# Mobility Matters

**Dutch government-authorised report on expatriate tax regime raises questions about fate of the 30% ruling**

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There has been much ado about the 30% ruling as well as the extraterritorial expenses scheme and "partial foreign taxpayer" status lately in the Netherlands. These policies are seen as instrumental in helping make the Netherlands an attractive location for globally mobile employees and cross-border businesses. Recent changes were proposed that would restrict the availability and the scope of these policies—e.g., abolishing the partial foreign taxpayer status, scaling back the 30% ruling—with many worrying about the impact this could have on international assignment costs and the ability of the Netherlands to attract skilled foreign workers.

This article discusses the current rules and their impact, the proposed changes, and observations contained in a report by SEO Economic Research that delved into these policies and opined on what changes could mean for the business climate in the Netherlands and the economy generally.

## Background

SEO Economic Research (*SEO Economisch Onderzoek*, SEO) was commissioned by the Ministry of Finance to evaluate the extraterritorial expenses scheme, the 30% ruling, and the partial foreign taxpayer status. This evaluation has now been completed.[i] SEO analyzed, among other things, how effective and efficient these tax schemes are and subsequently detailed its conclusions in an evaluation report titled, "Competency, costs and choices." On 14 June, 2024, the Deputy Minister of Finance presented the report to the Lower House of Parliament. The new Dutch government[ii] can use the evaluation report to make choices about potentially reversing the previous scaling back of the 30% ruling or opt to take other measures related to the 30% ruling that may be more suitable in light of economic conditions and the government's goals.

## Recent legislative moves around the expatriate tax regime in the Netherlands

At the end of 2023, the Lower House (*Tweede Kamer*) of Parliament used amendments put forward by MPs Pieter Omtzigt and Pieter Grinwis to adopt two important changes to the 30% ruling in the debates on the 2024 Tax Plan.[iii] (For related coverage, see *GMS Flash Alert* 2023-249, 20 December 2023.) The first amendment provides for a gradual scaling back of the 30% ruling for incoming employees and results in a reduction in the amount of the untaxed allowance from 30 percent during the first 20 months to 20 percent in the next 20 months, and then to 10 percent in the remaining 20 months.

The second amendment abolishes the “partial foreign taxpayer” status as of 2025.

Both amendments are subject to transitional rules applying to employees already receiving a 30-percent allowance in December 2023.

At the request of both the Upper and Lower Houses of Parliament, the evaluation of the 30% ruling was brought forward from 2025 to 2024 so that a substantiated decision can be taken in the 2025 Tax Plan (if it is deemed suitable and necessary) before:

- the scaling back of the 30% ruling occurs, and
- the abolition of the partial foreign taxpayer status actually takes place.

A motion adopted by the Upper House (*Eerste Kamer*) therefore asked the government to bring the proposed evaluation of the 30% ruling forward and, based on that evaluation, present an alternative proposal in the 2025 Tax Plan that was deemed more suitable in light of the impact on the economy. The motion adopted by the Lower House asked that the skills requirement in the 30% ruling be tightened as soon as possible so that it better meets the needs of the economy and the labour market and also to explore how a training requirement for the admission of labour migrants from outside the European Union could also contribute to this.

## The 30% ruling

The 30% ruling is a scheme that offers employers the option to pay a tax-free allowance of no more than 30% of an employee’s salary to employees from abroad with specific expertise that is scarce in the Dutch labour market, and to do so for a maximum of five years. This allowance is intended to cover the additional costs these employees incur for their stay in the Netherlands, such as accommodation, travel, education, and living expenses (i.e., extraterritorial (ET) expenses). An employee must meet certain conditions to be eligible for the 30% ruling.

## SEO’s observations

- The evaluation by SEO shows that the 30% ruling has a positive effect in attracting highly-skilled migrants, partly due to the tax benefit it offers. As such, the argument can be made that the 30% ruling makes a positive contribution to the Dutch business climate. This is important because employers in the Netherlands expect that the domestic labour supply alone will not be sufficient to meet the total labour demand.
- The evaluation also shows that the salary threshold in the 30% ruling has a positive effect on the influx of highly-skilled migrants by creating simplicity and clarity.
- The evaluation further states that the 30% ruling is budget-efficient. Admittedly, the scheme does, to a certain extent, cost the government tax revenue because some of the employees who use the 30% ruling would have come to the Netherlands regardless and in that case would have paid more tax. At the same time, the scheme generates tax revenue because some of the employees who use the 30% ruling only came to live and work in the Netherlands because the scheme was in place and acted as an incentive for them. They therefore pay tax where otherwise they would not.
- The evaluation shows that the revenue generated from the 30% ruling exceeds the costs. The 30% ruling generates on average €128.5 million in net tax revenue per annum.
- The evaluation also shows that scaling back the 30% ruling to a 30 percent/20 percent/10 percent allowance is expected to cause the costs of the ruling to exceed the revenue generated by it, because it appears quite possible that fewer employees will take advantage of a scaled-back 30% ruling. According to the evaluation, the influx of highly-skilled migrants is expected to decrease by 15 percent to 20 percent if the 30% ruling is scaled back, and thus, it may be argued, scaling back could have a negative effect on the business climate.
- The evaluation also recommends using a fixed percentage throughout the entire term of the 30% ruling to reduce the administrative burden for both users of the scheme and the Dutch tax authorities. By scaling back the 30% ruling, a significant number of those using the scheme could switch to the ET expenses scheme (reimbursement of the actual expenses incurred based on expense claims, see below), as that scheme may be seen as more fiscally attractive in the event the fixed percentage is gradually reduced.

