

Attracting international talent through the Dutch 30% tax ruling





If you're hiring a candidate from overseas to work - or if they have been seconded here by your employer - they could stand to benefit from a tax exemption facility known as the Dutch 30% ruling.

This article explains below what exactly the Dutch 30% ruling is, how it works, who is eligible, and how you can attract international talent from abroad using this exemption.

What is the Dutch 30% ruling and why was it introduced?

The 30% ruling is a Dutch tax advantage for employees who are hired from abroad to work in the Netherlands because of their in-demand skills and expertise.

If new arrivals meet various pre-set conditions, you can pay them 30% of their salary as a tax-free allowance, seen as compensation for the additional expenses that the employee experiences from working outside his or her home country - known as extraterritorial costs.

These extraterritorial costs may include amongst others accommodation costs, costs to apply for personal documents, travel costs, and costs of following a Dutch language course. However, there is no requirement to prove that expenses have actually been incurred or have met a certain level.

The ruling, which was first introduced in 1964, is widely regarded as a magnet to attract highly-skilled and qualified people to the Netherlands to enhance the country's existing talent base. This advantage is frequently used in salary negotiations.

Changes to legislation

More recently, however, the ruling has been the subject of intense political debate - with calls to reduce or scrap the allowance. The ruling was independently evaluated in 2017 and it was concluded that most expats use the ruling for less than 5 years, that similar tax breaks in other countries are



only available for 5 years, that extraterritorial costs decline over time, and that a shorter duration is less expensive but almost as effective. This led to the Dutch government voting to reduce the allowance period from eight years to five years, with changes coming into effect in 2019.

The government has since made clear that anyone negatively affected by this change between 2019 and 2020 are afforded transitional rights. This means that the changes will not apply until 1 January 2021 to people who applied for the exemption before 1 January 2019. Anyone else will receive the benefit for 5 years.

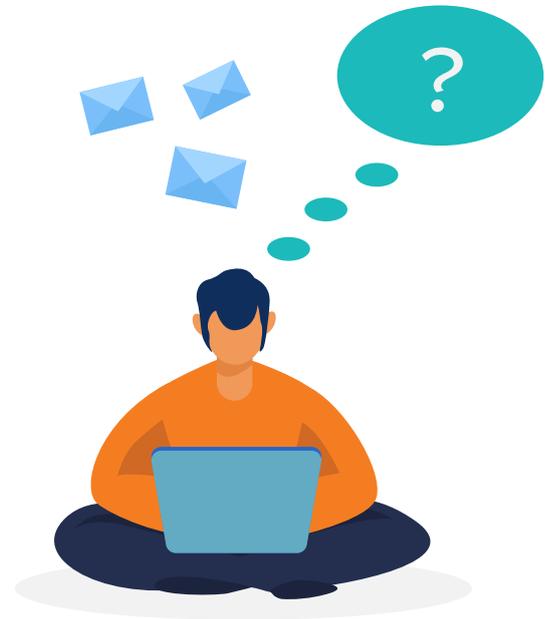
Who is eligible for the 30% tax benefit?

Candidates can qualify for the 30% ruling if they have been recruited outside of the Netherlands or seconded by an employer from overseas to work in the Netherlands. It only applies to candidates moving to the Netherlands for a specific employment role, not those already in the Netherlands looking for a job.

Specifically they need:

- To work for an employer registered with the Dutch tax office and which pays payroll tax.
- To have a written agreement with their employer that the ruling applies to them.
- To have lived over 150 km away from the Dutch border for more than 16 months out of the 24 months before their first working day in the Netherlands.
- To earn a minimum salary of €38,347.
- To have specific skills and expertise that are less widely available in the Netherlands.

For candidates possessing a PhD or Master's degree that are aged under 30, however, the rules are less strict.





- They need to be earning a salary of at least €29,149.
- If a PhD was completed in the Netherlands, they do not need to have been recruited from abroad, as long as they are hired within a year of completing their studies.

Specific skills & expertise

One of the most noteworthy (but also one of the vaguest) requirements is to have specific skills or expertise that is not or rarely available in the Dutch labour market. There is no independent assessment of this requirement - the skills are assumed to be present if the minimum salary requirement is met.

It is therefore essentially up to the employer to determine whether a candidate's age, employment history, education and level of employment can be considered an expert and warrant a salary that meets the minimum threshold. These thresholds are updated on 1 January every year.



Returning to the Netherlands

Another requirement is that candidates were residing outside the Netherlands before they began their present employment. But what if an employee has lived here previously?

In that case, the time the employee has stayed or worked in the Netherlands prior to this role is subtracted from the maximum period of 5 years. The only exceptions are when an employee left the country more than 25 years ago or if they were hardly ever there during their previous stay: i.e. less than 6 weeks per year for personal purposes or less than 20 days.

How does the 30% ruling actually work in practice?

Applying the ruling is straightforward for both the employer and employee. The employer is responsible for applying for

the 30% ruling on behalf of the employee. What happens is that the employee agrees to a salary reduction of 30% and the employee gets a 30% tax reduction in return.

