

2024

Points of attention for Dutch wage tax and social security

January 2024

2024 has started which also means that Dutch wage tax and social security points of attention can be shared below.

Scaling back of 30%-ruling

The 30%-ruling is a tax arrangement for employees with specific expertise who are recruited from abroad to work for a withholding agent in the Netherlands. The aim of the ruling is to cover the extraterritorial costs that an employee incurs by entering into employment in the Netherlands. Under this ruling, a maximum of 30% of the salary for the purposes of payroll tax and social security contributions can be reimbursed tax-free to the employee for a maximum period of five years. If the 30%-ruling is not applied, the employer can still reimburse the actual extraterritorial costs.

Obligation to choose extraterritorial expenses or 30%-ruling

Since January 1, 2023, employers must choose per calendar year whether the extraterritorial costs are reimbursed on the basis of costs actually incurred or on the basis of the 30% ruling. As an employer, you will have to make this choice again in 2024. This takes place by application in the payroll system; there is no specific

reporting obligation to the Dutch Tax and Customs Administration for this.

Cap on 30%-ruling as of January 1, 2024

On January 1, 2024, the 30% allowance will be capped at 30% of the so-called 'Balkenendenorm'. This is the public service pay cap, which amounts to EUR 233,000 in 2024. This means that an employer can reimburse a maximum of EUR 69,900 (30% of EUR 233,000) tax-free in 2024. If the extraterritorial costs actually incurred exceed the maximum reimbursement to be awarded, the employer may choose to reimburse the actual extraterritorial costs. There is no maximum for this reimbursement.

The cap applies to employees to whom a decision on the 30% ruling has been issued with effect from January 1, 2023. For employees for whom the 30% ruling has already been applied in the last salary period of 2022, the maximum reimbursement only applies with effect from January 1, 2026.

Further scaling back of the 30%-ruling

At the end of November 2023, the Lower House of Parliament adopted an amendment to the 2024 Tax Plan in which the 30% reimbursement will gradually be phased out.

The amendment means that the maximum reimbursement in the first twenty months amounts to 30% of the salary. During the next 20 months this percentage will drop to 20% and during the last 20 months the maximum reimbursement will be 10% of the salary. If the term of the 30% ruling is shorter than five years (sixty months), for example due to the application of the discount scheme, the above periods and percentages also apply.

Transitional rules will apply to employees who in the last period of 2023 benefited from a reimbursement for which they were in possession of a 30% ruling. The scaling back of the tax-free amount will not affect them.

Extraterritorial costs

Under the work-related costs rules (WKR), extraterritorial costs, among others, can be reimbursed tax-free. These are (additional) costs for employees coming from another country due to residence outside the country of origin. Among other things, the following points are important:

- The costs of applying for a social security exemption,

for example an E101 certificate or an A1 form 'certificate of coverage' (CoC), are regarded as extraterritorial costs by the Dutch Tax and Customs Administration.

- The actual advisor's fees (including VAT) related to the preparation of personal income tax returns are salary. In certain cases, however, part of the actual advisor's fees can be regarded as extraterritorial costs.
- The costs for applying for the 30% ruling and the costs for applying for a work permit are not regarded as extraterritorial costs by the Dutch Tax and Customs Administration. These costs cannot be regarded as salary.

Abolition of partial foreign taxpayer status

Employees who are resident in the Netherlands and who fall under the 30% ruling can currently opt for the partial foreign taxpayer status in their personal income tax return. As a result, employees are regarded as a foreign taxpayer for the purposes of Box 2 (income from substantial interest) and Box 3 (income from savings and investments). An adopted amendment to the 2024 Tax Plan abolishes this partial foreign taxpayer status as of January 1, 2025. Employees who were already receiving a 30% reimbursement on December 31, 2023, can still benefit from the partial foreign taxpayer status through to December 31, 2026 under the transitional rules.



Work-related costs rules (in Dutch: werkkostenregeling/WKR)

The WKR is a payroll tax regulation that determines how reimbursements, provisions or items made available to employees are treated for tax purposes. The amount that can be spent tax-free is called the fixed exemption. The fixed exemption is redetermined every year.

Did you know? Experience shows that the WKR is always included in payroll tax audits. It is therefore important to have an internal process in which, among other things, it is clear who bears which responsibility.

We can provide support, both in monitoring the tax obligations with regard to the WKR and in optimizing the remuneration policy. We also regularly provide on-site WFD workshops in order to broaden the knowledge within an organization.

Tax-free budget

By application of the WKR fixed exemption, employers can give reimbursements, provisions and items made available to employees tax-free, as long as no specific exemption or nil valuation applies. The tax-free budget in 2024 is 1.92% of a payroll total up to EUR 400,000. Above this amount, the fixed exemption is 1.18%.

