

## MEMORANDUM

Date: December 2022  
From: Vestius Attorneys  
Concerns: Main HR legislative amendments in 2023

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### Legislative amendments

#### **1. Untaxed homeworking allowance**

- Since this year, it has been possible to pay employees an untaxed homeworking expense allowance of €2 per day (or part of a day) worked from home. The Tax Plan 2023 sets the untaxed homeworking allowance at €2.13 per day (or part of a day) from 1 January 2023.

#### **2. Increase in maximum untaxed travel allowance**

- The untaxed travel allowance will also be adjusted. This allowance of €0.19 per business kilometre or commuting kilometre driven will increase to €0.21 per kilometre from 1 January 2023, according to the Tax Plan 2023. This increase will compensate employees for the increasing price of petrol.

#### **3. Temporary broadening of the tax-free margin under the work-related expenses scheme**

- According to the Tax Plan 2023, the scope of the work-related expenses scheme (*WKR*) will be broadened temporarily in 2023. The tax-free margin in the *WKR* will be temporarily set at 3%, up from 1.7%. This broadening will give employers more opportunities to grant an additional tax-free allowance to employees, for instance to compensate for higher energy costs.
- This means that the following graduated rates and percentages will apply from 1 January 2023:
  - the tax-free margin will be 3% on the first €400,000 of the payroll total; and
  - the tax-free margin will be 1.18% on the excess of €400,000.
- The temporary broadening of the tax-free margin under the *WKR* will end on 1 January 2024. From then on, the usual percentages will apply again:
  - the tax-free margin will be 1.92% on the first €400,000 of the payroll total;

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- the tax-free margin will be 1.18% on the excess of €400,000.
- If the tax-free margin is exceeded, payroll tax will have to be paid on the excess, in the form of a final levy of 80%.

#### **4. Maximum transition payment**

- As every year, the maximum transition payment will increase again as of 1 January 2023, to €89,000.

#### **5. Change in minimum wage**

- As of 1 January 2023, the statutory minimum wage for employees aged 21 and older will amount to €1,934.40 gross per month in the case of full-time employment. The statutory minimum wage will therefore increase by 10.15%. The minimum wage for employees below the age of 21 will also increase. A complete overview of the applicable contributions as of 1 January 2023 can be found [here](#).

#### **6. State pension age**

- The state pension age will be 66 years and 10 months in 2023.

#### **7. Contribution under the Healthcare Insurance Act**

- The employer's contribution under the Healthcare Insurance Act will drop from 6.75% to 6.68% in 2023. Employers will pay less contribution per employee as a result.
- At the same time, the maximum amount on which an employer pays the contribution will increase, however. This year it was set at €59,706 and from 2023 it is expected to be €66,952.

#### **8. Collective health insurance discount**

- Many employers currently offer group health insurance or a group discount. As from 1 January 2023, this will no longer be permitted in respect of the basic insurance.
- From 1 January 2023, a group discount may apply only to supplementary health insurance.

#### **Legislative proposals**

In addition to the legislative amendments listed above, five relevant bills are also in the pipeline:

- **Work Where You Want Act**
  - We previously wrote about the bill for the *Wet werken waar je wilt* (Work Where You Want Act) in [this](#) article. This bill should make it easier for employees to work both at their place of work and from their home. The bill has passed the Lower House and is currently before the Upper House (where some questions about the bill were recently answered).

- **Equal Pay for Men and Women Act**
  - The bill for the *Wet gelijke beloning van vrouwen en mannen* (Equal Pay (Men and Women) Act) is still in its infancy. By amending the *Wet gelijke behandeling mannen en vrouwen* (Equal Treatment (Men and Women) Act), this bill aims to put an end to gender pay inequality. If the bill is passed, companies with more than 50 employees will be subject to a duty to disclose information on pay differences between men and women in comparable positions. A certification requirement will furthermore apply to companies with more than 250 employees, requiring employers to provide figures on their employees' wages and salaries every three years. A certificate can then be obtained only if the company demonstrably tackles unequal pay and demonstrates that the company pays men and women equally. An opportunity for improvement is given in the event of failure to comply, after which fines will be imposed if the company fails to comply. The bill is currently pending before the Lower House. We will inform you in our newsletter as soon as there are any relevant developments.
  
- **Mandatory confidential advisor on undesirable behaviour in the workplace**
  - This bill – which is also still in the early stages of the legislative process – aims to amend the *Arbowet* (Working Conditions Act) to give every employee who is confronted with undesirable behaviour in the workplace a legal right of access to a confidential advisor. This will be possible because, if the bill is passed, employers will be obligated to appoint a confidential advisor (internal or external). The bill also seeks to strengthen the position of a confidential advisor in an organisation by giving him or her employment protection and recording basic duties of the advisor in the law. We will inform you in more detail as soon as this bill is more concrete.
  
- **Making occupational physician's advice in the rehabilitation report decisive**
  - The bill to amend the *WIA* (Work and Income (Capacity for Work) Act) and the *Ziektewet* (Sickness Benefits Act) is still being debated, with the aim of making the occupational physician's medical opinion on a sick employee's capacity for work decisive in the review of the rehabilitation report by the *UWV* (Employee Insurance Agency). If the bill is adopted, the guiding principle will be that the *UWV*'s medical advisor will no longer assess the occupational physician's advice on the employee's capacity for work: instead, the occupational physician's advice on the sick employee's capacity for work will be decisive. The aim in doing so is to give employers more

certainty about the obligation to continue paying wages to sick employees, because wage sanctions based on a medical difference of opinion on the sick employee's capacity for work between the occupational physician and the medial advisor will then be a thing of the past. According to the Minister, the bill will be enforceable by the UWV on 1 July 2023 at the earliest. We will keep you posted.

- **Certification of temporary employment agencies**
  - On 9 December 2022, the Council of Ministers approved the bill on compulsory certification of temporary employment agencies. The bill aims to ensure that employment agencies make sure that all their employees work under good working and living conditions. To achieve this aim, it will be made obligatory for agencies to supply workers only if they are duly certified, and for recipients to do business only with certified agencies. This will improve the vulnerable position of migrant workers and ensure a level playing field for all temporary employment agencies. To qualify for a certificate (which will be issued by an institution yet to be set up), agencies must meet set standards on, among other things, proper working conditions, proper remuneration, high-quality housing for the workers, a Certificate of Conduct, a bank guarantee as a security deposit, and the remittance of payroll taxes and turnover tax. The certification duty will be enforced by the Labour Inspectorate. If an agency loses its certificate at any time, it will no longer be permitted to operate in the market. The bill is currently being sent to the Council of State for advice, after which it will be submitted to the Lower House in the spring of 2023 and an attempt will be made to have the certification scheme apply to all temporary employment agencies from 2024. To be continued!