2020 Payroll Special

The 2020 Payroll Special is a handy reference work for you as an employer, HR professional or advisor.

It contains up-to-date figures for the minimum wage, contribution percentages for employee insurance schemes, the income-related healthcare insurance contribution, unemployment insurance contributions and employed person's tax credits, the low-income allowance and wage expense allowance, and the customary salary for directors and principal shareholders, amongst other things.

The special also presents up-to-date figures for and information on the new Balanced Labour Market Act, company cars, the new tax arrangements relating to company bicycles, the work-related expenses scheme and the Transition Payment Compensation Act.

Table of contents

1 Payroll tax and national insurance contributions – miscellaneous 3
1.1 Changes to income tax 3
1.2 Statutory minimum wage 3
1.3 Contributions for employee insurance schemes in 2020 4
1.4 Percentages for income-related healthcare insurance contribution in 2020 5
1.5 Expansion of practical learning subsidy scheme 5
1.6 New subsidy scheme for training at SMEs 6
1.7 Changes to R&D tax credit 6
1.8 Transition payment 7
1.9 Standard amounts for highly skilled migrants in 2020 7
1.10 Customary salary for directors and principal shareholders (DGAs) 8
1.11 eHerkenning compulsory for payroll tax return from 2020 8
1.12 Higher allowance for foreign business travel 9
1.13 Tax exemption for volunteers in 2020 9
2 Balanced Labour Market Act (WAB) 11
2.1 On-call workers 11
2.2 Unemployment insurance contribution 12
2.3 Grace period 13
2.4 Rules on successive fixed-term contracts extended 13
2.5 Transition payment 14
3 Transport 16
3.1 Company car 16
3.2 Company bicycle 17
3.3 Other possibilities 18
4 Work-related expenses scheme 20
4.1 Increase in fixed budget 20
4.2 2020 group scheme 20
4.3 Other changes 21
4.4 Meals 21
4.5 Standard amount for accommodation 22
4.6 Standard-practice criterion 22
5 Salary Costs (Incentive Allowances) Act 23
5.1 Payment of incentive allowances 23
5.2 The low-income allowance in 2020 23
5.2.1 LIV amounts for 2020 23
5.3 The youth low-income allowance in 2020 24

5.4 Wage expense allowances in 2020 24
6 Assessment of Employment Relationships (Deregulation) Act 27
6.1 Successor to Assessment of Employment Relationships (Deregulation) Act delayed 27
6.2 Online consultation 27
6.3 Enforcement 28
7 Employment law – miscellaneous 29
7.1 Transition Payment Compensation Act 29
7.2 End of dormant employment relationships 30
7.3 Risk assessment & evaluation 31
7.4 Partner leave 32

1 Payroll tax and national insurance contributions – miscellaneous

1.1 Changes to income tax

The transition to a two-band system for income tax has been brought forward. This was due to be introduced in 2021, but the two-band system is now already being applied with effect from 1 January 2020.

From four to two bands
The first, second and third bands are being combined to form a single band. In 2020 a rate of 37.35% will apply to incomes up to a maximum of € 68,507. This represents a slight increase of 0.7 of a percentage point for incomes that previously fell into band 1. In the case of incomes that previously fell into the second and third bands the rate will be 0.75 of a percentage point lower. In 2020 a rate of 49.50% will apply to the new second band, which is for incomes exceeding € 68,507. This represents a drop of 2.25% compared with the top rate in 2019.

From 2020			
	Income max. € 20,711*	Income max. € 68,507*	Income above € 68,507*
2019	36.65 per cent	38.10 per cent	51.75 per cent
2020	37.35 per cent		49.50 per cent
2021	37.10 per cent		49.50 per cent
*Lower rates apply to people of state-pension age, see rijksoverheid.nl			

Please note:
The conversion to two tax bands in box 1 applies to people who are not yet entitled to a state pension. Different rates apply to people of state pension age and three bands will be retained in this case.

Tax credits
In addition to the changes to tax rates, with effect from 2020 a number of changes are also being made to tax credits.

General tax credit
From 2020 the general tax credit will be increased further to € 2,711, compared with € 2,477 in 2019. In 2021 an additional increase will be applied, on top of that previously planned. From that year the general tax credit will therefore amount to a maximum of € 2,801. These rises will benefit the purchasing power of people on lower incomes in particular.

Employed person's tax credit
In addition to the general tax credit, the employed person's tax credit is also going up. In 2020 the maximum employed person's tax credit will rise from € 3,399 to € 3,819. It will increase by a further € 324 from 2021, making the maximum employed person's tax credit € 4,143 with effect from that year.

1.2 Statutory minimum wage

The statutory minimum wage is increasing by 1.1% from 1 January 2020. This means the monthly minimum wage amounts to € 1,653.60. The minimum wage applies to employees aged 21 and above and to a full working week. How many hours per week this amounts to differs from sector to sector. It can be 40 hours, although some sectors employ a shorter working week.

Minimum youth wages also rising
The minimum youth wages are a fixed percentage derived from the minimum wage and are therefore also increasing by 1.1%. Details of the statutory minimum wage that applies from 1 January 2020 for each age group are presented in the table below.

Age	Scale	Per month	Per week	Per day
21 and above	100%	€ 1,653.60	€ 381.60	€ 76.32
20	80%	€ 1,322.90	€ 305.30	€ 61.06
19	60%	€ 992.15	€ 228.95	€ 45.79
18	50%	€ 826.80	€ 190.80	€ 38.16
17	39.5%	€ 653.15	€ 150.75	€ 30.15
16	34.5%	€ 570.50	€ 131.65	€ 26.33
15	30%	€ 496.10	€ 114.50	€ 22.90

Work-based learning pathway (BBL)
A lower minimum youth wage applies to employees aged between 18 and 20 who are working on the basis of the work-based learning pathway. A 19 year old will receive 52.5% of the statutory minimum wage instead of 60%, for example. Employees from 21 years of age and between the ages of 15 and 17 who are working on the basis of the work-based learning pathway do not receive a lower minimum youth wage. The details for each age group are presented in the table below.

Age	Scale for BBL	Per month	Per week	Per day
21	100%	€ 1,653.60	€ 381.60	€ 76.32
20	61.50%	€ 1,016.95	€ 234.70	€ 46.94
19	52.50%	€ 868.15	€ 200.35	€ 40.07
18	45.50%	€ 752.40	€ 173.65	€ 34.73
17	39.5%	€ 653.15	€ 150.75	€ 30.15
16	34.5%	€ 570.50	€ 131.65	€ 26.33
15	30%	€ 496.10	€ 114.50	€ 22.90

1.3 Contributions for employee insurance schemes in 2020

The new contribution percentages for employee insurance schemes have been set for 2020. The sector contributions under the Unemployment Insurance Act (WW) will end in 2020 due to the introduction of the Balanced Labour Market Act. This contribution will now be included in the new General Unemployment Fund (Awf) contribution. For 2020 this contribution has been set at 2.94% (low contribution) or 7.94% (high contribution). The Invalidity Insurance Fund (Aof) contribution is increasing slightly on the 2019 level, while the Implementing Fund for the Government (Ufo) contribution will be slightly lower. Contributions under the General Old Age Pensions Act (AOW) and Surviving Dependants Act (ANW) will remain the same, as will the childcare costs supplement.

The average Return to Work Fund (Whk) contribution (Return to Work (Partially Disabled) Regulations (WGA) + Sickness Benefits Act (ZW)) is increasing compared with 2019. The increase in the average contribution under the Sickness Benefits Act is due to a rise in charges under the Sickness Benefits Act and a change to the way in which so-called *staartlasten* are funded from 1 January 2020.

Staartlasten are sickness benefits payable by employers who are now self-insurers, but were still publicly insured at the time the benefit entitlement arose. Due to the introduction of the Balanced Labour Market Act on 1 January 2020 and the associated cessation of the collection of contributions for the sector funds, from 2020 these *staartlasten* will no longer be paid out of the sector funds and instead out of the Return to Work Fund (Whk).

An overview of these contributions can be found in the table below.

Contribution	2019	2020
Unemployment Insurance Act	0.77%	No longer applicable
Old Age Pension Fund	17.90%	17.90%
Surviving Dependants Fund	0.10%	0.10%
General Unemployment Fund	3.60%	2.94% or 7.94%
Implementing Fund for the Government	0.78%	0.68%
Uniform childcare supplement	0.50%	0.50%
Invalidity Insurance Fund	6.46%	6.77%
Return to Work Fund	1.18%	1.28%

Maximum wage assessable for contributions in 2020
The maximum wage assessable for contributions is also increasing. This is the maximum wage on which you have to pay employee insurance contributions. For 2020 it has been set at € 57,232, compared with € 55,927 in 2019.

