



## Global Employer Services Individual tax

### Changes to tax treaties with France and Luxembourg may affect employers and employees

Belgium signed a new tax treaty with France in November 2021 and a new protocol to the treaty with Luxembourg in August 2021. Once in effect, the new provisions will affect Belgian employers and cross-border employees.

#### **New Belgium-France treaty signed**

On 9 November 2021, Belgium and France signed a new treaty to replace the 1964 treaty which will enter into force upon completion of the ratification process in both countries (expected during 2023).

According to the [press release](#) (available in French only) issued by the French ministre de l'Économie, des Finances et de la Relance, the new treaty is more closely aligned to the latest international standards, in particular the OECD model convention and BEPS initiatives.

The new treaty is expected to include changes affecting:

- Cross-border workers;
- Tax residency;
- Permanent establishment;
- General anti-abuse measures;
- Capital gains relating to real estate; and
- International volunteering in companies under the specific scheme for French volunteers.

# Further protocol to Belgium-Luxembourg treaty signed

On 31 August 2021, Belgium and Luxembourg signed an amending protocol to the 1970 treaty that would increase the period of tolerance in article 15 (dependent personal services) to 34 days (from 24 days). The text of the protocol has now been published on the [website](#) of the Belgian tax authorities (available in French only). In accordance with the amendment, a Belgian resident employed in Luxembourg by a Luxembourg employer may work for **up to 34 days** (increased from 24 days) during the year outside Luxembourg, while remaining exclusively taxable in Luxembourg. Similarly, a Luxembourg resident employed in Belgium by a Belgian company may pay taxes exclusively in Belgium provided that they do not work for more than 34 days during the year outside Belgium. For further details, please refer to our previous [tax alert](#) of 2 September 2021.

This amendment will enter into force upon completion of the ratification process in both countries and will apply to salaries, wages, and other remuneration relating to taxable periods commencing on or after 1 January 2022.

The increase of the tolerance rule as from 2022 illustrates that both countries recognize the new reality of increased home-working and provides more flexibility for cross-border workers.

Taxpayers wishing to benefit from this tolerance bear the burden of proof and must establish that the conditions for treaty exemption are met. In this respect, reference should be made to annex II of Circular Letter No. 22/2015 ([Dutch](#) | [French](#)) issued by the Belgian tax authorities on 1 June 2015 that sets out the types of acceptable documentary evidence in different situations.

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## Contacts

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