

The Luxembourg Tax Authorities provide guidance on the application of the net wealth tax reserve

Luxembourg tax alert

On 19 November 2015, the Luxembourg authorities published a **Circular n°47bis** ("Circular") providing guidance on the law dated 25 November 2014 modifying the computation of the net wealth/worth tax reserve (§8a Vermögensteuergesetz) as from 1 January 2015. For the purposes of the present tax alert we will only discuss the specific point covered in the Circular regarding the net worth tax reserve.

The net wealth tax (currently 0.5%) is levied annually on the total net assets of Luxembourg companies. This tax may be reduced in whole or in part if the company creates and maintains for five years a specific reserve amounting to five times the reduction of the net worth tax which should be documented in the commercial accounts.

Until 2014, the net wealth tax reduction of a company was limited to the amount of corporate income tax (including the contribution to the employment fund and before imputation of tax credits) for that tax year. As from 1 January 2015, this reduction has become limited to the amount of the corporate income tax due (including the employment fund contributions and before imputation of tax credits) of the preceding year.

The over-lapping of the old and new rules means that the 2014 results have to be used to determine the special NET WORTH TAX reserve both for 2014 and 2015. The Circular provides for a dedicated rule allowing the taxpayer to create only one net wealth tax reserve to fully benefit from the net wealth tax reduction for both 2014 and 2015. This reserve should correspond to five times the amount of the highest reduction available for either tax year. As mentioned in the Circular, if the maximum reduction possible in 2014 is €5,000 and €10,000 in 2015, it will only be necessary to create a reserve totalling €50,000 (i.e. 5 x €10,000) to benefit from the net wealth tax reduction for both 2014 (€5,000) and 2015 (€10,000). This dedicated rule is only applicable for the 2014 and 2015 NET WORTH TAX reduction respectively.

The Circular also specifies the deadline to document the net wealth tax reserve in the annual accounts for a net wealth tax reduction as from 1 January 2015.

Following the Circular, the deadline for booking the special reserve in the annual accounts remains unchanged. The special reserve may be set up at the moment of the allocation of the result of the year, or at the latest at the time of the closing of the fiscal year following that for which the net wealth tax reduction is claimed. For example, for a reduction of the NET WORTH TAX 2015, the entity can document this when the 2014 results are allocated and at the latest at the closing of the 2016 fiscal year.

Should you have any questions, feel free to contact your usual contact or us.

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