

PINBOARD

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1 TELEWORK: EXTENSION OF AGREEMENTS

As you know, teleworking by frontier workers is likely to have certain effects, in terms of their social security affiliation and their taxation. Due to the current pandemic, however, **derogation agreements still apply**.

> AT THE LEVEL OF SOCIAL SECURITY

Due to the **COVID-19 pandemic**, the Belgian, German and French authorities have decided that periods of telework performed on their territories by their border residents **will not be taken into account in determining the applicable social security legislation**. This measure remains applicable **until 30 June 2022** for French, Belgian and German residents.

> AT THE LEVEL OF TAXATION

In principle, tolerance thresholds must be respected so that employees can remain taxed at 100% in Luxembourg. In view of the health crisis, however, agreements have been signed with the border countries. Thus, since March 2020 and **until 31 March 2022**, teleworking days of border workers **are not taken into account for the calculation of the tolerance thresholds**. For French and Belgian residents, these agreements will be automatically renewed until 30 June 2022 if they are not terminated before that date.

By way of reminder, the tolerance thresholds are as follows:

- ▶ 29-day threshold for French residents (34 days announced as of January 2022);
- ▶ Threshold of 19 days for German residents;
- ▶ Threshold of 34 days for Belgian residents.

2 VARIOUS MEASURES FOR THE COVID-19 PANDEMIC

Since 15 January 2022, the **"3G" COVID Check scheme** (Geimpft, Genesen oder Getestet - [Vaccinated, Cured or Tested]) is compulsory in the workplace. The Joint Social Security Centre has drawn up a new form to declare any periods of "3G" non-payment due to a defective or invalid COVID Check.

In addition, the derogation on family leave owing to COVID-19 has been extended until 28 February 2022. Other measures have also been extended.

> COVID CHECK IN THE WORKPLACE

All employees must have one of the following certificates in order to gain access to their employer's premises:

- ▶ **Certificate of vaccination;**
- ▶ **Certificate of PCR or rapid antigenic negative test;**
- ▶ **Certificate of recovery;**
- ▶ **Certificate of contraindication to vaccination**, accompanied in such a case by a certificate of negative test (48-hour PCR or 24-hour rapid antigen) or a negative result of a self-test to be carried out on the premises.

The employer may also decide to make the access of persons other than employees of the company (external persons/suppliers/customers/etc.) subject to having to produce a valid certificate according to the 3G scheme for the whole company or for only part thereof.

The verification, which may take place at any time of the day, must be carried out daily by the employer himself, a designated employee or a third party service provider, using any official document with a photograph attesting to the identity of the person.

Failure to comply with the verification requirements may result in fines for both the employer and the employee.

To facilitate these verifications, the employer is authorized to keep a list of employees who have been vaccinated or who have recovered, on a voluntary basis, which may contain only the full names of the persons who have been vaccinated or have recovered and the period of validity of the certificates. This list will be destroyed as soon as the COVID Check is no longer mandatory in the company.

Without a valid COVID Check, the employee will not be allowed to access the employer's premises. Several alternatives are then possible: telework or taking legal leave. If the parties fail to agree on one or the other option, the employee will automatically lose the remuneration corresponding to the hours not worked.

In this case and because of the health situation, the period of unpaid work counts as an effective period of the insurance career within the 64-hour threshold, and must be declared to the Joint Social Security Centre so that it can take this period into account and determine the related pension contributions.

To do so, the employer or the payroll provider will declare these unpaid hours using a form to be downloaded from the CCSS website ("Declaration of '3G' periods of non-payment").

> OTHER MEASURES

The derogation for family leave due to COVID-19 is extended until 28 February 2022. Other measures have also been extended until 30 June 2022, including the 8-day deadline for submitting an isolation/quarantine order to the employer as a certificate of incapacity for work in order to benefit from protection against dismissal in the event of illness.

3 EXTENSION OF CERTAIN EMPLOYMENT MEASURES

With a view to promoting the professional (re)integration of jobseekers given the repercussions of the COVID-19 pandemic, the Luxembourgish government adopted a series of temporary measures to promote employment in July 2020. Aimed at encouraging the hiring of jobseekers and relating to the re-employment contract, the vocational training course and aid for the hiring of older unemployed persons, these measures have been **extended until June 2022**.

> VOCATIONAL TRAINING INTERNSHIP: OPEN TO PEOPLE UNDER 30

During the period from 24 July 2020 to **30 June 2022**, a vocational training course can be offered **to all jobseekers** who have been registered with the ADEM [employment development agency] for at least one month.

