COVID-19 | The impact of cross-border movement – key observations

30 April 2020
Introduction

The rapidly escalating challenges from the COVID-19 global outbreak presents critical mobility issues for organisations to assess and address as fast as possible.

The mobility/HR functions and the business are faced with uncertainty and limited clarity on how they can mobilise their workforce during this exceptional time. In order to support you through this journey into the unknown, we will be providing you with an overview of the immigration, tax and social security changes and updates that are happening here in Switzerland. We will be working with our network and the authorities to update the information as it changes, giving you tools to manage your mobile workforce.

Not only are we here to provide you with information, we want to connect with you and support you virtually through this period. At EY People Advisory Services we want to continue to work as your business partners. We will provide you with frequent up-dates, ensuring that we are bringing the best knowledge to you, so that you and your teams can focus on how to navigate your function within the business assuring the wellbeing of your people while remaining compliant. Considering the recent global, and Swiss, developments around the outbreak of COVID-19, many employees are working from their home office, potentially outside of Switzerland. As employees and employers grapple with the challenges this arrangement creates, it is more important than ever for employers to understand, and proactively manage, the tax, payroll, immigration and social security aspects of their workforce.

Please note that the information in this alert reflects the situation at the time of this publication. The content of this document does not constitute legally binding information. We are constantly monitoring the situation and are in close contact with the Swiss authorities to be able to provide further guidance as changes are announced.
**TAXATION**

**Tax treaties**

The tax treaties concluded by France with Germany, Belgium and Switzerland provide for specific tax regimes for workers residing and working in the border area.

In order to simplify their administrative procedures, these schemes allow the exclusive taxation of their wages in the State of residence, i.e. France for cross-border workers residing there, provided that they do not work more than a certain number of days outside the border area of the other State.

In the exceptional health context of the COVID-19 epidemic and taking into account the recommendations and instructions of the public authorities, France has agreed with Belgium and Switzerland that, until further notice, the days during which frontier workers are required to remain at home during this crisis should not be taken into account in counting the number of days referred to above. Consequently, these days will not affect the eligibility of cross-border workers for the specific tax regime.

With regards to Germany, the mutual agreement concluded with France in 2006 already covers this situation, which will also enable frontier workers not to see their specific scheme affected by the number of days they will be required to stay at their place of residence.

Key observations by 30 April 2020
TAXATION

Key observations by 30 April 2020

**Switzerland**

As of 20 March 2020 up to 31 December 2020 the Swiss Federal Government is waiving all interest charges on the late payment of VAT, excise duty, special public charges (Lenkungsabgaben) and customs duty. Further, the Federal Government is waiving the interest charged on the late payment of all Direct Federal taxes which would have been due during the aforementioned period. Therefore conversely, interest could still be charged on Direct Federal taxes which were already due / overdue by 20 March 2020.

### Filing deadlines – tax at source correction

<table>
<thead>
<tr>
<th>Canton</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>VD</td>
<td>31 March 2020</td>
</tr>
<tr>
<td>TI</td>
<td>31 March 2020</td>
</tr>
<tr>
<td>ZH</td>
<td>31 March 2020</td>
</tr>
<tr>
<td>GE</td>
<td>31 May 2020</td>
</tr>
<tr>
<td>VS</td>
<td>31 May 2020</td>
</tr>
</tbody>
</table>
| BL     | 30 June 2020 (automatic)  
            30 September 2020 (upon request) |
| ZG     | 30 June 2020 |
| FR     | 30 June 2020 |
| NE     | 31 March 2020 for individuals but automatic extension until 30 June 2020 for taxpayers working with a fiduciary (like EY) |

### Filing deadlines – tax return

<table>
<thead>
<tr>
<th>Canton</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>AI</td>
<td>30 April 2020 (upon request)</td>
</tr>
</tbody>
</table>
| NE     | 30 April 2020 (automatic)  
            30 June 2020 (upon request) |
| AR, BS,  
            GE, GR,  
            SG, SZ,  
            ZH     | 31 May 2020 (automatic) |
| AG, BL,  
            FR, SH,  
            ZG     | 30 June 2020 (automatic) |
| NW     | 30 June 2020 (upon request) |
| SO     | 31 July 2020 (automatic) |
| GL, LU | 31 August 2020 (upon request) |
| BE     | 15 September 2020 (automatic) |
| OW, TG,  
            TI, UR,  
            VD     | 30 September 2020 (upon request) |
| JU     | 31 October 2020 (upon request) |
Geneva

Generally, for current Geneva daily cross-border commuters, Geneva tax at source applies on the entire remuneration. If the employee works physically outside of Geneva during year N, a source tax rectification needs to be filed before March 31 N+1 to the Geneva tax authorities to request the exemption of the non-Swiss workdays.

