to achieve a significant improvement in your production process. You achieve this improvement by making a substantial change in your production method. You carry out process-oriented technical research to review the feasibility of making changes in your production method.

Process-oriented technical research must extend beyond routine process optimisation: the optimisation of the process settings does not constitute a substantial change in the production method. Process-oriented technical research does not need to result in a technically new physical production process.

The physical production process must be in use by your company at the time you submit an application. The research ends at the time you obtain the insight into the process model required to achieve the intended improvement. Consequently, this does not extend to the actual implementation.

Improvement of software

The objective is to achieve a significant improvement in the software you use. Process-oriented technical research relates to the modelling of processes.

The existing process situation is mapped, analysed and simulated, for example using a modelling tool. Next, you implement potential process improvements in the model and carry out a simulation of the new situation. This provides an insight into the effects of the modifications on the process.

The software must be in use by your company at the time you submit an application for the R&D Declaration. The research ends at the time you obtain the insight into the process model required to achieve the intended improvement. Consequently, this does not extend to the actual implementation.

The following examples explain the meaning of 'process-oriented technical research' in more detail.

Example of process-oriented technical research: toxic substances in a production process

A company uses toxic substances in its production process.

The production staff can be exposed to these substances, which is detrimental to their health. Low concentrations of these substances are released during the process. These concentrations are currently far below the maximum statutory levels (MACs). However, the stringency of these requirements will be increased in the future. The company has set a target which specifies a 50% reduction of the release of these toxic substances. The company will begin by making an inventory of the locations at which these substances are released from the production process. Research will be carried out into:

- the modification of the sequence of the process steps: the process is comprised of a mixing section, reactor, separation section and cooling unit. The company is of the opinion that the majority of the toxic substances are released from the separation section. The solubility of the toxic substances depends on the temperature. Moving the cooling unit upstream from the separation section would reduce the release of toxic substances;
- the control of the process;
- the locations at which the substances can be fed to the process;
- the addition of the raw materials: consideration is being given to soluble packaging. What consequences would this have for the production process and for the quality and properties of the finished product?;
- the effect of the state of the substances: substances added, for example, in tablet form or in liquid form could have different effects on the release of toxic substances.

The research will ultimately result in a report reviewing the extent to which the outline solutions contribute to the achievement of the target.

Example of process-oriented technical research: dairy producer

A producer of dairy products intends to expand the capacity of the company's production process.

An analysis of the process has revealed that *one* process step constitutes the bottleneck. The remainder of the line operates at no more than a maximum of 80% of the total capacity. The company intends to operate the line at full capacity. Increasing the capacity by investing in additional equipment is too expensive. For this reason, the company intends to carry out process-oriented technical research to review whether the capacity can be increased by a modification of the production method. The entrepreneur begins with an analysis of the current production method and then reviews the potential modifications of the method. The entrepreneur carries out this review by asking questions including the following:

- What is the role or function of each process step in the production of the finished product?
- Could the method be reorganised by adding some of the ingredients at a later stage in the process, or by working at a higher dry solids concentration in the first part of the process?
- If this is feasible, then what consequences will this have for the product specifications of the finished product?

The research results in a report reviewing the extent to which all the modifications to the production method that were examined make a contribution to the achievement of the target.

Example of process-oriented technical research for software: improvement of the application architecture

A company in the automated logistics sector developed an application in the past, which has since been expanded with a variety of modules (for processing, data exchange, compression, authenticity and verification, etc.). However, these modules impose a burden on the company system that is of a magnitude sufficient to result regularly in waiting times in the logistics process. The company intends to examine how the application architecture can be improved to greatly reduce the burden it imposes on the system. The target is to achieve a 20% reduction in the waiting times. The company intends to begin by making an inventory of the bottlenecks in the communication between the modules and then building them in a model. The company is of the opinion that an analysis and research with this model will enable it to identify the causes. The research will result in a report reviewing these modifications of the software and other solutions. The report will also review the extent to which the targets are achieved. One of the potential modifications could relate to the redevelopment of the compression algorithms. This redevelopment falls outside the scope of the technical research project.

Example of process-oriented technical research for software: improvement of the application architecture

An IT company processes millions of transactions for a number of clients, whereby the company attaches paramount importance to reliability and security. The transaction data originate from various data systems, repeatedly with new protocols that need to be supported. These are processed separately. In practice, it has transpired that some transactions may not be completed in full. However, this was never identified during the regression tests that need to be carried out repeatedly on each occasion that new protocols need to be supported and tested. Moreover, the lead time of these regression tests is too long. These need to be reduced by 25%. A model of the testing process is made and then validated. This is used to simulate the test process. The results from the modelling carried out in the research can be used to draw up a schedule of requirements for the necessary modifications of the test software and determine the contribution each will make to the achievement of the target. The data processing could be carried out in parallel in an endeavour to achieve the required increase in speed. In addition, the system could be equipped with self-diagnostics and automatic recovery to prevent the incomplete processing of transactions. The research will result in a report listing the findings of the research.

4. WBSO—Which work does not come into consideration?

Not all the work carried out within the context of R&D projects can be deemed to be R&D Work. The text of the WBSO, the abbreviation of the Dutch for the former Research and Development Promotion Act (now the Wage Tax and Social Insurance Contributions (Reduced Remittances) Act/R&D tax credit, WVA/S&O) and the R&D Delimitation Regulations define what is and is not understood as R&D work. The Act lays down a specification of work that constitutes R&D Work, whilst the Delimitation Regulations contain a number of explicit exclusions. This Section reviews these exclusions. The Section concludes with a list of a number of preconditions that you will need to meet if you are to make use of the WBSO.

4.1 Work that does not come into consideration

The following work does not constitute R&D and is not covered by the WBSO.

- market research;
- organisational and administrative work;
- work carried out outside the EU;
- the following work on or for software:
 1. Maintaining software.
 2. Making software suitable for another hardware or software platform: a platform is understood as the entirety of the hardware and operating software on which information systems are developed (the development platform) or put into production (the target platform).
 3. Developing software that integrates or combines existing software in a manner that is technically new to the R&D withholding agent or R&D taxpayer, unless the existing software was primarily developed within and is used within the company of the R&D withholding agent, within the tax entity of which the R&D withholding agent is part or within the company of the R&D taxpayer.
- the construction or installation of equipment destined for use in practice;
- work relating to the implementation and adjustment of technology, products, processes or software, or parts thereof that have been or are to be purchased, without prejudice to the provisions of the 4th bullet under 3;
- research into the presence of minerals;
- the performance of policy studies and strategic studies;
- the organisation and attendance of courses, training programmes and symposia;
- the analysis and assessment of existing production processes when there is no direct link to R&D;
- research that compares products when there is no direct link to R&D;
- work solely on changes to the design or dimensions of products and software;
- quality control other than the control of the R&D that is carried out, and quality assurance;
- work on structural and installation designs based on existing techniques;
- preparations for and the performance of production work;
- the construction of a pilot plant on production scale or a prototype of production or commercial significance;
- work carried out by the R&D withholding agent or R&D taxpayer in connection with the R&D carried out by a third party that cannot as such be deemed to constitute R&D;
- work on modifications of or changes to existing products or processes that are not of technological significance;
- work on the formulation and modification of recipes and the composition of a product that does not result in a technically new operating principle of the relevant product.

Hours spent on the following are not R&D hours:

- visits to trade fairs and congresses
- training programmes, courses and symposia
- maintenance of the project records and other administrative and organisational duties
- supervision of trainees and students working on their final project
- structural and installation design work
- preparation of the product ready for production
- R&D projects for which an application has not been submitted and/or approved
- work that is not directly and exclusively related to the R&D project
- work carried out outside a Member State of the European Union.

Hours worked by the following are not R&D hours:

- staff not employed by the company (such as students working on their final project and trainees)
- staff not directly involved in the technical content of the project (such as secretaries or the marketing manager).

4.2 Preconditions

The following preconditions are attached to granting the WBSO tax credit:

- A project-based approach must be adopted for the R&D (or a programme-based approach when this is more compatible with the specific situation).
- The R&D project must be planned.
- You must organise and carry out the R&D Work. Consequently, when you carry out the work pursuant to a commission or in a collaborative arrangement you will need to be able to demonstrate that you carry out the R&D Work and that you determine the management of the project.
- When employees are hired in and out by companies within a tax entity then each company employing those employees shall need to submit an application. However, the supplier will then be deemed to be carrying out the R&D Work that takes place at the company hiring the employees.
- The R&D Work must be carried within the jurisdiction of the European Union (EU). You may include the R&D hours worked by your employees in other Member States of the EU in your statement of the actual R&D hours worked when you, as the employer, have your registered office in the Netherlands and the R&D Work is carried out by your employees for whom you withhold payroll tax in the Netherlands. Self-employed persons who carry out R&D in the EU for their own company with its registered office in the Netherlands may also include the necessary hours worked in their statement of the actual R&D hours worked. The administrative requirements governing R&D hours worked in another EU Member State are identical to those governing R&D hours worked in the Netherlands. The R&D administrative records must be available at the Dutch branch of the company.

5. RDA—Which costs and expenditure come into consideration?

The RDA offers you a deductible item for your income tax or corporate income tax return. You can apply for a RDA to contribute towards the costs and expenditure (other than the wage costs) you incur in carrying out in-house R&D. The following subsections explain how the RDA is calculated and which costs and expenditure come into consideration for the RDA.

5.1 General

The RDA is determined using one of two methods. The method that is used depends on the number of R&D hours specified in your R&D declaration.

Is your number of R&D hours equal to or less than an average of 150 per month?

If so, the RDA is calculated on the basis of the number of approved R&D hours. The total of the costs and expenditure is determined by multiplying the number of approved R&D hours by the standard RDA hourly wage of € 15. When the number of R&D hours is less than an average of 150 hours a month but you expect that your costs and expenditure will amount to more than € 50,000 then you can opt for a specification of your estimated costs and expenditure.

Is your number of R&D hours more than an average of 150 per month?

If so, the RDA is calculated on the basis of the estimated costs and expenditure: the standard amount cannot be used.

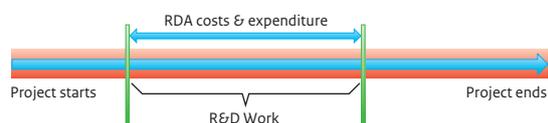
5.2 Conditions attached to costs and expenditure

Solely costs and expenditure incurred for the purposes of R&D Work come into consideration for the RDA.

Not all the work involved in R&D projects can be deemed to be R&D Work. Administrative and organisational work, for example, are not deemed to be R&D Work.

Consequently, the costs incurred for this work do not come into consideration for the RDA. This is shown in the following diagram:

Demarcations of R&D Work and the RDA



Solely costs or expenditure that are directly attributable to the R&D Work carried out by the taxpayer come into consideration for the RDA. Wage costs do not come into consideration for the RDA.

The costs relate to costs paid in connection with the performance of in-house R&D to the extent that these payments:

- have not been included in an earlier RDA Decision;
- serve solely for the performance of R&D;
- are borne by the taxpayer.