> EMPLOYMENT REINTEGRATION CONTRACT: OPEN TO PEOPLE OVER 30

During the period from 24 July 2020 to **30 June 2022**, a re-employment contract, comprising alternating periods of practical and theoretical training, may be offered **to jobseekers aged at least 30**, who are being externally reclassified or who have disabled employee status and have been registered with the ADEM for at least one month.

- ▶ If jobseekers between the ages of 30 and 45 are employed, the employer pays a share of 50% of the minimum social wage for unskilled workers to the Employment Fund.
- ▶ If jobseekers aged at least 45 are employed as disabled employees or of the under-represented sex under external classification, the company's contribution is reduced to 35% of the compensation received by the jobseekers.

> HIRING AID FOR OLDER UNEMPLOYED PEOPLE: OPEN TO PEOPLE AGED 30 AND OVER

During the period from 24 July 2020 to **30 June 2022**, the Employment Fund reimburses private sector employers for the employer's share of social security contributions for unemployed persons hired, irrespective of whether they are receiving compensation, provided that they are:

- ▶ At least **30 years old** and,
- ▶ registered as unemployed jobseekers with the ADEM for at least one month.

The condition of registration with the ADEM, as well as the condition of declaration of a vacant post and the condition of the duration of registration mentioned above, do not apply in the case of hiring an employee aged 30 years or over, affected by a job maintenance plan or whose employment contract has been terminated following a declaration of bankruptcy or court-ordered liquidation.

The reimbursement of the employer's share of social security contributions for unemployed persons aged between 30 and 45 may not exceed one year.

4 ELECTRONIC WITHHOLDING TAX CARDS

As of 1 January 2022, employees are no longer required to submit the withholding tax card to their employer, which they continue to receive in paper form. Instead, employers are required to consult these cards **directly in electronic format on the MyGuichet.lu platform**. More specifically, they must check each month whether there are any withholding tax cards to be downloaded on the said platform, on pain of a penalty payment. In order to do so, companies must first apply for a token online at MyGuichet.lu and then activate it. If necessary, this token must also be transmitted to the service provider (e.g. payroll provider).

Furthermore, the withholding tax cards have also become **multi-year and no longer contain an end date**. They therefore remain valid from year to year and will only be updated if there is a change in one or more elements of the form (address, tax class, tax rate, employer, place of work, deduction, etc.). Automatic notifications will be sent to employers as soon as a change is made by the Luxembourg Inland Revenue (ACD). As an exception, withholding tax cards issued for a fixed-term contract still contain an end date (i.e. the date of the end of the contract).

5 NEW PARAMETERS FOR THE CALCULATION OF WAGES

As every year, various parameters that have a direct impact on the **calculation of wages** are adapted on 1st January.

► NEW RATES FOR THE CONTRIBUTION TO THE MUTUAL INSURANCE FUND

The rates of the contribution to the «Employers' Mutual Insurance Fund» have been modified on 1st January. Companies are each year divided into 4 contribution classes according to the financial absenteeism rate of their employees.

Class	1	2	3	4
Contribution rate 2021	0.53%	1.05%	1.50%	2.88%
Contribution rate 2022	0.60%	1.13%	1.66%	2.98%

► NEW SOCIAL SECURITY CONTRIBUTION CEILINGS

The basis for the monthly calculation of social security contributions is capped at five times the monthly minimum social wage. Social security (employer and employee) contributions are no longer levied above these ceilings, with the exception of the 1.4% contribution for care insurance.

Monthly ceiling	€ 11,284.77 (index 855.62)
Annual ceiling	€ 135,417.24 (index 855.62)

► ANNUALIZED CCSS CEILING

The contribution ceiling will now be calculated and invoiced monthly up to the yearly accumulation of the maximum contribution, instead of a one-off retroactive adjustment for the past year.

In the past, when remuneration elements exceeded the monthly ceiling on one or more occasions during the year, a retroactive adjustment of the annual contributory ceiling was carried out by the CCSS after the end of the financial year, during the calculation carried out in February of the following year.

The CCSS has abandoned this retroactive adjustment of contributions for amounts exceeding the monthly ceiling and will henceforth **apply the cumulative ceiling**.

The advantage of the cumulative ceiling approach is that contributions are now invoiced by the CCSS as soon as the monthly ceiling is exceeded, up to the yearly cumulative ceiling.

6 REFORM OF COMPANY CAR TAXATION

*On 11 January 2022, François Bausch, Deputy Prime Minister, Minister of Mobility and Public Works, presented the draft Grand Ducal regulation on updating the regime of the benefit in kind of company cars aimed at favouring **more cars with zero or low CO₂ emissions**.*

The announced objective is to adapt the current regime so that in the short term, **only company cars with zero or low emissions will be fiscally advantaged**. The reform will take place in two phases: a first phase as of 2023 and a second phase as of 2025.

