Early retirement for older employees made more flexible for tax purposes as of 1 January, 2021

Hogan Lovells

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On 12 January, 2021, the First Chamber of the Dutch Parliament approved the bill on lump sum, early retirement and leave savings (*Wet bedrag ineens, RVU verlofsparen*). This Act will temporarily relax the tax restriction (RVU levy) on schemes that financially encourage early retirement of older employees. Older employees who may not actively reach their retirement date, may, using a monthly contribution or lump sum payment paid by their employer, stop working up to three years earlier.

This law will take effect retroactively on 1 January, 2021 after publication in the Official Gazette (*Staatsblad*) possibly this month. A temporary relaxation will apply from 2021 for a period of five years (2021 to 2025). In addition, there will be a three-year transition period during which the early retirement scheme can still be funded on a RVU levy-free basis. In that case, employer and employee will have to enter into written agreements on this by 31 December 2025 at the latest. Furthermore, the early retirement scheme will have to meet the following legal criteria for this relaxation:

(i) During the period from 2021 up to and including 2025, the employee must have reached an age no more than three years younger than the state pension date (*AOW-pensioendatum*) applicable to the employee. In 2021, the state pension age is 66 years and 4 months. It will increase by three months per year in 2022 and 2023. From 2024 to 2027 the state pension age is set by law at 67 years.

(ii) The maximum monthly contribution or payment that an employer can grant an employee as income provision without an RVU levy is equal to the grossed-up amount of the net state pension benefit for a single person, as applicable on 1 January of the year in which the payment to the employee will take place. The amount is linked to the level of the state pension and may increase annually. For 2021 the monthly contribution has been maximised at **EUR 1,847** gross. Employers will have to withhold payroll tax on payments made to the employee. Instead of a monthly contribution, the employer may also pay a lump sum (subject to withholding tax) when the employee leaves the company. For 2021, a maximum amount of EUR 22,164 gross will apply if an employee's employment is terminated on 1 January 2021 and the employee's state pension will be reached on 1 January 2022.

(iii) The RVU levy remains due if the employer has paid a monthly contribution or a lump sum payment outside the period of 36 months prior to the employee's state pension age. The RVU levy also applies if a higher monthly contribution than EUR 1,847 gross or a higher amount than the exempted lump sum will be paid. The employer will then have to pay a 52% RVU levy on the excess amount (in addition to withholding and remitting the wage tax on the paid amount).

The employee who can make use of the above early retirement facility also has the option of advancing the regular retirement date if he participates in a company pension scheme. Moreover, the employee can also choose to take the accumulated leave days. The above-mentioned Act also provides for an extension of the tax option for the employee to save up to 100 weeks of untaxed leave. That will provide the employee an income source to bridge almost two years up to the applicable retirement date. The employer can help with this leave saving by rewarding overtime or shift work with additional hours of leave. An early retirement scheme is an alternative to the statutory transitional allowance (*transitievergoeding*). The parties will need to make agreements on this in a settlement agreement on the termination of the employment agreement with mutual consent.

With this temporary tax relaxation for early retirement arrangements, the first step has been taken in the elaboration of the Pension Agreement (*Pensioenakkoord*) as concluded between employers and employees and the government in 2019. Before the summer 2021, a bill will be submitted to the Second Chamber regarding the intended radical change to the Dutch pension system effective January 1, 2026. The content has already been discussed for months with a number of parties and experts involved. The social partners together with pension providers will have to start reforming the pension system as of 1 January 2022. Already before 31 December 2021 a discussion between social partners about the pension agreement and execution thereof will need to be started.

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