1.4 Percentages for income-related healthcare insurance contribution in 2020

In 2020 the income-related contribution under the Healthcare Insurance Act (Zvw) is being reduced by 0.25 of a percentage point. Consequently, employers' contributions will fall and self-employed persons and directors and principal shareholders (DGAs) will have to pay a lower contribution.

Contribution	2019	2020
Employer levy under Zvw	6.95%	6.70%
Employee contribution under Zvw	5.70%	5.45%

A maximum income assessable for contributions also applies to the income-related contribution. For 2020 this maximum assessable income has also been set at € 57,232.

Income-related healthcare contribution in 2020

Maximum assessable income		Percentage	Maximum healthcare insurance contribution	
€ 57,232		6.7%	€ 3,834.54	
	X			0.25 % point ↓
		5.45%	€ 3,119.14	

1.5 Expansion of practical learning subsidy scheme

The subsidy is an allowance for the costs that employers incur for supporting an apprentice, participant or student. Over the next 5 years the Minister of Education, Culture and Science is planning to grant this allowance to approved work placement companies at upper secondary vocational education (MBO) level in the agricultural, hotel and catering and recreation sectors if they offer a work placement under the work-based learning pathway. From the 2019/2020 academic year € 10.6 million will be available for a period of 5 years in a separate compartment within the practical learning subsidy scheme. Further details of the subsidy amounts are not yet known. Employers in the three sectors mentioned above can therefore receive an additional subsidy. This will be on top of the subsidy amount to which they are entitled under the existing practical learning subsidy scheme if they offer a work placement under the work-based learning pathway.

1.6 New subsidy scheme for training at SMEs

From March 2020 SMEs will be able to receive a subsidy for certain types of training, via the Learning and Development at SMEs Incentive Scheme (SLIM). An annual budget of € 48 million will be made available for this purpose.

The maximum subsidy per employer amounts to € 24,999. For alliances of several organisations the maximum level has been set at € 500,000.

Agricultural, hotel and catering and recreation sectors also eligible
Larger companies within the agricultural, hotel and catering and recreation sectors will also be eligible for the subsidy, due to the fact that they frequently employ seasonal workers.

Please note:
The SBI code from the CBS (Statistics Netherlands) must be used to demonstrate that a company operates in the agricultural, hotel and catering or recreation sector.

Which companies are eligible?
A company is regarded as an SME for the purposes of this scheme if it employs fewer than 250 people and has an annual turnover not exceeding € 50 million and/or an annual balance sheet total not exceeding € 43 million.

Continuous development
SMEs can use the funds to enhance the educational working environment within their business and to allow employees in a vulnerable position on the labour market to follow tailored vocational training. Entrepreneurs can also receive a subsidy for employees who want to follow (part of) an upper secondary vocational education course during their work.

Eligible costs
The costs that are eligible to be subsidised include external costs, direct wage costs and a 15% supplement on the total amount of external costs and direct wage costs. The supplement is intended to cover other costs associated with the effort required on the part of the company itself, e.g. overheads.

1.7 Changes to R&D tax credit

As of 1 January 2020 employers are able to use the R&D tax credit more flexibly. To make this possible, two changes are being made to the application procedure. The conditions are remaining the same as in 2019.

Changes
From 1 January 2020 the ‘interim month’ no longer applies when making an application. Previously, employers had to submit an R&D tax credit application at least a full calendar month before the period to which the application related.

Consequently, if an employer wants to make use of the R&D tax credit with effect from 1 February 2020, it will still be possible to submit an application for this on 31 January 2020.

Please note:
An exception applies in the case of applications for a period commencing on 1 January. From 2020 these applications must be submitted by 20 December at the latest.

The second change relates to the number of applications per year. With effect from this year an R&D tax credit application may be submitted a maximum of 4 times per year for a period of at least 3 months. Previously, it was possible to apply up to 3 times per year.

1.8 Transition payment

Do you need to make a transition payment if you make one of your employees redundant? And have you previously trained this employee to perform a different role within your company? In that case, from 1 January 2020 you may, under certain conditions, be able to deduct the training costs you incurred from the transition payment.

Transition payment
An employee is entitled to a transition payment if he/she is made redundant at the employer's initiative. The level of the transition payment depends on the employee's salary and the number of years of service. In 2020 the maximum transition payment is € 83,000, or a year's salary if higher.

Deduction of training costs
In November 2018 the Minister had already proposed amending the 'Decree on the conditions for deducting costs from the transition payment' and opened a consultation on his proposal. On 27 September 2019 the cabinet approved the proposed change to the decree. The Council of State issued its opinion on 21 November 2019, which has largely been adopted. It is now a question of waiting for an official announcement.

Deduction already possible in some cases
Under certain conditions, training costs for a position with another employer can already be deducted from the transition payment. Training costs relating to a position that an employee already holds are not deductible (and that will remain the case). After all, an employer is obliged, on the basis of good employment practice, to train an employee for his/her own job.

1.9 Standard amounts for highly skilled migrants in 2020

Employers who want to apply the highly skilled migrants scheme for a foreign employee may only do so if this employee receives a certain minimum gross salary every month. From 1 January 2020 the salary requirements are increasing by 2.49%, in line with the development of wages under collective labour agreements. The Foreign Workers (Employment) Act Implementation Decree sets out the minimum required level of the monthly salary in 2020.

There are three different salary requirements for highly skilled migrants in 2020:

- highly skilled migrants under the age of 30: € 3,381;
- highly skilled migrants from the age of 30: € 4,612;
- highly skilled migrants who enter employment in the Netherlands within three years of completing an approved bachelor's, master's or postdoctoral course: € 2,423.

The amounts all exclude the holiday allowance to which the employee is entitled.

What counts towards the salary criterion?
The Immigration and Naturalisation Service (IND) counts expense allowances and fixed bonuses (such as thirteenth-month pay) towards this. The following conditions apply here:

- The allowances and bonuses are included in the contract.
- The allowances and bonuses are transferred every month to a bank account in the name of the highly skilled migrant or the holder of a European blue card.

The following salary components are not counted:

- holiday allowance;
- the value of benefits in kind;

- irregular salary components that are not certain to be paid out. These may include: overtime payments, gratuities and payments from funds.

Work permit not required
For highly skilled migrants it is not necessary for employers to obtain a combined residence and work permit (GVVA) or work permit (TWV). The same applies to employees with a European blue card. In this case, however, there is an additional requirement that the employee has completed a course of study at a Dutch university or university of applied sciences or an equivalent course of study abroad. In addition, the monthly salary of employees with a European blue card must amount to at least € 5,403 (excluding holiday allowance) in 2020.

Becoming a recognised sponsor
A highly skilled migrant is a foreign worker from outside the European Union (EU) who is employed by your organisation on account of his/her technical or scientific knowledge. To bring a highly skilled migrant to the Netherlands, your organisation must be designated as a recognised sponsor by the Immigration and Naturalisation Service. The employer then has a specific obligation to provide information and keep records, as well as a duty of care, is entered in the public register of recognised sponsors and is able to apply for residence permits for the highly skilled migrant.

1.10 Customary salary for directors and principal shareholders (DGAs)

For 2020 the fixed amount for the director and principal shareholder and his/her partner under the customary salary scheme is € 46,000. Under certain conditions directors and principal shareholders can set their customary salary in 2020 at a lower level than € 46,000. This is made possible by a rebuttal scheme in relation to the general rule that the salary of a director and principal shareholder is the highest of the following amounts:

- 75% of the salary for the most comparable position;
- the highest salary received by the other employees of the company or affiliated companies (legal entities);
- € 46,000.

Please note:
To set the salary at a level lower than € 46,000, you need to plausibly demonstrate that the salary received for the most comparable position is lower than € 46,000. If you are unable to do so, the customary salary will amount to a minimum of € 46,000.

Customary salary for innovative start-ups
Is your company regarded as a start-up for the purposes of the tax deduction for research and development work? If so, you can set your customary salary at the level of the statutory minimum wage. You can apply this start-up scheme for a maximum of three years, after which the general rule applies again.

The Payroll Taxes Handbook (*Handboek Loonheffingen*) sets out the criteria that apply to a start-up as follows:

- You hold an R&D certificate in a particular calendar year.
- You are entitled to the higher start-up percentage in a particular calendar year.
- You do not exceed the ‘de minimis ceiling’ for state aid under the Treaty on the Functioning of the European Union. This is demonstrated by means of a ‘De minimis aid certificate’.

Do you hold an R&D certificate and have an entitlement to the higher start-up percentage for a part of the calendar year? In that case this scheme nevertheless applies to the full calendar year.

