

Luxembourg – Draft 2009 budget and new tax measures dated 7 October 2008

On 1st October, the Luxembourg government put forward to Parliament a proposal for new tax measures (provided for in the draft budget and in a separate bill). This proposal confirms some of the previous announcements made by the Luxembourg Prime Minister in the traditional "state of the nation" address given in May 2008. The proposal also introduces new tax measures of significant importance to the business community. The main tax measures are outlined below.

This Flash News only focuses on the taxation of business entities. Individual tax measures will be dealt with separately.

New tax measures

Exemption from withholding tax on dividends paid to treaty country "corporate" shareholders

According to the bill, the scope of the Luxembourg domestic law providing for an exemption from withholding tax on dividends paid to "corporate" shareholders (under certain conditions) would be extended to "corporate" entities located in countries which have signed a double tax treaty with Luxembourg. The exemption would be granted only to foreign entities that are subject to a tax similar to Luxembourg corporate income tax in their country of residence.

The goal of the suggested amendment is to increase and promote Luxembourg's international tax competitiveness while creating an investment environment comparable to that available in some of its neighbouring countries.

IFRS and tax

Since reconciling IFRS with the Luxembourg tax regime is a complex exercise, the introduction of IFRS in Luxembourg companies' accounts gave rise to a certain number of questions. In summary, the bill proposes to stick as much as possible to the accounting and to limit the tax adjustments. The IFRS accounts would therefore be the basis for the computation of Luxembourg corporate taxes. Certain tax adjustments would however be possible, as the objective of the bill is that IFRS accounts should be as tax neutral as possible.

Although IFRS accounts have been possible for several years (if certain requirements are met), the bill has no retroactive effect.

Amendment of the IP regime

Under the bill, the benefit of the new IP regime (introduced by the law of 21st December 2007 and providing for an 80% exemption on net income and gains deriving from qualifying IP) would be extended to apply retroactively to domain

names as from 1st January 2008. Further, the qualifying IP would benefit from a net wealth tax exemption under certain conditions.

Confirmation of initial proposals

Repeal of capital duty

In May 2008, Luxembourg Prime Minister Jean-Claude Juncker announced that capital duty would be repealed as from 2009 and a bill formalising this announcement was put to Parliament in early September. The draft budget confirms this measure.

Corporate income tax rate to decrease by 1 percent

The corporate income tax rate should decrease by 1% (i.e. decrease from 22% to 21%). This is in line with the previous announcement made in May and further to which the aggregate corporate income tax rate was set to decrease, in several stages, from 29.63% (for Luxembourg City, including municipal business tax) to 25.5%.

As a consequence, the combined rate for Luxembourg City would, as a first stage, go down to 28.59% as from 2009.

Company cars

In order to follow the current trend of new measures aimed at fighting polluting vehicles, it is confirmed that the tax on automotive vehicles (other than buses and taxis and which are used to transport people) would no longer be tax deductible from corporate income tax.

If enacted, these measures would be particularly welcome by the marketplace and would strengthen Luxembourg's tax position as a financial centre.

Contact

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