



Netherlands Enterprise Agency

Manual

WBSO 2019

Commissioned by the Ministry of Economic Affairs and Climate Policy

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



Reader's guide

This WBSO Manual includes an appendix giving an alphabetical list of the most important terms and concepts employed therein and a brief description of their meaning.

This 2019 WBSO Manual contains information on the WBSO (R&D tax credit scheme) as of 1 January 2019. The information provided is based on the amendments to the Wage Tax and Social Insurance Contributions (Reduced Remittances) Act (*Wet vermindering afdracht loonbelasting en premie voor de volksverzekeringen (WVA)*) set out in the 2019 Tax Plan and other 2019 fiscal policies and the R&D Delimitation Regulations based on these amendments.

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1. In brief

Technological innovation is of great importance for your company's competitive position. Innovation is essential, because your competitors are also active. As an entrepreneur you will be continually occupied with innovation. The WBSO (R&D tax credit scheme) helps you to lower the costs of research and development. The Ministry of Economic Affairs and Climate Policy has commissioned RVO.nl to implement the WBSO.

1.1 Lowering the costs of R&D

The WBSO (R&D tax credit) is a Dutch Government tax incentive scheme that offers compensation for part of your research and development (R&D) wage costs, other costs, and expenditures. In practice the scheme reduces your payroll tax burden. Self-employed persons are granted a fixed tax-deductible item for their R&D. In addition, start-up entrepreneurs benefit from a supplementary credit.

This manual is based on the 2019 Tax Plan.

The WBSO online financial calculation tool

If you would like to quickly find out whether you could be eligible for a WBSO tax credit and also which financial benefits the WBSO could offer you, use the handy [online financial calculation tool](#). By answering a number of questions, you will find out:

- whether you can apply for the WBSO and/or;
- which financial benefits the WBSO could offer you.

By answering the questions, you will also gain an insight into a number of conditions that you will need to meet. This will make it easier for you to apply for the WBSO.

Amendments to the WBSO in 2019 are:

- the percentage of the 1st tax bracket is 32%;
- the upper limit of the 1st tax bracket remains € 350,000;
- the percentage of the 2nd tax bracket is set at 16%;
- the percentage of the 1st tax bracket for starters remains 40%;
- the R&D deduction for self-employed persons becomes € 12,775;
- the supplementary R&D deduction for self-employed persons considered starters becomes € 6,391;
- the WBSO budget is set at € 1,205 million.

1.2 The WBSO in 8 steps

Below you will find a brief explanation of 8 steps how to apply for the WBSO.

Step 1: You intend to carry out research or development

You plan to carry out R&D. When deciding whether to start an R&D project, one of your considerations will be its expected cost. The WBSO exists to help you finance your project or projects.

The WBSO lowers the cost of technical scientific research and development, even if the project fails to yield the desired result. Every entrepreneur in the Netherlands planning to carry out R&D can apply for WBSO tax credits, unless the organisation is a public knowledge institute. The company can be of any size and can be working in any business field.

An application can be submitted for either of two types of project, namely:

- the development of technically new (components of)
 - physical products,
 - physical production processes, or
 - software;
- technical scientific research.

Step 2: You submit an application

1. You can submit your WBSO application using the online application form on mijn.rvo.nl/wbso. Level 2+ of eHerkenning is a requirement for this.
2. Submit your application electronically via the eLoket: www.rvo.nl/eloket.

If you received an R&D Declaration in 2017 and have carried out R&D activities, you must also supply the Citizen Service Number (burgerservicenummer, BSN) of all your 2017 R&D staff, so that we can calculate your average R&D hourly wage in 2019.

Section 8 explains how to complete and submit an application in more detail.

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. If your first application is for a tax credit on the basis of actual costs and expenditures, then you are under the obligation to keep administrative records of the costs and expenditures actually incurred for each R&D project. If your first application is for a tax credit on the basis of a fixed sum against costs and expenditures, then no separate administration of the actual costs and expenditures is required. Make sure that you keep administrative records from the very beginning of the project(s), even if you have yet to receive your R&D Declaration.

Chapter 9 describes the requirements of this administration in more detail.

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

After your application has been received, consultants from the Netherlands Enterprise Agency (RVO.nl) inspect your application to verify that it is complete. If your application is complete, you are issued a confirmation of receipt and technical consultants go on to review its contents. If your application is incomplete, 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, as 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 its contents: they review the projects listed in the application, and their costs and expenditures, against the relevant laws and regulations. If the specifications of your projects or their costs and expenditures contain insufficient information for the review of your application, they may ask you questions, in writing, by telephone, or by email. RVO.nl may also consult public sources to investigate the level of knowledge and expertise within your company, e.g. LinkedIn profiles, public websites or Google search results.¹ 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.

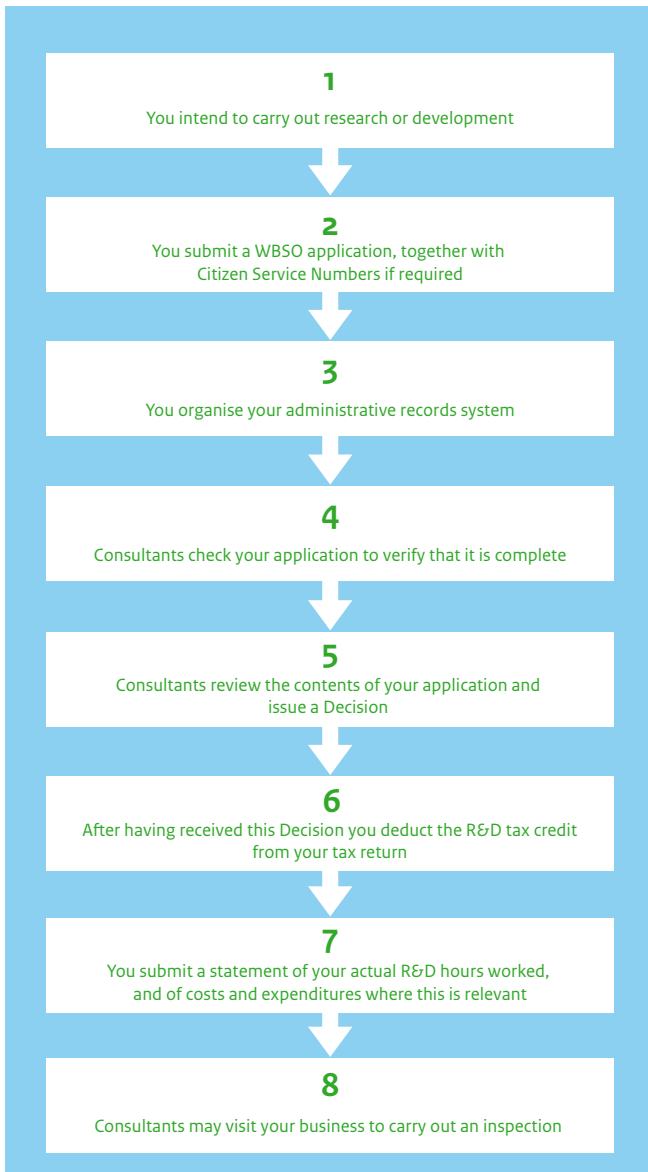
If your application for WBSO is approved in full or in part, this Decision will be issued to you together with an R&D Declaration. The Decision specifies the number of hours and, where relevant, the costs and expenditures allocated to each project. The projects that do not come into consideration for the WBSO are also specified and explained in this decision. The R&D Declaration specifies the maximum amount of the R&D tax credit deduction that you are entitled to apply to the payroll tax number without sub-number (RSIN) specified, in the period to which the Declaration applies.

When can you expect a decision?

In the case of an application for a lump sum, a technical consultant will reach a decision on your application for WBSO tax credit within three calendar months of the date on which the period covered by the application begins. In the case of an application for the actual costs and expenditures, this period is eight weeks longer. The processing period is suspended if the consultants reviewing your application need to submit a written request for supplementary information.

The sooner you receive your research and development declaration, the sooner deductions can begin. RVO.nl aims to process all applications within the statutory period. However, you can also ensure that RVO.nl can make a quicker decision about your application yourself.

¹ From May 24, 2018, the General Data Protection Regulation (GDPR) applies to all the member states of the European Union. The GDPR (AVG in Dutch) is the successor of the *Wet bescherming persoonsgegevens (Wbp)* in the Netherlands. The AVG gives people more control over their personal data. Companies and authorities are required to have a legal basis for the processing of personal data and are obligated to handle personal data with care. More information about the AVG can be found at <https://www.rvo.nl/over-ons/privacy>.



Tips to speed up the processing of your application:

- Do not submit at the last minute. RVO.nl processes applications in order of receipt. The sooner your application is received, the sooner RVO.nl can begin to process it.
- Submit your application in full. You will be given one opportunity to provide additional information for incomplete or free-form applications. RVO.nl can only process your application once it is complete.
- Describe the projects clearly. This way you can prevent RVO.nl having to ask questions. Do not give a general description, but describe in concrete detail what you want to research or develop. Describe primarily the technical rather than the functional or business-economic aspects, as the space on the application form is limited. Always describe the activities that will be carried out by you yourself, as the applicant, particularly in collaborative projects.
- In case the project(s) are a joint effort between you and other legal entities, please name the collaborating parties and specify their contribution to the project(s). If your projects are not described clearly, RVO.nl will need to ask questions. This means that the decision on your application will be delayed.
- Request your eRecognition in good time. You can use this identification to submit your application through the e-Service Point. You will receive the identification from the supplier within two weeks after the order.

Objections and appeals

You may lodge an appeal against the full or partial rejection of your application for a WBSO tax credit 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. If, after due consideration, your objection or appeal is met in full or in part, you will receive a supplementary R&D Declaration. It is possible that you receive this supplementary Declaration only after the end of the period to which your application applies.

Step 6: You deduct the R&D tax credit from your tax return

You deduct the R&D tax credit you have been granted from your payroll tax returns. If you are a self-employed person and you have spent 500 hours or more on R&D, you may deduct your R&D tax credit from your wage tax return.

Chapter 10 has more details on how and when to make this deduction.

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

You submit a statement of the actual R&D hours worked and the actual costs and expenditures incurred, where relevant, within three months of the end of the calendar year covered by the R&D Declaration concerned. If you are a self-employed person, you need to provide this statement only if you have failed to invest 500 hours of R&D.

On the basis of this mandatory statement, RVO.nl may issue a correction R&D Declaration. If you are a self-employed person, then RVO.nl will withdraw your R&D Declaration(s) if you have reported carrying out fewer than 500 R&D hours.

Chapter 11 has more details on when and how to make this statement.

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, hours worked, and any costs and expenditures against your R&D administrative records. If any errors are identified in your R&D administrative records, then you will be issued a correction R&D Declaration. You will also receive a correction R&D Declaration if there are activities, costs and expenditures for which you have not received an R&D Declaration. RVO.nl may also impose a fine.

Chapter 12 details this retrospective inspection and its possible consequences.

2. Who is eligible?

Apart from public knowledge institutes, every entrepreneur in the Netherlands planning to carry out R&D can submit an application for a WBSO tax credit. The company can be of any size and can be working in any business field. The WBSO distinguishes between entrepreneurs who withhold payroll taxes (inhoudingsplichtigen) and those subject to wage tax (belastingplichtigen). 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.

2.1 R&D tax withholding agents

Do you conduct a business within the meaning of the regulations on corporate tax? Do you employ staff who carry out R&D? If so, you are eligible for a deduction in the payroll tax you are required to pay, unless you are a public knowledge institute (see the list of definitions in an appendix to this manual).

