



# Mobility: Tax alert

November 2023

## The Netherlands

### House of Representatives further restricts Dutch 30%-facility

#### Executive summary

On 26 October 2023, during discussion of the 2024 Tax Plan, the Dutch House of Representatives adopted two amendments for a further reduction of the 30%-facility. These latest changes will become effective from 1 January 2024 and 1 January 2025 respectively and will be of interest to all employers who employ qualifying employees.

The Dutch Senate is scheduled to discuss the package of measures on 11 and 12 December 2023, followed by a vote on 19 December 2023. Nevertheless, these changes - especially because of the transitional law - already deserve attention.

#### Omtzigt amendment

Currently, the 30%-facility offers the possibility to pay incoming employees a maximum of 30% of their taxable salary in the Netherlands tax-free, as a notional compensation for the extra costs arising from working outside their country of origin. The 30%-facility has a maximum term of 5 years and will be capped from 1 January 2024 (subject to transitional law) by being allowed to apply it up to a maximum of the so-called 'Balkenendenorm' (€ 233,000 in 2024).

Mr. Omtzigt's adopted amendment stipulates that as of 1 January 2024, the tax-free allowance for the first 20 months of employment will not exceed 30% of the taxable salary. For a maximum of the following 20 months, the compensation amounts to a maximum of 20% of the taxable salary, and for a maximum of the following 20 months, the compensation amounts to a maximum of 10% of the taxable salary. After 60 months, the maximum duration of the scheme has expired.

A transitional arrangement will be provided for employees who, in the last period of 2023 (normally: the December payroll run), received a notional (tax-free) allowance under the 30%-facility for which they were in possession of a 30%-decision letter.

There are a few additional notable points from the amendment:

- ▶ Periods of at most 20 months are mentioned. However, it is not yet clear how this will apply to employees who are granted the facility for shorter periods - for example because of previous residence in the Netherlands, or in the event of a change of employer, and how this will be monitored.
- ▶ To be eligible for the transitional law, the employee must receive a tax-free allowance under the 30%-facility in the last pay period of 2023, for which the employee is in possession of a 30% decision letter. Whether it is necessary for the decision to have been issued as early as 2023 is not yet clear.
- ▶ If the actual extraterritorial costs exceed the notional reimbursement, the employer/employee can opt for the tax-free reimbursement of the actual costs instead of applying the 30%-facility. It is worth assessing this alternative where appropriate.
- ▶ The framework of transitional law has yet to be outlined.

## Grinwis amendment

Mr. Grinwis' amendment provides for the abolition of the foreign partial tax liability with effect from 2025. On the basis of this optional scheme, qualifying employees for the purposes of box 2 and box 3 are currently treated as non-resident taxpayers for tax purposes upon request, so that they are effectively not taxed on their non-Dutch private assets.

A transitional arrangement will be provided for employees who still received a notional (tax-free) allowance under the 30%-facility for the last pay period of 2023 for which they were in possession of a 30%-decision letter. Under the transitional law, the partial foreign tax liability can - ultimately - still be used up to 2026.

## Next steps

Because the transitional law is closely related to the application of the 30%-facility over the last wage period of 2023, advance planning is required where possible and desirable in order to be able to make use of the transitional law if necessary.

Please contact your EY advisor to find out how these changes can be applied to your specific circumstances.

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EYG no. 010694-23Gbl

2101-3682263  
ED None

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