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AGREEMENT FOR KPMG MEIJBURG & Co AND DUTCH TAX AUTHORITY ON SIMPLIFIED PROCEDURE FOR 30% RULING

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KPMG Meijburg & Co has concluded an agreement with *Belastingdienst* (Tax and Customs Administration), the Dutch revenue service, regarding a simplified application procedure for the 30% ruling. The agreement took effect on 1 April 2011. Under this agreement, KPMG Meijburg & Co may determine whether an employee is eligible for the ruling.

Background

The Netherlands has a special tax regime for expatriates, the 30% ruling. In short, the 30% ruling provides for a reduction in taxable income equal to 30 percent of the employee's remuneration. (For related coverage, see *Flash International Executive Alert* 2009-216, 20 November 2009.) Under the 30% ruling, the effective top income tax rate for an eligible expatriate in the Netherlands is 36.4 percent (i.e., 70 percent of the top rate of 52 percent for individual taxpayers).

The request for the 30% ruling must be filed within four months of the date of the employee's arrival in the Netherlands. If the request is filed after this period, the 30% ruling will only become effective as of the first day of the month subsequent to the month in which the request was filed. The employee and the employer must file a joint request with the Tax and Customs Administration's Heerlen office. A pro forma request can be filed to secure the effective date of the 30% ruling.

In general, the 30% ruling can be applied for a period of 120 months. However, if after the initial 60-month period, the employee no longer meets the conditions of the 30% ruling, it will no longer apply. During the second 60-month period, the Tax and Customs Administration can question whether the conditions of the 30% ruling are being met.

KPMG Note

In order to obtain certainty regarding the applicability of the 30% ruling for the remaining 60 months, we advise the employer and employee to voluntarily make a joint request for an extension after the end of the first 60-month period. If granted, this means the Tax and Customs Administration will not challenge the applicability of the ruling during this second half.

On average it takes the Tax and Customs Administration between three to six weeks to issue its decision.

Agreement with the Tax and Customs Administration

The agreement that KPMG Meijburg & Co has concluded with the Tax and Customs Administration regarding a simplified application procedure for the 30% ruling took effect on 1 April 2011.

Under the terms of the agreement, KPMG Meijburg & Co may determine whether an employee is eligible for the ruling and a simplified request procedure will apply if the employee meets all the applicable conditions. KPMG Meijburg & Co will electronically inform the Tax and Customs Administration of this via an e-mail account specifically set up by the Tax and Customs Administration for this purpose. The Tax and Customs Administration will issue the ruling within a few days.

The Tax and Customs Administration does not review the request on its merits, but only carries out a limited internal check on an individual's former registration as an employee or a resident of the Netherlands (as this can affect the ruling). The determination of eligibility is therefore solely the prerogative of KPMG Meijburg & Co.

KPMG Note

The advantage of this agreement with the Tax and Customs Administration is that the employer and employee receive certainty regarding the application of the 30% ruling within a short period of time.

If, after reviewing the situation, doubts arise as to whether all the conditions of the ruling are being met, KPMG Meijburg & Co can file a full request with the Tax and Customs Administration, as was the case before the agreement with the Tax and Customs Administration was concluded. The determination of eligibility is then the responsibility of the Tax and Customs Administration.

Large Projects or the Establishment of New Branch Offices in the Netherlands

KPMG Meijburg & Co and the Tax and Customs Administration have also agreed to work together to make sure that large projects – i.e. involving more than 25 employees – are dealt with as efficiently as possible. The aim is to have advance consultation take place at an early stage. Similarly, if businesses intend to establish new (branch) offices in the Netherlands, then it is agreed that consultation on the applicability of the 30% ruling for those employees who are to be sent to the Netherlands, takes place at an early stage.

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The information contained in this newsletter was submitted by KPMG Meijburg & Co in the Netherlands, a KPMG International member firm. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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