

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 2022, with our Year-end pointers. On [Budget Day](#), the cabinet presented the 2023 Tax Plan. As part of the proposed legislative changes will enter into force on 1 January 2023, it is important to consider the tax consequences of these plans on time. Which new obligations will apply next year? And what should you take into account before the end of this present year?

If you have any questions about these pointers, [your advisor](#) would be happy to discuss which ones are of particular importance for you.

Please note: the Dutch Senate has yet to approve a number of proposals. The likelihood of changes is nevertheless small.



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 2022 must be finalised before submitting the wage tax return for the last wage period of the year. Points are 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 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 2023

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 2023 is accurate and still matches your business activities.

Do you want to change your wage tax return period from 2023 onwards? If so, do this before 14 December 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 2022? If so, inform the employee 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 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 2023 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.



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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 go with it. For this, you should normally submit a request to the Dutch Tax Authorities before 1 January 2023.

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 2023.

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 rules will apply for employees who made use of the 30%-scheme in the last wage period of 2022. It may be worth hiring an expat in December 2022 rather than in 2023, and applying for the 30%-ruling on time.

Pointer 2: Due to the cap, it may be even more interesting to chart whether a reimbursement of the actual extraterritorial costs is more attractive financially than the 30% lump sum.



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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 2022, 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 2023.

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 1: 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!

Pointer 2: Are you intending to replace a company car with a new electric car? By doing this in 2022, you can benefit from a 6% reduction of the additional taxable benefit for private-use, with a maximum of EUR 2,100 per year. In 2023, the maximum reduction will be EUR 1,800 per year. In the case of an electric car of which you are the first user, the lower percentage for the additional taxable benefit will apply for a period of sixty months after the first admission of the car.

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 2022. 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.

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 2023. 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.

Employers & Mobility

Postponement work-related personal-mobility scheme

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' CO2-emissions from commuting and business travel. The introduction of this reporting obligation and the administrative obligation that goes with it, has for now been postponed from 1 January 2023 to 1 July 2023.



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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'). In 2022, the discretionary margin is calculated as 1.7% of the wage sum up to EUR 400,000, and 1.18% of the wage sum above that amount.

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.

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 3.35 per meal must be taken into account for the WKR.

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

Pointer 3: In 2023, the discretionary margin will be increased to 3% over the first EUR 400,000 of the wage sum for tax purposes. Will you be organising a New Years party in 2023? By doing this at the workplace rather than an external venue, you can prevent that a large part of the discretionary margin for 2023 is immediately used up.



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Labour Costs Arrangement (WKR)

Make agreements on working from home

Since 2022, employers can grant employees a tax-free reimbursement for working from home, to a maximum of EUR 2 per day worked from home. It is expected that in 2023, this tax-free remuneration for working from home will be indexed at EUR 2.13 - 2.15 per day that an employee works 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 employers and private individuals [here](#).

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