

Global Immigration alert

April 2025

Netherlands

Clarifications on the immigration salary threshold for highly skilled foreign nationals in relation to the 30% ruling

Executive summary

On 21 March 2025, the Immigration and Naturalization Service (IND) provided clarifications on the 30% ruling regarding salary calculations for highly skilled foreign nationals. These clarifications follow a ruling by the Administrative Jurisdiction Division of the Council of State (ABRvS) on 6 December 2023, which raised questions about the consistency of the IND's policies regarding the salary criteria for highly skilled foreign nationals.

Background

The 30% ruling enables employers to provide up to 30% of highly skilled foreign nationals' salaries tax-free, increasing their net salaries. However, it does not exempt employers from the requirement that highly skilled foreign nationals' gross salaries meet applicable salary criteria, even when 30% of their salaries do not incur taxes.

Key developments

The clarifications provided by the IND included the following:

- **Court case influence:** The ABRvS ruling highlighted uncertainties in how the 30% ruling should be applied when determining the gross salary communicated to the IND. The court found that there was ambiguity regarding whether a gross salary below the applicable salary threshold could be accepted if the 30% ruling was applied.
- **Gross salary consideration:** The IND emphasized that the gross salary must always meet the applicable salary threshold for highly skilled foreign nationals. The 30% ruling allows for a portion of the salary to be paid tax-free, resulting in a higher net salary for employees, but it does not alter the requirement for the gross salary to meet the threshold.

- **Net salary agreements:** For agreements based on net salary, employers must convert the net amount to gross, factoring in the 30% ruling. If the resulting gross salary falls below the applicable threshold, employers must make necessary adjustments to ensure compliance.

The IND's recent clarifications carry the following Implications for employers:

- **Compliance with salary thresholds:** Employers must ensure that the gross salary or the gross amount converted from net offered salary meets the IND's salary thresholds to avoid jeopardizing employees' immigration status.
- **Increased labor costs:** Adjusting gross salaries for compliance purposes may lead to higher labor costs, requiring employers to reassess their compensation packages.
- **Administrative burden:** Accurately calculating gross income in net pay situations, particularly in light of the 30% ruling, may require additional administrative resources and training for HR and payroll staff.
- **Legal and regulatory risks:** Non-compliance with immigration and tax regulations may expose employers to legal risks, including fines and penalties.

Impact on employers

Employers who intend to hire highly skilled foreign nationals may consider these clarifications and update their internal policies as required to ensure compliance and avoid penalties.



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Key steps

EY will continue to monitor these developments. Should you have any questions, we encourage you to contact one of our immigration professionals.

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EYG no. 003156-25Gbl

2101-3682263
ED None

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