

# Dutch American Friendship Treaty

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The **Dutch-American Friendship Treaty** (also known as **DAFT** or Dutch American Residency Treaty) is an agreement between the United States and the Netherlands signed into law in 1956. This treaty is a treaty of friendship, commerce and navigation with protocols. The treaty allows US Entrepreneurs to acquire Dutch residency for the purpose of starting a business.

<https://investinholland.com/news/celebrating-dutch-american-ties/>



## IND

The IND is the Dutch immigration service. Below we will explain what are the possibilities for the entrepreneur. Before you start such a procedure, first connect to a Dutch immigration lawyer who can guide you exactly through the process. We are not immigration lawyers.

## DAFT

What flavour do we have? Two flavours, the self-employed entrepreneur and the entrepreneur operating via a limited liability company also known as BV company in the Netherlands. Both flavours we address below.

### DAFT – self employed

The self-employed entrepreneur is as a person the entrepreneur. Also referred to as transparent company. This entrepreneur registers itself as one man company with the Dutch Chamber of Commerce. A one man company is the name of a company registered by an individual. Could be a freelancer, a ZZP entrepreneur, a small business. All are the same for the Chambers of Commerce.

### Dutch entrepreneurs tax number

Upon registration the Chamber of Commerce will forward the details to the Dutch tax office. The Dutch tax office will issue the applicable tax numbers. Most likely a Value Added Tax number (sales tax). Even though the name is one man company. The one man company can employ a staff. The name one man company stands for one man owning the capital, but many can be employed. The only person that cannot be employed by the one man company is the person who owns the company.

You walk out of the Chambers of Commerce holding in your hand your business registration!



### **Business bank account**

For the purpose of the DAFT it is important you keep a minimum balance in your business bank account. The instant job you have is to open a business bank account. We have many banks offering such a bank account. Please take your time to compare costs and services. Once you chose a bank, experience learns you will never change that. Banks are aware of that, and eager to charge you their monthly fee, so please investigate a little to make the best choice.

The content in your bank makes the difference for the DAFT purpose. The IND finds it important that you keep at all times at least EUR 4500 in the bank account. That number stands for you being able to take care of yourself, which is one of the conditions of the Dutch American Friendship Treaty.

### **IND forms to be completed**

Your IND DAFT registration will end after a certain period of time. Then you need to complete more IND forms. In these forms you provide the equity you have in the company, that is the amount in the business bank account. And you report the profit made during a calendar year.

These forms are to be confirmed by a registered auditor (accountant in Dutch), we are not registered auditors. But the forms can also be confirmed by a tax advisor member of the Register Belastingadviseurs. Those advisors we do have in the company. That implies we can complete and sign your IND forms for this part of the procedure.

### **Problems with the DAFT and IND**

The only problem we see is when the balance in the business bank account does not meet the EUR 4500. Even if the company makes nearly no income, which does not make the procedure easier, that is not a problem. The problem is in the EUR 4500.

Please keep at all times this amount in the business bank account, as sometimes the IND demands from you an equity statement in the middle of the year. If then the amount is not in the account, there is a problem.



### **DAFT – limited liability company – DAFT BV**

The alternative of the one man company under the DAFT is the limited liability company. The limited liability company is a formal company. More effort needs to be done to get the company active, more administrative labour, more tax returns need to be filed. Not importantly, more accounting costs are involved.

### **Who would ever chose for the DAFT BV?**

Indeed, the person that is able to qualify under the so called 30% ruling. The 30% ruling in a nutshell is a 5 year period ruling during which only 70% of the salary earned is taxed. The 30% is tax free. Also the world wide assets of this person and his or her tax partner does not need to be reported. And the foreign drivers licence can be swapped without taking the exam into a Dutch one.

The 30% ruling is simply the best tax benefit we have.

The 30% ruling can also be used in a manner that was not exactly intended as such. Sometimes the person arriving from the USA has gained over time a substantial amount of wealth. And the Dutch tax office is eager to tax this wealth in Box 3. This foreseeable prize of being a tax resident in the Netherlands can persons decide that the minimum salary in the BV is more advantageous than the Box 3 taxation. In other words, wealthy persons often use the BV in combination with the 30% ruling as well. This could even be interesting after the ruling has terminated, if set up properly at the start.



### **Minimum requirement of the BV for the DAFT**

The BV company is a limited liability company of which you own the shares. Owning the shares is not the same as owning the content of the BV company. Still the IND looks at the equity in the BV as if it is your equity, which is not entirely correct. In other words, the BV is looked at by the IND in a transparent form for the purpose of the DAFT.

The equity of the company needs to be at least EUR 4500. What aspects of the BV balance is referred to as equity? Officially that is the share capital and the general reserve showing the results over past periods. The business bank account that is on the other side of the balance could also play a part in this process. If you hold at least EUR 4500 in the business bank account, then maybe the equity equals this amount.

The best approach of this challenge is to simply incorporate a BV company with a share capital of at least EUR 4500 and keep that amount at all times in the business bank account.

### **Days worked abroad**

Not sure if that is caused specifically by the DAFT, but we can only assume so. Only US nationals or Greencard holders that are under the 30% ruling, can deduct from their Dutch tax burden the salary value related to the days worked abroad.

In short, if you worked 100 days abroad and the salary related to these days is for instance EUR 150.000. Then this EUR 150.000 is deleted from the Dutch tax base, under the condition of course this part of the income is actually taxed in the country where the work was being done or where you were a tax resident in case of a non resident tax payer.

As this is a deduction only applicable to US nationals or US greencard holders, we can only assume that is caused by the DAFT. This deduction you can use either way. Whether you are employed by an employer or whether you receive a salary form your own BV company.

## US income tax return

Regardless who you are, what you do, as long as you have the US nationality or US green card, you are to file a US tax return annually. Before you can actually do so, you need to have filed your Dutch income tax return. The Dutch income tax return is the base on which you file your US tax return.

