



BROCHURE

**FOREIGN TEMPORARY
EMPLOYMENT AGENCIES
ACTIVE IN THE NETHERLANDS**



Economic growth is leading to increasingly tight labour markets, with companies struggling to fill their vacancies. Temporary employment agencies are also experiencing this and are looking for alternatives. For example by looking at foreign workers. What are the (legal) possibilities if you want to work with foreign companies?

More and more often, we see temporary employment agencies hiring temporary workers from foreign companies. But are you aware that cooperating with foreign companies is subject to laws and regulations? As a temporary employment agency, your clients run the risk of being held liable if they cooperate with you. We list some points of interest so you know what to consider and keep control....

NEN 4400-2 certificate

By getting certified with the NEN 4400-2 certificate, you can be included in the SNA register as foreign companies. For your clients, the hirers, it is important that you have this certificate as well as the registration in the SNA register of foreign temporary workers, so that you minimise the risks. In addition, the rules of NEN 4400-1, which also sets requirements for hiring employees from other parties.

Conditions for issuing Foreign A1 certificate

No social contributions are due in the Netherlands if a foreign A1 certificate is issued, only wage tax is paid. There are conditions attached to obtaining an A1

certificate. It is not allowed to simply import and export with the A1 certificate and the foreign company must have substantial activities in the country of origin.

An SNA certified company established in the Netherlands must ensure that the organic bond with the employer is maintained when hiring personnel to whom an A1 certificate has been issued, ensure that the organic link with the employer abroad is not broken.

As of 1 July 2023, the standard distinguishes between an A1 declaration issued under Article 12 EU Regulation (which is intended for persons going to work in another state within the EEA for up to 24 months) and an A1 certificate issued under Article 13 EU Regulation (which is intended for individuals who are employed in two or more other EU Member States).

An SNA certified company based abroad must verify that its employee to whom an A1 certificate has been issued under Article 12 is not being hired in and on by its Dutch client. To establish this, information must be exchanged on the form of service provision (contracting of work or supply of labour) in the chain in which the employee works. Only then can it be established that there is no in- and on-lending of labour with an A1 certificate issued on the basis of article 12.

Want to know more about the A1 certificate? On our website, read this article: [international secondment and the A1 certificate](#).

Taxable from day one

Employees posted to the Netherlands from a foreign company are subject to tax in the Netherlands from day one. The employer, as withholding agent, should keep a (Dutch) payroll administration and withhold and remit payroll tax to the tax authorities. When taking on work, this may only be an issue after 183 days. But note that there are possible exceptions to this, such as that in international loan situations, the second condition of the 183-day rule!

Chain Liability Act (CLA): limit any liability for tax debts

It is important to minimise the hirer's possible liability for tax debts. By making indemnifying deposits into the foreign company's G account, the risk can be limited. In combination with a NEN 4400-2 certificate, under conditions even full indemnification can be obtained. However, in practice it proves difficult for foreign companies to open a G account with a Dutch bank. AAmE can assist in obtaining the bank account. However, keep in mind that this is quite a long process.

Employment law: is there any underpayment?

Under the European Posting Directive and national regulations, employees of foreign companies are entitled to the same remuneration as comparable employees at the client (the hirer's remuneration). For both the hirer and foreign company, it is important to check whether these workers comply. In case of underpayment, a temporary worker can file a wage claim with the Dutch hirer. This follows from the Wet Aanpak Schijnconstructies (WAS) (Wages and Salaries Act).

AAme Advisers

AAme's advisers relieve a very broad (international) client portfolio of tax, payroll and payroll advice. We are well-versed in the complex Dutch laws and regulations, allowing our clients to focus on their core activities.

AAme Advisors has the NEN-4400 certification and is therefore included in the register of the Stichting Normering Arbeid (SNA - [view declaration of registration](#)). This mitigates risks of hirers of labour and clients of work who use our services.

Feel free to contact AAmE's consultants for more information on the above, we will be happy to help!



Disclaimer

Great care has been taken in the preparation of this document. The information it contains is intended to provide interested parties with general information. This information is not intended as advice. If you require advice, we recommend that you contact one of our qualified experts.

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