

Enforcement of Assessment of Employment Relationships Deregulation Act (*Wet DBA*) further postponed

On February 9, 2018, the Minister of Social Affairs and Employment and the Deputy Minister of Finance informed the President of the Lower House of Parliament in a joint letter about developments concerning the Assessment of Employment Relationships Deregulation Act (*Wet deregulerend beoordelen arbeidsrelaties*; DBA Act). In the letter they write that the enforcement of this legislation will be further postponed until January 1, 2020.

Timetable until 2020

The drafting of new regulations for the labor market as agreed in the coalition agreement is a complex process, which requires amendments to labor law, tax law and social security legislation. The Cabinet aims to present a bill to the Lower House in the first half of 2019.

Extension of the concept of 'malicious parties' with effect from July 1, 2018

Enforcement is postponed until July 1, 2018, with the exception of the most serious cases of evident malice. These are situations in which parties clearly operate outside the legal framework.

As of July 1, 2018, enforcement will also focus on other malicious parties who deliberately allow a situation of evident pseudo self-employment to arise or continue. This means that the tax authorities will proceed with enforcement if all three of the following criteria are proven:

1. There is an employment relationship or deemed employment relationship.
2. There is evident pseudo self-employment.
3. There is intentional pseudo self-employment.

The tax authorities will implement the enforcement within the scope of the regular payroll tax audits.

What does this mean in practice?

Because the application of the concept of malicious parties will be extended with effect from July 1, 2018, uncertainty will arise in practice about which situations will and will not be affected by the extended application. As contracting party, it therefore remains important to monitor whether contractors are actually free to perform their activities. It is also important that contractors perform these activities on the basis of a model agreement approved by the tax authorities.

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February 2018

The information contained in this memorandum is of a general nature and does not address the specific circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.