GMS Flash Alert

2021-109 | April 12, 2021

France - COVID-19: Approach to Tax Residence Is Tightened by Tax Authorities

The French tax administration has released new guidance concerning whether individuals who spend more time in France than originally intended due to the COVID-19 health crisis created a permanent home in, or moved their centre of vital interest to, France. (For prior coverage, see *GMS Flash Alert* 2020-209, 29 April 2020.)

Employers with employees in France who are normally resident elsewhere, tax practitioners, and tax administrations have been wondering, as the global health crisis continues to disrupt professional and/or personal lives, what will be the impact on the criteria used to determine whether a person is to be treated as a resident if that person is prevented from returning home?

With the passing of time, the French tax administration has decided to tighten up on its guidelines and take a stricter approach[1].

WHY THIS MATTERS

The French tax authorities' guidance may provide welcome relief in cases where individuals have had to spend additional time in France due to the COVID-19 outbreak. It is, however, important that employers review the tax residence of their employees that have temporarily relocated to France during the coronavirus pandemic to check whether their employees were actually prevented from going back home and did not remain in France for other reasons.

Employers should seek advice as their compliance obligations would be impacted by the tax status of their employees.

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Tightening of French Tax Administration's COVID-19-Related Guidelines on Tax Residence

The French tax administration had issued guidelines quite early on, stating that the fact that a person is temporarily spending time in France due to the exceptional circumstance of the health crisis, is not, for this reason alone, to be considered as having established a permanent home or to have the centre of his or her vital interests in France.

The change in approach reflected in the new guidance is to establish that this concessionary reading of the rules encompasses only those that face or have faced a legal or material impossibility of returning to the State in which they are/were resident for tax purposes, and only for the period during which such an impossibility exists, due, for example, to the closure of the borders in the other country or the absence of any means of transportation between the two.

Cross-Border Workers: Extension of Amicable Agreements until June 30, 2021

In the spring of 2020, the French government concluded amicable agreements concerning cross-border workers with Germany, Belgium, and Switzerland providing that such workers would remain taxable in the State in which they usually carry out their activity although they worked from their State of residence.[2] Agreements had also been signed with Luxembourg and Italy in July 2020. (For prior coverage of such agreements, see the following issues of *GMS Flash Alert*: 2020-253 (27 May 2020) and 2020-247 (22 May 2020).)

All these agreements – already extended twice in 2020 – have been extended again until 30 June 2021.

KPMG NOTE

As a result of these agreements, working from home due to COVID-19 should continue to have no negative consequences on the way cross-border workers are taxed.

FOOTNOTES:

1 See (in French) the following webpage "Résidence fiscale et confinement crise Covid" on the www.impots.gouv.fr website (updated 23 March 2021).

2 The details of the amicable agreements can be found here (in French): https://www.impots.gouv.fr/portail/les-conventions-internationales .

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