

# GMS Flash Alert

2020-302 | July 7, 2020



## Belgium – COVID-19: Cross-Border Worker Tax Arrangements Extended

The agreements Belgium concluded with France, Germany, Luxembourg and the Netherlands to prevent cross-border workers from being adversely affected by the COVID-19 pandemic have been extended through 31 August 2020.<sup>1</sup>

### WHY THIS MATTERS

The travel restrictions caused by COVID-19 measures put cross-border workers at risk of having their employment income become fully taxable in their states of residence. The mutual agreements concluded with France, Germany, Luxembourg and the Netherlands protect cross-border workers from suffering any tax disadvantages by working from home. Days worked from home will be treated as 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 normal employment.

### Context

Based on the income tax treaties Belgium concluded with Germany, Luxembourg and the Netherlands, employment income is taxed in the country where the activities are performed, with few exceptions. Without derogation, cross-border workers that 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 treatment only applies for days worked from home because of measures taken by the governments of the contracting countries to combat the COVID-19 pandemic. It does not apply to days the cross-border worker would normally have been working from home or in a third country.

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## Updates

The agreements with the Germany, Luxembourg and the Netherlands countries have been extended through 31 August 2020.

For resident taxpayers of France benefiting from the Belgian-French tax regime for frontier workers,<sup>2</sup> the ability to exclude the days worked from home as a consequence of COVID-19 from the calculation of the days worked outside of the frontier zone has been extended to 31 August 2020.

The Belgian tax authorities have also published a series of Frequently Asked Questions.<sup>3</sup> The FAQs confirm that the special arrangement only applies to cross-border situations with France, Germany, Luxembourg or the Netherlands. For individuals working in other countries, the general principle of allocation based on physical presence continues to apply.

Individuals wanting to make use of the special treatment will need to provide proof that the income has been taxed in the other country as well as a certificate, issued by the employer, confirming the number of days worked from home as a consequence of COVID-19.

The treatment is only applicable to employees. Self-employed individuals and company directors are not included.

The FAQs confirm that the treatment also does not apply to situations where an employee seconded to Germany, France, Luxembourg or the Netherlands ends up working from home in Belgium because of COVID-19. In such instance, the income, according to the FAQs, will be taxable in the state where the activities are performed.

For individuals benefiting from the Belgian expatriate tax concessions,<sup>4</sup> no tax relief will be available for the days worked from home.

## FOOTNOTES:

1 See (in Dutch): <https://financien.belgium.be/nl/Actueel/dubbelbelastingverdrag-belgië-duitsland-nederland-frankrijk-en-luxemburg-akkoorden-tussen> . For prior coverage, see the following issues of *GMS Flash Alert*: [2020-230](#) (13 May 2020) and [2020-247](#) (22 May 2020).

2 Article 2 of the Protocol of 12 December 2008 amending the convention between Belgium and France for the avoidance of double taxation of 10 March 1964.

3 Circ. nr. Ci RH. 2020/C/81, 17 June 2020.

4 Circ. nr. Ci. RH. 624/325.294, 8 August 1983.

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## Contact us

For additional information or assistance, please contact your local GMS or People Services professional or the following professional with the KPMG International member firm in Belgium:



**Carolien Van Echelpoel**

Tel. + 32 (0) 2 708 47 96

[ncvanechelpoel@kpmg.be](mailto:ncvanechelpoel@kpmg.be)

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

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