See above mention about the position France has taken until further notice and in relation to COVID-19 epidemic.

The deadline for filing a request for a 2019 tax at source adjustment or for the 2019 “quasi resident” status is as well 31 May 2020. Taxpayers must send their request for rectification to the tax authorities before the exceptional deadline of 31 May 2020. As the counters are closed until further notice, it is best to send your request through your e-demarches account or by post.

Taxpayers can adjust their 2020 provisional tax instalments without any formalities. Please use the online tool to make the best possible estimate. It is not necessary to send to the authorities the request for change.

For 2020, the cantonal tax authorities will waive default interest on late payments on account. In addition, taxpayers will not receive any payment reminders for these advance payments.

Basel-Stadt, Baselland, Bern, Jura, Neuchâtel, Solothurn, Valais, Vaud

Daily cross-border commuters, working in the afore-mentioned cantons and living in France, have no tax at source withholdings in Switzerland and are fully paying their taxes through the filing of a French income tax return. As such, working from their home should, in principle, make no difference to where they are paying taxes.
TAXATION

Ticino

Generally, for current Ticino cross-border commuters, Ticino tax at source applies on the entire remuneration.

The cross-border Italian taxation will depend where the individual lives in Italy.

**Scenario 1:** Within 20km from Swiss borders and working on a daily basis in TI, GR, VS à taxes on employment income paid in Switzerland, Swiss tax at source retention, no Italian taxes on the Swiss employment income, no reporting obligation through the Italian tax return.

**Scenario 2:** More than 20km from Swiss borders à taxes on employment income to be paid in both Italy and Switzerland. The taxes will be paid in Switzerland through withholdings (operated by Swiss employer) and then in Italy through the individual tax return with a tax credit for taxes already paid in Switzerland once Swiss taxes are final.

In both scenarios, non-Swiss workdays are taxable in Italy. Requesting the Swiss tax exemption on the non-Swiss workdays is the responsibility of the employee via a source tax rectification that must be filed before March 31 N+1 to the TI tax authorities.

At the time of publication, we are waiting for further guidance from the Italian authorities: will the Italian workdays due to COVID-19 be considered as Italian workdays taxable in Italy.

The Municipality of Lugano approved new terms of payment for the Communal taxes on 26 March 2020 as a further measure to accompany and support the population and companies during the emergency period linked to the spread of COVID-19. The Municipal Ordinance on the collection of municipal taxes valid for 2020 has been amended accordingly. The City of Lugano has introduced the following new measures:

**Deadline for the payment of advance tax payments for the year 2020 (individuals and company taxpayers):**

1. instalment or full payment by 30 June 2020
2. instalment by 31 August 2020
3. instalment by 31 October 2020

**Due date for the payment of outstanding tax adjustments:**

or for tax adjustments still to be issued, the deadline for payment is 30 June 2020.

or for the issuance of tax adjustments that will follow from the end of April until new notice the deadline is set at 60 days from the end of the month of issue.

It is not possible to change the due date for adjustments already sent to the taxpayers (last issue at the end of February); however, the payment reminder procedures will be delayed by one month, so as to allow a payment period of 60 instead of 30 days.

For those who benefit from a previously granted payment in instalments, the already agreed deadlines will be maintained.

The interest calculation will be applied from the notified due dates.

---

Key observations by 30 April 2020
Zurich

The Cantonal authorities confirmed that they will not issue any assessments and invoices which are to the disadvantage of the taxpayers until further notice.

This approach ensures tax payers do not run into issues when not being able to file a possible appeal during the period of 30 days for objection.

While interest charges for direct federal taxes will be waived until further notice, interest charges for cantonal and communal as well as for tax at source liabilities are still applied on outstanding liabilities.

As of 01 May up to and including 31 December 2020 the interest on unpaid Cantonal and Communal tax invoices in the Canton of Zurich will be reduced to 0.25% (previously 4.5%).

For daily and weekly cross border commuters who are employed in Zurich, employers should continue to withhold Zurich tax at source from their compensation. Work from home days due to COVID-19 in the employees’ home country will be treated as Swiss workdays. This approach is effective 24 February 2020 - 31 December 2020 and employees can file for a revision of source taxes if they are subject to double tax. We are currently waiting for Germany to confirm their agreement with this position beyond that they will seek to avoid double taxation of the same income.