No changes are to be expected for this year (2022). The current regime for calculating the benefit-in-kind rate will continue to apply. All new cars registered, for which a leasing contract has been concluded after 31 December 2021 will however be subject to the new calculation regime as of January 2023. It is therefore important to inform employees who are currently in the process of ordering a company car.

► AS OF 2023

In concrete terms, a new regime for calculating the benefit-in-kind rate depending on the type of engine and CO₂ emissions will be introduced so that the rate will be increased by +0.2% for the majority of car categories with CO₂ emissions above 80 g/km. There will be no adjustment of the currently applicable rates for cars in emission categories up to 80 g/km. The maximum rate of 1.8% will apply to company cars with CO₂ emissions above 130 g/km (currently 150 g/km). This maximum rate corresponds approximately to the average threshold at which a company car is no longer financially advantageous for the employee compared with acquiring the car in his or her own name or by private leasing.

For cars with zero CO₂ emissions, i.e. pure electric cars and hydrogen fuel cell cars, a minimum rate of 0.5% is maintained. The 0.5% rate will however apply only to cars with a low electrical energy consumption, i.e. less than or equal to 18 kWh/100km.

► AS OF 2025

As of 2025, a second change in the benefit-in-kind rate for company cars will apply.

For company cars newly registered as of 1st January 2025, for which no contract will be signed before 31th December 2024, the benefit-in-kind flat rate scheme will be simplified and particularly favourable to cars with zero CO₂ emissions.

The 0.5% rate will no longer apply, so a 1% rate will be set for pure electric cars with an electric energy consumption of up to 18kWh/100km and for hydrogen fuel cell vehicles. For electric company car models with an electric energy consumption of more than 18kWh/100km, a rate of 1.2% will be prescribed.

For other engines - including, in particular, petrol, diesel, CNG, LPG and including all hybrid and plug-in hybrid engines with a combustion engine - the rate for calculating the monthly value of the benefit in kind will be set at 2%.



APPLICATION FOR A1 CERTIFICATES FOR FRENCH RESIDENTS

URSSAF is now the competent institution in France for receiving and submitting requests from employers for social security cover for their **mobile employees**, replacing the *Caisses Primaires d'Assurance Maladie* [administrative health insurance centre].

By way of reminder, the A1 certificate is the document which attests to the social security regime applicable in the event of international employment, i.e. in the event of simultaneous employment in several Member States within the European Economic Area or in the event of secondment.

The worker can use this form to demonstrate to the competent authorities of the country or countries in which he is working that he is already liable for (and pays) contributions in another country.

As of 5 January 2022 and concerning French tax residents, the competent French social institution is no longer the CPAM (Caisse Primaire d'Assurance Maladie) but the **URSSAF (Union de Recouvrement des cotisations de Sécurité Sociale et d'Allocations Familiales)** [Organization for the Collection of Social Security and Family Benefit Contributions], more specifically its international mobility department.

With the introduction of a **new online service ILASS** (Instruction de la Législation Applicable à la Sécurité Sociale) [Instruction on Social Security Legislation], this institution is now qualified to receive and process employers' requests relating to the international mobility of employees and thus issue the following certificates:

- ▶ A1 certificate for EEA countries, Switzerland and the United Kingdom;
- ▶ Bilateral certificates for the 41 countries or overseas territories that have signed a social protection agreement with France;
- ▶ Certificat de maintien à la sécurité sociale française [Certificate of remaining in the French social security system] for other countries.

This new ILASS service thus replaces the former DAE (Detachement à l'étranger) [Posting Abroad] service.



ELECTRONIC CERTIFICATE OF INCAPACITY FOR WORK IN GERMANY

Since 1 October 2021, **the electronic certificate of incapacity for work (eAU)** has been introduced in Germany. This means that German doctors **no longer give their patients a printout** of the certificate of incapacity for work.

Sickness certificates are henceforth transmitted digitally by doctors' practices directly to the German health insurance funds. As this system does not yet exist in Luxembourg, the Caisse Nationale de Santé (CNS) [National Health Insurance Fund] is working closely with the German authorities to implement a definitive and efficient solution by 1 July 2022. However, until that date, the transitional solution provides for doctors to print hard copies of certificates from their software for patients who request them.

The doctor will now print only 2 documents instead of 3: one for the employer without a diagnosis and one for the patient with a diagnosis.

The printed copy for the patient must be sent to the CNS, either by post (and the patient can make a copy in advance), or by email (to saisieCIT.cns@secu.lu) as a scanned document (in which case the patient must keep the document).

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