Within this context, 'serve solely' prescribes that costs may not be attributed to the in-house R&D only in part. In other words, costs must be fully attributable (= 100%) to the in-house R&D.

Expenditure relates to payments in connection with the purchase of new operating assets to the extent that:

- the operating assets have not been used before;
- the operating assets serve for the purpose of the in-house R&D;
- the payments are made at the taxpayer's expense.

Note!

- Expenditure comes into consideration for the RDA in the year that the operating asset is put into use.
- When the expenditure on an individual item of operating asset amounts to € 1,000,000 or more in a calendar year then a maximum of 20% of the purchase price comes into consideration for the RDA. You may then claim a maximum of 20% of this purchase price in the RDA application for a total of 5 calendar years, provided that the operating asset is used for the purposes of R&D in those years.

5.3 Examples of costs that come into consideration

The following costs may, depending on the R&D, come into consideration:

- the purchase of consumables, materials and parts for the performance of experiments or preparation of trial batches;
- the purchase of materials and parts for the in-house construction of a prototype;
- the costs incurred in arranging for the construction of prototypes that will not ultimately serve a production or commercial purpose;
- the purchase of licences for specific software tools or ICT tools required for the in-house development of technically new software; the costs incurred in renting equipment or leasing buildings used solely for R&D Work.

5.4 Examples of expenditure that come into consideration

The following expenditure may, depending on the R&D, come into consideration:

- buildings or sections of buildings to the extent that these are used for R&D Work;
- the purchase of new equipment or instruments specifically intended for the construction of models, preparation of trial batches or manufacture of prototypes that will not ultimately serve a production or commercial purpose;
- the purchase of ICT tools specifically intended for R&D.

More examples of costs and expenditure are available on the RDA website, www.rvo.nl/wbso.

6. RDA—Which costs and expenditure do not come into consideration?

Not all the costs and expenditure incurred for an R&D project come into consideration for the RDA. The costs and expenditure that do and do not come into consideration are laid down in the *Besluit RDA (besluit van 21 december 2011), houdende regels voor de aanvullende aftrek voor speur- en ontwikkelingswerk ('RDA Decree (Decree of 21 December 2011), laying down regulations governing the additional R&D tax allowance)*.

6.1 General exclusions

Costs and expenditure incurred for activities that do not constitute research and development.

A joint application is submitted for the WBSO and RDA. Consequently, when activities are not covered by the WBSO the associated costs and expenditure do not come into consideration for the RDA. Examples of activities and the associated costs/expenditure that do not then come into consideration for the RDA include:

- the construction of a prototype of production significance (the prototype is used as an operating asset) or commercial significance (the prototype is sold). The cost of the materials used to make the prototype does not come into consideration for the RDA.
- market research;
Activities related to market research are excluded from the WBSO. Consequently, any associated costs are excluded from the RDA.
- applications for and the maintenance of patents;
applications for and the maintenance of patents are not deemed to constitute R&D. Consequently, the costs incurred in applying for and maintaining patents do not come into consideration for the RDA.
- preparations for production;
All costs incurred in starting up and preparing for production are not covered by the WBSO. Consequently, the costs incurred in production losses do not come into consideration for the RDA.

Indirect costs and expenditure

Solely costs and expenditure directly attributable to R&D come into consideration for the RDA. Examples of indirect costs and expenditure that are excluded from the RDA include:

- subscriptions to newspapers and magazines/journals;
- training programmes and courses;
- visits to trade fairs and congresses;
- the R&D director's lease car;
- licences for software and computers for general company use.

Commitments undertaken prior to 1 January 2012

All costs and expenditure incurred as a result of commitments undertaken prior to 1 January 2012 are excluded from the RDA. A commitment is deemed to have been undertaken at the time the order is issued. This approach has been adopted as the RDA is an incentive scheme for decisions to make new investments in R&D.

The following costs and expenditure are then excluded:

- costs and expenditure incurred as a result of, for example, lease or rental contracts concluded prior to 1 January 2012.

6.2 Exclusions of costs

The following expenditure do not come into consideration for the RDA:

- wage costs;
- costs of outsourced work;
work that is contracted out and can be deemed to constitute R&D for the applicant does not come into consideration for the RDA. However, the contractor may be able to apply for the WBSO and RDA for this research work;
- costs of hiring in labour;
- depreciation charges;
- financing costs;
- costs incurred in the purchase or improvement of land.

6.3 Exclusions of expenditure

The following expenditure does not come into consideration for the RDA:

- ICT tools for general use;
- second-hand operating assets. Solely new company equipment (or parts of company equipment) that has not been used previously comes into consideration for the RDA. Nor do machines that have been used previously and are assigned a new use come into consideration for the RDA;
- investments for which an Energy Investment Allowance (EIA) or Environmental Investment Allowance (MIA) has been granted;
- equipment, instruments or facilities for R&D to be carried out by third parties.

6.4 Examples of WBSO projects with costs and expenditure

WBSO development project

A manufacturer of central heating boilers is developing a new type of central heating boiler. This central heating boiler will ultimately be manufactured in mass production. A prototype being constructed during the development process will be used to test the operating principle. Once the operating principle has been demonstrated, the prototype will be scrapped. The hours spent on the construction of this prototype are regarded as R&D hours.

Examples of costs and expenditure that come into consideration for the RDA include:

- the costs incurred in the purchase of parts for the construction of the prototype;
- the costs incurred in the purchase of new measuring instruments required to carry out the tests.

Examples of costs and expenditure that do not come into consideration for the RDA include:

- the costs incurred in hiring in employment agency staff for the performance of the tests (this involves hiring in labour);
- depreciation on existing test equipment (depreciation is not a paid cost);
- the costs incurred in acquiring a patent (not R&D).

WBSO feasibility study

The chemical and petrochemical industries work with corrosive, usually highly-acidic compounds in non-spark environments. No existing hoisting clamps comply with the requirements imposed by these industries. The hoisting clamp manufacturer's analysis shall review the feasibility of developing clamps manufactured from special titanium alloys. The clamps shall need to be lightweight, non-spark and offer a high hoisting capacity. The analysis of the technical feasibility will begin with the selection of alloys and plastics that can withstand corrosive compounds and are non-spark. These will then be tested briefly to determine whether they are suitable for use in the manufacture of hoisting clamps. If the analysis reveals that it is, in principle, feasible to manufacture strong and corrosion-resistant hoisting clamps from specific special alloys and plastics, then this will be followed by the initiation of a development project for the development of the production clamps.

Examples of costs that come into consideration for the RDA include:

- the costs incurred in the purchase of titanium alloys and plastics to be used as test materials;
- the costs incurred in third-party machining of the test materials.

Examples of costs and expenditure that do not come into consideration for the RDA include:

- the costs incurred in arranging for marketing research (this is not R&D);
- visits to trade fairs (that are not directly attributable to R&D).

WBSO technical research

A metalworking company began on a small scale, with one milling machine and lathe. The production facilities have expanded greatly over the course of the years. In the past, the company carried out a fundamental redevelopment of the production process to cater for large orders from one specific customer. However, this customer has not placed any further orders. The company is confronted with the problem of a production process that is still laid out for the processing of large orders for one specific product. The company intends to carry out process-oriented technical research to review the feasibility of:

- organising the production more flexibly to enable the company to manufacture three different products a day instead of the current one product a day;
- carrying out at least two rush orders a week during normal production rather than the current one rush order a week;
- reducing the vulnerability to disruptions of the production process by at least 50%.

This will ultimately result in a report reviewing the outline solutions that were examined and their effects.

Examples of costs that come into consideration for the RDA include:

- the costs incurred in renting machines used to carry out the tests.

Examples of costs and expenditure that do not come into consideration for the RDA include:

- the expenditure on new machines reviewed in the report with outline solutions (not R&D);
- visits to trade fairs (that are not directly attributable to R&D);
- the costs incurred in training employees (not R&D).

WBSO technical scientific research

WBSO technical scientific research An entrepreneur wishes to increase his knowledge of catalysts to prolong their service life. His research is focused on the reaction kinetics. The entrepreneur seeks explanations for both the fouling and degeneration of the catalyst. Laboratory experiments are carried out to test the theoretical backgrounds.

Examples of costs that come into consideration for the RDA include:

- expenditure incurred in the purchase of laboratory equipment used for the research;
- the costs incurred in the purchase of the raw materials used in the laboratory experiments;
- the costs incurred in arranging for third parties to carry out the laboratory tests;
- the costs incurred in the purchase of software specifically required for simulations and/or analyses.

Examples of costs and expenditure that do not come into consideration for the RDA include:

- visits to trade fairs (that are not directly attributable to R&D);
- use of a company laboratory (this does not involve paid costs);
- the costs incurred in hiring in employment agency staff for the performance of tests in the company laboratory (this involves hiring in labour).

More examples of costs and expenditure are available on the RDA website, www.rvo.nl/wbso.

7. What do you gain from the WBSO and RDA?

The financial gain offered by the WBSO differs for companies acting as withholding agents, non-entrepreneurs and self-employed persons. Start-up companies and entrepreneurs are entitled to an additional financial gain, what is referred to as the 'start-up facility'. The financial gain offered by the RDA differs for companies liable to pay corporate income tax and natural persons liable to pay income tax. This Section explains how your financial gain is determined.

7.1 WBSO—Tax credit for companies acting as withholding agents

The WBSO offers companies acting as withholding agents a deduction from the total payroll tax they are required to pay. This deduction from the payroll tax to be paid is referred to as the R&D withholding tax credit. In 2015, this deduction amounts to 35% of the first € 250,000 of the total R&D wages and 14% of the remaining R&D wages. The total R&D withholding tax credit for each R&D withholding agent or tax entity is set at a maximum of € 14,000,000 per calendar year. These percentages may be adjusted once each year. However, this does not have any consequences for R&D Declarations issued before the adjustment. The above information is subject to parliamentary amendments!

Determination of the R&D wages in 2015

You calculate the R&D wages by multiplying the R&D hourly wage by the number of R&D hours you have been allocated. The R&D hourly wage is a fixed average hourly rate applicable to all your R&D employees. This R&D hourly wage is used for the further processing of your application or applications and is applicable to the entire 2015 calendar year. The R&D hourly wage is determined as follows: If you did not carry out any R&D Work in 2013, then your hourly wage will be set at a fixed average of € 29 (standard amount).

If you did carry out R&D Work in 2013 and were issued an R&D Declaration for that work then RVO.nl will calculate the average R&D hourly wage for 2015 on the basis of the data in your payroll tax returns for 2013. RVO.nl needs the Citizen Service Numbers (BSNs) of your employees who carried out R&D Work in 2013 to make these calculations. You can submit these Citizen Service Numbers simply via the Internet. When you were issued an R&D Declaration for 2013, RVO.nl will issue the necessary information.