Increase in amount of tax-free travel allowance

The maximum tax-free travel allowance will increase further to EUR 0.23 per kilometer as of January 1, 2024.

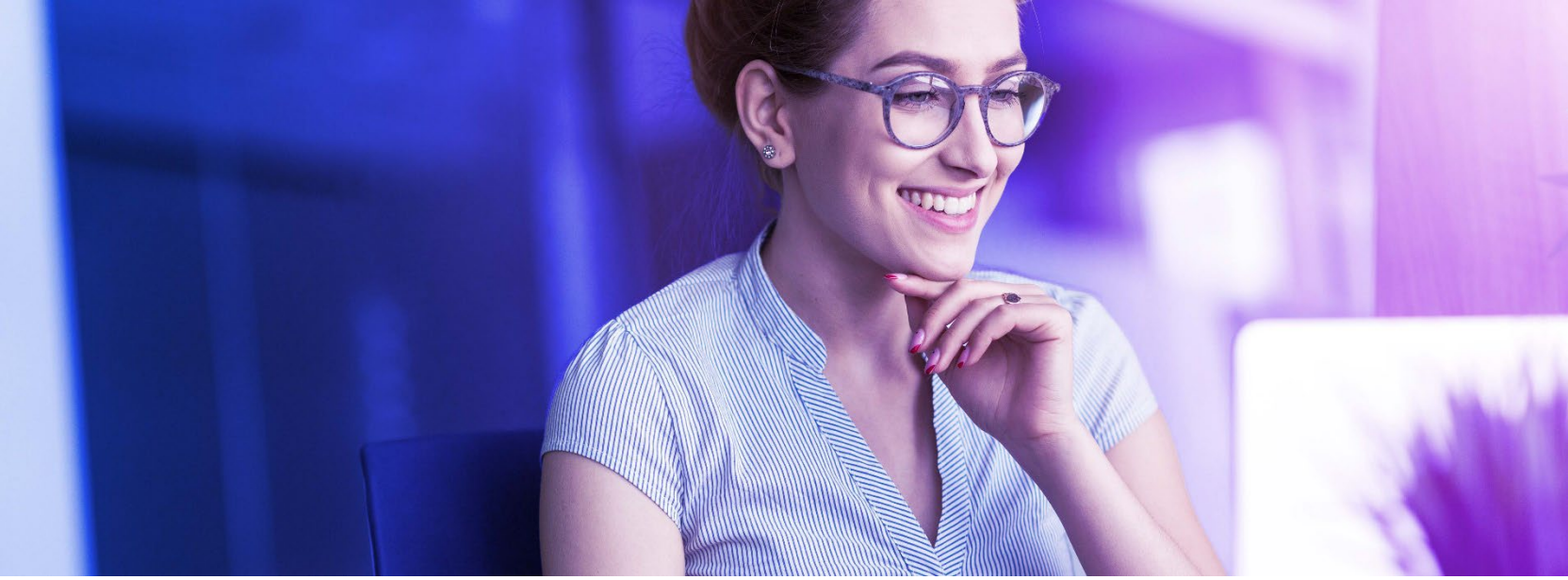
Fixed expense allowance

If you have employees who receive a fixed expense allowance, it is advisable to check whether this still complies with current legislation and regulations. In the event of a change in the pattern of an employee's expenses, the allowance must be substantiated again. If the allowance is not substantiated again, there is a risk that the expense allowance will be retroactively treated as taxable salary. Please note: because part-time working from home has become common, for example as a result of agreements made between the employee and the employer, it is possible that the pattern of an employee's expenses has changed. In that case, the situation has changed and an allowance must be substantiated again.

Simplification of public transport pass exemption from payroll tax

The legislator is relaxing the exemption for facilitating public transport passes to employees. The current two schemes for employers providing public transport passes tax-free to their employees will be replaced by one simplified exemption. With the existing two schemes, employers face a considerable administrative burden. When reimbursing a public transport pass, the employer must determine whether the reimbursement does not exceed the business costs actually incurred. Currently, the difference is taxable salary. There has been an additional increase in the administrative burden due to the increase in hybrid working.





On the basis of the new targeted exemption, the private use of a public transport pass that is reimbursed, provided or made available is specifically exempted if it is also used for business purposes. The Tax Plan does not distinguish between reimbursing, providing or making available a first or second class public transport pass.

