

# HR & Tax Alert



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## Belgium & France – Agreement reached on taxation of frontier workers

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### Executive summary

A new protocol to the Belgian-French Double Taxation Treaty has been agreed amending the taxation of workers working in the Belgian and French frontier zones. Once ratified by both countries the protocol is expected to be retroactively effective from 1 January 2007.

### Background

The Treaty in force between Belgium and France includes a specific provision allocating the taxing rights on compensation paid to frontier workers to the State of residency of the employee. This constitutes an exception to the general principle which allocates first taxing rights to the State where the employment activities are performed.

Belgium had expressed an appetite to amend this specific provision which had found little or no response at the French end up until very recently. Negotiations in this respect were initially part of a complete package of items intended to be included in the renegotiation of the entire Treaty but the parties could not find a point of agreement. To move forward on the issue of taxation of frontier workers, this specific issue was isolated from the negotiation process and an agreement has been reached very recently between the French and Belgian Ministers of Finance.

### The amendment

Under a Protocol to the existing convention the right to tax frontier workers active in both the Belgian and the French working zones, has been granted exclusively to France.

Under the previous rules taxing rights would be allocated to Belgium when a French resident frontier worker was active in Belgium outside of the frontier zone. However, the new protocol provides that the taxing rights should be exclusively allocated to France in that instance unless the worker spends more than 30 days per year working outside of the frontier zone. For French residents active in the Belgian frontier zone only, the taxing rights will continue to be allocated exclusively to France (the country of residency).

Under the new protocol taxing rights where Belgian resident taxpayers are employed in the French frontier zone will also be allocated to France. This differs from the previous rules which would have allocated the taxing rights to Belgium as the country of residency.

The Protocol still needs to be ratified by both jurisdictions. Once this has been effected it is scheduled to enter into force with retroactive effect as of 1 January 2007. It does not affect residents of either country who are employed in the other country in areas outside of the frontier zone.

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