RVO.nl requests information about the taxable wage and the hours paid for the R&D employees that you specified from the Employee Insurance Agency (UWV). The UWV receives these data from the Tax and Customs Administration. The information issued by the UWV is based on the data in the UWV's policy records on the reference date. The reference date for the wage data for 2013 is set at 01 April 2014.

The R&D hourly wage is calculated as follows:

$$\text{R\&D hourly wage} = \frac{\text{Total wages of all R\&D employees}}{(0.85 \times \text{total hours paid for all R\&D employees})}$$

The factor 0.85 serves as compensation for leave. The result is rounded off upwards to the nearest € 1.

The calculated hourly wage is applicable to the entire 2015 calendar year. Consequently, you only need to submit the Citizen Service Numbers once.

A change in your company's legal entity creates a new withholding agent! Your company is then governed by the standard hourly wage of € 29 in the year in which the first application is submitted and the next calendar year. This is applicable when you, as a new withholding agent, have taken over R&D personnel from a predecessor or from another company.

7.2 WBSO—Tax credit for R&D taxpayers (self-employed persons)

The WBSO offers self-employed persons an R&D tax credit when they have carried out at least 500 hours work on R&D in a calendar year. The amount of the tax credit will be set each year. The 500 hour minimum is not influenced by the number of applications you submit in a calendar year (see Section 8). The R&D hours allocated in a number of R&D Declarations are totalled. Consequently, the minimum number of R&D hours to be worked is *not* reduced in proportion to an application submitted for part of the relevant calendar year.

7.3 WBSO—Extra tax credit for start-up companies and entrepreneurs

The WBSO offers additional support for start-up companies and entrepreneurs. Once again, a distinction is made between companies acting as withholding agents and self-employed persons.

R&D withholding agents

R&D withholding agents which are deemed to be start-up companies come into consideration for an R&D withholding tax credit of 50% rather than 35% of the first € 250,000 of the total R&D wages in 2015.

R&D taxpayers (self-employed persons)

Self-employed persons who are deemed to be start-up entrepreneurs come into consideration for an additional R&D tax credit.

When are you deemed to be a start-up company?

The following criteria determine whether your company is deemed to be a start-up company:

- the number of years in which your company has employed personnel or the number of years in which you have been an entrepreneur;
- the number of years in which your company has been issued an R&D Declaration;
- whether your company continues the activities from another company owned by your company.

These criteria are explained in more detail below.

The number of years in which you have employed personnel or been an entrepreneur

Your company can be deemed to be a start-up company when the company did not act as a withholding agent in at least one of the previous five calendar years. This means that you have employed personnel for a maximum of four calendar years. Self-employed persons may have acted as entrepreneurs for a maximum of four of the past five calendar years. Neither of the aforementioned periods need to be consecutive periods.

The number of years in which you have been issued an R&D Declaration

You can be deemed to be a start-up company for a maximum of three years. When you have been issued R&D Declarations in three or more of the past five years then you no longer come into consideration for the start-up status. This does not need to be a consecutive period. Each calendar year in which you were issued one or more R&D Declarations then counts as one year. When specific conditions are met then the R&D Declarations issued to a company of which your company is a continuation are also taken into account. This is determined by the continuation and ownership structure criteria that are explained below.

Continuation of activities

Has your company taken over activities from another company, or did your company take over activities from another company in the past? If so, this is deemed to constitute the continuation of (part of) a company. The company from which you took over the activities does not necessarily need to have been discontinued.

When your company continues the activities of another company then the R&D Declarations issued to that other company may in some instances be taken into account when determining the start-up status of your company. This is determined by the ownership structure of your company.

The following examples explain the meaning of 'continuation' in more detail.

Examples of continuation

- A one-man business or a share in a general partnership is converted into a private limited company. The activities of the one-man business or general partnership are continued by the private limited company.
- A private limited company is split into a holding company and an operating company. The activities of the former private limited company are continued by the holding company and/or the operating company.
- Two or more companies merge to form a new company that continues the activities of the former private limited companies.
- The activities of a private limited company are split and transferred to two new private limited companies that each continue part of the activities of the former private limited company.
- The activities of a bankrupt private limited company are restarted by another private limited company.
- A director and major shareholder transfers his activities from an operating company to his personal holding company.

The ownership structure: affiliation and substantial interest

When your company A continues the activities of company B and company B holds at least 1/3 of the shares in company A then the companies are affiliated. This is also the case when company A holds at least 1/3 of the shares in company B or company C holds at least 1/3 of the shares in both company A and company B.

When your company A continues the activities of a self-employed person B and this self-employed person B holds more than 5% of the shares in company A then self-employed person B holds a substantial interest.

When activities are continued *and* either affiliation or a substantial interest are an issue then the R&D Declarations issued to the continued company/self-employed person B in the previous five calendar years are taken into account in the determination of the start-up status of company A.

The following examples explain the meaning of 'affiliation' and 'substantial interest' in more detail.

Example of affiliation: continuing the activities of another private limited company

Private limited company B was issued R&D Declarations in 2011 and 2012. The activities of private limited company B are continued by private limited company A. Private limited company A has never been issued an R&D Declaration and employed its first personnel in 2014. In 2015, private limited company A submits its first application for the WBSO.

Private limited companies A and B are affiliated. The two R&D Declarations issued to private limited company B are taken into account when determining the start-up status of private limited company A. In this instance, private limited company A is a start-up company solely in 2015 as a new company can be a start-up company for a maximum of three years. Private limited company A will no longer be a start-up company in 2016.

Example of substantial interest: conversion of a one-man business into a private limited company

A one-man business was issued R&D Declarations in the period from 2011 to 2013 inclusive. As from 2015, the one-man business is converted into a new private limited company. The owner of the discontinued one-man business holds a substantial interest in the new private limited company. The private limited company is not a start-up company in 2015, as the one-man business had already been issued three R&D Declarations.

RVO.nl determines whether you are to be assigned the start-up status. This assessment is carried out on the basis of the information you are required to enter in the application software. Have you doubts about the applicability of the start-up status to your company? If so, contact the helpdesk. When you have been assigned start-up status and it subsequently transpires that the information you submitted to RVO.nl was incorrect then RVO.nl may revise your status.

7.4 RDA—Calculation of the RDA

The RDA offers you a deductible item for your profit tax return. The RDA is a percentage of the total estimated costs and expenditure. When the standard amount is applicable, the RDA is a percentage of the number of allocated R&D hours multiplied by € 15. In 2015, the RDA percentage is 60%.

7.5 RDA—Tax allowance for corporate income tax

The RDA offers companies liable to pay corporate income tax a deduction (deductible item) for the corporate income tax they are required to pay. For the part of the taxable profit to € 200,000 inclusive, the rate is 20% (2015 financial or calendar year). The rate for the taxable profit in excess of this amount is 25%.

On the basis of a corporate income tax rate of 25%, your benefit amounts to:

- for each Euro of your costs/expenditure:
 $60\% \text{ (RDA percentage)} * 25\% = 15\%$.
- with a fixed RDA rate of € 15 per R&D hour:
 $€ 15 * 60\% \text{ (RDA percentage)} * 25\% =$
 $€ 2.25 \text{ per R\&D hour.}$

7.6 RDA—Tax allowance for income tax

Your profit from business activities is included in your income from work and home (Box 1). The financial gain offered by the RDA depends on the total taxable (positive) income in Box 1. The gain offered by the RDA at a rate of 52% (2015 financial or calendar year) for a total taxable (positive) income of above € 56,532 in Box 1 of the income tax return amounts to:

- for each Euro of your costs/expenditure:
 $60\% \text{ (RDA percentage)} * 52\% = 31.2\%$.
- with a fixed RDA rate of € 15 per R&D hour:
 $€ 15 * 60\% \text{ (RDA percentage)} * 52\% =$
 $€ 4.68 \text{ per R\&D hour.}$

Note: this example does not take account of a SME profit exemption, where relevant.

7.7 RDA—You didn't make a profit?

Are you liable to pay corporate income tax or income tax and did you close the financial year with a loss? If so, when you are liable to pay income tax and you record a loss from business activities in Box 1 then you may spread the RDA over the taxable profit from the three previous years and the nine following years. When you are liable to pay corporate income tax you can spread the RDA over the previous year and the nine following years, unless a restriction of loss compensation is applicable to the corporate income tax¹.

¹ Pursuant to Article 20, third paragraph and fourth to sixth paragraphs inclusive, or Article 20a of the Corporation Tax Act, 1969. A discussion of the precise details of these articles of the Act falls outside the scope of this Manual. Consult your tax consultant and/or the competent corporate income tax inspector.

8. How and when do you submit an application?

You submit an application to RVO.nl to come into consideration for the WBSO and RDA. You can submit an application at various times. This Section explains how you complete and submit an application. This Section also refers to a number of important points for attention.

8.1 The time of submission

You are offered flexibility in the time at which you submit an application for the WBSO/RDA. An application for the RDA is submitted together with the application for the WBSO. Consequently, you cannot submit a separate RDA application but you can submit a separate WBSO application. You can submit a maximum of three applications a year for a minimum of 3 and a maximum of 12 months. You opt for more frequent applications when you expect that you will initiate new projects during the course of the year or when you are of the opinion that you may need extra hours to complete a project. This allows you to adopt a flexible approach to accommodate your needs. However, applications are governed by the following:

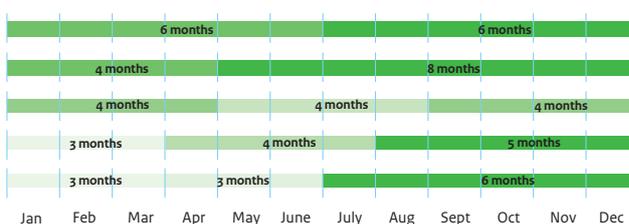
R&D withholding agents

- You can be issued a maximum of three decisions a calendar year.
- Your application is for at least three calendar months and at most twelve calendar months. When your activities extend beyond the end of the calendar year, you submit a new application for the next calendar year.
- Your application must be submitted in advance and by no later than one calendar month before the beginning of the period covered by your application.
- Consequently, for example, you must submit an application for a period beginning in January 2015 by no later than 30 November 2014.

Note!

You may submit only one application for a given calendar month. For example, when you have submitted an application for the entire year, you cannot submit any supplementary applications for that year.

Examples of flexible application options



As an R&D withholding agent you may submit an application for the months of October, November and December by no later than 31 August of that year, provided that you have not previously submitted an application for those months and have submitted no more than two earlier applications for that year.

R&D taxpayers (self-employed persons)

- You can submit an application for your R&D Work by no later than 30 September of the relevant calendar year.
- There is no limit to the number of applications/decisions.
- Your application covers the period from the date of submission to the end of the calendar year.
- Your application covers a period of at least three calendar months.
- When your activities extend beyond the end of the calendar year, you submit a new application for the next calendar year.

Note!

If you also submit an application for personnel then refer to the subsection on R&D withholding agents.

8.2 Submitting the application

You can submit your application via the online form on eLoket or via the application software that you can download.

You need to decide how you will submit your application *before* you begin to complete the application. Subsection 8.3. contains more information about the actual completion of the application.

