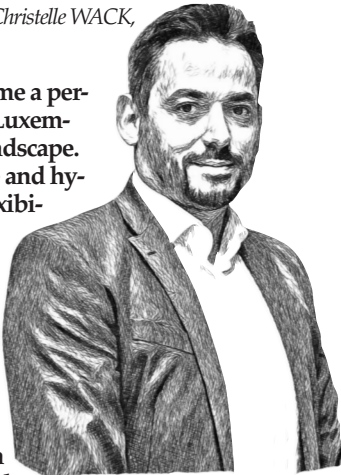


Homeworking in Luxembourg: Current tax and social security considerations

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Homeworking has become a permanent feature of the Luxembourg employment landscape. While the shift towards remote and hybrid working has increased flexibility for employees, it has also raised complex tax and social security issues for both employees and employers in a cross-border context. These challenges are particularly acute in Luxembourg, given the high number of cross-border workers and the interaction between Luxembourg rules and those of neighboring States.



This article provides an overview of the main tax and social security implications of homeworking in Luxembourg, focusing on personal income tax, corporate tax (permanent establishment considerations), and social security coordination in cross-border situations involving Belgium, France, and Germany.

At the level of individual taxation

From a personal income tax perspective, the taxation of homeworking days depends primarily on where the work is physically carried out. Homeworking may therefore result in the taxation of those days in the employee's State of residence, even when the work is conducted for the account of a Luxembourg employer.

Nevertheless, under Luxembourg's tax treaties with Belgium, France, and Germany, a harmonized tolerance threshold of **34 days** applies as from 2024. Below this threshold, any working day performed outside the Grand Duchy—including homeworking and business travel—remains taxable in Luxembourg. Where this threshold is exceeded, homeworking days become taxable in the employee's State of residence. The practical application of this threshold may vary between countries, particularly in cases of part-time work or on-call duties. Homeworking has no direct impact as long as this threshold is not exceeded, but once breached, it triggers consequences for both employers and employees.

From an employer's perspective, payroll may need to be reviewed and withholding tax adjusted when preparing the annual salary certificate. Certain foreign reporting obligations may also arise such as PASRAU obligations in France, which require Luxembourg employers to report the portion of income paid to French tax residents that is taxable in France.

For employees, the tax impact of exceeding the threshold depends on their personal circumstances and level of remuneration, as tax rates and their progressivity differ between Luxembourg and neighboring countries. The approach of foreign tax authorities and the evidence required to support compliance may also vary. Audits are frequent in Belgium and increasingly common in Germany. While reviews remain less frequent in France, French tax residents must anticipate potential taxation in their country and proactively declare the situation. This may lead to payment of tax advances ("*acompte contemporain*") in France, while Luxembourg wage withholding continues in parallel,

potentially creating a cash-flow impact. In practice, this may be mitigated by anticipating foreign taxation through payroll, for example by applying an adjustment or fixed exemption at source, followed by a year-end reconciliation.

Particular attention should also be paid to the proper determination of the employee's tax residence, especially where family ties remain abroad while accommodation is available in Luxembourg. Employees are responsible for ensuring that their Luxembourg tax card accurately reflects their tax residence status, as this directly affects payroll withholding. Incorrect tax residence information may lead to withholding in Luxembourg without exemption, while taxation is triggered in the State of residence, resulting in temporary double taxation. In practice, we increasingly observe that the Tax authorities are increasingly reluctant to correct such situations solely through the annual tax return, and resolution may require a time-consuming mutual agreement procedure.

Finally, homeworking may affect access to assimilation to Luxembourg tax resident status. Under Luxembourg rules, non-resident employees may be assimilated to residents if certain conditions are met, including that at least 90% of the employee's worldwide income is taxable in Luxembourg. For this purpose, the first 50 working days performed outside Luxembourg may be disregarded. Exceeding this legal tolerance may jeopardize access to the resident tax regime and the related tax benefits. This underlines the importance of anticipating homeworking arrangements and aligning payroll processes accordingly to limit cash-flow inefficiencies and unexpected tax exposures.

At the level of corporate taxation

The tax concept of permanent establishment is familiar to internationally active companies. However, prior to the COVID-19 pandemic, cross-border homeworking was rare and seldom assessed from this angle. The Organization for Economic Co-operation and Development (OECD) guidance on this tax concept, as set out in the Commentary on Article 5(1) of the OECD Model Tax Convention (2017 version), was widely considered as ill-suited to remote working practices.

