

# GMS Flash Alert

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## Belgium – COVID-19: Arrangements for Taxing Cross-Border Workers with France, Luxembourg

Following previous agreements with The Netherlands and Germany (see [GMS Flash Alert 2020-230](#), 13 May 2020), Belgium also concluded mutual agreements with France<sup>1</sup> and Luxembourg<sup>2</sup> to prevent cross-border workers from being adversely affected by the COVID-19 pandemic.

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### WHY THIS MATTERS

Due to the travel restrictions caused by COVID-19 measures, cross-border workers face the risk that their employment income would become fully taxable in the state of residence. The mutual agreements with France and Luxembourg aim to ensure that cross-border workers will not suffer any tax disadvantages by working from home. Days worked from home will be assimilated to days worked in the country where the individual would normally have worked. This means that, despite working from home, the employment income can continue to be taxable in the state of work.

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### Context

Based on the income tax treaties Belgium concluded with France and with Luxembourg, employment income is taxed in the country where the activities are performed, with few exceptions. Without an exception to this rule, cross-border workers who are forced to work from home during the COVID-19 pandemic could suddenly no longer be taxed by the country where they work, but in their country of residence.

To avoid cross-border workers experiencing negative tax consequences as a result of the COVID-19 pandemic,

days worked from home during the COVID-19 pandemic will be regarded as days spent working in the country where the employee would normally have worked.

This so-called “fiction” only applies for days worked from home because of measures taken by the governments of the contracting countries to combat the COVID-19 pandemic. The principle cannot be applied on days when the cross-border worker would normally have been working from home or in a third country.

## How State of Work Can Maintain Taxing Rights in this COVID-19 Situation

Individuals wanting to make use of this fiction will have to do so in a consistent manner in both countries. Individuals may be asked to provide a certificate, issued by the employer, confirming the number of days worked from home solely because of health regulations implemented by the governments to address COVID-19. The fiction can only be applied insofar as the income is actually taxed in the work state. This means that the income must be included in the basis for calculating the taxes due in the work state.

### French Frontier Workers

Different rules apply for resident taxpayers of France benefiting from the Belgian-French tax regime for frontier workers.<sup>3</sup> These frontier workers are allowed to work a limited number of days outside of the frontier zone without this affecting their tax situation. The authorities confirmed that the COVID-19 pandemic is a situation of *force majeure*, beyond the control of the employer and employee. Days worked from home as a consequence of COVID-19 will not be taken into account for the calculation of the days worked outside of the frontier zone. (For coverage of France’s approach to frontier workers during the COVID-19 pandemic, see GMS [Flash Alert 2020-149](#), 3 April 2020.)

### Timing

The fiction applies to days worked from home between March 11, 2020 and June 30, 2020, for the agreement with Luxembourg and between March 14, 2020 to June 30, 2020, for the agreement between Belgium and France. Both agreements may be extended until the end of the following calendar month, subject to agreement of the contracting countries.

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## KPMG NOTE

The intention of the agreements is to provide clarity on the income tax situation of individuals working in one country whilst residing in the other country and who are now forced to work from home during the COVID-19 pandemic.

More careful consideration should be given to the situation of individuals working in more than one country or individuals who regularly worked from home or in third countries prior to the COVID-19 pandemic.

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## FOOTNOTES:

- 1 The announcement, with a link to the text of the agreement (in French), can be found at:  
<https://finances.belgium.be/fr/Actualites/convention-double-imposition-belgique—france-accord-entre-autorités-compétentes-sur-le> .
- 2 See the announcement of the agreement (in French) on this Luxembourg government website:  
<https://impotsdirects.public.lu/fr/archive/newsletter/2020/nl19052020.html> .
- 3 Article 2 of the Protocol of December 12, 2008 amending the convention between Belgium and France for the avoidance of double taxation of March 10, 1964.

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## Contact us

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**The information contained in this newsletter was submitted by the KPMG International member firm in Belgium.**

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