You can submit your application using one of the following methods:

- submission of an application via the online form on eLoket;
- submission of an application via the application software you can download from www.rvo.nl/wbso.

You will need eRecognition (*eHerkenning*) level 2+ (EH2+) for both methods. More information about the submission of an application is available at www.rvo.nl/wbso, under *Aanvragen* ('Application') and then *Indienen* ('Submission').

eRecognition

RVO.nl NL is affiliated with the government's general eRecognition (*eHerkenning*) system. eRecognition offers you a digital key that you can use to identify yourself easily to various government service providers. It is comparable to internet banking, in which you confirm your registration with a code that you receive in an SMS or with a token. You need eRecognition level 2+ (EH2+) for the WBSO/RDA. You can submit applications for a number of companies with one eRecognition key. More information about eRecognition is available at www.eherkenning.nl/bedrijven.

If you do not yet have eRecognition (*eHerkenning*) then request this in good time. The eRecognition suppliers will not always be able to meet the promised delivery time of a few working days in peak periods. Self-evidently, responding quickly and adequately to letters you receive from the supplier of your choice will shorten the delivery time.

Shortage of time for application

Do you wish to submit an application for the WBSO/RDA, but are you short of time? If so, you can submit a free format application via the Internet. Surf to www.rvo.nl/wbso, *Aanvragen*, *Indienen* ('Applications, Submission') for more information.

Tips for the more rapid processing of your application:

- RVO.nl reads in applications automatically as far as is possible. For this reason, the processing of applications that merely refer to annexes will be delayed. When you wish to refer to information in annexes it will be preferable to copy the text or part of the text and paste it in the application.
- Are you submitting an application or other correspondence in electronic form? If so, you do not need to send this information by post or fax as well. Sending duplicates will delay the processing of your application.

When you call in an intermediary or submit the application as an intermediary, you must make sure that the authorisation is correct. When an application is submitted for the WBSO/RDA, both the authorisation for the WBSO *and* RDA will need to be valid. A model for the authorisation is available on the RVO.nl website (www.rvo.nl/wbso, search term: *machtiging wbso*). You do not need to submit the authorisation with the application. When you, as an intermediary, submit the application then in signing the application you declare that you have received written authorisation from the entrepreneur for whom you are submitting the application. However, RVO.nl can still request authorisations in case of doubt or in random checks.

8.3 Completing the application

You can submit your WBSO/RDA application via the online form on eLoket or the application software you download from www.rvo.nl/wbso (under *Aanvragen*, and then *Indienen*) and install on your computer. When you submit your application via the online form on eLoket, you do not need the stand-alone WBSO/RDA application software. The online form also runs under operating systems such as Apple and Linux and can be accessed from any workplace via the Internet.

Completing the application

When you complete the application you will be guided automatically through the relevant questions. A number of checks, such as for completeness, are carried out while you complete the application. These checks are also carried out before you submit the application. When you submit a complete application, you will need to enter some general information and specifications of the planned projects.

You make a realistic estimate of the time that will be required for each project. Projects for which no more than a few hours are estimated are not regarded as R&D projects. The projects must be specified in specific terms, not in general terms. The specifications must give an explicit statement of the activities you plan to carry out. Do you also wish to come into consideration for the RDA? If so, continue by completing the RDA section.

When you submit a complete application, you will need to enter a specification of the costs and expenditure together with a realistic estimate of the amounts for each project.

Once you have completed the application, you conclude the process with the submission of the application. Subsection 8.2 explains how you submit an application. When you have answered all questions correctly and completely, RVO.nl will be able to assess your application. If you submit an incomplete application or fail to submit an application in time then your application may set aside or rejected as incomplete. When the legal form of your company will change during the application period (for example, on a merger with another company, a full or partial takeover of/by another company or the conversion of your one-man business into a private limited company) or a change in your parent company, where relevant, will take place then RVO.nl emphatically recommends that applications are submitted for both the old and new situation (by all the entrepreneurs involved).

Make sure that your application states the correct and complete name of your company as laid down in the Articles of Association.

Make sure that your application states the correct payroll tax number and Chamber of Commerce registration number. RVO.nl needs this information for the identification of your company and for the settlement of the R&D withholding tax credit. If you state an incorrect payroll tax number, you will be unable to deduct the R&D withholding tax credit!

8.4 Submission of Citizen Service Numbers

Subsection 7.1 explained that in certain situations your application will need to be supplemented with the submission of the Citizen Service Numbers (BSNs) of the employees who carried out R&D work in 2013 on projects that were covered by an R&D Declaration you had been issued.

You submit the BSNs required for the determination of the R&D hourly wage for your application for 2015 via an online form on eLoket.

Step-by-step plan for the submission of BSNs

- Step 1: Log in to eLoket.
Note: as from 1 January 2015, BSNs can be submitted solely with eRecognition (*eHerkenning*).
- Step 2: Select *Nieuwe aanvraag* ('new application'), select W (for WBSO) and then click on the form *WBSO BSN Werknemers 2013* ('WBSO BSN Employees 2013').
- Step 3: Activate your form with one of the reference numbers from 2013 and the activation code 2013 you received a letter.
- Step 4: Enter the BSNs of all employees who carried out R&D Work for you in 2013, and then click the send button to submit the form. When you have a large number of BSNs, you can also read in a file containing the BSNs.
- Step 5: You receive an e-mail confirming the submission of your BSNs. If you do not receive an e-mail then check the status of your form in eLoket, in the *mijn overzicht* ('my summary') menu. This should be set to the status *ingediend* ('submitted').

9. Administrative records

When you have been granted the WBSO, you are required to keep R&D administrative records for the projects covered by the R&D Declaration you were issued. These administrative records must contain a clear specification of the R&D Work that has been carried out and the time spent on that work. Did you apply for the RDA on the basis of the standard amount? If so, you do not need to keep supplementary administrative records alongside the mandatory records of the R&D hours worked. Have you been granted an RDA on the basis of costs and expenditure? If so, you are under the obligation to keep administrative records. These administrative records must provide a clear and concise insight into the costs and expenditure incurred and paid for each R&D project covered by the RDA Decision you were issued. This Section contains an explanation of the requirements governing the administrative records on the basis of a number of questions and answers.

9.1 Why are you required to keep administrative records?

Once you have been issued the R&D Declaration and RDA Decision RVO.nl will carry out an inspection to verify that the information you submitted in your application is in agreement with the actual situation. RVO.nl carries out these inspections by visiting companies and knowledge institutions that have been issued an R&D Declaration and, where relevant, RDA Decision.

During these visits RVO.nl inspects the administrative records to verify that the R&D Work specified in the application has actually been carried out. RVO.nl also wishes to gain an insight into the progress in the R&D projects. Subsections 9.2, 9.3 and 9.4 contain more information about keeping R&D administrative records.

When you have also been issued an RDA Decision, RVO.nl's inspection during the visit will also extend to an inspection of the costs and expenditure that have been incurred and paid for the R&D projects covered by the RDA Decision you were issued. Subsections 9.5, 9.6 and 9.7 contain more information about keeping R&D administrative records.

Keeping precise administrative records of your research and/or development results is also in your interest. Appropriate administrative records, in addition to complying with the statutory requirements, provide you an insight into the results achieved by your R&D. Moreover, keeping administrative records will ensure that your organisation will retain the knowledge acquired during a research or development project on the departure of an R&D employee. Unfortunately, all too often RVO.nl comes into contact with companies that have lost all their knowledge about an R&D project on the departure of a specific employee—and all because no written or digital records had been kept during the project.

In addition to the specified information about the project, you will also need to include the following data and documents in your R&D and RDA administrative records:

- copies of applications, R&D Declarations and RDA Decisions
- the correspondence with RVO.nl about your applications;
- any correction R&D Declarations and correction RDA Decisions, where relevant.
- The last point is discussed in sections 10 and 11.

9.2 What R&D administrative records must you keep?

Appropriate R&D administrative records provide a clear and concise insight into the nature and content of the project, the progress in and the scope of the R&D Work that has been carried out. Within this context, 'scope' refers to the number of R&D hours devoted to the project. You may use a method to keep

Your R&D administrative records for development projects also state the technical problems/bottlenecks you encountered and the outline solutions you have selected to resolve them. Your R&D administrative records for technical feasibility analyses and technical (scientific) research also give an insight into the design of and the results from the analyses or the research analyses or the research.

When a holding company and an operating company work on joint projects the R&D administrative records must make the role and input of both companies clear.

The R&D hours worked must be entered in your R&D administrative records within ten working days. Your entire R&D administrative records must be complete within two months after the end of each quarter.

Not all the work carried out on an R&D project is deemed to constitute R&D Work, for example administrative or organisational work is not regarded as R&D Work. Section 4 contains a complete list of work that is not deemed to constitute R&D Work.

9.3 WBSO—What are the consequences of incomplete administrative records?

RVO.nl can inspect your R&D administrative records to determine whether—and, if so, to what extent—you have carried out R&D Work covered by the R&D Declaration that was issued to you. If you do not have the R&D administrative records required by law available two months after the end of the calendar quarter in which the R&D Work was carried out, then RVO.nl may correct the R&D withholding tax credit granted to you earlier in its entirety. It will then be assumed that no R&D Work was carried out. RVO.nl can also impose a correction for the above when you do keep administrative records but the records do not comply with the stipulated requirements.

Submission of incorrect information in the application

RVO.nl may also correct the R&D withholding tax credit granted to you earlier should it transpire that the work that was actually carried out is not in agreement with the work specified in the application that resulted in the issue of the R&D Declaration. RVO.nl will issue a correction R&D Declaration in both instances and may also impose a fine.

9.4 WBSO—How long must you retain the R&D administrative records?

You are under the obligation to retain the R&D administrative records for seven years.

9.5 RDA—What RDA administrative records must you keep?

When you have been issued an R&D Declaration *and* a RDA Decision on the basis of costs and expenditure then you must keep administrative records of the costs and expenditure on each project and the associated payments.

The method you use to keep the administrative records for each project may be as compatible as possible with your company's customary method.

Your RDA administrative records can contain a variety of documents:

- quotations;
- confirmations of orders;
- invoices;
- proof of payment.

Have you been issued a RDA Decision on the basis of the standard amount? If so, you do not need to keep administrative records of the costs and expenditure. Records of the actual number of R&D hours worked will be sufficient.

9.6 RDA—What are the consequences of incomplete administrative records?

The administrative records must be available within two months after the end of the calendar year covered by the RDA Decision. The administrative records must contain clear and explicit information about the costs and expenditure incurred for the R&D Work for which the RDA Decision was issued. When the above conditions are not met, RVO.nl may correct the RDA granted earlier in its entirety and may impose a fine.

Submission of incorrect information in the application

When the information you submitted in the application for the RDA are incorrect or incomplete to an extent that would, if the correct information had been submitted, have resulted in a different decision being reached on the application then RVO.nl may also impose a fine. This fine can amount to a maximum of € 100,000 or, when this is greater, twice the amount specified in the RDA Decision for the relevant period. The amount of the fine imposed by RVO.nl depends on the extent to which the fault was imputable.

