

The Netherlands issues new decree on OECD Amount B

On December 4, 2024 the new [Decree](#) on OECD Pillar One – Amount B by the Dutch Deputy Minister of Finance was published. Amount B concerns the contemplated simplified and streamlined transfer pricing rules for determining the remuneration for baseline marketing and distribution activities as published on February 19, 2024 ([Pillar One - Amount B | OECD](#)). The Dutch Amount B Decree describes how the international agreement reached by the OECD/G20 Inclusive Framework regarding Amount B will impact taxpayers in the Netherlands.

The Amount B Decree recognizes the incorporation of the OECD's Amount B Report of February 19, 2024 as part of the Appendix to Chapter IV of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Authorities and the OECD Supplementary Guidance issued on June 17, 2024 defining the '[qualifying jurisdictions](#)' and the 'covered jurisdictions'. The Decree states that Amount B rules will not apply to baseline marketing and distribution activities in the Netherlands. However, the Netherlands commits to accepting the outcome of applying Amount B to baseline marketing and distribution activities in covered jurisdictions. The list of [covered jurisdictions](#) is published and maintained by the OECD.

The Netherlands will provide a corresponding adjustment to transfer prices as relief for double taxation if (a) the covered jurisdiction has implemented Amount B in local laws and regulations, (b) has correctly applied Amount B and (c) has a bilateral tax treaty with the Netherlands. The Decree states that the Dutch competent authorities and local tax authorities will act in accordance with these conditions. Of particular interest is the statement that the Dutch Amount B Decree will apply to affiliated entities (legal entities), but also to the profit allocation to permanent establishments (PE). It is worth noting that the OECD Amount B Guidance had not clarified the applicability to PEs.

The Decree notes that Amount B could play a role in the levying of corporate income tax on Dutch taxpayers in a number of situations. While the Decree aims at providing certainty for baseline marketing and distribution activities in the Netherlands involving transactions with covered jurisdictions, various challenges could remain with regard to matters not specifically covered in the Decree, including for example what qualifies as the 'correct application of Amount B' for the Dutch tax authorities to accept the Amount B calculations in a covered jurisdiction.

Taxpayers should consider reviewing their global marketing and distribution footprint and transfer pricing policies in light of the new Decree, given that the Decree will take effect on January 1, 2025.

For further information contact Jaap Reyneveld (Reyneveld.Jaap@kpmg.com) or your regular Meijburg Transfer Pricing contact and visit our [KPMG Meijburg Amount B](#) page.

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