Announced amendments to relevant laws and regulations on personnel and labour

The closure of the calendar year and the start of the new calendar year entails a great deal of work for employers. To help you get started, we are sending you this Wages and Salaries Service Letter, which lists a number of actions that might need to be taken before the close of this year. We then guide you through the changes in laws and regulations that are expected to come into force in 2024 and thereafter. This will enable you to start the new year well prepared.

The substance of this service letter is based on information available as at 19 November 2024.

End of year 2024

New in 2024

Statutory minimum hourly wage

Until 1 January 2024, there was a statutory minimum wage per month, based on the law. As a result, the minimum hourly wage depended on full-time working hours in a given sector. From 1 January 2024, a statutory minimum hourly wage will apply. This means that at least the minimum hourly wage must be paid for each hour worked. As from 1 July 2024, the statutory minimum wage for employees aged 21 and over is €13.68 gross per hour.

State pension age

The state pension age for 2024 is set at 67 years. That is a two-month increase from 2023. The state pension age is important, among other things, for the termination of the obligation to pay for the mandatory unemployment and occupational disability employee insurance schemes (WW and WAO/WIA). The state pension age will remain at 67 until 2027. In 2028, the state pension age will increase again by three months (to 67 years and three months), and this age will remain fixed for 2029 as well.

Tips for end of year 2024

Finalisation of work-related costs scheme

If in the context of the work-related costs scheme (WKR) you are obliged to pay a final levy for the calendar year 2024, you must declare this final levy in the payroll tax return no later than in the second period of 2025 (i.e. February 2025). Does your organisation have a General Exemption that is not (fully) used? Any remaining General Exemption in 2024 cannot be transferred to 2025. However, you could bring forward certain allowances or benefits or provide them later.

The current way of checking by the Tax Authorities, with a statistical sampling method, can have very unpleasant consequences. An incorrectly booked receipt of a few dozen euros may lead to an additional levy and possibly fines of tens of thousands of euros. If necessary, we advise you to adjust your administrative setup. Our data analysis tool 'Outlook on the WKR' may offer the necessary insights for making your organisation WKR-proof. At many organisations, we also see the work-related costs scheme as a (key) risk in the Tax Control Framework. A change in the General Exemption may affect the Tax Control Framework in the form of risks or opportunities.

Do you have any questions about the Tax Control Framework or about our data analysis tool 'Outlook on the WKR'? Feel free to contact your contact person at BDO or one of our payroll tax specialists. They will be happy to think along with you. The workshops on the work-related costs scheme are also still taking place. Visit our website for more information. If you need customisation, we will also be happy to help you.

Application of the group scheme

The General Exemption is calculated separately for each withholding agent, unless withholding agents apply the so-called group scheme for the work-related costs scheme. If the group scheme is applied, the General Exemption is calculated by adding together the wage bills of the withholding agents that are part of the group. The General Exemption is then calculated based on the aggregate wage bills for tax purposes. Please note that when the group scheme is applied, the 1.92% (2024) step-up percentage is only taken into account once for the calculation of the General Exemption. As the end of 2024 is drawing near, this may be a good time to consider whether or not the application of the group scheme might be of interest to your organisation.

Year-end assessments

The appraisal interviews often take place traditionally at the end of the year. It is important to record the assessments in writing and, in addition, to utilise this moment to start working with employees whose performance is below the desired level. This is because if not enough proactive action is taken, this may have negative consequences in the longer term, for example for a possible dismissal procedure. Should it be necessary, then the start of a new year is a good time to start working on an improvement process.

Prevent excessive accumulation of leave by employees

In accordance with the law, statutory holidays (four times the number of working hours per week) lapse six months after the end of the calendar year in which the entitlement was acquired. Holidays over and above the statutory minimum will only become time-barred after a period of five years. This period starts running again after the end of the calendar year in which the holidays were accrued. An applicable CLA and/or written agreement may contain a longer period.

However, after the expiry of this period or periods, you as the employer may not automatically assume that the holidays have expired or have become time-barred. For this purpose, it is required that you, as the employer, have drawn the employee's attention to the option of taking holidays, have actually enabled the employee to take holidays, and have also informed the employee of the consequences of not taking holidays. The end of 2024 is a good time to draw the attention of employees (at least) to the number of statutory holidays not taken in 2024, as these are eligible for lapse with effect from 1 July 2025. To the extent that this has not yet been done, it is important to set up a process by which employees are informed annually of holidays not taken.

Revision of low unemployment insurance contribution rate

Since 1 January 2020, there has been a rate differentiation when determining the unemployment insurance contribution due. The main rule is that the employer pays the low unemployment insurance contribution rate for employees who work on the basis of a permanent contract, i.e. a written, signed employment contract for an indefinite period that is not an on-call contract.

In a number of situations, the low unemployment insurance contribution rate must be revised to the high unemployment insurance contribution rate at a later date. Subject to certain conditions, this is inter alia the case if the number of hours paid exceeds the number of contractually agreed hours by more than 30% in the payroll tax return for the relevant calendar year, unless the contractually agreed working hours are on average 35 hours or more per week. In practice, we see that due to staff shortages, working overtime occurred regularly in 2024 as well. If staff has also been working overtime within your organisation, we advise you to identify in good time whether this overtime will lead to a revision of the low unemployment insurance contribution for your employees.

