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Brexit:

Is your employer moving to The Netherlands?

You could be eligible for the beneficial

“30% Ruling”

London/Amsterdam – February 2019

Several companies have already moved their headquarters and staff to continental EU as a result of the uncertainty around Brexit and the UK leaving the single market and customs union. More are expected to follow.

For an employee relocating from the UK to The Netherlands, there is a lot to consider: “*Do I rent or buy a home?*”, “*Is there an international school for my children?*”, “*What about health insurance?*”, “*Which bank should I use?*”, “*What do I do with my home in the UK?*”, “*Should I cancel my life insurance?*” etc.

From a tax perspective, an employee could be eligible for the beneficial “30% Ruling” in The Netherlands.

Advantages of the 30% Ruling

- 30% of salary is exempt from income tax;
- No income/capital gains tax, if the employee qualifies for partial foreign taxpayer status¹ in The Netherlands. Applies to:
 - worldwide wealth (eg. portfolio investments, savings, foreign real estate), except to Dutch real estate;
 - “substantial shareholding”² in foreign companies.

¹ Article 2.6 of the Dutch Income Tax Act 2001 in conjunction with Article 11 of the Dutch Income Tax Implementation Decree 2001.

² A “substantial shareholding” as described in article 4.6-4.11 of the Dutch Income Tax Act 2001. This is for example the case when an individual owns 5% or more in the share capital of a company.

For example, an employee with portfolio investments of €1 million could save approx. €16,800 in tax annually.

Residents under the 30% Ruling are entitled to the advantages of Dutch tax treaties and qualify as a resident of The Netherlands pursuant to article 4, subsection 1 OECD Model.³ Different rules apply to American citizens and United States Green Card holders.⁴

Spouse or Partner

The accompanying spouse or qualifying tax partner⁵ can fiscally allocate certain components of their taxable income/wealth to the spouse qualifying for the 30% Ruling.⁶ This greatly expands the advantages of the 30% Ruling.

Requirements to apply for the 30% Ruling

The main requirement is that an employment contract is in place and that the employee is recruited from *outside* The Netherlands by the employer in The Netherlands because of their expertise.⁷ It is crucial that this step is taken *before* the employee becomes resident in The Netherlands.

For 2019, there is a new minimum salary limit set at € 37,743 to qualify for the 30% Ruling.⁸ Hence a gross salary of at least € 53,919 per annum must be stipulated in the employment contract to benefit the most from the facility, of which 30% is paid tax-free.

Furthermore, if the employee has lived too close to the Dutch border prior to the employment, he won't be entitled to the ruling.⁹ This requirement shouldn't have an impact on employees moving from London to The Hague, Rotterdam or Amsterdam.

The ruling can be applied during a period of 5 years after which standard taxation rules will apply. Please note that previous stays or employment in The Netherlands may shorten the 5-year period.

³ It is expressly indicated in the residence certificate, to be made available on request, that there is only unlimited resident tax liability with regard to income from employment and homeownership (qualified residence certificate).

⁴ In pursuance of article 4 § 1 of the Dutch American tax treaty persons with the American nationality are deemed to be residents of the US.

⁵ A qualifying tax partner according to Article 1.2 of the Dutch Income Tax Act 2001 in conjunction with article 5a of the General Tax Act.

⁶ Decision of October 21, 2005, no. CPP2005/2378M in the answer to question 1.

⁷ Articles 10e ff. of the Dutch Wage Tax Implementation Decree 1965.

⁸ Exceptions to the minimum salary requirements apply to doctoral candidates and young people with a Master's degree.

⁹ Article 10e § 2 sub b, under 2 of the Dutch Wage Tax Implementation Decree 1965. During 2/3 of the 24 months prior to the employment the employee must have resided at more than 150 kilometres, as the crow flies, from the Dutch border.

Restriction for Dutch nationals

The 30% Ruling also applies to employees of Dutch nationality who have lived outside of The Netherlands for at least 25 years prior to relocating to The Netherlands.

Work and residence permit for employee outside the EU

In addition to the tax procedure, the permit procedure must be considered. Employees coming from outside the EU will need to apply for a residence and work permit from the Immigration and Naturalisation Service (IND) if they want to reside or work in The Netherlands. A procedure that runs almost parallel to the 30% Ruling is the "Knowledge Migrant Scheme", also referred to as the "Highly Skilled Migrant Programme".

Pre-emigration planning

If you are considering a move to The Netherlands, we understand that there are a number of aspects to consider, not only from a practical point of view, but also from a legal and tax perspective.

Please do not hesitate to get in touch with us so we may assess and advise you on your tax situation, your eligibility for the 30% Ruling, any pre-emigration action points that you might want to consider. It would be our pleasure to guide you through the necessary steps to help make The Netherlands your new home.

In addition to our established family office services, we can request the 30% Ruling for you and also file your annual income tax return.

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The information contained herein is of general nature and is not intended to be an exhaustive examination, nor to express an opinion or to provide legal and tax advice. If you would like to receive more information you are most welcome to contact Fiona de Vos van Steenwijk at fiona@devosconsultancy.com