Deloitte Tax LLP
Global Employer Services

GES NewsFlash

The Netherlands — Amendments proposed in Dutch 30% ruling

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In this issue:

The Dutch 30%-ruling

In our September 12 NewsFlash, we informed you that the Ministry of Finance suggested several adjustments in the Dutch 30% ruling. In the meantime, more details have been made available about the fixed-annual standard and how it affects the current 30% rulings.

Limitations in the new Dutch 30% ruling

The Dutch State Secretary of the Ministry of Finance has suggested several adjustments in the Dutch 30% ruling in order to restrict its use. It is now confirmed that the adjustments will go into effect as of 1January 2012.

Specific-skills test replaced by salary standard

An expat will only be eligible for the new Dutch 30% ruling if his or her gross annual salary exceeds a fixed-salary standard. The former specific-skills test, which included consideration of the education level and working experience, will be replaced with an estimated fixed annual salary standard. The annual salary standard has been announced. The fixed salary is set at a minimum of at least EUR 72,312 (including the 30% tax-free amount). This amount may be increased every year starting 2012. As a result, the fixed salary as mentioned may be increased by a few percentage points as of 1 January 2012. As it is under the current regulation, it will still be required that the expat employee must have skills that are scarcely available in the current Dutch labour market.

Maximum period

As indicated in our earlier NewsFlash, the current 30% ruling can be granted for up to 10 years, but any previous stays in the Netherlands over the past 10–15 years will shorten the total period. Furthermore, the Dutch State Secretary has confirmed that as of January 2012, he will count against new applicants any previous stays in the Netherlands over the last 25 years instead of just the previous 10–15 years. As a consequence, many former Dutch residents who return to the Netherlands within 25 years may no longer be eligible to apply for the 30% ruling. But employees who have already been approved for the 30% ruling will not be affected regardless of any previous stays in the Netherlands.

Cross-border workers

As already mentioned in our other NewsFlash, the Dutch government wants to exclude all cross-border workers from participating in the 30% ruling. This affects employees living in Germany and Belgium. Cross-border workers who live within 150 kilometers of the Dutch border before the time they start working in the Netherlands will no longer be eligible.

Expansion of the new Dutch 30% ruling

Foreign students who have completed a PhD program at a Dutch university were previously ineligible for the 30% ruling when beginning work at Dutch companies, as they had already been living in the Netherlands. The Dutch government will now allow all foreign workers who have completed a PhD program to apply for the Dutch 30% ruling so that they may continue to work in the Netherlands.. The salary standard for these expats will be lower than the regular fixed-salary standard in accordance with the new 30% ruling. Based upon the new announcements, this adjusted salary will amount to EUR 38,007, including the 30% tax-free amount. This amount may increase by a few percentage points as of 1 January 2012.

Terms of the amendments

New information has become available regarding the terms for employees eligible for the 30% ruling. Employees that had the 30% ruling before 1 January 2012 may keep this ruling, however, as under the current regulation, tax authorities may check to see whether an employee still qualifies for the 30% ruling in the remaining period after five years. Employees that do not meet the salary standard test, and/or have been living in cross-border areas before starting work in the Netherlands, will no longer qualify once this check has been performed. But it appears that tax authorities may decide not to check to see whether the ruling still applies for employees that had the ruling more than five years as per 1 January 2012. The following situations may apply:

- As of 1 January 2012, the 30% ruling in effect for less than five years: entitlement for at least five years in total, tax authorities may check the entitlement for the remaining period.

- As of 1 January 2012, the 30% ruling in effect for more than five years: entitlement for the remaining period appears safe based upon the current wording.

Deloitte's view

The amendments in the Dutch 30% ruling will have extensive implications for cross-border workers. Current rulings that are applicable for less than five years as of 1 January 2012, may also be affected.

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