Those who conduct a business which is not a public knowledge institute, carry out R&D, and withhold payroll taxes on behalf of their employees are referred to by the WBSO as 'R&D tax withholding agents'. A holding company can also be deemed to be an R&D tax withholding agent if 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 Dutch Tax and Customs Administration has issued you a payroll tax 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.

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. An exception to this is made, however, for hiring in or hiring out employees within a tax entity for the

purposes of corporate wage 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 will need to submit an application.

In other words, if employees of two companies – company A and company 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 will need to submit an application. However, supplier company B will then be deemed to be carrying out the R&D work that takes place at hiring company A. Both A and B must comply with the administrative obligations as described in chapter 9.

If you elect to apply for an R&D tax credit against actual costs and expenditures instead of a fixed sum, you may also cite the costs and expenditures incurred by other companies within your tax entity to the extent that these costs and expenditures are incurred exclusively as a result of the R&D being carried out.

Trainees

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

2.2 R&D taxpayers

Are you a self-employed person? Do you conduct a business within the meaning of the Wage Tax Act? And do you work on R&D for at least 500 hours in a calendar year? If so, you are eligible 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 singly or jointly own that are engaged in R&D may submit more than one application.

As a self-employed person you cannot claim for costs and expenditures, and you cannot choose a fixed sum. If you are a self-employed person, but you also have salaried employees who carry out R&D work, you can also apply for a WBSO tax credit for these employees, as a payroll tax withholding agent.

3. What kinds of R&D project are eligible

The WBSO extends support to two types of project:

1. Development projects

This concerns the development of technically new (components of) physical products, physical production processes or software.

2. Technical scientific research

This concerns explanatory research that is technical in nature.

These two project types 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. In your application, you describe the R&D activities you intend to carry out.

3.1 Development project

The WBSO offers support for developments that are technical innovations for you. This can relate to the development of products, production processes, or software, or their component parts. The work in the development of products and production processes must relate to tangible, physical objects.

Development work always involves carrying out a search and collecting proof. You want 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 will 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. You must independently attempt to solve these technical obstacles, and through your investigation and its results demonstrate whether the operating principles of your chosen solution are adequate to the technical task. 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 potential commercial or production value.

Technical innovation

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, for instance, 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 WBSO 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 within a collaborative arrangement.

Technical innovation is characterized by the activities your company is carrying out. Such activities go beyond the application of existing knowledge and/or technology. R&D activities are typified by identifiable technical risks and/or uncertainties and don't necessarily lead to desired results.

A project that is eligible for WBSO support is characterised by a concrete technical problem that you are working to solve. Starting with a specific choice of direction, your company will be working to devise new technical principles, methods, or technologies, or further develop an existing technology.

Prototype

A prototype is the actualisation of an operating principle that can demonstrate whether a given choice of solution actually works. A prototype has commercial value if it has commercial significance or can be used as an operating asset. A prototype will have commercial significance if you can sell it or use it to provide services to (potential) clients. It is not relevant whether or not costs are charged or paid. The hours devoted to the building of a prototype with commercial value may not be counted as part of R&D hours. This also means that no WBSO claim may be made against the costs or expenditures incurred by the building of such a prototype.

A number of examples are given below to illustrate the development of prototypes with and without commercial value, and the concept of technical innovation.

Development example: prototypes without and with end-user value (company equipment)

A pharmaceuticals manufacturer develops a sorting machine for its 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, this prototype is clearly not suitable for use in production lines and it therefore 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 first prototype only demonstrated the operating principle of the sorting machine, while this definitive version has actual commercial value.

Development example: 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.

Development example: prototype with commercial value

A breeder develops technically new plants. During the development specimens of these plants are sold to a customer. These specimens are regarded as (early) prototypes because they will be checked against the criteria established in advance (such as specific breeding objectives). Because the prototypes are sold, they have end-user value. This means that the 'development hours' for these prototypes are not regarded as R&D activities. Development hours include: care, processing, treatment, transport, storage and interbreeding activities.

Technically new software

For the WBSO, the context of 'technically new software' has to be a problem in the field of information technology. To determine whether software development can be regarded as R&D, two concepts (besides actual development) are of importance: 'software' and 'technically new'. Software is defined as the non-physical, logical subsystem of an information system that determines the structure of the data and its processing to the extent that this subsystem is fixed in a formal programming language. The development of technically new software is iterative in character. It must pivot on the applicant's actual resolution of software-technical bottlenecks. The R&D period comes to an end when you successfully demonstrate a new IT-based operating principle. 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.

Development example: technical innovation of a purification plant

One of the elements of the development of a new production process concerns 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 will 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 will it add to the applicant's existing technical knowledge? Which technical bottlenecks could be resolved using existing knowledge and expertise?

If development work is limited to the development of a technically new element in the purification plant, R&D work is also limited to the development of that component part. 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.

'Technically new' has a meaning different from that of 'new'. Virtually all software written is new, as it did not exist before it was written, but this does not necessarily mean that the software is 'technically new'. The distinction between 'new' and 'technically new' is made clear by the answers to the following questions:

1. Does the software incorporate a new data processing-related technological principle, and
2. Will you be addressing the technical obstacles in your programming work yourself?

The in-house development of a new principle can make software '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.

It is important 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. The simple description or formulation of a new algorithm, without its concrete execution by the applicant in a formal programming language, is not deemed to constitute R&D.

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. Pursuant to a supplementary condition, you will need to have developed the existing software components primarily in-house and to have already implemented them in your company.

The explanation of this definition reveals that not all the activities involved in the development of software come into consideration for WBSO support. 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 technologies (software and techniques) or the construction of a new system deemed to constitute R&D projects. This is still applicable even if you first need to become familiar with the technology and train staff, perform a study, or make purchases.

The demarcations employed in defining 'new software development' are explained in the following examples.

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

An 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 non-development of software: new development platform

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 make it an R&D project. This learning phase is regarded as training, and not categorised as R&D.

Example of development of software

A business is specialised in building 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 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 an area or building to information about restaurants in the vicinity. 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 that 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, and 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 and results of 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. Simply collecting data or information does not constitute scientific research. Scientific research sets out to be explanatory. 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 must be 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 illustrate the meaning of technical scientific research (TSR) in more detail.

Example of TSR: catalyst supplier

An entrepreneur wishes to increase his knowledge of catalysts to prolong their useful life. His research is focused on 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.

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 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, but without detriment 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 micro-organisms are influenced by a heat treatment. For this reason the producer carries out a microbiological study of the cellular mechanisms that take place when micro-organisms 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.

4. What activities are ineligible

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 regulations, now incorporated into 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, while the Delimitation Regulations list a number of explicit exclusions. This section reviews these exclusions, concluding with a list of preconditions that your work will need to meet if you are to be eligible for WBSO support.

4.1 Ineligible work activities

The following work activities do not constitute R&D and are not covered by the WBSO.

- market research;
- organisational and administrative work;
- work carried out outside the European Union;
- the construction or installation of equipment intended 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 ... [point 5 of this page];
- 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 the company's own R&D;
- research that compares products when there is no direct link to the company's own 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 having evident production or commercial significance;
- work carried out by the R&D tax 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;
- the formulation and testing on non-technical specifications;
- the formulation or determination of functional requirements and preconditions;
- the formulation and implementation of tests that are not directly and exclusively directed towards demonstrating an operating principle by the R&D tax withholding agent or taxpayer;
- any of the following software-related activities:
 1. software maintenance
 2. the description of a software architecture
 3. designing or building a new system
 4. adapting software for use on another hardware or software platform. By 'platform' is meant the overall hardware and operating system environment on which information systems are developed (the development platform) or taken into production (target platform).
 5. The development of software that enables the R&D tax withholding agent or R&D taxpayer to integrate existing software components or allow them to work together in a technically new manner, unless the existing software was developed and is employed principally within the R&D tax withholding agent's company, within the tax entity of which the R&D tax withholding agent is a part, or within the enterprise of the R&D taxpayer.

Please note!

As soon as Brexit is finalised (expected March 29, 2019), hours for R&D activities performed in the United Kingdom can no longer be claimed.

The following are not considered R&D hours:

- attendance at fairs and conferences
- attendance at training programmes, courses and symposia
- the administration of R&D or other administrative and organisational activities
- the supervision of trainees and graduation-project students
- building and technical installation designs
- making a product production-ready
- R&D projects not applied for and/or not approved
- activities not directly and exclusively linked to the R&D project
- activities performed outside the European Union

The following staff members are not held to perform R&D hours:

- non-salaried staff members (e.g. trainees or graduation-project students)
- staff members not involved in a project in a technical capacity (e.g. secretaries or marketing managers)

Applying for the WBSO for a project that is already at an advanced stage

In 2018, you developed a new machine, but you did not apply for the WBSO. In 2019, you will carry out tests and apply for the WBSO for the project for the first time. However, the performance of test activities alone does not constitute R&D. As such, the project is not eligible for WBSO support.

4.2 Preconditions

The following preconditions are attached to granting a 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 yourself. 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 yourself and that you determine the management of the project.
- When employees are hired in and out by companies within a tax entity, each company (employing those employees) will need to submit an application. Regardless of where the employees carry out their R&D activities, the company formally employing these employees is considered carrying out the R&D work and therefore responsible for the WBSO application.
- The R&D work must be carried out 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 if 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.
- If you are applying for the WBSO for a project for the first time, our assessment of your application will not include the consideration of activities you have already carried out and for which no application has been submitted. However, an exception will be applied in situations in which another company in the tax entity was granted the WBSO for earlier phases of the project.

5. Which costs and expenditures come into consideration?

If you, as a withholding agent, apply for WBSO support, then in your first application of a given calendar year you can choose one of two types of claim: either the actual costs and expenditures of your own R&D, or a fixed sum which approximates to these costs and expenditures. In both cases, these costs are in addition to your R&D wage costs. Your WBSO tax credit (the amount you deduct from your payroll tax bill) is then calculated on the basis of this total amount and specified in your R&D Declaration.

5.1 Fixed sum or costs and expenditures

Whether you opt to apply for a fixed sum or by declaring your actual costs and expenditures, an amount is added to your R&D wage costs. Your WBSO tax credit (the amount you deduct from your payroll tax bill) is then calculated on the basis of this total amount and specified in your R&D Declaration. The following section explains these two options.

Please note!

The choice for the fixed costs regime or the regime for actual costs and expenditures incurred is made for the whole calendar year in your first application of that calendar year. Once you have made the choice, it is not possible to change this at a later date or in a subsequent application. Of course you can choose the other regime in the first application of a new calendar year.

Fixed sum

In this simple arrangement, the supplementary amount is calculated by reference to the number of allocated R&D hours. The fixed sum is a rough estimate of the costs and expenditures that the average entrepreneur (irrespective of the specific business sector) will incur in carrying out R&D. You can choose the fixed-sum option even if your actual costs and expenditures differ considerably from the fixed-sum estimate.

The fixed-sum amount per calendar year is:

- € 10 per R&D hour for the first 1800 R&D hours;
- € 4 per R&D hour for all R&D hours above the first 1800.

If you elect the 'fixed-sum' approach, this choice applies to all subsequent applications made in that calendar year. In other words, you will no longer be able to submit a claim against the actual costs and expenditures.