Impact of temporary extension of working hours on unemployment insurance contribution rate

Does your organisation sometimes apply a temporary extension of working hours for an employee? In the case of a temporary extension of working hours, there is in principle no second employment contract. This means that the same unemployment insurance contribution rate applies to the temporary extension of working hours as to the original hours. However, it is important that the temporary extension of working hours has been recorded in writing in a correct manner. According to the State Secretary, a second employment contract does apply in the following situations:

- The activities or terms of employment for the extension of working hours differ materially from those of the existing employment contract; or
- The employer has explicitly agreed a separate employment contract with the employee for the extension of working hours.

In the above-mentioned situations, the employer therefore owes the high unemployment insurance contribution rate for the separate second employment contract. We advise you to

check whether temporary extensions of working hours within your organisation have been processed in the payroll accounts at the correct unemployment insurance contribution.

The low-income allowance (LIV): don't miss out on money

Since 1 January 2017, you may have been eligible for the LIV (low-income allowance). A subsidy that can amount up to €960 per employee per year. If your employees earn slightly less or slightly more than the standard amounts in force, you will miss out on the subsidy. By changing your remuneration policy slightly, you may still be eligible for the LIV for 2024 as well. For example, by designating part of the (December) salary or part of a thirteenth month as the final levy component for the work-related costs scheme. As an employer, you can sometimes benefit from even a small wage increase for the employee. The same applies to the buying out of holidays this year or next year. Need help? We will be happy to look at the matter with you.

Please note: The low-income allowance (LIV) will be abolished as from 1 January 2025. The LIV will therefore last be accrued in 2024. The final payment of the LIV will take place in 2025 for the hours paid in 2024.

Check your payroll processing

The low-income allowance (LIV) is automatically calculated and paid out by the Tax Authorities. The Tax Authorities bases its calculation of the allowance on the data in the payroll tax return. In the spring of 2025, you will receive the calculation for 2024, to which you may object. You will then receive your money in the autumn of 2025. It is important to check whether the calculations of the Tax Authorities are correct. If a calculation is incorrect, this may also be caused by your payroll processing. For example because (paid) travel hours or paid holiday hours are not visible to the Tax Authorities. So check your payroll processing carefully (e.g. the number of hours paid) or let us do that for you, if you wish.

Wage expense allowances (1): use the possibilities of the wage expense allowances

With effect from 1 January 2018, the premium discounts have been replaced by the wage expense allowances, a subsidy that can amount up to €6,000 per employee per calendar year.

There are four wage expense allowances, and specific requirements apply for each wage expense allowance. An employer may be eligible for a wage expense allowance if it employs an employee who meets the requirements for a wage expense allowance. In general, these are employees who, due to specific circumstances, experience more difficulty in finding a new job. Examples include employees who previously were on social assistance, were unemployed or are (partially) unfit for work.

One of the requirements for qualifying for a wage expense allowance is that the employer must have a valid target group statement. The employee in question (or the employer on his or her behalf) must apply for this statement in good time. By means of this statement, the municipality or the Employee Insurance Agency UWV confirms in writing that the employee in question falls within the target group of the wage expense allowance. Next, the employer must include this target group statement in its files and can apply for the wage cost allowance by ticking a box in the payroll accounts. Are you in doubt as to whether you employ employees for whom you may be eligible for a wage expense allowance? We are happy to help you assess this and apply for the subsidy on your behalf.

Wage expense allowances (2): Transfer of an undertaking

On 24 May 2024, the Supreme Court of the Netherlands ruled on the right to a wage expense allowance (LKV) in the event of the transfer of an undertaking. The Supreme Court has ruled that the right to (the remaining term of) the LKV of the transferring employer is transferred to the acquiring employer too. If, as an employer, you were involved in a transfer of an undertaking in 2024 where, at that time, you acquired employees for whom the transferring employer was entitled to a wage expense allowance, please include a copy of the target group statement of the relevant acquired employees in your records. In addition, do not forget to apply for the LKV in your payroll tax returns for 2024. You have until 1 May 2025 to do so.

False self-employment and associated risks

Lifting of the enforcement moratorium

With effect from 1 January 2025, the so-called 'enforcement moratorium' will be lifted. The enforcement moratorium was established after the introduction of the Assessment of Employment Relationships (Deregulation) Act (DBA). In this context, the Tax Authorities will be applying the ordinary enforcement rules again from 1 January 2025. Should the Tax Authorities establish that certain employment relationships were incorrectly classified as self-employed, there is a risk of an additional wage tax assessment, a correction obligation and fines for the payroll taxes. However, the enforcement moratorium that applied in the period before 1 January 2025 is taken into consideration here.

With regard to the fine, the Tax Authorities will not impose a fine for an offence if organisations can demonstrate that they are actively working on the assessment of employment relationships and the reduction of the chance of false self-employment within their organisation. In that case, no fines for offences in the corrections regarding the qualification of the employment relationship will be imposed for the first calendar year after

the end of the enforcement moratorium. This applies to both the employee and the working person. Administrative fines for omissions and neglect may still be imposed, though.

