

The Dutch 30%-ruling

Below we will discuss the following topics:

1. What are the main conditions to qualify for the 30%-ruling;
2. What is the base for the calculation of the 30% tax free allowance;
3. The period that the 30%-ruling is granted;
4. The decision the 30%-ruling is granted. What now?
5. Filing of the Dutch individual income tax return;
6. US citizens and Green Card holders;
7. Dutch social security and pension.

Should you want to use our expertise and assistance for applying for the 30% ruling or should you have any queries after reading the below, please do not hesitate to contact us. We are happy to assist you or provide you with further information on the 30% ruling in your specific situation.

1. What are the conditions to qualify for the 30%-ruling

To qualify for the Dutch 30%-ruling an employee should meet all of the following conditions:

- The employee (this can also be a Statutory Director or Member of the Supervisory Board) is hired from abroad or seconded to an employer in the Netherlands.
- The employee must have lived more than 16 out of 24 months at a distance of more than 150 km (by air) from the Dutch border. Exceptions to this condition apply in case of a PhD student and in case of a PhD student who graduates or in case a PhD graduate lived within the 150 km zone within one year after graduating before hiring.
- The gross taxable salary of the employee (including taxable remunerations, such as private use of the company car, reimbursement of home travel, housing, etc) must exceed a fixed gross salary as set in the Dutch wage tax law. For the year 2022 this taxable gross salary is determined at an amount of more than € 39.467 (i.e. this is the gross taxable salary after deduction of the 30% tax-free allowance). If the taxable salary of the employee exceeds this amount the employee is considered to have a so-called “specific expertise”. No gross taxable salary amount will apply for scientists and researchers working for educational and subsidized institutes. This also applies to graduated doctors who are specializing in a certain medical field.

Please note that wage received from employment abroad (for instance in case of a salary split) will also be taken into account to calculate whether or not the condition of the fixed salary is met.

For qualifying Masters (employees younger than 30 years with a master comparable to a Dutch master) a lower fixed gross salary applies. For the year 2022 this lower taxable gross salary is determined at an amount of more than € 30.001 (i.e. the gross taxable salary after deduction of the 30% tax free allowance). Please note that the employer has to prove that the master of the employee is comparable with a master of a Dutch University.

- The afore-mentioned salary test must be made annually. If the employee's gross taxable annual salary is below the fixed gross annual salary (i.e. lower than € 39.467 for the year 2022) the employee is no longer considered to have "specific skills" and can no longer benefit from the 30% ruling. The 30%-ruling will end automatically.
- The employee's gross salary must be processed through a Dutch payroll and must be subject to Dutch wage tax withholding. This requires a Dutch withholding agent for Dutch wage tax purposes.
- Employer and employee should fill a joint request to apply for the 30%-ruling within four months after the start of the employment in the Netherlands. If granted, the ruling will apply as of the start of the employment in the Netherlands. If the request filed after the four months period has passed, the 30%-ruling starts the first day of the month following the month the request was actual filed.
- In order to apply for the 30%-ruling the employee must formally agree to a reduction of the initially agreed salary. This agreement can be made in the form of an addendum to the employment contract. Through our ExpatTool you can download such an addendum.

Expatriation Team's ExpatTool makes it a lot easier for both the employer and the employee to collect all relevant data for the ruling and to file the 30% ruling with the Dutch tax authorities. The data is collected easy and simple through our online ExpatTool. After all information has been received, we can usually inform you within two weeks if the 30% ruling can be granted or not. You save a considerable amount of time using our ExpatTool for the application of your 30% ruling.

2. The base for the calculation of the 30% tax free allowance

The 30% tax free allowance is considered to cover all so-called extra-territorial expenses regardless of the actual costs incurred. Extra-territorial (hereafter: ET) expenses are expenses that an employee would not have incurred if he/she had remained working in his/her home country. It is not always simple to determine which costs would qualify as being ET costs.

The Dutch Ministry of Finance has determined (amongst other costs) the following costs as being ET costs:

- Cost Of Living Allowance (so-called “COLA”);
- Double housing costs;
- Extra housing costs;
- Hotel costs;
- Home leave tickets;
- Language costs.

These ET costs mentioned by the Ministry of Finance are not limited.

As the 30% ruling is considered to cover all ET costs, the employer cannot reimburse any ET costs free of tax when the 30% ruling applies. This means that as far as actual ET cost are reimbursed while using the 30% ruling, these reimbursements must be considered as taxable income for the employee. Please note, that the 30% ruling can be applied on this benefit.

3. The period the 30%-ruling is granted

The 30% ruling is granted for a maximum period of 60 months (five years). This period is reduced by any period(s) of employment or any time spent in the Netherlands during the previous 25 years.

Certain periods of stay during the last 25 years are not deducted, these are:

- a) Periods of employment in the Netherlands (for a non Dutch employer/non Dutch withholding agent) that lasted less than 20 days per calendar year;
- b) Periods of earlier stay in the Netherlands that lasted less than 6 weeks per calendar year. These stays should be made in the context of a family visit, holiday or other personal circumstances;
- c) A once-only consecutive stay of maximum 3 months in the Netherlands. This stay should be made in the context of a family visit, holiday or other personal circumstances.

