

# The 30% ruling



[www.expatax.nl](http://www.expatax.nl)

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**Expatax: the expat tax specialist**

For more information: [www.expatax.nl/30ruling](http://www.expatax.nl/30ruling).

## 1. Information about the 30% ruling

If an expat is working in the Netherlands he becomes subject to Dutch tax according to agreements in the international tax treaties. The contract in the Netherlands will often lead to extra or double costs, the so called extra territorial costs. These costs are not deductible for the expat in the Dutch income tax return. That's why the 30% ruling was created.

### Extra territorial costs

The State Secretary of Finance has announced in February 2004 which costs can be reimbursed tax free as extra territorial costs and which costs will be treated as normal labour costs. If the 30% ruling is granted and included in the payroll administration the extra territorial costs can't be reimbursed again separately, but the normal labour costs can (under certain conditions).

- cost of living allowance for the extra/higher costs in the Netherlands: can be reimbursed tax free as extra territorial cost
- foreign service premium / expat allowance / overseas allowance: taxed as normal salary
- relocation expenses / moving allowance: tax free up to a certain level under the normal rules
- house hunting / acquaintance trip: can be reimbursed tax free as normal costs or extra territorial costs depending on the situation
- costs of permits: costs of residence permits can be reimbursed tax free as extra territorial costs, costs of work permits can be reimbursed tax free as normal labour costs
- storage expenses: if the furniture will be moved to the Netherlands then these costs fall under the normal rules for the labour costs otherwise they can be reimbursed as extra territorial costs
- losses (for example on sale of property or car): taxed as normal salary
- free accommodation / housing: if a property is kept in the home country then the extra costs in the Netherlands can be reimbursed as extra territorial costs, otherwise it will be taxed as normal salary but under specific rules
- reimbursement expenses purchase house / brokers fee: taxed as normal salary
- utilities: it may be possible to treat these costs as extra territorial costs, see 1
- home-leave / travel costs: travel costs for travel between the Netherlands and the home country are treated as extra territorial costs
- costs of a tax advisor: costs for the Dutch tax return can be reimbursed as extra territorial costs
- tax-equalization: taxed as normal salary
- language courses: can be reimbursed tax free as extra territorial cost
- phone costs: tax free up to a certain level under the normal rules, part which sees on the extra costs for calls to the home country can be treated as extra territorial costs
- Food: tax free up to a certain level under the normal rules

### 30% ruling to cover the extra territorial costs

The 30% ruling allows that an employer can pay the expat 30% of his salary as a tax free allowance. This allowance will cover the extra territorial costs without having to provide proof that the costs are really made. If the costs are more than the allowance the employer can also reimburse the real costs instead of using the 30% ruling but then proof must be provided.

Remuneration and provisions to extraterritorial employees to compensate or prevent expenses outside the country of origin shall, with respect to employees arriving at the joint request of the employee and the employer, in any case be considered remuneration for extraterritorial expenses up to (proof scheme):

- a. 30% of the basis, this being the sum of the wage (including bonuses etc.) received associated with the stay outside the country of origin to the extent the entered or transferred employee has no right in this regard to prevent double taxation, and remuneration for extraterritorial expenses;
- b. the amount of the tuition fees. Tuition fees are payments for children of the extraterritorial employee to participate in primary or secondary education at international schools and international departments of non-international schools, up to the amounts charged by the school according to its rates for education, with the exception of costs and accommodation expenses but including travelling expenses.

It's not allowed to split the gross salary mentioned in the employment agreement in a taxable part of 70% and a non-taxable part of 30%. Instead the gross salary must be reduced to 70% on top of which a tax free remuneration of 30% can be paid. Consequence is that all the rights based on the gross salary will be reduced too like pension and social security. An appendix to the employment agreement must be made.

### Application

To qualify for the 30% ruling the expat must be an incoming employee and have certain skills and experience which are scarce on the Dutch labour market. An application must be made to have the ruling granted by the tax authorities. Proof must be provided that the requirements are met.

### Requirements

The expatriate must be an employee who is hired in another country by an employer or sent to an employer within the same group of companies, with a specific expertise that is scarce or absent on the job market in the Netherlands.

