

Mutual Agreement

between the Competent Authorities of Germany and Poland according to paragraph 3 of Article 26 of the Agreement between the Federal Republic of Germany and the Republic of Poland for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital signed at Berlin on 14 May 2003 with respect to the application of paragraph 1 of Article 15 on cross-border workers and of paragraph 1 of Article 19 on government officials working cross-border

Given that the coronavirus ("COVID-19") pandemic is a situation of force majeure and considering that the measures taken in response to the pandemic can lead to substantial uncertainty with respect to the tax position of cross-border workers, the Competent Authorities of Germany and Poland share the view that a mutual agreement as referred to in the first sentence of paragraph 3 of Article 26 of the Agreement between the Federal Republic of Germany and the Republic of Poland for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital signed at Berlin on 14 May 2003 – hereinafter referred to as 'the Agreement' – is warranted.

Guided by the concern to take decisive measures, with prudence and deliberation, to minimise the personal burden on cross-border workers, and pursuant to paragraph 3 of Article 26 of the Agreement, the Competent Authorities of Germany and Poland have agreed the following:

(1) For purposes of paragraph 1 of Article 15 of the Agreement, days of work for which wages are received and during which the employment was exercised at home (home-office-days) solely due to the measures taken to combat the COVID-19 pandemic by the German or Polish Government or their local subdivisions, may be deemed as days of work spent in the Contracting State where the cross-border worker would have exercised the employment without the measures taken to combat the COVID-19 pandemic. This fiction does not apply to working days that would have been spent either as home-office-days or in a third State, independent from these measures. In particular, it does not apply to cross-border workers insofar as they are exercising their employment at home according to their employment contract.

(2) Cross-border workers who make use of the fiction referred to in paragraph 1 are obliged to apply this fiction consistently in both Contracting States and to keep appropriate records (i.e. written confirmation of the employer which part of the home-office-days were solely due to the COVID-19 pandemic related measures).

(3) This fiction shall only apply to the extent that the respective wages for the days spent working at home are actually taxed by the Contracting State in which the cross-border worker would have exercised the employment without the measures taken to combat the COVID-19 pandemic. The cross-border worker accordingly agrees that these items of income will be



actually taxed in the Contracting State where he would have exercised the employment without the measures taken to combat the COVID-19 pandemic. Those items of income shall be regarded as 'actually taxed' when they are included in the assessment basis used to calculate the tax.

(4) The fiction as described under paragraph 1 to 3 of this Mutual Agreement shall apply accordingly to income from government service pursuant to paragraph 1 of Article 19 of the Agreement.

(5) This Mutual Agreement shall apply to days in the period from 11th March 2020 until 31st December 2020. From 31st December 2020 onwards, the application of this Mutual Agreement will automatically be extended, unless it is terminated by either Competent Authority of a Contracting State.

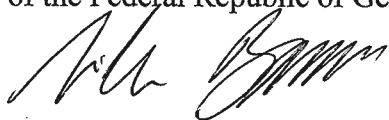
(6) This Mutual Agreement shall enter into force on the day following its signature. It can be terminated unilaterally by either Competent Authority of the Contracting States by giving notice to the Competent Authority of the other Contracting State at least one week prior to the end of a calendar month. This Mutual Agreement shall remain applicable the following calendar month after being terminated by either Competent Authority of a Contracting State.

Agreed by the undersigned Competent Authorities:

Berlin, 12.11.2020

Warsaw, 27.11.2020

For the Competent Authority
of the Federal Republic of Germany



For the Competent Authority
of the Republic of Poland

