Tolerance of 29 days for French cross-border commuters

The new tax treaty between France and Luxembourg was signed last March 20th. It replaces the treaty signed 60 years ago by including the new international standards on the prevention of double taxation.

The basic rule is that cross-border workers are taxed on their wages in Luxembourg on condition that they carry out their activity physically on Luxembourgish soil. It therefore does not suffice that they work for a Luxembourgish employer; they must travel physically to Luxembourg to carry out their activity. When the occupational activity is performed outside Luxembourg, the country of residence of the cross-border worker is entitled to tax his occupational income for all the days worked in that country. The same applies in theory for days worked in a third country.

In other words, a French cross-border commuter is taxable in France for days worked outside Luxembourg.

To mitigate the consequences of this rule, the two countries have established by consensus a tolerance threshold of 29 days. This enables the Grand Duchy to preserve its full right to tax wages as a State where the employment is performed, in the event that a French resident in the employ of a Luxembourgish employer carries out his employment activity in another State (France or a third country) during a period that does not exceed 29 days in all.

Thus, a French cross-border commuter may not work more than 29 days per year outside Luxembourg without impact on his taxation in the Grand Duchy. This is more than their German and Belgian counterparts, who may not work more than 19 and 24 days respectively outside of our country whilst continuing to be taxed fully (100%) in Luxembourg.

It is worth noting that date on which this agreement is to enter into force has not been fixed yet.