



## Tolerance threshold for Belgian cross-border workers: when to prorate?

Luxembourg and Belgium have agreed, within the framework of the Convention to avoid double taxation, on a fiscal tolerance threshold of 34 days.

However, the tax administrations of both countries currently have different interpretations of the provisions regarding prorating the threshold in the case of part-time work or work during only part of the year in Luxembourg.

On one hand, the Belgian tax administration believes that a prorated approach should be applied in the aforementioned examples.

On the other hand, the Luxembourg tax administration considers that the fiscal tolerance threshold should never be prorated in these same situations.

Let's consider the case of a Belgian resident employee working at 80%: Belgium would grant a fiscal threshold of 28 days, while Luxembourg would allow 34 days.

*But what if the employee works for 32 days during the year?* According to Luxembourg, no split payroll – meaning no division of taxable salary between the different countries where the employee works – should be applied, and the taxation of these teleworking days would remain entirely in Luxembourg. However, Belgium, which applies prorating, would tax these teleworking days in the country of residence.

The risk of double taxation exists if the Belgian tax authorities conduct an audit. Therefore, every Belgian tax resident employee must carefully consider the risk of not adhering to the prorated tolerance threshold when working part-time or only part of the year.

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