

Update on telework

Les midis de l'Entreprise



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Agenda

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Introduction



Update on Telework – Employment law aspects



Update on Telework – Tax law aspects



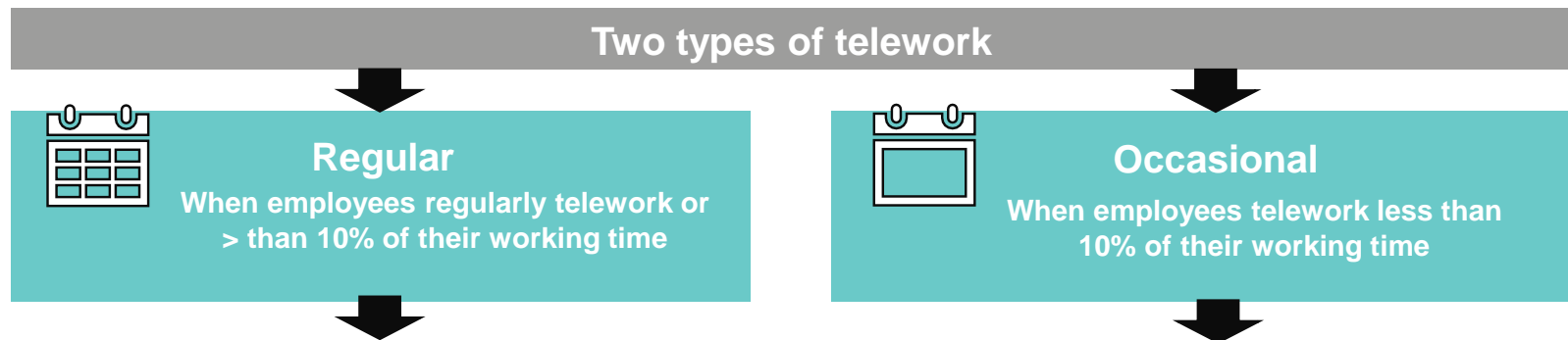
Update on Telework – Regulatory aspects

Introduction

Update on Telework – Employment law aspects

I. Update on Telework – Employment law aspects

Is our teleworking going to be regular or occasional?



- **Written agreement** between employer and employee with specific indications
- Work equipment must be provided and remote working allowance foreseen

The employer provides written confirmation to the employee authorised to telework

I. Update on Telework – Employment law aspects

Has the staff delegation been adequately involved?

