

L3A REMOTE WORK RECOMMENDATIONS

Disclaimer

The present Remote Work Recommendations are provided as a template for informational and guidance purposes. Each organization's circumstances, legal requirements, and operational context are unique and must be assessed on a case-by-case basis.

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1. Remote working formalities

Occasional remote working requires much less formalities than regular remote working, but for the sake of avoiding having to manage cases one by one and follow them up closely throughout the year, it is suggested that you apply the remote working policy equally across your work force and have everyone sign a remote working addendum (ideally as new joiners sign their employment contract).

Exceptions would be office-based roles, such as reception, facilities, IT support or others as you may see fit.

Occasional remote working = when teleworking is carried out to cope with unforeseen events, or when teleworking represents less than 10% on average of the teleworker's normal annual working time.

2. How much remote work

For non-residents you should stick to the tax threshold. More information below in Chapter 4 [Thresholds for tax and social security](#).

Bigger employers often allow resident employees to work up to 49.99% from home. SMEs often stick to 1 or 2 days a week. Ultimately, it's about what works for your business. In smaller businesses or start-ups, it's quite normal to restrict remote working to exceptional circumstances at the beginning and increase it with time.

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3. Remote working allowance

Legally you should be paying an allowance to employees performing regular remote work or cover costs linked to Wi-Fi and communications, through for example, a mobile phone with unlimited internet so they can use their phone as hotspot.

However, most employers argue that they prefer employees to come to the office where all the equipment and network is available and simply accommodate employee requests to work from home.

Technically, you should be compensating costs such connexion and communication costs for employees performing regular remote work.

Paying an allowance could give you a competitive advantage as you attract candidates.

As a reference, banks are following the Banking CBA and are as such allocating a monthly allowance of 29,04 EUR full-time per month (index 968.04) to cover costs.

If you decide to pay an allowance, it should be added to the remote working addendum of the employee.

The allowance could be pro-rated according to the country of residence to match the number of days an employee is authorized to work remotely.

4. Thresholds for tax and social security

There are two different thresholds to consider. Currently they're at:

- 1) Tax threshold with 34 days per annum (pro-rate based on part time for BE and FR, no pro-rata needed for DE)
- 2) Social security threshold at 24.99% (or 49.99% if you apply the framework agreement)

Our recommendation is to stick to the tax threshold, because in France you would be required to report the remuneration relating to non-Luxembourg working days in France for those employees.

Technically you could allow employees in BE and DE to exceed the tax threshold, because it's their own responsibility to clear taxes at year end with their country of residence, but we wouldn't recommend you create different processes based on country of residence.

5. Tax threshold Belgium

Luxembourg and Belgium have issued diverging statements about the pro-rata of the 34 days for employees on part time. Our recommendation is to take the more conservative approach, i.e. pro-rating the 34 days based on the part time ratio of your employees.

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Luxembourg and France have no issues diverging statements, i.e. you should pro-rate the 34 days based on the part time ratio of your employee.

6. Monitoring and data protection

The clause we propose on monitoring is a tricky one.

If you're controlled by the CCSSF you should, to maintain a robust central administration keep an up-to-date record of all Eligible Employees working remotely, enabling the monitoring of the compliance with the Policy.

You will need to make sure that any monitoring you do isn't only listed in the remote work policy, but also in your data protection policy.

7. Benefits

You should not remove any benefits from employees that are working remotely (such as lunch vouchers, the use of a company car, etc.). If you do, you should compensate them for the loss.

8. Permanent establishment

Remote working of non-resident employees may, depending on their specific roles and duties, lead to the recognition of a permanent establishment (PE) of the Luxembourg employer in the employee's country of residence, triggering taxation of the profits attributable to the PE in that jurisdiction.

In order to avoid creating a PE abroad, you should closely monitor the activities that non-resident employees are authorised to perform whilst working remotely, especially for senior employees and employees having the power to contractually bind the company or to exercise decision-making authority as part of their duties. It is recommended to ensure that final contract negotiations and approvals take place in Luxembourg and to implement appropriate controls for employees in commercially sensitive roles.

9. Country risk assessment

If you allow your employees to occasionally work outside office premises and approved eligible places, then you should also assess countries based on risks, such as political stability, working visa requirements, etc.

A good source to assess countries based on risk is on the website of the [FATF](#).

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10. Essential remote working equipment

As an employer you will always be responsible for the health and safety of your employees when they work for you.

Teleworkers are required to correctly apply all company occupational health and safety policies whilst working remotely.

Through a self-assessment filled by the employee, you could check if employees that work remotely have the appropriate. For example:

- 1) Environment: space, privacy, lightening, heat and ventilation.
- 2) Electrical and Wi-Fi: electrical system in good condition, sufficient Wi-Fi / broad band and connectivity to support video conferencing and general duties
- 3) Fire: flammable materials and ignition sources kept to a minimum, smoke detectors and fire alarms that are regularly checked
- 4) Workspace and storage: space and equipment to set up space comfortably, appropriate privacy and freedom from disturbances, adequate discretion from non-workers to protect company's IP and confidentiality, slip or trip hazards are eliminated, complete an ergonomics training

All teleworkers have the right to request an inspection visit from:

- The company's occupational health department
- The company's health and safety representative
- The labour and mining inspectorate

11. You should know where your employees are at any time

The CSSF requires you to know where your employees are at any time. This generally means that you need to agree on the place they will usually work remotely from and to have a process in place in which employees request to work remotely from an alternate location.

12. Admin process

Ideally you request annual A1 for all your employees based on projected remote working percentage by country. It's usual to enlist the help of your payroll provider. They will also help you in case there is a need to also declare something in the country of residence.

Ideally you have a time tracking application in place to record remote working requests and approvals in line with the relevant tax thresholds. You should also have a workflow for employees working from alternative locations than their usual remote working address.

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It is advisable to establish the difference between home-based working as working from the main residence, provided the latter is located in Luxembourg, Belgium, France or Germany, and remote working as working from a location that is different from your main residence.

13. Staff Representatives

If you're big enough to have staff representatives, you should include them in the review and implementation of your remote work policy (information/consultation or co-decision depending on the number of employees).

You will also need to include them when you plan to make changes.

14. Remote working versus Tele working

Tele-based working is identified as working from your main residence, provided the latter is in Luxembourg, Belgium, France or Germany.

Remote working is considered as working from a location that is different from your main residence.

All guidelines applicable to teleworking working, considered as home-based working should also apply to remote working, with additional considerations to ensure compliance with tax, social security, and legal frameworks.

Employees may work remotely from a secondary location for a defined number of days, market practice proposes up to 10 days per calendar year.

These days are included in the overall limit for both residents and non-residents of the primary work country.

A suitable office setup and stable internet connection are required to maintain productivity. For remote work in a different time zones, it is advisable that employees must align their working hours with their home office and agree on connection points with their manager in advance.