

Information on fiscal investment institutions under the Corporate Tax Act 1969 (FBI)

An FBI is an institution of which the purpose and the actual activities consist of the investment of capital and which must therefore meet the following requirements:

- the institution must be a limited company (BV), a public company (NV), or a joint account;
- the statutory object and the actual activities may only be the investment of capital;
- only 60% (of the fiscal book value) of the financing of the investment resources for may consist of borrowing, in the event of investment in immovable property. Only 20% of the fiscal book value of other investments (not in immovable property) may be financed by borrowing;
- from the inception of the application of the FBI scheme, a proportion of the earnings of the FBI, determined by law, shall be made available to the shareholder (in this instance: WDP Comm.VA) within eight months of the end of the financial year ;
- the distributed earnings shall be apportioned equally to all shares;
- 75% or more of the shares in the institution shall be held by a body that not is subject to a tax on earnings;
- no more than 5% of the shares may be directly or indirectly held by natural persons;
- holdings of 25% or more by funds established abroad for persons resident or legal entities established in the Netherlands are not permitted.

The FBI is liable for 0% corporate income tax on its earnings. Further, under certain conditions these earnings do not have to be distributed in their entirety. The FBI may constitute a reinvestment reserve to which (inter alia) the income on the disposal of investment funds may be added. The costs of disposal and investment fund management must be deducted from the allocation to the reserve.

Property development or re-development by the FBI

Because an FBI may only invest, it is not permitted to develop or redevelop property. The FBI is, however, permitted to carry out such activities if the investment in the improvement or extension of the property amounts to less than 30% of the property's local authority valuation for taxation purposes (WOZ value).

In all other cases development or redevelopment must be carried out by a (subsidiary) company subject to normal taxation.

Indebtedness of the FBI

The FBI may finance its immovable property investments using a maximum of 60% of borrowed capital, with a maximum of 20% for other investments. The lending of money borrowed by the FBI to bodies connected to the FBI is not covered by this restriction if and insofar as 90% or more of the debtor's assets consist of immovable property.

Tax on dividends

WDP Nederland N.V. must withhold tax at the rate of 5%, based on the tax agreement between Belgium and the Netherlands, from its dividend payments to WDP CVA. Because the FBI's earnings are effectively exempt from corporate taxation, the FBI may not invoke the Parent-Subsidiary Directive.
