

Pinboard - October 2021

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I. Electronic tax cards: Remember to apply for and to activate your token!

The Luxembourg Inland Revenue notes that many employers have not yet requested a token to access the electronic tax cards or that neither of the two tokens (i.e. employer token and service provider token) sent to them has been activated.

As of 1 January 2022, employers will be required to consult their employees' tax deduction forms directly on the MyGuichet platform. Employees will no longer be required to submit them in paper form to their employer.

In order to access this platform and fulfil their obligations, employers must, without fail, have:

- submitted an online token request on MyGuichet.lu; and
- activated at least one of the two tokens sent to them. If the activation period has expired, the employer must submit a new token request.

II. Indexation is triggered!

On 1 October 2021, all wages, salaries and pensions will be increased by 2.5%.

The new salary sliding scale will therefore be increased from 834.76 points to **855.62 points**. The automatic adjustment of wages to this scale is provided for in Article 223-1 of the Labour Code. This is a public policy provision, so the employer is required to comply with it and the employee cannot waive it. Any prior waiver of the application of index changes cannot be enforced.

The amounts to be taken into consideration for social minimum wages are now as follows:

	Unskilled minimum social wage	Unskilled minimum hourly rate	Skilled minimum social wage	Skilled minimum hourly rate
January to September 2021	€2,201.93	€12.7279	€2,642.32	€15.2735
As of 1 October 2021	€2,256.95	€13.0460	€2,708.35	€15.6552

This increase in the minimum social wage also leads to an increase in **the ceiling for contributions**. Above these ceilings, social security contributions (personal and employer's share) are no longer levied, with the exception of the 1.4% contribution for long-term care insurance.

Monthly ceiling	€11,284.77
Annual ceiling	€135,417

Finally, the increase in the minimum social wage also affects the remuneration to be taken into account for **trainees**. So if you have trainees in your workforce or for any new traineeship contract, here are the new minimum allowances to be taken into account:

Index 855.62	Monthly rate	Hourly rate
30 % of the minimum social wage for unskilled employees if compulsory internship of ≥ 4 weeks	€677.09	€3.9138
40% of the minimum social wage for unskilled employees if practical training of 4 to 12 weeks	€902.78	€5.2184

40% of minimum social wage for skilled employees* if practical training of 4 to 12 weeks	€1,083.34	€6.2621
75% of minimum social wage for unskilled employees if practical training of ≥ 12 to 26 weeks	€1,692.72	€9.7845
75% of the minimum social wage for skilled employees* if practical training of ≥ 12 to 26 weeks	€2,031.26	€11.7414

* For trainees who have successfully completed a first cycle of higher or university education (BTS [technologist's certificate] or Bachelor's degree), the reference wage is the minimum social wage for skilled employees as under Article L. 152-8. of the Labour Code.

III. Telework: extension of agreements

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

A. 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 for the determination of the applicable social security legislation**. This measure remains applicable **until**:

- 15 November 2021 for France;
- 31 December 2021 for Belgium and Germany.

B. At the level of taxation

In principle, tolerance thresholds must be complied with so that employees can remain taxed at 100% in Luxembourg. However, in view of the health crisis, agreements have been signed with the border countries. Thus, since March 2020 and until 31 December 2021, the teleworking days of border workers are **not taken into account for the calculation of the tolerance thresholds**.

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

- Threshold of 29 days for French residents;
- Threshold of 19 days for German residents;
- Threshold of 24 days for Belgian residents – (this threshold will be increased to 34 days as of January 2022).



These limitations do not constitute a ban on working in the country of residence. In principle, they can be exceeded but, if so, the frontier worker will be taxed in his country of residence for all telework days worked.

	Germany	Belgium	France
Tolerance threshold	19 days per year	24 days per year / 34 days per year as of 1 January 2022	29 days per year
Start of derogation agreements	As of 11 March 2020	As of 14 March 2020	As of 14 March 2020
End of derogation agreements	31 December 2021		

IV. France backtracks on the new tax regime of the Franco-Luxembourgish tax treaty

The entry into force of a rider to the tax treaty between France and Luxembourg has led to some unpleasant surprises for some French taxpaying couples whose taxes payable this year have increased, sometimes by several thousand euros.

This rider, ratified in October 2019, had enshrined the exemption method with a progression reserve to eliminate double taxation of income from salaried occupation, which has particularly impacted couples where one member works in Luxembourg and the other in France.

