ASPRO

ASSOCIATION LUXEMBOURGEOISE DES
PROFESSIONNEL·LE·S DU SPECTACLE VIVANT

Administrative procedures for self-employed performing arts professionals working abroad

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- General social security cover
  - Procedure with the Luxembourg Social Security Center (Centre Commun de la Sécurité Sociale ou CCSS)
    - I. Before you leave : complete form A1 and send it to the CCSS
    - II. Working in another European country
      - A. Temporary work in one or more European countries (“détachement”)
      - B. Regular work in one or more European countries
    - III. Working in a third country (outside Europe)
- National Health Cover
  - Principle
  - Important point
- VAT
  - Work carried out in a European Union country
  - Work carried out in a country outside the European Union
- Income tax
  - Tax deducted at source (withholding tax)
  - Tax not deducted at source (no withholding tax)
  - For information: Double Taxation Treaties

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General social security cover

Preliminary note

If you wish to work abroad, the foreign organisation hiring you may offer you an employment contract (e.g. a standard fixed-term contract).

As a self-employed person, it is very important that you are not employed under an employment contract, but under a contract for the provision of services (service contract). Otherwise, you risk being deregistered from the CCSS and losing your rights and social security cover in Luxembourg.

Procedure with the Luxembourg Social Security Center (Centre Commun de la Sécurité Sociale ou CCSS)

Reference : Working abroad - CCSS (Centre commun de la sécurité sociale) - Luxembourg - At the very bottom of the page, you will find links to the forms to be filled out (in French or German).

The principle is that a self-employed person cannot be covered by two social security schemes at the same time:

- either the self-employed person remains registered with the Luxembourg social security scheme,
- or they will be covered by the social security system of the country where they are going to work.

You need to complete the necessary formalities with the CCSS in order to know which social security scheme will apply.

I. Before you leave : complete form A1 and send it to the CCSS

Before working abroad (in any country), self-employed people must complete Form A1.

The form can be found here : application for a certificate for self-employed persons working abroad.

On the basis of this form, the CCSS will assess whether Luxembourg's social security system applies to the situation or not.

→ If Luxembourg social security cover is maintained: the CCSS sends the self-employed person a certificate confirming that they remain covered by the Luxembourg social security system and informs the social security body at the temporary place of work.

II. Working in another European country [1]

A. Temporary work in one or more European countries ("*détachement*")

There is "*détachement*" if :

1. The period of activity abroad is less than 24 months
2. The person was self-employed in Luxembourg for at least 2 months prior to the start of their activity abroad
3. The person will resume their activity in Luxembourg immediately after the end of their activity abroad

If these three conditions are met, the principle is that the self-employed person remains covered by the Luxembourg social security.

[1] "European countries" being: Germany, Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Spain, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, the Czech Republic, the Slovak Republic, Romania, Slovenia, Sweden; Iceland, Liechtenstein and Norway; Switzerland; the United Kingdom.

B. Regular work in one or more European countries[2]

The self-employed person will be registered with social security:

- In their country of residence, if they carry out at least 25% of their work in that country

  or

- In the country where the centre of their business interests is located, if they do not carry out a substantial part of their work in their country of residence.

III. Working in a third country (outside Europe)

To determine their situation in this case, a self-employed person should contact the CCSS for guidance on the steps to take.

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[2] "European countries" being: Germany, Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Spain, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, the Czech Republic, the Slovak Republic, Romania, Slovenia, Sweden; Iceland, Liechtenstein and Norway; Switzerland; the United Kingdom.

National Health Cover

Principle

Self-employed people continue to pay their contributions as usual and remain insured at all times in Luxembourg under the Luxembourg National Health scheme (*Caisse Nationale de Santé* or *CNS*).

Important point

Some institutions abroad may offer you an employment contract. We advise against accepting this, as you will then be registered with the health insurance system of the foreign country in question. You will then automatically be deregistered from the CCSS and the CNS in Luxembourg, as it is not possible to be registered with two health insurance systems at the same time.

Being deregistered from the CCSS (and consequently of the CNS) may have significant implications for your rights in Luxembourg, such as:

- The provisions relating to support measures (for intermittent workers) apply only to persons who have been continuously registered with the CCSS for at least six months prior to the date of application for these benefits
- Possible difficulties in covering medical expenses in Luxembourg during this period
- To be eligible for maternity or parental leave, you must have been registered with the CCSS for 12 uninterrupted months immediately prior to your application. If there has been an interruption, the application will not be valid.

