Application of the TU Delft 30% rule as of 1 January 2012

Effective from 1 January 2012, the 30% rule has changed. Here you can read what the new rule entails for staff members employed at TU Delft. This rule is only applicable to staff members who entered the employment of TU Delft on or after 1 January 2012. The old 30% rule continues to apply to staff who were employed before 1 January 2012. This rule can be found on the website under the title 'Application 30% 1-8-2007'.

What is the 30% rule?

The 30% rule is a tax facility intended for foreign staff with specific expertise that is scarce on the Dutch market. The rule entails that employees may receive a maximum of 30% of their taxable income as a tax-free allowance in addition to their salary. No tax is due on this amount, which is intended as compensation for extraterritorial costs. Applications are assessed and granted by the Dutch tax authorities.

Criteria academic staff have to meet as of 1 January 2012:

- The staff member must have been recruited directly from a foreign country*);
- Academic staff's specific expertise and its scarcity on the Dutch market will be tested in relation to the University Job Classification scale. If the staff member is appointed to an academic function in a University Job Classification scale between 010510 and 011110, he/she automatically meets the criteria of specific expertise and its scarcity on the Dutch market.
- Staff members must have lived at a distance of more than 150 kilometres from the Dutch border during a minimum of two-thirds (16 months) of the 24-month period prior to the appointment in the Netherlands.

*) with the exception of staff members (guest PhD's and PhD's employed as of 1 January 2012) who are appointed within a year of attaining their PhD degree. These staff members must however have been recruited from abroad (at a distance of more than 150 km) prior to the intended PhD period.

Two examples are provided below to illustrate the foregoing.

<u>Example 1:</u>

A staff member with, for instance, the Indian nationality, is appointed as a PhD candidate with effect from 1 January 2012. This candidate obtained his MSc degree at KU Leuven in Belgium. Following completion of this programme, candidate left for India for a short holiday/family visit for a period of around three months. Is this candidate eligible for the 30% rule?

- *Was the candidate recruited from abroad?*

    Yes.

- *Does the candidate possess specific expertise that is scarce in the Netherlands?*

    Yes. The position of a PhD candidate is included within the University Job Classification scale as entailing specific and scarce expertise.

- *Did the candidate live at a distance of more than 150 kilometres from the Dutch border for a minimum of two-thirds (16 months) of the 24-month period prior to the appointment?*

    No. Candidate completed his Master's degree programme in Leuven and lived in Belgium for more than 16 months prior to his appointment. The distance between Leuven and the Dutch border is less than 150 km.

Result: Candidate is **not** eligible for the 30% rule. This is because, prior to his appointment at TU Delft, he lived for more than 16 months within a radius of 150 km from the Dutch border.

Example 2
A staff member with, for example, the Italian nationality, has been appointed as a post-doctoral researcher with effect from 1 February 2012. In the month prior thereto the candidate defended his thesis. The candidate also completed his MSc programme at Delft. Is this candidate eligible for the 30% rule?

- *Was the candidate recruited from abroad?*
  No, but this criterion does not apply to PhD staff members who are appointed within the year following the attainment of a PhD degree.
- *Does the candidate possess specific expertise that is scarce in the Netherlands?*
  Yes. The position of a PhD candidate is included within the University Job Classification scale as entailing specific and scarce expertise.
- *Did the candidate live at a distance of more than 150 kilometres from the Dutch border for a minimum of two-thirds (16 months) of the 24-month period prior to the appointment?*
  No, but this criterion does not apply to PhD staff members who are appointed within the year following the attainment of a PhD degree.

Result: Even though the candidate does meet the relevant criteria, he is not eligible for the 30% rule. This is because the candidate should have been recruited from abroad (distance of more than 150 km) prior to his intended PhD period, whereas he already resided in the Netherlands for his MSc studies.

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 eight years.
- Earlier visits to the Netherlands in the 25 years prior to the appointment will be deducted from the eight-year term.

Interim test:

After 60 months, an interim test will take place. The staff member will then again be tested with regard to all the criteria mentioned.

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 exempt 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 two-year period). 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 eight 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 2012 up to and including 1 March 2015. Tax exemption is granted for a period of two years, that is, until 1 March 2014. The 30% rule will take effect from 1 January 2015.
If the appointment is extended or converted into an appointment for an indefinite period, he/she will receive the 30% for five 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.*