### Specific expertise

For the evaluation of whether an entered employee possesses specific expertise that is scarce or absent on the job market in the Netherlands, a minimum salary requirement was introduced on January 1, 2012. This salary requirement replaced the obligation to proof the level of education and relevant work experience. This information may still be relevant though if scarcity has to be proven.

A minimum salary requirement of € 35,000 per year (excluding the 30% allowance) is introduced (the original proposals mentioned a higher required salary). This means that the required gross salary will be € 50,000. Scientists and researchers working at universities and knowledge organizations will be exempted from the salary requirement. For young masters below the age of 30 the salary requirement is € 26,605 (with a required gross salary including 30% allowance of € 38,008).

The required salary amounts can change every year based on the applicable index rates.

### Distance requirement

Incoming employees must have lived more than 150 km from Dutch border before the work in the Netherlands commences. Distance is measured in a straight line from the city you lived in to the closest Dutch border. The tax authorities will look at the city you lived in during the 2 years before you came to the Netherlands to prevent that employees move to another city further than 150 km away just before coming to the Netherlands.

We believe the distance requirement may conflict with EU regulations.

### Term

For entered employees the term of the proof scheme is a maximum of 8 years, starting on the first day of employment by the employer (for employees who were granted the 30% ruling before January 1, 2012 the term is maximum 10 years).

### Change of employer

Should an entered employee have another employer during the term, the proof scheme shall remain in force at the joint request of the employee and the new employer for the remainder of the term, providing the period between the end of employment by the former employer and the start of employment by the new employer is no longer than three months.

For such a request the new employers shall demonstrate anew that the employee is to be designated as an entered employee.

### Monitoring of the ruling

Should the entered employee no longer satisfy the requirements, the term shall be reduced to the time this situation arises. Before January 1, 2012 the first 5 years of the term were guaranteed (of course for as long as the employment contract was in force), this is no longer the case.

Transitional regulation however guarantees that if the ruling is granted between January 1, 2007 and December 31, 2011 the guaranteed period of 5 years remains applicable.

### Prior stay in the Netherlands

Should an entered employee have worked or stayed in the Netherlands prior to the start of employment, the term shall be reduced by the periods of prior employment and prior stay.

Periods of prior employment and prior stay that terminated more than 25 years before the term of employment shall not be taken into account.

The entered employee will not have worked in the Netherlands if he worked in the country for a maximum of twenty days in every calendar year for the period of 25 years.

The entered employee will not have stayed in the Netherlands if in every calendar year of the period of 25 years he did not stay in the Netherlands for a total of six weeks for holiday, family visit or other personal circumstances, with a one-off period not being taken into account of at most three consecutive months in the Netherlands for holiday, family visit or other personal circumstances.

For applications which were filed before January 1, 2010 the maximum period which will be checked by the tax authorities is only 10 years instead of 25 years.

### Start date

Should the request be made within four months after the start of employment as an extraterritorial employee by the employer, the decision shall be retroactive to the start of employment as extraterritorial employee. If the request is made later, the decision shall apply starting the first day of the month following the month in which the request is made.

A request for application or continued application of the proof scheme with respect to an entered employee shall be made to the tax inspector (tax office for foreign affairs in Heerlen). He shall decide on the request for a decision that is eligible for objection.

### Reduction

In the event of reduction of term pursuant to this section, a period for which the term is reduced shall be rounded up to full calendar months.

### Pension build-up and the 30% ruling

Pension cannot be accrued over the 30% ruling. However, there are 2 exceptions:

- Your pension promise (including the tax exempt allowance) existed on 1 July 2002. As long as the 30% ruling is running (including any renewal), you can build up pension rights in respect of this facility. Pension build-up is no longer possible if you start working for another employer.
- You can use the decision in which the 30% ruling is incorporated in a general scheme for the temporary exchange of remuneration components.