1.11 eHerkenning compulsory for payroll tax return from 2020

From 2020 employers who submit their payroll tax return themselves will only be able to do so via the new portal of the Tax and Customs Administration. They will be required to use eHerkenning for this purpose. This has also been the case for sole traders since 10 December, for whom eHerkenning has also been available with effect from that date.

eHerkenning is a secure, digitised communication tool that can now be used to communicate with several hundred government bodies. To use eHerkenning for your payroll tax return, you need at least the second-highest security level: EH3.

eHerkenning is offered by six companies at differing rates. The costs vary depending on the options provided. eHerkenning is therefore more expensive with a high security level than with a low security level.

Please note:
As using eHerkenning has cost implications, from 2020 it will therefore cost employers money to submit their payroll tax return.

1.12 Higher allowance for foreign business travel

The untaxed allowances for employees' foreign business travel were increased from 1 October 2019. The maximum amounts differ depending on the country, city and region and can be found in the Foreign Travel Decree. Allowances for domestic business travel remain unchanged for the time being. Although these decrees are intended to apply to civil servants travelling on official business, they may also be applied to employees whose expenditure is comparable to that of civil servants travelling on official business.

Fixed amounts
An employee who travels abroad for work can receive a fixed allowance for his/her travel and accommodation expenses, which, under certain circumstances, is untaxed. It is not necessary to collect any receipts or invoices. If you reimburse more than the maximum amounts mentioned above, the excess amount must be designated as taxable salary or as salary for final levy purposes under the work-related expenses scheme.

Are the costs plausible?
All costs that you are unable to demonstrate as being plausible costs are taxed. The allowances for these must also be regarded as salary and taxed or included in the work-related expenses scheme. If you are unable to demonstrate that the costs of an overnight stay were plausible, you may grant an allowance of € 11.34 in accordance with the Travel Decree. This allowance is taxable, however.

Tip:
Do you want to follow the Domestic or Foreign Travel Decree? Present your situation to the Tax and Customs Administration to make sure that, from a cost perspective, you are comparable with a civil servant travelling on official business.

1.13 Tax exemption for volunteers in 2020

The tax exemption for volunteers is not changing in 2020. This means that, from 1 January 2020, a volunteer can receive a maximum of € 170 tax free per month for services performed, up to a maximum of € 1,700 per year.

Conditions
The condition that an organisation must be non-profit-making in order to apply the tax exemption for volunteers is also remaining unchanged. Ordinary companies are therefore excluded from the scheme.

This means that the organisation must be:

- a public benefit organisation (ANBI);
- a sports organisation or sports association;
- a company that is not subject to corporation tax.

The volunteer is also not permitted to be employed at the organisation where he/she is volunteering. In addition, the volunteer's allowance that he/she receives may not be in proportion to the nature of the work and the amount of time involved.

Please note:
It is possible to avoid an employment relationship by using a model agreement for voluntary work. However, the work must then be carried out in accordance with the agreement.

Please note:
If the maximum amounts are exceeded, the tax exemption for volunteers no longer applies. This means that, depending on the facts and circumstances, an employment relationship may be deemed to exist. In such a case payroll taxes will therefore have to be deducted.

2 Balanced Labour Market Act (WAB)

On 1 January 2020 the Balanced Labour Market Act entered into force. The purpose of the WAB is to restore the balance between permanent and flexible work. For this reason a number of changes have been made in the area of flexible employment contracts.

In this context the term flexible employment contracts refers to:

- all fixed-term employment contracts;
- on-call contracts (also known as zero-hours contracts) for an indefinite period;
- so-called min-max contracts for an indefinite period.

2.1 On-call workers

The definition of an on-call contract has been changed and new requirements have been introduced relating to the period within which a person must be called. Since 1 January 2020 there has also been an obligation to offer a fixed number of hours to the on-call worker after twelve months (the so-called *vastklikmoment*).

On-call contract
An on-call contract applies if the scope of the work to be performed has not been defined in the form of a number of hours within a period of no more than a month, or a number of hours within a period of no more than a year, or if the entitlement to pay is not spread evenly over that period. An on-call contract also applies if the worker is not entitled to the time-based pay if he/she has not performed the agreed work. This means that, amongst other things, employment contracts in which the regular scope of the work has not been determined and employment contracts in which differing working times have been agreed are regarded as on-call contracts. These are also referred to as zero-hours contracts or min-max contracts.

On-call period
An on-call worker must be called to carry out the work at least four days in advance, in writing or electronically. If he/she receives less than four days' notice, the on-call worker does not have to comply with the call. A shorter period may be agreed in a collective labour agreement, but at least 24 hours' advance notice must be given.

The on-call worker retains the right to pay for the duration of the call if the work is cancelled (in full or in part) less than four days in advance. This also applies if the time of the work for which the on-call worker has been called changes. In this case the on-call worker retains the right to pay for the period for which he/she was initially called and for the hours that he/she has actually worked.

Offer of fixed hours
After twelve months the employer is obliged, within one month, to offer an employment contract with a fixed number of hours. These hours must be based on, as a minimum, the average number of hours worked over the previous twelve months. Only hours that follow on from one another within a six-month period are counted.

Example
An on-call worker started on 1 January 2019. In January 2019 he/she worked an average of 36 hours per week, but did not work from February through to August. He/she then worked an average of 32 hours per week from September through to 31 December 2019. The work in January 2019 is not counted in the calculation, as after this no work was carried out for seven months, which means that no working hours followed on from this within a six-month period. To calculate the average number of hours, the hours from September to December 2019 are counted. The on-call worker has to be offered an employment contract for at least 32 hours per week.

A worker has a month to decide whether or not to accept this offer. If he/she does accept it, the new scope of work applies from that moment onwards and there is no longer an on-call contract.

Legal presumption regarding scope of work

It remains possible for a worker to rely, after three months, on the legal presumption with regard to the scope of the employment contract. However, this legal presumption is rebuttable. This means that the employer can provide evidence to the contrary, e.g. by demonstrating that the period is not representative as far as the claimed scope of the work is concerned.

Right to pay if no offer made

If a contract with a fixed number of hours is not offered, the on-call worker is entitled to be paid for the average number of hours worked per week over the previous twelve months, irrespective of whether he/she is called to perform work. This is a regular pay claim that is subject to a limitation period of five years.

Please note:
The Balanced Labour Market Act has direct effect and therefore also applies to existing contracts. On-call workers who have been working for the same employer for more than a year on 1 January 2020 must therefore receive an offer of a permanent contract before 1 February 2020. This means that all employers who are already using on-call workers at present will be affected by these new rules in 2020 as soon as the on-call worker has been working for twelve months.

Please note:
A different arrangement may apply to people working in seasonal sectors. This is because, for seasonal jobs, it can be agreed in a collective labour agreement that there will be no call period or offer after twelve months. Such cases must concern jobs that can be carried out for a maximum period of nine months per year due to climatological or natural conditions and cannot be carried out consecutively by the same worker for a period of more than nine months per year. This will therefore depend on the collective labour agreement that applies to you as an employer.

2.2 Unemployment insurance contribution

With effect from 2020 the level of the unemployment insurance contribution will depend on whether the person concerned has a permanent or flexible employment contract. The cabinet hopes that this measure will encourage the use of permanent employment contracts and make them more attractive for employers.

For employees with a flexible employment contract the unemployment insurance contribution has been set 5 percentage points higher. The low unemployment insurance contribution amounts to 2.94% and the high contribution 7.94%.

When does the low unemployment insurance contribution apply?

The low unemployment insurance contribution is payable in the case of written contracts for an indefinite period in which the scope of the work is clearly defined. This low contribution is also due for employees under the age of 21 who have been paid for a maximum of 48 hours (per four-week return period) or 52 hours (per return period of a calendar month). In addition, the low contribution applies to apprentices following a work-based learning pathway (BBL) and to employees whose employer is paying an employee insurance benefit in the form of an employer's payment or as a self-insurer.

Please note:
In two cases the employer has to pay the high unemployment insurance contribution with retroactive effect. This is the case if the employment contract ends no later than two months after the start of the employment relationship and, in the case of part-time employment for fewer than 35 hours a week, if the employee has been paid for 30% more hours in a calendar year than the number laid down in the employment contract.

2.3 Grace period

The Minister of Social Affairs and Employment has explained the administrative requirements that apply to the differentiated unemployment insurance contribution according to the type of contract. This explanation can be summarised as follows:

- Employers may pay the low unemployment insurance contribution even if the employment contract for an indefinite period (not an on-call contract) has not yet been laid down in writing or if the employment contract or addendum has not yet been signed by both parties. In such situations employers can indicate 'yes' in the 'written employment contract' section of the payroll tax return.

