

## **Pinboard January 2010**

### **2010 public holidays**

Including Bank and Insurance holidays

### **Summary of the new social security rates from January 1<sup>st</sup>, 2010**

Applicable from January 1<sup>st</sup>, 2010

### **Aspects of the 2010 State budget**

Tax and social matters – Broad lines

### **Annual withholding tax regularisation requested by the employee**

“la demande de régularisation d’impôt sur les salaires basé sur le décompte annuel” -  
When is it interesting?

### **The new 2009 tax ceilings**

As far as the personal tax declaration is concerned

### **Assignees in Luxembourg: future changes**

Administrative simplification

### **Accompaniment leave for relative in terminal phase**

Maximum 5 days special leave per year

Contact: payroll@securex.lu

Tel: +(352) 26 38 46 74

Securex Luxembourg S.A.

Siège Social : ZA Am Bann - 15 rue Léon Laval - L- 3372 Leudelage

R.C.S. : B 82559 - T.V.A. : LU 19009176 - ING Luxembourg IBAN LU81 0141 6335 1850 0000 - BIC CELLULL

T +352 26 38 46 1 - F +352 26 38 46 90 - info.lux@securex.lu - www.securex.lu

## Public, bank and insurance holidays for 2010

Friday	1 <sup>st</sup> January	New Year's Day	(L)
Friday	2 <sup>nd</sup> April	Good Friday	(B)
Monday	5 <sup>th</sup> April	Easter Monday	(L)
Saturday (*)	1 <sup>st</sup> May	Labour Day	(L)
Thursday	13 <sup>th</sup> May	Ascension Day	(L)
Monday	24 <sup>th</sup> May	Whit Monday	(L)
Wednesday	23 <sup>rd</sup> June	National Holiday	(L)
Sunday (*)	15 <sup>th</sup> August	Assumption	(L)
Monday	1 <sup>st</sup> November	All Saints Day	(L)
Friday	24 <sup>th</sup> December	Christmas Eve	(A)
Friday	24 <sup>th</sup> December	Christmas Eve (afternoon)	(B)
Saturday (*)	25 <sup>th</sup> December	Christmas Day	(L)
Sunday (*)	26 <sup>th</sup> December	Boxing Day	(L)

L = statutory public holiday

A = insurance holiday

B = bank holiday

(\*) Labour Day (1<sup>st</sup> May), Assumption (15<sup>th</sup> August), Christmas Day (25<sup>th</sup> December) and Boxing Day (26<sup>th</sup> December) will be Saturday or Sunday. In such cases, the employee benefits from a compensatory day off to be taken within three months after the date of the public holiday (Art.L. 232-3 and Art.L. 232-6(2) of the Labour Code).

## SUMMARY OF THE NEW SOCIAL SECURITY RATES AS OF JANUARY 1<sup>ST</sup>, 2010

Please find below an overview of the different applicable rates as of 1<sup>st</sup> January 2010:

### Employee's contributions

Type	Employee	Ex-worker	Extra compensation
Health insurance (illness expenses)	2.7%	2.7%	2.7%
Health insurance (illness in cash)	0.25%	0.25%	0
Additional contribution	0	2.1%*	0
Pension insurance	8%	8%	8%
Dependent insurance	1.4%	1.4%	1.4%

\*2.1% from 2009 to 2011 - 1% in 2012 - 0.5% in 2013 – 0% in 2014

### Employer's contributions

Type	Employee	Ex-worker	Extra compensation
Health insurance (illness expenses)	2.7%	2.7%	2.7%
Health insurance (illness in cash)	0.25%	0.25%	0
Pension insurance	8%	8%	8%
Health at work (STM)	0.11%	0.11%	0.11%

### Employer's contribution to the Employers' Mutual insurance system

Financial absenteeism ratio	Contribution rate
< 0,75%	0.88% (increase)
< 1,75%	1.36% (decrease)
< 2,75%	1.77% (decrease)
> = 2,75%	2.01% (decrease)

