GMS Flash Alert

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Switzerland – Taxation for Telework of Cross-Border Commuters

The Swiss Federal Council has introduced a new legal framework for taxing cross-border commuters on telework carried out in their home country.[1] This legislation helps ensure the implementation in Swiss federal law of the new rules. Specific agreements on thresholds were concluded with Italy and France in 2023.[2]

This article summarises briefly key aspects of the new legislation.

WHY THIS MATTERS

Effective 1 January 2025, Switzerland will have new rules for the taxation of telework performed abroad for Swiss employers, impacting 400,000 cross-border commuters, especially those in France and Italy. Employees will have telework income that is taxed based on specific thresholds, while employers face new reporting obligations.

Employers with employees in the scope of the new rules may need to take steps:

- to communicate the new tax situation to their employees,
- to closely monitor their employees' working locations during the year, and
- to modify their policies and practices with respect to the taxation of such employees.

This law reflects the evolving nature of telework and its international tax implications.

Background and Key Points of the New Legislation

At its meeting on 16 October 2024, the Federal Council adopted a new law on the taxation of telework in an international context. This law, which comes into force on 1 January 2025, establishes the legal basis for taxing cross-border commuters even if they work from their home abroad. There are already two specific cases of application with France and Italy regarding cross-border commuters.

Since the COVID-19 pandemic, teleworking has increased significantly in Switzerland.[3] Together with digitalisation, it will have a lasting impact on the modern working environment.

In a cross-border context, the increase in teleworking also has tax and social security implications. Switzerland has significantly more cross-border commuters from abroad than Swiss workers who are employed in neighbouring countries. In total, around 400,000 cross-border commuters work in Switzerland, most of whom live in France and Italy.[4]

Previously, if an employee resided abroad and performed telework for his/her Swiss employer from his/her country of residence, there was no domestic rule that would have required the employee to be taxed in Switzerland. However, some double taxation treaties, such as those with France and Italy, granted Switzerland the right to tax income from this telework. The new Swiss law now claims the right to tax telework performed abroad for a Swiss employer.

Double taxation agreements generally stipulate that income from employment is taxed in the country in which it is physically carried out. Teleworking would therefore shift the right of taxation from the state in which the employer is based to the state in which the employee is resident.

What Changes for the Employee?

The new law on the taxation of telework in the area of withholding tax is relevant for employees who are not tax residents in Switzerland and who work for their Swiss employers from their home offices in neighbouring countries. Thus, the law gives Switzerland the right to tax telework performed in a neighbouring country for the benefit of a Swiss employer. This taxing right needs to be explicitly provided for under the relevant international tax agreement.

The law is closely linked to developments in international treaties regarding the allocation of taxing rights to Switzerland within the framework of double taxation and cross-border commuter agreements and is limited to the five neighbouring countries of Switzerland: Liechtenstein, France, Italy, Austria, Germany.

Specifically, the agreements concluded with France and Italy (supplementary agreement to the double taxation agreement with France and protocol amending the cross-border commuter agreement with Italy) mean that telework performed in these countries for a Swiss employer can continue to be taxed by Switzerland to a certain extent, even if the work is not physically performed in Switzerland.

For France, this threshold of telework to be taxed by Switzerland is up to 40 percent of working time per year and for Italy it is up to 25 percent of working time per year as of 1 January 2024.

The new law implements the rules in Swiss legislation.

What Changes for the Employer?

According to the new law, there are reporting obligations for the employer, which are defined as part of the specific international agreements between Switzerland and the relevant neighbouring country. However, the different country-specific requirements for these reporting obligations may prove difficult to implement.

At this point, specific guidance has solely been issued relating to France. For France, the signed addendum 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.

KPMG INSIGHTS

Information Required of Swiss Employers with French-Resident Employees

How this information is submitted is not fully clear yet; KPMG in Switzerland is anticipating that submission might be in electronic format to the authorities in the country where the employer is based. We expect that after adoption of the future legislation on the automatic exchange of information between countries, the communication to the employee's country of residence will happen at the country level thereafter.

More Procedural Requirements

The new legislation is accompanied by an amendment of the Swiss source-tax regulation at the federal level, specifying the process for mid-year end of employment and the obligation of an employer to provide an attestation upon request of the employee regarding his/her cross-border status. KPMG in Switzerland believes it is likely that future directives will be issued with additional details. This attestation might also be useful for a subsequent cross-border employment as it will confirm the previous status of the employee and provide the new employer with an overview on relevant aspects of the employee's situation. The information that might be required therefore will be linked to days of telework/home office, business trips, and days not spent in the home residence.

Status of Agreements with Other Neighbouring Countries

For Germany, the Principality of Liechtenstein, and Austria, at this time, no specific agreements have been issued.

FOOTNOTES:

1 *Le Conseil Fédérale*, "Entrée en vigueur de la loi fédérale sur l'imposition du télétravail dans le contexte international" (16.10.2024) [with links to relevant documents]. Also available in Switzerland's other languages plus English.

2 For related coverage see *GMS Flash Alert* 2023-138, 11 July 2023.

3 First paragraph of the body: Bundesrat schafft nationale Grundlage zur Besteuerung der Telearbeit von Grenzgängerinnen und Grenzgängern.

4 Last paragraph: Bundesrat schafft nationale Grundlage zur Besteuerung der Telearbeit von Grenzgängerinnen und Grenzgängern.

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Contact us

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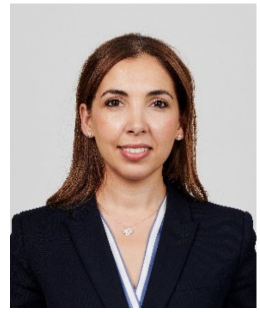

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