Zug

Payment of all tax invoices will be extended to 30 June 2020. Further Zug (same as the Federal authorities) will waive all interest charges for Cantonal and Communal taxes between 01 March and 31 December 2020. Zug will not issue any tax assessments and invoices until end of April 2020.

The Zug cantonal tax authorities have issued a press release to confirm they are now accepting simplified online filing of tax returns via their existing IT infrastructure. No electronic signature will be required anymore.

Lucerne

Currently no dunning of unpaid invoices (including Federal tax), interest on Cantonal and Communal invoices for the 2020 Calendar year will be retroactively waived from 01 January 2020. Tax return reminders and provisional invoices will be sent later than usual. The full overview of all measures can be found here.
TAXATION

Short-term workers compensation
The Swiss Federal Government has issued additional guidance on the short-term workers compensation paid due to the Covid-19 measures. They clarified that all daily allowances paid in this respect are subject to taxes and that the corresponding authorities will share the respective information with the Cantonal tax authorities. As far as the recipient is subject to taxes at source the same taxation that would have applied to their salary applies to the short-term workers compensation.

Germany
As a general principle, Swiss tax at source (4.5%) applies on the entire remuneration for employees which qualify as real cross-border commuters (distance from home place to work place less than 100km or time to travel by public transport less than 1.5 hours).

At the same time, German cross-border commuters are subject to full Germany taxation and Swiss taxes at source paid are being credited against German tax liability.

If the employee is not able to commute back home in the evenings for more than 60 nights a year due to professional reasons, the cross-border commuter approach might not be applicable.

The German Federal Finance Ministry has issued an official statement, that they are aiming to conclude bilateral agreements with all neighboring countries to mitigate or avoid all detrimental tax consequences for cross-border commuters who are currently working from home in their residency country, rather than their employment country due to Covid-19 related lock-downs and closed borders. These agreements are meant to supplement the existing treaties and will be valid for a limited period of time only. Further details regarding the agreements with Switzerland will be updated here as they become available.

United States
The Federal tax return filing deadline as well as the payment deadline has been extended until 15 July 2020, it is expected that the States will follow.
OECD guidance as per 3 April 2020

The overarching view of the OECD is that if the different ways of working is not “habitual” and is caused by the COVID-19 crisis, which is seen as a “force majeure”, the treaty positions shall remain the same prior to the outbreak of COVID-19. Nevertheless, not many OECD countries have published their own specific guidelines how to apply local tax rules.

- It is unlikely that the COVID-19 situation will create any changes to a PE determination since a PE must have certain degree of permanency. The exceptional and temporary change of the location where employees exercise their employment because of the COVID-19 crisis, such as working from home, should not create new PEs for the employers if it does not become the new norm over time. Similarly, the temporary conclusion of contracts in the home of employees or agents because of the COVID-19 crisis should not create PEs for the businesses. A construction site PE would not be regarded as ceasing to exist when work is temporarily interrupted.

- Where chief executive officers or other senior executives are forced to work from a different location due to travel bans or temporary office closures considering the COVID-19 crisis, the change of the so-called “place of effective management” of a corporation might impact the company’s residence under relevant domestic laws and affect the country where a company is regarded as a resident for tax treaty purposes. In this regard, the OECD shares a similar view as for the PE risks explained before. If such new working pattern is of temporary nature only and caused by the COVID-19 crisis, a company’s residence status shall not be impacted under the respective tax treaty.

- Many states stepped in to secure employees’ employment. The full or partial financial subsidies for cross border commuters that are now staying at home shall remain taxable in the state they used to work in before the COVID-19 crisis. The OECD and some countries (e.g. UK, Australia and Ireland) have taken the position that the COVID-19 situation should not affect the treaty residency positions. The OECD mentioned the following two situations, where this question could become relevant for employees and employers:
  - A person is temporarily away from their home for a few weeks and gets stranded in the host country by reasons of the COVID-19 crisis and attains domestic law residence there
  - A person is working in a country (the “current home country”) and has acquired residence status there, but temporarily returns to their “previous home country” because of the COVID-19 situation. The person may either never have lost the residence status of their previous home country under its domestic legislation, or they may regain residence status on their return.

In both scenarios the temporary dislocation should not impact or change an individual’s tax residency

- In summary, the OECD and some member states have concluded that the COVID-19 crisis should not impact the treaty positions, as long as the different ways of working are not “habitual” and are in fact caused by the COVID-19 crisis. It should nevertheless be noted, that until further formal country specific guidelines are being published, it is recommended to analyze individual cases from an employer and employee perspective.
Payroll

In the event of loss of work (partial/technical unemployment) linked to the COVID-19 epidemic, a claim for compensation for reduced working hours (RHT) can be filed with the unemployment office.