### Non-resident status

An expatriate who qualifies as a resident taxpayer of The Netherlands, can opt to be taxed as a deemed non-resident taxpayer. As a deemed non-resident taxpayer, the expatriate need not report any investment income to the tax authorities (except for Dutch source income, such as Dutch real estate). The choice will be made in the application form but can be changed every year. The expatriate can still deduct certain personal expenses (i.e. alimony payments, medical expenses etc.).

## 2. The procedure

Expatax can assist you with the whole application procedure. We are very experienced with the 30% ruling and the application and have many companies as our client for which we take care of all the requests for their employees.

The procedure depends on the agreement we have with the employer/employee.

Options:

1. The employer provides us with all the forms including all the information concerning the employee
2. The employer and the employee each provide their own information
3. The employer provides us with the contact details of the employee and the employee provides all the information
4. The employee contacts us directly and agrees with the employer that we can take care of the procedure after which option 1, 2 or 3 is agreed.

We will collect all the information and make sure that the application is filed before the deadline. If not all of the information is available yet we will file a pro forma application which can extend the deadline with another 8 weeks. We will also determine whether the application makes sense based on our experience. If we expect difficulties or questions we will inform the employer/employee upfront.

We complete the application form and provide additional information from our side why we believe the employee is qualifying for the 30% ruling. The tax authorities will confirm receipt of the application (normally after around 2 or 3 weeks). When the tax authorities have additional questions we answer them the same week or contact the employer/employee to request for more documentation. If there are no questions the tax authorities can make a decision around 2 or 3 weeks after the confirmation of receipt. Minimum processing time is therefore 4 to 6 weeks. Real timeframe of course depends on the workload at the tax authorities.

During the application procedure we will answer any questions which may arise from your side. When the tax authorities have made a decision we will contact the employer/employee. If the ruling is granted we outline the consequences, if the ruling is refused we will object if there is still a chance to have the ruling granted. In any case we are available for assistance.

The 30% ruling will affect the payroll administration and the income tax return. Expatax can deal with the income tax return for the employee and can answer questions related to the payroll administration.

### 3. Forms required

To be able to start the procedure we need information from both the employer and the employee.

Next you will find the following documents:

- Questionnaire employer
- Questionnaire employee
- Power of attorney employer
- Power of attorney employee
- Appendix to the employment contract

The appendix can also be implemented in the employment contract itself. We don't have to send it to the tax authorities but it must be available when the tax authorities want to audit the payroll administration.

You don't have to send us original documents, copies will be good enough. These can also be sent to us by email ([payroll@expatax.nl](mailto:payroll@expatax.nl)) or fax (030-2468537).

**Questionnaire 30% ruling employer**

- Company name :  
.....
- Address :  
.....
- Postal code + City :  
.....
- Country :  
.....
- Wage tax number :  
.....
- Contact person :  
.....
- Phone number :  
.....
- Email address :  
.....

### Questionnaire 30% ruling employee

- Initials and surname : \_\_\_\_\_
- Address (Dutch) : \_\_\_\_\_
- Postal code + City : \_\_\_\_\_
- Country : \_\_\_\_\_
- Telephone number : \_\_\_\_\_
- Email address home : \_\_\_\_\_
- Email address work : \_\_\_\_\_
- Sofinumber/BSN : \_\_\_\_\_
- Date of birth : \_\_\_\_\_
- Gender : M / F \_\_\_\_\_
- Nationality : \_\_\_\_\_
- Date of arrival in NL : \_\_\_\_\_
- Periods of earlier stay in NL : \_\_\_\_\_
- Which city/country where you living in before you came to NL? : \_\_\_\_\_

Please send us copies of:

- your employment contract (which must mention the salary you will earn)
- your curriculum vitae
- your identity paper
- your work permit or knowledge worker statement (if applicable)
- copy of previous 30% ruling statement (if the ruling was granted to you before)
- confirmation of end date Dutch contract previous employer (if the application concerns a change of employer within the Netherlands)

**Power of attorney by employer**

The undersigned herewith authorises Expatax BV to file an application for the 30% ruling as meant in article 15a, sub k Wet op de loonbelasting 1964 and chapter 3 of the Uitvoeringsbesluit loonbelasting 1965 for the below mentioned employee.