In addition, expectations are that both the Supreme Court and the government will tighten up a number of regulations in the field of labour law (this will be discussed in more detail in paragraph 3.5). It is therefore more important than ever to be well aware of the employment relationships within your organisation. In this way, you ensure that you comply with all relevant laws and regulations, you gain insight into risks relating to payroll taxes, labour law and pension and, where necessary, you can make adjustments in good time.

Would you like more information about the expiry of the enforcement moratorium, the assessment of employment relationships and the setting up of the self-employed process within your organisation? Go to our website to register for one of the interactive workshops organised by BDO Tax & Legal throughout the country.

Look at the Employment Relationship

If you work with self-employed persons within your organisation, we advise you to identify how many self-employed persons are working within your organisation and to pay attention to the conditions subject to which they do their jobs. Our practical tool 'Outlook on the Employment Relationship' can help you with this by providing insight into the risks associated with self-employed persons and by putting and keeping your organisation in control. On the basis of a questionnaire, you will receive a tailor-made report that gives you an indication of the potential risks and any opportunities for improvement for each situation. You can also see a summary of the reports obtained on your Outlook on the Employment Relationship Dashboard.

Would you like to know more about our 'Outlook on the Employment Relationship' tool? Schedule a demo on our website or feel free to contact your BDO contact person. We will be happy to think along with you.

Reporting obligation – Provide data for 2024 by 31 January 2025 at the latest

Does your organisation make payments to third parties/ natural persons (other than employees) in connection with work carried out by these third parties? The Tax Authorities collects information on payments that are expected to be included in the taxable income from other activities in the income tax return of the recipient. Organisations that are considered 'required to keep books and records' and thus fall within the scope of the new reporting obligation are now required to provide the payment data and information in digital form. If within your organisation, payments are also made to third parties, it is good to identify whether you have to inform the Tax Authorities of this. The data for 2024 must be provided to the Tax Authorities by 31 January 2025 at the latest.

Start-up and legislative amendments 2025

Work-related costs scheme

General Exemption as from 2025

The General Exemption is calculated on the basis of the employer's wage bill for tax purposes. The wage bill for tax purposes is divided into two brackets. For each bracket, a different percentage applies based on which the General Exemption is calculated.

Changes in the applicable percentages have been announced for the coming year. As for the calendar year 2024, it is therefore expected that the percentage of 2% (an increase compared to the 1.92% for 2024) over the first €400,000 of the wage bill for tax purposes (the first bracket) will apply for 2025. For 2026, this perecentage is to increase to 2.16%. The percentage over the second bracket of the General Exemption of 1.18% will remain unaltered.

Clarification of targeted exemption for public transport season tickets

Under the 2024 Tax Plan, the targeted exemption for public transport season tickets has been extended. As a result of this change, this has resulted in a lack of clarity in practice about what should be considered a public transport card and a public transport season ticket and the scope of the targeted exemption. With the proposed change, the government wants to clarify the targeted exemption for public transport travel costs by abolishing these concepts and replacing them with (general) descriptions.

In view of the above, the proposal is to adapt the terminology to 'a right to free travel by public transport or a right to a rebate on the price of public transport tickets'. The distinction between

travelling by Dutch public transport and travelling by other public transport will also be abolished.

As a result of the proposed changes, the targeted exemption may in future apply to:

- a subscription that the employer has taken out for the employee; or
- a subscription that an employee has taken out himself/herself and can claim from their employer;
- where this subscription entitles the holder to free travel, to free travel on a fixed route or to free travel at certain times, or provides a discount for travel;
- the option for an employer to offer an employee to use public transport without a specific subscription, for example with a mobility card or mobility app, but where the costs of individual trips are charged directly to the employer by an external (transport) company;
- the option for an employer to offer an employee to use public transport without a specific subscription, for example with a mobility card or mobility app, but where the costs are paid in advance by the employer, for example by loading (or causing to load) a balance on such a travel product.

The targeted exemption will not apply to claimed private trips made with a personal travel product, other than a right to free travel or a right to a discount.

In order to qualify for the targeted exemption, it is important that the employer can in any event demonstrate that there is (at least any) business use of the right to free travel or the right to a discount. The intention is that it is no longer necessary for the employer to keep a record of private and business use.

Obligation to register CO_2 emissions

For an employer who employs at least 100 employees on 1 July 2024, a reporting obligation on the business and commuter traffic of the employees applies from that date. Employers to whom this reporting obligation applies must record the total number of kilometres travelled for commuting and other business travel of all employees together per calendar year. For each movement, a record must also be kept of the means of transport and the fuel used. The data for the previous calendar year must be reported to the government no later than 30 June of the current year (using the online form via Mijn RVO). The data for 2024 must therefore be reported to the government by 30 June 2025 at the latest. If this reporting obligation is not complied with (correctly), sanctions may follow. It is therefore important to keep adequate records of this in a record-keeping system. In 2025, you can choose to report on the second half of 2024 only or all of 2024.