Partial unemployment claims have increased sharply due to the COVID-19 pandemic and are expected to continue to rise. As of March 23, 21,000 companies had submitted such a request. That figure represents 315,000 workers.

The amount of compensation covers 80% of the salary taken into account. This maximum salary amount per employee is CHF 12,350 per month (CHF 148,200 on an annual basis).

Further measures are introduced on a cantonal level, such as simplification of application forms or faster examinations. Also Swiss social contributions payments will be differed for the companies hit by this crisis.

Employers affected by COVID-19 can request to postpone remittance of social security charges (AHV/IV/EO/ALV) and the authorities will waive all interest on these charges.

In case the salaries have significantly decreased an adjustment of the pre-payments can be requested with the AHV. Where short-time work compensation has been requested an interest free postponement of the social security charges is also possible. The employer doesn’t have to prove that these are continuously remitted.

Key observations by 30 April 2020
Swiss borders
The Swiss Federal Council has declared all countries except Liechtenstein as a risk country.

Entering Switzerland, regardless of nationality and point of origin is only possible in one of the following cases:

► They have a valid D-visa (national visa) in their passport
► They are in possession of a valid L, B, G or C permit or a valid announcement confirmation

Non-EU nationals with a Schengen Visa (C-visa) are not allowed to enter Switzerland, unless it states that the visa is for healthcare purposes or an official visit.

Business or tourist trips into Switzerland are not possible anymore.

As of 11th of May 2020 border controls will continue. However, additional border crossings may be opened to prevent excessive waiting times. To maintain the intensity of controls at land borders, foreign air passengers may continue to enter Switzerland only at the airports of Zurich, Geneva and Basel. The list of open border crossings can be found here.

Job registration requirement
The requirement to register jobs with a high unemployment rate for new hires has been suspended on the 26th of March 2020. As of 8th of June 2020, the activation of the suspended job registration obligation may re-enter into force (You can read more about the reporting obligation here).

European Union “EU” borders
The Schengen countries' ban stays in place restricting incoming travel of all non-Schengen residents except for family members of EU citizens, medical personnel and people responsible for transport of goods. Currently, this ban is being put into place by the individual member countries.
Immigration

Visa application processing

As of 18th of March 2020, Switzerland has stopped issuing Schengen visas until 15th of June 2020. National visas are only issued in exceptional cases, for example to family members of Swiss citizens with a right of presence in Switzerland who require a visa or to specialists from the health sector. Practically, this means that the Swiss authorities do not issue any visa authorizations for non-EU nationals for the time being. This affects all 120 days, L-/B-permit applications for Non-EU nationals.

As of 11th of May 2020, Non-EU nationals who already hold a work authorization in Switzerland but who could no longer be issued a visa due to the applicable entry restrictions, will be allowed to collect their visa and enter Switzerland.

EU national’s applications:

The labor market authorities in Aargau, Lucerne, Solothurn, St. Gallen, Vaud, Zug and Zurich have informed us that they will not treat any applications for EU nationals going forward. Exceptions are being made for persons already in Switzerland. The canton of Geneva still proceeds with G permit applications.

As of 11th of May 2020, the cantons will start to process all applications for a residence (B-permits) or cross-border commuter permit (G-permits) for employees from an EU or EFTA state that were submitted before the introduction of the entry restrictions (25th of March 2020). The same applies to applications for short-term employment (L-permits) with an employer in Switzerland. Also, family reunification will again be possible for family members of EU or EFTA nationals living in Switzerland.

Online Announcements:

Authorization through the online announcement will be reviewed by the authorities on a case by case basis. The authorities will only issue a confirmation through the system if they deem the proposed work activity in Switzerland to be important in the current situation. Should you not receive any confirmation, this will mean that the announcement has been denied and the person is not authorized to enter Switzerland.

As of 11th of May 2020, the cantons will start to process all applications for short-term employment and cross-border services of a maximum of 90 days per year (online announcement procedure) for employees from an EU or EFTA state that were submitted before the introduction of the entry restrictions (25th of March 2020). New online notifications for cross-border services will again be processed in accordance with the usual requirements if the provision of services is based on a written contract concluded before 25th of March 2020.

Non-EU national’s applications:

Applications for Non-EU nationals are suspended, and no visas will be issued until 15th of June 2020.

