



# Thinking beyond borders: Management of extended business travelers - The Netherlands



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**01**

**Key message**

An individual's liability to Dutch personal income tax is determined by residency status for tax purposes and the source of income derived by the individual. Personal income tax is levied at progressive rates on an individual's taxable income for the calendar year, which is calculated by subtracting allowable deductions from the total assessable income. Extended business travelers can be taxed on employment income relating to their Dutch workdays. Dutch personal income tax can be triggered from the first working day in the Netherlands, since the Netherlands has adopted the economic employer approach in interpreting the term employer included in the dependent personal services paragraph in tax treaties.

# 1 Key message

A person who is a resident of the Netherlands is assessable on worldwide income. Non-residents are generally assessable on income derived directly or indirectly from Dutch sources.

**02**

# **Income tax**

# 2 Income Tax

## 2.1 Liability for income tax

An individual's liability to Dutch personal income tax is determined by residency status. A person can be a resident or a non-resident for Dutch tax purposes.

Based on Dutch tax law, tax residency is determined based on the facts of each case. No minimal presence days threshold applies. The following facts are taken into account (not limitative):

- the nature of the stay in the Netherlands
- the length of stay
- where the family resides
- the individual's center of social and economic interests
- the individual's intentions
- whether the individual is registered in a municipal register
- the location where bank accounts are held
- the location where the individual's assets are located
- the terms of their employment
- etc.

The tax courts look at whether the individual has durable ties of a personal nature with the Netherlands. The term durable does not mean permanent; the closeness of the tie is more important. Ties of a personal nature exclude pure business considerations; personal circumstances, such as the maintenance of an abode, play a more defining role. Residence abroad does not, in itself, exclude the possibility of being considered a tax resident in the Netherlands. However, dual residence resulting in double taxation may be resolved under the terms of a tax treaty.

Business travelers are usually not considered a resident for Dutch tax purposes.

The general rule is that a person who is a resident of the Netherlands is assessable on worldwide income. Non-residents are in principle assessable on income derived directly or indirectly from Dutch sources.

Employment income is generally treated as Dutch-sourced income to the extent that the income is attributable to duties physically performed in the Netherlands. In specific situations the scope may be extended.

## 2.2 Tax trigger points for employment income

In most tax treaties, the dependent personal services article states that the employee will be taxed in the employee's home country/jurisdiction if the employee's stay in the Netherlands does not exceed 183 days (in a calendar year or 12-month rolling period). Other conditions are that the salary is not paid by, or on behalf of, a Dutch employer during that period, and that the employment costs should not be attributable to the foreign employer's Dutch permanent establishment (PE) for corporate tax purposes based on transfer pricing regulations. Because the Netherlands has adopted the economic employer approach in interpreting the term employer, the employee could be taxable from the first working day in the Netherlands.

According to a Resolution regarding the economic employer concept published at the end of 2023, a distinction on the definition of economic employer is to be made between tax treaties concluded before 22 July 2010 and tax treaties concluded as of 22 July 2010.

For tax treaties concluded before 22 July 2010 the Supreme Court's ruling from 2006 should be considered. According to the Supreme Court's ruling, for the application of the tax treaty, the employer:

- has the authority to instruct the employee; and
- bears the benefits and the risks of the employee's employment; and
- is responsible for the result of the employee's employment; and
- bears the salary costs (direct or indirect through an internal recharge – this recharge should be specific and individually traceable).

For tax treaties concluded as of 22 July 2010, the OECD Commentary published in 2010 is relevant.

There is, in principle, no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in the Netherlands. If certain conditions are met, in treaty situations, intercompany assignees can be exempt from Dutch income tax if they do not exceed 60 working days in the Netherlands per 12-month rolling period, even though the conditions for economic employership are met.

To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability.

## 2.3 Types of taxable income

For extended non-resident business travelers, generally only employment income attributable to Dutch duties is subject to Dutch income tax.

Extraterritorial costs (i.e. incremental expenses effectively connected with the stay outside the home country/jurisdiction) may be reimbursed tax-free.

A Dutch expatriate concession, the "30 percent-ruling", may be applicable depending on the circumstances of the individual.

## 2.4 Tax rates

Taxable income is subject to graduated tax rates ranging from 9.32 percent to 49.50 percent for both residents and non-residents.

Net taxable income (euros (EUR))	Income tax (percent)	National insurance (percent)	Total (percent)
EUR 0 – EUR 38,098	9.32%	27.65%	36.97%
EUR 38,098 – EUR 75,518	36.97%	Nil	36.97%
EUR 75,518 – higher	49.50%	Nil	49.50%

Source: KPMG Meijburg & Co in The Netherlands, 2024.

If the extended business traveler is not covered by Dutch social security, for taxable income up to EUR 38,098, the tax rate is 9.32 percent.