Do you have questions about the CO_2 registration obligation or could you use a number of practical tools to manage the collection of the necessary data within your organisation? Please do not hesitate to contact a colleague from the payroll tax and social insurance contributions advisory group. We will be happy to assist you.

Correction of final levy on delivery vans from 1 January 2025

If a van is made available to the employee for private purposes, the so-called additional tax liability scheme applies in principle. The benefit of private use is considered to be part of the employee's salary. However, different tax rules apply to vans that are continuously used in turns by two or more employees, where it is difficult to determine to which employee the van was made available for private purposes. The personal benefit for such vans is included currently in the final levy at a fixed amount of €300 per year. The employer then pays the final levy due. This fixed amount has not been indexed since 2006.

Because of the inflation, an adjustment of this fixed amount was included in the 2025 Tax Plan. As from January 2025, the final levy will be increased to €438 per calendar year. In addition, this amount will subsequently be indexed annually from 2026.

Adjustment of cap for zero-emission car

In 2025, the addition-to-taxable percentage for zero-emission cars will increase from 16% to 17%. This lower percentage determining the taxable benefit of the zero-emission company car applies up to the so-called 'cap'. In 2025, the cap will be €30,000 for the third year in a row. For the part of the list price that exceeds this amount, the standard addition percentage of 22% applies. The maximum amount of the list price to which the reduced addition applies (the cap) does not apply to hydrogen-powered cars. Regardless of the amount of the listed value, the reduced addition applies to the zero-emission hydrogen-powered car.

The amount of the cap in the year of purchase (if applicable) and the associated discount rate will continue to apply to the vehicle in question for a maximum of 60 months after the date of first approval (DET).

From 2026, the standard additional tax liability rules for the private use of the company car will also apply to zero-emission cars (no longer a discount on the addition up to the amount of the cap).

Partial reversal of reduction of the 30% scheme and increase in salary standard

In a memorandum of amendment, it is proposed to reverse the reduction of the 30% scheme from the 2024 Tax Plan ('30-20-10 scheme'). Instead, it is proposed to set the maximum tax-free allowance at a fixed 27% of the agreed compensation on 1 January 2027 for a maximum period of 60 months. In the years 2025 and 2026, a percentage of 30% will apply to all employees from abroad. The government is also proposing to increase the minimum salary standard for the 30% scheme from €46,107 (2024) to €50,436 as from 1 January 2027. The minimum salary standard for employees from abroad under the age of 30 with a master's degree will be increased from €35,048 (2024) to €38,338.

Transitional law

Transitional law applies for employees from abroad for whom the 30% scheme was applied before 2024. For them, the percentage of 30% will remain applicable during the entire term of the 30% ruling. For those who were awarded the 30% ruling in 2024, the 30% percentage will apply until January 1, 2027. As from January 1, 2027, the percentage will be reduced to 27% for them.

As regards the minimum salary thresholds, the transitional law will be as follows. If the 30% ruling has been applied before or in 2024, the 'old' salary thresholds will continue to applying for the entire duration of the 30% ruling awarded. Increased (and to be indexed) salary thresholds will apply for those who can use the 30% ruling only as from January 1, 2025 onwards.

Temporary RVU threshold exemption

There is an Early Retirement Scheme (RVU) if the employment of an older employee is terminated and the scheme aims to ensure that the employee is financially enabled to bridge the period from the end date of the employment to the date of the state pension age or retirement age, unless the employment is terminated for another reason (such as due to unsatisfactory performance). In the case of an early retirement scheme, employers and older employees may make arrangements about stopping work earlier, without any additional final levy being owed. This is possible with the application of the RVU threshold exemption.

The RVU threshold exemption was originally introduced as a temporary scheme that would run until 31 December 2025. In the negotiating agreement between employees' organisations, employers' organisations and the government, however, agreement was reached on the issue of 'healthy retirement'. As part of the resulting agreements, the RVU threshold exemption will remain in place after 31 December 2025. The benefit, which is now based on a net state-pension benefit, is increased by a maximum of €3,600 gross per year. However, arrangements will be made in the CLA to determine which stressful positions are eligible for the extended scheme.

In order to benefit from the exemption, the scheme must meet the following conditions:

- the employee reaches the age that is (no more than) 36 months before the state pension age no later than 31 December 2025 and the RVU benefit is granted during this period. A run-off period applies for the period from 1 January 2026 to 31 December 2028, provided that the termination agreement with all arrangements has been signed no later than 31 December 2025.
- the threshold amount has not been exceeded. In 2024, this was a maximum of €2,182 gross per month (for the maximum period of 36 months, this equated to an amount of €78,552 gross). The threshold amount for 2025 has not yet been announced at the time of writing this end-of-year letter.

Changes to the interpretation of the Salary Costs (Incentive Allowances) Act (Wtl)

The Salary Costs (Incentive Allowances) Act (Wtl) provides for a number of financial allowances for employers who employ people who can use some support to get back to work. With effect from 1 January 2025, a number of changes will be implemented by means of a legislative amendment. In addition, the Supreme Court ruled in 2024 on the right to a wage expense allowance in combination with a transfer of business. This ruling is important for 2025 and the coming years.