As of 11th of May 2020, work permit applications for Non-EU nationals submitted before 19th of March 2020, will again be processed.

Swiss labour and migration authorities’ processing:

Most labour market authorities confirmed that they do not accept any new applications for non-EU nationals until 15th of June. After that date, applications should be accepted again. Pending cases are currently not being processed any further. Exceptions are reviewed on case-by-case. The restrictions also apply for new work and residence permit applications for EU nationals.

For the Geneva immigration authorities have confirmed that any applications filed after 19th of March 2020 will be received but will not be reviewed until further notice. There are exceptions in Geneva for emergency cases and for G permits. The authorities in Vaud have followed the Geneva approach.

The Swiss government decided that as of 8th of June 2020, if allowed by the epidemiological situation, all Swiss work permit applications for EU and EFTA nationals will once again be processed.

Most local community offices are currently closed and registration of residency and submission of biometric data is only possible if prior an appointment has been made and confirmed.

Key observations by 30 April 2020
## Entry Restrictions into Switzerland

<table>
<thead>
<tr>
<th>Entry Restrictions</th>
<th>EU</th>
<th>Non-EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Holding a Swiss residence permit (L/B/G/C/Ci)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Holding a D visa</td>
<td>N/A</td>
<td>✓</td>
</tr>
<tr>
<td>Holding a C visa</td>
<td>N/A</td>
<td>X</td>
</tr>
<tr>
<td>Online Announcement</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Foreign passport only (business travelers, tourists, visitors)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Swiss passport</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

✓ not restricted
X restricted

Key observations by 30 April 2020
Swiss Authorities/Cantonal practices in relation to Visa applications

<table>
<thead>
<tr>
<th>Cantons</th>
<th>EU</th>
<th></th>
<th></th>
<th></th>
<th>Non-EU</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>AG</td>
<td>x</td>
<td>√</td>
<td>x</td>
<td>(√)</td>
<td>x</td>
<td>√</td>
<td>x</td>
</tr>
<tr>
<td>GE</td>
<td>x/√ (G)</td>
<td>x</td>
<td>x</td>
<td>(√)</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>LU</td>
<td>x</td>
<td>√</td>
<td>x</td>
<td>(√)</td>
<td>x</td>
<td>√</td>
<td>x</td>
</tr>
<tr>
<td>SO</td>
<td>x</td>
<td>√</td>
<td>x</td>
<td>(√)</td>
<td>x</td>
<td>√</td>
<td>x</td>
</tr>
<tr>
<td>SG</td>
<td>x</td>
<td>√</td>
<td>x</td>
<td>(√)</td>
<td>x</td>
<td>√</td>
<td>x</td>
</tr>
<tr>
<td>VD</td>
<td>x</td>
<td>x/√</td>
<td>x/√</td>
<td>(√)</td>
<td>x</td>
<td>x/√</td>
<td>x/√</td>
</tr>
<tr>
<td>ZH</td>
<td>x</td>
<td>√</td>
<td>x</td>
<td>(√)</td>
<td>x</td>
<td>√</td>
<td>x</td>
</tr>
<tr>
<td>ZG</td>
<td>x</td>
<td>√</td>
<td>x</td>
<td>(√)</td>
<td>x</td>
<td>√</td>
<td>x</td>
</tr>
</tbody>
</table>

√ not restricted
X restricted

Key observations by 30 April 2020
US Immigration

President Trump signed a new Executive Order, late in the day on 22 April, which takes effect on 11:59 pm ET on 23 April 2020 and prohibits the issuance of certain new immigrant visas for 60 days. The administration will revisit whether the order should be extended no later than 50 days after implementation.

Section 6 of the Executive Order further directs the Secretaries of Labor and Homeland Security to consult with the Secretary of State to recommend other appropriate measures to stimulate the U.S. economy and ensure the prioritization, hiring, and employment of U.S. workers, to President Trump by 23 May 2020.

Impact and Next Steps

The impact of the Executive Order is minimal. While immigrant visas cannot be issued at consulates abroad for the following 60 days, the Executive Order does not appear to limit individuals in the U.S. from filing I-485 adjustment of status (AOS) applications at the USCIS if their priority date is current, nor does it appear to prevent the USCIS from approving AOS applications if an applicant’s priority date is current. From a practical perspective, since all U.S. consulates have been closed for immigrant and non-immigrant visa applications since March 20, with no clear resumption of service scheduled, the EO is unlikely to change processing times for most employment-based green card applicants seeking to consular process.

