



# Mobility: Tax alert

December 2023

## The Netherlands

### Curtailment of the 30% facility definitively implemented

In the autumn of 2023, the Dutch House of Representatives adopted a bill for the curtailment of the 30% facility; the tax facility for incoming employees. The Dutch Senate also agreed to these changes in late December 2023, making the curtailment a fact.

In this Alert we list all the changes to the 30% facility.

#### 1. Balkenende standard

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

**Transition law** applies if the 30% facility was applied in the payroll in December 2022 on the basis of a 30% facility decision letter. The tax office writes that the tax free compensation must also have been received in December 2022. The transition law means that the salary cap does not take effect until no later than 2026.

If the taxpayer subject to the transition law changes employer, the transition law remains applicable, provided that the employment contract with the new employer was agreed within 3 months after the end of the previous employment relationship.

#### 2. 30/20/10% facility

This autumn, the Dutch Lower House adopted a bill to phase out the untaxed compensation that can be paid to incoming employees. This law amendment becomes effective - for new cases - directly as of January 1, 2024.

The 30% facility has a maximum duration of 5 years. As of January 1, 2024, the tax-free compensation can amount to a maximum of 30% of the income taxable in the Netherlands for the first 20 months. In the subsequent period of up to 20 months, the tax-free allowance can be a maximum of 20% of the taxable income in the Netherlands. For the

remaining 20 months, the tax-free compensation is a maximum of 10% of taxable income in the Netherlands.

If the 30% facility has a duration of less than 5 years, it still applies that a 30% tax free compensation can be provided for the first 20 months, followed by a (maximum) 20% compensation for 20 months, and for the remaining period a maximum 10% compensation applies. For example: a decision has a duration of four years. The application is: 20 months maximum 30% tax-free, 20 months maximum 20% tax-free, and 8 months maximum 10% tax-free.

**Transition law** applies if the 30% facility was applied in the payroll in December 2023, based on a 30% facility decision letter. The transitional law means that the 'old' 30% facility, with no reduction, remains fully applicable.

If the taxpayer subject to the transition law changes employer, the transition law remains applicable, provided that the employment contract with the new employer was agreed within 3 months after the end of the previous employment relationship.

**Note:** If the actual extraterritorial costs are higher than the lump sum compensation, it is possible to choose for the tax-free compensation of actual costs instead of applying the 30% facility. This choice is usually made per calendar year. It is worth considering this in individual cases.

### **3. Partial foreign tax liability**

Taxpayers with 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 they do not, in principle, pay Dutch income tax on foreign assets.

The choice for partial foreign tax liability will be abolished as of January 1, 2025.

**Transition law** applies if the 30% facility was applied in the payroll in December 2023, based on a 30% facility decision letter. The transitional law provides that the choice for partial foreign tax liability can still be made in 2025 and 2026. As of January 1, 2027, this choice will no longer be available.

### **4 Review and adjustment**

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

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

Please contact your EY advisor to discuss the implications of the above changes and their impact on your organization.

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