

Implementation of the Luxembourg tax amnesty: a temporary safe way-out for Luxembourg taxpayers

Luxembourg Tax Alert

26 February 2016

Luxembourg has launched as from 1st January 2016 and for a limited period of 2 years, a voluntary tax regularization process for Luxembourg resident taxpayers (<http://www.internationaltaxreview.com/Article/3525601/Luxembourg-Luxembourg-tax-amnesty-an-unmissable-opportunity.html>).

Who?

Luxembourg resident taxpayers, both individuals and legal entities, who wish to regularize their tax situation have the opportunity to file a corrective tax return. The sanctions would then only be limited to the payment of the amount of tax due, with a 10% increase applying for the corrective tax returns filed in 2016, and 20% during the year 2017.

What?

This regularization process only applies to taxpayers whose omission to declare their taxable income falls into the following categories of infraction: voluntary tax fraud, tax scamming, and involuntary tax fraud. Any other infringement (such as money laundering, terrorism, etc.) will not benefit from this regularization process, and will be reported to the Public Prosecutor's Department to be sentenced accordingly.

The concerned taxpayers have to file one corrective tax return per year (of residence), and must in consequence be attentive to report all income omitted since 2006 (or less if the taxpayer became a Luxembourg resident less than 10 years ago).

How?

The tax administration has not issued any specific form for the filing of such a corrective tax return. The taxpayers can provide the Luxembourg tax administration with the rectification on a separate sheet of paper, and send it along together with all the necessary supporting documents.

Such documents include notably:

- A sworn statement certifying that the rectification covers all income omitted up to 10 years backward;
- A detailed description of the origin of the undeclared income, along together with any related supporting document;

- A certificate from any entity giving an exhaustive list of the taxpayer's deposited income (e.g. bank certificate);
- For legal entities: corrected accounts.

While one corrective tax return should be filed for each tax year concerned, the Luxembourg tax administration may further decide to soften those requirements and allow the taxpayer to file one tax return/report regrouping all the tax years concerned.

Why?

Provided the tax administration, who benefits from a 10-year prescription period, decides to audit a taxpayer before the voluntary regularization request is introduced, cash penalties ranging up to ten times the amount of unpaid taxes could be due, potentially combined with up to 5 years of imprisonment.

It is therefore strongly recommended that the concerned taxpayers rectify spontaneously their situation when they still have a chance to do so. Indeed, we can anticipate that starting from 2018, once the regularization period will be over, the Luxembourg administration will increase its audits.

<http://www.aed.public.lu/actualites/2016/01/Regularisation-impot/index.html>

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