Recommendations

Since further measures may be on the horizon, this is the optimal time to ensure timely filing of all non-immigrant visa extensions for your foreign national employees currently in the U.S. For a further list of exempt individuals and specific case analysis please reach out to your EY contact for assistance
Contract and application signatures

According to the principle of freedom of form under Swiss law, contracts and declarations generally do not require any special form and can therefore also be made electronically (e.g. by email).

The other applies if a formal requirement has been agreed by the parties or is legally required (see only e.g. in the area of labour law: personnel leasing contracts, agency and employment contracts, paid employment contracts with job seekers, teaching contracts, commercial traveller contracts, etc.). The most common form requirement in practice is the written form. If written form is to be adhered to, this generally requires handwritten signatures. Therefore an electronical signed contract where a formal requirement like a handwritten signature is required would not be legally binding. On the other hand if a contract is signed scanned and sent via pdf the a contract would generally be valid as the document could not be altered before the receival.

The legal basis for the electronic signature is Art. 14 section 2bis of the Swiss Code of Obligations (OR): According to this, the qualified electronic signature is equivalent to the handwritten signature if it is on a qualified certificate from a recognized provider of certification services within the meaning of the Federal Act on Electronic Signature (ZertES and the corresponding implementing regulation VZertES). (Link)

You can also see all the info regarding electronical signature from the official webpage of e-government. Link

Switzerland’s accredited providers are the following:

Swisscom (Schweiz) AG
QuoVadis Trustlink Schweiz AG
SwissSign AG
das Bundesamt für Informatik und Telekommunikation
Due to the current crisis, employers are advised to review the work situation of their employees and take further measures and actions to ensure their well-being.

Standard guidance

Generally, based on the EU regulation 883/04 Art. 13 section 1, a person who is normally working in two or more-member states, will be subject to the legislation of the country of residence if the employee is working more than 25% in the country of residence. Should an employee work less than 25% in the country of residence and have one employer, the person will be subject to the legislation of the country where the employer is located.

Thus, to determine the responsible social security scheme, factors such as work pattern, as well as whether home office is the normal and habitual place of work, must be considered. Based on the above-mentioned regulation, employees currently working remotely from home due to the COVID-19 outbreak should not trigger a change in their social security affiliation since the current situation cannot be considered the normal and habitual place of work nor imposed as regular set-up by either the employer or employee.

Work location tracking

Should the current situation of COVID-19, and thus the employees working from home (outside of Switzerland in an EU/EFTA state), continue over several months, then the social security affiliation would have to be reviewed with the authorities.

EU central guidance

The European Commission has published guidelines in regards to Cross boarder commuter worker and multi state worker. The Commission urges Member States to establish specific burden free and fast procedures for border crossings to ensure a smooth passage and invite Member States to take specific measures ensuring a coordinated approach at EU level.

Further, the European Commission confirms that in the current scenario, the European rules on the coordination of social security continue to apply. However, the rules offer certain flexibility for workers concerned to remain insured in the Member State where they were insured prior to the COVID-19 pandemic outbreak. In their publication they cover different scenarios of cross boarder commuter and multi state worker and how it should currently be handled during the COVID-19 crisis. The scenarios can be found [here](#).

Generally, the guidelines are in line with most of the EU countries approach that has been published during the last days.
Swiss social insurance and neighboring countries approaches

General
According to the Swiss authorities, cross-border commuters from EU/EFTA states remain insured with the Swiss AHV should they have already been insured prior to the COVID-19 outbreak. The temporary employment in home office does not change this regulation. Switzerland and the neighboring countries have agreed that cross-border workers working remotely from home will have no impact in terms of their social security affiliation.

Thus, it is not necessary to systematically apply for A1 certificates for these employees. According to the Swiss authorities, neighboring countries have been informed about this approach.

Should a neighboring country still require an A1 certificate despite the extraordinary situation, the Swiss authorities are willing to issue this documentation.

Austria
So far, the Austrian authorities have not published an official statement in regards to how they are handling the cross-boarder commuter situation. The Austrian Social Ministry acknowledges the current exceptional circumstances and thus there should be no change in the applicable social security law in cases that were already decided.

Belgium
The authorities apply the following measures as of March 13 2020 onward until at least 5 April or until a different policy point of view will be adopted:

Periods of telework performed on Belgian territory by frontier workers due to COVID-19 will exceptionally not be taken into account for the determination of the applicable social security legislation and that they will therefore have no influence on their affiliation to social security.

A1 certificates which have already been issued remain valid and it will not be necessary to inform the authorities about the changed work pattern and neither to request for an exceptional agreement.

