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German Tax and Legal News

COVID-19: Update on relief measures for France and Belgium cross-border commuters

Two decrees extend/clarify relief measures for cross-border commuters.

In two decrees dated 26 and 25 May 2020, respectively, Germany's Ministry of Finance (MOF) provided an extension of the relief measures for cross-border commuters to or from Belgium and a clarification of the tax treatment of cross-border commuters to or from France in the current coronavirus (COVID-19) environment. In the current environment, cross-border commuters may spend more days working from home than under ordinary circumstances, which has the potential to affect the allocation of taxing rights between the residence jurisdiction and the jurisdiction of the regular workplace.

The 26 May 2020 decree includes an extension of the 6 May 2020 mutual agreement with Belgium that was concluded to avoid unfavorable tax consequences for cross-border commuters that are working from home due to COVID-19 and stay-at-home policies (see [GTLN dated 04/14/20](#)). The original relief measures were set to expire on 31 May 2020, and are now extended until 30 June 2020.

The 25 May 2020 decree covers a 13 May 2020 mutual agreement concluded with France and clarifies the application of the Germany-France tax treaty for cross-border commuters in light of COVID-19. Germany originally concluded that no mutual agreement was required with France, since the applicable tax treaty does not contain a provision regarding the allocation of taxing rights between the two jurisdictions based on days spent working from home. The MOF and the French tax authorities have confirmed the understanding that no comprehensive mutual agreement is needed, but concluded the 13 May mutual agreement to grant some limited relief measures to cross-border commuters that do not qualify as such under the definition in the tax treaty. The mutual agreement is set to expire on 31 May 2020, but automatically will be extended for another month (to 30 June 2020) if not terminated by one of the parties with a one-week notice period.

For similar agreements that were concluded with Luxembourg, the Netherlands, and Austria (mutual agreements dated 3 April 2020, 6 April 2020, and 15 April 2020, respectively), extension agreements like the one with Belgium are not necessary, as these agreements are automatically extended each month until the end of the following month if not terminated by one of the parties with a one-week notice period.

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