Application of 30% rule at TU Delft 1 August 2007

What is the 30% rule?

The 30% rule is a tax facility made available by the Dutch tax authorities intended for foreign employees with specific expertise that cannot be found in the Netherlands. The rule entails that staff members may be paid a maximum of 30% of their taxable wages as a tax-free allowance in addition to their salary. Staff members are not required to pay tax on this amount, which is intended as compensation for extraterritorial costs. Applications are assessed and granted by the Dutch tax authorities. TU Delft has opted for a scheme in which 30% is deducted from the gross salary and a tax-free allowance of 30% is granted.

For which group of staff members does TU Delft submit applications for the 30% rule?

TU Delft's policy is that, effective from 1 August 2007, applications for the 30% rule will be submitted to the tax authorities for all academic staff members with two and a half years of relevant work experience following completion of the Master's degree programme and with whom an employment agreement for a minimum of six months has been entered into. Moreover, an application may only be submitted if, at the time of the appointment, the staff member had not yet taken up residence in the Netherlands, with the exception of staff members who were granted the 30% rule at a former Dutch employer.
Staff members who were granted the 30% rule at a former Dutch employer will also be tested with regard to the criteria set out in TU Delft's policy.

Application and consequences of the 30% rule

The application of the 30% rule which TU Delft has opted for entails that the gross salary is reduced by 30% and a tax-free allowance of 30% is granted.
Example:

Calculation without 30% allowance	Gross	Net
Gross monthly salary	€ 3000	€ 1915
Calculation with 30% allowance		
Gross monthly salary	€ 3000	
Salary deduction of 30%	€ 900	
Monthly salary with 30% allowance is	€ 2100	€ 1475
Tax-free allowance of 30%		€ 900
Total		€ 2375

As the gross wages are reduced by 30%, this has adverse consequences for claims to various benefits and social provisions, since the accrual of these benefits is based on the gross salary. These are benefits such as holiday and year-end benefits, pension accrual, Individual Terms and Conditions of Employment Options (IKA) and any other benefits due.

Term of the rule:

- Maximum term of the rule is 10 years.
- Earlier visits to the Netherlands in the 10 years prior to the appointment will be deducted from the 10-year term.

Interim test:

After 60 months, an interim test will take place. This will only apply to staff members who were granted the 30% rule on 1 January 2007. From the sixth year, these staff members will be tested in relation to the new criteria which take effect from 1 January 2012. You can read about these criteria in 'Application of the TU Delft 30% rule as of 1 January 2012'.

Explanation of how the 30% rule works in practice

Following an assignment received by the International Office (InOf) to appoint a new staff member, this candidate will be tested in relation to the abovementioned criteria to establish whether the 30% rule applies. If the candidate meets these criteria, this will be stated in the appointment letter. Following the new staff member's arrival in the Netherlands, he/she will be invited by the InOf for an informative interview. The 30% rule will be explained during this interview, as well as the various salary calculations, including:
- calculation of standard salary;
- calculation with application of 30% rule;
- possibly a calculation of salary components exempted from tax*1).

The staff member is given the option of applying for the 30% rule. If he/she chooses to do so, the application will be submitted to the tax authorities. In the event of a treaty concerning tax exemption*1) between the Netherlands and the country in which the staff member resided, the relevant application form will also be completed and submitted to the tax authorities. Applications take approximately two months to process.
The member of staff will be informed in writing as soon as the tax authorities notify the InOf of its decision to grant or reject the application.
Depending on the aforementioned decision, the following scenarios may arise:

<u>The 30% rule is granted</u>
The staff member will receive the tax-free allowance with retroactive force following the granting of the 30% rule.

<u>The 30% rule is granted in combination with a tax exemption scheme</u>
During the period for which the 30% rule has been granted, a wage tax exemption scheme will apply to the member of staff (in almost all cases for a period of two years). The 30% rule can only take effect from 1 January of the year following the expiry of the tax exemption scheme. Consequentially, the 30% rule cannot be utilised for the whole ten years. The pensionable amount will be adjusted to the original (incremental) salary scale on 1 January of the subsequent year.
Example:
A staff member has been given a three-year appointment with effect from 1 March 2011 up to and including 1 March 2015. Tax exemption is granted for a period of two years, that is, until 1 March 2013. The 30% rule will take effect from 1 January 2014.
If the appointment is extended or converted into an appointment for an indefinite period, he/she will receive the 30% for seven years and two months.

<u>Rejection of application for 30% rule</u>
Following rejection of an application for the 30% rule, the salary deductions and tax-free allowance will be terminated with retroactive force. The person in question may submit an objection to the decision. The faculty is free to assist the staff member; the InOf, however, plays no role in this procedure.

The pensionable amount will be adjusted to the original (incremental) salary scale on 1 January in the subsequent year.

*1) *Wage tax exemption: To avoid staff members having to pay double taxation (in the Netherlands and in the country of origin), candidates will be tested on eligibility for wage tax exemption. If this is the case, the 30% rule cannot be applied in this period.*

Note:
The new 30% rule applies to staff members employed from 1 January 2012. This rule is explained on the website under the title 'Application 30% 1-1-2012'.