9.7 RDA—How long must you retain the R&D administrative records?

You are under the obligation to retain the RDA administrative records for seven years after the end of the period covered by the RDA Decision.

10. An R&D Declaration— and then...

Once you have received your R&D Declaration, you may deduct your tax credit.

There are two alternatives:

- You are an R&D withholding agent and you have been granted an R&D withholding tax credit;
- You are an R&D taxpayer and you have been granted an R&D tax credit.

This Section explains how you can deduct your R&D withholding tax credit or R&D tax credit. It also explains when you will need to submit a statement of the actual number of R&D hours worked.

10.1 Deduction of the R&D withholding tax credit for R&D tax withholding agents

You deduct the R&D withholding tax credit you have been granted from your payroll tax return. The amount of your R&D withholding tax credit is specified in your R&D Declaration. The R&D Declaration is issued in the name of the R&D withholding agent. The R&D Declaration also specifies the payroll tax number (including the sub-number) from which you may deduct the R&D withholding tax credit when you file your payroll tax return. The credit may be deducted solely from the payroll tax (wage tax and social insurance contributions). The credit may not be deducted from the employee insurance or healthcare insurance contributions. You may deduct the R&D withholding tax credit solely in tax periods that end during the calendar year to which the R&D Declaration relates. Your tax period may be of a duration of one month or of four weeks.

The total R&D withholding tax credit you deduct from your tax may not exceed the amount specified in your R&D Declaration!

Deduction within the tax periods

The date on which your R&D Declaration was issued is of importance to the deduction of your R&D withholding tax credit. Once you have received your R&D Declaration, you may deduct the withholding tax credit from the then remaining tax periods. You may deduct a maximum of the proportionate amount of the unutilised R&D withholding tax credit from the payroll tax due in each tax period. When, for example, you decide that you will not deduct the R&D withholding tax credit in one of more tax periods or will not deduct the maximum amount then the maximum you may deduct in the remaining tax periods will be higher. You can, for example, opt for this approach when you will recruit more employees during the course of the year or when your R&D project is temporarily delayed or halted and is restarted later in the year. The deduction of the R&D withholding tax credit may not result in the reduction of the payroll tax to be paid in a tax period to less than zero.

You may not deduct the R&D withholding tax credit until RVO.nl issues your R&D Declaration!

You are not under the obligation to deduct the maximum in each tax period. When you decide that you will not deduct the maximum you may compensate the difference in the following tax periods if you so wish.

You may deduct the credit granted in the R&D Declaration, irrespective of the months covered by the application period in which the R&D hours are actually worked. When the actual R&D hours worked are at variance with the number of hours granted in your R&D Declaration you will need to take action only after the end of the calendar year (see Subsection 10.3).

The following examples explain the proportionate and disproportionate deduction of your R&D Declaration withholding tax credit in more detail.

Example of the deduction of the R&D withholding tax credit: monthly tax return

You submit an application for the first six months of a calendar year and you receive your R&D Declaration on 10 March. You are granted a maximum R&D withholding tax credit of € 12,000. You may then deduct this amount from your tax returns for the months of March, April, May and June, i.e. a maximum of € 12,000: 4 months = € 3,000 per month.

R&D Declaration (€ 12,000)					
		€ 3,000	€ 3,000	€ 3,000	€ 3,000
Jan	Feb	Mar	Apr	May	June

Example of the deduction of the R&D withholding tax credit: four-weekly tax return

You submit an application for the first four months of a calendar year and you receive your R&D Declaration on 10 March. You are granted a maximum R&D withholding tax credit of € 12,000. The tax periods that coincide with the period covered by the R&D Declaration either in full or in part are as follows:

1. first tax period, 1 January to 25 January inclusive;
2. second tax period, 26 January to 22 February inclusive;
3. third tax period, 23 February to 22 March inclusive;
4. fourth tax period, 23 March to 19 April inclusive;
5. fifth tax period, 20 April to 17 May inclusive.

As only the first four tax periods end in the period covered by the R&D Declaration, the R&D withholding tax credit specified in the Declaration may not be deducted in tax period (5).

You can deduct the credit in the remaining tax periods, whereby the date of the R&D Declaration is determinative. As the R&D Declaration was issued on 10 March you may deduct a maximum amount in tax periods (3) and (4) of € 12,000 / 2 months = € 6,000 per month.

R&D Declaration (€ 12,000)			
		€ 6,000	€ 6,000
Jan	Feb	Mar	Apr

Example of the deduction of the R&D withholding tax credit: disproportionate deduction

You file monthly tax returns. In July, you receive an R&D Declaration for the months from June to September inclusive. You have been granted an R&D withholding tax credit of € 3,000. You may deduct € 1,000 in each of the months of July, August and September. However, if you decide to deduct only € 600 in July, then you may deduct a maximum of € 1,200 in both August and September (the proportionate part of the unutilised amount of € 3,000 - € 600 = € 2,400). If you then decide to deduct € 800 in August, then you may deduct the remaining amount, € 2,400 - € 800 = € 1,600, in September.

R&D Declaration (€ 3,000)			
	€ 600	€ 800	€ 1,600
June	July	Aug	Sept

Deduction outside the tax periods

In some situations, the payroll tax due in a specific tax period may be insufficient for the deduction of the proportionate part of the unutilised R&D withholding tax credit in that tax period. When the R&D withholding tax credit has not been fully utilised by the end of the year covered by the R&D Declaration you may deduct, with retroactive effect, the remainder from the expired tax periods that end in the year covered by the R&D Declaration.

You deduct the withholding tax credit with retroactive effect by filing one or more correction messages with the Tax and Customs Administration. These correction messages are part of the payroll tax return.

The following example explains the use of correction messages to deduct your R&D withholding tax credit outside the tax period.

Example of the deduction of the R&D withholding tax credit: correction messages

You file a monthly tax return. In January, you were issued an R&D Declaration for the first four months of the year. You have been granted an R&D withholding tax credit of € 3,000. You intend to deduct the maximum R&D withholding tax credit, with the exception of the second tax period. The payroll tax you are required to pay amounts to € 900 per tax period.

1. In the first tax period, you deduct the maximum amount of the R&D withholding tax credit, € 750 ($€ 3,000 / 4$);
2. In the second tax period, you do not deduct any of the R&D withholding tax credit.
3. In the third tax period you may deduct a maximum of € 1,125 ($€ 3,000 - € 750 = € 2,250 / 2$). However, in view of your gross payroll tax due, you can deduct no more than € 900 of your R&D withholding tax credit in this month.
4. In the fourth and last tax period you may deduct the remainder of the R&D withholding tax credit, namely € 1,350 ($€ 3,000 - € 750 - € 900$). However, as you are unable to deduct more than € 900 of your R&D withholding tax credit, you have an unutilised R&D withholding tax credit of € 450 at the end of the period covered by the R&D Declaration. The first and second tax periods still offer scope of € 150 and € 900 respectively for the deduction of the unutilised R&D withholding tax credit. The deduction of the remaining withholding tax credit of € 450 from the return for the second tax period would appear to be the most logical approach (you will then need to file just one correction message: you would otherwise need to file two correction messages, for example for € 150 in January and € 300 in February). Consequently, you file a correction message for the second tax period.

R&D Declaration (€ 3,000)			
€ 750		€ 900	€ 900
	€ 450		
Jan	Feb	Mar	Apr

You may never deduct an amount of the R&D withholding tax credit greater than the amount of the payroll tax you are required to pay in the relevant tax period. If you have not utilised your full R&D withholding tax credit once you have deducted the withholding tax credit from the payroll tax you are required to pay in all of the permitted tax periods, then you may deduct the remainder of the R&D withholding tax credit from other payroll tax periods in the same calendar year that still offer scope for a deduction. This is not permitted for R&D Declarations up to and inclusive of 2013.

Example of the deduction of the R&D withholding tax credit outside the period covered by the R&D Declaration (permitted from 2014)

You submit an application solely for the first six months of a calendar year and you receive your R&D Declaration on 24 January. You are granted a maximum R&D withholding tax credit of € 12,000. You pay payroll tax of € 1,500 a month. You can then deduct an R&D withholding tax credit of $6 \times € 1,500 = € 9,000$ from the payroll tax returns for January to June inclusive. You may deduct the remaining € 3,000 that cannot be deducted in the period covered by the R&D Declaration from other payroll tax periods in the same calendar year that still offer scope for a deduction. You can, for example, deduct € 1,500 from each of the payroll tax returns in July and August.

Note: The R&D hours work for which you make the deduction of the R&D withholding tax credit must have been worked in the period covered by the R&D Declaration!

When your company acting as a withholding agent consists of a number of accounting entities then you may deduct the remaining amount of the R&D withholding tax credit from the payroll tax returns of the other accounting entities. The following example explains the deduction of your R&D withholding tax credit via other accounting entities in more detail.

Example of the deduction of the R&D withholding tax credit: several accounting entities

You, as a withholding agent, have organised your company with the production department and the development department as separate accounting entities for payroll tax purposes. The development department has been assigned sub-number Lo1 and the production department Lo2. Both departments file separate monthly payroll tax returns. In January, you are issued an R&D Declaration for the first four months of the year. This Declaration is issued under the payroll tax number of your development department and grants you an R&D withholding tax credit of € 40,000. You intend to deduct the maximum R&D withholding tax credit. The payroll tax you are required to pay amounts to € 9,000 per tax period.

1. The maximum amount of R&D withholding tax credit you may deduct in each tax period amounts to $€ 40,000 / 4 = € 10,000$. However, the payroll tax you are required to pay in each tax period amounts to no more than € 9,000. Consequently, you can only deduct a maximum of € 9,000 in each tax period;
2. At the end of the fourth tax period you have an unutilised withholding tax credit of € 4,000 and you have deducted the maximum amount of the R&D withholding tax credit in all the expired tax periods. When you, as a withholding agent, have brought all your employees under one accounting entity you will then not be able to utilise the full R&D withholding tax credit you were granted. However, when your company has several accounting entities (several sub-numbers) you will be able to deduct the remaining € 4,000 from the payroll tax returns filed under the other sub-number, i.e. the production department (Lo2). These deductions may only be made for the tax periods that fall in the period covered by the R&D Declaration. You can now file a correction message to deduct the remainder of the R&D withholding tax credit from the production department tax returns filed under sub-number Lo2.

Deductions and actual R&D hours worked

When your application was submitted for a number of projects it is conceivable that the actual R&D hours worked on each project vary from the estimated hours on which your application was based. You are permitted to transfer R&D hours between the projects approved in an R&D Declaration. When, for example, the actual

R&D hours worked on a project are lower than estimated you may transfer the remaining hours for that project to one or more other R&D projects that require more time. However, the total number of hours may never exceed the number of hours on which your R&D Declaration is based. When approved projects planned during the period covered by the R&D Declaration are subsequently cancelled, delayed or require less time it is conceivable that the actual number of R&D hours worked is lower than the number of hours specified in the R&D Declaration. You may deduct the full R&D withholding tax credit specified in the R&D Declaration. However, if you prefer not to be confronted with the need to reimburse an amount later on then you can also reduce the R&D withholding tax credit deducted in each period so that it is in line with the actual number of R&D hours worked. Subsection 10.3 contains more information about the procedure you need to follow when the actual number of R&D hours worked is lower than the number allocated in the R&D Declaration.

