

# Option for a 10% taxation for European qualifying interest income from private investments



*Amendments to the so-called "Relibi law"*

## Opportunities offered by the amended Relibi law

Luxembourg resident taxpayers deriving cross-border interest income may opt for a 10% flat tax rate. This 10% flat tax is limited to certain interest income paid to Luxembourg individuals by a European qualifying paying agent.

The interest income that may benefit from the 10% flat tax corresponds to the income that would be subject to the 10% withholding tax if payment were made through a Luxembourg paying agent.

In circumstances where withholding tax has been levied in the source country, a credit may be claimed in Luxembourg (partially or in full) in order to avoid double taxation according to the provisions of the double tax treaty or the European Savings Directive.

## What are the benefits?

- Optional regime;
- A flat taxation of 10% as opposed to full taxation at progressive income tax rates (up to 38.95%);
- Foreign withholding tax may be credited against Luxembourg tax (under the provisions of the double tax treaty or the European Savings Directive).

## Limitations

The option for a 10% flat tax rate:

- Is limited to resident taxpayers receiving interest from European qualifying paying agents;
- Is granted on a "per year" basis and is irrevocable for that year, if applied for;
- Applies to qualifying interest income received from European qualifying paying agents (i.e. it cannot be limited to a portion).

## Qualifying interest within the scope of the amended Relibi law

Interest payments within the scope of the amended Relibi law are:

- Interest paid or credited to an account relating to debt claims of every kind, whether or not carrying a right to participate in the debtor's profits;
- Interest accrued or capitalized at the sale, refund or redemption of the debt claims referred to above.

## Background

The so-called "Relibi" law introduced in 2005 a 10% final withholding tax on qualifying interest income paid by Luxembourg paying agents to residents of Luxembourg.

Since this law excluded interest income paid to Luxembourg residents by paying agents located in an EU Member State other than Luxembourg, the Relibi law was deemed to be in breach of the EU principles of free movement of capital and freedom to provide services.

In June 2008, the Relibi law was therefore amended to extend its scope by granting the possibility to Luxembourg residents to opt for a 10% taxation on qualifying interest paid by a paying agent located in certain European countries other than Luxembourg.

## How to claim the option?

The 10% final tax must be declared through a specific form and paid by the individual to the tax authorities.

These obligations have to be fulfilled by March 31 following the year during which the interest is paid. There is no possibility to extend this deadline.

The competent tax office will liaise with the tax office in charge of the taxpayer's regular assessments, to ensure that the income is not taxed or exempted twice.

### European qualifying paying agents

The option for a final 10% tax is limited to interest income paid to Luxembourg residents by a paying agent established:

- in an EU Member State other than Luxembourg, or
- in a country that is part of the European Economic Area (i.e. Iceland, Norway and Liechtenstein), or
- in a country that has entered into an international agreement relating directly to EU savings directive (2003/48/EC) namely Switzerland, Andorra, Monaco, San Marino and the dependent and associated territories of certain EU Member States.

### Interest out of scope

The option for the 10% flat tax cannot be claimed for:

- Income from grand-fathered bonds and other negotiable debt securities (for a transitional period);
- Income from derivatives and innovative financial instruments;
- Income deriving from UCITS or entities deemed to be UCITS;
- Income on current accounts if not exceeding 0.75%;
- Income paid or credited once a year on savings deposits not exceeding EUR 250 per year and per paying agent.

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