Netherlands payroll tax in 2019 and 2020

Tax, social security law and employment conditions: important considerations for resident and non-resident international employers and employees
Although the greatest care has been taken in the preparation of this brochure it is always possible that over the course of time certain information may be no longer be actual or correct. Our LLPs therefore cannot be held liable for the consequences of any action taken or otherwise on the basis of anything in this publication.

The information provided in this brochure is based on the legislation of December 2018, including the relevant bills presented to Parliament on Budget Day 2018 and adopted by the Lower and Upper Houses of Parliament. Further provisions could also be included in ministerial implementation rules. Case law may also change the interpretation of such legislation.
Introduction

This brochure provides you with an overview of the most important developments in the field of payroll tax and employment conditions for 2019 and 2020 as far as these were known in December 2018.

We have addressed here various topics that you may have to deal with as finance director, HR professional, payroll administrator or financial controller. For the sake of readability, in this brochure we have provided concise summaries. However, there is far more we could say about each individual topic. If you would like more information about a particular topic, we would be happy to help you. We will begin by setting out the most important areas.

International employment: 30% facility changed
If you employ staff in the Netherlands recruited from abroad, then the financial consequences of the reduced term of the 30% tax facility from 1 January 2019 for you - and certainly for the staff affected - will be significant. There are limited transition arrangements for those whose 30% facility already existed before 31 December 2018.

International employment: changes to tax and social insurance contribution credits for non-residents in 2019
Do you employ people who do not live in the Netherlands? Then your 2019 payroll accounting will have to change. From 1 January 2019 these employees will not be entitled to these tax credits, or only to a limited extent. There are separate payroll tax tables for them. To avoid the anonymous tax rate becoming applicable you must include the correct foreign home address in your payroll accounting records.

Contracts with freelancers and independents
For several years now there has been one topic at the top of the list of business concerns, and that is the hiring of freelancers and the self-employed. This topic continues to be a political hot potato and the focus of media attention. Something which will continue in 2019 and 2020. There has been and continues to be concern and uncertainty among both clients and freelancers about the imposition of supplementary assessments for payroll tax, possibly together with fines. For this reason enforcement of the Assessment of Employment Relationships (Deregulation) Act (DBA) - i.e. the abolition of VAR statements - has been suspended until 1 January 2020.

Only where there is clear evidence of ‘malicious intent’ should there be any concern about whether in the guise of self-employment (i.e. bogus self-employment) the services of people are being used who are actually working as employees. The meaning of the term ‘malicious intent’ has been more broadly interpreted since 1 July 2018. During the course of 2019 it will be decided whether the suspended enforcement of this legislation will be extended to 1 January 2021. It is expected that new legislation will enter into force from that date; legislation which better regulates the tax and social security position of the self-employed.

Other changes that matter
From 2020 there will be a new tax regime for bicycles provided by employers, the tax-free allowances which can be paid under the volunteer scheme have been raised and the nominal addition to income for expensive electric company cars (the ‘Tesla tax’) will also rise. The application of the anonymous tax rate in payroll tax has also changed.

To conclude
We hope that we can be of service to you again this year with the information provided in this brochure. In 2019 the People Advisory Services (PAS) of EY Belastingadviseurs LLP will, as always, be on hand to support you in taking decisions and making choices concerning your employment conditions policy, and in implementing measures to ensure that you remain ‘in control’ of your payroll tax situation. Anticipating potential risks in time will help you to avoid any unpleasant financial surprises later on.
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**Annex: Figures for 2019**
To start with here is a brief overview of the most important news in the area of payroll tax and employment conditions in 2019 and 2020. Elsewhere in this brochure you can read more about these topics.

- If you have employees hired from abroad you should certainly read section 2. There have been changes to the specific exemption for allowances paid to cover extra-territorial costs (the 30% facility). Your payroll accounting will have also to be adapted in line with the new rules which apply to the tax and social insurance contribution credits for employees who do not live in the Netherlands.

- Prepare yourself for the new legislation that has been announced concerning whether freelancers and the self-employed are employed or not and the new obligations when entering into contracts with them. In section 3 we have set out what you should (and should not) do in 2019.

- There are two payroll tax penalties which employers may be liable for. We are referring to developments concerning the 52% penalty tax on banned early retirement schemes and in the 75% penalty tax on excessive severance packages. Is your organisation affected by these penalty taxes? Then read section 4.

- Company cars continue to be a payroll tax headache. In section 5 you can read about the effect of the transition arrangements, what the ‘Tesla tax’ involves, and learn about the guidelines provided by the tax authorities on what to do when multiple company cars are provided at the same time or in succession. There will be a new tax scheme for company bicycles.

- There have been many changes and there will be still more changes to the sector classification of employers. How will this affect your sector contribution? You can read all about it in section 6.

- In section 7 we have brought together a number of subsidy opportunities for employers. We also include details of how these affect your payroll accounting.

- Besides tax and social security legislation changes in 2019 and 2020, civil law changes in 2019, such as changes to labour law and concerning work permits, will also affect your employment policy. What will be the impact of Brexit? See sections 8 and 9 for an update.

- Cafeteria plans are popular. Section 10 provides a handy overview.

- The tax-free amounts that may be paid in connection with the volunteer scheme have been increased. Section 11 provides further details about the application of the volunteer scheme.
2. International payroll tax

2.1 | Changes to the 30% facility

The 30% facility is a fixed tax-free allowance for temporary extra-territorial costs. Subject to various conditions, up to a maximum of 30% of the salary paid for current employment may be paid tax-free to employees recruited from abroad. A decision issued by the Tax and Customs Administration is required to be able to apply the scheme. On top of the fixed allowance, certain school fees may also be reimbursed tax-free.

Reduced duration

One of the conditions of the 30% facility is that it has a maximum duration. Up until 31 December 2018 a maximum duration of eight years applied. This period was and will be reduced by the amount of previous periods of residence or employment in the Netherlands. From 1 January 2019 the duration of the scheme will be cut from eight to five years maximum.

Transition arrangements for current 30% facility holders

The reduction in the duration necessitated the introduction of transition arrangements for existing users. Based on the end date given in the 30% facility decision issued by the tax authorities, you can see when each employee’s 30% facility ends. The transition arrangements are as follows:

<table>
<thead>
<tr>
<th>End date current 30% facility</th>
<th>Consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>▶ in 2019 or 2020</td>
<td>Nothing changes for these employees.</td>
</tr>
<tr>
<td>▶ 2021, 2022 or 2023</td>
<td>These employees can continue to apply the 30% facility up until 31 December 2020.</td>
</tr>
<tr>
<td>▶ in or after 2024</td>
<td>For these employees there are no transition arrangements. The end-date on their decision will be reduced by three years.</td>
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Financial consequences for the employee

The nett salary of an employee who has a gross salary agreement will drop considerably after the 30% facility ends. If he or she is resident in the Netherlands for tax purposes, there is another disadvantage. Unlike other Dutch residents, 30% facility employees are exempt from the tax in Box III on their world assets, with the exception of immovable property in the Netherlands. When the 30% facility ends, they will have to pay that tax too.

Financial consequences for you as the employer

If you recruit staff from abroad for a period of no more than five years then the changes to the 30% facility will not affect you. If this is for a longer period you will be affected if you make nett salary agreements with these employees. Such an agreement means that as you as the employer have agreed to bear all liable taxes on the nett salary (i.e. tax equalisation). The reduced duration of the 30% facility to a maximum of five years means that the employer’s burden - which sometimes includes social security contributions - will increase substantially from the sixth year.

Tax-free reimbursement of the extra-territorial costs actually incurred

Instead of the fixed 30% allowance, the employer and employee can agree to reimburse the extra-territorial costs actually incurred on a tax-free basis. From 1 January 2019 this too, will be subject to the five year limit.

What should you do?

You have, of course, informed the staff affected of the major financial consequences if their 30% facility ends sooner than the original end date.
If employees in EU or EEA countries (Norway, Iceland and Lichtenstein) or Switzerland are seconded to work abroad, it is extremely important that both the employer (for the purpose of contributions) and the employee (for benefit entitlements) establish in which country the employee has social security cover. Secondment certificates (A1 statements) play a significant role in this. Secondment certificates are issued by the member state where the employee works (or worked) and has social security cover. He or she can maintain social security cover in that country for no more than two years (with the possibility of an extension), even if they are temporarily seconded to work in another member state. An A1 statement essentially provides confirmation that no social security contributions are payable in the other country where the employee is working on a temporary basis.

Court of Justice of the European Union (CJEU) case law
CJEU case law in 2018 has provided greater clarity about the binding nature of the A1 statement. As long as an A1 statement has been neither withdrawn nor declared invalid by the issuing EU/EEA member state, the recipient EU member state remains bound by it and is not permitted to levy contributions - the same applies to the courts of that member state. Only in cases where A1 statements have been fraudulently obtained is the temporary work country permitted to ignore the A1 statement, provided that the work state has first followed the prescribed consultation procedures with the member state issuing the A1 statement.

What should you do?
Do you hire personnel from employers based in other EU/EEA member states or Switzerland or contract work out in the Netherlands to foreign contractors? Always ask for original A1 statements to be provided to show that the employees concerned do not have social security cover in the Netherlands. Make and keep copies of all A1 statements. Check for yourself that your foreign counterpart has not acted fraudulently. In order to do this investigate their background, history and activities in the country in which they are based.

It is particularly important to correctly determine the member state where the employee has social security cover if you employ foreign staff, or hire such to work under your supervision or management, or if work is contracted to foreign workers. In these last two situations you will be liable for all payroll taxes that the employer based abroad is liable for in the Netherlands. Not being liable for Dutch contributions considerably reduces your potential liability. This is why correct A1 statements are so important.

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2.3 | Cross-border employee tax credits in 2019

Up until 2018 the tax credits could still be applied in the payroll tax, even if the employee did not live in the Netherlands. The legislation on this has changed. The entitlement of employees living abroad to tax credits paid through the payslip will be either abolished or greatly reduced from 1 January 2019. If they are entitled to these tax credits, either in full or in part, they must claim them through an income tax return. A provisional rebate may be requested in advance. Although this is subject to the proviso that at least 90% of their worldwide income must be subject to Dutch income tax.

Summary

- From 2019 employees who live in the EU with the exception of: Belgium, the EEA, Switzerland or the Dutch Caribbean islands will only be entitled to receive the tax share of the employed person’s tax credit via wage tax. They must claim any tax share of other tax credits that they may be entitled to - specifically the general tax credit - through an income tax return.

- Nothing changes for employees living in Belgium. Further to a non-discrimination clause in the tax treaty between the Netherlands and Belgium, they must be treated in the same way as Dutch residents with regard to tax credits.

- Employees living in other countries are no longer entitled to the tax share of these tax credits.

- Employees living abroad who have social security cover in the Netherlands retain their right to payment through the payslip of the contribution share of the tax credits.

Anonymous employee tax rate

An incorrect record of the foreign home address has the unpleasant consequence that the anonymous employee wage tax rate must be applied (52%) and that there is no set maximum for the salary subject to employee insurances and the income-related healthcare insurance. All the more reason to establish the employee's correct home address.