10.2 Deduction of the R&D tax credit for R&D taxpayers (self-employed persons)

You, as a self-employed person, may submit one or more applications a year and be issued one or more R&D Declarations. Once you are granted a total of more than 500 hours, RVO.nl will issue you an R&D Declaration granting you an R&D tax credit. You can deduct this R&D tax credit when you work more than 500 R&D hours on the projects approved by RVO.nl. You may then deduct the R&D tax credit from your income tax return for the year covered by your R&D Declaration(s).

You must keep records of your R&D hours worked from the date on which you submit your application, or from the beginning of the calendar year if you submitted your application in the previous year.

The R&D tax credit reduces your profit (where 'profit' is understood as the balance of your turnover less your costs, a balance that may then be negative). If your taxable income in Box 1 is negative then you may carry the negative income back to the income in Box 1 in the three preceding calendar years and forward to the following nine calendar years (see Article 3.150 of the Income Tax Act, 2001). The actual R&D tax credit cannot be transferred separately to another financial year. The regulations governing the R&D tax credit for self-employed entrepreneurs are laid down in Article 3.77

of the Income Tax Act, 2001, in conjunction with Article 27 of the Wage Tax and Social Insurance Credits Act/R&D Tax Credit (WVA).

10.3 Statement of the actual number of R&D hours worked

You, as an R&D withholding agent, must always submit a statement of the number of hours you work on research and development (R&D) in a given year to RVO.nl. You, as an R&D taxpayer, always submit a statement when your actual number of R&D hours worked is less than 500. The procedure you use to submit this statement is explained below.

Statement to be submitted by R&D withholding agents

You are under the obligation to submit a statement of the actual number of R&D hours worked. When your actual number of R&D hours worked is equal to or more than the number of hours granted in your R&D Declaration then you may deduct the full R&D withholding tax credit. The procedure you use to deduct the credit was explained in Subsection 10.1. You submit one statement for all the R&D Declarations you were issued by no later than three months after the end of the relevant calendar year. Your statement specifies the actual number of R&D hours worked for each R&D Declaration. You may not transfer R&D hours between R&D Declarations. You are under the obligation to submit an electronic statement. After the end of the calendar year covered by your R&D Declaration(s) RVO.nl will send you a letter reminding you of your obligation to submit a statement. This reminder specifies a password that you can use to submit your statement to www.rvo.nl/wbso.

When an R&D Declaration was issued after the end of the calendar year covered by the R&D Declaration, you must submit the statement within three months after the date of the R&D Declaration. Make sure that you submit your statement to RVO.nl in time. RVO.nl will impose a fine if you submit an incorrect statement or do not submit a statement in time. You are under the obligation to submit a statement even when you have not carried out

Have you received one or more R&D Declarations for 2015? If so, you submit one statement of the actual number of R&D hours by no later than 31 March 2016. Consequently, the time at which you submit the statement does not depend on the period covered by your R&D Declaration. Your statement specifies the actual number of R&D hours worked for each R&D Declaration.

any R&D Work and have not deducted the R&D withholding tax credit. When, after a reminder, you still fail to submit a statement the number of R&D hours worked will be set at 0. This will result in the full correction of your R&D Declaration and the imposition of a fine.

Statement when your company no longer acts as a withholding agent

Has your company stopped acting as a withholding agent in the calendar year covered by your R&D Declaration? If so, you must submit a statement of the actual number of R&D hours worked within one month of the date on which your company stops acting as a withholding agent. You submit this statement in writing.

Statement to be submitted by R&D taxpayers (self-employed persons)

Is your actual number of R&D hours worked in a calendar year lower than 500 hours? If so, you must submit a statement to RVO.nl within three months after the end of the calendar year. RVO.nl will then revoke your R&D Declaration(s). The R&D tax deduction that you were granted earlier will be withdrawn. You will no longer be permitted to deduct the R&D tax credit for self-employed persons from your income tax return. After the end of the calendar year covered by your R&D Declaration(s) RVO.nl will send you a letter reminding you of your obligation to submit a statement. This reminder specifies a password that you can use to submit your statement to www.rvo.nl/wbso.

Submit your statement (in time).
Avoid a (complete) correction and fine.

10.4 Settlement of correction R&D Declarations

Once you have submitted a statement of the actual number of R&D hours worked, RVO.nl will issue you a correction R&D Declaration that takes account of all the statements you submitted in the past calendar year. The correction R&D Declaration specifies one correction amount for all the R&D Declarations in the relevant calendar year. The correction amount is based on the statements you have submitted. This amount is equal to the original (total) R&D withholding tax credit you were granted less the amount of the withholding tax credit based on the actual number of R&D hours worked. An example of this calculation is shown below.

Example of a calculation

Hourly wage = 20	Allocated R&D hours	Allocated R&D wages	Allocated R&D withholding tax credit (35%)
R&D Declaration 1	1,000	20,000	7,000
R&D Declaration 2	1,000	20,000	7,000
R&D Declaration 3	1,000	20,000	7,000
Totaal toegekende S&O -afdrachtvermindering			21,000
Hourly wage = 20	Actual R&D hours	Allocated R&D wages on basis of actuals	Allocated R&D withholding tax credit
R&D Declaration 1	850	17,000	5,950
R&D Declaration 2	950	19,000	6,650
R&D Declaration 3	500	10,000	3,500
Total allocated R&D withholding tax credit			16,100
The correction amount = 21,000 - 16,100 = 4,900			

The manner in which you are required to settle the correction amount depends on the amount of the R&D withholding tax credit that you have already deducted. There are three alternatives:

1. The amount of the R&D withholding tax credit you have already deducted from your tax returns is exactly equal to the R&D withholding tax credit granted in the correction R&D Declaration

You took account of the actual number of R&D hours worked when you deducted the R&D withholding tax credit. You do not need to settle any difference.

2. The R&D withholding tax credit deducted from your tax returns is more than the R&D withholding tax credit granted in the correction R&D Declaration

When you have already deducted all or most the original R&D withholding tax credit you were granted then once you have received the correction R&D Declaration you will need to reimburse the excess amount of the R&D withholding tax credit that you deducted.

You do so by entering this amount as a negative R&D withholding tax credit in the payroll tax return for the tax period in which the correction R&D Declaration was dated or for the next tax period.

3. The R&D withholding tax credit deducted from your tax returns is less than the R&D withholding tax credit granted in the correction R&D Declaration

If you have not deducted the R&D withholding tax credit or have deducted less than the R&D withholding tax credit you are entitled to on the basis of the actual number of R&D hours worked, then once you have received the correction R&D Declaration you can deduct the remainder of the R&D withholding tax credit. You then file one or more correction messages for the expired tax periods within the calendar year to which the R&D Declaration relates. Obviously, this is governed by the condition that you may never deduct an amount of the R&D withholding tax credit in excess of the payroll tax you are required to pay in a given tax period. These correction messages are part of the payroll tax return.

Example of a correction R&D Declaration: excessive deduction of R&D withholding tax credit

You receive your R&D Declaration for the first six months of 2015 in February 2015. The allocated R&D wages amount to € 100,000 (4,000 hours x € 25 per hour). You have been granted an R&D withholding tax credit of €35,000. You deduct a proportionate amount of the R&D withholding tax credit you have been granted in the months from February to June 2015 inclusive, i.e. $€ 35,000 / 5 = € 7,000$.

On 1 July 2015, the records reveal that your R&D employees have worked a total of 3,200 R&D hours during the previous six months. You must submit a statement to RVO.nl by no later than 31 March 2016. You receive a correction R&D Declaration from RVO.nl in April 2016. The correction amount is € 7,000 ((4,000 - 3,200) hours x € 25 per hour x 0.35). You enter this correction amount as a negative R&D withholding tax credit in your payroll tax return for April or May 2016. When you were issued an R&D Declaration for 2016 and you may deduct a proportionate amount of the R&D withholding tax credit you have been awarded in the months of April or May 2016 you must deduct the correction amount from this amount and enter the remainder—either positive or negative—in your tax return.

Example of a correction R&D Declaration: R&D withholding tax credit still to be claimed

You receive your R&D Declaration for the first six months of 2015 in February 2015. The allocated R&D wages amount to € 100,000 (4,000 hours x € 25 per hour). You have been granted an R&D withholding tax credit of €35,000. You pay payroll tax of € 11,000 a month and you have decided to deduct € 4,000 of the R&D withholding tax credit in each of the months of February to June 2015 inclusive.

On 1 July 2015, the records reveal that your R&D employees have worked a total of 3,200 R&D hours during the previous six months. You must submit a statement to RVO.nl by no later than 31 March 2016.

You receive a correction R&D Declaration from RVO.nl in April 2016. The correction amount is € 7,000 ((4,000 - 3,200) hours x € 25 per hour x 0.35). You have already deducted $5 \times € 4,000 = € 20,000$ in the period covered by the R&D Declaration. Consequently, you are still entitled to € 35,000 - € 7,000 - € 20,000 = € 8,000 unutilised R&D withholding tax credit. You can, for example, settle this in the return for April 2016 with correction messages for the months of May and June 2015, each of € 4,000, or one € 8,000 correction message for January 2015.

In this instance, you do not need to delay the settlement until you receive the correction R&D Declaration from RVO.nl.

In principle, you can also deduct the remaining amount of the tax credit from the tax return for June 2015, for example by deducting € 11,000 instead of € 4,000 in this month and filing a € 1,000 correction message for May 2015, for instance. However, you are still under the obligation to submit a statement to RVO.nl in time!

11. A RDA Decision— and then...

Once you have received your RDA Decision, you may deduct the amount of the RDA. This Section explains how you can deduct your RDA as well as statements and corrections.

11.1 Deduction

The RDA is a deductible item for your income tax return (when you, as a self-employed entrepreneur, are liable to pay income tax) or corporate income tax return (when you, as a company in the Netherlands, are liable to pay corporate income tax). In both instances, the date of the RDA Decision determines the year in which the allowance may be deducted.

Note!

When your RDA Decision is issued in 2015, you apply the amount of the RDA you are granted in your corporate income tax or income tax return for 2015.

11.2 Mandatory statements

Taxpayers who have been issued an RDA Decision must *always* submit a statement.

Taxpayers who have been issued an RDA Decision on the basis of the standard amount submit a statement solely of the actual R&D hours to be taken into account.

Taxpayers who have been issued an RDA Decision on the basis of costs and expenditure submit a statement of the actual R&D hours, costs and expenditure to be taken into account.

When you have been issued more than one RDA Decision in a calendar year then you must submit a statement for *each* RDA Decision. In effect, this is then one statement, specified by Decision.

