

The Tax department is a dedicated team of highly skilled tax professionals providing comprehensive consultancy and compliance services.

Our solid knowledge of local and international regulations, combined with our wide experience, allow us to serve our clients in a tailored, responsive and value-added manner.

If you need further information, please refer to your usual Deloitte contact person or contact:

Raymond Krawczykowski
Partner | Tax Leader
+352 451 452 500
rkrawczykowski@deloitte.lu

Christian Deglas
Partner | VAT
+352 451 452 611
cdeglas@deloitte.lu

Stephan Tilquin
Partner | Transfer Pricing
Leader
+352 451 452 592
stilquin@deloitte.lu

Pierre-Jean Estagerie
Partner | Global Employer
Services
+352 451 454 940
pjestagerie@deloitte.lu

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Luxembourg Tax Alert.

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The Luxembourg government presents the 2015 budget measures

Luxembourg's government just presented the 2015 budget draft law as well as an additional draft law, package for the future ("zukunftspack"), to promote better public finances as well as modernize State policies. The government already mentioned that this is the first part of the package for the future and additional measures will be disclosed until 2018.

Further to the presentation of the proposed measures of both draft laws, it is worth highlighting that there is no increase foreseen in relation to the corporate and personal income tax schedules. The same income tax scales remain therefore applicable for the year 2015.

Relevant proposed measures, **which will apply as from 1 January 2015**, are outlined below.

VAT

As already announced, the Luxembourg VAT rates will increase by 2% as of 1 January 2015. The VAT rates of 6%, 12% and 15% will increase to 8%, 14% and 17%. The VAT rate of 3% will remain unchanged.

The standard VAT rate of 17% remains the lowest within the EU. In addition to the increase of the VAT rates, there will be certain changes to certain categories of goods and services. For more details, please refer to our dedicated Deloitte VAT newsletter, Input, published yesterday ([here](#)).

Advance tax decisions practice

The Luxembourg government legally formalizes its current advance tax decisions practice.

As is already the case:

- Upon written and legitimate request, the "Préposé" (tax inspector) of the concerned tax office will issue advance tax decision;

- The advance tax decision will be limited to the strict determination of the correct application of national and international laws;
- The advance tax decision shall bind the Luxembourg tax authorities regarding future taxation.

A tax regulation in connection with the process applicable to the advance tax decisions will be issued.

The European Commission is currently investigating possible state aid regarding some advance tax decisions. As stated in various occasions by the European Commission, it is by no means challenging Luxembourg's general tax regime.

Moreover, on the basis of the current draft law, the Luxembourg direct tax authorities, as other foreign tax authorities, could charge a specific administrative fee when requesting information, such as an advance tax decision. No details have been issued as to the way and when this administrative fee will be charged by the Luxembourg direct tax authorities.

Other proposed tax measures for companies

Transfer pricing

In line with the previous announcements made by the Minister of Finance, Pierre Gramegna, the government includes clarifications of the tax law covering transfer pricing. The current legal ground for allowing an upward adjustment of the taxable base based on the arm's length principle is found in article 164 section 2 of the Income tax Law (LITL). Article 56 of the LITL allows also an upward adjustment in case of special relations with an entity located abroad.

The draft law introduces a new article 56 to replace the former one while keeping article 164 (3) LITL under its current form to recast transactions into hidden dividend distributions.

Separately, a new provision is inserted into the procedural part of the tax law to specifically refer to transfer pricing for which the tax authorities may ask for documents to investigate transactions with related parties.

The last section of the new article 56 paves the way for more detailed guidance to be issued on specific transfer pricing matters.

Minimum income tax

Currently, the Luxembourg collective entities holding mainly financial assets are liable to a minimum income tax of €3,000 (excluding the Employment Fund surcharge). Other Luxembourg collective entities are subject to this income depending on the total of their balance sheets.

Further to the draft law, in order to be subject to the minimum income tax of €3,000, the two following conditions should be met:

- qualifying holding and financing assets exceeding 90% of the balance sheet and
- a total amount of balance sheet exceeding €350,000.

Luxembourg collective entities holding mainly financial assets and having a total amount of balance sheet below €350,000 will be liable to a minimum income tax of €500 (excluding the Employment Fund surcharge).

Other proposed tax and social security measures for individuals

Contribution for the funding of children's future

Aiming at financing the Grand-Duchy's family policy, a contribution of 0,5% for the funding of children's future becomes due on professional income (i.e. salary) and on replacement income (i.e. unemployment benefit, sickness pay and pensions).

Following the same mechanism as the dependence insurance, the basis of the contribution should be reduced by a lump-sum amount of EUR 480 (i.e. ¼ of the minimum wage) and applied without cap on the remaining portion of the income.

Example: For a gross income of EUR 3.500, the monthly contribution would amount to EUR 15,10; For a gross income of EUR 4.500, the monthly contribution would amount to EUR 20,10.

As is already the case for other mandatory monthly withholdings (i.e. withholding tax and social security contributions), this contribution will be withheld at source on a monthly basis by the employer.

Single payment of family allowance and child allowance

For administrative simplification purposes, the draft law aims at achieving a single payment that should include the family allowance together with the child allowance payment ("boni pour enfant") for children who give right to these benefits. Currently, these two items are paid separately at different dates.

Directors' fees

In addition, the Government is also considering the increase of a certain flat withholding tax rate such as that currently applied to directors' fees income (i.e. 20%).

The Luxembourg parliament will debate the proposed measures, possibly amend them and vote their final version before year end.

We will keep you updated on future developments in connection with this matter.

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Deloitte General Services
Société à responsabilité limitée
560, rue de Neudorf
L-2220 Luxembourg

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