What should you do?

We recommend that your payroll administrator check that these requirements have been correctly observed. Make sure that the correct foreign home address has been included in your payroll accounting. Inform your personnel living in the above countries - with the exception of Belgium - that they will no longer receive part of the tax credits paid out via their payslip but must submit an income tax return to claim them. They will only still receive that share if they meet the set conditions. A provisional income tax rebate can be applied for.
3. Hiring freelancers and the self-employed

3.1 | The Assessment of Employment Relationships (Deregulation) Act (DBA): one of these days becomes none of these days

Is the freelancer or self-employed person you have hired really a business owner or actually a (notional) employee? Every client has to ask this important question because qualification as a ‘notional employee’ has major financial consequences. The client is then deemed to be the employer and required to withhold and remit all payroll taxes. If that has not been done, then supplementary assessments with interest, and possibly fines too, may follow.

The VAR system (VAR: Statement of Employment Relationship) avoided uncertainty in advance about the qualification of ‘employer’ or ‘contractor/business owner’, but on 1 May 2016 that system was replaced by the Assessment of Employment Relationships (Deregulation) Act (DBA). The DBA legislation centres on model agreements published by the Tax and Customs Administration which are intended to clarify the status of the freelancer as either an independent business owner or an employee. In practice it became clear that this approach did not work and the DBA legislation caused a great deal of uncertainty and worry. It was decided to suspend the enforcement of the DBA legislation, initially until 1 January 2018. That period has since been extended to 1 January 2020. A further extension to 1 January 2021 seems likely. This transition period of indemnification from supplementary assessments with fines does not apply in clear cases of ‘malicious intent’. The definition of ‘malicious intent’ was tightened up from 1 July 2018.

‘Malicious intent’

Only if your organisation has been deemed to be of ‘malicious intent’ will the DBA transition period not apply. You can then expect supplementary assessments for payroll tax, with interest and fines, because with retroactive effect you will have been deemed the withholding employer.

While initially ‘malicious intent’ applied only in situations where organisations operated in a context of deliberate fraud or deception, enforcement measures can now also be applied in other cases of malicious intent where a situation of evident bogus self-employment is deliberately allowed to exist or continue to exist. However, it is unclear where precisely the boundary lies between ‘a context of deliberate fraud or deception’ and ‘a situation of evident bogus self-employment is deliberately allowed’. The burden of proof rests upon the tax authorities to demonstrate that evident bogus self-employment has been deliberately allowed.

3.2 | New legislation

The Assessment of Employment Relationships (Deregulation) Act (DBA) has been shelved. The new legislation must provide those who are really self-employed and their clients with certainty that there is no employment situation involved, on the one hand, and prevent bogus self-employment, on the other hand. It is expected that the bill in question will be published for internet consultation in 2019. The envisaged date of entry into force is 1 January 2021. Based on the current situation, the new legislation is likely to take the following form in outline:

At the lower end of the labour market: employment contract for low hourly rates

It is proposed that where self-employed people work for a low hourly rate and for a longer contract period (more than three months), or in combination with performing regular business activities, then they will always work under a civil law employment contract. An hourly rate of less than € 15 / € 18 has been mentioned. The purpose of this measure is to protect
those at the lower end of the labour market. This measure may be contrary to EU law, specifically the freedom of the self-employed to provide services (Article 56 of the Treaty on the Functioning of the European Union (Consolidated Version 2016), TEU). The government will further investigate whether or not this is contrary to EU law.

Upper end of the labour market: opting out
Where a high hourly rate applies (more than €75 per hour) together with a shorter contract period (less than a year), or in combination with performing non-regular business activities, then the self-employed person may be excluded from the payroll tax regime (opt out). This ‘opting out’ has to be laid down in a written agreement between the client and the contractor. The freelancer then does not have employee insurances nor any protection under labour law. Supplementary assessments with retroactive effect could still be imposed if all the conditions for ‘opting out’ have not been met.

Web module for in between category
For freelancers above the lower rate (but less than €75 per hour) it is most likely that a ‘client statement’ will be introduced. This will provide the hiring party with clarity and certainty when contracting the services of self-employed professionals and contractors. The client will be issued with this statement after completing the web module. This client statement will indemnify the client by providing certainty in advance that payroll tax and employee insurance contributions do not have to be withheld and remitted. This indemnification will not apply if the web module was not truthfully completed and the actual working relationship is different (i.e. one of employment). Before the summer of 2019 the questionnaire and the decision tree for the questions will be converted into a web module. No final decision concerning the introduction of the web module has yet been taken.

Guidelines in 2019: what is a ‘relationship of authority’?
If the work is performed in the context of a relationship of authority, then this is employment and the alleged contractor is an employee. There is no clear definition of the term ‘relationship of authority’. In an annex to the Payroll Tax Handbook 2019 the Tax and Customs Administration has published a guideline to help clarify this term. This provides you with a means of assessing the nature of your working relationship with the self-employed people you hire. The indicators for and against employment include:

In favour of employment
▶ The activities of the contractor form an essential part of the business operations of the client and are also performed by the client’s own employees;
▶ the client decides what equipment and tools will be used and provides them.

Against employment
▶ The contractor has specialist knowledge and skills which the client’s employees do not have;
▶ the contractor is liable for faulty work.

3.3 | What you should and should not do in 2019
Provided that you are not of ‘malicious intent’ you need not fear supplementary assessments for payroll tax with interest and fines, at least until 1 January 2020 - and probably not until 1 January 2021. Note however the stricter definition of ‘malicious intent’ which has been widened to cover situations of evident bogus self-employment. You need to take note if you have used the services of a freelancer for a longer time, particularly if the work forms an essential part of your business operations and these activities are also performed by your own staff.

What else can you do?
We recommend that you review your present contracts with freelancers - and particularly the duration and nature of the work (regular and other business activities) - in light of the anticipated new legislation. Check the Handleiding Gezagsverhouding [Relationship of authority Guidelines] issued by the Tax and Customs Administration. Where necessary conclude an agreement to provide services with your freelancers, possibly based on one of the model contracts published by the tax authorities. These agreements to provide services must rule out all forms of notional employment.

We will, of course, keep you fully informed of all political developments.

3.4 | Timeline
1 January 2019: Publication of how the term ‘relationship of authority’ will be interpreted.
Summer 2019: Operation of web module to be checked.
End 2019: Client statement ready.
4. An update on penalty taxes in payroll tax

4.1 | The 52% Early Retirement Scheme (RVU) penalty tax

Making older employees redundant can have the consequence that you as the employer have to pay a punitive levy of 52% on the value of the redundancy scheme. This additional levy is imposed if the severance package you agree with your employee(s) qualifies as an early retirement scheme (RVU). An early retirement scheme is the same as a ‘VUT’ scheme, as it used to be known, but is now much more heavily taxed. It affects both collective redundancy schemes – that may be part of a Social Plan – as well as individual redundancy or severance agreements with older employees. Examples include continuing to pay salary over a certain period while the employee is relieved of performing work or topping up a social security benefit. Even if an employee takes voluntary redundancy and you are prepared to make a severance payment, this may be deemed as an early retirement scheme (RVU).

Important ruling by the Supreme Court
The Supreme Court ruled against the Tax and Customs Administration in 2018 in a case concerning a collective redundancy scheme as part of a company reorganisation. Specific to this scheme was that on the basis of the proportionality principle those younger employees who had been designated as no longer needed could ‘swap’ with older colleagues who were willing to take voluntary redundancy in place of them. The tax authorities had imposed an early retirement punitive levy in connection with the exiting older staff. The Supreme Court did not accept this because the redundancy scheme, which included a voluntary component, was not essentially intended to make older staff redundant.

If you are considering a reorganisation to reduce headcount, remember take into account the criteria set out in this judgment so you cannot be ‘surprised’ at a later date by a 52% penalty tax.

No early retirement scheme
In four situations it can never be deemed that there is a banned early retirement scheme. You will not be liable for the 52% punitive levy, if:

1. The employee continues to work at least 50% part-time (older employees scheme);
2. the arrangements you make can be deemed as an actual pension scheme;
3. the employee is dismissed for objective reasons, such as dysfunctional performance, character incompatibility or in the context of a business reorganisation in which the proportionality principle is applied (also known as the qualitative test);
4. the employee receives a severance payment in the period between the date of redundancy and the two-year period prior to reaching the age at which they are entitled to claim a State old-age pension (AOW) or an earlier pension date, who can finance an income of no more than 70% of the last salary earned, taking into account any other income such as unemployment benefit (WW), a pre-pension scheme or life-course savings payments (also referred to as the quantitative test).
Leave backlog
If immediately before his or her retirement the older employee essentially does not work anymore and makes use of a backlog of paid leave for that, as a rule this will not be deemed an early retirement scheme. In conjunction with an older employees scheme, however, this may differ. Seek expert advice in time.

Step-by-step plan
If you are considering letting go of one or more older employees, always check in advance that the severance scheme does not qualify as a banned early retirement scheme. You can use the following plan as a guide:

• Look at what options may be available to start working part-time. If the employee actually continues to work for at least 50% of their original working hours, then a salary top-up is not an early retirement scheme, even if you continue to pay the full amount of the original salary.

• Check with your pension provider whether there is tax room to improve the employee’s retirement pension. The early retirement scheme punitive levy will never be liable on the cost of making such pension improvements - even where this forms part of a redundancy scheme.

• Consider whether the position could be taken that the main reason for dismissal is dysfunctional performance or incompatibility of characters. It is recommended that you make a substantiated case file which shows that the employee was given the opportunity to remedy their dysfunctional performance or that certain people can no longer work together.

• In the event of collective redundancy make sure that the proportionality principle has been correctly applied.

• If the redundancy scheme includes voluntary departure make it open to all employees. If it is limited to a particular group of older employees it could easily be seen as an early retirement scheme.

• Check what income the employee can finance in the period from the date of redundancy up until two years prior to reaching the age at which they are entitled to claim a State old-age pension (AOW) or an earlier pension date (the 70% test).

• The Tax Authorities have published a guideline RVU 2019. Check your proposed severance package on this new policy.

• If in doubt, ask the Tax and Customs Administration in good time for a decision that your redundancy scheme is not an early retirement scheme. You need to do that before you introduce the redundancy scheme.

4.2 | The 75% penalty tax on excessive severance packages
In addition to the 52% penalty tax on early retirement schemes, the law also provides for a 75% penalty tax on excessive severance packages. To summarise, this penalty tax may become liable if an employee with an annual salary of more than € 551,000 (the indicative salary in year t-2) has an income from salary in the departure year (year t) of more than twice that amount. The amount of the taxable salary in the intervening year t-1 is also relevant. If the salary includes a severance payment which also qualifies as an early retirement scheme - which is possible - then the punitive levy on early retirement schemes of 52% is applied before the 75% punitive levy on excessive severance packages.

