



# Year-end pointers for employers

Now that we are nearing the end of the year, we would like to provide you with some insight into the points of attention for 2023 with our Year-end pointers. As a number of the legislative changes proposed in the [2024 Tax Plan](#) will enter into force on 1 January 2024, it is important to consider the tax consequences of these plans in time. Which new obligations will apply next year? And what should you take into account before the end of this present year?

Your [advisor](#) would be happy to discuss which pointers are of particular importance for you.

**Please note:** *the Dutch Senate has yet to approve a number of proposals. It is possible that certain measures will be implemented in a revised form, or not at all.*

## Table of Contents

- **General pointers for employers**
- **International employment**
- **Employers & Mobility**
- **Labour Costs Arrangement (WKR)**

## General pointers for employers

### Get your administration in order

As soon as possible, make sure that the financial administration and the wage administration are in alignment. If it becomes clear that certain remunerations have for example been paid, but are not included in the wage administration, you can still pay the wage tax due. The wage administration for 2023 must be finalised before submitting the wage tax return for the last wage period of the year. Points of attention in this regard are:

- *a copy of the identification document (ID) of each employee*
- *invoices for benefits in kind and other provisions*
- *declarations for costs which have been reimbursed*

It is not permitted to ask temporary agency workers for a copy of their ID. Instead, ensure that you have documented matters such as the type and number of the ID as well as the date of expiration. You should also make sure that you have accurately documented the wages and holiday bonuses paid to temporary agency workers as well as the number of hours that they have worked.

### Check sector allocation & tax return period 2024

You will receive a sector allocation (by means of the 'beschikking gedifferentieerde premie Whk') from the Dutch Tax Authorities at the end of the year. Check whether your sector allocation for 2024 is accurate and still matches your business activities. Do you want to change your wage tax return period from 2024 onwards? If so, do this before

14 December 2023, using the form 'Wijzigingen aangiftetijdvak loonheffingen'.

Don't forget the notice period for temporary contracts Do you have any temporary employment contracts that end on 31 December 2023? If so, be sure to inform the employee on time whether or not you intend to prolong the contract. For contracts lasting longer than six months, a notice period of one month applies. If you do not give notice of whether or not you wish to prolong the contract on time, the employee can claim damages. Therefore, you should inform your employee before 1 December!



**Pointer:** Keep track of which temporary contracts will expire in the course of 2024 and take note of the deadlines for the notice periods.

### Create a transition compensation provision

Do you anticipate having to lay off an employee, for example due to poor performance, a restructuring or a reorganisation? In the event that you would be required to pay transition compensation, it may under certain circumstances be possible to form a provision for this. In this regard, it is important that the expenditures are the result of facts and circumstances from before the balance date (and which can also be allocated to that period), and that there is a reasonable amount of certainty that you will have to pay transition compensation in the future. Make sure that you document the substantiation for this properly, having consulted your advisor at Baker Tilly.

### Better protection for whistle-blowers

The 'Wet Huis voor Klokkenluiders' has been replaced by the 'Wet bescherming klokkenluiders' (Whistle-blowers' Protection Act). This new act aims to provide a safe environment in which employees can report abuses without having to fear negative consequences. The act entails significant changes. For example, stricter conditions apply with regard to the external reporting procedure. Also, it is possible to file an external report directly. All medium-sized employers with 50-249 employees must comply with the new requirements for the internal reporting procedure no later than 17 December 2023. Employers with 250 or more employees however must comply with these requirements immediately. Please contact your Baker Tilly advisor for more information on this matter.

## International employment

### Withholding obligation within a group

Are you part of a group with group entities abroad? Under certain conditions you can transfer the wage tax withholding obligation to the Dutch part of the group. In this way you can prevent a foreign member of the group from being confronted with a Dutch withholding obligation and the administrative obligations that come with it. For this, you should normally submit a request to the Dutch Tax Authorities before 1 January 2024.

### Request an A1-declaration & extend work permits

If you have employees who work in the Netherlands but live across the border (within the European Union), it is important to determine their position for social security purposes. You can obtain certainty on this point with a so-called A1-declaration, which is generally valid for a period of 12 months. Assess whether any existing

A1-declarations will expire and, if needed, request a new declaration so that you are certain of whether or not the employee is covered by social security in the Netherlands in 2024.

As of 1 July 2023, a number of European member states (including the Netherlands) concluded a Framework Agreement on Social Security, in order to address the increasing demand for hybrid working for frontier workers. The framework allows frontier workers to remain covered by the social security of their country of work, for instance the Netherlands, under certain conditions. Check whether any employees meet these conditions and request an A-1 declaration if needed.