Abolition of the Youth LIV and the low-income allowance (LIV)

The so-called Youth LIV was already abolished on 1 January 2024. In this way, accrual of the Youth LIV was last possible over paid hours in 2023, and the last payment of this allowance took place in 2024.

The low-income allowance (LIV) will be abolished as from 1 January 2025. Accrual of the LIV will therefore be last possible over the paid hours in 2024. This will lead to a final payment of LIV in 2025.

Wage expense allowance for older employees (LKV for older employees)

The LKV for older employees will be phased out. As from 1 January 2025, the compensation of the LKV for older employees will first be reduced from €3.05 per paid hour with a maximum of €6,000 per year (2024) to €1.35 per paid hour with a maximum of €2,600 per year (2025). Next, the LKV for older employees will be completely abolished as from 1 January 2026. A transitional arrangement will apply for the LKV for older employees granted for employment relationships that started before 1 January 2024, with the result that the LKV for older employees will not be reduced and abolished for this group.

New requirements for LKV for redeployment of occupationally disabled workers

The aim of the LKV for redeployment of occupationally disabled workers is to encourage employers to retain people with an occupational disability, specifically those entitled to a benefit under the Work and Income (Capacity for Work) Act (WIA). In recent years, however, various signals have been received from employers and the implementing bodies, which show that the LKV for redeployment of occupationally disabled workers does not work as intended in all situations. In order to resolve the identified bottlenecks, a change was proposed to the requirements for the wage expense allowance. The new requirements for the LKV for redeployment of occupationally disabled workers make it possible to request the wage cost benefit also for employees who are redeployed after the granting of a WIA benefit, where rehabilitation has already started during the qualifying period. Initially, the intended date of entry into force was 1 January 2026. However, this date was moved forward one year because implementation of this change, which was beneficial to employers, proved possible one year earlier than previously envisaged. As a result, the expected date of entry into force has been brought forward to 1 January 2025.

Wage expense allowances and transfer of an undertaking

On 24 May 2024, the Supreme Court ruled on the right to a wage expense allowance (LKV) in the event of a transfer of an undertaking. The Supreme Court has decided that the right to an LKV of the transferring employer will be transferred to the acquiring employer. In section 1.2.8, we have already mentioned the possible action points for end of year 2024. It goes without saying that this ruling by the Supreme Court also has consequences for future years.

Abolition of partial foreign tax liability

In accordance with the current rules, employees with a 30% facility can opt in their income tax return for treatment as a foreign taxpayer (opt for partial foreign tax liability) for Box 2 and Box 3. This means that they can declare income from Box 2 and Box 3 in their income tax return as if they were not living in the Netherlands. This means that, for these sources of income, they are only liable to pay tax insofar as there is a ‘domestic income’. The tax base of the partially foreign taxpayer is therefore limited to (rights to) immovable goods located in the Netherlands and substantial interests in companies established in the Netherlands.

This facility will be abolished as from 1 January 2025. For employees from abroad for whom the 30% facility was applied over the final salary period of 2023, a transitional regime applies, under which they can use the partial foreign tax liability regime until 31 December 2026 at the latest.

Social insurance contributions 2025

The proposed premium percentages for 2025 can be found in the budget of the Ministry of Social Affairs and Employment. As an indication, we have included these new premium percentages in the overview below (please note: the premium percentages for 2025 have not yet been determined definitively).

Premium	Fund	2024	2025
AOW	Old-Age Fund	17.90 %	17.90 %
Anw	Surviving dependants' fund	0.10 %	0.10 %
Awf low	General Unemployment Fund	2.64 %	2.74 %
Awf high	General Unemployment Fund	7.64 %	7.74 %
Zvw normal	Income-related Zvw contribution - normal	6.57 %	6.51 %
Zvw low	Income-related Zvw contribution - reduced	5.32 %	5.26 %
Ufo	Public Sector Social Security Implementation Fund	0.68 %	0.68 %
Aof low	Invalidity Insurance Fund (small employers)	6.18 %	6.35 %
Aof high	Invalidity Insurance Fund (medium-sized and large employers)	7.54 %	7.58 %
Aof surcharge	Uniform Childcare Surcharge	0.50 %	0.50 %
Whk	Return to Work Fund (break-even premium)	1.22 %	1.33 %

Check the premium decision for the Return to Work Fund

A number of things may go wrong in the calculation of the social security contributions. Examples include an incorrect sector classification due to changes in business activities. As an employer, you are obliged to report any suspicion of an incorrect sector classification to the Tax Authorities in good time. The contribution may also be too high because the UWV has made errors in the calculation. This is the case, for example, if benefit costs are wrongly allocated to the employer. So let our specialists check the decision you receive at the end of the year if you have even the slightest doubt. Not only next year, but in subsequent years too, this may save you a lot of money.

Pension agreement arrangements – Lump Sum Payment Act

One measure from the pension agreement has not yet been implemented at present. This concerns the measure to withdraw a lump sum (maximum 10%) on the pension start date or in February following the year in which the participant has reached state pension age. As the proposed implementation of this measure proved to be technically complex, this part was delayed. The House of Representatives recently agreed to this last measure from the pension agreement. If the Senate also agrees in the first half of 2025, there is a good chance that as from 1 January 2026 it will be possible to withdraw a maximum of 10% of the pension amount in a lump sum.