- The Minister has confirmed that, in a situation where a fixed-term employment contract has been converted into an employment contract for an indefinite period, an addendum that satisfies the conditions outlined on the Salary Forum of the Tax and Customs Administration is sufficient. These conditions require that:
  a) the employee and employer have signed a written addendum,
  b) it is apparent from this addendum that the contract is an employment contract for an indefinite period that is not an on-call contract and
  c) the addendum is retained with the payroll records.

- For such employees the written employment contract signed by both parties or the written addendum signed by both parties must be present in the payroll records by no later than 1 April 2020 and it must be apparent from it that the employee was already employed for an indefinite period on 31 December 2019 at the latest.

- The grace period up to 1 April 2020 only applies to employment contracts of employees who entered employment before 1 January 2020; it does not apply to other employment contracts.

Tip:
An update to the Ministry's Differentiated Contribution Knowledge Document (*Kennisdocument Premiedifferentiatie*) indicates that a digital signature is sufficient, as is agreement via e-mail or in an HR system.

Please note:
This grace period only applies to employees who entered employment before 1 January 2020! In other words, the administrative obligations apply in full in the case of employees who enter employment on or after 1 January 2020.

Please note:
If these conditions are not met by 1 April 2020, but the employment contract continues after 31 March, the high unemployment insurance contribution will be payable with retroactive effect from 1 January 2020.

2.4 Rules on successive fixed-term contracts extended

Under the rules on successive fixed-term contracts (*ketenregeling*), the maximum period within which up to 3 fixed-term contracts are permitted has been extended from 24 to 36 months. It is only possible to deviate from the maximum number of contracts and the maximum period in the case of temporary employment contracts or if this is permitted on the basis of the applicable collective labour agreement.

Alongside the existing exceptions, an additional exception has been included in the *ketenregeling* for temporary supply teachers in primary education and special education who replace a member of the teaching staff due to illness.

Interruption of the chain of contracts

The chain of contracts is only interrupted if an employee does not carry out any work for you for a period of six months. This will not change with the introduction of the Balanced Labour Market Act.

How should the changes to these rules be handled?

The changes applicable to fixed-term contracts become effective immediately when the Balanced Labour Market Act enters into force; there is no transition period. In concrete terms this means that the maximum chain period of 36 months applies to a contract that ends on or after 1 January 2020, even if the contract was entered into before 1 January 2020. An existing chain is therefore automatically extended from 24 to 36 months on 1 January 2020.

Practical examples

Example 1

The first fixed-term contract (6 months) was entered into from 1 April 2018 to 1 October 2018.
This is followed by a second fixed-term contract (12 months) from 1 October 2018 to 1 October 2019.
After this there is a third fixed-term contract (12 months) from 1 October 2019 to 1 October 2020.
As a result of the amended *ketenregeling*, the last contract ends by operation of law on the agreed date. After all, the 24-month period was not exceeded in 2019.

Example 2

The first fixed-term contract (12 months) was entered into from 1 October 2018 to 1 October 2019.
A second fixed-term contract (18 months) was entered into from 1 October 2019 to 1 April 2021.

The second contract remains a fixed-term contract. This is because the duration of the successive contracts exceeds a period of two years, but the moment when the 24-month period is exceeded is after the entry into force of the amended *ketenregeling*. After the second contract has ended it is even possible to enter into a new fixed-term contract. However, this may not exceed a term of 6 months, as the maximum duration of the chain is 36 months.

Please note:
It has become easier for the standard six-month interruption period to be reduced under a collective labour agreement to a maximum of three months in the case of jobs for which work can be carried out for no more than nine months per year. The requirement that this must be connected with climatological conditions no longer applies. As a result, it is now simpler to reduce the interruption period to three months in a collective labour agreement.

2.5 Transition payment

Another consequence of the Balanced Labour Market Act is that, with effect from 1 January 2020, an employee is entitled to a transition payment from his/her first working day, including if you decide to terminate the contract during the probationary period or decide not to extend a temporary contract.

The level of the transition payment is calculated over the entire duration of the employment. It amounts to a third of the gross monthly salary for each year of the employment contract. The transition payment is calculated on a pro-rata basis for any other part of the employment relationship or if the employment relationship has lasted for less than a year.

The calculation is performed as follows (in two steps):
Step 1: For full years of service the transition payment amounts to 1/3 of the gross monthly salary.
Step 2: For the remainder of the employment contract and for employment contracts that last for less than a year, the transition payment is calculated on a pro-rata basis. The following formula can be employed for this: (gross salary/gross monthly salary) x (1/3 gross monthly salary/12).

Example calculation

An employee has been given a 6-month contract.
The salary is € 2,500 gross (excl. 8% holiday allowance). The total gross monthly salary amounts to € 2,700.

You decide not to extend the contract, as a result of which the employee is entitled to a transition payment (1/3 of the monthly salary per year). However, the employee has worked for only 6 months and is therefore entitled to 50% of 1/3 of the monthly salary.
That equates to 1/6 of the monthly salary of € 2,700 gross, or € 450 gross.

Please note:
Employees with a fixed-term contract that ends in 2020 will also be eligible for the transition payment. It makes no difference that the contract was entered into under the 'old' law.

Notice period
In the case of a contract with a term of 6 months or more, the notice period continues to apply under the new law. This means that you still have to notify your employee in writing at least one month in advance of whether you will or will not be extending the contract and under what conditions. If you fail to do so or do so too late, your employee can request a payment, which can amount to a maximum of one month's gross salary.

Transitional arrangements to end with effect from 1 January 2020
With effect from 1 January 2020 the transitional arrangements for employers with fewer than 25 employees have ended. The exception that allowed them, in the event of a poor financial situation, not to count years of service before 1 May 2013 when determining the transition payment therefore no longer applies.

The more favourable transition payment for employees aged 50 and above with at least 10 years of service is also ending. From 1 January 2020 these employees fall under the general arrangements and no longer enjoy a special starting position.

Payroll employers: employment conditions must be the same
A payroll company takes care of the payroll accounting and the payment of wages to the payroll employee and, as the legal employer (formal employer status), also pays all employer's contributions. It is also referred to as the payroll employer. From 1 January 2020 the payroll employer must offer payroll employees the same employment conditions as those enjoyed by persons who are in the employ of the hirer and work in the same or equivalent roles. If an employer hires in employees via a temporary employment agency or payroll company, it must inform that agency or company about the employment conditions it offers to its own employees.

New possibility for dismissals: cumulative ground
From 1 January 2020 it will also be possible to dismiss an employee via the subdistrict court if circumstances linked to a number of different grounds for dismissal, the assessment of which is reserved for the subdistrict court, give sufficient cause to do so. In the event of dismissal on the basis of this so-called cumulative ground the court can award the employee an additional payment of no more than 50% of the transition payment.

3 Transport

3.1 Company car

In 2020 there will be no changes to the addition to taxable income for new cars with CO_2 emissions of more than 0 grams per kilometre. As in previous years, this will remain at 22%. There will, however, be changes to the addition to taxable income for electric cars. The addition may also change in the course of 2020 for cars – electric and non-electric – that were registered for the first time in 2015.

Electric cars
The addition for a fully electric car is being increased from 4% to 8% for the portion of the list price up to € 45,000. In the case of a car that costs more than € 45,000, an addition of 22% applies to the excess amount. This applies only to electric cars with a date of first registration from 1 January 2020.

The impact of the increase in 2020 is explained below with the help of an example.

***Example**:*
An employee has an electric car with a list price of € 90,000. If the date of first registration is in 2019, this employee pays a 4% addition on € 50,000 and 22% on the remaining € 40,000, or € 10,800 per year. If the date of first registration is in 2020, the same employee pays an 8% addition on € 45,000 and 22% on the remaining € 45,000, or € 13,500 per year. This amounts to a difference of € 2,700 per year.

Further increase in addition to taxable income
The addition to taxable income for electric cars will increase further over the coming years. In 2021 the addition will rise to 12% on the first € 40,000 of the list price and 22% on the excess amount. From 2022 to 2024 the addition will be 16% and in 2025 will rise to 17%. In these years the reduced addition will also only apply to the first € 40,000 of the list price.

Please note:
From 2026 an electric car will be subject to the same addition as other cars.

Please note:
The addition is fixed for 60 months from the first month after that in which the car is first registered.

Exception for hydrogen-powered cars
The change that will result in the addition percentage of 22% being applied to the portion of the list price above € 45,000 will not apply to hydrogen-powered cars. However, for these cars too the addition will increase to 8% in 2020, although this will apply to the whole of the list price. The reason for this is that the government is keen to offer additional support to this technology.

The previously announced plans also to apply this exception to cars that are fully solar powered remain on the agenda. These cars are expected to come under the exception as well with effect from 2021.

