

Operational Tax News

Luxembourg Law of 23 July 2016 – Repeal of the Law transposing the EU Savings Directive and amendment of the RELIBI Law

11 August 2016

The Luxembourg [Law of 23 July 2016](#) repeals, as from 1 January 2016, the Luxembourg Law of 21 June 2005 transposing the EU Savings Directive and modifies the Law of 23 December 2005 (as amended) relating to the final withholding tax regime on certain interest income (the “RELIBI Law”).

Background

As already announced in an [earlier alert](#), the Savings Directive was repealed in phase with the implementation of Directive 2014/107/EU on mandatory automatic exchange of information, imposing Common Reporting Standard (“CRS”) based reporting as from 1 January 2016 throughout the EU (with the exception of Austria, where this Directive will apply as from 1 January 2017). The scope of the latter Directive is much broader than the scope of the Savings Directive, meaning the Savings Directive became obsolete.

However, Directive 2015/2060 of 10 November 2015 repealing the Savings Directive still needed to be transposed in Luxembourg, which was now executed through the Law of 23 July 2016. At the same time, the RELIBI Law was amended, as the final withholding tax regime was enacted based on certain concepts and definitions taken over from the EU Savings Directive.

Amendments of the RELIBI Law

The RELIBI Law was amended, essentially to:

- align the rules to determine the residence of a beneficial owner with those applicable under the CRS;
- abandon the concept of “residual entities”, that was applicable under the EU Savings Directive, and to which the RELIBI Law also referred. This concept also became obsolete in view of the CRS;
- delete the reference to grandfathered bonds within the meaning of the EU Savings Directive as this provision became obsolete as well.

Though the scope of application of the RELIBI Law remains essentially unchanged, with the application of the 10% final withholding tax on certain interest income realised by qualifying Luxembourg residents, it is to be noted that the Luxembourg government recently announced the rate would be increased to 20% for 2017.

The EU Savings Directive: abolished... but with some residual effects

Certain provisions of the Law of 21 June 2005 transposing the EU Savings Directive are still temporarily kept alive during a phase out period, essentially to:

- allow corrections of the last exchange of information under this law that was due on 20 March 2016 regarding calendar year 2015;
- allow issuance in 2016 of specific Savings Directive certificates, in view of the fact that Austria still applies savings withholding tax until the end of 2016, and only switches to CRS based reporting as from 1 January 2017.

More importantly, a second Law of 21 June 2005, ratifying the bilateral savings taxation agreements concluded between Luxembourg and the Dependent & Associated Territories, including amongst others Jersey, Guernsey, Isle of Man, BVI, Aruba, and Sint Maarten was not yet abolished. Legally speaking, these bilateral agreements containing equivalent provisions to those of the abolished Savings Directive, as ratified through this second Law of 21 June 2005, are still in force.

However, most of the Dependent & Associated Territories have committed to switch to CRS based reporting as from 2016, except Aruba and Sint Maarten, who committed to switch to CRS based reporting as from 2017.

Depending on certain legal confirmations, it is thus not entirely excluded that automatic exchange of information based on these savings taxation agreements may still have to be applied for calendar year 2016 by “paying agents” within the meaning of these agreements (e.g. Luxembourg banks, and transfer/register agents of certain investment funds) regarding clients or investors (individuals and certain types of entities) resident in certain of the Dependent and Associated Territories. We reasonably expect this matter to be clarified before the end of 2016 though.

Do not hesitate to contact us in case you would have any questions.

Your contacts

Eric Centi

Partner - Tax - Global Financial Services

Industry

Tel/Direct: +352 451 452 162

ecenti@deloitte.lu

Alain Verbeken

Director - Tax - Global Financial Services

Industry

Tel/Direct: +352 451 452 513

alverbeken@deloitte.lu

Anthony Tremblier

Senior Manager - Tax - Global Financial

Services Industry

Tel/Direct: +352 451 452 203

atremblier@deloitte.lu

Deloitte Luxembourg

560, rue de Neudorf

L-2220 Luxembourg

Tel: +352 451 451

Fax: +352 451 452 401

www.deloitte.lu

Deloitte is a multidisciplinary service organisation which is subject to certain regulatory and professional restrictions on the types of services we can provide to our clients, particularly where an audit relationship exists, as independence issues and other conflicts of interest may arise. Any services we commit to deliver to you will comply fully with applicable restrictions.

Due to the constant changes and amendments to Luxembourg legislation, Deloitte cannot assume any liability for the content of this leaflet. It shall only serve as general information and shall not replace the need to consult your Deloitte advisor.

About Deloitte Touche Tohmatsu Limited:

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/lu/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and deep local expertise to help clients succeed wherever they operate. Deloitte has in the region of 200,000 professionals, all committed to becoming the standard of excellence.

© 2016 Deloitte General Services

Designed and produced by MarCom at Deloitte Luxembourg