

# GMS Flash Alert

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## Germany – Amending Protocol to Treaty with Netherlands Addresses Cross-Border Worker Issues

Germany and the Netherlands signed on 14 April 2025, an amending protocol to update their 2012 income tax treaty (“DTT”), as previously amended in 2016 and 2021.<sup>1</sup> The new protocol introduces significant changes to dividend withholding tax rates, definitions and treatment of collective investment undertakings, rules for cross-border workers, government service income, and avoidance of double taxation.

These changes reflect ongoing efforts by both countries to modernise their bilateral tax framework, address cross-border employment issues, and provide greater certainty and fairness for taxpayers operating between the two jurisdictions.

The German federal government submitted a draft law regarding the protocol dated 14 April 2021 which amends the agreement between the Federal Republic of Germany and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income (“DTT”), as amended by the protocols of 11 January 2016 and 24 March 2021.<sup>2</sup>

### WHY THIS MATTERS

The embodiment of new rules in the protocol concerning remote workers and cross-border workers is a nod to the growing importance of new work patterns – which are anticipated to continue for the foreseeable future – and the evolving needs of employers and employees in this “work from anywhere” world.

The amending protocol's provisions on remote work and cross-border employment matters bring clarity and some flexibility – with terms better defined, for example – to the taxing issues and rights between Germany and the Netherlands. This will help remote workers and their employers to better prepare and strategise in terms of their cross-border work plans and the tax consequences of those plans. The competent authorities in both countries will have more clearly defined rules governing their taxing activities in respect of these workers.

## Key Highlights

### Cross-Border Workers (Art. 14 DTT)

- **Introduction of a De Minimis Limit for Remote Work Flexibility:** Cross-border employees may work from home in their country of residence for up to 34 days annually without triggering dual taxation.
- **Threshold Calculation:** Only days with at least 30 minutes of work in the residence state or a third jurisdiction count toward the 35-day limit (No. XII sec. 1 Annex of the DTT).

"Working days" are defined as all days in a calendar year on which an employee actually performs dependent employment and receives compensation for it. Periods spent on stand-by, or on-call duty, are not counted as working days, even if the employee is called in to work during such periods (No. XII para. 2 Annex of the DTT).

### Wages During Leave of Absence (No. XII sec. 3 Annex of the DTT)

Remuneration for days of leave of absence after termination of employment is considered as remuneration for work in the contracting state in which the work would have been performed without these circumstances.

### Government Services (Art. 18 DTT)

- **Taxation of Government Salaries:** Salaries paid by one state are taxable only in the other state if the individual is a resident and either a national or non-resident solely for employment purposes.
- **Remote Work for Government Employees:** The same 34-day rule for cross-border remote work applies to government employees.

### Avoidance of Double Taxation (Art. 22 DTT)

Germany exempts income taxed in the Netherlands under certain conditions, while the Netherlands applies the "exemption with progression" method for various income types.

### Dividend Withholding Tax (Art. 10 DTT)

- **Reduced Rate for Qualifying Shareholdings:** The withholding tax on dividends is set at 5 percent if the beneficial owner is a company holding at least 10 percent of the payer's capital for a continuous 365-day period.
- **Exclusions for Reorganisations:** Changes in ownership due to corporate reorganizations (e.g., mergers) are disregarded when assessing the 365-day holding period.
- **Specific Entities Subject to a 15-Percent Rate:** The 15-percent rate applies to dividends paid by German REITs, comparable Dutch entities, and undertakings for collective investment.

### Steps to Consider

In light of the upcoming changes, organisations, employers, and individuals within the scope of the DTT may wish to consider the following:

- Reviewing cross-border employment contracts and remote work policies to foster alignment with the new 34-day rule (also to consider the impact on payroll and reporting obligations).
- Cross-Border employees movements across Germany – Netherlands borders should be monitored and the employees' periods of stay in the other country carefully tracked to mitigate unwanted tax consequences.

The protocol demonstrates a proactive approach by both countries in adapting to evolving international tax and employment landscapes. The explicit rules for remote work reflect the reality of post-pandemic employment practices and provide much-needed certainty for cross-border workers and their employers.

### What's Next?

After the draft law is submitted, it will be discussed in the German Bundestag and must also be approved by the Bundesrat. Once the legislative process is complete, it remains for the protocol to be ratified by both states and, once that takes place, it can enter into force. It will apply in both contracting states from 1 January of the calendar year following the year in which the amending protocol enters into force.

Further cooperation between Germany and the Netherlands is anticipated, particularly in response to ongoing changes in international tax standards and work from anywhere trends. Both countries may issue additional guidance to address practical implementation questions.

If assignees and/or their programme managers have any questions or concerns about the scope of the amending protocol (or the fuller DTT), its potential application and impacts, and how they may plan at this stage, they should consult with their qualified tax professional or a member of the GMS tax team with KPMG in Germany (see the Contacts section).

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### FOOTNOTES:

1 The Bundesrat ("Federal Council" in English) is Germany's upper house of parliament. See (in German): "[Draft Bill by the Federal Government on the Protocol of April 14, 2025](#)," Bundesrat website, published on 15.08.25 / *Entwurf eines Gesetzes zu dem Protokoll vom 14. April 2025 zur Änderung des Abkommens vom 12. April 2012 zwischen der Bundesrepublik Deutschland und dem Königreich der Niederlande zur Vermeidung der Doppelbesteuerung und zur Verhinderung der Steuerverkürzung auf dem Gebiet der Steuern vom Einkommen in der durch das Protokoll vom 11. Januar 2016 sowie das Protokoll vom 24. März 2021 geänderten Fassung.*

See a related report from our colleagues in the Netherlands: [GMS Flash Alert 2025-083](#), 25 April 2025.

2 Ibid.

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