Finally, the evaluation shows that from the perspective of the scheme’s aim of creating a level playing field between employees who use the 30% ruling (considered having ET expenses) and employees who do not (considered not having ET expenses), the tax-free allowance to achieve that aim is not in proportion i.e., does not reflect reality. In most situations, the actual ET expenses are less than the fixed 30-percent allowance. It is worth noting here that according to the previous evaluation of the 30% ruling (in 2017 by research bureau Dialogic),[iv] the actual ET expenses incurred exceeded 30 percent of the income. The SEO report states that the difference is probably the result of the method of analysis used for each evaluation.

## Partial foreign taxpayer status

Under current legislation, employees who use the 30% ruling derive an additional benefit from doing so. This is because these employees can opt for the partial foreign taxpayer status in their personal income tax returns. An employee who opts for this will be treated as a nonresident for personal income tax purposes in Box 2 and Box 3.

### SEO's observations

The SEO evaluation shows that abolishing the partial foreign taxpayer status is expected to have very little impact on the influx of highly-skilled migrants, except for a small group of high-net-worth individuals. For most users of the 30% ruling, an additional tax in Box 2 or Box 3—which they may not be subject to in their country of origin—is not a tax disincentive for coming to the Netherlands. Even if the partial foreign taxpayer status is abolished, the Netherlands will still remain an attractive country to come to for the majority of employees, high-net-worth and other, due to the 30% ruling.

## ET expenses scheme

The ET expenses scheme is intended to reimburse the additional costs of staying outside the country of origin for employees who come to the Netherlands to work (the ET expenses referred to above). With regard to the reimbursement of ET expenses, employees can choose between having the actual ET expenses reimbursed on the basis of expense claims or by application of the 30% ruling (provided, of course, the conditions for this are met). The ET expenses scheme can be used for both employees who do not meet the salary threshold of the 30% ruling and employees who are eligible for the 30% ruling but choose not to use it.

### SEO's observations

The SEO evaluation shows that the ET expenses scheme works well for reimbursing rent and living expenses. Since using the ET expenses scheme involves high administrative expenses, it is not often used in practice. The analysis by SEO shows that the scaling back of the 30% ruling is expected to result in the ET expenses scheme being used more often, which will then lead to higher implementation costs for both users of the scheme and the Dutch tax authorities. The report has therefore assessed the ET expenses scheme as "partly efficient."

## Conclusion

The evaluation by SEO shows that the 30% ruling is efficient due to the positive effect it has in attracting highly-skilled migrants to the Netherlands and thus also makes a positive contribution to the business climate. According to the evaluation, that climate would be negatively impacted by scaling back the 30% ruling and thus might reduce the influx of highly-skilled migrants. Additionally, it appears that the 30% ruling's lack of predictability and stability poses a commercial risk for businesses. This could have a negative effect on investment decisions. The report shows that the partial foreign taxpayer status is neither efficient nor effective and that abolishing it will have very little effect on the numbers of highly-skilled migrants coming to the Netherlands.

The Deputy Minister of Finance has sent the evaluation by SEO to the Lower House of Parliament and has left any further substantive response to the new government. There is a possibility that new proposals could be included in the Budget Day speech in mid-September.

## Footnotes

[i] See the post on LinkedIn by SEO by clicking here. *Please note that by clicking on this link you are leaving the KPMG website for an external site, that KPMG is not affiliated with nor does KPMG endorse its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.* For the KPMG Meijburg & Co. LinkedIn post on this (in Dutch), click here.

[ii] There was a general election in November 2023, which resulted in a new government.

[iii] For related coverage, see *GMS Flash Alert* 2023-249, 20 December 2023. On subsequent developments regarding the 30% ruling, see KPMG Meijburg & Co.'s LinkedIn postings (in Dutch), by clicking here and here.

[iv] The 2017 report by Dialogic (in Dutch) may be found on that firm's website by clicking here. *Please note that by clicking on this link you are leaving the KPMG website for an external site, that KPMG is not affiliated with nor does KPMG endorse its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

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