



Global Employer Services

Individual tax

New FAQ regarding wage tax incentive for companies conducting real estate works with teams on location

The wage tax exemption for the construction sector is among the measures available for employers to control and reduce their salary costs. Given the current COVID-19 situation, this measure is all the more important. Companies are adjusting their production capacity to meet changing demand, with some seeing an increase (such as food retailers and logistics services), but many more undergoing a decrease due to lockdown measures and consequent economic slowdown. These adjustments must be taken into account to correctly and optimally apply the wage tax exemption and other incentives enabling the reduction of salary costs. For these reasons, the clarifications provided in the administration's FAQ, and outlined in this text, are worthwhile in the current economic circumstances.

The Law of 26 March 2018 ([Dutch](#) | [French](#)) broadens the scope of the wage tax incentive for shift work to companies that are conducting real estate work on location. The circular letter of 11 June 2018 (2018/C/73 – [Dutch](#) | [French](#)) provided preliminary comments about this wage tax exemption. The Law of 28 April 2019 ([Dutch](#) | [French](#)) subsequently provided further clarifications.

Then on 2 March 2020, the tax authorities published a more extensive commentary on the two above mentioned laws, in

the form of an FAQ document (Circular letter 2020/C/38) covering 23 questions ([Dutch](#) | [French](#)).

What follows are some of the most important aspects covered:

- The FAQ reminds that the concept of “team work” requires at least two workers with the same working schedule (FAQ 2). Students and trainees following an alternating education program must be excluded when assessing the team concept. However, when a qualifying team exists (i.e. at least two workers with the same work schedule and carrying out real estate work on location), the wage tax exemption can be applied with respect to eligible workers, including students and trainees (as the case may be), provided all other requirements are met (FAQ 2 and 11).
- While the team should consist of at least two workers, it is remarkable that this can be a combination of either employee with company director, or self-employed worker with employee (FAQ 3 and 4).
- The FAQ confirms that shift workers with a gross hourly wage (before deduction of worker’s personal social security contributions) lower than EUR 13.75 (not indexed) are not eligible for the wage tax exemption, even when their employer is paying them a shift premium (FAQ 8).
- The personal scope of application is clarified, in that eligible shift workers not only include those subject to the standard social security scheme for the private sector (ONSS) but also workers from the not-for-profit sector, as well as civil servant and contractual workers from the public sector (FAQ 10).
- The FAQ explicitly states that the “norm of the third” applies. This means that workers must have completed real estate work on location for at least a third of their working schedule in the month at hand to be eligible, without accounting for working time eventually performed by that worker for the “classic” night or shift work (FAQ 13 and 14).
- The taxable remuneration on which the wage tax exemption is calculated does not include premiums (other than the shift premium), regardless of whether such premium was subject to the monthly withholding tax scales or the exceptional withholding tax (FAQ 18).
- The available amount for the wage tax incentive is capped at the actual withholding tax amount withheld on the taxable remuneration used to calculate the wage tax exemption (FAQ 19). Such capping requirement brings practical application difficulties, namely in identifying the portion of the available withholding tax that relates to taxable remuneration included in the wage tax incentive’s calculation basis.

This tax measure and other wage tax incentives are covered by the Individual tax Alerts of [6 June 2019](#) and [17 September 2019](#). The Deloitte Academy webinar “[Are you sure your company benefits from all available payroll incentives?](#)”, from

5 November 2019, can also be replayed for additional expert coverage.

Contacts

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