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By PwC Deutschland | 21 June 2011

Agreement with Luxembourg on commuters

Germany and Luxembourg have agreed to waive the split of remuneration of commuters, if less than 20 working days in the year were not spent in the country of employment and that country taxes the full amount.

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The German/Luxembourg double tax treaty makes no specific provision for commuters. Rather, the “normal” OECD employment income clause applies. Recently there have been a number of disputes based on claims by the country of residence for taxation of employment income for working time actually spent there or in a third country. The tax authorities of the two countries have now agreed to apply the treaty to all open cases on the basis of an allocation of the total remuneration (including benefits in kind, annual bonuses and jubilee payments) by the number of working days actually spent in each state. The number of working days is the contractually agreed working time with an adjustment if more than 10 days of the holiday entitlement is carried forward. Working days spent in a third country are to be allocated to the state of residence. By contrast, remuneration for days off sick or on maternity leave falls to the state of employment. No allocation will be made if the number of working days falling to the state of residence in any one year is less than 20 and there is no exemption in the state of employment.

Keywords

Luxembourg, commuters