Pinboard - October 2017

CONTENTS

1. Tax reform 2018 – time to decide for non-resident married tax payers
2. Change of aids for hiring older unemployed workers
3. Change of address? Make sure you declare it
4. How to submit certificates of incapacity for work to the CNS
5. State of affairs concerning extraordinary leave
6. What is the mutual insurance class?
7. When will wages be indexed next?

1. Tax reform 2018 – time to decide for non-resident married tax payers

As of 1 January 2018, non-resident married taxpayers will be classified by default under class 1 and will be taxed only on their revenues earned in Luxembourg.

Nevertheless, if they meet the conditions and opt to be classified as a resident taxpayer, they can choose between:

- joint taxation of the two spouses, based on tax class 2;
- purely individual taxation, based on tax class one for each spouse;
- individual taxation with reallocation, based on tax class 1 for each spouse.

The conditions for tax assimilate are as follows:

- At least 90% of worldwide revenues of one of the two spouses are taxable in Luxembourg.[1]
- Or, for non-resident taxpayers who live in Belgium, 50% of the household's occupational earnings are taxable in Luxembourg.
- Or the net revenues earned abroad do not exceed €13,000 per year[2]

If the non-resident taxpayer does not meet any of these three criteria, s/he will not be eligible for the assimilation system and will receive a tax retention form in class 1.

Conversely, opting to be assimilated as a resident taxpayer will automatically entail a calculation of the taxation rate that will be entered in the tax retention form of each spouse (the rate may be joint for the two spouses, or individual, depending on the case).

If the non-resident taxpayer has not decided by 31 October 2017, s/he[3] could still report and even change his or her choice at any time during 2018, or even until 31 March 2019.

These new developments affect married resident taxpayers as well, who can henceforth choose to be taxed collectively or individually. They will be given the same deadlines to make their choice known as non-residents.

What impact will these measures have on the employer? A priori, none. As in the past, the employer will be required to apply the tax retention form provided by the employee when calculating the pay. Nevertheless, as of next year, the employer will no longer be able to determine with certainty whether his employee (whether resident or otherwise) is taxed collectively or individually. As already mentioned, married couples may change their mind about how they want to be taxed beyond the tax year concerned. Now, this taxation method (collective or individual) has a maximal impact on interest rebates that can be granted by the employer for tax exemption. In the case of collective taxation, the top limits come to €6,000 in connection with a mortgage loan and €1,000 for a consumer loan, whereas they are €3,000 and €500 respectively in the case of individual taxation. The employer who grants interest rebates will henceforth be required to take into account the lower limits for his married employees.

If the choice to be made proves complex because of numerous individual parameters, Securex encourages employers to make sure that their employees answer the letter before 31 October 2017. In fact, choosing one or another option will undoubtedly avoid the worst-case scenario for the employee, i.e. of being classified under tax class 1.

[1] Subject to approval by parliament, the first 50 days not taxable in Luxembourg by virtue of a double taxation treaty are considered as revenues taxable in Luxembourg for the calculation of the 90% threshold.
[2] Subject to approval by parliament
[3] Subject to approval by parliament

2. Change of aids for hiring older unemployed workers

The Act of 20 July 2017 changed the system of aids for hiring older unemployed workers. The government introduced these new provisions to intensify its efforts against long-term unemployment that affect particularly unskilled workers over 45.

Aid for hiring an older unemployed worker enables the employer to get social security contributions reimbursed for a certain time (i.e. only the employer's contributions). Before this law, both the employer's and the employee's contribution was reimbursed. However, it seemed illogical to reimburse the employer for social security contributions that he did not pay.

This measure concerns every company in the private sector that is legally established in Luxembourg and wants to hire a **job seeker aged at least 45,** duly registered as a **job seeker with the ADEM for at least one month.**

To qualify for this aid, the employer must meet the following requirements in particular:

- Have concluded an employment contract for an unspecified period (16 hours/week minimum) or for a specified period of at least 18 months (16 hours/week minimum) or for replacement in the case of parental leave;
- Have declared the position vacant to ADEM beforehand. Otherwise, he cannot qualify for this aid.
- Have filed his initial application with ADEM within six months of hiring the employee. The application will not be accepted after this period.

Once the file has been submitted, the employer must file a declaration of claim with the ADEM every 3 months. Securex can help the employer with this formality.

3. Change of address? Make sure you declare it

Unlike employees residing in Luxembourg, cross-border workers in the Grand Duchy must inform the administrative authorities of any change of address. This concerns in particular:

- **The National Health Service (CNS)**: The change of address must be reported to the CNS in writing, by post, to the attention of the Co-insurance and Reporting service, or by e-mail at the following address: adresses.cns@secu.lu.
- **Social security office (CCSS)**: The notification must be sent by post or by e-mail to the following address: cca.mail@ccss.lu
- **Children's Future Fund (CAE)**: the change of address must be reported exclusively by post.

- **Inland Revenue (ACD)** : the change of address must be notified using the 164 NR F form (available at www.impotsdirects.public.lu) sent to Inland Revenue at the address indicated on the document: : 5, rue de Hollerich, BP 1706, L-1017 Luxembourg.

