

Luxembourg Tax Alert

Proposal of super deduction for R&D, digital and ecological/environmental transition

14 July 2022

On 4 July 2022, the Chamber of Commerce submitted a proposal to the Minister of Finance allowing certain taxpayers to claim a super deduction of an additional 50% to 100% on their eligible costs for research and development (R&D), digital transformation and ecological and environmental transition. This proposed measure aims to provide an optional tax incentive to companies and should help attract investments in Luxembourg.

The proposed period for the application of the super deduction would start from 2022 year until 2026 (included) with a proposal to extend the period for an additional five-year period.

Additionally, the Chamber of Commerce is proposing to add an additional layer of exemption with a proposal to combine the super deduction with the net-wealth tax exemption on related assets.

Main principles

According to the proposal, the super deduction ("SD") is open to any taxpayer that receives a business profit under the definition of Article 14 of the Luxembourg Income Tax Law ("LITL") that incurs eligible costs during a given tax year. This measure could also apply for agricultural and forest profit or profit arising from liberal profession.

The SD is based on the type of expenses incurred, as well as the company's size and tax capacity. For large companies, the additional deduction is 50% of their eligible expenses, while small-to-medium-sized enterprises (SMEs) and start-ups could deduct an additional 100% of their eligible costs.

Therefore, depending on their size, companies could deduct a portion of all eligible costs by 1.5 or 2 times for corporate income tax and municipal business tax purposes. The proposal also suggests a variable SD rate depending on the type of investments (e.g., an environmental R&D project).

While the extra deduction is intended to be limited to a certain percentage of the taxpayer's taxable income for the year concerned, the proposal also allows companies to carry forward unused SD.

Start-ups, very small businesses and SMEs with a nil taxable result or that are in losses before the SD is applied could ask for refund deduction rights (probably with a limitation as suggested by the proposal).

Applicable conditions

The costs that are eligible for the SD depend on the activity.

Regarding R&D, taxpayers must cumulatively meet the following conditions. The activities must be:

- Undertaken systematically;
- Undertaken as part of fundamental research, industrial research or experimental development; and
- Aimed at increasing the amount of knowledge that is used for new applications, whether those are products, services, processes, methods or organizations.

Regarding digital transformation projects, the taxpayer must meet the following conditions:

- The activity's aim must be to enable the digital and technological transformation of a company's product or service, either by digitizing the existing product or service, or by creating a new activity or developing new services:
 - Automation or dematerialization of the taxpayer administrative process;
 - Modernization of production process with the introduction of innovative digital technology;
 - Strengthening cybersecurity;
- The activity could relate to internal management of the taxpayer or its relation with its clients/service providers.

Regarding the ecological and environmental transition, the taxpayer must meet the following conditions:

- The activity must be linked to increasing taxpayer energy performance or reducing taxpayer energy consumption (e.g. optimization of a building's or production process' energy consumption); or
- The activity must be linked with the use of renewable energy; or
- The activity must relate to other aspects of environmental transition such as the mobility, construction, innovation, procurement and sustainable logistics

Eligible costs

The proposal foresees a large scope of eligible costs, such as:

- Costs for creating tangible or intangible assets (including depreciation expenses) that the taxpayer directly allocates to eligible projects;
- Costs for acquisition or renting tangible or intangible assets (including depreciation expenses) from another party (third party or not) directly allocated to the realization of eligible projects;
- Personnel expenses of employees directly assigned to these projects;
- Company expenses for external consultants and staff from a related or unrelated company to complete or implement these eligible projects;
- Training or professional reconversion costs needed for the implementation of the eligible projects; and
- Expenses regarding protecting intellectual property;

This proposal from the Chamber of Commerce to the Ministry of Finance is encouraging for the Luxembourg economy. It demonstrates a clear interest in boosting R&D projects and supporting Luxembourg businesses' digital and ecological/environmental transitions. Businesses in Luxembourg should follow this discussion closely to ensure they can make informed operational decisions.

If you have any questions or want to know how Deloitte Luxembourg can help you on this topic, please get in touch.

Your Contacts

Bernard David

Partner | Tax Business Leader

T +352 45145 2799

bdavid@deloitte.lu

Thierry Bovier

Partner | International Tax

T +352 45145 4079

tbovier@deloitte.lu

-

Deloitte Luxembourg
20 Boulevard de Kockelscheuer
L-1821 Luxembourg
Grand Duchy of 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 ("DTTL"), its global network of member firms, and their related entities (collectively, the "Deloitte organization"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte's more than 345,000 people worldwide make an impact that matters at www.deloitte.com.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms or their related entities (collectively, the "Deloitte organization") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.