

NEWSLETTER

Bright autumn colours everywhere, it's getting cold in the mornings and the sun has to struggle to find its way through the mist. As always we would like to keep you up to date in Luxemburg's legal and tax legislation

Mutual agreement between Germany and Luxemburg on the taxation of severance payments under the double tax treaty – and no end

As already indicated in our last newsletter the double tax treaty between Germany and Luxemburg has been amended in May 2011. As you might remember it was thus settled that employees living in Germany working for more than 19 days outside of Luxemburg have to pay income tax in Germany according to the ratio of days spent abroad.

However, at the time no solution had been found to the rather specific question on how financial settlements and damages were to be treated. This has now been remedied in another agreement on the 7th September 2011.

In which country a financial settlement has to be submitted to tax depends now on the economic background of the payment. Thus it is necessary to differentiate between payments with provisional character and

severance payments in connection to a lay-off.

Payments with provisional character are those which are meant to satisfy a right to pensions for example. These are to be submitted to taxes in Germany if the employee is residing in Germany.

If the employer pays in order to compensate for outstanding salaries or other settlements connected to the loss of office taxes have to be paid in Luxemburg. Please note however, that this might be regarded differently in case the employee has worked for more than 19 days outside of Luxemburg. In this case taxes might have to be split in respectively between Luxemburg and Germany.

However, things remain interesting if compensation for the loss of office in the

aftermath of a lay – off and other settlements within a redundancy programme are being paid. In regard to these payments taxation in Germany is only possible if effectively no taxation in Luxemburg takes place. The theory will be put to a test for former employees receiving a compensation which is exempt from Luxemburg taxation on demand (up to 21.090,72 €). From a German point of view it'll be interesting to see if this personal allowance is to be taken into consideration or not when paying taxes in Germany. Former employees concerned might like to get in

touch with a German Steuerberater to discuss this.

As already mentioned it is possible that the right to impose taxes might be divided between the two countries when the employee has been working abroad for more than 19 days.

If you should have further questions please don't hesitate to get in touch.

(Katharina von Randow).

Higher salaries from the beginning of October 2011

According to higher costs of living the Luxemburg index on salaries has been raised by 2.5 % on the first of October 2011. Which is certainly good news for the employees

though not necessarily for employers due to rising indirect labour costs.

(Katharina von Randow)

Dear clients,

We are confidently looking forward to a vibrant fourth quarter as well as to a lively collaboration with you.

All the best

Alhard von Ketelhodt

Luxembourg, November 2011