Actual costs and expenditures

The additional amount will be calculated on the basis of the estimated costs and expenditures in relation to the research and development work. If you choose actual costs and expenditures in your first application of the calendar year, you can no longer use the fixed costs regime that calendar year. This means that if the actual costs and expenditures are less than expected, you cannot choose the fixed amount at a later date.

Please note!

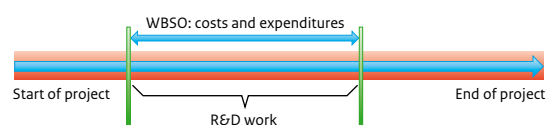
If you choose the regime for actual costs and expenditures, do not forget to include these in your application!

5.2 Conditions attached to costs and expenditures

Costs and expenditures will only be eligible for an R&D declaration if they (exclusively) serve the performance of or are directly attributable to your own R&D activities.

Not all the work involved in R&D projects can be deemed to be R&D work. Administrative and organisational work, for example, is not deemed to be R&D work. Costs attributable to these activities are not, therefore, taken into consideration by the WBSO. This is shown in the following diagram:

Limits involved in R&D work and the WBSO



Only those costs or expenditures that are directly attributable to the R&D work carried out by the withholding agent come into consideration for the WBSO. This means that these costs and expenditures must have a directly demonstrable causal link to the R&D being carried out. Wage costs other than those incurred by your own R&D do not come into consideration for the WBSO.

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 R&D Declaration (or, for the period 2012 – 2015, in an RDA Decision);
- serve solely for the performance of your own R&D;
- are borne by the R&D tax withholding agent, or by a company within the tax entity of the R&D tax withholding agent;
- not qualify as expenditures.

‘Serve solely’ means that these costs cannot be ascribed to in-house R&D only in part. In other words, costs must be fully (100%) attributable to in-house R&D.

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

- these operating assets have not been used before;
- these operating assets have not been included in a previous R&D Declaration (or, for the period 2012 – 2015, in an RDA Decision);
- these operating assets serve for the purpose of the in-house R&D;
- the payments are made at the R&D tax withholding agent’s expense or that of a company within the tax entity of the R&D tax withholding agent.

Note!

- An expenditure comes into consideration for the WBSO in the year that the operating asset is put into use.
- A given expenditure can be included in only one R&D Declaration per calendar year.
- 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 WBSO. You may then claim a maximum of 20% of this purchase price in the WBSO application for a total of 5 calendar years, provided that the operating asset is used for the purposes of R&D in those years.
- If you have had an RDA Decision in one or more previous years regarding a 20% part of an expenditure of € 1,000,000 or more per operating asset, then you can apply for the remaining 20% parts through the WBSO.

5.3 Examples of eligible costs

Depending on the R&D being carried out, the following two cost types will be taken into consideration:

1. • the purchase of non-durables, materials and parts with which to carry out experiments or make trial batches;
 2. • the purchase of materials and parts needed for the in-house construction of a prototype having no potential production or commercial value, within the framework of an in-house development project;
- the costs incurred in arranging for the construction of prototypes that will not ultimately serve a potential 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 eligible expenditures

Depending on the R&D being carried out, the following expenditures may come into consideration:

- buildings or sections of buildings to the extent that these are directly used for in-house 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 potential production or commercial purpose;
- the purchase of ICT tools specifically intended for in-house R&D.

More examples of costs and expenditures are available at www.rvo.nl/wbso.

6. More about costs and expenditures

Not all costs and expenditures incurred by an R&D project come into consideration for WBSO support. Costs and expenditures must have a demonstrable direct causal link to the R&D being carried out. The details are laid down in the applicable Act and Regulation R&D withholding tax credit.

6.1 General exclusions

Costs and expenditures incurred by activities that do not constitute R&D

Costs and expenditures are taken into consideration for WBSO support only if these are directly ascribable to and, in the case of costs, exclusively devoted to the applicant's in-house R&D activities. If the activities in question do not fall within the remit of the WBSO, then neither do any associated costs and expenditures.

Examples of activities and the associated costs/expenditures that do not come into consideration for the WBSO include:

- the building of a prototype having evident production significance (the prototype can be used as an operating asset) or commercial significance (the prototype can be sold or used to provide services to (potential) clients). Costs for materials that are used to build the prototype will not be eligible for the WBSO.
- market research: activities related to market research are excluded from the WBSO. Consequently, any associated costs are excluded from the WBSO.
- 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 WBSO.
- preparations for production: all costs incurred in starting up and preparing for production are not covered by the WBSO. Costs incurred in production losses do not come into consideration for the WBSO.

Indirect costs and expenditures

Only those costs and expenditures that are directly attributable to R&D come into consideration for the WBSO. Examples of indirect costs and expenditures that are excluded from the WBSO include:

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

6.2 Excluded costs

The following costs are not taken into consideration for WBSO support:

- wage costs other than those of salaried R&D staff;
- the cost of outsourced work, for example a payment to a university for a public private partnership;
- costs of hiring in labour;
- depreciation costs;
- financing costs;
- costs incurred by the purchase or improvement of land;
- costs forming a remuneration for the disposition of capital equipment for which the applicant (or another entity) was already awarded an R&D Declaration;

6.3 Excluded expenditures

The following expenditures do not come into consideration for the WBSO:

- 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 WBSO. Nor do machines that have been used previously and are assigned a new use come into consideration for the WBSO;
- 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 their costs and expenditures

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 expenditures that qualify for WBSO support:

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

Examples of costs and expenditures that do not qualify for WBSO support:

- costs incurred in hiring 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);
- costs incurred in acquiring a patent (not R&D).

WBSO development project

A breeder develops technically new plants. During the development specimens of these plants are sold to a customer. These specimens are regarded as prototypes with end-user value (see 3.1). As a result, also the costs and expenditures related to the development hours, e.g. costs for nutrition, storage, analyses, laboratory equipment, breed- and reproduction facilities, fertilization and energy, do not qualify for WBSO support because these costs and expenditures are not related to R&D activities.

WBSO technical scientific research

An entrepreneur wishes to increase his knowledge of catalysts in order to prolong their service life. His research is focused on 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 qualify for WBSO support:

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

Examples of costs and expenditures that do not qualify for WBSO support:

- visits to trade fairs (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 to perform tests in the company laboratory (this involves hiring in labour).

More examples of costs and expenditures are available on the WBSO website,

www.rvo.nl/wbso.

6.5 Calculation of costs

Costs must be directly attributable to and exclusively serve the performance of R&D and must therefore have a clear and demonstrable causal link with R&D. In your application, you must describe which costs you believe you will incur as part of the project as well as the associated amounts. You will subsequently need to determine the costs actually incurred and paid for your R&D activities that form the basis of your application. You will also need to account for these costs in your R&D records.

It is not always simple, however, to determine at first glance how much of these costs have been incurred for R&D purposes. This can be the case with, for example, raw materials or floor stock that are purchased in bulk, partly for R&D purposes and partly for other business activities. After all, any related invoices will refer to all purchased raw materials and not specifically to the portion used for your R&D purposes.

In a number of cases, it is possible to determine the portion of the total of such costs that is exclusively of service to R&D. Any such determination must be a clear and realistic calculation based on objective data, i.e. based on facts and findings, measurements or pure consumption registration data. Estimates or assumptions based on historical data may not be used in the calculation of costs. Below follow several examples of cost items determined using cost calculations based on objective and verifiable data, as well as cost items determined otherwise.

Example: steel usage in prototype – calculation approved

A machine manufacturer purchases steel and uses a portion of it in its R&D work on a prototype without user value. The fixed unit price per kilo of steel can be determined from an invoice. By measuring the weight, the machine manufacturer can ascertain how many kilos of steel were used in the prototype. The eligible costs can be determined by multiplying the fixed unit price of the steel (€/kg) by the weight of steel used in the prototype.

Example: floor stock for laboratory – calculation not approved

A chemical company has a laboratory whose activities include R&D. Materials needed by the lab, such as pipettes and test tubes, are taken from the company's general warehouse. The use of the materials for R&D is calculated based on the number of R&D hours relative to the total number of hours worked in the laboratory. This cannot be considered an objective calculation. The costs for the materials used may not be determined in this manner and are therefore not eligible.

General costs, such as rental costs or expenses for gas, water and electricity, are generally not directly attributable to R&D and are not exclusively serviceable to that purpose. Expenses for gas, water and electricity are only eligible if you are able to objectively determine their actual use in relation to your R&D activities. Regarding the calculation of the rental costs of parts of buildings, only specific areas that are delineated, objectively ascertainable and used exclusively for R&D will be deemed eligible.

Example: market gardener's gas, water and electricity consumption – calculation approved

A market gardener owns multiple greenhouses. One greenhouse is used exclusively for R&D purposes. The greenhouse in question is metered and the consumption of gas, water and electricity in this specific greenhouse is measured and registered separately. The eligible costs can be objectively determined using the actual consumption in this greenhouse and the unit price of gas (€/m³), water (€/m³) and electricity (€/kWh).

Example: office building lease costs – calculation not approved

The R&D employees of a company conduct development activities in a leased office building. Non-R&D employees also work in this building. Approximately half of the total number of hours worked by all employees is spent on R&D. In this case, applying 50% of the lease costs of the entire office building would not be allowed, since the office building does not exclusively serve the purpose of R&D.

Please note!

If you include costs under the WBSO, your R&D records must demonstrate how you arrived at your calculations.

Please note!

You may only include cost items in your application to the extent that these have been requested and approved.

6.6 Costs versus revenues

Costs incurred in your R&D activities may also be associated with revenues. In some cases, you will need to deduct the revenues from the costs. The eligibility of the costs and any requirement to deduct revenues will depend on the answers to the following questions:

- 1) Are the costs related to the production of a prototype?
- 2) Does the prototype in question have user value?

If a prototype that is manufactured has user value, i.e. a potential commercial or productive meaning, the hours spent manufacturing the prototype will by definition not qualify for WBSO support. In that case, the costs of purchasing materials and components to construct the prototype will also not be eligible.

Example: raw material costs for trial products

A manufacturer of packaging develops new packaging material (a new product). To demonstrate the operating principle of the product, trial products are manufactured on the production line. The trial products are always customer orders that will be subject to reduced prices should the quality of material fall short of expectations. While the trial products are necessary to demonstrate the operating principle of the product in development, they do have user value, as they are sold to customers. The packaging material is allocated a designated use for which the product was also intended. The costs of the raw materials for these trial products are not eligible, since the raw materials are used to construct prototypes with user value.

Example: raw material costs for trial products

A manufacturer of packaging develops new packaging material (a new product). To demonstrate the operating principle of the product, trial products are manufactured on the production line. The applicant views the output of the trial products as waste, which is sold on for a modest amount to a recycling company. The trial products are necessary to demonstrate the operating principle of the product in development and are not prototypes with user value. The costs of the raw materials used in manufacturing the trial products qualify for WBSO support. The revenues do not need to be deducted from the costs that qualify for WBSO support.

If the costs of your R&D activities are not directly related to the manufacture of a prototype, but have contributed to the generation of revenues, these revenues must be deducted from the costs.

Example: animal feed developer

An animal feed developer purchases pigs to test a new animal feed in development. Following the project, the pigs represent a significant potential revenue and are sold. The pigs are not part of the prototype manufactured as part of the project, since the R&D is focused on the development of the animal feed. The pigs were necessary for the testing procedures, the aim of which was to demonstrate the working principle of the animal feed. The costs of purchasing the pigs are therefore directly attributable to the R&D. However, because the applicant also generates revenues by selling the pigs, the pigs do not exclusively serve the purposes of the R&D. By setting off the revenues against the costs, it is possible to determine the portion of the costs that did exclusively serve the purposes of the R&D. The costs that qualify for WBSO support are the acquisition value of the pigs minus the revenues generated by the eventual sale of these pigs following the animal feed tests.