French Minister for the Economy Bruno Le Maire announced that said tax treaty would be re-evaluated **and that exceptionally for 2020 and 2021 income, French residents receiving Luxembourg income can request the application of the old tax treaty on the elimination of double taxation.**

To this end, two guides have been published on the French tax administration website to enable French residents to amend their tax returns. For 2020 income, the procedures must be undertaken online or by paper mail, until 15 December 2021.

For more information: [Government announcement concerning the application of the Franco-Luxembourgish tax treaty | impots.gouv.fr](#)



V. Covid Check in the company

The Act of 18 October 2021 gives employers an opportunity to introduce the Covid Check scheme in the company.

On 18 October 2021, the Chamber of Deputies adopted the new Covid Act which entails in particular the **entry into force of the extended Covid Check** intended to encourage the population to get vaccinated and to reach a vaccination rate of 80%.

The highly controversial legislation, which has been in the news for a week, enables private employers and administrations to apply the Covid Check regime within their establishment, either overall, or for specific places, like meeting rooms.

The staff delegations and the health and safety representative must nonetheless be informed and consulted on the Covid Check scheme.

Criticized by many stakeholders in Luxembourg, such as the national trade unions, the CNPD [National Data Protection Commission] or the Council of State, its implementation within companies still leaves many questions unanswered, including sanctions, coverage of testing costs, what to do if an employee does not meet the conditions of the Covid Check, etc. Many points are left to the discretion of the employer, making the unions fear numerous abuses.

Furthermore, under the Covid Check, rapid antigenic tests will no longer suffice, so it will be necessary to bring back proof of full vaccination, recovery or a negative result after a PCR test of less than 72 hours or a certified rapid test performed by qualified medical personnel.

Finally, the new legislation also extends the Covid-19 family leave waiver **until 18 December 2021**.

VI. Recommendations of the Ministry of Health for returning to the office

On 18 October 2021, the Department of Health updated its temporary recommendations for the health crisis for financial and insurance institutions and all other areas of the administrative sector.

Depending on whether the employer decides to introduce the covid check regime in the company, various instructions must continue to be applied, such as social distancing, wearing a mask when the 2-metre distance cannot be observed, disinfecting/washing hands regularly, airing the offices, etc.

Several other points are also addressed, namely the cleaning of surfaces, measures to be taken by the employer, personal protective equipment, but also what to do in the presence of employees considered as being vulnerable or those showing symptoms.

For more information: <https://sante.public.lu/fr/espace-professionnel/recommandations/direction-sante/000-covid-19/000-covid-191-annexes/recommandations-sanitaires-administratif.pdf>



VII. Reminder on leave carry-over

As the end of the year draws near, it is useful to remind ourselves of the rules applicable to the carry-over of annual leave. In principle, paid annual leave must be fully granted and taken during the current year. However, in certain cases and under certain conditions, it may be carried over beyond 31 December.

By way of exception, a postponement of the leave beyond 31 December of the current year is possible in the following 4 cases:

- Leave commensurate with the **first year of service** with an employer may be carried over **until 31 December of the following year**;
- Leave not taken at the end of the year due to the **needs of the service** or the justified wishes of other employees can be carried over **until 31 March of the following year**;
- Annual leave not yet taken by a **pregnant woman** at the beginning of her maternity leave may be carried over to the following year, in principle **until 31 March of the following year**. The same applies to foster care leave and parental leave;
- Following a ruling of the Court of Justice of the European Union, an employee who suffers a **long period of illness** should no longer lose his or her right to annual leave. Thus, if the employee is unable to take his or her leave in the year for which it is due because of an incapacity to work, he or she is entitled to carry the leave over to the following year.

The employer is nonetheless always allowed to set up a more flexible system of carry-over of leave (e.g. unlimited carry-over of leave days from one year to the next; a time-saving account, etc.).

VIII. ADEM : Digitalization of assignments

This dematerialization is intended to simplify and speed up the employer's procedures, eliminating the need for paper documents in the process.

Up to now, employers in the recruitment phase have completed manually the forms sent by the ADEM [National Employment Agency] for an assignment of a candidate registered and selected by the Employers' Service.

As of 15 October 2021, employers will be able to complete a **form online** via a direct link which they will receive by a personalized e-mail containing the candidate's assignment number.

In this way, employers will thus be able to provide feedback to the ADEM following an interview by entering information and ticking pre-filled boxes about the contact with the candidate and on the outcome of the process (hiring or reason for not hiring).



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