The taxpayer must submit the statement within three calendar months after the end of the calendar year covered by the RDA Decision. Consequently, the statement must be submitted by than three calendar months after the issue of the last RDA Decision relating to that calendar year when that Decision was issued after the end of that calendar year.

If the taxpayer does not submit the statement in time then a correction Decision will be issued which sets the RDA at zero. This correction RDA Decision will be imposed only once the taxpayer has been issued at least two reminders.

The costs and expenditure that are stated must have been paid before the statement is submitted.

Always state your actual number of R&D hours worked and, where applicable, actual costs and expenditure. Avoid a situation in which your RDA Decision is set at zero.

11.3 Correction RDA Decision

The correction RDA Decision ensures that taxpayers are granted the allowance they are entitled to on the basis of the actual R&D hours worked or the actual costs and expenditure. When the standard amount is adopted the correction RDA Decision will be in agreement with the actual R&D hours worked. In the first instance the taxpayer submits an estimate (in the application) of the R&D hours that will be worked or the costs and/or expenditure that will be incurred. When the taxpayer's actual number of R&D hours worked or actual costs and expenditure are in excess of the estimates in the application then the excess, in line with the WBSO, does not result in a supplement of the RDA. When the taxpayer's actual number of R&D hours worked or actual costs and expenditure incurred are lower than the amounts specified in the RDA Decision then these will be corrected in a correction RDA Decision. The following situations are then conceivable:

1. The Decision is issued on the basis of the standard amount and the actual number of R&D hours worked is lower than the estimate: the correction RDA Decision specifies the product of the number of R&D hours that were not worked multiplied by the standard amount of EUR 15 and the RDA percentage (60 % in 2015)
2. The Decision is issued on the basis of the standard amount and the actual number of R&D hours worked is equal to or more than the estimate: the final RDA is set at the RDA granted earlier. This situation does not result in a supplement to the RDA granted earlier.
3. The Decision is issued on the basis of costs and expenditure (the standard amount is used as an exception) and the actual costs and expenditure incurred are lower than the required € 50,000: this situation results in the issue of a correction on the basis of the standard amount in which, consequently, the actual costs and expenditure incurred are not taken into account.
4. The Decision is issued on the basis of the costs and expenditure and the actual number of R&D hours worked is below 150 hours a month (the ceiling for the adoption of the standard amount): this results in the issue of a correction on the basis of the actual R&D hours worked and the standard amount in which, consequently, the actual costs and expenditure incurred are not taken into account.
5. The Decision is issued on the basis of the costs and expenditure and the actual costs and expenditure incurred were precisely the same or more than the estimate: this does not result in a supplement. The RDA can never be more than the amount specified in the original RDA Decision.
6. The Decision is issued on the basis of the costs and expenditure and the actual costs and expenditure incurred were lower than the estimate. This situation results in a correction on the basis of the actual costs and expenditure. The amount of the correction RDA Decision is the difference between the amount of the allocated costs and expenditure less the amount of the actual costs and expenditure, multiplied by the RDA percentage (60 % in 2015).

Note!

When you submit your statement for 2015 in time and you are issued a correction RDA Decision in 2016, then you apply the correction amount in your corporate income tax or income tax return for 2016.

12. Retrospective inspections

RVO.nl supervises compliance with all the conditions attached to the WBSO and RDA. For this reason, RVO.nl may pay your company a retrospective visit. This Section explains inspections in more detail.

12.1 Company visits by RVO.nl

When you have been issued an R&D Declaration and, where relevant, an RDA Decision, then RVO.nl may visit you to carry out a retrospective inspection. During this company visit RVO.nl will carry out an inspection to verify that the information specified in your application is in agreement with the actual situation and that you comply with the statutory requirements. RVO.nl inspects the R&D Work you carry out and the time you spend on R&D against your R&D administrative records. When you have also been granted an RDA on the basis of costs and expenditure then RVO.nl will also inspect which costs and expenditure have been incurred and paid for the R&D Work covered by the RDA Decision you were issued.

The Tax and Customs Administration's inspection is restricted to your tax returns and your correct deduction of the amounts specified in your R&D Declaration and RDA Decision, where relevant.

12.2 WBSO—Corrections and fines

Use of the WBSO is subject to compliance with a number of conditions and administrative requirements. Experience has revealed that errors are occasionally made. RVO.nl shall issue a correction RD Declaration should an inspection reveal that:

- you have not fulfilled your administrative obligations or have not fulfilled them in time.
- it is plausible that you submitted information or documents that was or were incorrect or incomplete so that you would be issued an R&D Declaration and RVO.nl would then have reached a different decision if the correct information had been known in full at the time of the assessment.
- you have submitted an incorrect statement of the actual number of R&D hours worked.

RVO.nl is authorised to impose a fine in the aforementioned situations.

RVO.nl may, depending on the omission, supplement the correction with the imposition of a fine. The correction may be of a maximum of the R&D withholding tax credit awarded in the original R&D Declaration. Any fine RVO.nl imposes will be included in the correction R&D Declaration. You enter the excess amount of the R&D withholding tax credit, where relevant increased with the fine, as a negative R&D withholding tax credit in the tax return for the tax period in which the correction R&D Declaration was dated or for the next tax period.

12.3 RDA—Corrections and fines

Use of the RDA is subject to compliance with a number of conditions and administrative requirements. Failure to fulfil these conditions and comply with these requirements may result in a correction and a fine. RVO.nl shall issue a correction RDA Decision should an inspection reveal that:

1. it is plausible that you submitted information or documents that was or were incorrect or incomplete so that you would be issued a RDA Decision and RVO.nl would then have reached a different decision if the correct and full information had been known at the time of the assessment;
2. you have not kept administrative records that give a clear and explicit insight into the costs and expenditure that were incurred for the research and development work for which an RDA Decision was issued;
3. you have not issued a statement of the actual number of R&D hours worked and (where relevant) the actual costs and expenditure incurred, or have not issued the statement in time.

Failure to keep administrative records in accordance with the stipulated requirements and the submission of an incorrect statement are both deemed to constitute an offence. An offence can result in the imposition of an administrative fine of a maximum of € 100,000 or, when this is greater, twice the amount specified in the RDA Decision for the relevant period. If a fine is imposed on you then you will receive further information in a separate procedure.

Make sure that you meet the stipulated conditions and comply with the requirements to avoid corrections and fines!

The correction may be of a maximum of the RDA awarded in the original RDA Decisions. The excess deduction of the RDA will be credited to your profit (on the date stated on the correction RDA Decision). Failure to submit a statement or submit a statement in time will result in the full correction of your RDA Decisions.

12.4 Objections

You may lodge an objection against a correction R&D Declaration and/or correction RDA Decision you have been issued by submitting a notice of objection to RVO.nl which states the reasons for your objection. If you are unable to agree with RVO.nl's decision on your notice of objection then you can lodge an appeal with the Trade and Industry Appeals Tribunal. RVO.nl shall draw your attention to the opportunity to lodge an objection or appeal in its decisions. Any objection or appeal procedure, where relevant, does not discharge you from your obligation to settle the correction R&D Declaration and/or correction RDA Decision.

Have you lodged an objection against a fine imposed on you and are you unable to agree with RVO.nl's decision on your notice of objection? If so, your case will be submitted to the rather than to the Trade and Industry Appeals Tribunal. When you lodge an appeal, the Trade and Industry Appeals Tribunal is competent to reach a decision on your appeal. RVO.nl shall draw your attention to the opportunity to lodge an objection or appeal and to the periods in which you must lodge an objection or appeal.

13. Glossary

Accounting entity

An accounting entity is a part of the withholding agent which maintains its own accounts or operates in autonomy from the withholding agent. Each accounting entity can be assigned a payroll tax number with an individual sub-number (Lo1 and Lo2, etc.). When sub-numbers have been issued, a payroll tax return must be filed for each sub-number. However, an application for the WBSO/RDA may be submitted for only *one* payroll tax number, although the credit may then be deducted from more than one sub-number.

The R&D hours worked by employees listed on the payrolls of the other 'sub-numbers' who carry out R&D may be deducted.

BSN

Citizen service number (burgerservicenummer, BSN). RVO.nl uses the BSNs of your R&D employees to calculate the R&D hourly wage. You can submit BSNs simply via the Internet.

When an RDA Decision is issued to a self-employed person the Decision also states the self-employed person's BSN. This self-employed person may deduct the RDA granted in the RDA Decision from the income tax return.

Correction message

Correction messages are part of the payroll tax return and are intended for the revision of tax returns filed at an earlier date. Correction messages also enable you to deduct an unutilised R&D withholding tax credit from tax returns in tax periods that have already expired and that end in the period covered by your R&D Declaration. You can file correction messages with the Tax and Customs Administration.

Correction R&D Declaration

A correction R&D Declaration is a revision of an R&D Declaration issued on an earlier date. RVO.nl issues you a correction R&D Declaration after you have submitted a statement or after an RVO.nl inspection has revealed that a correction is required. The correction R&D Declaration specifies the amount by which the R&D withholding tax credit has been corrected. You will, depending on the amount of the R&D withholding tax credit that you have already deducted, either be entitled to deduct a further portion of the credit or be required to reimburse the excess amount of

the R&D withholding tax credit that you have deducted. Information about this is enclosed in the correction R&D Declaration. If necessary, you settle this correction amount in your payroll tax return.

Correction RDA Decision

A correction RDA Decision is a revision of an RDA Decision issued on an earlier date. RVO.nl issues you a correction RDA Decision after you have submitted a statement or after an RVO.nl inspection has revealed that a correction is required. The correction RDA Decision ensures that taxpayers are granted the allowance they are entitled to on the basis of the actual R&D hours worked and the actual costs and expenditure. The correction RDA Decision specifies the amount of the correction. You will, depending on the amount of the RDA that you have already deducted, either be entitled to deduct a further portion of the RDA or be required to reimburse the excess amount of the RDA that you have deducted. Information about this is enclosed in the correction RDA Decision. You then adjust your corporate income tax or income tax return by this corrected amount, where relevant.

Costs

The amount of the RDA is based on the costs and expenditure you expect to incur in carrying out research and development work for which you have been issued an R&D Declaration. 'Costs' are understood as all the payments you need to make in carrying out your research and development work. The payments must serve solely for the purpose of the performance of the in-house R&D and must be borne by the taxpayer. Moreover, costs come into consideration for an RDA Decision on a one-off basis.

Decision

The letter RVO.nl sends giving notification of its decision on the application for the WBSO (and RDA, where relevant). The WBSO Decision specifies the number of R&D hours that have or have not been allocated to each project specified in the application. When R&D hours are allocated, an R&D Declaration will be enclosed on a further page. The RDA Decision specifies the amount of the costs and expenditure that have or have not been allocated to each project stated in the application. The decision to set an application aside is also a Decision.

eLoket

eLoket is a digital service desk you can use to submit an application to RVO.nl. eLoket enables you, for example, to complete and submit an application for a WBSO/RDA. eLoket also runs under operating systems such as Apple and Linux. eLoket enables you to submit or view your WBSO/RDA application online at any workplace. You will need an eRecognition token to gain access to eLoket.

eRecognition

An eRecognition token is a digital key that you can use to identify yourself easily to various government service providers. It is comparable to internet banking, when you confirm an action with a code (which you receive via SMS or from a token). You need an eRecognition token to gain access to eLoket.

