KPMG Meijburg & Co Tax & Legal

Budget Day 2021: changes to payroll taxes

On Budget Day, September 21, 2021, the government presented the 2022 Tax Plan package to the Lower House. In this memorandum we address the most significant changes proposed for payroll tax and social security contributions. The proposals are intended to take effect on January 1, 2022, unless another date is explicitly stated. We also focus on some of the changes that have already been adopted.

1. Tax rates and tax credits in the 2022 Tax Plan
As of January 1, 2022 the rate of the first bracket will be reduced by 0.03%. The top rate of 49.50% applying in 2021 will remain unchanged in 2022.

The rates for employees who will not yet reach the state pension age in 2022 (in 2022: 66 years and 7 months) are as follows:

Taxable salary of more than	But not more than	Tax rate	National Insurance Contributions	Combined rate
	EUR 35,472	9.42%	27.65%	37.07%
EUR 35,472	EUR 69,398	37.07%	-	37.07%
EUR 69,398	-	49.50%	-	49.50%

The general tax credit
The maximum general tax credit will be increased by EUR 37 compared to 2021. Taking account of indexation, the maximum general tax credit will then be EUR 2,874 as of January 1, 2022. The amount of the general tax credit is dependent on a person's income. The general tax credit is gradually reduced for income of EUR 21,317 and above. For income of EUR 69,398 and above, the general tax credit is nil.

The labor tax credit
As of January 1, 2022 the maximum labor tax credit is EUR 4,260. The amount of the labor tax credit is dependent on a person's income. Up to employment income of EUR 36,649, the higher the income the greater the labor tax credit. The labor tax credit is gradually phased out for employment income of EUR 36,649 and above. For employment income of EUR 109,346 and above, the labor tax credit is nil.

Income-related contributions for health insurance under the Health Insurance Act
As of January 1, 2022, the income-related contributions for health insurance under the Health Insurance Act payable by the employer will be reduced from 7.00% to 6.70%. As of January 1, 2022, the maximum contribution base for the Health Insurance Act is EUR 59,703.

2. Changes announced in the 2022 Tax Plan package

Changes to the work-related costs rules

Employers can use the fixed exemption in the work-related costs rules to give employees untaxed reimbursements and provisions.

1. Codification temporary increase of fixed exemption 2021
As a result of the corona crisis, the fixed exemption was increased in 2020 and 2021 from 1.7% to 3% of the first EUR 400,000 of the payroll for tax purposes. This increase offers employers who have the financial scope to do so, the option of giving their employees additional reimbursements and/or provisions. The 2022 Tax Plan provides for the codification of the increase for the year 2021. The increase will end as of the 2022 calendar year. The fixed exemption for the 2022 calendar year amounts, per employer, to 1.7% of the payroll for tax purposes up to and including EUR 400,000, with 1.18% on the remainder of that payroll.

2. Specific exemption working from home costs
The 2022 Tax Plan proposes a specific exemption for reimbursing certain working from home (WFH) costs. The costs for internet and setting up a workplace at home are not included in this amount. These costs may be paid untaxed on top of any WFH allowance, provided the legal conditions for this are met.

The WFH allowance is a maximum of EUR 2 per WFH day and is based on research by the NIBUD (the National Institute for Family Finance Information). The allowance covers additional costs for water and electricity use, heating, coffee, tea and toilet paper. The specific exemption may also be applied if an employee works part of the day from home. In that case, there are two matters to consider:

1. It is not possible to pay a WFH allowance if it overlaps with the specific exemption for a commuting travel allowance (EUR 0.19 per kilometer or reimbursement of the actual costs of public transport). In that case, employers may apply either the specific exemption for the WFH allowance or the specific exemption for commuting.
2. If, on such a 'combined working day', an employee commutes to their permanent place of work at the employer's expense (for example, with a public transport pass or a company car provided by the employer), the employer cannot pay a specific exempt WFH allowance for that day.

The 128-day rule for the fixed travel allowance for commuting has been amended. The amendment means that if employees work (partially) from home on a permanent basis, the 128-day rule will apply pro rata. A permanent change should be documented. The above also applies to employees who work part-time. The amended rule will also apply to the WFH allowance.

The amount of EUR 2 per WFH day will be inflation-adjusted annually as of 2023.

Increase in the addition to income for private use of company electric cars
As part of the Climate Agreement agreed by the government on June 28, 2019, the reduced addition to income for company electric cars (zero-emission cars) will gradually be increased as follows from 2020 for cars with a motor vehicle registration in the relevant years for a maximum period of 60 months:

Year	Addition to income	Maximum list price	Addition to income above maximum list price
2021	12%	EUR 40,000	22%
2022	16%	EUR 35,000	22%
2023	16%	EUR 30,000	22%
2024	16%	EUR 30,000	22%
2025	17%	EUR 30,000	22%

From 2026 onwards, the same addition to income applies to a company electric car as to an ordinary company car. An exception applies to hydrogen-powered cars and solar cars. For these cars, the reduced addition to income percentage applies to the full amount of the list price.

Introduction new taxation moment share option rights
The 2022 Tax Plan gives a new interpretation to the manner in which employee share option rights are included in payroll tax and social security contributions. The change applies to all employers. It means that the current facility for employers with an R&D start-up declaration will be canceled.