### Employer's accident insurance rates in the main sectors

Risk class	Rate
Retail, food retail and other non classified activities	1.24%
Banks, insurance companies, research offices and similar activities	0.45%
Chemistry, textile and paper industries	1.47%
Metal and wood industries	1.90%
Iron and steel industries	1.19%
Construction, mining and quarrying industries	4.27%
Self-employed	0.47%
Temporary employment companies	4.34%
Technical equipments (elect. gas, water, air-condit., antennas, etc.)	2.39%

Social security ceilings and minimum wages	Index 702,29
Min. social wage for non qualified people (239,61 ind 100)	EUR 1 682,76
Minimum wage for qualified people	EUR 2 019,31
Monthly ceiling (5 times the min. social wage)	EUR 8 413,79
Annual ceiling	EUR 100 965,48

## Aspects of the 2010 State budget

Finance Minister Luc Frieden has recently presented the 2010 budget to the Parliament. You will find hereafter the broad outlines as far as tax and social matters are concerned.

The government foresees a 1.6 billion euros deficit, that is to say 4.4% of the GDP. This percentage exceeds the 3% limit set by the European stability pact. This budget deficit will be financed by loans and reserve funds for a total amount of 1.5 billion euros.

One of the strategic goals of the government is to substantially decrease the public expenditures growth to avoid getting back to a structural public finances deficit.

### Tax

Individuals: in order to maintain the purchasing power and avoid worsening the situation, during the economic crisis, no tax increase will occur.

Companies: the government will make sure that the tax environment remains competitive by encouraging investments and establishments of new companies in Luxembourg.

### Social security

Accident insurance: an accident insurance reform should be enforced in January 2011. It will enable the employees, in case of injury, to get more targeted compensation and focus on safety at work (accident prevention) and reinforce employer's solidarity without increasing contributions.

### Work and Employment

The Government intends to react to the labour market deterioration with various measures:

- enlargement of the part-time unemployment law
- action against the increasing youth unemployment
- improvement of measures favouring integration of non-qualified employees
- multiplication of actions in favour of young graduates who are likely to remain longer unemployed due to the companies' reluctance to hire: creation of several contracts: contrat d'appui-emploi (C.A.E.), le contrat d'initiation à l'emploi (CIE) et contrat d'initiation-emploi - expérience professionnelle (CIEEP).

## Annual withholding tax regularization ("demande de régularisation d'impôt sur les salaires basé sur le décompte annuel")

Employees who are neither eligible for submitting an annual tax declaration in Luxembourg, nor have benefited from an annual withholding tax adjustment by their employer (indeed, this cannot be done in certain circumstances), are entitled to request an annual adjustment of their withholding taxes by submitting the form "demande de régularisation d'impôt sur les salaires basé sur le décompte annuel" to the tax authorities.

It is important to highlight that an annual withholding tax adjustment can never result in an unfavourable tax adjustment for the person requesting it.

If the employee must not submit an annual tax return, he should meet at least one of the following criteria to request an annual withholding tax adjustment ("régularisation d'impôt sur les salaires"):

- He/she should have his/her main fiscal residence in Luxembourg during the 12 months of the relevant tax year OR
- He/she should be employed in Luxembourg during at least 9 uninterrupted months of the relevant tax year OR
- If neither of the above criteria is met, the person should have exercised an activity in Luxembourg, and the part of the Lux. earning should at least represent 75% of his/her global worldwide gross income.

Nevertheless, special arrangements exist for non-resident taxpayers whose gross remuneration in Luxembourg is below 75% of their global annual gross income. In such cases, all foreign professional incomes are taken into account as part of a fictitious taxable base, in order to determine the taxation rate applicable to the Luxembourg remuneration only. However, such a tax adjustment is only worthwhile if the monthly foreign salary is inferior to the monthly Luxemburgish salary.

Please find below examples of situations in which requesting an annual withholding tax adjustment can be advantageous in order to obtain a tax reimbursement (if the employee has no obligation to submit an annual tax declaration):

- an employee who has benefited from a change into a more favourable tax class during the year, whose household does not possess a second tax card and whose total annual taxable income is below the limit for submission of a tax declaration.
- an employee who has not worked the entire year in Luxembourg.
- an employee whose working hours have been reduced during the year.
- an employee whose dependent children do not receive any "boni" can request a tax reimbursement equivalent to the "boni" via the annual withholding tax adjustment.

