

# GMS Flash Alert

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## Switzerland - New Home Working Arrangements for Frontier Workers with France

On 27 June 2023, the State Secretary for Switzerland signed an addendum to the France-Switzerland double taxation treaty in Paris.<sup>1</sup> The new agreement allows, within certain limits, for remuneration in connection with working from home (hereinafter “home working”) to be taxed in the country in which the employer is located. In addition, the country of the employer will transfer to the employee's country of residence a defined amount of the tax levied on the remuneration from home working. To make sure the new rules are applied, an automatic exchange of salary data is planned between the two countries.

The key points from the agreement are set out below.

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### WHY THIS MATTERS

Home working has become more and more popular – especially during the COVID-19 pandemic and its aftermath. Whilst employees want to incorporate home working into their working life, and employers also wish to offer flexibility to their workforce, the tax rules have for a long time been unclear in a cross-border situation between France and Switzerland.

The new agreement aims to clarify the tax position of home working as well as to set out employer reporting obligations; but some questions still remain.

According to the Swiss Federal Council: “The cantons and interested business sectors have welcomed the conclusion of the additional agreement.”<sup>2</sup>

## Overview of Key Points

This agreement, together with previous arrangements<sup>3</sup>, allows cross-border home working up to 40 percent of total annual work-days without affecting the previous income tax position. For a French tax-resident employee with a Swiss employer, the agreement provides as follows:

- For Swiss cantons under the 1983 frontier worker agreement (Bern, Solothurn, Basel, Vaud, Valais, Neuchatel, and Jura), personal taxation can continue to be levied in the country of residence, i.e., France.
- For all other Swiss cantons (such as Geneva and Zurich), work-days will be taxed in Switzerland, where the employer is based.

The definition of “home working” includes business trips undertaken by the employee at the request of the employer – either in their country of residence (i.e., France, for an inbound commuter to Switzerland) or in any other country other than Switzerland and France – as long as such trips do not exceed 10 days per year. These 10 days should be counted within the 40-percent overall limit.

An additional article<sup>4</sup> to the double taxation treaty provides details on the reporting obligations of the employer, to include:

- Employee information (names/date of birth, postcode for his place of residence);
- Year during which the remuneration was earned;
- Number of days or percentage of home working;
- Total amount of remuneration paid.

With respect to Switzerland, this information is required from all Swiss employers with French-resident employees, regardless of the canton involved. It should be submitted, in electronic format, to the authorities in the country where the employer is based by 30 November following the year in which the remuneration is paid. The exchange of information will happen at country level thereafter.

### Coming into Force

The agreement will come into force once it has been ratified by both France and Switzerland. In the meantime, the temporary agreements put in place from 1 January 2023, continue to apply, with much the same content as the new and more permanent agreement described above.

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## KPMG INSIGHTS

On 6 July 2023, the Swiss authorities published some practical examples of how the agreements will work, illustrating several points around home-working and business-trip days which exceed the limits.

Whilst there is now more clarity on the taxation of home working, some practical questions and issues remain, for example:

- Will the remuneration reporting need to distinguish between regular employment income earned during a tax year, and long-term incentives that have different earning periods, and the most relevant percentage of home working for those different earning periods?

## KPMG INSIGHTS continued:

- If the employee requests to work from another location than his main home – in France or a third country, how will this be dealt with under the new rules?

The limit of 10 business days will create significant administration concerns for employers and employees with a role requiring extensive business travel.

France and Switzerland have both signed the EU framework agreement<sup>5</sup> for social security allowing up to 49.9 percent home working, therefore employers need to be clear on the home-working limits they set their employees given the difference between the tax and social security positions.

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## FOOTNOTES:

1 Double taxation treaty between Switzerland and France for income tax and wealth tax 1966 and subsequent protocols.

See "La Suisse et la France signent un avenant à la convention bilatérale contre les doubles impositions" (in French) at: <https://www.admin.ch/gov/fr/accueil/documentation/communiqués.msg-id-96063.html> .

2 Ibid.

3 Agreement signed on 22 December 2022 between France and the cantons of Bern, Solothurn, Basel, Vaud, Valais, Neuchatel, and Jura.

4 Paragraph 28ter.

5 For related coverage in *GMS Flash Alert*, see:

[GMS Flash Alert 2023-024](#), 31 January 2023

[GMS Flash Alert 2023-074](#), 4 April 2023

[GMS Flash Alert 2023-086](#), 21 April 2023.

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