In addition to this, assess whether you employ any workers who have either a work permit or a combined permit for residence and work. These permits are only valid for a limited period of time, so it may be necessary to request an extension.

### 30%-ruling and extraterritorial costs

If you recruit staff from abroad, it may be possible to apply for the 30%-ruling for certain employees with specific expertise which is scarce on the Dutch labour market. Under this scheme, you can pay out 30% of the gross wages tax free, in order to cover extraterritorial costs. Alternatively, you can reimburse the actual extraterritorial costs (instead of the lump sum of 30%). This choice needs to be made in the first wage tax return period of the relevant calendar year.



**Pointer 1:** From 1 January 2024 onwards, the 30%-scheme will be capped at the so-called 'Balkenende norm'. Transitional law applies for employees who made use of the 30%-scheme in the last wage period of 2022.

Additionally, the Dutch House of Representatives has approved further changes to this scheme. If the Dutch Senate also approves the changes, the 30%-ruling will be scaled down from 1 January 2024 onwards. In addition to capping the 30%-ruling at the Balkenende-norm, the lump sum reimbursement (currently 30% of the gross wages) will decrease during the duration of a ruling. For the first 20 months of the duration of a ruling the exemption will be 30%, the second 20 months will have a 20% exemption, and the final 20 months will have a 10% exemption. It remains possible to reimburse the actual extraterritorial costs rather than applying the lump sum exemption. The possibility of opting for treatment as partially non-resident taxpayer will also be abolished. The means that employees with a 30%-ruling will pay Dutch personal income tax on their worldwide income, including foreign Box 2 and Box 3 income.

**Pointer 2:** Transitional law applies for cases in which the 30%-scheme was applied in the last wage period of 2023. If you intend to hire a new employee in early 2024, it may be worth having the employment start in 2023, in order to be able to make use of the transitional law. Conditions apply: your advisor would be happy to discuss the possibilities with you.

**Pointer 3:** Due to these changes, it may be even more interesting to analyse whether a reimbursement of the actual extraterritorial costs is more attractive financially than the 30% lump sum.



## Employers & Mobility

### Beware of private-use kilometres of a company car

If a company car, which has been provided to an employee, is also used for private purposes, an additional taxable benefit may apply ('bijtelling'). In 2023, this was 22% of the list price of the car. Under certain conditions, the additional taxable benefit for electric cars may be lower. If an employee has less than 500 private-use kilometres and provides you with a copy of the 'Verklaring geen privegebruik auto' ('Declaration of no private use of car') from the Dutch Tax Authorities, no additional taxable benefit applies. Check whether your employee also meets the conditions in 2024.

**Please note:** *the employee must demonstrate that there are fewer than 500 private-use kilometres in a particular year, for example by means of mileage records. If the employee cannot demonstrate this, if challenged, or if the employee exceeds the 500-kilometre threshold, there will be an additional taxable benefit over the whole calendar year. Are you not in possession of a Declaration of no private use of car? In order to avoid the additional taxable benefit, you as the employer must be able to show that the distance driven by the employee for private purposes does not exceed the maximum amount of 500 kilometres per year.*



**Pointer:** Bring the importance of documenting private-use kilometres and the 500-kilometre limit to the attention of your employees. If the limit is exceeded in the last week of the year, this will have significant financial consequences for the employee!

### Ensure that fines are dealt with on time

If an employee has incurred traffic fines with a company car, it may be the case that you pay the fine upfront and then recover the costs from your employee later. If so, make sure that you recover these costs in 2023. If you pay a fine and do not recover it from the employee, the amount of the fine may constitute wages. This means that you could risk an additional wage tax assessment. Additionally, make sure that this option is explicitly documented in the labour agreement or a company car arrangement. Certain steps may be required in order to offset fines against an employee's wages.

### Terminating a lease agreement

Will an employee with a leased car be leaving your company next year? It may be worth terminating the lease agreement with the leasing company before 1 January 2024. If the employer pays the termination fine and recovers it from the employee, the employee can deduct the amount from the additional taxable benefit, in the form of an own contribution ('eigen bijdrage'). Note that this must be explicitly agreed upon with the employee.

**Please note:** *the additional taxable benefit cannot be a negative amount.*

### Work-related personal-mobility scheme: reporting and administrative obligations as of 1 July 2024

Under the 'Normative Regulation Work-Related Personal-Mobility' ('Normerende Regeling Werkgebonden Personenmobiliteit'), employers with over 100 employees will soon be required to report annually on their employees' CO<sub>2</sub>-emissions from commuting and business travel. The reporting obligation and the administrative will enter into force on 1 July 2024.