The calculation of the amount of an excessive severance package is rather complicated, particularly if the employee was granted share options. The work-related costs scheme also has an impact. It may be such that a severance package subject to the punitive levy exists even if the employee who is leaving receives nothing at all as a severance payment. All salary income in the year of departure - including holiday pay, company car, bonuses or benefits from share schemes or certain share option schemes - are notionally deemed to be part of a severance package. The 75% penalty tax an also be imposed even if you as the employer did not terminate the employment contract but the employee left of his or her own accord.

What should you do?
If it is intended to terminate the employment contract of a highly paid executive, check at the earliest possible opportunity how much your liability for the 75% penalty tax on excessive severance packages could amount to. There may be ways to limit or even avoid this additional tax.
5. The company car and the company bicycle in 2019 and 2020

5.1 | Nominal addition to income for private use of a company car

Different from the past, we now have a relatively straightforward system for determining the value of private use of a company car. Since 2017 there have been two percentages:

- At least 22%* of the list price of the company car or van, including Motor Vehicle Purchase Tax (BPM) and VAT, as the general nominal addition percentage;
- at least 4%* for zero emission vehicles (electric or hydrogen powered), which is the general nominal addition percentage of 22% less an environmental discount of 18%.

There is also a third percentage - at least 35% of the commercial value - but this applies only to classic cars. These are vehicles that are 15 or more years old.

(*) Where private use is excessive the nominal addition can be set higher based on the amount (i.e. monetary value) of the actual private use. The burden of proof in this situation rests with the tax authorities.

‘Tesla tax’
From 1 January 2019 the low nominal addition of at least 4% for zero-emission electric cars will apply only up to a list price of € 50,000. Above that amount the general nominal addition percentage (less the applicable environmental discount) for a period of five years (60 months). When this period expires the prescribed nominal addition percentage applies from the first day of the sixth year. However, if this date is after 1 January 2017 then the transition arrangements state that the general nominal addition percentage will be 25% (and not 22%).

The consequences of this are odd. To take an example, from the first day of the sixth year an ‘old’ electric vehicle with an original nominal addition of 0% or 4% becomes 7% of the list price, i.e. nominal addition under the transition arrangements of 25% less the new environmental discount of 18%, which results in 7%. A new zero emissions vehicle has a nominal addition percentage of 4%.

5.2 | Transition arrangements

There are complex transition arrangements for cars with a first registration date (DET in Dutch) · anywhere in the world · before 1 January 2017. Every car retains its original nominal addition percentage (less the applicable environmental discount) for a period of five years (60 months). When this period expires the prescribed nominal addition percentage applies from the first day of the sixth year. However, if this date is after 1 January 2017 then the transition arrangements state that the general nominal addition percentage will be 25% (and not 22%).

The consequences of this are odd. To take an example, from the first day of the sixth year an ‘old’ electric vehicle with an original nominal addition of 0% or 4% becomes 7% of the list price, i.e. nominal addition under the transition arrangements of 25% less the new environmental discount of 18%, which results in 7%. A new zero emissions vehicle has a nominal addition percentage of 4%.

What should you do?

Have your payroll administrator check the accuracy of the nominal addition percentage for each company car provided to one or more employees that has a date of first registration prior to 1 January 2017. Is no nominal addition applied? Make sure that it is correct that no nominal addition is made and that the situation will not change.
5.3 | Tax and Customs Administration guidelines on nominal addition for multiple company cars in 2019

The tax authorities have published guidelines for the situation in which several company cars are made available to a single employee, either at the same time or in succession.

**Several company cars at the same time**
The main rule is that private use must be assessed per vehicle. The guidelines discuss situations where, based on a reasonable application of the law, the nominal addition for private use can be limited to one car. This could apply where an employee is single or is the only one with a driving licence in his or her personal relationship, for example. The number of nominal additions can be reduced by one if the employee has one or more privately-owned vehicles which are not as suitable for private use as the company cars provided. If in doubt about the number of cars to which the nominal addition for private use should be made, the guidelines recommend writing to: Belastingdienst, team Auto, PGA, Postbus 4660, 8000 KA Zwolle.

**Successive company cars: changing a company car during the calendar year**
If an employee drives a company car more than 500 km in a calendar year for private purposes then the nominal addition applies for each car provided in that year, even a car which had no private use. If a new employer gives the employee a different company car, this employer does not need to take into account the kilometres driven for private purposes while the employee was with the previous employer.

5.4 | Making a company car available and providing counter evidence

A nominal addition to salary for tax purposes applies only where a company car is provided which is also used for private purposes. The burden of proof rests with the tax inspector to demonstrate that a company car has been provided. If this is successfully done, then it is assumed that the employee has driven the car more than 500 kilometres for private purposes. The burden of counter evidence (which is much more difficult to meet) then rests on the employee to demonstrate that this is not so.

**Providing a company car**
It is not immediately such that a company car has been provided when an employee is the actual driver. The requirement is that the employee actually takes possession of the vehicle. The Supreme Court has ruled that a company car has not been provided if one or more employees only use the car to perform certain tasks for the employer, e.g. in order to transport people or goods on the employer’s behalf. If in doubt it is therefore important to check whether or not you have provided a company car in this sense (i.e. for tax purposes).

**Counter evidence**
The employee has to be able to demonstrate that no more than 500 kilometres have been driven for private purposes on a calendar year basis. This evidence can be provided by maintaining an accurate and verifiable trip log, for example. It is then up to the tax inspector to prove that a trip log does not provide the evidence required, for example, because it has not been properly maintained (i.e. it is not reliable). Based on privacy case law from the Supreme Court, the tax authorities are not permitted to make use of ANPR (Automatic Number Plate Recognition) camera images. The Cabinet does not intend to ‘repair’ this high court ruling with new legislation.
5.5 | The company bicycle

In 2019
The existing tax facilities for bicycles owned by the employer remain unchanged. As an employer you can provide a tax-free and interest-free loan for the purchase of the bicycle. The employee can repay the loan from the tax-free allowance of no more than € 0.19 for each kilometre cycled for work, including commuting. There is no valuation scheme for a company bicycle that is made available to an employee on loan.

In 2020
A valuation scheme will be introduced from 1 January 2020 for bicycles provided on loan. An amount of 7% of the recommended retail price will be added to the taxable salary of the employee. Nothing has to be added to the salary for service bicycles (left at the employer’s premises at the end of the day). If a bicycle is provided on loan a tax-free kilometre allowance of € 0.19 may be paid for business trips or commuting. What constitutes a bicycle under this scheme? It is not just a standard bicycle, but also covers electric bikes, cargo bikes and even mopeds, provided according to the new legislation that they are “partly powered by human muscle strength and have been fitted with an electric engine”.

A company bicycle can be provided on loan together with a company car. Unlike company cars, the fixed nominal addition for a company bicycle may be designated as final levy salary (i.e. a work-related cost). The fixed nominal addition for a bike can therefore be charged to the tax-free budget.

Please note, however, that the new regulations apply only to a bicycle that is provided on loan. The employer who reimburses the cost of the bicycle bought by the employee - or who provides a bicycle (transfer of ownership) - must add the actual value of the bicycle to the salary. It can also be designated as a final levy element (i.e. work-related cost).

A consideration that employers who provide bicycles on loan should not overlook is their possible (additional) liability when accidents occur in commuter traffic or on a business trip. Should you perhaps also provide a bicycle helmet and check your liability insurance?

An example

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended retail price of an electric company bicycle</td>
<td>€ 3,000.00</td>
</tr>
<tr>
<td>7% nominal addition on an annual basis</td>
<td>€ 210.00</td>
</tr>
<tr>
<td>Nominal addition to monthly salary</td>
<td>€ 17.50</td>
</tr>
<tr>
<td>Tax rate, say, 38.10% nett monthly cost to the employee</td>
<td>€ 6.67</td>
</tr>
</tbody>
</table>
6. Changes to sector classification

6.1 | Immediate changes from 29 June 2018

Employers are allocated to a particular sector and this classification sets the amount of the differentiated unemployment insurance (WW) contribution that is payable. The contributions can vary widely per sector. In a press release issued on Friday 29 June 2018, the Minister of Social Affairs and Employment announced three changes to the sector classification of employers that immediately entered into force at 5:00 p.m. on the same day. These changes were intended to head-off any measures taken by employers to try to reduce their contributions.

The three measures which took immediate effect at 5:00 p.m. on Friday 29 June 2018 were:

1. **Classification changes at the request of the employer no longer possible with retroactive effect.**
   Changes in the sector classification made at the employer’s request could only take place from a future date. Retroactive effect became no longer possible, unless it is discovered that the employer has benefitted because of late notification of changes relevant to the sector classification, and the classification was not corrected on time as a result. In such cases retroactive effect will apply when the classification is amended.

2. **Split classification no longer possible for new cases.**
   On request an employer could be classified in different sectors for different sorts of activities. Since 29 June 2018 it has no longer been possible to make such a request.

3. **Consolidated company classification and classification with associated companies and organisations no longer possible for new cases.**
   On request an employer could be classified in the sector of the employer/s with which the business forms an economic or organisational unit, or the sector of the branch of industry or profession with which the company could be deemed to be associated as an affiliated company or organisation, instead of the sector into which it fits based on the nature of its activities. It has been no longer possible to request this either since 29 June 2018.

The measures do not have any direct consequences in terms of the present sector classification of employers. Their classification remains unchanged.
6.2 | Future changes

The Balanced Labour Market (WAB) bill intends to abolish the present sector classification from 1 January 2020. Instead of the present sector-based differentiated unemployment insurance (WW) contribution (with 78 different contribution percentages), the differentiated contribution will be based on the type of employment contract: with a higher contribution for fixed term contracts and a lower contribution for indefinite period (permanent) employment contracts. There will be only two contribution percentages.

**Difference between lower and higher contributions**

The lower contribution is intended to encourage employers to offer more employment contracts for an indefinite period for jobs with fixed working hours. The higher contribution will be payable for zero-hours and min-max contracts. The difference between the higher and the lower contribution will be a fixed rate of 5%. This percentage constitutes a considerable ‘subsidy’ on permanent employment contracts and a concomitant ‘penalty’ on flexible contracts. The lower contribution will be adjusted with retroactive effect if the employee works 30% or more paid hours during a calendar year than was contractually agreed for that year.

The Balanced Labour Market bill is currently being debated in the Lower House.

**What should you do?**

Prepare for the changes in the sector classification from 1 January 2020 if the proposed Balanced Labour Market bill is adopted. Based on the type of employment contracts that you currently use – permanent versus flexible – check what the financial consequences for your organisation will be as a result of the 5% contribution difference.
7. Subsidies for employers

7.1 | The Salary Costs (Incentive Allowances) Act

The law provides for various ways to reduce the wage costs of employees with a vulnerable position on the labour market. The aim of the legislature here is to encourage employers to take on and retain people that do not have a strong position on the labour market. The wage cost benefits (LKVs) are laid down in the Salary Costs (Incentive Allowances) Act and apply to older employees, employees with an occupational disability, the special target group in the employment targets and quotas agreement (long term unemployed and young people on low incomes) or reassigned employees with a work disability.