## **The new 2009 fiscal ceilings**

As of January 2009, some conditions for determining whether a resident or non-resident taxpayer should submit a yearly tax declaration have changed. As from 2009, a declaration must be sent to the authorities in particular when:

- either, the annual taxable income is higher than 100,000 euros (58,000 euros in 2008);
- or, if there is an accumulation of pensions and / or of salaries,, taxpayers in tax class 1 and 2 should submit a tax declaration if their total annual taxable income is higher than 36,000 euros (31,000 euros in 2008) and taxpayers in tax class 1A should do so if their total annual taxable income is higher than 30,000 euros (25,000 euros in 2008).

All other fiscal conditions in relation with different types of incomes, as well as those regarding non-resident taxpayers remain unchanged.

## **Secondment : draft legislation**

The Grand-Duchy of Luxembourg incorporated the European Directive 96/71 dealing with secondment of employees through its law dated 20<sup>th</sup> December 2002.

In that law, 4 provisions applicable to employees on secondment in Luxembourg had been added to the minimum list provided by the Directive.

The European Court of Justice (ECJ) though declared that these provisions were not in line with the European legislation.

The ECJ indeed considers that the Luxemburgish legislator wrongly defines the below-mentioned provisions as imperative laws that overrun those of the Directive. Therefore, the bill n° 5942 should take into account the amendments imposed by the ECJ.

### **1. Legislation about the automatic salary indexation adapted to the cost of living**

Although the ECJ approves the salary indexation being part of Luxembourg's social background, it does limit its application to seconded employees earning less than the minimum salary. Consequently, seconded employees whose remuneration is higher than the minimum salary may not necessarily benefit from the salary indexation.

Applicable minimum salary referred to is the minimum salary determined by law or by collective agreements of generally binding nature, arbitration awards declared of generally binding nature having the same scope than collective agreements as well as inter-professional social dialogues' agreements declared of generally binding nature.

### **2. Compliance with the Luxemburgish legislation pertaining to collective agreements**

The ECJ declared that Luxemburgish laws about collective agreements that are not of generally binding nature should not be applied to seconded employees.

### **3. Compliance with the legislation pertaining to part-time and fixed-term employment**

The ECJ forbade the application of Luxemburgish provisions in relation to part-time and fixed-term employment to seconded employees. Indeed, the Grand-Duchy of Luxembourg included these provisions in its list of imperative laws, even though they are not mentioned in the European Directive.

### **4. Obligation to possess an employment contract or a written proof of the employment relationship**

Such an obligation is not longer accepted as the employers already have the obligation to inform seconded employees about their employment conditions in their home country.

Beside substantive adaptations, formal ones have been requested by the ECJ:

-The obligation to inform the Work Inspectorate "Inspection du Travail et des Mines" (ITM) **before** the secondment start has been replaced by the obligation to inform the ITM **when** the secondment starts.

- Compulsory keeping of the secondment documents in Luxembourg is now only compulsory during the secondment. The obligation to keep documents before and after the secondment is abolished;

- Compulsory keeping of the secondment documents in Luxembourg by a mediator that is established in Luxembourg is abolished. It is replaced by the obligation for the company that assigns to keep documents at a person present in Luxembourg during the assignment; The company determines this person freely. It can be an individual (the assignee for example) or a legal entity that exercises an economic activity.

In practice, some measures are already applied through the simplification and adaptation of the "Communication de Détachement des Salariés" form.

It will however be necessary to wait until the bill is voted for the substantive amendments to be implemented.

## **Accompaniment leave for people at the end of life**

The law dated March 16th, 2009 created a special leave which every employee can request, should a relative (in the first or the second degree), the spouse or the partner be in terminal phase of a serious life-threatening disease.

The special accompaniment leave cannot exceed 5 working days per case per year.

The special accompaniment leave can be split. Employer and employee can reach an agreement on a part-time accompaniment leave. In this case the duration of the leave is proportionally increased.

The special accompaniment leave ends if the concerned relative dies.

The beneficiary's leave must be justified with a medical certificate proving the serious disease of the person as well as the necessity of the continuous presence of the special leave's beneficiary.

As for a sick leave, the employee must inform his employer at the latest on the first day of his absence.