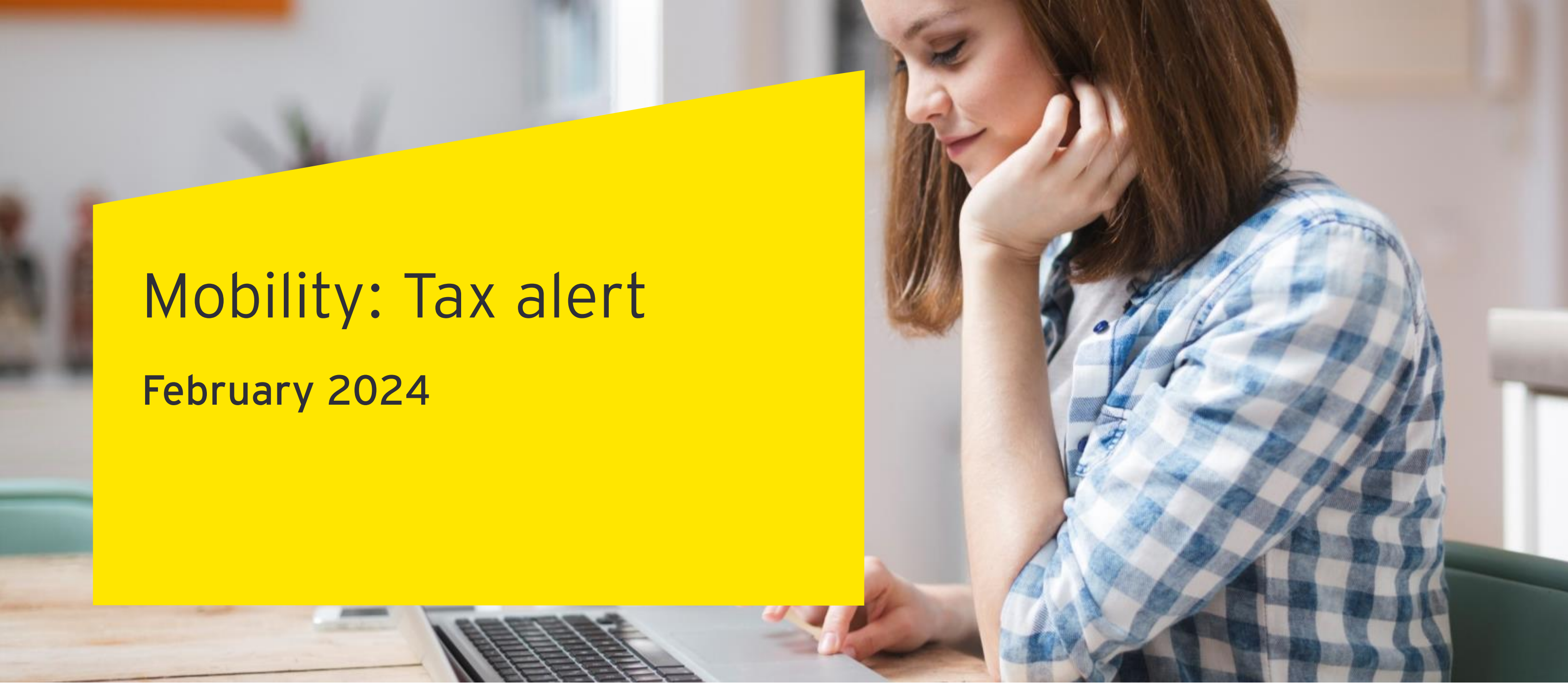

Mobility: Tax alert

February 2024

The Netherlands

Curtailment of 30% facility implemented

Executive summary

In the autumn of 2023, the Dutch House of Representatives adopted a bill curtailing the 30% facility: a tax facility for incoming employees. The Dutch Senate also agreed to these changes in late December 2023, making the curtailment final. This includes a phase out of the tax-free allowance, and the abolition of the partial foreign tax liability.

Salary cap

As a result of changes in the 2022 Tax Plan, the 30% facility has been capped at the so-called 'Balkenende standard' (a salary maximum for the public sector) effective from 2024. In 2024, the 30% facility can be applied up to a salary of €233,000. Where the salary is higher, no tax-free allowance can be applied to the excess.

There are transitional arrangements which apply where the 30% facility was implemented in December 2022 payrolls by virtue of a 30% facility decision. The tax authority has stated that the tax-free allowance must also have been given in December 2022 in order to qualify for the transitional arrangements. These transitional arrangements mean that the salary cap will take effect no later than 2026.

The transition arrangements will continue to apply to any individual who changes their employer, provided that the employment contract with the new employer is agreed within three months after the end of the previous employment.

30% - 20% - 10% facility

Last autumn, the Dutch House of Representatives adopted a bill to phase out the untaxed allowance that may be paid to incoming employees. This amendment to the law becomes effective immediately for new entrants from 1 January 2024.

The 30% facility will have a maximum duration of five years. From 1 January 2024, the tax-free allowance is limited to no more than 30% of the income taxable in the Netherlands during the first 20 months. In the subsequent period of up to 20 months, the tax-free allowance is limited to no more than 20% of the taxable income in the Netherlands. For the remaining 20 months, the tax-free allowance is limited to no more than 10% of taxable income in the Netherlands.

If the 30% facility is approved for less than five years, a 30% tax free allowance will still be allowed for the first 20 months, followed by further tax-free allowance of up to 20% for the next 20 months, and up to 10% for any remaining period. For example: facility approved for four years, the tax-free allowance will be: 20 months - 30% tax free, 20 months - 20% tax free, and 8 months - 10% tax free.

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There are transitional arrangements which apply where the 30% facility was implemented in December 2023 payrolls by virtue of a 30% facility decision. The tax authority has stated that the tax-free allowance must also have been paid in December 2023 in order to have access to the transitional arrangements. These transitional arrangements mean that the salary cap will take effect no later than 2026.

Note: If the actual extra-territorial costs amount to more than the lump sum allowance then the tax-free reimbursement of actual costs may be selected rather than the 30% facility. This choice is usually made per calendar year and is worth considering in individual cases.

Partial foreign tax liability

Taxpayers eligible for the 30% facility can opt to be treated as foreign taxpayers for Box 2 (income from substantial interest) and Box 3 (income from savings and investments) for the duration of the 30% facility. This means that in principle they do not have to pay Dutch tax on income from outside the Netherlands. This is known as 'partial foreign tax liability'. The choice for this partial foreign tax liability will be abolished as of 1 January 2025. There are transitional arrangements which apply where the 30% facility was implemented in December 2023 payrolls by virtue of a 30% facility decision. These transitional arrangements provide the option of a partial foreign tax liability can still be claimed in 2025 and 2026. From 1 January 2027 however, this choice will no longer be available.

Review and adjustment

The Dutch Senate has adopted a motion calling on the government to bring forward its evaluation of the 30% facility and, on the basis of this review, to present an alternative to the current curtailment measures in the 2025 Tax Plan that will be less damaging to the economy.

Secretary of State Marnix van Rij has promised to present alternative measures to the 30% facility in the Spring Memorandum, which is expected in May 2024.

Next steps

The employer as wage tax withholding agent is required to correctly implement the 30% facility in its payroll administration, including the changes in the facility as described in this Alert. Please contact your EY advisor to discuss the implications of the above changes and their impact on your organisation.

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