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Luxembourg Tax alert

Luxembourg Tax alert - Issue 2016-32

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Luxembourg 2017 tax reform passed

On 14 December 2016 the Luxembourg parliament approved the law for the 2017 tax reform. In our earlier tax newsletters (for individual tax and for corporate tax) we mentioned these proposed changes, but the final bill has several amendments. In this newsletter we provide a summary of the final measures affecting **individual taxpayers** that will enter into force on 1 January 2017. Measures concerning corporate taxpayers are summarised in a separate newsletter.

The main measures affecting individual taxpayers are:

- Abolishing the temporary tax for the budget balance
- Tax rates 2017
- Option for individual taxation of couples and registered partners
- Final withholding tax on interest
- Lunch vouchers
- Family-related tax measures
- Increase of further tax credits/deductions
- Taxation of non-residents
- Encouraging the purchase of houses
- Car taxation
- Pensions to orphans
- Transfer of individual business
- Self-employed persons
- Tax amnesty
- Secondary VAT liability for directors

Additionally, updated measures to fight tax fraud and money laundering have

been adopted. These measures include severe penalties for incorrect, incomplete and late filing of tax returns. Below we have provided more detail for each of the above-mentioned measures.

Main measures affecting individual taxpayers

The following measures will enter into force on 1 January 2017 in order to support middle class households' purchasing power.

Abolishing the temporary tax for the budget balance

The 0.5% temporary tax for the budget balance will be abolished.

Tax rates 2017

The global tax schedule has been revised. Additional income brackets and tax rates have been inserted. In addition, a marginal tax rate of 41% has been introduced on annual income of €150,000 or more. A 42% rate will apply for singles on annual income of €200,004 or more (for taxpayers in tax class 1). The tax rates for 2017 will be as follows:

Taxable income bracket		Tax rate
From EUR	To EUR	Percent
0	11,265	0
11,265	13,137	8
13,137	15,009	9
15,009	16,881	10
16,881	18,753	11
18,753	20,625	12
20,625	22,569	14
22,569	24,513	16
24,513	26,457	18
26,457	28,401	20
28,401	30,345	22
30,345	32,289	24
32,289	34,233	26
34,233	36,177	28
36,177	38,121	30
38,121	40,065	32
40,065	42.009	34
42.009	43,953	36
43,953	45,897	38
45,897	100,002	39
100,002	150,000	40
150,000	200,004	41
>200,004		42

Option for individual taxation of couples and registered partners

Starting in 2018, married couples and registered partners can now opt to be taxed individually. Married couples must file a joint non-revocable application by, at the latest, 31 December of the tax year preceding the tax year concerned, unless they are getting married during that tax year or become resident taxpayers during the tax year concerned; in the latter situation, the joint taxation application should be filed by 31 December of the tax year concerned (i.e. the application for 2018 should be filed before 31 December 2017). This election can be made every year for the subsequent tax year.

The above also applies to registered partners who file a joint non-revocable application by, at the latest, March of the tax year following the tax year concerned (i.e. the application for 2018 should be filed before 31 March 2019).

For couples requesting to file separately, most tax deductions applicable to the household should then, in principle, be equally split between spouses/registered partners. The tax class applicable in these circumstances will be tax class 1. However, couples may opt for a different allocation of the taxable income. Such a different allocation of income will have no impact on the ceilings of deductions for

special expenses.

The extra-professional abatement will amount to €2,250 per spouse / registered partner filing separately.

Final withholding tax on interest

The final withholding tax on interest paid out to Luxembourg resident individuals (RELIBI) will be increased from 10% to 20%. The tax is only due if the annual amount of interest exceeds €250 per individual and per paying agent.

Lunch vouchers

The face value of lunch vouchers will be increased from €8.40 to €10.80. The tax authorities has published a newsletter to explain that the deemed taxable value of remuneration will remain at the original value of €2.80. However, how the tax exemption should apply to the remaining value is yet to be confirmed. We expect that further information to be published by the tax authorities over the coming days.

Family-related tax measures

The tax credit granted to single parents will increase to €1,500 if the yearly adjusted taxable income is below €35,000, but remains €750 if the yearly income exceeds €105,000. The tax credit will only be reduced if the annual child alimonies exceed €2,208 (instead of €1,920). This tax credit is available on a prorated basis (for each full taxation month) in cases where the taxpayer is not subject to the Luxembourg individual income tax during the full tax year concerned.

The deductible amount of education allowance for children not part of the household will increase from €3,480 to €4,020. This allowance is not granted when the child lives with both parents in the same household.

There will be an increase in the maximum tax amount deductible for combined costs for childcare, housekeeping and home assistance for the disabled from €3,600 to €5,400 per year.

Increase of further tax credits/deductions

Premiums for voluntary pension schemes (3rd pillar) will be deductible up to €3,200 per year irrespective of the subscriber's age.

The tax credit for salaried individuals, pensioners and independent workers will vary from €300 to €600, depending on the level of income of the taxpayer. For taxpayers with an annual income exceeding €80,000, the tax credit will be abolished.