During the pandemic, the OECD issued temporary guidance (April 2020 and January 2021), clarifying that exceptional, short-term remote work imposed by public health measures should not, in principle, result in the creation of a permanent establishment. How-

ever, this guidance was expressly limited to the COVID-19 context and did not address the long-term implications of structural homeworking arrangements.

In the absence of clear international guidance, the corporate tax implications of cross-border homeworking evolved in a context of significant legal uncertainty. States adopted divergent approaches, further increasing uncertainty for employers. As a result, many companies adopted conservative measures such as excluding key functions from homeworking or restricting decision-making authority when working remotely.

For example, in a 2024 ruling, the Danish tax authorities considered that a Swedish company had a permanent establishment in Denmark due to homeworking performed by its CEO for approximately 40% of his working time, combined with the strategic nature of his role. Some States also attempted to reduce uncertainty through domestic guidance or bilateral initiatives. For instance, Belgium and the Netherlands concluded an agreement in 2023 distinguishing between occasional telework, structural but optional telework, and structural and mandatory telework. However, such initiatives remained limited and were not harmonized internationally.

In December 2025, the OECD provided long-awaited clarification by updating the Commentary to the OECD Model Tax Convention. While the definition of permanent establishment remains unchanged, the revised Commentary now includes a dedicated section on cross-border homeworking or working from other relevant locations, offering a clearer framework for assessing permanent establishment implications linked to remote work.

The updated Commentary introduces a working-time-based benchmark. If an individual works from their home or another location in a foreign State for less than 50% of their total working time for the enterprise over a rolling 12-month period, that location should generally not be treated as a place of business at the disposal of the employer and should not, by itself, create a permanent establishment. When this threshold is met or exceeded, a facts-and-circumstances analysis is still required, focusing on the nature of the functions performed and the commercial rationale for the employee's presence at that location.

While this clarification significantly improves legal certainty, permanent establishment implications linked to homeworking must still be assessed on a case-by-case basis, taking into account the employee's role, the decision-making authority, and the structural nature of the arrangement. Nonetheless, this is a positive development that may prompt companies to revisit their homeworking practice.

At the level of social security

Under European coordination rules, the social security treatment of homeworking depends primarily on how the employee's activity is structured across Member States. If an employee works exclusively in one Member State other than Luxembourg (for example, full-time homeworking from the State of resi-

dence for a Luxembourg employer for a limited period), the situation is generally assessed under the secondment rules, provided the relevant conditions are met. If homeworking is combined with work physically performed in Luxembourg, the situation is typically treated as a multi-State activity, with the applicable social security legislation determined based on the distribution of working time. In multi-State situations, homeworking may affect the employee's social security affiliation and contributions. As a general rule, there is no change in affiliation where the activity in the State of residence does not exceed 25% of total working time.

In the specific context of teleworking, this threshold has been extended to 49.9% under a framework agreement on cross-border telework between Luxembourg and certain neighboring countries. This allows eligible employees to remain affiliated to the Luxembourg social security system despite a higher share of teleworking in their State of residence. However, the agreement is conditional and does not apply to all situations, particularly where teleworking is combined with other activities abroad.

From an administrative perspective, the A1 certificate has been adapted to include a specific section for teleworking activities. This allows a clearer distinction between secondment situations and multi-State teleworking arrangements, which is essential for determining the correct legal basis.

In all cases, administrative procedures must be completed with the Luxembourg Social Security Authorities (CCSS). Where the conditions of the framework agreement are met, the CCSS applies the procedure set out in that agreement. Where the framework agreement does not apply, the CCSS coordinates with the competent authority of the employee's State of residence to determine the applicable legislation. Authorization under the framework agreement is granted for a maximum period of three years and may be renewed upon request.

In practice, applying the 49.9% threshold can be challenging, especially where teleworking is combined with business travel, or where employees hold senior or managerial roles involving variable working patterns or strategic responsibilities. These cases require a case-by-case assessment and certain profiles may fall outside the scope of the framework agreement due to the nature of their duties. In such situations, the employee's activity in their State of residence must generally remain below the 25% threshold so that the applicable social security legislation does not change.

Take-away

Homeworking raises significant issues in personal income tax, corporate tax, and social security, each governed by its own rules, thresholds, and interpretations. Despite recent clarifications, homeworking arrangements must still be analyzed carefully and distinctly from each of these angles.

In a cross-border environment such as Luxembourg, anticipating these implications and understanding how they interact is key to limiting unexpected tax exposure, social security challenges, or compliance issues. Employers and employees need to approach homeworking with a clear understanding of the applicable rules. Practical and operational challenges will be explored in a second article to be published in March.



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