Summary:

CO_2 emissions	**Addition to taxable income**
0 (battery-powered)	8% up to € 45,000, **above this** 22%
0 (hydrogen-powered)	8% without restriction
More than 0	22%

Consequences for cars dating from 2015
For cars dating from 2015 the 60-month period will expire in the course of 2020. This means that cars that were first registered in 2015 may be subject to a new addition to taxable income in 2020 (if the car was not registered until December 2015, this will not apply until 1 January 2021).

In such a case electric cars will be subject to an addition of 11% up to € 45,000 and 25% on the excess amount (for hydrogen-powered cars the addition will be 11% on the entire list price). Over the coming years this addition will then rise in line with the percentages indicated under the previous heading 'Further increase in addition to taxable income', as no new five-year period will commence. For cars that emit CO_2 the addition will be 25% in all cases after the 60-month period has expired. See also the table below.

CO_2 emissions	**Addition to taxable income after 60 months**
0 (battery-powered)	11% up to € 45,000, **above this** 25% (further increase from 2021)
0 (hydrogen-powered)	11% without restriction
More than 0	25%

Older electric cars also becoming more expensive
The above also applies to electric cars dating from before 2015. In the course of 2019 the addition for electric cars dating from 2014, for example, was already increased to 7% on the first € 50,000 and 25% on the remainder. In 2020 this will therefore change to 11% on the first € 45,000 and 25% on the remainder.

3.2 Company bicycle

With effect from 1 January 2020 new tax arrangements will apply to company bicycles. As of this date there will be a fixed addition to taxable income of 7% per year of the recommended retail price – or the original new value – of the bicycle. This is the price of the bicycle published by the manufacturer or importer in the Netherlands at the time of sale to the customer. A database of all recommended retail prices will be created. The recommended retail price provides a clear starting point for determining the value of the private benefit.

The arrangements
The new arrangements will apply only to a bicycle that the employer makes available to an employee partly for business use. This means that the employer has to purchase the bicycle or lease it via a leasing company. The employee does not acquire ownership of the bicycle and is only entitled to make use of it – for business purposes, to commute between home and work, but also for private purposes. The bicycle remains the property of the employer and the employee must therefore return the bicycle if he/she is no longer using it to commute or if he/she stops working for the employer.

Tip:
The term bicycle is also understood to include electric bicycles and speed pedelecs.

Fixed addition to taxable income
From 2020 a fixed addition to taxable income of 7% of the recommended retail price will apply for private use of the bicycle. As in the case of a company car, the addition will be counted as salary and payroll tax will have to be deducted on it. The ultimate cost of using the bicycle for the employee will depend in part on the level of the employee's salary.

Tip:
The employer is free to make a bicycle available to an employee with an exemption from payroll tax, using the fixed budget under the work-related expenses scheme.

Example:
The employer makes a bicycle with a value of € 2,000 available to the employee. The addition to taxable income is 7% x € 2,000 = € 140 per year. With a tax rate of 37.35% (which applies up to an income of € 68,507 in 2020) the bicycle therefore costs the employee just € 52 per year.

Travel allowance
A key point for attention in relation to this scheme is the fixed, untaxed travel allowance. As an employer you should bear in mind that you can no longer offer an employee who has a company bicycle an untaxed allowance for kilometres cycled for business purposes, including commuting. This is only possible for any kilometres that he/she cycles on a bicycle that he/she owns. If the employee travels to work in his/her own car, he/she may also receive an untaxed travel allowance.

For business use of his/her own bicycle you can provide an employee with an untaxed allowance of € 0.19 per kilometre. In the case of a person who lives 5 km from work, for example, you can therefore offer an untaxed allowance of 5 x 2 x € 0.19 = € 1.90 per day. If the employee uses the bicycle for commuting on 100 days each year, this would therefore amount to € 190 net.

Tip:
Talk to your employees first to find out whether they are enthusiastic about getting a company bicycle, especially if you already provide a travel allowance. Always ensure that the employee is sufficiently aware of the fact that he/she may lose his/her travel allowance.

Costs borne by the employer
The additional costs of maintaining or insuring the bicycle, for example, are also borne by the employer, as the employer is the owner of the bicycle. These deductible costs are simply charged to profit.

Tip:
Employers are permitted to ask for a payment towards these costs in the form of an employee's own contribution for private use. Under certain conditions this own contribution may be deducted from the addition to taxable income.

Also for entrepreneurs and directors and principal shareholders
The scheme also applies to entrepreneurs subject to income tax or directors and principal shareholders with a private limited company. In the first case the fixed addition is counted as profit, while in the case of a director and principal shareholder the addition results in tax being deducted from his/her salary, as is the case for other employees.

In the event of doubt, the inspector has to plausibly demonstrate that a company bicycle is also available for private use. This is certainly the case if the bicycle is made available for commuting.

Tip:
If a bicycle is made available, 7% of the value is taxed each year. Make sure you document that the bicycle will remain your property and must be handed back or ownership of it acquired when the employment relationship ends.

3.3 Other possibilities

Besides making a company bicycle available, in 2020 there will continue to be other possibilities for reimbursing the costs of a bicycle or supplying a bicycle to your staff. It is also still possible to grant an interest-free loan for the purchase of a bicycle.

Reimbursement or supply
In the case of the reimbursement of costs or the supply of a bicycle, the bicycle becomes the employee's property. In principle, this reimbursement/supply is part of the employee's taxable salary. However, the employer can designate the reimbursement as salary for final levy purposes, which means it is charged to the fixed budget under the work-related expenses scheme.
This also applies if the employee pays a (partial) contribution of his/her own by surrendering gross salary, holiday allowance or other components of gross salary in exchange for the reimbursement or supply of the bicycle. While this own contribution offers the employee a tax advantage compared with an own contribution out of his/her net salary, the employer still has to allocate the full value of the

bicycle to the fixed budget under the work-related expenses scheme. If the fixed budget is exceeded, the employer owes a final levy of 80% on the excess amount.

Interest-free loan
Under this variant the employer grants a loan to the employee, who uses this to purchase a bicycle. In this case too the employee becomes the owner of the bicycle. The loan is not salary and therefore falls outside the work-related expenses scheme. Furthermore, this loan may be interest-free; in the case of a loan granted to purchase a bicycle under the work-related expenses scheme the interest benefit is zero rated.

Naturally, the loan has to be repaid by the employee. Such repayments take the form of a monthly deduction from the employee's net salary. This means that, ultimately, the bicycle does not cost the employer anything.

If the employee is not receiving a (tax-optimal) travel allowance, but tax laws and regulations and the collective labour agreement offer scope for this, it is possible to grant this to the employee temporarily in exchange for the surrender of gross salary (at present this amounts to a maximum of € 0.19 per kilometre).

The employee then uses this travel allowance to pay off part of the loan each month. Once the loan for the bicycle has been repaid, the additional untaxed travel allowance is stopped and the original situation is restored for the employee.

This approach can result in a tax advantage for both the employer and employee. After all, the employee saves tax on the exchanged salary, while the employer does not have to pay any employer's contributions on this.

Tip:
There are various options available in relation to bicycles. It is a good idea to compare these to find out the pros and/or cons of the various schemes.

4 Work-related expenses scheme

With effect from 2020 a number of changes will be made to the work-related expenses scheme (WKR), such as the increase in the fixed budget.

4.1 Increase in fixed budget

From this year the fixed budget under the work-related expenses scheme is increasing to 1.7% on the first € 400,000 of the wage bill. It will remain at 1.2% on the excess amount of your wage bill. This increase in the fixed budget to 1.7% on the first € 400,000 means that a company is being given a maximum additional budget of € 2,000.

Example
A company has a wage bill of € 1,000,000. The fixed budget was initially 1.2%, or € 12,000. From this year the fixed budget will amount to 1.7% on the first € 400,000 of the wage bill, or € 6,800. On the excess amount of € 600,000 the fixed budget will remain at 1.2%, or € 7,200. In total the fixed budget will therefore amount to € 6,800 + € 7,200 = € 14,000, or € 2,000 more than at present.

Final levy of 80%
If the value of an employer's allowances, benefits in kind and provisions for employees exceeds this, as an employer you pay a final levy of 80% on the excess amount. That will remain the case.

4.2 2020 group scheme

If you have a number of companies and make use of the work-related expenses scheme, it is also possible to apply the group scheme. From 2020 the increase in the fixed budget referred to above may prove to be detrimental for groups.

Group scheme
The group scheme under the work-related expenses scheme allows a group to add the fixed budgets of all group companies together. Tax only has to be paid if the value of all the group's allowances and benefits in kind exceeds the total fixed budget of the group.

Please note:
The group scheme is therefore advantageous if not every company within the group is using the whole of its fixed budget. After all, the unused portion can then be used by another group company.