In certain situations, prototypes are considered to have no user value, even though they generate modest revenues. In such cases, you must deduct the revenues. However, you must be able to demonstrate that the prototype has neither a productive nor a commercial significance.

6.7 Attributing expenditures

Expenditures that are directly attributable to and serve the purpose of the R&D are deemed eligible. The purchase of the newly manufactured operating asset must therefore have a clear and demonstrable causal link with your R&D activities. In your application, you must describe which expenditures you believe you will incur for the project as well as the associated amounts. You will subsequently need to determine the expenditures actually incurred and paid for your R&D that forms the basis of your application. You will also need to account for these expenditures in your R&D records.

The degree of service to R&D is determined from the date on which the operating asset in question is commissioned through to the end of the calendar year. The attributable portion of the expenditure must be objectively ascertainable and serve the purposes of the R&D. In the case of expenditures of €1,000,000 or more, you must each year determine the portion of 20% of the purchase value of the operating assets that is attributable to and used for R&D, for a maximum of five calendar years.

Example: mixer for yoghurt production

A dairy develops a new yoghurt for which it purchases a special mixer. This special mixer is necessary due to specific mixing techniques required to produce the yoghurt. This mixer is also deployed for regular production. A part of this mixer can now be eligible, because the operating asset partly serves the purpose of R&D. This can be determined using the number of hours the mixture is used for R&D purposes compared to the number of hours the mixture is deployed for regular production, measured from the date of commission of the mixer through to the end of the year. Such a calculation must be substantiated by means of actual registrations in the R&D records.

Example: R&D building

The company has a new R&D building erected that cost a total of €800,000 (after deduction of non-eligible components). The building is not used exclusively for R&D. The degree of service to R&D can be determined by multiplying the portion of the building with an R&D function (m²) by the degree of use of these spaces for R&D in the period from the occupation of the building through to the end of the year. In this case, 63% of the building's surface area consists of spaces where R&D is carried out. The other spaces are general spaces, such as toilet facilities, reception, hall and office space. Imagine that the building is occupied as of 1 March and that, from that date through to the end of the year, 58% of all activities conducted in the spaces with an R&D function are indeed R&D-related activities. The eligible expenditure is therefore: $0.63 * 0.58 * € 800,000 = € 292,320$.

Example: new production process

A company develops a technically new production process and purchases operating assets in order to create this process on a 1:1 scale and demonstrate the operating principle. Following completion of the R&D project, the process is deployed for production. The expenditures related to the creation of the production process do not qualify for WBSO support, as it involved the construction of a production-scale pilot plant or building a prototype with a productive significance. A calculation based on the use for R&D purposes versus deployment for production does not apply here because the operating asset is not directly attributable to and does not serve the performance of R&D activities.

Please note!

If you partially include expenditures under the WBSO, your R&D records must demonstrate how you arrived at your calculations.

Please note!

You may only include expenditures in your application to the extent these have been requested and approved.

7. What do you gain from the WBSO?

The financial advantages offered by the WBSO differ for companies acting as withholding agents and self-employed persons. Start-up enterprises or entrepreneurs are entitled to additional financial advantages, referred to as the 'start-up facility'. This section explains how your financial advantage is determined.

7.1 Tax credits for enterprises acting as tax 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 2019 this deduction amounts to 32% of the first € 350,000 of the total underlying R&D cost and 16% of the remaining costs. The 'total underlying R&D cost' is made up of the total R&D wages on the one hand, and the costs and expenditures (or a fixed sum based on the number of allocated R&D hours) on the other. There is no upper limit to the total R&D cost against which the R&D deductions are calculated. These percentages may be adjusted once each year, but this has no effect on any R&D Declarations issued before the adjustment.

Determination of R&D wages in 2019

RVO calculates the R&D wages by multiplying the R&D hourly wage by the number of allocated R&D hours. 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 2019 calendar year. The R&D hourly wage is determined as follows.

If you did not carry out any R&D work in 2017, then your hourly wage will be set at an average of € 29 (fixed amount).

If you did carry out R&D work in 2017 and were issued an R&D Declaration for that work then RVO.nl will calculate the average R&D hourly wage for 2019 on the basis of the data in your payroll tax returns for 2017.

RVO.nl needs the Citizen Service Numbers (BSNs) of your employees who carried out R&D work in 2017 to make these calculations. You can submit these Citizen Service Numbers simply via the internet. If you were issued an R&D Declaration for 2017, RVO.nl will issue the necessary information.

Note!

Submit your BSN's in time! Only then your application will be processed. Do this before or along with your application. BSNs are necessary to calculate your R&D hourly wage for 2019. If we do not receive any BSNs, we will not process your application.

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 2017 is set at 1 April 2018.

The R&D hourly rate is set as follows:

$$\text{R\&D hourly} = \frac{\text{Total wages paid to all R\&D employees}}{\text{o.85 x total hours paid for all R\&D employees}}$$

The factor 0.85 serves as compensation for leave. The result is rounded up to the nearest € 1. The calculated hourly wage applies to the whole of the 2019 calendar year, so you need to provide Citizen Service Numbers

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 also applicable when you, as a new withholding agent, have taken over R&D personnel from a predecessor or from another company.

Determination of the total underlying R&D cost

The total underlying R&D cost is the sum of the R&D wages (number of R&D hours x R&D hourly wage) and the costs and expenditures (or a fixed amount based on the number of allocated R&D hours).

Examples of the determination of total underlying R&D cost

You submit an application for 2019, comprising 4,000 R&D hours. The application covers the first 6 months of 2019. The hourly wage is € 25. You have elected the 'fixed-sum' approach. You receive your R&D Declaration.

The total R&D wage is € 100,000 (4,000 hrs x € 25/hr). The costs-related fixed sum awarded is: $(1,800 \times € 10) + ((4,000 - 1,800) \times € 4) = 18,000 + 8,800 = € 26,800$.

The total underlying cost on which the R&D tax withholding deduction is calculated is then $€ 100,000 + € 26,800 = € 126,800$. The R&D tax withholding deduction awarded is 32% of $€ 126,800 = € 40,576$.

In the event that you do not elect the fixed-sum approach, and declare (for instance) costs of € 20,000 and expenditures of € 325,000, then the total underlying costs on which the R&D tax withholding deduction is calculated are $€ 100,000 + € 345,000 = € 445,000$. In that case, the R&D tax withholding deduction awarded is 32% of € 350,000 and 16% of the remaining $€ 95,000 = € 112,000 + € 15,200 = € 127,200$.

7.2 Tax advantage for R&D taxpayers (self-employed persons)

The WBSO offers the R&D tax deduction to self-employed persons if they carry out at least 500 hours of R&D in a calendar year. The amount of the deduction is set once a year and is € 12,775 in 2019. The 500-hour threshold applies irrespective of the number of applications you submit in a given calendar year. You don't need to apply for 500 hours in your first application (see section 8); the R&D hours corresponding to more than one R&D Declaration are added together. So the minimum number of hours that have to be spent on R&D is not reduced accordingly if an application is submitted which only applies to part of that calendar year. If your first application is in May, you still need to perform at least 500 R&D hours during the rest of the year to qualify for R&D tax deduction. Self-employed persons can claim no costs or expenditures for themselves, nor can they elect the fixed-sum approach. If you are self-employed and your enterprise employs salaried staff, then the regulations for R&D tax withholding agents apply to those employees. In your WBSO application, you can apply for your own R&D work and the R&D work of your employees. As for your employees, you can choose a fixed amount or actual R&D costs and expenditures. When you comply with all the WBSO conditions, you will receive an R&D declaration for you and your employees.

7.3 Extra tax incentives for start-ups

The WBSO offers extra support to start-ups. Here, too, a distinction is drawn between tax withholding agents (employers) and tax-paying persons (the self-employed).

R&D tax withholding agents

An R&D tax withholding agent deemed to be a start-up company is eligible for an R&D tax credit of 40% instead of the usual 32% on the first € 350,000 of the total underlying R&D cost (see 7.1) in 2019.

R&D taxpayers (self-employed persons)

A self-employed person deemed to be a start-up entrepreneur is eligible for a supplementary R&D tax credit of € 6,391.

When is a company deemed to be a start-up?

To determine whether an enterprise should be designated as a start-up, the following criteria are considered:

- the number of years in which your enterprise has had salaried employees, or the number of years in which you have been an entrepreneur;
- the number of years in which your enterprise has already been awarded an R&D Declaration;
- whether the R&D activities are continued by another company that owns your company.

These criteria are explained in more detail below.

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. If you have been issued R&D Declarations in three or more of the past five years then you no longer come into consideration for 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. If specific conditions are met, 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.

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.

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.

If your company continues the activities of another company, 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.

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

Private limited company B was issued R&D Declarations in 2016 and 2017. 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 2018. In 2019, private limited company A submits its first application for WBSO support. 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 2019 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 2020.

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 2015 to 2017 inclusive. As from 2019, 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 2019, as the one-man business had already been issued three R&D Declarations.

The ownership structure: 'affiliation' and 'substantial interest'

If 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 held to be 'affiliated'. This is also the case if 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.

If 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 is said to hold a 'substantial interest'.

If 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 previous examples explain the meaning of 'affiliation' and 'substantial interest' in more detail. RVO.nl determines whether you are to be assigned start-up status. This assessment is carried out on the basis of the information you are required to enter in the application software. If you have any doubts about the applicability of start-up status to your company you can contact the help desk. Were you assigned start-up status and it subsequently transpires that the information you submitted to RVO.nl was incorrect? Then your start-up allowance will be revised.

8. How and when should you submit a WBSO application?

In this chapter, you will read how you can best prepare an application, when you can submit an application, what project questions you can expect in the application programme, how we will assess your application and when you can expect a decision.

8.1 Preparing and submitting your application

Would you like to submit a WBSO application? Prepare your application using the focus points below.

- Request an eRecognition*
Request eRecognition 2+ (EH2+) at www.eherkenning.nl. You can use this to identify yourself online and submit your WBSO application. You should count with a delivery time of around one week. If you will not be submitting the application yourself, the intermediary can submit your application using their own eRecognition 2+. For more information, please see the text box in this chapter.
- Determine the application period*
Determine the period for which you want to apply for the WBSO. For more information, please see the text box in this chapter.
- Use the online application program*
You can submit your WBSO application wherever you want via the online application form on mijn.rvo.nl/wbso. For this, you will need an eRecognition (2+). The application form also works on Apple and Linux. You submit your application via www.rvo.nl/eloket.
- Enter the correct Chamber of Commerce number*
If you submit an application, please enter the correct Chamber of Commerce number. Your company details (statutory name, Entities and Partnerships Number (RSIN) and address) will then be retrieved from the Dutch Trade Register (NHR), so you will not have to enter these yourself. Make sure that you choose the right location for your company.
- Did you apply for the WBSO before?*
Then all your former applications are available in eLoket. In the online application programme you now can copy individual projects from former applications to a new WBSO application. So far, you could only copy the complete former application, including all projects.
- Do you have an intermediary?*
You can easily submit your own WBSO application. If you have any questions, please do not hesitate to contact one of our advisors. This is free of charge. If you will be using an intermediary to submit your application, make careful arrangements and ensure proper authorisation. You can find further information about the use of an intermediary and an example authorisation on the website www.rvo.nl/wbso > aanvraaginformatie > intermediars (in Dutch).
- Prepare your project questions offline*
Do you prefer to prepare your application offline? Please answer the project questions on the new project forms (pdf). Please answer the other questions online. You can easily transfer data from your pdf to the online application. Submitting the application online will therefore be much quicker. The project forms (pdf) are available on mijn.rvo.nl/wbso -> Aanvragen.
- Make a realistic estimate of hours spent*
Make a realistic estimate of the time needed per project. Projects for which you only predict a small number of R&D hours spent on research and development do not, in principle, qualify as R&D. Self-employed individuals must spend at least 500 hours on R&D per year to be able to make use of the WBSO.
- Choose fixed amount or actual R&D costs and expenditures*
Are you applying for the WBSO as a company (R&D withholding agent)? In this case, you need to choose between the fixed amount (fixed sum for R&D costs and expenditures based on the number of approved R&D hours) and actual R&D costs/expenditures. The choice you make in your first WBSO application for

2019 applies for the whole calendar year. If you choose actual R&D costs/expenditures in your application, describe the costs and expenditures at this stage and make a realistic estimate of the amounts per project. You can find more information about costs and expenditures in Chapter 5 and 6.