Key observations by 30 April 2020
France

Cross-boarder workers who normally perform their work in a country other than France but now, due to the COVID-19 crisis, work from their place of residence in France, do not have a change in the social security legislation and will continue to be covered by the social security scheme of their employer. Currently no A1 certificate is required to avoid French contribution in this situation, however, this approach may be reviewed at a later stage.

For Multistate workers the same applies as above, a change in the work pattern due to the COVID-19 crisis will be ignored from the authorities and A1 certificates that have already been issued remain valid.

Germany

The German authorities have published an official statement about their approach in the current situation:

Cross-border commuters

For individuals who temporarily perform their work - fully or partly - from home, there are NO changes in regard to the applicable social security law. An A1 certificate is not required. An A1 certificate - with reference to Article 12 (1) of Regulation (EC) 883/04 (secondment) - is only required if proof of the application of German legislation should actually be required in the country of residence.

Multi-State-Workers

For individuals, irrespective of the current situation, who perform generally their work in more than one member state and for whom the applicable law has been determined in accordance with Article 13 of Regulation (EC) No 883/2004, a temporarily different distribution of working time will not result in any changes with regard to the applicable social security law. This applies even if, for example, the activity is temporarily performed exclusively at home. Issued A1 certificates remain valid for this period.

Interruption and/or postponement of the assignment in another member state or state where a social security agreement is in place

In any case, employers need not inform the social security authorities about the interruption of a posting,

► if the interruption is not expected to last longer than two months and
► the end of the foreign assignment is not postponed overall.

In this case, certificates issued on the applicable legislation remains valid without change.

If the end of the assignment is postponed and the interruption period is more than two months, the employer generally has to apply for an extension of the original certificate for the extension period.

If, on the other hand, a continuation of the posting is not planned, the employer has to notify the authority of the termination of the foreign assignment. This also applies to individuals for whom an exceptional agreement has been concluded in accordance with Article 16 of the Regulation (EC) 883/2004 or within the framework of bilateral social security agreements.

Key observations by 30 April 2020
Liechtenstein
The Liechtenstein authorities have published an official statement about their approach in the current situation:

In principle, social insurance affiliation is based on the place of work, thus employees living in Austria or Switzerland and working in Liechtenstein are generally covered by social insurance in Liechtenstein. Working from home (e.g., in Switzerland) is to be regarded as an activity in the country of residence. Therefore, a cross-border commuter who previously worked for a company in Liechtenstein and now works from home office for one or more days a week, would now be considered as Multi-State Worker. According to the Liechtenstein authorities, this approach is also currently applied during the COVID-19 crisis. However, the authorities confirm that the assessment of the percentage distribution of activities in the different states is generally based on an assessment period of 12 months. Thus, they expect that in most cases, there will be no change in the social security affiliation to Liechtenstein as a place of employment.

Netherlands
The Dutch authorities also confirmed that working from home as a result of the COVID-19 measures does not have an impact on the employees’ social security position if the employee normally lives or works cross border in the EU/EER or Switzerland. There is no need to adjust A1’s or alike.

Spain
No formal statement has been published so far, however, it is expected that common sense approach is applied while this remains a short term issue.

Deferred payment of social security contributions

France
France has confirmed that deadlines for payments of social security can be extended for the companies during the current crisis.

Switzerland
Companies can be granted a temporary, interest-free deferral of payment of social security contributions (AHV/IV/EO/ALV). Companies also have the option of having the amount of the regular contributions on account adjusted to the AHV/IV/EO/ALV if the sum of their wages has fallen significantly. The same applies to self-employed persons whose turnover has collapsed. The AHV compensation funds are responsible for checking payment deferrals and reducing contributions on account.
Health Insurance in Switzerland

The Swiss authorities confirmed that if employees need to change their usual work location due to the current situation, a S1 should be requested to ensure sufficient health care coverage. The Swiss authorities will generally not accept S1 forms that have been requested for other countries and require a specific S1 for Switzerland.

Further, the social security institutions in the EU/EFTA are required not to restrict citizens’ rights unnecessarily and to apply a flexible and pragmatic approach. Additional administrative burdens should be avoided.

If a person is temporarily unable to leave Switzerland as a result of the COVID-19 crisis, his or her entitlement to benefit assistance is not restricted. The medical treatment costs incurred until the situation has eased are to be handled by the European Health Insurance Card (EHIC), a Provisional Replacement Certificate (PRC). The requirements of Art. 19 of Regulation 883/2004 are deemed to be met.