Legislative proposals and amendments 2026 and beyond

Expected changes to the implementation of the Salary Costs (Incentive Allowances) Act (Wtl) from 2026

Wage expense allowance for older employees is abolished and Wage expense allowance for the job arrangement target group becomes structural

As from 1 January 2026, the wage expense allowance for older employees will be abolished in full. In addition, two changes will be made to the wage expense allowance for the job arrangement target group. The aim of these changes is to contribute to the sustainability of jobs for people with an occupational disability.

The first change relates to the duration of the allowance. The LKV job arrangement will become structurally available, instead of a maximum of three years after entry into service. In addition, the LKV job arrangement will no longer exclusively apply to employees who recently joined the company, but also to employees who were already employed by the employer and who meet the requirements of the wage expense allowance.

The change to the structural wage expense allowance for the job arrangement target group is scheduled for 1 January 2026. The final date of entry into force of the wage expense allowance for the job arrangement target group depends on the duration of the parliamentary process. Only if the legislative proposal is adopted by the Senate before 1 July 2025 will the intended date of entry into force be feasible. If the legislative proposal is adopted by the Senate after 1 July 2025, the wage expense allowance for the job arrangement target group will enter into force on 1 January 2027.

Amendment proposed in the revision of Awf contibution differentiation

Since 1 January 2020, there has been a differentiation when determining the unemployment insurance contribution rate due. The main rule is that the employer pays the low unemployment insurance contribution rate for employees who work on the basis of a permanent contract, i.e. a written and signed employment contract for an indefinite period that is not an on-call contract.

In a number of situations, the low unemployment insurance contribution rate must be revised to the high unemployment insurance contribution rate, with retroactive effect, at a later date. Subject to certain conditions, this is inter alia the case if the number of hours paid exceeds the number of contractually agreed hours by more than 30% in the payroll tax return for the relevant calendar year. However, there is an exception to this rule, specifically when the contractually agreed working hours in the calendar year are 'on average 35 hours or more per week'. In that case, revision is not at issue. From 1 January 2025, this exception will apply if the contractually agreed working hours in the calendar year are 'on average more than 30 hours per week'. This concerns a change in the number of working hours and in the wording.

The new wording clarifies the exceptional situation. The aim is that all employment contracts with an average of more than 30 hours (such as 30.1) always fall under the exception (i.e. the reduced Awf contribution rate). As a result, there are more possibilities for overtime within the permanent contract with the application of the low Awf premium, without this leading to a revision.

Non-competition clause

A non-competition clause prohibits an employee from carrying out work for a competitor of their former employer after the end of the employment. A legislative proposal has been submitted for a further tightening of the non-competition clause, because research shows that in practice, much unnecessary use is being made of the non-competition clause.

The content of the clause

Under the new legislative proposal, employers may impose a non-competition clause for a maximum of twelve months. In addition, inclusion of the geographical scope of the clause is mandatory. This means that employers must indicate within which area the non-competition clause applies. Furthermore, from now on, employers must also provide written justification for the compelling business or service interests if the clause is included in an employment contract for an indefinite period.

Invoking the clause

Under the legislative proposal, employers must in principle invoke a non-competition clause in writing no later than one month before the end of the employment. If they fail to do this, the clause will lose its validity. Employers must also indicate how long the non-competition clause is maintained. If an employee terminates the employment himself or herself, the employer must invoke the non-competition clause within two weeks of the employee's termination. If an employer invokes the non-competition clause, the employer owes the employee a compensation of (in short) 50% of the monthly salary for each month during which the clause is maintained.

Existing non-competition clauses

Non-competition clauses entered into before the legislative proposal enters into force are not subject to the requirements with regard to the maximum duration of twelve months, the geographical scope and the justification if the clause is included in an employment contract for an indefinite period. On the other hand, the requirements for invoking the clause and compensation do apply to existing non-competition clauses after the legislative proposal has entered into force. This means that, towards the end of the employment, employers will always have to indicate whether they maintain the clause. If this is the case, employers will have to pay compensation.

State of affairs

The legislative proposal was released for internet consultation in 2024. The next step is the offering of a legislative proposal (whether or not amended) to the Council of State and the House of Representatives, but this has not yet been done. The intended date of entry into force of the legislative proposal was originally set at 1 January 2025, but this will become 2026 at the earliest.

Assessment of employment relationships and legal presumption

The legislative proposal 'Clarification of assessment of employment relationship and legal presumption' was released for internet consultation in October 2023. With this legislative proposal, the government wants to clarify the dividing line between working on the basis of a contract for services and working on the basis of an employment contract. The intended date of entry into force of this legislative proposal is 1 January 2026 (at the earliest).

Indications for authority

The legal standard for distinguishing employees and self-employed people is currently an open standard, which has largely been given substance through case law. With the legislative proposal, the government aims to clarify the most distinctive legal requirement 'being employed by' (authority). The case law has been brought together, structured and compressed using two main elements.