There are conditions attached to each of the salary cost benefits, including holding a target group statement issued by the municipality or the Employee Insurance Administration Agency (UWV). The benefit will sometimes be calculated per hour worked and sometimes on the basis of a fixed annual amount (€ 2,000 to € 6,000 per year). It lies beyond the scope of this Memorandum to cover all the conditions in detail, but we will discuss a couple of particular points here.

In addition to the wage cost benefits (LKVs) for certain groups of employees, there is also the low income benefit (LIV) and the youth low-income benefit (youth LIV). These are subsidies to retain lower paid employees.

Granting of subsidies
The wage cost benefits are paid in arrears. You, as the employer, must ensure that the administrative requirements have been implemented in your payroll accounting beforehand and obtain the correct target group statements, if necessary. You will receive the subsidies for 2018 in 2019. In March 2019 you will be sent a provisional statement. This provisional statement will be based on your own payroll tax returns and any correction notices up to 31 January 2019. Check the statement you receive and submit any relevant correction notices before 1 May 2019.

Any correction notices submitted later than that date will no longer be taken into account. You will receive the final statement no later than 1 August 2019, following which the Tax and Customs Administration will pay the amount due.

Paid hours
The benefit is calculated over the ‘paid hours’. Paid hours are the hours worked for which the employer pays the employee wages. It is extremely important that the employer correctly enters the data for establishing the average hourly rate and the number of paid hours in the payroll tax returns.

Paid hours paid include:
- The contractual hours;
- the hours not worked but still paid for leave or sickness;
- paid hours of overtime;
- not taken but still fully paid hours of leave.

Paid hours does not include:
- Unpaid hours not worked, such as unpaid leave;
- hours worked but not paid, such as hours that are part of a reduced working hours scheme (ADV) or unpaid overtime.

Wage cost benefits (LKVs) in connection with mergers and acquisitions
An unfair situation arises if you take over a business in full or in part. In this case you as the acquiring employer are not entitled to the wage cost benefits (LKVs) that were granted to the transferring employer. When a business is taken over you continue the employment of the personnel and thus it is not the case that you are hiring or reassigning employees.

Which is a condition to be eligible for wage cost benefits (LKVs).
7.2 | The Promotion of Research and Development Act (WBSO)

The Promotion of Research and Development Act (WBSO) provides a subsidy for employers who employ people engaged in innovative work. Provided that certain conditions are met, you are entitled to claim this remittance reduction. The WBSO is intended not only for big business, but can also be very favourable for small and medium-sized enterprises. A higher percentage applies for the WBSO subsidy up to an amount of € 350,000 in annual salary costs for research and development (R&D) work. Even the self-employed may be eligible for this subsidy, under certain conditions.

Every business (that is not a public knowledge institution) employing people to carry out R&D can make use of the WBSO. The employees concerned should be undertaking R&D work for one of the following projects:

- A development project; this covers the development of new, technical, physical products (or components of such), physical production processes or software;
- technical and scientific research (TWO); this covers explanatory research of a technical nature.

Perhaps it seems complex, but the WBSO is more easily applicable than you might think. It has to be a development which addresses technical problems and where you do not yet know what the outcome will be. You have to apply for the subsidy before starting the R&D work.

You may make a maximum of three WBSO applications a year. An application must relate to a continuous period of at least three and no more than 12 months in succession and this period may not go beyond the calendar year. The application must also be submitted at least one calendar month before the start of the period to which it applies. You can also make a pro-forma application to start with. This enables you to fill in the details of the application later. There will usually be a delay of only two to three weeks. You will be notified by the Netherlands Enterprise Agency (Rijksdienst voor Ondernemend Nederland (RVO)). This Agency issues the R&D statement (for research and development work).

Profit deduction from income tax and use of the innovation box in corporation tax

The R&D statement grants eligibility for these two tax facilities.

Changes in 2019

There is one important change affecting the WBSO in 2019. The percentage in the second band has been increased from 14% to 16% from 1 January 2019. This increase will bring a greater tax benefit to employers and entrepreneurs undertaking many R&D projects. The increase was originally planned from 1 January 2020, but further to a motion carried in the Lower House, this widening of the tax facility already entered into force from this year.

How much subsidy will you get?

The financial benefit of the WBSO comes from two tax bands. In the first tax band employers and entrepreneurs can deduct 32% of their R&D wage costs and other costs up to a maximum of € 350,000 from the wage tax and national insurance contributions to be remitted. An amount of 40% in the first band applies for start-ups. If the R&D wage costs and other costs amount to more than € 350,000 then a rate of 16% (14% in 2018) applies in the second band. Here is an overview:
An overview of the applicable amounts and percentages in 2019:

<table>
<thead>
<tr>
<th>R&amp;D remittance reduction</th>
<th>Amount in 2018</th>
<th>Percentage in 2018</th>
<th>Amount in 2019</th>
<th>Percentage in 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>For all costs, maximum</td>
<td>€ 350,000</td>
<td>32%</td>
<td>€ 350,000</td>
<td>32%</td>
</tr>
<tr>
<td>For start-ups, for all costs</td>
<td>€ 350,000</td>
<td>40%</td>
<td>€ 350,000</td>
<td>40%</td>
</tr>
<tr>
<td>On the excess, for all costs</td>
<td></td>
<td>14%</td>
<td></td>
<td>16%</td>
</tr>
</tbody>
</table>

**WBSO reporting for 2018**

If you used the WBSO in 2018 you are required to submit a report to the RVO after the end of the calendar year showing the actual hours spent with costs and expenses incurred. This report must be submitted no later than 31 March 2019. If the fixed regime is chosen, then it is not necessary to report the costs and expenses incurred. The reporting requirement also applies if an R&D statement was issued but in the end no R&D work was actually carried out (and therefore the R&D remittance reduction has not been used).

For the report for 2018, for the first time, it will be possible to report jointly the number of hours spent on R&D and the costs and expenditure for all the R&D statements issued in a calendar year. You therefore have to submit only one report a year stating the R&D hours, costs and expenditure for the whole of 2018.

**Administrative requirements**

You are required to maintain and keep R&D records that may be subject to inspection. From these records it must be clear how many hours your staff spent on R&D projects and any other costs you may have incurred in that context. The R&D records will show per project the nature, content and progress of the R&D work carried out.

**What should you do?**

Check in time whether your organisation wants to spend time and money on R&D. We have plenty of experience of providing support with subsidy applications.

**Tip**

Remember to submit the BSN (citizen service number) of your R&D staff in 2018! When reporting the number of hours spent on R&D activities in 2018 make sure you have your records for 2018 to hand. We also recommend that you submit the BSNs of the R&D staff you employed in 2018. The R&D hourly rate in 2020 will be set on the basis of these BSNs.
8. What you need to know about work permits in 2019

If you employ people in the Netherlands from outside the European Union there will also be some important changes in 2019 that you need to be aware of.

8.1 Working Holiday Program (WHP)/Working Holiday Scheme (WHS)

To introduce young people to the culture and heritage of the Netherlands applicants from Argentina, Australia, Canada, New Zealand and South Korea may spend up to a year in the Netherlands under the Working Holiday Program (WHP)/Working Holiday Scheme (WHS). This programme forms part of a cultural exchange programme for young people aged 18 to 30.

During their stay they are permitted to take a short course or study and do occasional work. It is therefore a residence permit with the possibility of working.

The occasional and supporting nature of this residence permit has an important provision that the employer needs to take into account. The foreign national may not work for more than 12 successive weeks for the same employer. In addition it is not permitted to spread the number of hours over a period of more than 12 weeks. After this continuous period of 12 weeks, the foreign national may work for another continuous period of 12 weeks for another employer. There is no work permit requirement for the employer. It is not permitted to extend this residence permit.

If a foreign national with a WHP/WHS residence permit wishes to stay in the Netherlands after his or her permit expires, a residence permit with another purpose of stay may be applied for. Naturally, the requirements must be met for this other specific purpose of stay.

8.2 The duties of a recognised sponsor

Recognition as a sponsor by the Immigration and Naturalisation Service (IND) is often an important first step for an employer wanting to employ many knowledge migrants from abroad to strengthen a business. It is necessary to become a recognised sponsor before applying for residence permits for knowledge migrants. Apart from the normal obligations to provide information, maintain records and retain information, a recognised sponsor also has a duty of care. Failure to observe these requirements can lead to various sanctions by the IND.

The Social Affairs and Employment Inspectorate (SZW) together with the IND conducted several audits of employers in 2017 focusing on knowledge migrants. The Social Affairs and Employment Inspectorate (SZW) looked at whether the migrant is permitted to work in the Netherlands and whether sufficient salary was being paid. The IND also looked at whether the recognised sponsor met the set obligations and requirements. The results of this project were published in October 2018. A third of these employers were fined because actual instances of abuse were discovered. In addition to which some companies had their status as a recognised sponsor withdrawn. This sanction has the most impact on employers because it means that no knowledge migrants may work for that organisation.
8.3 | Brexit: and now what?

The United Kingdom will (most probably) be leaving the European Union on 29 March 2019. A deal on Brexit will follow if the draft agreement of 14 November 2018 is approved by the British House of Commons and European Union heads of government.

If a deal is reached, British individuals currently residing in the Netherlands may continue to exercise this right to remain under EU law until 31 December 2020. The IND will automatically contact British individuals registered in the Personal Records Database (BRP) and invite them to apply for a new residence status.

If no Brexit deal is concluded, the IND will also contact British individuals registered in the Personal Records Database. They will be asked to take action before 29 March 2019. The content of these communications is as yet unknown. However, the Dutch authorities intend to offer a solution based on a principle of lawful residence.

Based on the foregoing it is extremely important that the home address in the BRP is correct. In both cases (a deal or no Brexit deal) British individuals will receive a communication from the IND at the registered address with further instructions.

8.4 | Minimum salary for knowledge migrants in 2019

Those holding a permit as a knowledge migrant are permitted to work in the Netherlands on the basis of their residence permit without requiring a separate work permit. They must meet a set salary criterion. On top of this, the employer must be registered with the IND as a recognised sponsor. The following standards for gross monthly salary (excluding 8% holiday pay) will apply from 1 January 2019.

To be eligible for a residence permit for a transfer within a company a salary in keeping with market rates must be paid. The IND has confirmed that the salary criteria for knowledge migrants are considered to be competitive. The salary criteria for 2018 will apply to applications received by the IND before 1 January 2019. The date on which employment commences applies when the Employee Insurance Administration Agency (UWV) makes its assessment of work permit applications.

What should you do?

Make sure you are fully aware of what work permits are required, certainly now that Brexit is looming on the horizon.

Have you been approved by the IND as a recognised sponsor? Did you know that following inspections by the Social Affairs and Employment Inspectorate (SZW) one third of the recognised sponsors audited were fined because they had not met their obligations, either in full or in part?

Our immigration specialists know all the ins and outs of this complex area.