**03**

# **Social Security**



# 3 Social Security

## 3.1 Liability for social security

The Dutch social security system consists of the national insurance programs, the national healthcare insurance and the employee insurance programs. Extended non-resident business travelers may be subject to Dutch social security under domestic legislation but may then be exempt under application of European Union (EU) rules or bilateral totalization agreements. A certificate of coverage/A1 is then required.

**04**

# **Compliance obligations**

# 4 Compliance obligations

## 4.1 Employee compliance obligations

Tax returns are due by 1 May following the tax year-end, which is 31 December. An extension is available in most cases where a tax advisor is involved. Tax returns must be filed by non-residents who earn Dutch-sourced income and are therefore liable for paying Dutch income tax.

## 4.2 Employer reporting and withholding requirements

If an extended business traveler's employment income is subject to Dutch income tax, the employer generally has a withholding obligation.

**05**

# **Immigration**

# 5 Immigration

## 5.1 Work permit/visa requirements

Prior to traveling to the Netherlands, extended business travelers should consider if they require an entry visa for the Netherlands, how long they are entitled to stay in the Netherlands and if a work permit may be required.

## 5.2 Immigration compliance

Citizens from EU/EEA countries/jurisdictions and Switzerland don't require an entry visa, work permit or residence permit for the Netherlands. Only in case of a stay exceeding 4 months, they will need to register in the population registry.

Citizens from outside the EU/EEA will need work permission for most of the work activities carried out in the Netherlands. There are a few work permit exemptions, however this needs to be assessed carefully in order to avoid high fines.

Often an entry visa is required as well, and in case of a stay exceeding 3 months they will also need to obtain a Dutch residence permit.

The category of visa/permits that should be applied for is determined based on the nationality and the nature and duration of the business traveler's activities in the Netherlands.

## 5.3 Posted workers – employer compliance

The EU Posted Worker Directive and Enforcement Directive contains rules to ensure that intra EU assignments are of temporary nature, that self-employment is not fake and that the sending company is genuine. These rules have been transposed in the national act "Wet arbeidsvoorwaarden gedetacheerde werknemers in de Europese Unie" or WagwEU. WagwEU contains the checks which the authorities may apply to determine if an employee falls under the scope of the act.

To help employers comply with the legislation a central website [www.postedworkers.nl](http://www.postedworkers.nl) has been launched in English, German and Dutch, via which the sending company should register the assignee, and which shows all the relevant conditions for companies to register.

The same website links to the online reporting tool through which the information should be submitted to the competent authorities by the sending company. This online reporting tool was implemented on 1 March 2020 and with effect from this date a notification obligation is implemented for any new or extended postings.

While the sending company must submit the notification prior to the start date, the receiving company should in turn verify if the sending company has complied with its reporting obligation using the same online reporting tool.

Non-compliance will be fined. The penalties for non-compliance for the sending company are linked to the number of posted workers and vary from EUR 1,500 up to EUR 4,500. Failing to check the notification by the receiving company may lead to a EUR 1,500 fine. Fines may be lowered or raised depending on the frequency of the violation and its severity.

## 5.4 Other immigration considerations

Extended business travelers in need of a Dutch tax and social security number ('BSN') may under conditions register in the population register as a 'non-resident'. Their BSN will be issued after successful registration.

**06**

**Other issues**

# 6 Other issues

## 6.1 Double taxation treaties

The Netherlands has concluded tax treaties with more than 95 countries/jurisdictions.

## 6.2 Permanent establishment implications

There is the potential risk that a PE for corporate tax purposes could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has. When the foreign employer has a PE in the Netherlands, the employee is subject to Dutch income tax if the remuneration is attributable to the PE. In this respect, it is not relevant whether the costs are actually borne by the PE.

## 6.3 Indirect taxes

The Netherlands has adopted the (pan-European) value-added tax (VAT) system. Goods and services will trigger a VAT tax rate of 0 percent, 9 percent, or 21 percent (exemptions could apply as well). Special rules apply if services or goods are provided or shipped internationally.

## 6.4 Transfer pricing

The Netherlands has a transfer pricing regime. A transfer pricing issue could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

## 6.5 Local data privacy requirements

The Netherlands has data privacy laws.

## 6.6 Exchange control

The Netherlands do not restrict the flow of euros or other currency into or out of the country/jurisdiction, although certain reporting obligations are imposed to control tax evasion and money laundering.

## 6.7 Non-deductible costs for assignees

One of the most important non-deductible costs for assignees include contributions to non-Dutch pension funds. Generally, in case there is a wage tax withholding obligation in the Netherlands, a foreign pension plan is considered as a non-qualifying plan. As a result, employer's contributions are considered taxable wage and employee's contributions non-deductible. There are possibilities to obtain deductibility (a corresponding approval procedure). Contributions can then be deductible for a period of 60 months (120 months under certain tax treaties).

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