The ruling is generally applied this way as it does not influence the salary burden from the employer's perspective. From an employee's perspective on the other hand, it is equivalent to having a maximum tax rate of approximately 36.2%.

In terms of the employment contract, there should be a specific reference to the 30% ruling. The remuneration package should make clear that the tax-free allowance will be paid on top of wages - this is of course lower than it would be if the ruling were not to apply but it must meet the minimum threshold. Wages not only include the fixed gross salary and holiday allowance, but also incidental and flexible reimbursements like bonuses. A company car would also be considered part of the wages.

So, while someone with a salary of say €50,000 would enjoy the full benefit of the 30% ruling, a colleague earning €40,000 would benefit from some but not the full amount of the tax exemption, because their salary would otherwise end up below the minimum threshold for qualification.

Employers and employees can apply for the 30% ruling retrospectively for up to four months after the first day of employment in the Netherlands. The 30% ruling can also work retroactively if the application is submitted within 4 months after the starting date of employment. If it is submitted after 4 months, the ruling is effective from the first day of the month following the month in which the application was submitted. In addition, the duration of the ruling would be reduced by the period an employee has already resided in the Netherlands.

It's also worth noting that an employer is not obliged to pass on the benefit to the employee, and can retain some or all of it for themselves. It's important therefore that employees who are considering a move to the Netherlands raise the





issue with their employer as early as they can before moving across.

How long can employees benefit from the ruling?

Up until the end of 2018, the claim period lasted for eight years, but responding to political pressure, the Dutch Government decided to reduce the period to five years, starting from 1 January 2021. The ruling does not have a minimum term, only a maximum term.

If an employee changes their job within the group of organisations they already work for, they will still be able to receive the 30% ruling, as long as you are still within the allowance period you were originally granted.

If an employee that benefited the ruling is moving to another organisation altogether, they can together with the new employer apply for the current 30% facility to be continued. The conditions are that an employee starts working for their new employer within three months of leaving their previous organisation and that the application is submitted within four months of joining their new employer.

What if your candidate moved to the Netherlands to work for an employer that did not apply for the ruling?

Agreeing to apply for the 30% ruling on behalf of the employee is ultimately up to the employer. Some employers choose not to do this, because company policy makes this difficult or due to a lack of familiarity with the ruling.

In that case, employees can apply for the ruling with their



new employer. However, this is complicated by the fact that two employment contracts must qualify and that the tax authorities determine the level of compensation based on the situation the day the candidate first arrived in the Netherlands. This means candidates must have met the requirements for the 30% ruling at that moment and salary raises since their move will not be taken into account. In addition, the maximum period of 5 years will be reduced with the time they were already in the Netherlands.

Is there a nationality requirement?

The ruling is applied irrespective of nationality. This means that Dutch nationals can also apply for the 30% ruling if they meet the requirements and that foreign nationals that get a Dutch passport can continue to benefit from it.

Additional benefits of the 30% ruling

As well as a substantial slice of your salary being tax-free, the Dutch 30% ruling also brings several other benefits.

- Employees can apply for partial non-residency status, so that even though they live in the Netherlands, they can qualify as a non-resident taxpayer for part of their income.
- They can exchange your foreign driving license for a Dutch license without having to retake your test, as would normally be the case. What's more, this applies to all family members registered at their address.
- The 30% ruling can be used to help build up a pension, as the tax-free allowance is part of the pensionable pay.
- Employees benefiting from the 30% ruling can also in certain cases receive a free allowance for extraterritorial costs for school fees. This applies to fees for international schools and to international departments of ordinary schools. In addition, the education programme must be





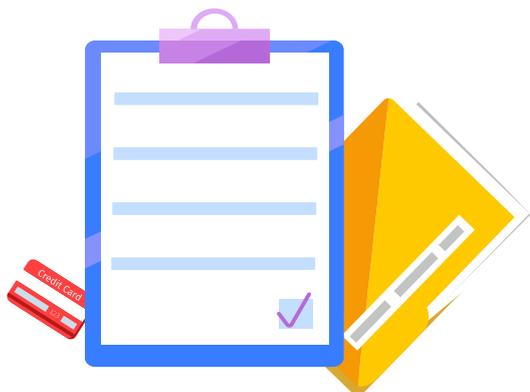
based on a foreign system or mainly be open to children of employees working in a country other than their country of origin.

What do I need to do to apply?

Both you and your employee need to submit a joint application, whether by filling in [the application form](#) or calling the [Tax Information Hotline for Non-resident Tax issues](#) who can provide you with an information pack.

From your employee, the Dutch tax office will need:

- A passport or valid photo ID
- An employment contract or a confirmation letter from your employer
- A BSN number
- A Dutch residents and work permits if you have them
- A Dutch address
- Proof of residence overseas before you were hired
- Your company's details, including your company tax number
- A written agreement stating that you and your employee consent to the application for the 30% ruling



Do you want to find out more?

If you'd like to find out more about the 30% rule and whether or not you are eligible, Expatax can help at <https://www.expatax.nl/30-percent-ruling/>

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