<table>
<thead>
<tr>
<th>Knowledge migrant</th>
<th>Transfer work permit</th>
<th>Trainee work permit</th>
<th>Short stay work permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee under the age of 30</td>
<td>€ 3,299</td>
<td>€ 4,500</td>
<td>€ 3,299</td>
</tr>
<tr>
<td>Employee aged 30 or over</td>
<td>€ 4,500</td>
<td>€ 4,500</td>
<td>€ 3,299</td>
</tr>
<tr>
<td>Graduates (after job search year)</td>
<td>€ 2,364</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>EU Blue Card</td>
<td>€ 5,272</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

The amounts shown exclude the holiday allowance and thus are increased by 8% for the salary assessment in the knowledge migrants scheme.
9. What you need to know about the changes to employment law in 2019

This section was written by our colleagues in the Labour Law division of HVG Law.

9.1 | From ‘certainty’ to ‘balance’

Permanent employment will become less permanent and flexible employment, less flexible. This continues to challenge the legislature when it comes to employment law. The aim is to make it more attractive for employers to offer employment contracts for an indefinite period. Added to this, dismissal law will also become more flexible. For the group of people who want to operate independently, there must be better protection against bogus self-employment.

These ambitions also provided the basis for the current Work and Security Act (WWZ) which entered into force in 2015. Given that this legislation has not had the desired results, the above goals were included again in the Coalition Agreement of 2017. Since then they have been incorporated in the Balanced Labour Market (WAB) bill. In November 2018 the Council of State published its recommendations and at the same time the bill was submitted to the Lower House of Parliament. The opinion of the Council of State was largely critical, it was considered unlikely that the new legislation would remove the present obstacles on the labour market. The WAB was also subject to criticism by employment law professionals.

9.2 | Return to more flexible dismissal law

Since the introduction of the strict and closed dismissal system of the Work and Security Act (WWZ), in practice there was a need for the courts to be given discretion. Therefore the new legislation intends to add a cumulation rule. This is an instrument by which various reasons for dismissal can be combined and thus reasonable grounds for dismissal can be found. Until now this was not possible and each reason for dismissal had to be sufficient in itself. With this amendment the legislation to some extent returns to the situation before the Work and Security Act when the courts also had more freedom in this respect.

To compensate for a combination of individually insufficient grounds for dismissal, the court can award an additional amount of up to half the transition allowance (on top of the existing transition allowance). The fair compensation that a court can award if the actions of the employer are seriously culpable remains unchanged. For example, a point to consider is the question of how much overlap there is between the amounts awarded given that both include an element of ‘imputable action’ on the part of the employer.

9.3 | More balance in the transition allowance

The amended legislation means that employees will be entitled to the transition allowance right from the start of their employment relationship instead of only after two years. As a result short term contracts will saddle the employer with additional costs.

The calculation of the transition allowance has also been changed: where previously the allowance amounted to one sixth of the monthly salary per six full months, this will now be a third of the monthly salary for each full year of service. The transition
allowance will also be calculated without rounding-off the employment contract to whole years of service to avoid that a group of employees still end up missing out.

Finally, with the entry into force of the Balanced Labour Market Act (WAB), the ‘increase’ when an employee has been in service with the company for more than ten years will be abolished. This means that no additional compensation will be awarded anymore for a long-term employment commitment.

The current existing transition arrangements for employees over the age 50 with more than ten years’ service will remain in force during the transition period until 1 January 2020.

9.4 | Flexible becomes less flexible

To protect temporary staff, temporary contracts may not be endlessly used. Currently it has been laid down that the maximum period within which three successive temporary contracts may be entered into, is two years. This will become three years. This change brings us back to the situation as it existed before the Work and Security Act (WWZ).

The chain of temporary contracts can only be broken if there is an intervening period of six months between the contracts, this remains unchanged relative to the present legislation. This may be deviated from on a sector basis if the work requires it. The intervening period may be reduced to three months in a collective labour agreement (CAO). Exceptions can also be made for other recurring temporary work undertaken for a period of up to nine months. The social partners will make sector-by-sector agreements on this. The successive contracts rule in its standard form does not apply to supply teachers who provide cover during periods of sickness in primary schools; another rule will apply instead.

9.5 | Trial period

The proposed legislation provides for the possibility of introducing a longer trial period. If an employer offers an employment contract for an indefinite period right from the start (as the first contract), then the trial period may be increased to up to five months. For contracts lasting more than two years a trial period of a maximum of three months may be agreed. In other cases the trial period will remain as it is now.

Extending the trial period is a thorny issue, given that a longer trial period means that the employee’s legal interests are diminished. Therefore much more fuss has been made by law professionals about this part of the bill than any other, with many labour lawyers and professors strongly objecting to the extension of the trial period.

9.6 | Payrolling

Payrolling remains possible under the new legislation, but should serve as an instrument to ‘relieve the burden’ on employers. Therefore it may not (no longer) be used as an instrument to undercut employment conditions. The more flexible labour law regime of the agency work employment contract (particularly the temporary employment clause) will be declared non-applicable to payrolling. Employees must also be treated at least the same in terms of their primary and secondary employment conditions as the employees of the hiring party. Finally, a definition of ‘payroll agreement’ will be added to the new legislation.

9.7 | Compensation for continued payment of salary when on sick leave

To encourage SMEs to take on more staff (on permanent contracts), the continued payment of salary for small employers (up to 25 employees) will be reduced from two years to one. The collective cost of the second year will be covered by a uniform contribution to be paid by smaller employers to finance this. The two-year ban on employment termination will remain in place. The period during which the differentiated contribution for WGA (Resumption of Work benefit) applies will also be reduced from ten to five years.

Besides this, a bill has been adopted that is intended to support employers (small and large) when employees are dismissed who have been unfit for work for a long time. The present situation is that employers are required to continue paying salary for two years and on top of that may be eligible for the transition allowance when the employment contract is terminated. Many employers consider this to be a major burden. The amendment to the legislation will make it possible to apply to the Employee Insurance Administration Agency (UWV) for compensation for the transition allowance paid (see also section 11.6).
9.8 | Current status of the WagwEU

The Posted Workers in the EU (Working Conditions) Act (WagwEU) follows on from a European Directive on the seconding of workers in the context of providing services and entered into force on 18 June 2016. This directive aims to create an internationally level playing field for businesses and employers and to prevent that employment conditions between employers in different member states are undermined. It tackles unfair practices in the seconding of personnel from other EU member states.

The Dutch WagwEU legislation includes a reporting requirement for foreign service providers. They are required to report in advance what services they will be providing, with which employees and for what period. Those using the service must then check that the report is correct and report any errors. An electronic reporting system will be introduced in the Netherlands for this purpose. The aim was that this reporting system would be available from 1 January 2019, but this date has been postponed for the time being to 1 April 2019.

The European Directive on posted workers was amended in 2018 and this amendment must be implemented in Dutch legislation before 1 July 2020. The most important changes are:

- A widening of the ‘hard core’ of employment conditions which posted workers are entitled to, such as payment of overtime, regular increases, performance and end-of-year bonuses;
- the period of secondment may last no more than 12 months, with the possibility of an extension of up to six months in total. After this period all the labour laws of the host country apply;
- employers must provide decent accommodation, in line with the legislation of the host country.

For the time being the transport sector will not be subject to the new Directive on posted workers. The present Directive on posted workers will apply until sector-specific legislation becomes effective. Negotiations on this are taking place within Europe.

9.9 | Labour law changes in 2018 and 2019

- The new privacy legislation, the General Data Protection Regulation (GDPR), entered into force on 25 May 2018. The GDPR applies to employers in relation to their workforce, and also in relation to processing personal information held in the personnel file.
- Other new legislation includes the Additional Birth Leave Act (WIEG) (which means cradle in Dutch and is therefore a very appropriate acronym given the nature of the legislation). From 1 January 2019 paid parental leave for partners of mothers who have just given birth will be extended from two days to a full working week. The leave should be taken within eight weeks of the day of the birth. In 2020 this parental leave will be further extended. The employee shall then be entitled to take five successive weeks of parental leave in the first six months following the birth. During this parental leave the employer does not have to continue to pay salary but the employee will receive a benefit from the Employee Insurance Administration Agency (UWV) amounting to 70% of the daily wage. The legislation aims to help achieve more balance in the division of work and care in the household between partners and thus improve the opportunities for women on the labour market.
- From 2019 the legislation will change with regard to overtime and time-for-time leave schemes. Employees who work overtime may only be compensated for this with leave if that has been laid down in the CAO. It will therefore no longer be sufficient to include this in the written employment contract.
- The minimum wage will again rise from 1 January 2019. For an employment contract for a 40-hour working week the statutory minimum wage for adults will be € 1,615.80 per month. This was € 1,594.20 in 2018. The minimum youth wage will also increase slightly.

What should you do?

Prepare for when the Balanced Labour Market Act (WAB) enters into force. Examine any dormant employment contracts with employees who have been unfit for work for a long time and when terminating their employment contract claim the transition allowance from the UWV. Note the electronic reporting requirement pursuant to the WagwEU legislation and your verification requirement. The labour law specialists of HVG Law would be happy to help you.
10. Cafeteria plans

Cafeteria plans, also known as à la carte schemes or pick and mix benefits, are often used in practice, even in collective labour agreements (CAOs) and legal status regulations for public officials. The ‘individual selection budget’ (abbreviated to IKB in Dutch) is another term for this. The aim is to gain more tax benefit from the employment conditions package, i.e. more nett salary for the employee while reducing the employer’s tax burden.

The Tax and Customs Administration has acknowledged that a cafeteria plan is a permissible means of reducing the amount of tax and social insurance contributions payable on salaries. This saving is achieved by giving up taxed salary (‘sources’) in exchange for a tax-free allowance or employment benefit, or the reimbursement of a work-related cost (‘targets’). Sources could be part of the normal salary, but preferably other salary, such as a year-end bonus, a performance bonus, overtime pay, part of the holiday pay, or a reduction in holiday entitlement, etc. Common ‘targets’ that the employee can choose from include (an additional amount for) commuting costs, a bicycle, trade union membership fees, an allowance for study costs, etc. There are further options available where the work-related costs scheme budget provides sufficient room, provided that the customary criterion is met.

There are always rules attached to any scheme. The most important of these are:

▶ Make sure that a cafeteria plan is set out in writing in the employment conditions;
▶ the change in the employment conditions must be realistic in terms of value, and future-oriented (see below);
▶ the employee must be able to make a selection every year;
▶ a salary reduction, in principle, should also be reflected in other salary-related matters, such as holiday pay and overtime payments. Exceptions are possible;
▶ the employee accepts these consequences which also include lower unemployment or work disability benefits in the event of such;
▶ if either holiday pay or holiday entitlement are used as a source, the lower limit may not fall below the minimum entitlement under the Minimum Wage and Minimum Holiday Allowance Act.

In our experience it is often asked whether a salary reduction has an adverse impact on the employee’s pension accrual. Our answer would be no.

**Future oriented change to the employment conditions: tax authority guidelines**

The requirement that a change be ‘realistic in terms of value’ means that it is preferable that the exchange of gross salary for a tax-free allowance applies for a longer period, such as six months. This would make it not possible to make a one-time reduction in the monthly gross salary. The tax authorities however have published guidelines with a calculated example for a cafeteria plan which suggests a different interpretation. The example given is an employee whose gross monthly salary is reduced one time by € 100 in exchange for a tax-free allowance for his trade union dues. The employer designates this allowance as a final levy element charged to the tax-free WKR budget.