Name employee :

Name employer :

This power of attorney will last until it is withdrawn in writing by either party and is valid for the application of the 30% ruling for the above mentioned employee only.

Place :

Date :

Name :

Position :

Signature :

## Power of attorney by employee

The undersigned herewith authorises Expatax BV:

- to file the application for the 30% ruling as meant in article 15a, sub k Wet op de loonbelasting 1964 and chapter 3 of the Uitvoeringsbesluit loonbelasting 1965;
- to request the status of partial non-resident for tax purposes.

This power of attorney will last until the above-mentioned requests have been settled.

Place :

Date :

Name :

Signature :

## APPENDIX TO THE EMPLOYMENT CONTRACT

**The undersigned:**

1. [name employer], [address employer], hereinafter referred to as the "employer"
2. [name employee], [address employee], hereinafter referred to as the "employee"

**Whereas:**

- employee and employer wish to make use of the so-called 30% ruling, as laid down in article 15a, part j, of the 1964 Dutch Wage Tax Act and article 9 of the 1965 Dutch Wage Tax Implementation Decree
- employer and employee will therefore file an application for the 30% ruling

**Have agreed as follows:**

- a. If and to the extent that the employee is eligible for a tax-free reimbursement for extra-territorial expenses based on article 9 of the 1965 Dutch Wage Tax Implementation Decree, it will be agreed that the remuneration for present employment agreed with the employee will be reduced for labour law purposes in such a way that 100/70 of the thus agreed remuneration for present employment is equal to the originally agreed remuneration for present employment.
- b. If and to the extent that part a. is applied, the employee shall receive from the employer reimbursement for extra-territorial expenses equal to 30/70 of the thus agreed remuneration for present employment. This allowance is tax free, the 1964 Dutch Wage Tax Act allowing.
- c. The employee is aware of the fact that adjustment of the agreed remuneration pursuant to a. may in view of the applicable regulations have consequences for all remuneration related benefits and payments.
- d. The agreed remuneration for present employment as described in part a. concerns all the actual to-be-paid or to-be-provided remuneration for present employment as described in the 1964 Dutch Wage Tax Act and the provisions based on it.

[Place]

[Date]

[Signature employer]

[Signature employee]

[Name employer]

[Name employee]

[Name person who signs]

#### 4. About Expatax

Expatax was set up in 2001 and has grown to a fully licensed tax and accountancy firm employing several qualified advisors. These advisors come from Big 4 firms, have a solid background and are interested in the client. Permanent education is part of our policy, which means that our advisors stay up to date.

We are specialized in assisting expatriates and foreign businesses who want to work and do business in the Netherlands.

Our approach is very personal and direct. Lines are short and we do all we can to find a solution around the client's needs. By focussing on the international tax advice we can keep our knowledge high, the procedures clear and the fees reasonable.

Due to our client base all our outgoing correspondence like tax reports, annual accounts, etc. are prepared in English. Specifications are provided so that you can see exactly what we have done and what the result will be.

#### Services

Besides assistance with the preparation of a tax return we provide the following services:

- application of the 30% ruling ([www.expatax.nl/30ruling](http://www.expatax.nl/30ruling))
- setting up a company in the Netherlands ([www.expatax.nl/startingbusiness](http://www.expatax.nl/startingbusiness))
- accounting ([www.expatax.nl/bookkeeping](http://www.expatax.nl/bookkeeping))
- providing payroll solutions ([www.expatax.nl/payrolling](http://www.expatax.nl/payrolling))
- financial advice ([www.expatax.nl/financial advice](http://www.expatax.nl/financial_advice))

#### Cooperation's

Cooperation's have been set up with other specialized advisors:

- activpayroll Ltd: worldwide payroll solutions
- VeDeVe legal: international labour law, pension rights and social security
- Berkenhout Finance: financial planning
- Rothwell International BV, contracting agency

#### Contact details

Visiting address: Plompetorengracht 6, 3512 CC, Utrecht  
Post address: P.O. Box 9310, 3506 GH, Utrecht  
Phone: +31 (0)30-2468536  
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Email: [info@expatax.nl](mailto:info@expatax.nl)

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