

GMS Flash Alert

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Switzerland - COVID-19: New Agreement on Cross-Border Workers with Germany

The State Secretariat for International Finance (SIF) in Switzerland announced a new agreement between Switzerland and Germany that deals with current issues around the taxation of cross-border workers.¹ The agreement clarifies the taxation of employment income and short-term work compensation to employees during the COVID-19 situation.

The agreement was signed on 11 June and is valid for remuneration paid from 11 March 2020 until at least 30 June 2020.

WHY THIS MATTERS

The agreement stipulates that, in the context of COVID-19, daily cross-border commuters who were unable to exercise their employment in their usual place of work shall remain taxable where they would have worked without the measures taken to combat COVID-19. Other cross-border employees will need to substantiate their travel pattern to their employers and home country tax authorities in order to benefit from the “deemed work-days” rule.

The new agreement should provide some relief and comfort for affected individuals, but also imposes a reporting obligation on employers.

Daily Cross-Border Commuters

Daily cross-border commuters (“Grenzgänger”) who performed their work in their home countries due to COVID-19 restrictions are deemed to have spent these work-days in the country where they ordinarily would have worked in the absence of any COVID-19 restrictions. For a German resident who ordinarily works in Switzerland and who performed his work from his home in Germany during the COVID-19 restrictions, he continues to pay 4.5 percent of tax in Switzerland on the entire employment income as if he continued to travel daily to Switzerland.

This rule is not applicable where employees would have ordinarily worked in their home countries regardless of COVID-19 (e.g., where working from home was contractually agreed with the employer).

When a daily cross-border commuter had to remain in the country of work and the employer paid for accommodation during the period of lockdown, these days are taxed the same way as if he had continued to return to his home country every day.

For the purpose of applying the specific 60-non-return-days rule in Article 15a paragraph 2 of the tax treaty, the COVID-19 period is disregarded and the threshold will have to be pro-rated for the rest of the year.

Other Cross-Border Commuters

Employees who performed their work in their home countries due to COVID-19 restrictions can deem to have these work-days performed in the country where they usually perform their work ("deemed work-days"). Employees are required to prove that such deemed work-days were subject to tax by the work country at ordinary rates. In addition, they will need to notify the relevant tax authorities in their home country, and their employers will need to provide suitable evidence (e.g., number of days spent in the home country that would have been spent in the work country without COVID-19).

The employer will have to certify the application of the deemed work-days rule (e.g., on the salary certificate or other suitable format).

Where employees make use of the deemed work-days rule, they agree that the work country will tax the relevant income. Please note that the deemed work-days rule is not applicable for work-days that would have been spent in the home country anyway (e.g., according to the employment contract).

Where employees do not make use of the deemed work-days rule, the existing rules of the Switzerland-Germany tax treaty continue to apply. However, employment income paid to employees who were unable to work will be taxable in the country where they ordinarily would have worked (reference period is the calendar year 2019).

Short-Term Work and Other Government Payments

Short-term work payments paid by the Swiss government or paid directly by the employer with funds from the Swiss government due to COVID-19 will be taxable in Switzerland only. Where Switzerland does not tax these payments, Germany has the right to tax the payments.

Short-term work payments paid by the German government will be exempted from income taxation in Switzerland and only taken into account for tax rate purposes.

FOOTNOTE:

1 For prior coverage, see GMS [Flash Alert 2020-135](#) (31 March 2020).

See the Swiss federal tax administration's website for details of the agreement with Germany at: https://www.estv.admin.ch/dam/estv/de/dokumente/intsteuerrecht/themen/laender/deutschland/de-dba_kv_covid-19.pdf.download.pdf/DE-DBA_KV_Covid-19.pdf .

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