What should you do?

Are you considering introducing or expanding a cafeteria plan? You are welcome to contact us anytime. Perhaps the work-related costs scheme has more to offer you and your staff than you thought.
11. Other items

11.1 | Evaluation of the employment costs scheme (WKR)

It is essential that all employers responsible for tax withholding ensure that the tax-free WKR budget of 1.2% is monitored and managed using the correct procedures. If the tax-free WKR budget is exceeded the employer becomes liable for an 80% final tax on the excess amount. An evaluation of the work-related costs scheme was published in 2018.

Increased administrative burden

The most important conclusion reached by those who compiled the evaluation report was that the WKR has failed to meet its original goal, which was to reduce the administrative burden on employers. This burden would appear to have increased instead, particularly for larger employers. The WKR is perceived to be complex. Even the staff of the Tax and Customs Administration do not see the WKR as a reduction in the administrative burden. The Cabinet regretted this conclusion but holds the view that at the moment employers would benefit more from as little change in the WKR as possible, and thus there is only room to make minor changes to simplify the scheme (see below).

Employment benefits on and off the premises

Employment benefits ON the premises have a zero valuation in the WKR under certain conditions, but the same benefits provided OFF the workplace premises are salary taxable at the invoice value, which may then be designated as a final levy element. This different treatment - for parking and office parties, for example - is seen as illogical. The Cabinet feels that it would not be desirable to abolish the distinction between ON and OFF the workplace premises, for budgetary reasons.

Widening of specific exemptions

It was suggested that the specific exemptions should be widened to include the reimbursement of certain costs, such as those incurred to obtain a ‘Certificate of Good Conduct’ (VOG) and the insurance premium paid for directors’ liability (D&O) insurance. The Cabinet believes that additional exemptions would lead to an increase in the administrative burden and are therefore reluctant to add more.

Minor changes to simplify the scheme

Not least because of the budgetary effects, the government sees no room to make any essential changes to the WKR scheme. It will consult the private sector to determine what minor changes there would be sufficient support for. The government is considering:

- Abolishing the condition that allowances for specific exemptions must be designated as final levy elements;
- a fixed amount - further to a random sample - for the number of employees to whom free meals are provided;
- re-introducing a standard interest rate for interest-free personnel loans. At the moment a standard (and difficult to determine) market rate constitutes taxable salary.

Proposals that the government will definitely not be adopting include:

- A specific exemption for the cost of a Certificate of Good Conduct (VOG), and for a D&O insurance;
- removing the distinction between the tax treatment of personnel activities at the workplace (zero valuation) and off-site activities (taxed at invoice value);
- the transfer of any surplus tax-free WKR budget in a given year to later years.
Current status
The Tax Plan 2019 includes no proposed changes to the WKR, not even the minor changes that had been intended to simplify the scheme.

What should you do?
The employment work-related costs scheme and the risk of an 80% tax remittance requires your constant attention. Use random sampling to check that your administrative procedures are complete and correct. Because that’s what the Tax and Customs Administration does too. Where applicable, use the corporate WKR scheme.

11.2 | The specific exemption for business meals

The work-related costs scheme (WKR) has a specific exemption for reimbursing or providing workplace meals with more than a secondary business character. ‘More than a secondary business character’ means more than 10%. In a guideline the tax authorities have provided an overview of what may and may not be provided tax-free. This is no different than in past years but provides clarification of the Tax and Customs Administration’s position.

In some situations a meal will always be for business purposes:
- If an employee cannot eat at home between 5 and 8 p.m. because of the nature of his or her work;
- If the employee may have to do overtime or work on late night shopping evenings;
- Shared meals for therapeutic purposes;
- When working on board aircraft, ships, offshore rigs or fairground trailers;
- If the meal forms part of the temporary accommodation costs.

Shared meals for therapeutic purposes
Some employees working the health or welfare sector are required on the basis of a public law regulation, collective labour agreement or another employment agreement, to eat together with their patients, pupils or the residents in their care. You do not have to add anything to salary for these therapeutic communal meals.

Courses and seminars
The meals taken on courses or seminars are business meals. Reimbursement or provision of these is a specific exemption.

Temporary accommodation expenses
Meals taken in the context of temporary accommodation costs can be reimbursed or provided tax-free. This will apply to:
- Business trips
- Business meetings with clients off the regular work premises;
- Work at non-permanent sites, e.g. for road builders, construction workers and film crews;
- Trips by mobile and ambulant staff, e.g. sales reps and accountants.

Temporary accommodation
Temporary accommodation applies in the following two cases:
- For an ambulant employee;
- For an employee who, for business reasons, commutes between a temporary accommodation address and his or her place of work, for example during temporary projects or the statutory trial period.

Ambulant personnel
An employee is ambulant if:
- He or she constantly travels from their home to different places to work;
- He or she generally spends at least one day a week travelling there and back between their home and the same place of work and that they do this for no more than 20 days (the 20 day criterion).

When the employee is no longer ambulant then the allowance becomes part of the employee’s salary from that moment on. This salary can be designated as final levy salary (i.e. a work-related cost).

11.3 | For public and semi-public sector employers: the WNT in 2019

The Senior Executives in the Public and Semi-Public Sector (Standards for Remuneration) Act (WNT) sets the remuneration maximum for both employed senior executives and self-employed senior executives without an employment contract. The set maximum amounts are:

<table>
<thead>
<tr>
<th></th>
<th>2019</th>
<th>2018 after adjustment</th>
<th>2018 originally</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employed senior executives</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>per year</td>
<td>€ 194,000</td>
<td>€ 189,000</td>
<td>€ 187,000</td>
</tr>
<tr>
<td>Senior executives without an employment contract</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>per month for the first six months</td>
<td>€ 25,900</td>
<td>€ 25,300</td>
<td>€ 25,300</td>
</tr>
<tr>
<td>per month for the next six months</td>
<td>€ 19,600</td>
<td>€ 19,100</td>
<td>€ 19,100</td>
</tr>
<tr>
<td>maximum hourly rate</td>
<td>€ 187</td>
<td>€ 182</td>
<td>€ 182</td>
</tr>
</tbody>
</table>
It is not always clear which emoluments form part of the applicable remuneration maximum and which do not. Government employers, for example, in the framework of the transition arrangements for the Early Retirement/Pre-Pension (Adjustment of Tax Treatment) and Life-Course Savings Scheme Act (Wafb VUT/PP) pay a certain contribution to their pension provider. A court ruled in 2018 that this contribution does not form part of the remuneration maximum, if the senior executive derives no rights from that contribution. The Ministry for the Interior however takes a different view.

It is clear what designated customary allowances and employment benefits the employer may charge to the tax-free budget of the work-related costs scheme. These allowances and employment benefits are always excluded when checking the remuneration maximum. An example is the premium payable for a D&O insurance that has been designated as such.

**What should you do?**
If the total remuneration of a senior executive is close to the top of the WNT maximum, it is advisable to look closely at all the remuneration emoluments, also based on the complex transition arrangements for the WNT legislation. Exceeding the permitted maximum is unduly paid salary and must be repaid by the senior executive concerned.

**11.4 | No further increases in pensionable age in 2023 and 2024**

The age at which you were originally entitled to a claim a State old-age pension (AOW) was 65 years. This now rises every year and will be 66 years and four months from 1 January 2019. The future increases will be:
- 66 years and eight months in 2020;
- 67 years in 2021;
- 67 years and three months in 2022;
- no increases in 2023 and 2024.

**11.5 | Application of anonymous tax rate changed**

Apart from for incorrect identification, you are required to apply the high anonymous tax rate if an employee has failed to provide you with his/her name, full address (not a temporary address), or citizen service number (BSN), or if you could reasonably have known that the information they provided was false. An important change has been made in the Payroll Tax Handbook of the Tax and Customs Administration.

If an employee has applied for a BSN - but not yet received it - in practice it was sufficient to apply the normal tax rate rather than the anonymous rate. This employee then had to be included in the payroll accounting using a unique personnel number.

A different position has now been taken:

“If the name, full address or BSN are missing, you must apply the anonymous tax rate (see section 2.6). You should do this even if the employee has applied for a BSN but not yet received it.”

**11.6 | Employee Insurance Administration Agency (UWV) to provide compensation for transition allowance paid to employees dismissed further to long-term work disability**

All employers - large and small - will be eligible to apply for compensation for a transition allowance paid to an employee whose employment contract was terminated due to long-term work disability or sickness. The aim of this scheme is to limit the cumulation of employer’s costs in the event of long-term work disability and the dismissal of an employee.

In practice dormant employment contracts following 104 weeks of sickness often occur because employers do not want to have to pay the mandatory transition allowance which must be paid when the contract is ended. With the introduction of a compensation scheme the government wants to put an end to this situation. The scheme will only formally come into effect on 1 January 2020. From this date requests may be submitted and the UWV will issue a decision within 13 weeks. You will be eligible for compensation if you have paid a transition allowance to an employee who was dismissed due to long-term sickness or work disability or whose employment contract was ended by mutual agreement for the same reasons in the period since 1 July 2015. No limit will apply based on the size of the employer’s business. Large employers will also be entitled to compensation from the UWV.
So who will pay for that?
The cost of the compensation scheme will be financed from the General Unemployment Fund (AWF). The uniform unemployment insurance contribution (WW) will increase:
▶ By about 0.5% from 1 January 2019, and
▶ across the board by about 0.1%.

11.7 | Personal learning account

The present income tax deduction for training and education will be abolished in the future and replaced by a systems of personal learning accounts. The existing specific exemptions in payroll tax for costs related to training, re-training and education courses will continue to exist. A personal learning account is an individual education budget that the employee can save over the end of the year and even take with him or her to another employer.
The government is still considering how personal learning accounts can be incorporated into the tax system.

11.8 | The Volunteer Scheme in 2019

Many sports and other organisations would not exist but for the dedication of volunteers. Under certain conditions they may be paid an allowance of no more than € 170 per month (€ 150 until 2018) and a maximum of € 1,700 (€ 1,500 until 2018) per year that is also exempt from income tax. One of the conditions is that the organisation exists for the public benefit (Dutch: ANBI), or is a sports organisation or another body, provided that this body is not subject to or is exempt from corporation tax.

11.9 | A handy guideline: the Domestic and Foreign Travel Regulations for Public Officials

For the tax-free reimbursement as a specific exemption of business subsistence expenses, under certain conditions, employers in the commercial sector can also make use of the Domestic and Foreign Travel Regulations for Public Officials. One of the conditions is that from a cost point of view the employee’s circumstances must be similar to those of a public official on government business.