Disadvantage for groups
The increase in the fixed budget mentioned above is detrimental for groups. This is because the fixed budget is set, for the group as a whole, at 1.7% on the first € 400,000 of the group's total wage bill and at 1.2% on the excess amount. The fixed budget of each part of the group cannot therefore be taken as a basis.

Example
A group made up of five companies each with a wage bill of € 1,000,000 has a fixed budget of 1.7% x € 400,000 + 1.2% x € 4,600,000 = € 62,000. The fixed budget of each company individually amounts to 1.7% x € 400,000 + 1.2% x € 600,000 = € 14,000. For all the companies together the total fixed budget, without application of the group scheme, is therefore 5 x € 14,000 = € 70,000, i.e. € 8,000 more.

Tip:
Check first whether the group scheme would be beneficial for you. You do not need to make a decision until the second return period of 2021.

4.3 Other changes

In addition to the increase in the fixed budget and the additional consequences if the group scheme is applied, a number of other (minor) changes are also being made.

Deadline for declaring final levy
From 2020 you will need to declare the final levy in the second return period of the year following the year in respect of which it is payable, at the latest. A final levy for 2020 must therefore be declared and paid by no later than the February 2021 return period (or period 2). Previously, the deadline was the first return period. The final levy for 2019 still has to be declared and paid by no later than January 2020.

Exemption of certificate of good conduct
A certificate of good conduct (VOG) is compulsory for certain roles. For this reason, from next year the costs associated with a certificate of good conduct will be specifically exempted and will therefore no longer be charged to the fixed budget.

Company's own products
In the case of products made by your own company an exemption amounting to 20% of the fair value of these products applies, up to a maximum of € 500 per year. At present the value is sometimes set at the amount that third parties are charged for these products. From next year this calculation method will no longer apply and a company's own products will be valued at their fair value.

4.4 Meals

In principle, meals that an employer provides to an employee in the workplace, or for which it reimburses the costs, are considered to form part of his/her salary. An allowance/benefit in kind is therefore also taxed in principle and payroll tax has to be deducted on it.

When it comes to valuing meals in the workplace, however, the actual value does not have to be taken as a basis. This is because a standard amount applies to such meals. For 2020 the standard amount has been set at € 3.35. It makes no difference whether the meal in question is a breakfast, lunch or evening meal. As long as the meal is provided in the workplace, the fixed amount of € 3.35 applies equally to all three.

If, for example, you provide your employees with a free lunch in the company canteen, this is therefore taxed based on a value of € 3.35. If you wish, you can also account for this under the work-related expenses scheme. In that case the lunch is untaxed for the employee.

Lower valuation also possible
The standard amount of € 3.35 applies to all types of meal: breakfast, lunch and dinner. However, it is possible to think of situations in which the value of a meal that has been provided is demonstrably (much) lower than the standard amount of € 3.35. In such a case the employer may apply the lower amount to the employee's salary or take this into account for the work-related expenses scheme (fixed budget).

Please note:
The valuation of a meal includes not only the costs of the products, but also other costs, such as personnel costs, canteen service costs and energy costs. To determine the value of a meal in a canteen in which service is also provided, the invoice value of the ingredients is not sufficient. The fair value of the meal has to be taken as a basis, which means that the service aspect also needs to be included in the valuation, amongst other things.

Business meals
These meals can be reimbursed or provided on an untaxed basis if their business-related nature is more than just incidental. This is the case if the nature of the meal is at least 10% business-related. A

specific exemption then applies under the work-related expenses scheme and you therefore do not need to add any amount to the salary.

It is not always clear when this situation applies, but it is certainly the case if an employee is unable to eat at home between 5 p.m. and 8 p.m. due to work.

4.5 Standard amount for accommodation

If the accommodation at the workplace does not satisfy the conditions for zero rating and is also not a dwelling (or a dwelling provided so that an employee can perform his/her work properly (*dienstwoning*)), a standard amount is applied to your employee's salary for accommodation at the workplace. For 2020 this standard amount has been increased to € 5.60 per day (2019: € 5.55). Energy, water and window cleaning are included in this standard amount.

4.6 Standard-practice criterion

If an employer wants to account for an allowance or benefit in kind under the work-related expenses scheme, it needs to satisfy the standard practice criterion. This means that the allowance or benefit in kind must not deviate by more than 30% from what is customary in comparable circumstances.

Cost-efficiency threshold
For a number of years the Tax and Customs Administration has been applying a cost-efficiency threshold when it comes to determining the customary nature of allowances and benefits in kind included in the work-related expenses scheme. This has been set at a total amount of € 2,400 per employee per year. Up to this amount the Tax and Customs Administration assumes that an allowance or benefit in kind satisfies the standard-practice criterion and, in principle, an employer therefore should not expect any additional assessments.

Supreme Court: do not interpret too restrictively
This year the Supreme Court ruled that the standard-practice criterion should not be interpreted too restrictively. It certainly does not mean that allowances and benefits in kind under the work-related expenses scheme are limited to business allowances and benefits in kind. It also does not mean that allowances and benefits in kind are limited to the cost-efficiency threshold of € 2,400 applied by the Tax and Customs Administration.

Where is the boundary?
Exactly where the boundary lies between what is and what is not standard practice does not follow from the ruling. The Supreme Court has referred the matter to the Court of Appeal, which has to rule on the question of whether the benefit in kind in question does or does not satisfy the standard-practice test.

5 Salary Costs (Incentive Allowances) Act

In 2020 the Salary Costs (Incentive Allowances) Act will also consist of three parts: 1) the low-income allowance (LIV), 2) the youth low-income allowance (youth LIV) and 3) the wage expense allowance (LKV).

5.1 Payment of incentive allowances

The LIV, youth LIV and LKV for 2019 will be paid automatically in 2020 if it is apparent from the payroll tax returns that an employer is entitled to them. This will take place as follows:

1. The employer will receive a provisional calculation of the LIV, youth LIV and LKV from the Tax and Customs Administration before 15 March. This calculation will be based on the returns and corrections for 2019 that have been submitted up to 31 January 2020.
2. You can submit corrections for 2019 until 1 May 2020. These will then be taken into account in the definitive calculation. Although corrections received after 1 May will be accepted, they will no longer be taken into account for calculating the various incentive allowances.
3. The Tax and Customs Administration will send a decision containing the definitive calculation of the LIV, youth LIV and LKV to the employer. This will take place before 1 August 2020 on the basis of the information known. It is possible to lodge an objection against this decision.
4. The amounts will be paid out within six weeks of the date of the decision. This will be 12 September 2020 at the latest.

5.2 The low-income allowance in 2020

In 2020 a number of changes will be made to the low-income allowance (LIV). The hourly wage thresholds applicable to the low-income allowance for 2020 have been set. These thresholds have been adjusted due to the increase in the minimum wage from 1 January 2020.

5.2.1 LIV amounts for 2020

From this year the high and low incentive allowance will be combined to create a single uniform incentive allowance of € 0.51 per paid hour, up to a maximum of € 1,000 per employee per year. This incentive allowance will apply to employees with an hourly wage higher than € 10.29, but not exceeding € 12.87 per hour.

Average hourly wage in 2020	LIV per employee per hour	Maximum LIV per employee per year
> € 10.29 ≤ € 12.87	€ 0.51	€ 1,000 per year

Tip:
You can influence the hourly wage of your employees yourself to make sure you benefit as much as possible from the LIV. For example, you could grant employees who are just above the hourly wage threshold an expense allowance under the work-related expenses scheme in exchange for a slightly lower wage. Naturally, you can only do this within the limits of what is possible under the applicable tax legislation.

Conditions applicable to the LIV
The conditions you must meet to be eligible for the LIV will remain unchanged in 2020:

- The employee satisfies the average hourly wage requirement (based on a minimum of 100% and a maximum of 125% of the statutory minimum wage).
- The employee is insured under the employee insurance schemes.
- The job in question can be regarded as substantial (at least 1,248 paid hours per calendar year).
- The employee has not yet reached state pension age.

5.3 The youth low-income allowance in 2020

The youth low-income allowance (youth LIV) is an annual incentive allowance for employers connected with the increase in the minimum youth wage. It has been announced that the amounts of the youth LIV will be halved in 2020 compared with previous years. The hourly wage thresholds will also be adjusted in 2020. The conditions you have to meet will remain the same.

Youth LIV amounts for 2020
If an employee falls within the hourly wage thresholds and meets the other conditions, an employer is entitled to the youth LIV for the employee in question. The exact level of the allowance depends both on the number of paid hours and the employee's age. The amounts have been cut back slightly compared with previous years.