Note!

You require an eRecognition token of a specific level (level 2+) for the WBSO/RDA.

Expenditure

The amount of the RDA is based on the costs and expenditure you expect to incur in carrying out research and development work for which you have been issued an R&D Declaration. 'Expenditure' is understood as all the payments made in procuring newly-manufactured operating assets. The payments must also be borne by the taxpayer. In addition, the operating assets may not have been used before and must be for the purposes of the in-house research and development work.

Outsourced research

Work that can be deemed to be the taxpayer's research and development work that the taxpayer outsources to a third party. The costs of outsourced research do not come into consideration for the RDA.

Operating assets

Objects used in conducting a business.

Payroll tax

Payroll tax is an advance levy of income tax and national insurance contributions.

The Tax and Customs Administration is responsible for the levy of wage tax and national insurance contributions.

Wage tax and national insurance contributions are often jointly referred to as payroll tax as they are withheld by the withholding agent and paid to the Tax and Customs Administration.

Payroll tax number

Withholding agents are issued a payroll tax number by the Tax and Customs Administration.

A withholding agent usually consists of one accounting entity. This is usually indicated by the '01' (sub-number) following the 'L' in the payroll tax number.

R&D

Research and development.

R&D administrative records

The administrative records with details of the nature, content, progress in and scope (allocation of the time) of the R&D Work. You must keep these records when you wish to make use of the WBSO.

R&D Declaration

A Declaration you are issued by RVO.nl. The R&D Declaration specifies the maximum amount of the R&D withholding tax credit that you may deduct from the payroll tax due from the payroll tax number specified in the R&D Declaration during the period covered by the R&D Declaration. The R&D Declaration is usually issued together with the decision.

R&D hours

R&D hours are hours spent on research and development work (R&D Work).

R&D hourly wage

The R&D hourly wage is the total of the wages of R&D employees/(0.85 x total hours paid for all R&D employees). The factor 0.85 serves as compensation for leave. The result is rounded off upwards to the nearest € 1. The calculated hourly wage is always applicable to a full calendar year.

RVO.nl calculates the R&D hourly wage on the basis of the submitted BSNs of employees who carried out R&D work two years ago. When the R&D hourly wage cannot be calculated, the standard hourly wage is applicable.

R&D wages

The R&D wages are the wages paid for research and development work. The R&D wages = number of R&D hours x R&D hourly wage.

R&D withholding agent

A withholding agent who has been issued an R&D Declaration.

R&D withholding tax credit

The WBSO enables the R&D withholding agent to deduct a tax credit from the payroll tax to reduce the amount of payroll tax to be paid. This deduction from the payroll tax to be paid is referred to as the R&D withholding tax credit.

RDA

Research and Development Allowance. A tax incentive scheme introduced by the Dutch government to compensate part of the costs and expenditure (other than the wage costs) incurred in carrying out research and development (R&D).

RDA

The amount of the costs and expenditure that are directly attributable to the R&D work carried out by the taxpayer, with the exception of the wage costs. When you have been issued an R&D Declaration allocating you an average of 150 R&D hours a month or less, then the amount of the RDA is determined by multiplying the total allocated number of R&D hours by the standard RDA hourly wage of € 15. The amount of the RDA is laid down in an RDA Decision. The amount specified in the RDA Decision is debited from the profit in the year in which the RDA Decision is dated

RDA administrative records

The administrative records that provide an insight into the costs and expenditure incurred in carrying out research and development work and the associated payments for each project. You must keep these administrative records when you have been issued an RDA Decision on the basis of costs and expenditure.

RDA (deduction)

A taxpayer deducts the RDA to reduce the amount of profit tax to be paid. The RDA offers you a deductible item for your profit tax return.

RDA Decision

A Decision you are issued by RVO.nl. The RDA Decision specifies the amount you may deduct from the profit.

RSIN number

The taxpayer's Information Number for Legal Entities and Partnerships (*Rechtspersonen en Samenwerkingsverbanden Informatienummer*).

Standard hourly wage

The standard hourly wage is a hypothetical hourly wage applicable to applicants for whom the R&D hourly wage cannot be calculated. The standard hourly wage is set once a year and amounts to € 29 in 2015.

Standard RDA hourly wage

The hourly wage is applicable to applicants for the RDA granted approved R&D hours of an average of 150 hours or less a month. This hourly wage of € 15 constitutes an approximation of the actual costs and expenditure the applicant incurs in carrying out the R&D Work.

Start-up company or entrepreneur

A start-up company is an applicant who has employed a personnel for a maximum of four of the past five calendar years and has been issued R&D Declarations in a maximum of two years. When a company continues the activities of another company and is affiliated with that other company then the calendar years in which that other company has received R&D Declarations are taken into account in the determination of the start-up status of the taxpayer submitting the application.

Self-employed persons must have been an entrepreneur for a maximum of four of the past five years and received R&D Declarations in a maximum of two years to be regarded as start-up entrepreneurs. When the activities of another company are continued and the self-employed person holds a substantial interest in that other company then the calendar years in which that other company has received R&D Declarations are taken into account in the determination of the start-up status of the self-employed person submitting the application.

Start-up facility

The WBSO offers additional support for start-up companies and entrepreneurs. This is referred to as the 'start-up facility'.

Statement

After the end of a calendar year, you must always submit a statement to RVO.nl that specifies the actual number of hours you have spent on research and development (R&D) in that calendar year, as well as the costs and expenditure that you have incurred and paid (when the RDA application is not based on standard amount). This is referred to as submitting a statement. You can submit statements via the Internet.

Tax entity

A tax entity is comprised of a number of companies that are jointly regarded as one company. The Tax and Customs Administration issues a tax entity declaration. A tax entity often consists of a parent company and one or more subsidiaries. Companies can form a tax entity for a variety of types of tax. The existence of a tax entity for corporate income tax purposes is the sole form of tax entity of relevance to the WBSO.

TSR

TSR is the abbreviation of technical scientific research. A technical scientific research project seeks an explanation for an observed phenomenon that cannot be derived from generally available knowledge.

Taxpayer

A taxpayer is liable to pay tax. The various tax acts make a distinction between natural persons and legal persons (for example, a public or private limited company).

WBSO

WBSO is the abbreviation of the former Dutch for Research and Development Promotion Act (currently the Wage Tax and Social Insurance Contributions (Reduced Remittances) Act/R&D tax credit (WVA/S&O). A tax incentive scheme introduced by the Dutch government to compensate part of the wage costs incurred in carrying out research and development (R&D).

Withholding agent

When you pay wages to an employee or a benefit to a person entitled to a benefit then you are required to withhold wage tax and national insurance contributions (jointly also referred to as payroll tax) and pay the withheld amount to the Tax and Customs Administration. When you are required to withhold and pay payroll tax then you are referred to as a 'withholding agent'.

14. WBSO/RDA quick scan

Do you wish to apply for the WBSO/RDA? Do the quick scan!

Can you answer one of the following questions with **Yes**?

1. Do you develop products?
2. Do you develop production processes?
3. Do you develop ICT solutions (software)?
4. Do you carry out technical scientific research?
5. Do you carry out analyses of the feasibility of one of the above four options within your company?
6. Do you carry out technical research into improvements in your production process or software?

Yes

Do **you** resolve the technical bottlenecks in your development?
or
Do **you** search for the answers to your (technical) research questions?

Yes

Are you still carrying out development or research?

Yes

Do you pay Dutch corporate income tax or income tax?

Yes

I pay corporate income tax (private or public limited liability company)

I pay income tax and have a one-man business, general partnership or limited partnership

Yes

Yes

Do you withhold Dutch payroll tax from the wages of your employees who carry out your development or research?

Do you think that you will carry out at least 500 hours on development or research this year?

No

Yes

Is your development or research carried out within the EU?

Yes

You meet the basic conditions attached to use of the WBSO.

WBSO

Yes

Do you on average work more than 150 hours a month on development or research?

No

You meet the basic conditions attached to use of the RDA.

Ja

Yes

RDA

WBSO

The WBSO is an initiative of the Ministry of Economic Affairs. RVO.nl, part of the Ministry of Economic Affairs, implements the scheme. Companies can deduct their financial gain from the WBSO from the tax they pay to the Tax and Customs Administration.

RDA

Companies that carry out research and development work can benefit from the RDA (Research Development Allowance) as a supplement to the WBSO. The RDA is a Ministry of Economic Affairs tax scheme for innovative entrepreneurs that is intended to promote innovation in the Netherlands. Entrepreneurs can reduce their R&D costs with the extra deductible item offered by the RDA. Entrepreneurs can, for example, deduct the cost of prototypes, test rigs or research equipment.

More information

More information is available from the WBSO and RDA websites: www.rvo.nl/wbso or www.rvo.nl/rda

Contact

Telephone number +31 (0)88 042 42 42 (on workdays from 08:30 to 17:00) You can also call this number if you have any questions about submissions via eLoket.
klantcontact@rvo.nl
www.rvo.nl

Tax and Customs Administration

Financial settlement

If you have any questions about the deduction of the WBSO and/or RDA then you can contact the Tax Information Line (telephone number 0800 0543) or your company's tax office.

Other schemes that may be of interest

Innovation Box

The Innovation Box, introduced on 1 January 2010, is intended to provide entrepreneurs a tax incentive for innovative research. Information about the Innovation Box is available on the Tax and Customs Administration's website. The website also includes a list of contact persons you can approach with any questions about the use of the Innovation Box.

SME+ Innovation Fund

The SME+ Innovation Fund offers support to innovative entrepreneurs on the basis of three financing instruments: Innovation Credit, the SEED Capital Scheme and the Fund-of-Funds. www.innovatiefondsmkb.nl

Published by
Netherlands Enterprise Agency
Hanzelaan 310
8017 JK Zwolle
Postbus 10073 | 8000 GB Zwolle | The Netherlands
T +31 (0)88 042 42 42
www.rvo.nl

© Netherlands Enterprise Agency | November 2014

Netherlands Enterprise Agency (RVO.nl) encourages entrepreneurs in sustainable, agrarian, innovative and international business ventures. RVO.nl helps with grants, finding business partners, know-how and compliance with laws and regulations. Netherlands Enterprise Agency is part of the Ministry of Economic Affairs. The organisation was formed in 2014, on the merger of NL Agency (*Agentschap NL*) and the National Service for the Implementation of Regulations (*Dienst Regelingen*).

Although this publication has been prepared with the greatest possible care, Netherlands Enterprise Agency cannot accept any liability for errors it may contain. No part of this publication may be reproduced and/or published by means of print, photocopy, microfilm, electronically on tape or by whatever other means without prior written permission from the publisher.