**Foreign Travel Regulations**

These regulations set a fixed daily allowance for subsistence expenses. For almost every country in the world a list has been drawn up with a maximum amount for tax-free accommodation costs, as well as a set amount for other subsistence expenses.
The fixed amount for other subsistence expenses is broken down as follows:

<table>
<thead>
<tr>
<th>Allowance</th>
<th>In percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakfast allowance</td>
<td>12%</td>
</tr>
<tr>
<td>Lunch allowance</td>
<td>20%</td>
</tr>
<tr>
<td>Dinner allowance</td>
<td>32%</td>
</tr>
<tr>
<td>Allowance for minor expenses</td>
<td>36%</td>
</tr>
<tr>
<td>Total amount per full day</td>
<td>100%</td>
</tr>
</tbody>
</table>

**An example based on the Foreign Travel Regulations**

A public official and an employee go on a five day business trip to Rome. They stay in a hotel where they also take all their meals. From a cost point of view their circumstances are the same. Based on the most recently published fixed tax-free allowance* the amounts reimbursed for each of them per full day will be:
▶ for accommodation € 136
▶ for other subsistence costs € 130
Total amount per full day € 266
Total for five full days € 1,330

(*) Check the latest fixed amounts where necessary: wetten.overheid.nl/BWBR0006914/2018-10-01
Using robots to reduce the administrative burden

Robotic Process Automation (RPA) uses smart software to automate repetitive tasks. These tasks could include, for example, the transfer of data from one system to another or merging data in documents. The use of RPA has many benefits. It can reduce workload and help to create room for your personnel to focus on other more strategic tasks. It can also reduce processing speeds and reduce error sensitivity.

RPA is very useful in supporting processes in which large volumes of data are processed. RPA software can perform the following tasks in particular:

- Extracting data from Excel files or systems;
- generating reports;
- copying data;
- checking data;
- reading, processing and sending e-mails;
- entering data into HR or payroll systems;
- prefiling forms on the basis of information available elsewhere.

Within HR and payroll tax we also see many opportunities for the use of RPA. Typical HR and payroll areas where RPA can provide support include:

- Complex processes which involve multiple steps and depend on multiple systems (such as the on-boarding and off-boarding of personnel);
- labour-intensive and repetitive processes - such as the repeated entry of similar data based on certain rules (e.g. payroll accounting);
- processes in which people are constantly having to deal with data processing errors (e.g. differences between HR data and payroll accounting).

A practical example of a recently-developed RPA application is applying for a Dutch work permit where an online form has to be completed. By automatically combining various data carriers the necessary data can be automatically entered into the online form, which of course saves time for the party making the application.

To start using RPA it is first necessary to map the underlying process. This can be used to decide how the robot should be developed. It is important to determine how complex the tasks are and to make an estimation of whether or not the robot can perform these tasks independently. It also useful to consider where human intervention would be desirable. For example, there are likely to be situations where a decision should be taken not purely on the basis of hard and fast or objective criteria, as a robot would do. The human brain then remains a necessary element.

The use of RPA is very accessible, because the applications can be implemented within a short time frame and no modification of the IT environment is required. RPA does not replace ERP or other software, but can work with your existing HR and payroll systems and processes. The technology can handle case-specific needs and exceptions based on the entered data. The concept operates on top of systems because it does not depend on system integration but can be tailored to the user-interface to provide end-to-end solutions.

It may be extremely worthwhile therefore to look closely your company processes and see which of these processes could be fully or partly automated. It could save you time and money. An added benefit is that robots don't make mistakes.
Workforce Analytics makes your workforce transparent. Workforce Analytics uses the power of data to identify the relationship between HR policy in practice and company results. Examples include:
- What would be the optimum workforce planning?
- Which employees are more likely to leave in the near future?
- Where can I find the right talent?
- How can I determine which candidates will be successful?
- What is important to my personnel?
- How can I optimise my secondment policy?
- Should we merge organisations or only organisation charts?

Workforce Analytics can help you find the answers to these questions. It provides tools based on facts for the strategic and pro-active management of your workforce. Workforce Analytics essentially provides a data analysis of your employee headcount and certain aspects of your workforce. Analytics can also be applied to issues at various stages of the employment cycle, such as recruitment and selection, on boarding*, retention, departure, personnel mobility, personnel costs, and personnel issues related to mergers and acquisitions.

Workforce Analytics can be used to unlock data from all over your organisation and where necessary supplement it with sector data. Often the largest share of the necessary data is already available within the organisation or can be linked to external databases. We can do that safely taking into account data privacy considerations. With the aid of our analytical tools, cross-links can be found which bring new and often surprising insights. Would you like to know more? Please contact one of the people listed below in this brochure. They will put you in touch with our specialists.

This diagram provides an overview of how Workforce Analytics work:

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* On boarding refers to the induction of new staff which goes beyond a simple introduction to the workplace. On boarding refers to the mechanism by which new employees gain the necessary knowledge, skills and interaction skills necessary to become an insider within the organisation.
Appendix
Figures for 2019

01 Payroll and income tax percentages for 2019
02 Social security contributions 2019
03 Tax credits in 2019
04 Valuation criteria for the work-related costs scheme in 2019
05 Final levy and other special rates in the payroll tax
06 Other figures
1. **Payroll and income tax percentages for 2019**

Table 1.1 relates to people who have not yet reached pensionable age (2019: 66 years and 4 months) while table 1.2 applies to people who have reached this age. For comparison we have included the figures for 2018.

### Table 1.1 Tax rates for people who have not yet reached pensionable age (AOW)

**2019**

<table>
<thead>
<tr>
<th>Taxable income of more than €</th>
<th>But less than €</th>
<th>Tax rate %</th>
<th>National insurance contribution rate %</th>
<th>Total rate %</th>
<th>Tax levied on total amount of the tax bands €</th>
</tr>
</thead>
<tbody>
<tr>
<td>-</td>
<td>20,384</td>
<td>9.00</td>
<td>27.65</td>
<td>36.65</td>
<td>7,470</td>
</tr>
<tr>
<td>20,385</td>
<td>34,300</td>
<td>10.45</td>
<td>27.65</td>
<td>38.10</td>
<td>12,771</td>
</tr>
<tr>
<td>34,301</td>
<td>68,507</td>
<td>38.10</td>
<td>-</td>
<td>38.10</td>
<td>25,803</td>
</tr>
<tr>
<td>68,508</td>
<td>-</td>
<td>51.75</td>
<td>-</td>
<td>51.75</td>
<td>-</td>
</tr>
</tbody>
</table>

**2018**

<table>
<thead>
<tr>
<th>Taxable income of more than €</th>
<th>But less than €</th>
<th>Tax rate %</th>
<th>National insurance contribution rate %</th>
<th>Total rate %</th>
<th>Tax levied on total amount of the tax bands €</th>
</tr>
</thead>
<tbody>
<tr>
<td>-</td>
<td>20,142</td>
<td>8.90</td>
<td>27.65</td>
<td>36.55</td>
<td>7,361</td>
</tr>
<tr>
<td>20,143</td>
<td>33,994</td>
<td>13.20</td>
<td>27.65</td>
<td>40.85</td>
<td>13,019</td>
</tr>
<tr>
<td>33,995</td>
<td>68,507</td>
<td>40.85</td>
<td>-</td>
<td>40.85</td>
<td>27,117</td>
</tr>
<tr>
<td>68,508</td>
<td>-</td>
<td>51.95</td>
<td>-</td>
<td>51.95</td>
<td>-</td>
</tr>
</tbody>
</table>

### Table 1.2 Tax rates for people who have reached pensionable age (AOW) (born in 1946 or later*)

**2019**

<table>
<thead>
<tr>
<th>Taxable income of more than €</th>
<th>But less than €</th>
<th>Tax rate %</th>
<th>National insurance contribution rate %</th>
<th>Total rate %</th>
<th>Tax levied on total amount of the tax bands €</th>
</tr>
</thead>
<tbody>
<tr>
<td>-</td>
<td>20,384</td>
<td>9.00</td>
<td>9.75</td>
<td>18.75</td>
<td>3,822</td>
</tr>
<tr>
<td>20,385</td>
<td>34,300</td>
<td>10.45</td>
<td>9.75</td>
<td>20.20</td>
<td>6,632</td>
</tr>
<tr>
<td>34,301</td>
<td>68,507</td>
<td>38.10</td>
<td>-</td>
<td>38.10</td>
<td>19,664</td>
</tr>
<tr>
<td>68,508</td>
<td>-</td>
<td>51.75</td>
<td>-</td>
<td>51.75</td>
<td>-</td>
</tr>
</tbody>
</table>

**2018**

<table>
<thead>
<tr>
<th>Taxable income of more than €</th>
<th>But less than €</th>
<th>Tax rate %</th>
<th>National insurance contribution rate %</th>
<th>Total rate %</th>
<th>Tax levied on total amount of the tax bands €</th>
</tr>
</thead>
<tbody>
<tr>
<td>-</td>
<td>20,142</td>
<td>8.90</td>
<td>9.75</td>
<td>18.65</td>
<td>3,756</td>
</tr>
<tr>
<td>20,143</td>
<td>33,994</td>
<td>13.20</td>
<td>9.75</td>
<td>22.95</td>
<td>6,934</td>
</tr>
<tr>
<td>33,995</td>
<td>68,507</td>
<td>40.85</td>
<td>-</td>
<td>40.85</td>
<td>21,032</td>
</tr>
<tr>
<td>68,508</td>
<td>-</td>
<td>51.95</td>
<td>-</td>
<td>51.95</td>
<td>-</td>
</tr>
</tbody>
</table>

*A slightly different second tax band threshold applies to people born in 1945 or earlier. The rates are however the same.*
2. | Social security contributions 2019

Table 2.1 Contribution percentages for national insurances and employee insurances in 2019

<table>
<thead>
<tr>
<th>Contribution</th>
<th>Employer</th>
<th>Employee</th>
<th>Total</th>
<th>Maximum wage subject to contributions in 2019</th>
<th>Maximum wage subject to contributions in 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State old-age pension (General Old Age Pensions Act, AOW)</td>
<td>-</td>
<td>17.90</td>
<td>17.90</td>
<td>34,300</td>
<td>33,994</td>
</tr>
<tr>
<td>Surviving Dependants Act (ANW)</td>
<td>-</td>
<td>0.10</td>
<td>0.10</td>
<td>34,300</td>
<td>33,994</td>
</tr>
<tr>
<td>Long-term Care Act (WLZ)</td>
<td>-</td>
<td>9.65</td>
<td>9.65</td>
<td>34,300</td>
<td>33,994</td>
</tr>
<tr>
<td>Total national insurance contributions</td>
<td>-</td>
<td>27.65</td>
<td>27.65</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Employee insurances:

<table>
<thead>
<tr>
<th>Contribution</th>
<th>Employer</th>
<th>Employee</th>
<th>Total</th>
<th>Maximum wage subject to contributions in 2019</th>
<th>Maximum wage subject to contributions in 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Basic contribution WAO (Occupational Disability (Insurance) Act /WIA (Work and Income (Fitness for Work) Act)</td>
<td>6.46</td>
<td>-</td>
<td>6.46</td>
<td>55,927</td>
<td>54,614</td>
</tr>
<tr>
<td>* Employers’ contribution for child care</td>
<td>0.50</td>
<td>-</td>
<td>0.50</td>
<td>55,927</td>
<td>54,614</td>
</tr>
<tr>
<td>* Work resumption fund contributions (average)</td>
<td>1.22</td>
<td>-</td>
<td>1.22</td>
<td>55,927</td>
<td>54,614</td>
</tr>
<tr>
<td>* Unemployment insurance contribution (WW)</td>
<td>3.60</td>
<td>-</td>
<td>3.60</td>
<td>55,927</td>
<td>54,614</td>
</tr>
<tr>
<td>* Sector fund contribution (average)</td>
<td>0.77</td>
<td>-</td>
<td>0.77</td>
<td>55,927</td>
<td>54,614</td>
</tr>
<tr>
<td>* Implementation Fund for Government Agencies (Ufo)</td>
<td>0.78</td>
<td>-</td>
<td>0.78</td>
<td>55,927</td>
<td>54,614</td>
</tr>
</tbody>
</table>

