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Employment tax
with a personal fit

# Newsletter and introduction Marlies January 2013

In this newsletter we will be discussing the most important developments in payroll tax for 2013. But first we would like to introduce Marlies Koggel.

Marlies joined the Courdid team on 1 January. She is a specialist in immigration services, with more than 12 years of experience with the Big Four and law firms. With her sophisticated professional skills, Marlies is available to deal with a wide range of questions concerning the immigration of expats. She also handles the often complex requests for work permits, applications under the Highly Skilled Migrants scheme, etc.

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**30% tax ruling**

*and the 150 kilometres limit*

There has been a change in when the 150 kilometres limit does not apply, with retrospective effect from 1 January 2012. The 150 kilometres limit no longer applies to employees who made use of the 30% tax ruling, then spent a short period abroad and subsequently returned to the Netherlands. This is because these employees would not always be eligible again for the 30% tax ruling on their return to the Netherlands. This omission has now been rectified, although it should be noted that the previous period of employment in the Netherlands must have started no more than eight years before the new period of employment in the Netherlands.

*Current case law*

The court in Breda recently ruled that the 150 kilometres limit that is part of the new conditions for eligibility for the 30% tax ruling is indeed EU proof. The judge argued that “the 150 kilometres measure was taken with the aim of bringing the 30% tax ruling more in line with the original intentions regarding its use”. Consequently there were objective grounds justifying any infringement of EU law.
On the other hand, the court in Haarlem found that the requirement of a 150 kilometre limit (without taking into account the new employment location) was not sufficient justification for the differential treatment of employees arriving from EU countries, and was certainly not a proportional measure.

Tip: Even if the expat lived within a radius of 150 kilometres of the Dutch border prior to his/her employment in the Netherlands, you should still submit an application for the 30% tax ruling.

*and subsequent payment of wages*

It has also been determined - with retrospective effect from 1 January 2012 - that the period in which the 30% tax ruling applies ends on the final day of the wage period following the wage period in which the expat’s employment contract ends with the entity responsible for tax deductions.

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**iPad**

The court in Haarlem has ruled that the iPad should be treated as a computer for payroll tax purposes. This means that iPads given to employees are only tax-free if at least 90% of the use of the iPad is for business.

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**Simpler pay slips**

The Uniform Wage Definition Act came into effect on 1 January 2013. One consequence of this is that pay slips will be simpler. Put briefly, this involves the following:

- As of 2013, the notional income for private use of a company car will be part of the tax base for social security contributions.
- Employee insurance contributions will no longer be liable on payments into the life-course savings scheme; in principle, payments from the scheme will be subject to employee insurance contributions, as they are to payroll tax, national insurance contributions and the income-related contribution under the Health Care Insurance Act.
- The income-related contribution under the Health Care Insurance Act has become an employer's deduction and will no longer take place 'via the pay slip'.
- The offset when calculating employee insurance contributions no longer applies.

The Act also has the following consequences:

- If an employee has multiple employers, the employers will no longer receive pro rata refunds for the excess employee insurance contributions and contributions under the Health Care Insurance Act.
- As of 2013, the continued payment of wages to an employee during a (temporary) period of inaction will qualify as wages for current employment for a period of up to 104 weeks.
- An expat seconded to work for a Dutch corporate unit from a corporate unit in another country can be included in the payroll accounts of the Dutch corporate unit. However, an application must be made to the Dutch Tax and Customs Administration for this.

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**Life-course savings scheme**

*If the balance in the life-course savings account was less than €3,000 on 31 December 2011*

The balance in the life-course savings account must be paid out at the start of 2013. Payroll tax must be levied on the balance that is paid out. The tax base for the payroll tax is calculated as follows:

- 80% of the life-course balance as at 31 December 2011 is subject to tax, plus
- 100% of the return on investment in 2012.

The life-course leave tax credit accrued up to and including 2011 may also be included in the final settlement with the tax authority.

*If the balance in the life-course savings account was €3,000 or more on 31 December 2011*

As of 2013, employees are allowed to make withdrawals from their life-course balance without any restrictions on expenditure; in other words, they no longer have to use the money to 'buy' leave. If an employee decides to withdraw his/her entire life-course funds in 2013, the tax payable can be calculated as follows:

- 80% of the life-course balance as at 31 December 2011 is subject to tax, plus
- 100% of the increase in value (contributions and investment results) in 2012 and 2013

The accrued life-course leave tax credit (up to the end of 2011) may also be included in the final settlement.

Provided an employee has not withdrawn their entire life-course funds in 2013, they can continue to contribute to the scheme — under the old conditions — up to 31 December 2021. The life-course savings scheme will cease completely with effect from 2022.

NB.
The transitional arrangement whereby it would have been possible to pay the life-course savings balance into the vitality scheme has been cancelled. As far as is known, the vitality savings scheme will not go through after all.

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**Expense allowance scheme**
As of 1 January 2013, the rate for calculating the tax-free margin for expenses is 1.5%.

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**Declaration of Employment Relationship**
As of 1 January 2013, there will no longer be automatic renewal of the Declaration of Employment Relationship (VAR in Dutch). Work will be starting in 2013 on a new so-called web module, which is expected to be operational from 1 January 2014.

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**Remittance reduction for education**
The proposed changes to the remittance reduction for education will not be going through in 2013. According to the coalition agreement, the remittance reduction for education will cease to apply in 2014 and will be replaced by a grant scheme.

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**Crisis levy of 16%**

If the wages from current employment in 2012 exceed €150,000, payroll tax of 16% is liable on the excess in March 2013, to be paid by the employer as a final levy.

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**Excessive severance payment**

Up until the end of 2012, if an employee received an excessive severance payment the employer was liable for additional payroll tax of 30% on that amount. This percentage has been increased to 75% as of 2013.

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**Formal salary split**

International employers that have employees with a so-called formal salary split (i.e. with multiple employment contracts with the separate companies) whereby those employees only take part in the Dutch social insurance scheme will be faced with higher employer's costs as of 2013. This is because the foreign companies will also have to pay employee insurance contributions and the income-related contribution under the Health Care

Insurance Act in the Netherlands on the salary earned abroad, which will not be reduced in proportion to the contribution-related maximum.

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**Final figures**

Please refer to the attachment for an overview of the final figures for 2013.

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**Any questions?**

Please do not hesitate to contact us if you have any further questions.

Kind regards,

Jean-Paul, Martijn, Maurice, Olav and Marlies

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