Increase in the maximum employee insurance contributions and income-related healthcare insurance contributions

Employer contributions in respect of the employee insurance contributions and the income-related healthcare insurance contributions are subject to a maximum amount. This is the maximum annual income on which these contributions must be paid. For 2023 that maximum is EUR 66,956 per annum. As of 2024 this maximum contribution will be increased to EUR 71,624. If an employee earns (at least) the maximum contribution, this increase means that the employer has to pay more employee insurance contributions and the income-related health insurance contributions on a tax base of EUR 5,000.

Disclosure obligation (new as of January 1, 2022)

A new disclosure obligation has applied since January 1, 2022. This means that every employer is obliged to submit data on all payments to beneficiaries or individuals (other than employees) to the Dutch Tax and Customs Administration. The obligation does not apply to payments for which an invoice with VAT has been issued, but it does apply in relation to data of VAT-exempt entrepreneurs (e.g. in healthcare).

If contractors were engaged to perform work in 2023 and they did not issue an invoice, the following information must be supplied to the Dutch Tax and Customs Administration by January 31, 2024:

- Citizen Service Number (BSN);
- the name, address and date of birth of the recipient of the payment;
- the amounts paid during the calendar year including any expense allowances/reimbursement of expenses.

Legislation regarding self-employed persons

In recent years, the number of self-employed persons without employees in the Netherlands has grown substantially. This has created situations in which a person appears to work as a self-employed person, but in reality qualifies as an employee for the purposes of payroll tax and social security contributions and is therefore employed by the employer. This problem of pseudo self-employment has been around for a long time. Last summer, the Supreme Court handed down the Deliveroo judgment, in which it was ruled that Deliveroo's meal delivery drivers were not self-employed but employees. The draft bill 'Assessment of Employment Relationships and Legal Presumption (Clarification) Act' (Wet verduidelijking beoordeling arbeidsrelaties en rechtsvermoeden) has recently been published, which aims to provide clarity on the concept of employees. It follows from both the Deliveroo judgment and the bill that entrepreneurship (running a commercial and financial risk) and embedding in the organization (the embedding criterion) are more important in assessing whether there is a self-employed person or employee.

Until 2025, the Dutch Tax and Customs Administration will employ an enforcement moratorium and will only proceed with enforcement if there is malicious intent or in case instructions given by the Dutch tax authorities are not followed within the given time. In practice, we see that enforcement is also taking place in the healthcare and construction sectors, where a lot of work is done with subcontractors. When engaging a contractor, we advise you to use one of the Dutch Tax and Customs Administration's model agreements and to implement the employment relationship in accordance with this agreement. The model agreements based on free substitution will be withdrawn as of January 1, 2024. This is because the Supreme Court has ruled that the principle of free substitution is not necessarily in conflict with the existence of an employment relationship.

Social security framework agreement

Under the EU Regulation on the coordination of social security systems, a cross-border worker can work at home for up to 25% of their time in order to remain insured for social security purposes in their usual country of employment. During the coronavirus pandemic, employees started working more from home. In practice, we see that many employees continue this pattern of working from home even after the pandemic. In order to facilitate working from home for both the employer and the employee, the EU has issued a framework agreement whereby cross-border workers can work for up to 49.5% from their home country under certain conditions.

The conditions and application of the EU Regulation and the framework agreement are complex. In addition, not every Member State has become a party to the framework agreement. Your employee's social security obligation therefore deserves attention in the case of cross-border employment. We recommend that you scrutinize each situation and consult with the employees about the consequences.

The Netherlands and Belgium recently concluded an agreement with the practical guideline that if an employee works 50% or less of their working hours from home during a year, there is no permanent establishment in specific cases. If your employees work from home in Belgium, we recommend checking whether this agreement applies.

Salary criterion for highly skilled migrants

The salary criterion for highly skilled migrants is contained in the Foreign Nationals Employment Act Implementation Decree (Besluit uitvoering Wet arbeid vreemdelingen). This also stipulates that salaries are to be adjusted annually with effect from January 1 on the basis of recent index figures for negotiated wages, as published by Statistics Netherlands. For the coming year, the standard amounts will be increased by 6.45%.

The following gross monthly salaries apply as of January 1, 2024:

- Highly skilled migrant of 30 years and older EUR 5,331 excluding vacation allowance;
- Highly skilled migrant younger than 30 years of age: EUR 3,909 excluding vacation allowance;
- Dutch graduates qualifying for orientation year EUR 2,801 excluding vacation allowance;
- European Blue Card: EUR 6,245 excluding vacation allowance.

Besides the highly skilled migrant procedure, the salary criterion also applies to applications for a residence permit that are filed for 'intra-corporate transfers' under the EU ICT Directive (96/71/EG). The criterion also applies to the application for different types of work permits. If you would like more information about this topic, we will naturally be pleased to be of assistance.

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