10. *Change of legal status?*

Is there a chance that the legal status of your business will change during the application period? In this case, submit an application for the old and the new legal status.

11. *Is there an operating company or holding company?*

If both one or more employees from an operating company and one or more employees from a holding company carry out R&D, both the operating company and the holding company must submit an application. This applies to every form of cooperation between multiple companies. Make sure you describe your own R&D activities in the application.

12. *Do not wait until the last day*

If you would like to use the WBSO from 1 January, you have until 30 November (in the previous calendar year) to submit an application. It is best not to wait until the last day, when the eLoket is very busy. The best period to submit a request is the first half of November. Self-employed individuals who would like to use the WBSO from 1 January can still submit an application up to 1 January.

13. *Submit your application in full and in good time*

You can speed up the processing of your application if you answer the questions in full and avoid referring to previous applications. If you submit an incomplete application, this will delay the processing of your application and could lead to questions asked in writing, your application not being processed or a rejection.

14. *No BSNs, no decision*

If you are a company (R&D withholding agent) applying for WBSO for 2019 and you used the WBSO in 2017, you will need to provide Citizen Service Numbers (BSNs) for the calculation of the hourly wage. Do this before or along with your application. If we do not receive any BSNs, we will not process your application. For more information and a step-by-step plan, please see the text box in this chapter.

15. *Running out of time?*

If you need to submit a WBSO application but are running out of time, you can submit a free-form application. You do not need an eRecognition for this. Please see www.rvo.nl/wbso (under the 'Aanvraaginformatie' menu, in Dutch). If you do not complete a free-form application, you should withdraw it by sending an email to wbso@rvo.nl. Otherwise the free-form application will count towards the maximum of three applications.

WBSO applications

For companies with staff (R&D withholding agents) the following applies:

- applications can be made at different times during the calendar year;
- applications can be made a maximum of three times per calendar year;
- application periods must not overlap with each other;
- application periods do not need to be consecutive;
- the application period must be a minimum of three months and a maximum of one year;
- the application must be submitted a minimum of one full calendar month before the start of the application period.

Tips

- Do you expect new projects over the course of the year? Or to spend more hours than planned? In this case, choose a shorter application period rather than the annual application. This will enable you to respond flexibly to developments. If you are submitting an annual application, you will not be able to submit any further applications.
- If you would like to apply for the WBSO for a whole calendar year, submit the application by 30 November at the latest (in the previous calendar year).
- If you would like to apply for the WBSO for the last quarter, submit the application by 31 August at the latest.
- If activities run across more than one calendar year, submit a new application for the following calendar year by 30 November at the latest (with a start date of 1 January).
- If you need to submit an application but are running out of time, you can submit a free-form application up to 31 August at the latest. You do not need an eRecognition for this.

For self-employed individuals with no staff (R&D withholding agents) the following applies:

- You can submit applications for the current calendar year up to 30 September;
- Your application can cover multiple projects;
- You can submit an unlimited number of applications per year, there is no maximum;
- The application period starts from the date that you submit the application to the end of the calendar year;
- If you submit an application between 1 October 2018 and 1 January 2019 via the application program for 2019, the application period will start on 1 January 2019.

Tips

- If you would like to apply for the WBSO for the last quarter for your own R&D activities, submit the application by 30 September at the latest.
- If you would also like to apply for the WBSO for your employees' R&D activities, the regulations for companies with staff (R&D withholding entities) will apply.
- If activities run across more than one calendar year, submit an application for this in the new calendar year.
- If you need to submit an application but are running out of time, you can submit a free-form application for the current calendar year up to 30 September at the latest. You do not need an eRecognition for this.

eRecognition

To submit a WBSO application, you will need to be able to identify yourself online with an eRecognition with assurance level (2+) (EH2+). This ensures the security of your data. Read the information at www.rvo.nl/wbso > Aanvraaginformatie (in Dutch), to find out how you can apply for an eRecognition. Do this in good time. Take into account a delivery time of around one week for the eRecognition. Intermediaries can submit a WBSO application with their own eRecognition 2+. They must indicate in the application form that they are submitting the application as an intermediary. It is possible to submit an application for multiple businesses using a single eRecognition.

Providing Citizen Service Numbers (BSNs)

Not everyone has to provide BSNs for calculation of the hourly wage. If you are applying for the WBSO for the first time or did not use the WBSO in 2017, a fixed hourly wage of € 29 will apply.

In this case you do not need to provide BSNs. Self-employed entrepreneurs also do not need to provide BSNs. For them, a fixed deduction applies.

If you did use the WBSO in 2017, you will need to provide the BSNs of the employees who carried out R&D activities in 2017. We will use this to calculate the hourly R&D wage. You can significantly speed up the processing of your request if you provide the BSNs before or along with your application. You can do this using a form that is available at the eLoket. Follow the step-by-step plan below for this.

Step-by-step plan for provision of BSNs

You can provide the BSNs through the RVO.nl eLoket: <https://mijn.rvo.nl/eloket/login-start.html>

1. Log into the eLoket. You will need an eRecognition for this.
2. A BSN form will be available at the eLoket. You can activate your own form using the 'New application' option. Choose the 'WBSO BSNs for 2017 Employees' form. Choose Register.
3. Open the form with the SO number of (one of) your R&D declaration(s) from 2017 – starting with SO170. To provide the BSNs you sometimes need an activation code (in case of a change of eHerkenningmiddel or subsidy advisor). On www.mijn.rvo.nl/wbso under the tab 'Burgerservicenummers melden' you can read how to obtain the activation code.
4. Enter the BSNs for the R&D employees from 2017 and submit the form.
5. Then choose 'Next' and the 'Send' button.
6. You will receive an email confirming that your BSNs have been submitted. If you do not receive an email, check the status of your form in the eLoket under the menu 'My overview'. Only the status 'submitted' indicates that your form has been successfully submitted.

If you do not provide any BSNs, we will not process your application.

8.2 WBSO project questions

Please describe which R&D activities you will be carrying out in the period stated in the application. If you choose the regime for actual costs and expenditures, please fill in the estimated costs and expenditures. Based on the information provided in your application, an RVO.nl advisor will assess if you are eligible and if so, what the amount of the R&D (withholding) tax credit is.

You describe your planned R&D activities in one or more projects. The application form has specific questions per project. These questions are focused on guiding you to enter the relevant information. The more concrete and specific you describe your R&D activities, the sooner we can decide on your application. You will find the questions in the project forms (pdf) on mijn.rvo.nl/wbso -> Aanvragen. For each question in the application form an explanation is provided. There is a limit in characters for answering each question, so please be as concise and specific as possible. We advise you to answer the questions with the help of the technical employee or developer who will be (involved in) carrying out the project.

Only indicate your own R&D activities when answering the project questions (the R&D activities of the company for which you are submitting the WBSO application). If another entity within your group or another company will also be carrying out R&D activities within this project, a separate WBSO application will have to be submitted for this, stating this company's specific R&D activities.

8.3 How do we assess your application?

First of all, we assess whether the activities you will be carrying out are considered research and development (R&D). To be eligible for the WBSO, you must show convincingly that you will be carrying out research and development yourself. This can also include employees who are on your payroll. For R&D activities that are carried out by third parties or hired employees, you cannot apply for the WBSO.

An RVO.nl advisor has knowledge of your field and the technology that is central to your project. In order to assess whether your project(s) involve any type of R&D,

he or she will test your project(s) against particular criteria. The questions in the application program are focused on guiding you to enter the relevant information. You should therefore complete your application as clearly and completely as possible. This prevents us from needing to ask you additional questions and allows you to receive a decision on your application sooner.

This section gives the most important assessment criteria for WBSO projects. These projects are subdivided into:

- development project (product or production process)
- development project (software)
- technical scientific research

Your application must also meet specific legal requirements, and use of the WBSO also brings a number of administrative requirements with it.

8.3.1 Development projects (product or production process)

- Are you developing physical, i.e. tangible products, production processes or parts of these?
- Is there technical innovation?
- Can you state the technical obstacles to the development and indicate what the possible solutions are? Are there sufficient technical risks?
- Will you be resolving the technical obstacles in your development work yourself? How will you show the intended technical operating principle?
- Couldn't the intended solution be easily achieved with existing knowledge and known techniques? Is there no routine development or regular engineering involved?

8.3.2 Development projects (software)

- Will you be developing technologically new software in a formal programming language yourself?
- Have you described programming-related problems in the development of the software?
- Will you be resolving the program technical obstacles in your development work yourself?
- If you will be integrating or working with existing software in your R&D activities, did you primarily develop and apply the existing software yourself?
- Is there no routine development or building of systems (complete applications) involved?

8.3.3 Technical scientific research

- Is your research of a technical nature? Does it relate to fields such as physics, chemistry biotechnology, production technology or information and communication technology?
- Are you looking for an explanation for a phenomenon and is the explanation impossible to find via generally accessible knowledge?
- Does your research go further than stating, describing, observing, inventorying, coding, classification or translation?
- Is there a scientific research structure within the project?

8.4 When can you expect a decision?

RVO.nl receives around 40,000 applications from about 22,000 companies and independent entrepreneurs every year. Most applications are received during the month of November, with a start date of 1 January. Applications often cover more than one R&D project. WBSO advisors assess around 150,000 projects a year. We aim to inform you of our decision as quickly as possible, and within the indicated processing period at the latest.

Submit the application in full to receive a quicker response. Last year, almost 90% of the applications submitted in full were processed within three months from the start of the application period.

You can speed up the processing of your application by:

- submitting a complete application straight away;
- completing the application clearly and in full. The advisor can then assess your application without asking extra questions;
- completing the fields in the application programme and not adding any attachments with text;
- providing Citizen Service Numbers (BSNs) before or along with your application if you also used the WBSO in 2017. This is necessary to calculate the hourly wage in 2019. Self-employed individuals do not need to provide BSNs. They will receive a fixed deduction.

Please note

If you chose a short application period and have not yet received a decision, make sure to submit your subsequent application in good time.

The table below gives an overview of the processing periods.

