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Home Office for Cross-Border Commuters from France:
Certification Requirements since 1 January 2025



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Under the framework agreement aimed at facilitating home office work in a cross-border context which came into force on 1 July 2023, it is permissible under certain conditions from a social security law perspective for cross-border commuters to work from home for up to 49.9% of their working time (see [Employment News No. 70: New framework agreement on maintaining subordination under social security law in the case of cross-border home office work of less than 50%](#) and [Work from anywhere: What employers need to consider](#) (available in German only)).

However, cross-border commuters working from home in a foreign country of residence not only has implications under social security law, but also under tax law. With regard to the latter, an amendment to the relevant legislation came into force at the beginning of the year, leading to further certification obligations for employers of staff residing in France if the persons in question are permitted to work from home.

Background: Double Taxation Agreements

Traditionally, double taxation agreements are based on the principle that income is taxed at the place where the respective gainful employment is carried out. Employees who do not work in their country of residence are therefore generally taxed at the place where they work on the income they earn there. Normally, this is the country in which the employer is domiciled. If a person who is not resident in Switzerland works in Switzerland, withholding tax will therefore be levied at his/her place of work.

While no special cross-border commuter provisions apply in the canton of Geneva despite the high number of cross-border commuters, there are special regulations for cross-border commuters who work or reside in the cantons of Bern, Basel-Landschaft, Basel-City, Jura, Neuchâtel, Solothurn, Vaud or Valais. In contrast to

the general rule mentioned, income is taxed in the country of residence, with the country of residence paying the employer country a compensation of 4.5% of the gross salary. This rule will continue to apply if the persons concerned spend a maximum of 40% of their working time working from home. However, if a person works from home for more than 40% of his/her working time, the basic rule will apply again, according to which the employer state has a right of taxation with regard to income that is attributable to work physically performed in the employer state. At the same time, in this case, the right to tax income attributable to work performed from home lies with the country of residence. In other words, in this constellation, the employee and employer find themselves in a situation where two countries have the right to tax the income generated by the relevant employment activity. The validity of the 40% rule for home office work was extended until the end of 2025 by means of a mutual agreement concluded in December 2024. This mutual agreement is to be replaced by the supplementary agreement of 27 June 2023 to the double taxation agreement between France and Switzerland, which is expected to enter into force on 1 January 2026.

Entry into Force of the Federal Act on the Taxation of Telework in International Relations as of 1 January 2025 with simultaneous Amendments to the Withholding Tax Ordinance

In accordance with Article 127 para. 3 of the Federal Law on Direct Federal Tax (*Bundesgesetz über die direkte Bundessteuer*), employers are now obliged to issue a certificate to their employees who leave during the year upon request. This certification obligation is linked to the existence of an international agreement that requires information on teleworking days, which is currently the case in relation to France.

More specific information on this can be

found in Article 5a of the Withholding Tax Ordinance (*Quellensteuerverordnung*), according to which the aforementioned certificate must contain the following information for employees resident in France:

- Personal details of the person concerned, including address at the time of departure
- Period of limited tax liability (= no residence in Switzerland) during the calendar year
- Average degree of employment (in %) during the period of limited tax liability
- Number of working days on which temporary assignments (e.g. business trips, further training, customer visits and project work) were carried out in the country of residence during the period of limited tax liability
- Number of working days during which temporary assignments were carried out in other countries during the period of limited tax liability
- Number of days worked from home during the period of limited tax liability (not including temporary assignments)
- Number of overnight stays in Switzerland

Consequences in Practice

The extensive certification requirements make it essential to continuously document the respective home office activities and other temporary assignments of employees residing in France. If this is not done, it may otherwise be difficult in retrospect to reconstruct the scope of the respective activities and to certify them truthfully. It is therefore advisable for employers to set out the corresponding documentation requirements in their home office regulations, inform their employees

accordingly and, if necessary, oblige them to cooperate. Simultaneously, it should be checked whether the relevant home office regulations take into account the other tax and social security framework conditions, in particular by specifying time limits for work performed from home.

Employers should also consider whether, in relevant cases, the appropriate certificates should be issued proactively as part of the offboarding process in the future so as to prevent employees from requesting these at a later date as the issuance thereof may become increasingly difficult due to the passage of time.

At the same time, Swiss employers who wish to hire persons residing in France during the year are well advised to obtain a certificate with the above information for the calendar year in question before allowing them to work from home. Otherwise, consequences for the tax and social security situation of the employees concerned cannot be ruled out, along with the corresponding declaration obligations for the employer.

Employment News reports on current issues and recent developments in Swiss labor law. These comments are not intended to provide legal advice. Before taking action or relying on the comments and the information given, addressees of this Newsletter should seek specific advice on the matters which concern them.

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