The ceiling for the tax deduction in relation to the payment of debit interest (i.e. consumer loans, credit cards, etc.) is merged with the ceiling for the tax deduction on insurance premiums. Therefore, the combined annual ceiling applicable is €672 per member of the household.

Taxation of non-residents

The taxation of married non-resident taxpayers will be substantially amended from 1 January 2018. Non-resident couples will be taxed as single taxpayers in tax class 1 during the tax year, unless the spouses are taxable in Luxembourg on at least 90% of their yearly worldwide income from Luxembourg. In that case they can opt to be jointly taxed (in tax class 2) at the tax rate applicable on their household's worldwide income. If only one spouse is taxable in Luxembourg on at least 90% of his/her annual worldwide income, they could still (subject to certain conditions) benefit from tax class 2.

For registered partners the joint taxation option may be applied after the year-end concerned in the individual tax return (subject to further conditions). It can then not be applied during the year in the payroll.

Encouraging the purchase of houses

The maximum tax amount deductible for contributions qualifying for home savings plans will be increased from €672 to €1,344 for individuals aged between 18 to 40 years. In the other cases, the initial ceiling of €672 will remain applicable per member of the household.

In addition, the amount of mortgage interest deduction related to the principal residence will be increased as follows:

- €2,000 for the first year of occupation and following five years;
- €1,500 for the next five years; and
- €1,000 thereafter.

The rental income of a property occupied by the owner will be deemed equal to €0.

In order to increase the supply of affordable housing, net rental income derived from approved bodies (covered by the modified law of 25 February 1979 concerning the housing support) can benefit from a 50% exemption.

Car taxation

To support sustainable individual transportation, zero-emission vehicles purchased by a private individual will benefit from a tax allowance varying from €300 to €5,000. This tax allowance is not applicable to company cars/cycles.

The monthly valuation of the salaried benefit in kind for a company car will be amended by Grand-Duchy Regulation and may vary from 0.5% to 1.8% (of the price of the vehicle purchased new), depending on the ecological impact of the vehicle. The above is applicable to new vehicles, while the 1.5% lump sum rate would remain applicable to vehicles covered by a contract ongoing on 1 January 2017.

Pensions to orphans

Pensions paid out to orphans (i.e. both legitimate[d] and assimilated children)

following the death of one of the parents will be fully tax exempt.

Transfer of individual business

In order to facilitate the transfer of an individual business to the next family generation or to employees, a tax deferral has been introduced for the capital gain realised on real estate assets (land and buildings) held by the enterprise (subject to certain conditions).

Self-employed persons

Self-employed persons shall no longer be exempt from keeping accounting records. Similar to other entrepreneurs, self-employed persons will be required to keep accounting records if the total annual turnover (including VAT exempt turnover) exceeds €100,000. Only agricultural or forestry businesses may still be exempt from keeping accounting records and still apply cash basis accounting.

Tax amnesty

Taxpayers can still benefit from a tax amnesty by filing a corrective income tax return before 31 December 2017 and by paying the amount of tax due (including an increase of the tax due of 10%, for a regularisation in 2016, or 20% in 2017) within one month following the receipt of the revised tax assessment. Corrective filings after 31 December 2017 could trigger additional sanctions (see below).

Liability of legal representatives for VAT payment

The personal and joint liability of legal representatives for the VAT payment of companies has been limited to directors who are in charge of the daily management (including de facto and de jure directors) in case of culpable non-compliance ("inexécution fautive") with their legal obligations. The daily management includes all acts which must necessarily be accomplished day by day to ensure the functioning of corporate affairs. Liquidators and trustees are not subject to this secondary liability.

Reinforcement of the fight against tax fraud and money laundering

Several measures are introduced in direct and indirect tax law in order to better fight tax fraud and money laundering. The purpose of the reform is notably to distinguish between three types of tax fraud: **"simple" tax fraud, "aggravated" tax fraud**, and **tax evasion** ("escroquerie fiscale"). Thus, the law introduces a new concept of "aggravated" tax fraud for direct and indirect tax purposes, which is considered a criminal offence.

Furthermore, the **money laundering** infraction has been extended to cases of "aggravated" tax fraud and tax evasion. This means that perpetrators can face prison sentences of one to five years and/or fines of €1,250 to €1,250,000.

It is noteworthy that the **undue reimbursement of VAT** may also be sanctioned by

the Luxembourg VAT authorities from 2017 onwards.

Additionally, the **filing of a deliberately incomplete or incorrect direct tax return and the non-filing of direct tax returns** will be subject to an administrative fine. The fine depends on the amount of the understated tax (or unduly reimbursed tax) and will range between 5% and 25% of that amount.

The new law further provides that the maximum penalty that can be imposed in case of **late filing of direct tax returns** will be increased to €25,000. At the same time the deadline of March 31 (and extension until June 30) for filing personal income tax returns will be enforced more strictly.

To enhance **VAT compliance**, the amount of certain administrative penalties shall be significantly increased beginning in 2017.

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