(In)completeness of the application	Processing period
Start-up *	
Complete first WBSO application from a start-up	< 1 month after the start of the application period
Subsequent applications from start-ups	See the processing periods below
Self-employed individuals (taxpayers)	
Application submitted in full	< 3 months after submission of your application
Application submitted in free form and incomplete	< 3 months after submission of your application + waiting time for your additional information
Companies (withholding agents)	
Application submitted in full + choice for fixed amount	3 months after the start of the application period
Application submitted in full + choice for actual costs and expenditures	3 months + 8 weeks from the start of your application period
Application submitted in free form and incomplete	the waiting time for your additional information is added to the processing period
Questions in writing	
	the waiting time for your answer is added to the processing period

* start-up: see list of terms at the back of the handbook

9. Administrative records

The WBSO requires that you keep administrative records of all the R&D projects for which you have received an R&D Declaration. These records must provide clear evidence of the R&D activities carried out and the time devoted to them.

If you receive WBSO support on the basis of the fixed-sum approach, RVO.nl does not require you to keep a record of your actual costs and expenditures. If you were granted WBSO support on the basis of actual costs and expenditures, however, you are under the obligation to keep administrative records which provide clear and concise insight into the costs and expenditures incurred, and paid, for each R&D project covered by the R&D Declaration you were issued. This section contains an explanation of the requirements governing the administrative records by reference to a number of questions and answers.

9.1 Why are you required to keep administrative records?

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

During these visits RVO.nl inspects the administrative records to verify that the R&D work specified in the application was actually carried out. RVO.nl also wishes to gain insight into the progress being made on the R&D projects.

If you have been issued with an R&D Declaration on the basis of actual costs and expenditures, then during a visit RVO.nl will also examine which costs and expenditures have been incurred and paid for the R&D work for which the Declaration was issued. See sections 9.2, 9.3 and 9.4 for more information on maintaining an R&D administration.

Keeping precise administrative records of your research and/or development results is also in your own interest. In addition to complying with the statutory requirements, appropriate administrative records provide insight into the results achieved by your R&D.

Keeping administrative records also ensures that your organisation retains the knowledge acquired during a research or development project on the departure of an R&D employee. All too often RVO.nl comes into contact with companies that have lost all their knowledge about an R&D project upon 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 administrative records:

- copies of the application(s) and R&D Declaration(s);
- the correspondence with RVO.nl about your application(s);
- any correction R&D Declaration(s) (see also sections 10 and 11).

9.2 What R&D administrative records should 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 (per R&D worker, per day) devoted to the project. It will also, if you have elected for WBSO support on the basis of actual costs and expenditures, provide details of the actual costs and expenditures.

Project administration

'Project administration' gives insight into the nature, content, and progress of your R&D. You are at liberty to select a project administration methodology that is as compatible as possible with your company's usual methods. R&D administrative records can be comprised of a variety of digital and other documents drawn up during the R&D project, such as documents from meetings, reports, drawings, correspondence, photos of prototypes, test results, measurement reports and calculations, etc. Make sure that these documents state the date and the name of the author. Collect the documents for each project in a separate file and supplement them with clear and concise summary reports. You need to file the documentation for each project in chronological order. You also need to make sure that the documents clearly show your technical

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 (or technical scientific) research also provide insight into the design of and the results from the analyses or the research analyses or the research.

input in each project. When applying for a software project, version control or version management systems (e.g. SVN or Github) and issue tracking systems such as Jira can provide valuable information.

Do not dispose of documents too hastily: documents that you will no longer use in a later phase may be of importance in an inspection. The R&D administrative records must be updated by no later than two months after the end of each quarter.

Time sheet administration

The R&D administrative records also specify the days on which an employee carries out R&D work, the number of R&D hours worked each day, and the projects the employee has worked on. Make sure that your R&D administrative records are in agreement with the employees' leave and sick leave records and that you have updated the time section of the R&D administrative records within ten working days. This ten-day period is long enough to take account of any practical problems that may arise in maintaining a time sheet on a day-to-day basis, but short enough to ensure that the time sheet is regularly kept up to date and therefore gives an adequate overview of the actual R&D hours being made.

A time sheet can be maintained either on paper or in digital form. To maintain a complete time sheet administration – that is, one that details all hours worked on a given day, including non-R&D hours (see the example) – is not officially required by the WBSO.

Administration of costs and expenditures

If you have been issued with an R&D Declaration on the basis of costs and expenditures, then for each project you are carrying out you must also keep administrative records that detail its actual costs and expenditures and the associated payments, as well as making it clear how these costs and expenditures you have applied for, are directly and exclusively attributable to the approved and carried out R&D-work. The actual method you use to keep the administrative records for each project may be as compatible as possible with your company's customary method.

Your administrative records can comprise a variety of documents, including quotations, order confirmations, invoices and proofs of payment.

If you are also declaring the costs and expenditures incurred by another company from within the tax entity to which your enterprise belongs, then these costs and expenditures must also be documented in your R&D administrative records in a timely way.

The administration of costs and expenditures should be up to date at the time you make your mandatory statement (see section 11).

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 of the end of each quarter. The administration of costs and expenditures must be complete at the moment you make your mandatory statement.

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.

whether the requirements of direct accountability and exclusivity have been met. This administration has to be complete at the moment you make the mandatory statement. The absence or incompleteness of this administration may incur a correction Declaration or a fine. If you have maintained an administration of costs and expenditures, but your time sheet and / or project administration records do not fulfil the requirements, this can also lead to a correction in the support given towards costs and expenditures, to the extent that the work activities underlying these costs and expenditures are not adequately documented in your time sheet and / or project administration records.

Submission of incorrect information in the application

If it transpires that the work activities actually carried out do not conform to the proposed activities in the application, or if the costs and expenditures actually incurred are not the costs and expenditures detailed in the application, RVO.nl will issue a correction Declaration or impose a fine.

9.4 How long must you retain the R&D administration records?

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

10. Applying your WBSO tax credit

Once you have received your R&D Declaration you can deduct your tax credit. One of two alternative situations will apply:

- you are an R&D tax 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 to deduct your R&D withholding tax credit or tax credit.

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 tax withholding agent. The R&D Declaration also specifies the payroll tax number (RSIN) from which you may deduct the R&D withholding tax credit when you file your payroll tax return. If you have a payroll tax number with various sub-numbers, such as L01 and L02, then you may divide the tax credit between these sub-numbers as you wish. 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 payroll tax may not exceed the amount specified in your R&D Declaration(s)!

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 unused R&D withholding tax credit from the payroll tax due in each tax period. If, for example, you decide that you will not deduct the R&D withholding tax credit in one or 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 if you plan to recruit more employees during the course of the year, or if 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. If you decide not to deduct the maximum in a given tax period, 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 and the costs and expenditures incurred. If 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 section 11).

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 $€ 12,000 / 4 \text{ months} = € 3,000$ per month.

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

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 29 January inclusive;
2. second tax period, 30 January to 26 February inclusive;
3. third tax period, 27 February to 26 March inclusive;
4. fourth tax period, 27 March to 23 April inclusive;
5. fifth tax period, 24 April to 21 May inclusive.

Only the first four tax periods end in the period covered by the R&D Declaration,. You must 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 $€ 12,000 / 2 \text{ months} = € 6,000$ per month.

R&D Declaration (€ 12,000)			
Jan	Feb	€ 6,000	€ 6,000
		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 unused amount of $€ 3,000 - € 600 = € 2,400$). If you then decide to deduct € 800 in August, you may deduct the remaining amount, $€ 2,400 - € 800 = € 1,600$ in September.

R&D Declaration (€ 3,000)			
Jun	€ 600	€ 800	€ 1,600
	Jul	Aug	Sept

Deduction outside the tax periods

When, by the end of the R&D period, you have not completely used the allowed R&D withholding tax credit, you can deduct the remaining credit amount by spreading this amount evenly over the remaining time periods of the calendar year in which the R&D work is carried out. In case this is not possible, e.g. there are not enough periods left in the calendar year concerned, you can submit a correction for the already completed R&D periods in the same year. If you choose to settle your allowed R&D withholding tax credit in the next calendar year, submitting a correction is not required. Correction messages are part of your 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 = € 1,350). However, as you are unable to deduct more than € 900 of your R&D withholding tax credit, you have an unused 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 unused 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 (since 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). You therefore file a correction message for the second tax period.

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

Example of a calculation

Hourly wage = 20	Allocated R&D hours	Allocated R&D wages	Allocated fixed sum	R&D underlying sum	Allocated R&D withholding tax credit (35%)
R&D Declaration 1	1,000	20,000	10,000	30,000	9,600
R&D Declaration 2	1,000	20,000	8,800	28,800	9,216
R&D Declaration 3	1,000	20,000	4,000	24,000	7,680
Total allocated R&D withholding tax credit					26,496

Hourly wage = 20	Actual R&D hours	Allocated R&D wages on basis of actuals	Allocated fixed sum on basis of actuals	R&D underlying sum on basis of actuals	Allocated R&D withholding tax credit
R&D Declaration 1	850	17,000	8,500	25,500	8,160
R&D Declaration 2	950	19,000	9,500	28,500	9,120
R&D Declaration 3	500	10,000	2,000	12,000	3,840
Total allocated R&D withholding tax credit					21,120

Correction amount = 26,496 – 21,120 = 5,376

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).

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 selfemployed 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 Settlement of correction R&D Declarations

Once you have submitted your statement (see section 11) of the actual number of R&D hours worked and any actual costs and expenditures, RVO.nl will issue a correction R&D Declaration, taking into account all statements you submitted in the past calendar year.

The correction R&D Declaration specifies a single correction amount for all the R&D Declarations in the relevant calendar year. The correction amount is based on the statements you have submitted per R&D Declaration. This amount is equal to the original (total) R&D withholding tax credit you were granted, less the amount of withholding tax credit calculated based on the actual number of R&D hours worked. An example of this calculation is shown below, based on the fixed sum approach.

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*

If you have already deducted all or most of 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.

Example of a correction R&D Declaration: excessive deduction of R&D withholding tax credit, fixed-sum approach

You submit a 2019 application for a total of 4,000 R&D hours, applying to the first six months of 2019. The hourly wage for R&D work is set at € 25. You have chosen the fixed-sum approach. In March 2019 you are issued with an R&D Declaration for the first half of 2019.

The R&D wage allocation is € 100,000 (4,000 hrs x € 25/hr).

The granted fixed sum is: $(1,800 \times € 10) + ((4,000 - 1,800) \times € 4) = € 18,000 + € 8,800 = € 26,800$

The total underlying sum on which the R&D tax credit is based is: $€ 100,000 + € 26,800 = € 126,800$

The R&D tax credit granted is 32% of € 126,800 = € 40,576. You deduct, in the months of March to June 2019 inclusive, a proportional monthly amount of the granted R&D tax credit, namely $€ 40,576 / 4 = € 10,144$.

At the end of the calendar year it turns out that a lower than expected total of 3,200 R&D hours have been achieved. You must report this to RVO.nl by no later than 31 March 2020. RVO.nl will then send you a correction R&D Declaration in April 2020.

The actual R&D wage bill is: $3,200 \times € 25 = € 80,000$.

The fixed-sum WBSO tax credit support is therefore: $(1,800 \times € 10) + ((3,200 - 1,800) \times € 4) = € 18,000 + € 5,600 = € 23,600$.

The actual underlying amount on which the actual R&D tax credit is based is: $€ 80,000 + € 23,600 = € 103,600$.

The actual R&D tax credit support is 32% of € 103,600 = € 33,152. The correction amount is therefore: $€ 40,576 - € 33,152 = € 7,424$.