It is very important to work under a service contract to avoid all these problems.

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VAT

Work carried out in a European Union country

For intra-Community supplies of services (i.e. those provided by a professional resident in Luxembourg to a client based in another EU country), a distinction must be made between two scenarios:

- The hiring organisation (theatre, company or other cultural institution) is subject to VAT → you must issue an invoice with 0% VAT, stating: "*reverse charge as per Article 196 of Directive 2006/112/EC; VAT is payable locally directly by the client*", meaning that it is the organisation's responsibility to collect and pay the VAT due locally.
- The hiring organisation (theatre, company or other cultural institution) is NOT subject to VAT → In that case, you must issue a standard invoice including Luxembourg VAT:
    . either at the standard rate of 17 %
    . Or, at the super-reduced rate of 3 % – for "writers, composers and performers" ("performers" includes actors, singers, directors, musicians, etc.)[3]

Work carried out in a country outside the European Union

For any type of service (excluding access to an event, the transfer of copyright, licences, exploitation rights and similar), a distinction must be made as to whether services provided outside the EU are offered to business customers or private individuals.

— **Business customer outside the EU:** The principle governing VAT is that it is levied at the customer's place of business (meaning that the service falls outside the scope of Luxembourg VAT)

[3] Cf. pour vérifier si l'activité concernée peut bénéficier du taux super réduit veuillez consulter la Circulaire du 17 janvier 2020 de la Direction de l'enregistrement des domaines et de la TVA

- **Private individuals outside the EU:** The principle governing VAT is that it applies at the place where the event takes place (and therefore the supply falls outside the scope of Luxembourg VAT)

→ In short, Luxembourg VAT does not apply. **It is therefore necessary to check the applicable local VAT rules** either with the local authorities or the organisation hiring you.

The following links to the official websites of the relevant authorities in the three countries most frequently mentioned by our members may give you an initial idea of the applicable rules:

Switzerland:
https://www.estv.admin.ch/en/vat-liability-foreign-companies

United-Kingdom:
https://www.gov.uk/guidance/vat-place-of-supply-of-services-notice-741a
https://www.gov.uk/hmrc-internal-manuals/vat-place-of-supply-services/vatposs08100

United-States:
https://www.irs.gov/individuals/international-taxpayers/withholding-tax-on-payments-to-foreign-artists-and-athletes
https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-faqs-about-foreign-artist-and-athlete-withholding

Do not hesitate to check directly with the hiring organisation to find out what the applicable rules are!

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Income tax

You should check with the organisation hiring you to find out whether or not it is required to deduct tax at the source from payments made to foreign artists (withholding tax).

Tax deducted at source (withholding tax)

The organisation hiring you must provide you with a certificate to attach to your Luxembourg tax return, stating that tax has been deducted at source.

ASPRO advises you to clearly state the following on your invoice:

1. the gross amount invoiced,
2. the percentage and amount of tax deducted at source, and
3. the net amount that will be paid to you.

→ **Important point :** Self-employed individuals must declare this income and the fact that tax was withheld at source in the other country in their Luxembourg tax return.

Tax not deducted at source (no withholding tax)

You will normally need to declare this income on your tax return in Luxembourg. The amount will be taxed in Luxembourg.

For information: Double Taxation Treaties

The tax treatment of your income may be determined by the existence of a tax treaty between Luxembourg and the country where you will be working. These treaties, negotiated between Luxembourg and foreign countries, are designed to prevent any double taxation of your income (taxation in the foreign country and taxation in Luxembourg).

You can check whether a tax treaty exists:

- either directly with the administrative departments of the production company that is hiring you;
- or, if you have some knowledge of (tax) law, by checking for yourself on the following official website: https://impotsdirects.public.lu/fr/conventions/luxembourg.html

→ **Generally speaking,** these agreements result in the following rule: Luxembourg retains the right to tax the worldwide income of self-employed persons who are tax residents of Luxembourg and who work abroad on an occasional basis, provided they do not have a permanent establishment abroad.

This generally applies to services such as set design, costume design, lighting design, stage direction or choreography, etc.

→ **However, these agreements may contain a special provision for performing artists**, which provides for taxation in the country where the performance takes place (rather than in Luxembourg). It is in such cases that your income tax may be withheld at source.

Examples :

- United-Kingdom : article 16 of the Luxembourg-UK treaty. More information available here.
- United-States : article 18 the Luxembourg-US treaty. More information available here..

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