To that end, non-residents must indicate their forename and surname, social security number, new address and date of change of address. Irrespective of the department concerned, the notification of change of address must be accompanied without fail by an **official document** (certificate of residence, sworn statement, marriage certificate, household composition, invoice issued by a service provider).

To avoid having to repeat the same formalities with every department, non-residents of the National Natural Persons' Register (RNPP) can request to have their data updated. This request may be filed online via MyGuichet (on condition that the person in question has a LuxTrust electronic certificate) or by simple letter to the National Natural Persons' Register. Every request for an update must be reasoned with the help of a document in support.

The case of resident employees is different, because their address is automatically updated in the National Natural Persons' Register (RNPP) when they declare their arrival in their new municipality of residence.

4. How to submit certificates of incapacity for work to the CNS

Employees who are absent because of illness must apprise their employer of their incapacity for work. People often forget that they have the same obligation to the National Health Service (CNS) and that they must send their medical certificate by the third day of absence at the latest.

If the incapacity for work persists, a new medical certificate must be sent to the CNS before the expiry of the second day following the one initially foreseen to return to work. If that day is a Saturday, Sunday or official holiday, the deadline will be extended to the next working day.

The CNS recently reiterated that for certificates of incapacity for work to be managed and processed more efficiently, they should be sent directly to the competent service at the following address:
Caisse nationale de santé
Service Contrôle et gestion des certificats d'incapacité de travail
L-2979 Luxembourg

Furthermore, the CNS insists on the fact that the 13-digit national identification (registration) number must be indicated without fail on every certificate of incapacity for work that is sent. Since August 2017, in fact, the Department of Cash Benefits can no longer process documents that do not contain said registration number. If the doctors did not enter this number, the insured person may enter it him/herself. This number can be found on the incoming declaration of the Social Security Office (CCSS), and on the Luxembourgish social security card.

5. State of affairs concerning extraordinary leave

By way of reminder, extraordinary leave refers to leave other than the annual holiday, taken when an exceptional even forces employees to be absent from their work place.

In last January's Pinboard issue, the bill to change the number of such leaves was presented in detail. **This bill was brought before the Chamber of Deputies on 13 September 2016 but has not been voted on yet.** The duration of extraordinary leave therefore remains unchanged at this time.

Event	Currently	Bill
Military service	1 day	Suppression
Death of a relative up to the second degree of the employee or his or her spouse or partner	1 day	1 day
Reception of a child under 16 for adoption	2 days	5 days
Birth of a child (for the father)	2 days	5 days
Marriage or declaration of partnership by a child	2 days	1 one day only for the wedding
Moving	2 days	2 days over a period of 3 years
Death of spouse or partner	3 days	3 days
Death of a 1st degree relative of the employee or his or her spouse or partner	3 days	3 days
Employee's wedding	6 days	3 days
Employee's declaration of partnership	6 days	1 day

The bill has been debated extensive in the various committees when preparing the legislation, particularly owing to the reduction of certain leaves, and that is why it has not been voted on.

The issue is still topical, however, since on Tuesday, 10 October 2017, the Minister for Labour, Nicolas Schmit announced a new extension of paternity leave when a child is born. Granting 5 days of leave had been initially put forward at the negotiating table. Henceforth, the leave granted to the father for the birth of a child would be **10 days.** This provision is in line with the ad hoc European proposal for a directive. The government council will therefore present an amendment to the bill of 13 September 2016 to the Chamber of Deputies on the matter very soon.

There is still the question of the cost of the operation. Extraordinary leave is currently paid for by the employers. Whereas the latter were prepared to make an effort and cover 5 days of paternity leave, the solution might be different if this leave is extended to 10 days.

6. What is the mutual insurance class?

All companies recently received a letter from the Employers' Mutual Insurance indicating the mutual insurance class attributed to them for 2018.

This mutual insurance enables employers to get back 80% of the wage costs they support for their employees who are absent due to illness. In fact, the employer must keep paying these employees during their illness.

This scheme is financed in particular by a contribution by the employers, the rate of which is fixed every year in accordance with 4 classes. A class is attributed on the basis of the employee absenteeism rate over an observation period of 3 years. Thus, the rate attributed in 2018 is based on the absenteeism recorded between 1 January 2014 and 31 December 2016.

The "Mutual Insurance" contribution rates for 2017 are given below:
- Class 1 : 0.51%
- Class 2 : 1.23%
- Class 3 : 1.83%
- Class 4 : 2.92%

The applicable contribution rates in 2018 are not yet known. They will be disclosed presently by the Social Security Office.

Any company that hires personnel must necessarily be affiliated with the Employers' Mutual Insurance. This affiliation is carried out through the operating declaration.

Every new employer falls under class 2 until the end of the second financial year following that of his affiliation. A new mutual insurance class is then determined every year according to the employee absenteeism rate over a period of observation of 3 years.

7. When will wages be indexed next?

This question is particularly important at a time when HR budgets are being prepared. No ministerial announcement or official publication at this time suggests any such indexing in January 2018. In September, the accumulated inflation rate since the last indexing in January 2017 stood at 1.61%

(bearing in mind that 2.5% are required to exceed the threshold). If the trend of these recent months continues, it would be more probable that the index would jump in mid-2018.