### Increase the normal travel allowance

The maximum tax-free reimbursement for business mileage (including commuting) is expected to be increased to EUR 0,23 per kilometre as of 1 January 2024. Some contracts refer to this fiscal maximum. In those cases, you apply the increased exemption from 2024 onwards. Do your contracts refer to a specific amount? If so, assess whether it is desirable to adjust this amount.



**Pointer:** The increased exemption also applies to entrepreneurs and recipients of income from other activities. They too may deduct EUR 0.23 per business kilometre if they make use of a private mode of transport.

### Pay attention to public transport travel allowances

Expenses incurred by employees for a public transport pass may currently be provided (in kind) or reimbursed free of tax insofar as it concerns business travel. Instead, an employer may choose to make a public transport pass available, in which case private use is not taxed if the public transport pass is also used for business travel. As of 2024, both schemes are to be replaced by a single new scheme. Under the new scheme, it does not matter in what way the public transport pass is offered by the employer. The public transport pass can be provided, reimbursed or made available tax free, as long as it is at least partially used for business travel (including commuting). Assess whether you wish to adjust your current travel expense allowance as of 2024. Be sure to take into account the relevant steps, decisions and documentation.

## Labour Costs Arrangement (WKR)

### Check and use the remaining discretionary margin

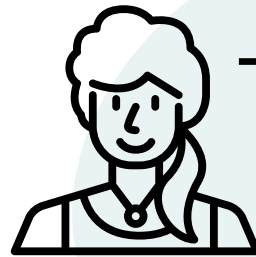
For certain reimbursements and provisions in kind to employees, specific exemptions apply for wage tax purposes. If no exemption applies, a reimbursement or provision in kind can be included in the discretionary margin ('vrije ruimte') of the 'Labour Costs Arrangement' ('werkkostenregeling' or 'WKR'). Within the discretionary margin, you can offer your employees reimbursements and provisions in kind, free of tax. Have you not used up all of your discretionary margin? Perhaps you could use it to surprise your employees with an extra special Christmas gift, or to pay out the usual bonus (tax free) as a net amount under the discretionary margin. Take careful note of the conditions which apply in this respect. In 2023, the discretionary margin was temporarily increased to 3% of the wage sum up to EUR 400,000, and 1.18% of the wage sum above that amount.

**Please note:** the temporary increase of the discretionary margin will end at the end of this year. As of 2024, the discretionary margin in the WKR will be reduced from 3 to 1.92% of the wage sum up to EUR 400,000. The percentage for the wage sum above that amount will remain 1.18%. This effectively means that there is less discretionary margin, and less room for tax-free reimbursements by the employer. Also, the final levy of 80% may be reached sooner.

**Pointer 1:** Are you organising a Christmas party? If this party is held at the workplace, this will not reduce the discretionary margin. However, if the Christmas party is expanded to include a meal, a lump sum amount of EUR 3.55 per meal must be taken into account for the WKR.

**Pointer 2:** Check whether it is advantageous to apply the group arrangement.

**Pointer 3:** Will you be organising a New Years party in 2024? By doing this at the workplace rather than an external venue, you can prevent that a large part of the discretionary margin for 2024 is immediately used up.



Our Employment Advisory experts would be happy to explain how to make optimal use of the discretionary margin in the WKR.

[Contact our advisors here!](#)

### Make agreements on working from home

Employers can grant employees a tax-free reimbursement for working from home, to a maximum of EUR 2.15 (2023) per day worked from home. If there is a structural pattern of working from home, a fixed reimbursement could also be agreed upon.

**Please note:** if a tax-free reimbursement for working from home is paid for a particular day, it is not possible to also pay a tax-free reimbursement of the costs of commuting from home to work on that day.



**Pointer:** Do you not yet provide a working-from-home reimbursement? If so, you could consider whether you want to start doing so. Please ensure correct documentation and administration.



[Read more about our Year-end pointers for private individuals, entrepreneurs and businesses here.](#)

This overview was written with due care and attention, based on the legislative proceedings until 28 October 2023. This overview is intended to be general in nature and should not be construed as specific advice or a comprehensive overview of all changes. A number of topics, pointers, measures and legislative proposals were not included in this overview. Please note: several measures have not yet been finalised. It is possible that they may be changed during the legislative process. Discuss what the consequences of the proposed changes are for your situation with your advisor.