Establishment and modification of a specific optional regular telework scheme

Employer in Luxembourg
< 150 employees



**Information and
consultation**

Employer in Luxembourg
≥ 150 employees

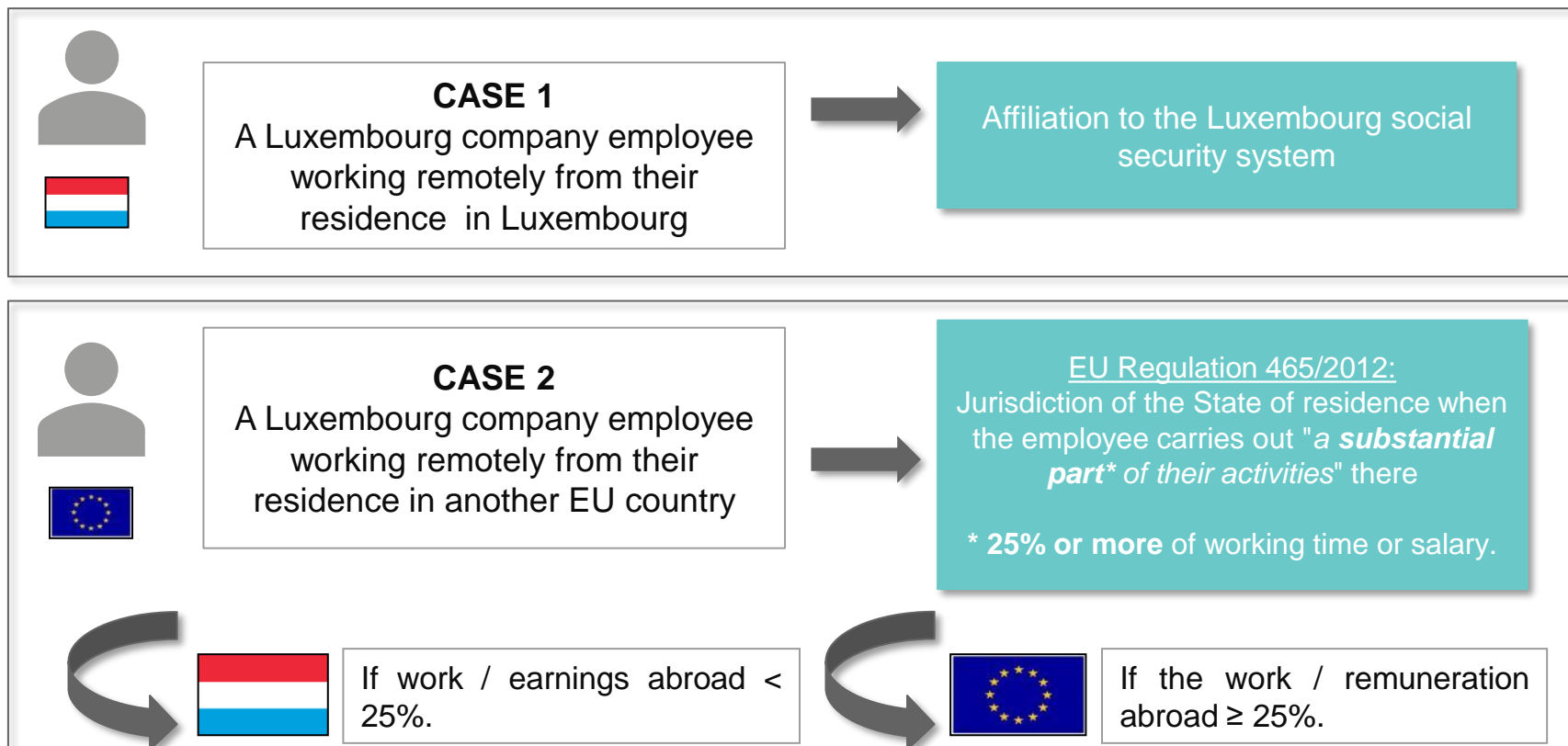


**Joint agreement with the
delegation**

The staff delegation is regularly informed about the number of teleworkers and its evolution within the company.

I. Update on Telework – Employment law aspects

And what about social security?



Do not forget the legal administrative formalities on both sides of the border for all crossborder workers

Update on Telework – Tax law aspects

I. Status quo

Taxation of cross-border employees

General rule

- Employment income is subject to tax in the employee's State of tax residence, unless the employment is exercised in another State. This means for cross-border commuters (i.e. employees who are tax resident in France, Germany or Belgium and who commute to Luxembourg to perform their employment activities), employment income is subject to tax in Luxembourg.
- Employment income remains taxable in Luxembourg and should not be taxed in the employee's State of tax residence if the number of days worked outside of Luxembourg in a year does not exceed the thresholds* below. Otherwise, the employment income the employee receives for the days worked in their State of tax residence will be subject to tax in that State of tax residence.



34 days for Belgium*



29/34 days for France**



19 days for Germany

Agreements between the competent authorities in Luxembourg and in each of the border countries concerning cross-border workers in the context of the pandemic **applicable until 30 June 2022**
Germany/France/Belgium



Practical tips

It may be necessary to review the breakdown of days spent in each country and the employee's residence. These two criteria may change the tax treatment applicable to the salary, and may require the revision of the payment procedures in place.



! If thresholds exceeded, need for the Luxembourg employer to register in France and to withhold personal income tax in France (expected evolution to be monitored)



! If thresholds exceeded, additional taxes via personal tax assessment only (assuming no (permanent) establishment exists)

* Calculation method may differ from State to State / specific features should be noted

* Discussions to increase these thresholds are ongoing:

- Belgium: amount of days have been increased to 34 days as from 1 January 2022
- France: amount of days to be increased to 34 days; terms of the arrangement to be defined in the coming months

II. Recommendations and practical guidelines

Tax aspects

Risk of PE / PR

- Consider implementing an addendum to the employment contract stating which activities may be performed outside Luxembourg and which must be performed in Luxembourg.

Risk of change of tax residence

- Consider implementing an internal policy determining which activities executives may perform outside Luxembourg and which they must perform in Luxembourg.

Monitoring

Tolerance thresholds

- Consider implementing an IT system to record the State of tax residence and the number of days worked outside Luxembourg for each employee.
- Revision of existing payment procedures: on-boarding of the tax compliance provider in order to align tax wage deductions with the IT system.

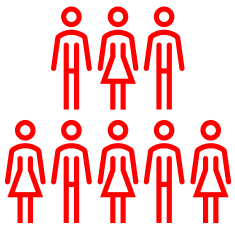
Position of the foreign tax authorities

- Monitor filing and tax withholding obligations that may arise in an employee's State of tax residence in light of that employee's specific situation.

Update on Telework – Regulatory aspects

III. Update on Telework – Regulatory aspects (1)

Circular **CSSF 21/769** on governance and security requirements for Supervised Entities to perform tasks or activities through Telework (as amended)



III. Update on Telework – Regulatory aspects (2)

Two main types of requirements



No prior
CSSF
approval



Ultimate BOD
responsibility

III. Update on Telework – Regulatory aspects (4)



Prior risk assessment



Minimum staff presence



Record keeping

III. Update on Telework – Regulatory aspects (5)



IT Risk Assessment

Security measures

Regular review and testing

III. Update on Telework – Regulatory aspects (6)



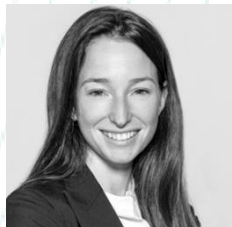
**What about the
insurance sector?**

Questions?



Thank you

Contact us



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