

LUXEMBOURG TAX REFORM AND DECREASE OF THE CORPORATE TAX RATE

RELEVANT MEASURES AFFECTING CORPORATE TAXPAYERS

Following an earlier announcement this year, the Luxembourg Government presented on 26 July 2016 to the Parliament the draft law on the 2017 proposed tax reform. Amongst the new relevant tax measures, which may apply as from 1 January 2017, we have outlined here below these affecting to corporations resident in Luxembourg by including also some specific value added tax updates.

Progressive decrease of the corporate tax rate

A Luxembourg S.à r.l. or S.A. is currently subject to an aggregate tax rate in Luxembourg of 29.22%, which includes the 21% corporate income tax rate, the 6.75% of Luxembourg municipal business tax rate and a 7% of solidarity surcharge out of the 21% of the corporate income tax.

As from the tax year 2017, the corporate tax rate shall be decreased from 21% to 19% and, accordingly, the aggregate tax rate would be 27.08% instead of the current 29.22% in Luxembourg. It is expected a further decrease which may lead to an aggregate rate of 26.01% in 2018 in Luxembourg.

The text foresees also a reduced corporate income tax rate of 15%, which should apply to entities generating a taxable income which does not exceed of EUR 25,000. For companies whose taxable income range between EUR 25,000 and EUR 30,001, the corporate income tax would be EUR 3,750 plus 39% of the taxable income above EUR 25,000 for the year 2017 and 39% for the year 2018.

Tax carried forward losses 17 years limitation

The tax losses which a corporation may generate as from the tax year 2017 onwards will be eligible so as to be carried forward for a maximum period of 17 years. For the tax losses incurred between the tax years 1991 and 2016, the carry forward will however remain available without any limitation in time.

Moreover, corporate taxpayers shall continue to be entitled to offset all of their taxable income of the year by using their tax carried forward losses without any further limitation.

Revised minimum net wealth tax

The minimum net wealth tax will be increased from 3,210 to EUR 4,815 (solidarity surcharge included) for corporate tax payers whose financial assets, receivables towards related parties, securities and cash amount to more than 90% of the total balance sheet and more than EUR 350,000.

The possibility to reduce the net wealth tax liability in an amount up to the corporate income tax due by booking a special reserve will continue to remain applicable.

Upcoming measures on the value added tax law

A circular should be published in the upcoming weeks which should clarify that the director's fees fall within the scope of the VAT, whatever the form of the remuneration and regardless of the fact that the director is a company or a private individual.

Moreover, the Luxembourg directors with an annual turnover below a threshold of EUR 25,000 would be eligible to the small enterprises scheme and the VAT exemptions provided for in the Luxembourg VAT law may still apply if the foreseen conditions are met.

On a separate note, the tax reform foresees that the de jure and de facto directors of Luxembourg companies as well as the successors would become jointly liable to the payment of the VAT due by the company in case the VAT obligations of that company have not been met. Liquidators and curators would also become jointly liable.

Miscellaneous measures

The 0.24% ad valorem registration duty that currently applies under certain conditions on transfer of debt agreements documented in notarial deeds, will expressly exclude debt agreements.

Also, the temporary currency exchange gains neutralization regime on certain assets denominated in a foreign currency will be extended to all companies having their capital denominated in a foreign currency.

Finally, the electronic filing of direct tax returns will become mandatory as of 2017 for all corporate taxpayers, which until now used to fill them by post.

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