

New special tax regime for qualifying “inbound” employees



As of 1 January 2021, the special tax regime for “inbound” employees is incorporated in the Law (Art. 115, n°13b L.I.R.). However there have been certain modifications to the regime and an extension regarding its duration.



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Scope of the new special tax regime

- “Inbound” employees taking up the employment in Luxembourg as of 1 January 2021.
- “Inbound” employees who on 1 January 2021 benefit from the special tax regime of the Circular n°95/2 of 27 January 2014 and who simultaneously fulfil the conditions of Art. 115, n°13b L.I.R. (i.e. earning an annual base pay of at least EUR 100.000).

Tax exemptions

What's new?

The new special tax regime introduces the Impatriate premium, which is a lump-sum allowance to compensate for the cost of living differential and other relocation charges (replacing the cost of living allowance referred to in the Circular). The impatriate premium benefits from a 50% tax exemption. An impatriate premium cannot exceed 30% of the employee's annual base salary (excl. benefits in kind and cash).

Employment requirements

What's new?

- The employee's annual gross base salary (excluding benefits in kind or cash) must be at least equal to EUR 100,000 (vs EUR 50,000 in the Circular).
- The employee must have an in-depth expertise in the related sector.

Employer requirements

What's new?

Removal of the condition under which the employer must have or commit to have (in the medium term) at least 20 full-time employees in Luxembourg.

The special tax regime of the Circular n°95/2 of 27 January 2014 remains applicable to “inbound” employees who start working in Luxembourg during the years 2016 to 2020 and who do not meet the conditions of Art. 115, n°13b L.I.R. (i.e. earning an annual base pay of at least EUR 100.000).

What remains unchanged

- Non-recurring allowances:
 - Relocation expenses (moving costs, expenses linked to the employee's final return to his/her home country, travel costs related to specific circumstances, etc.)
- Recurring allowances:
 - Accommodation costs
 - One trip a year from Luxembourg to the employee's home country
 - Tax equalisation
 - School fees (additional fee paid in Luxembourg vs home country)

Removal of the conditions under which:

- the employee must be recruited in a sector which is experiencing recruitment difficulties in the Luxembourg market.
- the employee recruited into Luxembourg must put at the disposal of the employees their specialist knowledge and “savoir-faire”.

What remains unchanged

- The number of employees who benefit from the regime cannot exceed 30% of the undertaking's total full-time working staff (this condition does not apply to undertakings which have been established in Luxembourg for less than ten years).
- Before 31 January, the employer must notify the tax office of the list of employees who benefitted from the regime in the previous tax year.

Specific for a secondment

- There must be a secondment agreement between the sending employer and the Luxembourg entity.
- An employment relationship must exist between the sending employer and the inbound employee.
- The temporary assignment of the seconded employee must provide for a right of return to the sending entity at the end of the secondment.

Employee requirements - No major change

General

- Qualify as a resident under Luxembourg law (tax domicile or habitual abode).
- Has not been a Luxembourg tax resident, or lived less than 150 km from the Luxembourg border, or have paid Luxembourg income taxes on professional income in the five years preceding the year the employment commences in Luxembourg.

Extension of the regime duration

8 years following the year in which the employee starts working in Luxembourg (vs 5 years in the Circular).

Specific for a secondment

The employee must have five years' experience within the international group or at least five years' specialised experience in the line of business concerned.



How can we help you?

Before hiring, we can:

- Verify whether you/your employees are eligible to benefit from the special tax regime for “inbound” employees.
- Review/Adapt the remuneration package.
- Prepare calculations and advise on payroll-related implications.
- Advise on social security implications.

Once the regime is in place, we can:

- Assist in preparing a file for each individual to comply with the tax Law's requirements.
- Conduct/Review the wage withholding tax and social security computations and payroll process.
- Provide the relevant tax office with a list of employees benefiting from the said tax regime – including individual term sheets– at the beginning of each year (no later than 31 January).

For your existing “inbound” employee population as at 1 January 2021, we can:

- Review employee population benefitting from the regime under the Circular in order to identify those who should transition to the new special tax regime and assist in preparing a file for each individual to comply with the tax Law's requirements.
- Review/adapt the remuneration package and potentially advise from a tax perspective on the drafting of the package within the employment contract.
- Prepare calculations and advise on payroll-related implications.



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