How to avoid double taxation if I live in Belgium, but work abroad ?

Many Belgian residents regularly travel to work in one of our neighboring countries or even further away. Cross-border workers are typically **obliged to pay income tax in the country where they earn an income**, but their ultimate tax filing responsibility is with Belgium, as their country of tax residency. This is where the double taxation agreement (DTA) becomes relevant. The DTA **will prevent double taxation** by ultimately allowing **only one country to tax your salary** and allowing you a tax exemption (or a tax credit) in the other.

According to most DTAs, an employee living in Belgium but physically working abroad is only taxable abroad. However, an important exception exists to this principle: the **'183-day rule'**. This rule provides for taxation in the **country of residence** (i.e. Belgium), **if each of the following three conditions are all met:**

- **(i)** the employee stays in the country of employment for no longer than 183 days;
- **(ii)** the salary is paid by (or on behalf of) an employer who is not a resident of the country where the employee works; and
- **(iii)** the salary is not borne by a permanent establishment of the employer in the country where the employee works.

If one of the above conditions is not fulfilled, only the country where the employee works can tax the salary. To determine **whether the 183-day rule is exceeded or not**, the tax authorities have taken the position that **each day of physical presence abroad** counts, irrespective of whether this is for professional or private reasons. In other words, weekends and holidays count towards this total as well.

If the Belgian tax authorities were to become aware of the employee's foreign earnings and challenge the tax exemption the employee would normally claim in Belgium; the discussion would simply come down to the question whether **the employee can sufficiently demonstrate his physical presence in the country where he works**. If the employee fails to demonstrate this, the Belgian authorities will consider the foreign salary to be (at least partially) taxable in Belgium.

This would obviously create a **double tax issue** if the employee has also paid income tax on his earnings abroad.

A tax claim by the Belgian authorities would, for example, be less probable if the employee were to **spontaneously declare part of his foreign income** in Belgium and consider this amount fully taxable here. The amount or percentage would depend on the time spent working in either of the two countries (i.e. Belgium and abroad) during the calendar year.

TAXPATRIA® can assist you in analyzing the **tax consequences** of your **employment situation** and help you to understand the tax liability of **cross-border or remote working**.