Age on 31 December 2019	Youth LIV per hour in 2020	Maximum youth LIV per employee in 2020
20	€ 0.30	€ 613.60
19	€ 0.08	€ 166.40
18	€ 0.07	€ 135.20

Please note:
An employer who makes use of apprentices as part of the work-based learning pathway (BBL) can also be eligible for the youth LIV. The employer will receive this incentive allowance if it pays the apprentice on the basis of the statutory minimum youth wage appropriate for his/her age. The employer may pay the apprentice less than the statutory minimum wage, but in this case is not entitled to the youth LIV.

Please note:
If the employer has included incorrect information in its payroll tax return (it is important for the application of this Act that the information is correct), an administrative penalty amounting to a maximum of € 1,319 per item of information per employee per year may be imposed.

Conditions applicable to the youth LIV
An employer is entitled to the youth LIV for each employee who meets these three conditions:

- The employee is insured under the employee insurance schemes.
- The employee has an average hourly wage that complies with the statutory minimum youth wage for his/her age.
- The employee was 18, 19 or 20 years old on 31 December of the previous year.

The average hourly wage is the wage received from employment over a year, divided by the number of paid hours during that year.

Hourly wage thresholds for 2020
The hourly wage thresholds for the different age groups will be published in mid-2020.

End of youth LIV
It seems at the moment that the youth LIV will be abolished with effect from 2024.

5.4 Wage expense allowances in 2020

Since 2018, employers who take on older benefit recipients, persons with an occupational disability and persons who fall within the target group of the job arrangement for persons with an occupational disability (*banenafspraak*) and the target group of persons with an interrupted education due to illness or disability (*scholingsbelemmerden*) have been entitled to so-called wage expense allowances (LKVs). The conditions applicable to these will remain the same in 2020.

Conditions applicable to wage expense allowances
If the conditions are met at the start of employment, the employer can submit an application for an incentive allowance for a period of three years. A period of one year instead of three years applies in the case of the wage expense allowance for the redeployment of employees with an occupational disability.

To be eligible for the LKV, the following conditions must be met:

- The employee holds a declaration confirming that he/she is part of the target group.
- The employee was not employed by the employer at any time in the six months preceding the date of his/her entry into service (anti-revolving door provision) (except in the case of the redeployment of an employee with an occupational disability).
- The employee has not yet reached state pension age.
- The employee does not perform any work as referred to in Article 2 of the Sheltered Employment Act or Article 10b(3) of the Participation Act.
- The employee is insured under the employee insurance schemes.

There are also additional conditions for each type of LKV. If your employee meets all the conditions, he/she can apply for a declaration confirming that he/she is part of the target group.

Please note:
Such a declaration must be issued within three months of the commencement of employment. You should therefore ensure it is applied for promptly.

With this declaration you can apply for the LKV in your payroll tax return. The conditions for obtaining this declaration will be the same in 2020 as they were in 2019.

It has now been clarified that redeployment is not deemed to apply if the employee has resumed work in full or in part in his/her current role or a new role (e.g. as part of the reintegration process) before the first day of his/her entitlement to benefits under the Work and Income (Capacity for Work) Act. In such a situation there is no entitlement to the wage expenses allowance for the redeployment of employees with an occupational disability.

It has also been clarified that a determination of wage value within the context of the wage expenses subsidy is not the same as a target group declaration for the LKV for persons with an occupational disability under the job arrangement and persons with an interrupted education due to illness or disability. A target group declaration for this particular LKV can be applied for from the UWV (Employee Insurance Agency) and is a necessary condition for the entitlement to this LKV. A determination of wage value is therefore not valid as a target group declaration.

Amounts for 2020

LKV	Amount per paid hour	Maximum amount per year	Duration
Older employee	€ 3.05	€ 6,000	3 years
Employee with an occupational disability	€ 3.05	€ 6,000	3 years
Persons within target group of job arrangement and persons with interrupted education	€ 1.01	€ 2,000	3 years
Redeployment of employee with occupational disability	€ 3.05	€ 6,000	1 year

Maximum duration of LKV for target group with a job arrangement or interrupted education from 2021

With effect from 2021 a change will be made to the duration of the LKV for persons within the target group of the job arrangement and persons with an interrupted education due to illness or disability. From 2021 onwards it will be possible to apply this LKV to an employee for an indefinite period, provided that he/she continues to meet the conditions. Previously, it had been announced that this change would enter into force with effect from 2020. It will therefore be introduced one year later than planned.

6 Assessment of Employment Relationships (Deregulation) Act

The cabinet is in the process of replacing the Assessment of Employment Relationships (Deregulation) Act (Wet DBA). This was announced in the cabinet's coalition agreement in October 2017. The reason behind this step is that the Act is a cause of too much anxiety and uncertainty amongst self-employed persons and their clients. It has now been communicated that the new Act will enter into force in 2021 at the earliest. A few months ago it was also announced that the Tax and Customs Administration would be applying more active enforcement from 2020.

6.1 Successor to Assessment of Employment Relationships (Deregulation) Act delayed

The successor to the Assessment of Employment Relationships (Deregulation) Act should give clients and contractors greater clarity as to when an employment relationship applies and therefore when payroll taxes and contributions need to be deducted. The replacement of this Act has not been without problems. Consequently, the new Act will not enter into force until 2021 at the earliest.

Client declaration via web module
The new Act makes it possible to determine on the basis of a web module when an employment relationship does not apply. The module then issues a 'client declaration', creating certainty that payroll tax and contributions do not need to be deducted. If the web module is unable to conclude that there is no employment relationship, a client declaration is not issued. In that case clients still have the option of entering into prior consultation with the Tax and Customs Administration.

Authority criterion
An important condition that applies to an employment relationship is the existence of a relationship of authority. This criterion is by no means clear, however. The 2019 Payroll Taxes Handbook (*Handboek Loonheffingen*) contained a detailed explanation, including situations that indicate that a relationship of authority applies or does not apply. All facts and circumstances must be considered together when assessing whether there is a relationship of authority.

Minimum rate
In the bill for the Self-Employed Minimum Remuneration and Self-Employment Declaration Act a minimum rate of € 16 per hour has been set. With this minimum rate the cabinet's intention is to protect self-employed persons at the lower end of the labour market. The minimum rate should ensure that self-employed persons earn enough to live and are also able to insure themselves against or save for more difficult times. It will apply to all hours that a self-employed person spends on a job. The rate excludes direct costs that a self-employed person incurs for a job: costs of materials are therefore on top of the € 16 per hour.

Opt-out
Under the new legislation higher-paid self-employed persons can decide, together with their client, to opt out of these arrangements, as part of which they must indicate in writing that they will not be entering into an employment contract. If it becomes clear afterwards that they were in an employment relationship, there is no entitlement to benefits under the employee insurance schemes.

6.2 Online consultation

In 2019 an online consultation was held on the plans to replace the Assessment of Employment Relationships (Deregulation) Act. Various parties took full advantage of this opportunity. The responses varied greatly, but were overwhelmingly negative. Concerns about an additional administrative burden were a common complaint in particular.

Another complaint that came up repeatedly was that the new rules still fail to provide the clarity that clients and contractors have been waiting for since the Declaration of Independent Contractor Status

(VAR) was abolished. The proposed minimum rates were also considered to be too low. The minimum rate would not enable self-employed persons to take out the necessary insurance policies.

In addition, the maximum duration of the self-employment declaration was considered to be too short by many parties. According to some respondents, this would result in contracts being lost.

The online consultation closed on 9 December 2019. The responses will be assessed by the Ministry and potentially incorporated into a new bill.

6.3 Enforcement

As the new legislation has been delayed, the Tax and Customs Administration has announced that enforcement of compliance with the Assessment of Employment Relationships (Deregulation) Act will in principle be postponed again until 1 January 2021. With effect from 1 January 2020 it will, however, be applying more active enforcement in relation to clients who have acted with malicious intent. This may result in correction obligations and additional assessments, possibly in combination with a fine.

Actual enforcement will always be preceded by monitoring by the Tax and Customs Administration, e.g. in the form of a company visit or an inspection of the books. The Tax and Customs Administration started applying this enhanced supervision in October 2019.

When does malicious intent apply?
An employer is deemed to have acted with malicious intent if it 'intentionally allows a situation of obvious bogus self-employment to arise or continue, as it knows – or ought to have known – that an employment relationship actually applies'. Here it is necessary to demonstrate that the following three situations apply:

- a (fictitious) employment relationship
- obvious bogus self-employment
- intentional bogus self-employment

Instructions
It is also possible that an inspection does not directly reveal any malicious intent, but that there is nevertheless a (fictitious) employment relationship. In such a case enforcement measures will not yet be taken, but the Tax and Customs Administration may issue instructions. The employer must then take steps to implement these instructions in order to:

- structure the working relationship in such a way that work is carried out outside an employment relationship, or
- include the working relationship as employment in its tax return.