How to register new Swiss employees with Swiss health insurance if they are not physically present in Switzerland?

a) For EU nationals, if the person already have a lease agreement, it may be possible for them to register with the commune online / via e-mail. This depends on each commune, thus it would have to be verified with the commune directly whether this is allowed or not. If registration is allowed on-line, in this case, the individual can also register with the Swiss Health insurance.

b) If they do not have a Swiss lease agreement in place, then they could be treated as cross-border commuters and register with Swiss Health insurance. However it would also have to be clarified with the immigration authorities, whether they register them currently as G-Permit holder (as some cantons are no longer processing applications).

c) For non-EU nationals, should they not be able to register with the commune (see above a), we would recommend reviewing the individual’s case and working directly with the health insurance agencies to determine whether the individual will qualify for exceptional registration.

d) Should it not be possible to register for the Swiss Health insurance due to the COVID-19 situation, it is recommended to either stay registered with the current health insurance in the home country or to get a private health insurance for the time until travelling to Switzerland.
Health Insurance in Belgium

Health care will be granted to EU nationals, if they are not registered with S1, it is recommended to be in possession of EHIC. Should this document also not be available, any other attestation from the health care institution may be provided.

Employees that are currently stuck abroad due to the COVID-19 but normally covered by Belgian social security, can have the medical costs incurred in the country of temporary residence retroactively reimbursed in Belgium.

If the person is insured for health care in a country with whom Belgium has no bilateral arrangement concerning health care, the person should be covered for his medical costs in Belgium through a private insurance.

Health Insurance in France

For healthcare coverage, it is assumed that an S1 certificate is already available for the employee and that the individual already registered the S1 certificate towards the French authorities. Expenses can then be reimbursed by the French system (for basic state medical coverage).

Indians registered to another EEA scheme and required to temporary stay in France due to containment measures, an European Health Insurance Card or a Provisional Replacement Certificate can be used in case of medical expenses to be occurred in France.

Specific measures relating to in-cash benefits (compensated leave by the social security system for employees who cannot work remotely or compensation for work interruption due to child care considering that all the schools are closed until further notice) are exclusively applicable to individuals paying French social security contributions. Individuals who are residents of France but subject to another EEA social security scheme cannot benefit from those measures.

For the specific cross-boarder agreement with Switzerland, no change on the medical coverage (option chosen by the individual when the cross-border situation started, is still applicable).

If no S1 available or registration not finalized: urgent medical treatments will be provided to the individual but it will be required for the individual to pay and then to request reimbursement to French authorities when the registration will be finalized or the S1 will available (or to the Member State where contributions are paid if S1 will not be applied for).
COVID-19 | Your Swiss Workforce and Mobility Team

Hugh Docherty
Swiss Integrated Mobility Lead
T: 41 58 286 4342
E: hugh.docherty@ch.ey.com

Gerard Osei-Bonsu
Swiss People Advisory Lead
EMEIA Integrated Mobility Lead
T: +41 58 286 4324
E: gerard.osei-bonsu@ch.ey.com
About the global EY organization
The global EY organization is a leader in assurance, tax, transaction and advisory services. We leverage our experience, knowledge and services to help build trust and confidence in the capital markets and in economies all over the world. We are ideally equipped for this task — with well trained employees, strong teams, excellent services and outstanding client relations. Our global purpose is to drive progress and make a difference by building a better working world — for our people, for our clients and for our communities.

The global EY organization refers to all member firms of Ernst & Young Global Limited (EYG). Each EYG member firm is a separate legal entity and has no liability for another such entity's acts or omissions. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. For more information about our organization, please visit ey.com.

EY’s organization is represented in Switzerland by Ernst & Young Ltd, Basel, with 10 offices across Switzerland, and in Liechtenstein by Ernst & Young AG, Vaduz. In this publication, “EY” and “we” refer to Ernst & Young Ltd, Basel, a member firm of Ernst & Young Global Limited.

© 2020 Ernst & Young Ltd
All Rights Reserved.

ABC JJMM-123
ED None

This presentation contains information in summary form and is therefore intended for general guidance only. Although prepared with utmost care this publication is not intended to be a substitute for detailed research or professional advice. Therefore, by reading this publication, you agree that no liability for correctness, completeness and/or currentness will be assumed. It is solely the responsibility of the readers to decide whether and in what form the information made available is relevant for their purposes. Neither Ernst & Young Ltd nor any other member of the global EY organization accepts any responsibility. On any specific matter, reference should be made to the appropriate advisor.

ey.com/ch