Please note that besides the above-mentioned exceptions, only one day of presence or work in a certain month within the 25 years period will result in a deduction of one whole month up to a maximum deduction of five years.

4. Decision the 30%-ruling is granted. What now?

Normally, when the actual request for the 30% ruling is filed with the Dutch tax authorities it may take many weeks before the application is finally granted. This might create uncertainty and might give problems in processing the payroll.

However, ExpatTeam will assess the application and if it appears that the employee is eligible for the 30%-ruling ExpatTeam will send an email to the Dutch Tax Authorities requesting that the 30%-notification will be issued.

If the conditions are indeed met, ExpatTeam will inform the Dutch tax authorities that the 30% ruling can be issued. At the same time ExpatTeam will inform both employer and employee that the employee is eligible for the 30%-ruling. This means that the employer can start processing the 30% ruling in the payroll. The Dutch tax authorities will issue the actual granting letter within four weeks after our announcement.

Only in the exceptional situation that it is not clear upfront if the 30% ruling can be granted, ExpatTeam will submit the 30% ruling application with the Dutch tax authorities in the “traditional way”. This means that the actual decision may then take up to several months before clarity is obtained from the Dutch Tax Authorities.

5. Filing of the Dutch individual income tax return

Resident or non-resident taxpayer

If an individual lives and works in the Netherlands he or she usually will be regarded as a Dutch resident taxpayer. This means that the individual is taxable in the Netherlands on his/her worldwide income. However, when the 30% ruling applies to the individual, the individual can choose to be treated as partial non-resident taxpayer.

The partial non-resident taxpayer is considered to be a resident taxpayer only for Box 1 (i.e. for income from employment and home ownership). For income derived from Box 2 (i.e. income from substantial interest in a company) and Box 3 (i.e. income from savings and investments) the individual will be regarded as a non-resident taxpayer and therefore only limited taxable in the Netherlands. In practice, taxation for Box 2 and Box 3 is then in general limited to income from real estate located in the Netherlands, not used as the main residence. All other kinds of passive income remain tax-free.

The choice between resident taxpayer and partial non-resident taxpayer can be made every year. Generally choosing for partial non-resident taxpayer appears beneficial in almost all cases.

Tax return

The individual benefitting from the 30%-ruling in principle has to file a Dutch individual income tax return every year. The first as well as the last Dutch tax year the individual has to file a so-called M-form (migration form) and all other years he must file a so-called P-form or C-form when the individual must be seen as an actual non-resident of the Netherlands.

Note that it is possible for the employer to come to an agreement with the Dutch tax authorities that income tax returns for individuals (i.e. the employees) who have the 30% ruling no longer have to be filed. Instead of filing such a tax return, the employer has the obligation to assure the Dutch tax authorities that all remunerations of the employee involved are taxed through the wage tax administration.



ExpatriTeam is happy to assist the employer and employee to arrange a situation that an individual tax return will no longer be issued. Not only will this save you fees for assistance with individual income tax return for your employees, this will also guarantee that your payroll is compliant.

6. US citizens and Green Card holders

A real non-resident (i.e. an individual living outside the Netherlands and having Dutch taxable sources of income) is taxed in Box 1 for income related to employment actually performed in the Netherlands. Please note, that statutory directors are an exception to this rule. The taxation in the Dutch Box 2 and 3 is no different than the before mentioned partial non-residents.

US citizens and US Green Card holders who are granted the 30%-ruling and who choose to be treated as a so-called partial non-resident, are for Dutch tax purposes, based on the treaty to prevent double taxation between the US and the Netherlands, treated as real non-resident tax payers. This implies that, even if they reside in the Netherlands, only the actual days worked in the Netherlands are to be taxed by the Netherlands. Please note, that with regard to statutory directors only the days spent in the US are to be excluded for Dutch tax purposes.

This means that a US citizen, US Green Card holder or a real non-resident should keep record of the days worked and the days not worked. Therefore the employee should keep record of Dutch and foreign working days, the holidays, illness etc.).

7. Dutch social security and pension

Social Security

As a general rule, an individual living and working in the Netherlands is covered by Dutch social security contributions. The amount of the social security contributions as well as the benefits is depending on the Dutch gross income. In case the 30% ruling applies the employee must realize that the 30%-ruling actually lowers the initially agreed salary, which might have an impact on possible Dutch social security payments.

Please note, based on EU-regulations or a Certificate of Coverage it is possible that the employee is social secured in the home country and not in the Netherlands. As such, no Dutch social security contributions are due. Note that in certain cases, foreign paid social security premiums are deductible for Dutch tax purposes.

Pension

As the 30% ruling lowers the initially agreed salary, also the pension contributions should be calculated from the gross taxable wage after the deduction of the 30% tax-free amount.



Under conditions, it is possible that the employee benefitting from the 30%-ruling can make contributions on the full initially agreed salary.

When an individual is assigned to the Netherlands, the individual will usually continue to participate in his home country pension fund. Without further actions, the employer contributions into this scheme must be considered taxable income for the individual and the employee's contributions cannot be deducted from the taxable income in the Netherlands. It is possible however to have the foreign pension plan appointed as an approved pension plan for Dutch tax purposes. After such approval, the employee contributions are tax deductible and the employer contributions are not considered taxable income. Please contact us should you want to receive more information on the possibilities for your expats to lower the tax implications on foreign pension plans.