For the assessment of the employment relationship, the main focus of the assessment is based on the following indications:

- Main element E: indications of working as an employee (work-specific or organisational management); or
- Main element S: indications of working as a self-employed person within the employment relationship (working for own account and risk).

The basic principle is that it concerns the assessment of a specific employment relationship. The question of whether the working person behaves as an entrepreneur in the economic transactions is only given a role in the legislative proposal when the indications of work-specific and organisational management (E) are balanced with the contraindications of working for own account and risk (S).

Legal presumption at low hourly rate

The legislative proposal also introduces a civil-law legal presumption if an hourly rate below €33 applies (reference date 1 July 2023). If a worker can demonstrate that their hourly rate is lower, they can invoke the legal presumption that there is an employment contract. It is then up to the client or employer to demonstrate that there is no employment contract. It should be noted that this legal presumption is not intended to extend to taxation and social security.

Compensation scheme for small employers only

The government intends to make the compensation scheme for transition payments made by employers to employees who have been ill for more than two years available for small employers with fewer than 25 employees only. This means that employers with 25 or more employees will no longer be compensated from that date if they make a transition payment to an employee after two years of illness. This decision affects the costs incurred by medium-sized and large employers when employees are ill and may lead to a revival of so-called dormant employment relationships. The amendment is expected to take effect on 1 July 2026, but in order to achieve this, the legislative process will have to be started up first.

Entry into force of income relationship decree

In practice, we already know the term 'income relationship', but a legal basis has so far been lacking. The Income Relationship Decree regulates when there is an income relationship and when this begins and ends. This decree is necessary for improvement of the data that are used to determine entitlements and obligations in respect of benefits, payroll taxes and allowances. If the decree enters into force, there will be more situations in which the withholding agent must include an employee in a new income relationship or in separate income relationships in the payroll tax return. The entry into force of this decree has been postponed several times due to implementation problems. Currently, the expected date of entry into force is 1 January 2027.

Rules on the use of income relationships have now been included in the Payroll Tax Manual. However, in her letter to Parliament of 14 December 2023, the Minister for Social Affairs and Employment indicated that the Secretary of State for Finance is working on a codification of this in order to improve enforcement of the use of income relationships in general. After this letter to Parliament, we have not seen any update on this. It is unclear what the current status of this is.

Improving the security of flexible workers

In order to make the labour market future-proof, the government wants to promote sustainable labour relations, among other things by regulating flexible labour. This concerns one legislative proposal in a broader package of (future) proposals. Its intended entry into force will not be earlier than on 1 July 2026.

Basic contracts

On-call contracts are replaced by a 'basic contract'. The starting point is that a contract must include one number of working hours higher than zero, per unit of time of no more than one year. If a number of working hours has been agreed for a period of more than one month, a staggered salary payment is mandatory. In addition, an employer must provide security with regard to the work rosters on a quarterly basis at least.

As an alternative, it will be possible to conclude a basic contract with a minimum and maximum number of working hours higher than zero, per unit of time of no more than three months. This basic contract is similar to what is now known as the 'min/max contract'. If the number of working hours exceeds one month, a staggered salary payment is mandatory. The maximum number of working hours is no more than 130% of the minimum number of working hours. The employee must remain available up to the maximum number of working hours, and the employer is obliged to keep a written record of reference days on which and hours at which the employee can be called up for work.

Pupils and students

An exception to the above applies to pupils and students. However, an on-call contract (such as a zero-hours and min/max contract) and a wage exclusion clause remain permitted for these employees. Pupils and students who are under the age of 18 and work no more than 16 hours a week fall under this definition. For employees who are 18 years of age or older and work no more than 16 hours per week, proof of registration at an educational institution is required to make use of this exception.

Conclusion of first-track rehabilitation after first year of illness

Another legislative proposal to reform the labour market is the legislative proposal based on which small and medium-sized employers will be given the opportunity to conclude the rehabilitation in the first track from the start of the second year of illness and to focus exclusively on rehabilitation in the second track. During the first track, an investigation is made into whether the employee is still able to work within the employer's own organisation, and during the second track, rehabilitation with another employer is looked into. The underlying idea is that this will enable the employer to fill the vacant position earlier, in a sustainable manner. Another part of this legislative proposal is the relaxation of the conditions for dismissal after two years of illness. This legislative proposal was released for internet consultation at the end of 2023, which means that this legislative proposal is unlikely to enter into force before 2026.

Mandatory confidential adviser

Furthermore, for some time now, a legislative proposal has been submitted to the Senate that is intended to provide for an obligation to appoint a confidential adviser at organisations with at least ten employees. This may be an internal or an external confidential adviser. A confidential adviser is responsible

for the (first) care of employees with complaints about undesirable behaviour. On the basis of the legislative proposal, the duties of the confidential adviser, such as identifying bottlenecks in the implementation of the policy in the organisation, providing information on inappropriate behaviour, and reporting to the employer and the employee representation body annually, are regulated further. In addition, a legal duty of confidentiality will be introduced. A right of consent of the works council or employee representation applies to the appointment of a confidential adviser. The legislative proposal was adopted by the House of Representatives and is currently being discussed by the Senate. If the Senate adopts the legislative proposal, it is expected to enter into force in the course of 2026.