Table 2.2 Healthcare insurance contributions (ZVW) 2019

<table>
<thead>
<tr>
<th>Contribution</th>
<th>Maximum wage subject to contributions in 2019</th>
<th>Contributions in 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income-related contribution (employers' mandatory contribution)</td>
<td>%</td>
<td>€</td>
</tr>
<tr>
<td>Employee’s income-related contribution (without employers’ mandatory contribution)</td>
<td>%</td>
<td>€</td>
</tr>
</tbody>
</table>
3. Tax credits in 2019

There will be six different types of tax credits in 2019, four of which have been included in the payroll tax tables:
- General tax credit
- Employed person’s tax credit
- Elderly person’s tax credit
- Single elderly person’s tax credit

There are two types of tax credits which you have to calculate and apply yourself:
- Young disabled person’s tax credit
- Life-course leave tax credit (no further accrual after 2011)

Table 3.1 Tax credits in 2019

<table>
<thead>
<tr>
<th>Tax credit</th>
<th>Younger than pensionable age (€)</th>
<th>As off pensionable age (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2019</td>
<td>2018</td>
</tr>
<tr>
<td>General tax credit (income related)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• maximum</td>
<td>2,477</td>
<td>2,265</td>
</tr>
<tr>
<td>• minimum</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Employed person’s tax credit (income related)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• maximum</td>
<td>3,399</td>
<td>3,249</td>
</tr>
<tr>
<td>• minimum</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Elderly person’s tax credit (low incomes)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elderly person’s tax credit (high incomes)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single elderly person’s tax credit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Young disabled person’s tax credit</td>
<td>737</td>
<td>728</td>
</tr>
<tr>
<td>Life-course savings scheme tax credit (per year of participation until end 2011)</td>
<td>215</td>
<td>212</td>
</tr>
</tbody>
</table>
4. Valuation criteria for the work-related costs scheme in 2019

The following standard amounts will apply in 2019:

- Specific exemption for commuting and business travel: maximum € 0.19 per kilometre (2018 and 2019).

- Meals at the workplace where there is no attendant business interest: € 3.35 (2018: € 3.35) per free meal. No distinction is made regarding the type of meal (i.e. lunch or dinner, warm or cold). Refreshments provided at the workplace have a zero valuation.

- Certain forms of accommodation and lodging: € 5.55 (2018: € 5.55) per day.

- Allowance for refurnishing in the event of a move for business purposes: maximum € 7,750 (2018 and 2019). There is also a specific exemption for the actual cost of moving the inventory and equipment.

- Volunteer scheme: maximum € 170 per month and € 1,700 per year in 2019 (2018: € 150 per month and 1,500 per year). The maximum hourly rate increases from € 4.50 to € 5.00.

- Company products (personnel discounts): 20% of the commercial value with a maximum of € 500 per year (2019 and 2018).

No standard has been set for the benefit of an interest-free or low interest personnel loan - including to finance an own home. The benefit of interest-free or low interest personnel loans is set at the commercial value, i.e. the difference between the interest paid compared with the market rate for the loan concerned. The benefit of an interest-free loan for the purchase of a bicycle, an electric bicycle or an electric scooter is tax free.

---

**Table 3.2 Overview of reduction in employed person’s tax credit 2017 - 2019**

With effect from 2019, the employed person’s tax credit will be phased out:

<table>
<thead>
<tr>
<th>Income (in euros)</th>
<th>2019</th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000</td>
<td>316</td>
<td>316</td>
<td>361</td>
</tr>
<tr>
<td>20,000</td>
<td>3,123</td>
<td>3,123</td>
<td>3,192</td>
</tr>
<tr>
<td>30,000</td>
<td>3,399</td>
<td>3,249</td>
<td>3,223</td>
</tr>
<tr>
<td>40,000</td>
<td>2,986</td>
<td>3,001</td>
<td>2,951</td>
</tr>
<tr>
<td>50,000</td>
<td>2,386</td>
<td>2,641</td>
<td>2,591</td>
</tr>
<tr>
<td>60,000</td>
<td>1,786</td>
<td>2,281</td>
<td>2,231</td>
</tr>
<tr>
<td>70,000</td>
<td>1,186</td>
<td>1,921</td>
<td>1,871</td>
</tr>
<tr>
<td>80,000</td>
<td>586</td>
<td>1,561</td>
<td>1,511</td>
</tr>
<tr>
<td>90,000</td>
<td>0</td>
<td>1,201</td>
<td>1,151</td>
</tr>
<tr>
<td>100,000</td>
<td>0</td>
<td>841</td>
<td>791</td>
</tr>
<tr>
<td>110,000</td>
<td>0</td>
<td>457</td>
<td>431</td>
</tr>
<tr>
<td>120,000</td>
<td>0</td>
<td>121</td>
<td>71</td>
</tr>
<tr>
<td>130,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
5. | Final levy and other special rates in the payroll tax

Table 5.1 Final levy rates

<table>
<thead>
<tr>
<th>Final levy rates (%)</th>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Grossed up</td>
<td>Standard</td>
</tr>
<tr>
<td>Contractors, home workers, sex workers and similar occupations</td>
<td>8.60</td>
<td>8.00</td>
</tr>
<tr>
<td>• with tax credit</td>
<td>56.20</td>
<td>36.00</td>
</tr>
<tr>
<td>• without tax credit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Anonymous employees</td>
<td>108.30</td>
<td>52.00</td>
</tr>
<tr>
<td>Non-anonymous employees, younger than pensionable age, dependent on annual salary</td>
<td>57.80</td>
<td>36.65</td>
</tr>
<tr>
<td>• with tax credit</td>
<td>61.50</td>
<td>38.10</td>
</tr>
<tr>
<td>• without tax credit</td>
<td>107.20</td>
<td>51.75</td>
</tr>
<tr>
<td>Non-anonymous employees of pensionable age, dependent on annual salary</td>
<td>23.00</td>
<td>18.75</td>
</tr>
<tr>
<td>• with tax credit</td>
<td>25.30</td>
<td>20.20</td>
</tr>
<tr>
<td>• without tax credit</td>
<td>61.50</td>
<td>38.10</td>
</tr>
<tr>
<td>• with tax credit</td>
<td>107.20</td>
<td>51.75</td>
</tr>
<tr>
<td>Continuous and alternately shared use of a delivery van by two or more employees</td>
<td>€ 300 per year</td>
<td></td>
</tr>
</tbody>
</table>

Table 5.2 Pseudo-final levy rates

<table>
<thead>
<tr>
<th>Pseudo-final levies (%)</th>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Early retirement schemes (RVU)</td>
<td>52%</td>
<td>52%</td>
</tr>
<tr>
<td>Excessive severance packages</td>
<td>75%</td>
<td>75%</td>
</tr>
</tbody>
</table>

Table 5.3 Different rates for special groups of employees

<table>
<thead>
<tr>
<th>Artists and professional athletes</th>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>• resident in the Netherlands</td>
<td>36.65%</td>
<td>36.55%</td>
</tr>
<tr>
<td>• resident in a treaty country</td>
<td>20.00%</td>
<td>20.00%</td>
</tr>
<tr>
<td>• resident in a non-treaty country</td>
<td>20.00%</td>
<td>20.00%</td>
</tr>
<tr>
<td>Contractors, home workers, sex workers and similar occupations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• with tax credit</td>
<td>8.00%</td>
<td>9.00%</td>
</tr>
<tr>
<td>• without tax credit</td>
<td>36.00%</td>
<td>36.00%</td>
</tr>
</tbody>
</table>
6. | Other figures

<table>
<thead>
<tr>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum customary salary for shareholders with a substantial interest</td>
<td>€ 45,000</td>
</tr>
<tr>
<td>Minimum customary salary for starters</td>
<td>Statutory minimum wage (approx. € 21,000)</td>
</tr>
<tr>
<td>Pseudo-final levy for severance packages in excess of</td>
<td>€ 551,000</td>
</tr>
<tr>
<td>Maximum pensionable salary</td>
<td>€ 107,593</td>
</tr>
</tbody>
</table>

Income thresholds for 30% facility
Certain salary standards (i.e. taxable salary) apply for incoming employees with scarce specific expertise.

<table>
<thead>
<tr>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Post-graduates (holding a master’s degree, who are either studying for or hold a PhD) under the age of 30</td>
<td>More than € 28,690</td>
</tr>
<tr>
<td>Certain groups of academics/research fellows and medical trainees (in specialist training)</td>
<td>No salary standard</td>
</tr>
<tr>
<td>Other staff</td>
<td>More than € 37,743</td>
</tr>
</tbody>
</table>

The amounts of the grants for the Salary Costs (Incentive Allowances) Act are:

<table>
<thead>
<tr>
<th>LIV Average hourly rate in 2019</th>
<th>LIV per employee per paid hour</th>
<th>Maximum LIV per employee per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>€ 10.05 – € 11.07</td>
<td>€ 1.01</td>
<td>€ 2,000</td>
</tr>
<tr>
<td>€ 11.07 – € 12.58</td>
<td>€ 0.51</td>
<td>€ 1,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Youth LIV Age on 31 December 2018</th>
<th>Youth LIV per employee per paid hour</th>
<th>Maximum youth LIV in 2019 per employee per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>€ 0.23</td>
<td>€ 478.40</td>
</tr>
<tr>
<td>19</td>
<td>€ 0.28</td>
<td>€ 582.40</td>
</tr>
<tr>
<td>20</td>
<td>€ 1.02</td>
<td>€ 2,121.60</td>
</tr>
<tr>
<td>21</td>
<td>€ 1.58</td>
<td>€ 3,286.40</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LKV</th>
<th>Duration LKV</th>
<th>LKV per paid hour</th>
<th>Maximum amount per employee per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Older employee entitled to claim unemployment benefit</td>
<td>3 years</td>
<td>€ 3.05</td>
<td>€ 6,000</td>
</tr>
<tr>
<td>Employee with occupational disability</td>
<td>3 years</td>
<td>€ 3.05</td>
<td>€ 6,000</td>
</tr>
<tr>
<td>Target group covered by the employment targets and quotas agreement</td>
<td>3 years</td>
<td>€ 1.01</td>
<td>€ 2,000</td>
</tr>
<tr>
<td>Re-deployment of people with an occupational disability</td>
<td>1 year</td>
<td>€ 3.05</td>
<td>€ 6,000</td>
</tr>
</tbody>
</table>
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