In your tax withholding return for the month of April or May 2020 you declare this correction amount as a negative R&D tax withholding amount. If you have been issued an R&D Declaration for 2020 and in April or May 2020 you may apply a proportional amount of the granted R&D withholding tax credit, then you should deduct the correction amount from this amount and incorporate the remainder of the R&D withholding tax credit, whether this is a positive or negative amount, in your tax return. You incorporate this amount as a negative R&D withholding tax credit into your payroll tax return for the period corresponding to the date of the correction R&D Declaration, or for the following tax return period.

Example of correction R&D Declaration: excessive deduction of R&D withholding tax credit, costs and expenditures approach

You make an application for the whole of 2019 amounting to a total of 40,000 R&D hours. The R&D wage rate is € 25. You also choose to claim for a total of € 500,000 in costs and expenditures. In March 2019 you are given your R&D Declaration for the first half of 2019.

The allocated R&D wages amount to € 1,000,000 (40,000 hours x € 25/hr). The total underlying amount on which the R&D withholding tax credit is calculated is the sum of the R&D wage costs and other costs and expenditures, and is therefore: $€ 1,000,000 + € 500,000 = € 1,500,000$. The granted R&D withholding tax credit is 32% of € 350,000 + 16% of $(€ 1,500,000 - € 350,000) = € 112,000 + € 184,000 = € 296,000$. From March to December 2019 inclusive you deduct a proportional monthly amount of the granted R&D withholding tax credit, namely $€ 296,000 / 10 = € 29,600$.

At the end of the calendar year it turns out that a total of 35,000 R&D hours were actually carried out, and that a total of € 425,000 has been spent on costs and expenditures. You have until 31 March 2020 to report this to RVO.nl. RVO.nl will send you a correction R&D Declaration in April 2020.

The actual R&D wages are: $35,000 \times € 25 = € 875,000$. The actual underlying sum with which the R&D withholding tax credit is calculated is: $€ 875,000 + € 425,000 = € 1,300,000$. The actual R&D withholding tax credit is 32% of € 350,000 + 16% of $(€ 1,300,000 - € 350,000) = € 112,000 + € 152,000 = € 264,000$. The correction amount is therefore $€ 296,000 - € 264,000 = € 32,000$.

In your tax withholding return for the month of April or May 2020 you declare this correction amount as a negative R&D tax withholding amount. If you have been issued an R&D Declaration for 2020 and in April or May 2020 you may apply a proportional amount of the granted R&D withholding tax credit, then you should deduct the correction amount from this amount and incorporate the remainder of the R&D withholding tax credit, whether this is a positive or negative amount, in your tax return.

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

If you have not yet deducted the R&D withholding tax credit or you have deducted less than the R&D withholding tax credit you are entitled to, based on 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. In order to settle the allowed tax credit, you submit one or more correction messages for the expired tax periods within the calendar year to which the R&D Declaration applies. Understandably, you can never deduct more R&D withholding tax credit than the withholding tax payable in a given tax period. Correction messages are part of your payroll 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 2019 in February 2019. You have been granted an R&D withholding tax credit of € 40,576. 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 2019 inclusive.

No later than 31 March 2020 you report to RVO.nl that your records reveal a total of 3,200 R&D hours worked.

In April 2020 you receive a correction R&D Declaration from RVO.nl. The correction amount is € 7,424.

You have already deducted $5 \times € 4,000 = € 20,000$ in the period covered by the R&D Declaration. You are therefore still entitled to $€ 33,152 - € 20,000 = € 13,152$ unused R&D withholding tax credit. You can, for instance, settle this in your April 2020 tax return with correction messages for the months of May and June 2019, each of € 6,576, or with an € 11,000 correction message for January 2019 and a € 2,152 correction message for February 2019.

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 could also deduct the remaining amount of the tax credit from the tax return for June 2019, for example by deducting € 11,000 instead of € 4,000 in this month and filing a € 6,152 correction message for May 2019, for instance. However, you are still under the obligation to submit a statement to RVO.nl in time!

11. How do you make a statement?

This section explains how and when you must make a statement of the number of R&D hours actually worked and the costs and expenditures actually incurred.

11.1 Statement

If you are an R&D tax withholding agent you are obliged to submit a statement to RVO.nl of the number of hours you have actually devoted to R&D in a given year and, where relevant, the costs and expenditures thereby incurred. If you are an R&D taxpayer you must submit a statement to RVO.nl if fewer than 500 hours were actually devoted to R&D. This section explains the procedure involved in making this statement.

Statement by R&D tax withholding agents

You are obliged to make a statement of the number of R&D hours you have actually achieved. If your R&D Declaration was issued on the basis of costs and expenditures, then you must also report the actual costs and expenditures incurred. If the number of R&D hours actually achieved is equal to, or greater than, the number of R&D hours specified in your R&D Declaration, and if the total actual costs and expenditures are greater than the amount specified for costs and expenditures in your R&D Declaration, then you may deduct the granted R&D withholding tax credit in full, as described in section 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 and, where relevant, the costs and expenditures incurred. This statement must be made through eLoket. 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 this statement. This reminder includes a password that you can use to submit your statement to www.rvo.nl/wbso. If 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 of 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 if you have not carried out any R&D work and have not deducted the R&D withholding tax credit. If, 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.

If you have received one or more R&D Declarations for 2019, then you submit a single statement of the actual number of R&D hours by no later than 31 March 2020. Your statement specifies the actual number of R&D hours worked and the costs and expenditures incurred. If you have elected the fixed-sum approach, then you need only report the number of R&D hours actually carried out.

Statement if your company no longer acts as a withholding agent

If your company stopped acting as a withholding agent in the calendar year covered by your R&D Declaration, 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. If you fail to make this statement, or make it too late, RVO.nl will impose a fine.

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

If your actual number of R&D hours worked in a calendar year is less than 500, you must submit a statement to RVO.nl within three months of the end of that 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 wage 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 includes a password that you can use to submit your statement to www.rvo.nl/wbso.

Submit your statement in time to avoid a partial or complete correction and a fine!

11.2 Actual hours, costs and expenditures

If the planned R&D hours, costs and expenditures are not actually invested in the period for which the R&D Declaration was issued, you may do so in a later period of the same calendar year, provided that these hours, costs and expenditures are connected to the same R&D work for which the R&D Declaration was issued. This ensures that if hours, costs and expenditures cannot be invested in the period covered by the R&D Declaration – because of unforeseen circumstances, for instance – these hours and investments can still be used later in the calendar year. You simply include the hours, costs and expenditures invested in the later months in your statement for the R&D Declaration granting the work.

If 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 a single R&D Declaration. You may also transfer the approved amount of costs and expenditures between projects within a single R&D Declaration. If, 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. For instance, if a machine intended for Project A was budgeted at € 900,000 but actually cost only € 800,000, while the cost of materials required for

Project B had been estimated at € 200,000 but ended up costing € 300,000, then € 100,000 may be transferred between Project A and Project B.

Note!

You can never transfer costs between R&D hours on the one hand and costs and expenditures on the other. The total number of hours claimed may also never exceed the number of hours on which your R&D Declaration is based.

Note!

If RVO.nl did not grant costs in a R&D declaration, you cannot make a statement of costs. This also applies to expenditures.

Statement submission tools

There are a number of handy tools that you can use to submit the information required. When preparing your statement, use:

- the *Stappenplan mededelen WBSO* (WBSO statement submission step-by-step plan) (PDF)
- the calculation tool (Excel) and explanation of the calculation tool (PDF) to quickly and easily calculate your total actual hours and possible costs and expenditures.
- the *Handleiding mededelen WBSO* (WBSO submission manual) (PDF) containing frequently asked questions and examples of how to transfer hours, costs and expenditures.

You will be able to find these publications on mijn.rvo.nl/wbso, under 'Realisatie melden' (submitting actual information), as of the beginning of 2019.

12. Inspection

RVO.nl supervises compliance with all the conditions attached to the WBSO. 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

If you have been issued an R&D Declaration, 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. If you made a claim for actual costs and expenditures, then RVO.nl will also inspect which costs and expenditures have been incurred and paid for in connection with the R&D work covered by the R&D Declaration you were issued.

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

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 will issue a correction R&D 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 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 and, where relevant, of the actual costs and expenditures incurred.

RVO.nl is authorised to impose a fine in these situations.

RVO.nl may, depending on the omission, supplement a correction with the imposition of a fine. The correction can be no more than 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, increased by the fine where relevant, 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 Objections and appeals

You may lodge an objection against a correction R&D Declaration 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, you can then lodge an appeal with the Trade and Industry Appeals Tribunal. RVO.nl will draw your attention to the opportunity to lodge an objection or appeal in its decisions. Neither an objection nor an appeal procedure discharges you from your obligation to settle the correction R&D Declaration.

If you have lodged an objection against a fine imposed on you and you are unable to agree with RVO.nl's decision on your notice of objection, you can lodge an appeal with the district court of Rotterdam rather than the Trade and Industry Appeals Tribunal. If you lodge an appeal, the Trade and Industry Appeals Tribunal is competent to reach a decision on your appeal. RVO.nl will 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. RVO.nl is authorised to impose fines in such cases.

13. Checklist

Obligations checklist

Provide the appropriate Citizen Service Numbers (BSNs).

Did you use the WBSO in 2017? If so, we will calculate your R&D hourly wage for 2019 on the basis of the wage data of your employees who carried out R&D activities in 2017.

- Only provide the BSNs of employees who carried out R&D activities (not the BSNs of administrative and organisational employees).
- Provide the BSNs of R&D employees from the appropriate year.

If you did not use the WBSO in 2017, there will be no need for you to provide any BSNs. The standard R&D hourly wage of € 29 will apply for you in this situation.

Further information

- mijn.rvo.nl/wbso > *burgerservicenummers melden* (submitting citizen service numbers)

Submit the actual number of R&D hours worked and also any costs and expenditures incurred.

You will submit your R&D hours and any costs and expenditures incurred in the previous year to us before 1 April of each year. There are a number of useful tools that you can use to do this. This information is available from mijn.rvo.nl/wbso > *realisatie melden* (submitting actual information)

Keep good R&D administrative records.

Time sheet administration

- Do not record R&D hours worked by trainees, graduate students or others not on the payroll.
- Do not record R&D hours for organisational and administrative activities.
- Do not record R&D hours for projects for which you have not received an R&D declaration.
- Do not record R&D hours during which an employee was absent on leave or sick leave.
- Record R&D hours per person, per day and per project.
- Make sure that the activities carried out correspond with the projects approved by RVO.nl.

Project administration

- Keep records that provide a clear overview of the nature, content and progress of R&D activities per R&D project.

Administrative costs and expenditures

- Retain (digital) documents like quotations, order confirmations, invoices and receipts.
- Record costs and expenditures per project.
- Only record costs and expenditures that have been allocated.

Further information

- Chapter 9 of the WBSO Manual
- 'Een aanvraag en dan' (you've submitted an application. What happens next) (pdf) on www.rvo.nl/wbso > *Publicaties* (Publications)
- mijn.rvo.nl/wbso > *SE&O-administratie bijhouden*. (keeping R&D administrative records) You will also find a number of models (xls) here that you can use to record hours, costs and expenditures.

Obligations checklist

If you have applied for the WBSO for costs and/or expenditures, consider the following.

If you partially include expenditures under the WBSO, demonstrate how you arrived at your calculations in your R&D administrative records.