Under current legislation, the taxation moment for share option rights is the date on which the options are exercised. The problem that arises, especially for start-ups and scale-ups, is that there is not always (sufficient) liquid assets available to pay the tax due on the exercise of the option. In that case, based on the bill, an employee can opt to defer the taxation moment. Taxation will then take place at the time the acquired shares become tradable. ‘Become tradable’ is defined as the moment on which any sale restrictions are lifted and the employee may sell the shares they acquired upon exercising the option. The employee retains the choice to have taxation take place at the moment the share option right is exercised.

To prevent improper use and long-term deferral of taxation, additional rules have been imposed with regard to shares that cannot be traded, that become only partly tradable or that become fully tradable. If an employee is not allowed to sell the acquired shares due to a contractual restriction, the taxation moment will be deferred for a maximum of five years after the IPO of the company in which the shares are held. If the company is listed, the deferral is a maximum of five years after the share option right was exercised. Benefits such as dividends that are paid in the meantime, are taxed as salary.

Extension of normative salary for innovative start-ups
A tax concession for the normative salary applies to innovative start-ups. This salary may be determined at the statutory minimum wage. This concession will be extended until January 1, 2023, because the evaluation of this scheme has not yet been completed. Substantial interest holders in a start-up with an R&D start-up declaration may therefore still determine their salary for tax purposes in 2022 at the reduced normative salary.

Research and development (R&D) remittance reduction
The Tax Plan includes the following changes relating to the research and development (R&D) remittance reduction.

1. The application, notification and crediting systems will be simplified as of 2022 by allowing that if more than one R&D declaration is applied for and issued, the periods covered by the R&D declarations may overlap. This will make it possible for businesses to better respond to new R&D projects and to increase the additional expected hours, costs or expenses for already awarded R&D projects sooner.

2. In future, all R&D declarations will cover all the remaining calendar months of a calendar year. As a result of this change, it is no longer necessary to make a distinction in the notification between the hours, costs and expenses related to the various R&D declarations, but an annual total will suffice.

3. For each tax return period covered by an R&D declaration, an R&D withholding agent may determine themselves which part of the amount of the R&D remittance reduction awarded to them can be deducted. The amount to be deducted is a maximum of the amount of the payroll tax and social security contributions payable in that tax return period and this amount should not have been taken into account in a previous tax return period.

3. Previously adopted changes with effect from 2021

Job-related investment allowance
The government has decided not to introduce, with retroactive effect to January 1, 2021, the Job-related Investment Allowance (*Baangerelateerde Investeringskorting*; BIK), because the European Commission may regard the BIK as prohibited State aid. The government wished to use the BIK to stimulate companies to make investments and to retain jobs.

Instead of the BIK, the government will accommodate companies by reducing the contributions for the General Unemployment Fund (*Algemeen werkloosheidsfonds*) (AWF contribution) for all salaries paid as of August 1, 2021 and as of August 16, 2021 for employers that file four-weekly payroll tax returns. The low contribution on the salary of employees with an open-ended contract will be reduced from 2.7% to 0.34%. The high contribution percentage for other employees will be reduced from 7.7% to 5.34%. The new percentages will apply through to December 31, 2021.

4. Announced tax changes that are not part of the 2022 Tax Plan

Lump Sum Payment, Early Retirement Scheme and Leave Savings Scheme Bill
On January 12, 2021 the Lump Sum Payment, Early Retirement Scheme and Leave Savings Scheme Bill (*Wetsvoorstel bedrag ineens, RVU en verlofsparen*) was adopted by the Upper House of Parliament. This bill is part of the Pension Agreement. In this bill the government elaborates on three of the agreements made: more freedom of choice in the use of the pension (lump-sum payment), more options for early retirement (easing of the early retirement levy; *RVU-heffing*) and more scope to utilize the tax relief for saving leave for the purposes of early retirement (leave savings scheme). For more information about this please refer to our previous memorandum. The easing of the RVU levy and more scope for saving for leave already applied as of January 1, 2021. The date on which the lump sum option was to take effect has been postponed by one year to January 1, 2023.

Broadening of concept of 'person required to keep records'
As of January 1, 2022 the concept of the 'person required to keep records' will be broadened for the purposes of the Dutch Tax and Customs Administration. This concerns the obligation for the periodic reporting of data and information from the IB-47 form, with as reference the Citizen Service Number (*burgerservicenummer*; BSN). The new reporting obligation will apply to two groups that are required to keep records: Firstly, withholding agents that make payments to an individual for activities and services performed for the withholding agent itself or for a company related to the withholding agent. Secondly, collective management organizations (*collectieve beheersorganisaties*; CBOs). These are organizations that act on behalf of a group of beneficiaries to collect payments for a copyright or neighboring right and that distribute the payments to those beneficiaries; such actions being taken on a not-for-profit basis. The new reporting flow will actually only take place for the first time as of January 1, 2023. The information for a certain calendar year must be provided after the end of that calendar year and no later than on January 31 of the following calendar year. This should give both the Dutch Tax and Customs Administration and the relevant persons required to keep records sufficient time to set up the new process in a timely and adequate manner. The new reporting flow means that the entire IB-47 form process is not included in this measure. The current process with the IB 47 form – thus without the request for the BSN – will, in the meantime, be maintained for payments not falling under the new reporting obligation.

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