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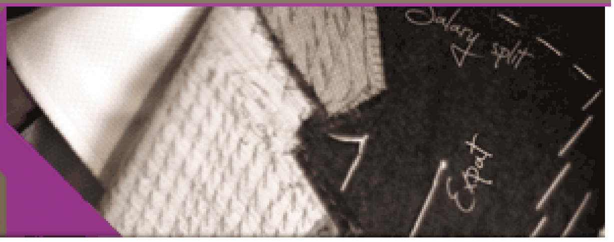
Employment tax
with a personal fit



Courdid News | 30% Tax Ruling: final

The new rules with regard to the 30% ruling are finalized last week and came into force on 1 January 2012. A few new important changes to the 30% tax ruling were included and approved. The most important changes are:

- A minimum required general gross annual salary of EUR 35,000 (exclusive of the 30% allowance).
- A lower minimum required gross annual salary for young individuals (< 30 years) with at least a Master degree of EUR 26,605 (exclusive of the 30% allowance).
- No minimum salary levels required for employees working in the research sector and research education.
- The maximum term for the 30% tax ruling will be reduced to 8 years (instead of 10 years).
- Transitional rules for existing 30% tax rulings on 31 December 2011.

In this newsletter we will describe the key concerns. We can distinguish three different situations:

1. New applications as of 1 January 2012

Each new application for a 30% tax ruling will be subject to the following new conditions:

- A gross annual salary of EUR 35,000 on a yearly basis (after reduction of the 30% allowance). In order to maximise the benefit of the 30% tax ruling the gross yearly salary should therefore be at least EUR 50,000 before reduction.

- A gross annual salary of EUR 26,605 on a yearly basis (after reduction of the 30% allowance) for young individuals (< 30 years) with at least a Master degree. In order to maximise the benefit of the 30% tax ruling the gross yearly salary should therefore be at least EUR 38,008 before reduction.

- The salary requirement will be waived for employees who do scientific research or scientific education at universities or at government-subsidised research institutions and for trainee physicians.

- Part-timers will be subject to the same salary requirement without their salaries being recalculated to a fulltime salary.

- Employees need, during more than two thirds of the 24-month period prior to commencement of the employment, to have lived at a (point-to-point) distance exceeding 150 km from the Netherlands.

- The maximum term for the 30% tax ruling will be reduced to 8 years (instead of 10 years)

- The maximum term for the 30% tax ruling (8 years) will be reduced for each period of previous stay in the Netherlands and for each period of previous employment by a Dutch withholding agent that ended in the last 25 years.

- The scarcity of the employee must in some cases be demonstrated (*inter alia*, his level of education and relevant work experience).
- The salary and scarcity requirements must be met continuously (!). For instance, as soon as, at any given point in time, the salary requirement is not met, the term of the 30% tax ruling will end. Employers need to test this themselves and also cease to apply the 30% tax ruling in the payroll records!
- The 30% tax ruling will end on the last day of employment in the Netherlands.

2. Employees who, as at 1 January 2012, are subject to the 30% tax ruling for <u>more</u> than 5 years

- The 30% tax ruling will, in principle, continue to be applicable until the end of the term (as mentioned on the 30% tax ruling application, thus potentially to the full term of 10 years).
- If the employee changes employers, a new 30% tax ruling must be applied which will be tested by the Dutch tax authorities against the <u>old</u> conditions (provided that the period between the end of employment and the agreement of the new employment conditions is no longer than 3 months).
- If the period between the change in employer is longer than 3 months and the employee has been re-recruited from abroad, then the 30% tax ruling request will be considered as a new application to which all the new conditions apply (see above under 1.)

3. Employees who, as at 1 January 2012, are subject to the 30% tax ruling for <u>fewer</u> than 5 years

- The 30% tax ruling will, in principle, continue to be applicable until the end of the 5-year period from start date.

  In this regard the start date of the term of the 30% tax ruling is interpreted by the tax authorities as the start date of the first employment in the Netherlands of the employee (so not the actual grant date of the 30% tax ruling, i.e. the tax ruling itself could have been started later).

- After the 5-year period the employer must continuously check (on a yearly basis) that the new (!) criteria are satisfied. For instance, as soon as, at any given point in time, the salary requirement, scarcity or 150 km test is not met, the term of the 30% tax ruling will end. Employers need to test this themselves and also cease to apply the 30% tax ruling in the payroll records!
- If the employee changes employers, a new 30% tax ruling must be applied. If the change in employer is within the 5-year period the 30% tax ruling request will be tested by the Dutch tax authorities against the <u>old</u> conditions. If the change in employer is after the 5-year period the 30% tax ruling request will be tested by the Dutch tax authorities against the <u>new</u> conditions. In both situations the period between the end of employment and the agreement of the new employment conditions should be no longer than 3 months.
- As long as all conditions are met the 30% rule applies until the end of the term (as is included in the decision itself, thus potentially to the full term of 10 years).
- If the period between the change in employer is longer than 3 months and the employee has been re-recruited from abroad, then the 30% ruling request will be considered as a new application to which all the new conditions apply (see above under 1.)

Should you have any questions, please do not hesitate to call us or send us an email.

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