International Tax

Luxembourg Tax Alert

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Tax authorities issue guidance on use of foreign currency for tax purposes

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Luxembourg's tax authorities issued a circular on 16 June 2014 that contains the rules and conditions under which a taxpayer may use a currency other than the euro in calculating its taxable results.

Companies within international groups often prepare their financial statements in a foreign currency. From a legal perspective, a company incorporated in Luxembourg can prepare its commercial accounts in a currency other than the euro.

According to the new circular, Luxembourg entities, including partnerships, can opt to determine taxable income in a foreign currency, but the company's commercial accounts must be in the same foreign currency as its share capital.

Highlights of the circular include the following:

- The option to use a currency other than the euro must be elected by submitting a written request to the Luxembourg tax authorities within the first nine months of the first financial year of the tax computation in a foreign currency. New entities have until the end of their first financial year to file the request.
- The request must include certain information, such as the foreign currency of the share capital and of the statutory accounts.
- The option to use a foreign currency for tax purposes is not subject to a minimum mandatory period of time. Once the option is elected, it applies for as long as the company's share capital is denominated in the foreign currency.
- Once the option is elected, the corporate income tax and municipal business tax returns must be completed in the foreign currency and in euros. The Luxembourg tax authorities will update the tax forms, but in the meantime, a taxpayer should include an appendix showing the foreign currency-to-euro reconciliation with its tax return.
- All items reported in subsequent fiscal years (i.e. carryforwards of tax losses, recapture of expenses, etc.) should be expressed in the foreign currency until they are used, except for tax credits (e.g. the tax credit for investments), which must be reported in euros.
- For purposes of the participation exemption regime, the participation threshold will be determined on the basis of the acquisition price

converted into euros at the exchange rate effective on the date the participation was acquired.

- For the sake of simplicity and conformity, taxpayers should use the currency exchange rates published by the European Central Bank.
- Rules also are provided related to the net wealth tax (including net wealth tax reduction), as well as the transition process from the determination of the tax result in euros to determination in the foreign currency.
- Tax assessments still will be issued in euros, and taxes due must be paid in euros.

The new rules on the use of a foreign currency for tax purposes likely will be of interest to affiliated companies of international groups. The use of a foreign currency in determining the tax results reduces the tax administrative burden and eliminates tax-related foreign currency exchange gains or losses that are not recognized from an accounting perspective.