Equal pay for men and women

Under a new European directive, employers must tackle discrimination in pay between men and women in order to reduce the gender pay gap. After the directive has been implemented in national legislation, the directive obliges employers inter alia to provide workers with a better understanding of salaries and how they are determined, so that workers can better assess whether they are being remunerated equally.

Remuneration transparency

Employers are therefore obliged to provide information about the (initial) salary or the pay scale of the position before an employee takes up employment. This salary must be based on objective and gender-neutral criteria. In addition, there will be a ban on asking a job applicant for a (previous) salary at another employer. This will prevent pay discrimination from continuing in future employment relationships. During the term of employment, employers will soon also be obliged to provide information on the average pay levels of equivalent employees, broken down by gender, if they are asked for this information. Furthermore, under the new directive, employees are also entitled to information regarding the criteria for determining remunerations and career development. Employers with fewer than 50 employees can be exempted from this obligation.

Reporting obligations

After the entry into force of the directive, employers with at least 250 employees must annually report to a competent body on the gender pay gap within the company. Employers with 100 to 250 employees will have to report on this every three years. If there is a pay difference of 5% or higher that cannot be justified by objective and gender-neutral criteria, an employer must conduct a remuneration evaluation in collaboration with an employee representation. The aim of imposing this remuneration evaluation is to oblige employers to investigate their methods for determining remuneration and gender bias in pay structures that conflict with the principle of equal pay. If employers do not properly comply with these legal obligations, they may be subjected to sanctions, such as fines.

Points for attention

If there is a suspicion of pay discrimination, for example because the information or reporting obligation was not complied with correctly, the burden of proof to show that this is not the case shifts to the employer. As a result of this shift in the burden of proof and the obligation to ensure pay transparency, it will in the future be easier for employees to take the position that there is unequal treatment. In particular employers at which the pay difference is 5% or higher will soon be confronted with this reversal of the burden of proof. If it has been established that there has been unequal treatment, an employee must be compensated for this.

State of affairs

A European directive must always be transposed into national legislation before it results in rights and obligations for citizens and undertakings. This directive ought to be implemented in the Netherlands by 7 June 2026, but at present the implementation of this directive is behind schedule. Nevertheless, it is important for employers to gain insight in the short term into whether there is a pay difference and, if so, how large this pay difference is. This is because it takes a considerable amount of time to resolve any difference in remuneration.

Provision of Personnel (Accreditation) Act

The proposal for the Provision of Personnel (Accreditation) Act (Wtta) aims to introduce, as from 1 January 2027, an admission system for temporary employment agencies and other companies that supply workers. Under this legislative proposal, suppliers are allowed to operate on the market only if they have been admitted.

The new admission system

The purpose of the admission system is to improve the position of the workers supplied (in particular that of migrant workers) and to ensure a level playing field for hirers and suppliers. With this new admission system, organisations are will only be allowed to supply workers with an admission from the Minister for Social Affairs and Employment (SZW). The admission period is four years and must be requested again after each period. The admission requirements include registration with the Chamber of Commerce (incl. Waadi tick), a certificate of conduct for legal entities, and a security deposit of, in principle, €100,000. Checks are carried out by private inspection institutions designated by the Minister of SZW.

Exceptions

Organisations that supply workers to a very limited extent are given the opportunity to obtain an exemption from the admission requirement. Organisations that make use of the workers supplied (hirers) may only do so from admitted or exempted suppliers. The hirer is obliged to check this. In addition, organisations that exclusively supply workers without a profit motive do not fall under the scope of the admission requirement.

Points for attention

It is possible for start-up suppliers to start an application procedure for a 'provisional admission'. This is in principle for six months but can also be extended by another six months. The supplier has an obligation to keep records and to report and must share information from the hirer about the employment conditions with the worker. There is a ban on using suppliers who have not been admitted by means of a public register. The admission is suspended or revoked if the supplier does not comply or no longer complies with the rules, and shortcomings have not been rectified in time. The labour inspectorate will be charged with enforcement, and the capacity will be increased by 90 FTEs.

Repair of seafarers' levy omission and anticipating the introduction of the homeworking threshold

With this measure, a levy omission will be repaired as from 1 January 2025. In the tax treaties with Germany and Belgium, the Netherlands has agreed on rights to levy taxes and the prevention of double taxation. Practice has shown that there are situations in which a taxpayer does not pay any tax at all. In order to ensure that the Netherlands can implement the right to levy tax in this situation, it is proposed to amend the law in such a way that, in case the employment is fully performed outside the Netherlands, this employment is deemed to have been performed in the Netherlands insofar as the right to levy tax on the salary in respect of that employment has been assigned to the Netherlands. The wording also anticipates an amendment to a tax treaty to prevent double taxation in situations where the Netherlands makes additional agreements on the right to levy taxes in respect of the salary that can be allocated to homeworking days.

FURTHER INFORMATION

For more information please contact us by telephone number +31 (0)70 338 07 22 or via alp@bdo.nl. The BDO experts in the field of Payroll Tax & Social Security and BDO Legal are part of BDO HR Services, your adviser for all HR issues that your organisation may face during any life phase of your organisation.

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