THE DUTCH 30% RULING

In this leaflet we would like to provide you with a brief description of the Dutch 30% ruling for expats. The purpose of this leaflet is to provide an overview of the conditions, the required documents and the process to apply for or extend a Dutch 30% ruling (hereinafter "30% ruling").

Introduction to the 30% ruling

The 30% ruling is a Dutch wage tax facility, which basically allows an expat to receive up to a maximum of 30% of his or her salary from current employment tax-free. This facility applies to expatriates who have been assigned to the Netherlands, or are recruited from abroad to work in the Netherlands and qualify as an employee.

In order to qualify for the 30% ruling, the following conditions have to be met:

1. The employee must be recruited or seconded from abroad;
2. The employer must be registered in the Netherlands as a withholding tax agent for payroll taxes;
3. The employee must have specific expertise that is scarce or not available at all on the Dutch employment market. An employee has specific expertise if the salary meets the salary standard (at least € 38,961 per year in 2021 or € 29,616 for an employee aged under 30 with a qualifying master's degree at university level);
4. In the period of 24 months prior to the employment in the Netherlands, the employee must have lived more than two thirds (16 months) of the 24 months at a distance of more than 150 kilometres from the Dutch border (distance criterion).

Application for a new 30% ruling

For the application the following documents must be provided to the Dutch Tax Authorities:

- completed application form;
- Dutch citizen service number (BSN) of the employee;
- full address of the employee;
- date of employee's arrival in the Netherlands;
- copy of a master's degree certificate obtained from an institute of university education if the employee is aged under 30 and proof it meets Dutch University standards;
  a signed power of attorney of the employee to apply for the 30% ruling (if filed by a third party);
- a signed power of attorney of the employer to apply for the 30% ruling (if filed by a third party).

If the employee was living outside of the Netherlands at the time the employment contract was signed, additional documents are requested:

- employee's CV;
- supporting documents that the employment contract was effectuated before the day the employee entered the Netherlands;
- copies of bank account statements for a continuous period of 24 months up and until the date of arrival in the Netherlands (one page/excerpt per month is sufficient);
- a marriage certificate (for married persons);
- A copy of the residence & work permit (for non-EU nationals)
- a rental / tenancy agreement or home purchase agreement in the Netherlands;
- BSN granting document of employee;
- valid identification of employee (passport or ID-card).

Application, timelines and 30% ruling decision
The application for the 30% ruling is a mutual request by the employer and the employee and must be filed with the tax office in Heerlen within four months after the start of the employment activities in the Netherlands. If the application is not made within four months, the facility will only be granted as of the first day of the month following the month in which the application is filed.

The 30% ruling can either be applied as per the date per which the 30% ruling decision has been granted by the Dutch Tax Authorities or pending the Dutch tax authorities' decision on the request. In case of the latter, a denial of the request will mean that the payroll needs to be corrected.

Duration of the 30% ruling facility
The employee can benefit from the 30%-ruling for a maximum period of five years. Qualifying periods of earlier employment or presence in the Netherlands in – or that ended in – the 25 years prior to the start of the current Dutch employment will be deducted from the total length of the 30%-ruling.

The employee should complete part 4 of the 30% ruling application form in which questions are asked in relation to earlier periods of work and residence in the Netherlands. It is asked whether the employee has lived, worked or been in the Netherlands for personal reasons in the 25 years prior to the first working day at your company. Furthermore, it is asked whether the employee has previously worked or resided outside the Netherlands whilst being an employee under Dutch law.

Changing jobs and the 30% ruling facility
Maintaining the 30% ruling in case of a change of jobs is possible. In that case, the employee and (new) employer must have a new employment agreement in place within three months of termination of the previous employment. In addition, the new application request must be filed within four months after the start of the new employment for it to have retrospective effect as of the start date of the new employment. This application procedure is also a mutual request by the new employer and employee.

Addendum to the employment agreement
In case of an application for a 30%-ruling, it is strongly advisable to have a clause in the employment agreement or a written addendum to the employment agreement. The clause or addendum should amongst others explicitly state that the gross salary of the employee will be reduced by up to 30%.

Partial foreign taxpayer
The employee with a 30% ruling can also choose to be treated as a partial foreign taxpayer for tax purposes in the Netherlands.

This entails that the employee will be qualified as a foreign taxpayer for income from substantial interest (Box 2 of the Dutch income tax) and income from savings and investments (Box 3 of the Dutch income tax). In that case, as a foreign taxpayer the income to be reported is limited to Dutch source income for Boxes 2 and 3 and not to its worldwide (investment) income. For employees that are U.S. nationals/ Green Card holders, the choice means that they are treated as non-resident taxpayers of the Netherlands for purposes of the U.S.-Netherlands tax treaty. This means that they are only taxable in the Netherlands on employment income related to U.S. workdays and other specific sources of Dutch income.

The choice to be treated as a partial foreign taxpayer must be made each year in the Dutch income tax return.

More information?
Should you have any comments or questions, or if you require our assistance, please contact your trusted RSM advisor.