Do not specify any costs that are excluded by law. For example:

- the costs of hiring in labour (temporary employees, for example);
- the costs of outsourced research;
- depreciation costs, financing costs;
- costs and expenditures for an R&D project that has not been approved/granted.

Only specify costs that exclusively serve the performance of and are directly attributable to the R&D project. The phrase 'exclusively serve the performance of and are directly attributable' means that:

- you incur costs solely (100%) for the R&D project;
- there is a clear connection between the costs specified and the R&D activities carried out.

If you would incur (some of these) costs even if you did not implement the R&D project, some of them are not attributable to your innovation project and will not be eligible for the WBSO.

14. The WBSO calendar

Important dates	What?	Who is it important for?*
30 November 2018	final date to apply for the WBSO as of 01/01/2019	1
1 January 2019	<ul style="list-style-type: none"> start of R&D year keep R&D administrative records (from the start of the application period) 	1
1 January 2019	date on which self-employed persons can submit an WBSO application with start date 01/01/2019	2
28 February 2019	final date to apply for the WBSO for a maximum of 9 months (April-December)	1
31 March 2019	final date to submit: <ul style="list-style-type: none"> the actual R&D hours worked in 2018 the actual costs and expenditures incurred in 2018 (if included in the application) 	1
31 March 2019	final date to submit the fact that < 500 R&D hours were worked in 2018	2
31 May 2019	final date to apply for the WBSO for a maximum of 6 months (July-December)	1
31 July 2019	final date to apply for the WBSO for a maximum of 4 months (September-December)	1
31 August 2019	<ul style="list-style-type: none"> final date to apply for the WBSO for 2019 final date to apply for the WBSO for three months (October-December) 	1
30 September 2019	final date to apply for the WBSO for 2019	2
30 November 2019	final date to apply for the WBSO as of 01/01/2020	1
31 December 2019	end of R&D year	1 and 2

*) 1. companies with employees (for example, a private limited company or public limited company)

2. self-employed workers without employees

If you are a self-employed worker with employees, the dates for companies with employees will apply for your employees (1).

15. Glossary

BSN

The Dutch 'citizen service number'. 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 a WBSO Declaration is issued to a self-employed person, this also states the self-employed person's BSN. This self-employed person may deduct the R&D tax credit from their wage 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 unused 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. Depending on the amount of the R&D withholding tax credit that you have already deducted, you will 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. Any correction amount is settled in your payroll tax return.

Costs

If you are an R&D tax withholding agent, you can elect to claim WBSO support for the costs and expenditures you expect to have to pay in carrying out your own R&D work. 'Costs' are understood as all the payments you need to make in carrying out your research and development work and not qualify as expenditure. The payments must serve solely for the purpose of the performance of the in-house R&D, must be borne by the withholding taxpayer or by a company from within the same tax entity, and may not have been mentioned in an earlier R&D Declaration. Costs must have been paid before you are entitled to include them as actual incurred payments in your mandatory statement.

Decision

The letter that RVO.nl sends to give notification of its decision on an application for WBSO support. The WBSO Decision specifies the number of R&D hours that have or have not been allocated to each project specified in the application. If R&D hours are allocated, an R&D Declaration will be enclosed on a further page. If a withholding agent has elected not to apply on the basis of a fixed-sum approach, then the Decision will also specify which costs and expenditures will and/or will not be granted. The decision to refuse an application is also a Decision.

eLoket

eLoket is a digital service desk you can use to submit an application to RVO.nl. eLoket enables you to complete an application for WBSO support. eLoket is available online for Windows, Apple and Linux computers. You will need an eRecognition token to gain access to eLoket.

eRecognition token

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 a token. You need an eRecognition token to gain access to eLoket.

Note!

You require an eRecognition token of security level 2+ for the WBSO.

Expenditures

If you are an R&D tax withholding agent, you can elect to claim against the costs and expenditures you expect to incur in carrying out your own research and development. 'Expenditures' here is understood as all the payments made in procuring newly-manufactured operating assets, to the extent that these are borne by the R&D tax withholding agent or by a company from within the same tax entity. In addition, the operating assets may not have been used before, may not have been included in a previous R&D Declaration, and must be for the sole purpose of in-house research and development work.

Hourly criterium

Hourly criterium as mentioned in article 3.6.1 of the 2001 Wage Tax Act (Wet Inkomstenbelasting 2001).

Operating asset

An asset used in conducting a business.

Outsourced research

Work 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 WBSO support.

Payroll tax

Payroll tax is an advance levy of an employee's wage 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 employer 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. The number consists of an RSIN and a sub-number. A withholding agent usually consists of one accounting entity. This is usually indicated by '01' (sub-number) following the 'L' in the payroll tax number.

Public knowledge institute

If your organisation is a public knowledge institute you are not eligible for WBSO support. A 'public knowledge institute' is held to mean:

1. an institute of higher education, as listed in subsection a, b, c, g, h and i in an Appendix of the 1992 Higher Education and Research Act (Wet op het hoger onderwijs en wetenschappelijk onderzoek) or an academic hospital as listed in subsection j of the same Appendix;
2. a non-profit research organisation, structurally part-funded or wholly funded by government, whose activities are aimed towards increasing general scientific or technical knowledge;
3. a public institute of higher education, academic hospital, or research organisation, structurally part-funded or wholly funded by another Member State of the European Union, equivalent to a public knowledge institute as defined in 1° or 2°.

Research organisation

A research organisation as defined in Article 1.3, part (ee) of the Framework for State aid for research and development and innovation (Kaderregeling betreffende staatssteun voor onderzoek, ontwikkeling en innovatie, OJEU 2014, C198/7). Such organisations may be designated as public knowledge institutes, which are ineligible for WBSO support.

R&D

Research and Development work: systematically-organised work activities carried out by an R&D tax withholding agent or an R&D taxpayer in a Member State of the European Union, whose direct and exclusive purpose is:

1. technical scientific research;
2. the development of (parts of) physical products, physical production processes, or software that are technically new for the R&D tax withholding agent or the R&D taxpayer.

R&D administrative records

The administrative records holding details of the nature, content, progress in and scope (allocation of the time) of the R&D work, and where relevant of the costs and expenditures incurred and paid. You must keep these records if you wish to make use of the WBSO.

R&D withholding tax credit

The WBSO enables the R&D tax withholding agent to deduct a tax credit from the payroll tax, thereby reducing 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'.

R&D tax credit

The amount that a self-employed person can declare as a deduction in their wage tax return if they possess an R&D Declaration and carry out at least 500 R&D hours in the calendar year concerned. The R&D tax credit is defined in Article 3.77 of the 2001 Wage Tax Act (Wet Inkomstenbelasting 2001).

R&D tax withholding agent

A tax withholding agent who runs a company that is not a public knowledge institute and possesses an R&D Declaration.

R&D wages

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 hours

R&D hours are the hours spent on 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 up 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. If the R&D hourly wage cannot be calculated, the standard hourly wage is applicable.

R&D Declaration

A Declaration issued to you by RVO.nl. The R&D Declaration for an R&D tax withholding agent states the maximum amount of R&D payroll tax credit that can be deducted from your payroll tax return (whose ID number is specified in the Declaration) in the calendar year to which the R&D Declaration applies. An R&D taxpayer must carry out 500 hours of R&D to be eligible for an R&D Declaration, which entitles them to deduct the R&D tax credit from their wage tax return. The R&D Declaration is sent to the applicant together with the relevant Decision.

RSIN

The 'Legal Persons and Joint Operations Information Number' (Rechtspersonen en Samenwerkingsverbanden Informatienummer) of the R&D tax withholding agent. The RSIN forms part of your payroll tax number.

Software

The non-physical, logical subsystem of an information system that determines the structure of the data and its processing to the extent that this subsystem is fixed in a formal programming language.

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 2019.

Start-up company or entrepreneur

A start-up company is an applicant who has employed personnel for a maximum of four out of the past five calendar years and has been issued R&D Declarations in a maximum of two years. If 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 out 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 R&D 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

If you are an R&D tax withholding agent, at the end of a calendar year you must always submit a report to RVO.nl that specifies the actual number of hours you have spent on research and development in that calendar year, as well as – where applicable – the costs and expenditures that were incurred and paid. This is referred to as 'submitting a statement'. If you are an R&D taxpayer (a self-employed person), you are required to make this statement only if you have carried out less than 500 hours of R&D work in that year. The statement is submitted via the internet, at mijn.rvo.nl/wbso.

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 wage tax purposes is the sole form of tax entity of relevance to the WBSO.

TSR

TSR stands for 'technical scientific research'.

WBSO

WBSO stands for the Research and Development Promotion Act (Wet Bevordering Speur- en ontwikkelingswerk). It is a tax incentive scheme introduced by the Dutch government to compensate part of the wage and other costs and expenditures incurred in carrying out research and development (R&D).

The WBSO no longer formally exists as a separate Act, but has been subsumed into Chapter 8 of the Wage Tax and Social Insurance Contributions (Reduced Remittances) Act (Wet vermindering afdracht loonbelasting en premie voor de volksverzekeringen (WVA)).

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. If you are required to withhold and pay payroll tax in this way, you are referred to as a 'withholding agent'.

WBSO

The WBSO is an initiative of the Ministry of Economic Affairs and Climate Policy which helps companies to reduce the costs of their R&D. The scheme is implemented by RVO.nl, part of the Ministry of Economic Affairs and Climate Policy. Companies can deduct the financial benefits of WBSO from the payroll tax they pay to the Tax and Customs Administration.

www.rvo.nl/wbso

Contact

Telephone +31(0)88-0424242 (on workdays from 8.30am till 5pm). You can also call this number if you have any questions about making submissions via eLoket.

Financial settlement

If you have any questions about the deduction of the WBSO, contact the Tax Information Line (tel. 0800 0543 in the Netherlands) or your company's tax office.

Innovation Box

The Innovation Box 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.

Patents

The Netherlands Patent Office (NL Octrooiencentrum) provides information on intellectual property rights as well as relevant patent information with which to further develop your invention, identify competitors, and find potential partners.

www.rvo.nl/octrooien

Customary Pay Regulation

Are you a director and major shareholder and the WBSO sees you as a start up? The minimum wage is the base for the customary pay regulation. For further information, we refer to the national tax administration office.

www.belastingdienst.nl

Published by:

Netherlands Enterprise Agency (Rijksdienst voor Ondernemend Nederland)

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www.rvo.nl

© Netherlands Enterprise Agency | Februari 2019

Publication number: RVO-211-1801/BR-INNO

The Netherlands Enterprise Agency (RVO.nl) assists entrepreneurs in sustainable, agrarian, innovative and international business ventures through subsidies, the identification of business partners, knowledge, and compliance with laws and regulations.

The Netherlands Enterprise Agency is part of the Ministry of Economic Affairs and Climate Policy.

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Other schemes that may be of interest

Energy Investment Allowance (Energie Investeringsaftrek, EIA)

Benefit from tax advantages when investing in energy-saving systems and technologies and in sustainable energy supplies.

www.rvo.nl/EIA

Environmental Investment Allowance (Milieu Investeringsaftrek, MIA) and Vamil

Benefit from tax advantages when investing in environmentally-friendly systems and technologies. www.rvo.nl/miavamil

Innovation credit (Innovatiekrediet)

Credit for the financing of highly promising and innovative projects. www.rvo.nl/innovatiekrediet

Loans for SMEs (BMKB)

Bank loans for small and medium-sized enterprises, with favourable conditions. www.rvo.nl/bmkb

Other support for entrepreneurs

www.rvo.nl/ondernemersfinanciering