An employer will generally be given three months to comply with the instructions. If, after these three months, it is concluded that the instructions have not been complied with sufficiently, enforcement measures may then be taken.

7 Employment law – miscellaneous

7.1 Transition Payment Compensation Act

From 1 April 2020 employers will receive compensation for the transition payment they are required to make if employees who are sick for a long period of time (two years or more) are made redundant. The transition payment has to be made in these cases too.

Level of compensation
The compensation to be paid to the employer by the UWV does not necessarily have to be the same as the transition payment that the employer has made to the employee. First of all, it must be a question of a payment made following a period of sickness lasting at least 104 weeks. There is no right to compensation for the transition payment accrued over the period during which the employer has kept the employment relationship dormant. The Act also sets a maximum limit for the amount to be compensated in two respects:

- The compensation amounts to a maximum of the transition payment accrued from the start of the employment relationship until the employee has been sick for two years. On the basis of the Act the transition payment is also accrued over the period of any extension to the employer's obligation to make continued salary payments (as a result of a penalty imposed due to insufficient efforts to reintegrate the employee) or over the period during which the employment relationship was kept dormant. This portion of the transition payment is payable by the employer, but is not compensated by the UWV.
- The compensation also amounts to a maximum of the salary paid during two years of sickness (the so-called 'second maximum'). This prevents the employer from receiving compensation that exceeds the salary costs incurred over two years of sickness. The purpose of the scheme is to prevent double costs for employers.

Compensation if benefits paid during sickness
Many employers ask about the level of compensation that is paid if, during the first two years of sickness, a benefit (e.g. early invalidity benefit or a benefit under the Work and Care Act (WAZO), Invalidity Insurance (Young Disabled Persons) Act (WAJONG), Return to Work (Partially Disabled) Regulations (WGA) or Sickness Benefits Act (no-risk policy)) or wage expenses subsidy has also been paid to the sick employee, whether or not via the employer.

On the basis of the compensation scheme these benefits are not regarded as 'salary during sickness', which means that a lower amount is compensated. In the case of the wage expenses subsidy, the employer is paying a salary, but is actually already receiving (partial) compensation for this.

However, if lower compensation is paid in these cases, this is inconsistent with the intended purpose of some of these benefits or subsidies, i.e. to make it more attractive for employers to take on employees with a (history of) sickness or disability.

A sensible step would therefore be to investigate whether it is possible to prevent certain benefits and subsidies from influencing the maximum compensation amount and therefore whether adjusting the 'second maximum' is desirable and practicable.

Applying to the UWV
The UWV can therefore award compensation with retroactive effect. Applications will be checked by the UWV, which requires information from the employer for this purpose. The employer has to submit the following documents with its application:

- The employment contract or a document indicating the date of commencement of the employment contract, e.g. a payslip showing the date on which the employee started work.
- Evidence of the end of the employment contract:

- termination agreement or settlement agreement;
- or a court judgment;
- or the termination letter.

- Evidence of the amount of gross salary you paid in total over the entire sickness period. The following are required for this:
  - the payslip for the period preceding the date on which the employee had been sick for 1 year;
  - the payslip for the period during which the prohibition of termination of employment due to sickness expired.
- The calculation of the level of the transition payment. This is needed to determine the level of the compensation.
- Evidence that the full transition payment has been made and on what date, e.g. a bank statement. If the payment has been made in instalments, evidence of payment must be included for all payments.

Compensation for any employer
The coalition agreement stated that the scheme applied to small employers. However, it has been decided that large employers will also be eligible for the scheme. Any employer may make use of the scheme if it satisfies the conditions.

Effective date
You can submit a digital application for compensation to the UWV from 1 April 2020, within six months of making the full transition payment. In the case of transition payments made from 1 July 2015 it is possible to apply for compensation with retroactive effect. This will be possible from 1 April 2020 to 30 September 2020. The UWV will then have six months to reach a decision on the application. These dates have been set in consultation with the UWV, which indicated that it needed time to prepare this measure. In the case of employment relationships that end on or after 1 April 2020 due to long-term incapacity for work – the structural situation – the UWV has eight weeks to come to a decision. The UWV's decision is a decision within the meaning of the General Administrative Law Act, which means it is possible to lodge an objection against it.

Please note:
The second maximum, as described above under 'level of compensation', does not become effective on 1 April 2020. The entry into force of this element has been deferred by means of a Decree.

7.2 End of dormant employment relationships

The Supreme Court has brought an end to the discussion on the permissibility of keeping the employment relationship dormant. A dormant employment relationship is one that is not terminated after an employee's long-term incapacity for work. By maintaining the employment contract, the employer avoids becoming liable for a transition payment.

Long-term incapacity for work is understood to mean a period of incapacity that lasts for at least two years or – if the UWV has imposed a penalty due to insufficient reintegration efforts on the part of the employer – a maximum of three years. During this period the employer is, after all, prohibited from terminating employment due to sickness. In the case outlined below, which was brought before the Supreme Court, the obligation to continue paying the employee's salary has ended, but the employment relationship continues to apply.

Obligation?
The question brought before the Supreme Court is whether, under certain circumstances, an employee can oblige his/her employer, on the basis of good employment practices, to agree to a proposal to terminate a dormant employment relationship and grant him/her a payment equal to the compensation to be received by the employer on the basis of the compensation scheme.

What is the Supreme Court's view?

According to the Supreme Court, an employer must agree to a proposal from the employee to terminate the employment contract by mutual consent and grant him/her a payment equal to the transition payment. With regard to the level of the payment, it is not necessary to follow the amount that the employer can recover from the UWV under the compensation scheme. The employee must have already been unfit for work for two years and not expected to recover within 26 weeks. The duration of the dormant employment relationship is not taken into account for the calculation of the level of the transition payment; the decisive moment is that when the employer could have terminated the employment contract itself due to long-term incapacity for work.

Exceptions
There is one exception to the above rule, namely if the employer has a legitimate interest in maintaining the employment contract. This may be the case if there is still a realistic prospect of reintegrating the employee. A situation in which the employee will reach retirement age shortly after making a proposal to terminate the relationship is expressly excluded as an exception.

In addition, if the employer plausibly demonstrates that prefinancing the payment will lead to serious financial problems, the court may decide that the payment to the employee will be made in instalments or suspended until after 1 April 2020.

7.3 Risk assessment & evaluation

The Social Affairs and Employment Inspectorate will be subjecting companies to more rigorous checks to determine whether they have a risk assessment & evaluation (RI&E) in place. In the event of a breach the Inspectorate will immediately impose a fine, the level of which has also been raised.

Higher fines
The standard amount of the fine was initially € 3,000 and is now € 4,500 for companies with more than 500 employees. The smaller the company is, the lower the level of the fine. A company with 40 to 99 employees, for example, will pay a fine of 50% of € 4,500 in the event of a breach. Furthermore, any organisation that does not have an RI&E in spite of being required to have one will be designated as an ‘offender subject to an immediate fine’ (ODB). In such a case the Social Affairs and Employment Inspectorate can impose a fine immediately instead of issuing a demand or warning. The fine for failing to draw up an action plan or to take the measures indicated in this promptly – part of the RI&E – is increasing from € 750 to € 3,000.

Work with hazardous substances also to be checked more rigorously
The increase in the level of the fine to € 4,500 will also apply to the regulations in the Working Conditions Decree on working with hazardous substances, including carcinogenic substances and substances that are toxic to reproduction. These fines may be imposed by the Social Affairs and Employment Inspectorate if there has been no improvement following a demand or warning – a so-called ‘other breach’ (OO).

RI&E is legally required
Drawing up an RI&E with an associated action plan is legally required for companies that employ staff, including temporary workers, trainees and volunteers. It is a practical tool that allows you to identify the risks to which your employees are exposed while carrying out their work. In the associated action plan you indicate how you will address these risks. In most cases the law also requires you to have your RI&E assessed by a certified occupational health and safety service or expert. There are also exceptions to this assessment obligation. Employers with a maximum of 25 employees are not obliged to engage an expert when documenting and evaluating the risks within their company. However, this is subject to the condition that, to perform an RI&E, the employer uses a system originating from its own sector with the following accreditation symbol:

7.4 Partner leave

From 1 July 2020 partners are entitled to more leave in the event of the birth of a child. In total, this amounts to a maximum of five additional weeks, with the result that the overall period of partner leave cannot exceed six weeks. The child in question must have been born on or after 1 July 2020 and the leave can be applied for only once.

Benefit payment
Over the maximum period of five extra weeks of leave the partner is entitled to a benefit payment from the UWV amounting to 70% of the (maximum) daily wage. An employer may supplement this payment, but is not obliged to do so.