

## Flash News

### Proposals on tax changes affecting corporations and individuals in Luxembourg

In the context of the presentation of the annual budget bill, the Luxembourg Government has submitted two draft laws on 14 October, 2015 (No. 6900 and No. 6891), which provide for tax changes affecting corporations and individuals.

- **Changes to the minimum tax for corporations**

Currently, the Luxembourg based corporations are subject to a minimum tax for both corporate tax (reference is made to our Flash News of 5 January 2015) and net wealth tax purposes (EUR 62 for S.A. Société anonyme /Public limited company, S.C.A. Société en commandite par action / Partnership limited by shares and S.E. Société Européenne / European company and EUR 25 for S.à r.l. Société à responsabilité limitée / Limited liability company).

Within the draft law, the minimum tax for corporate tax purposes will be abolished and taken into account again through a corresponding change of the net wealth tax and under addition of a further tariff layer. The minimum tax rates shall correspond to the corporate tax rates (including the contribution to the employment fund). The distinction between finance and holding companies and the other companies was also resumed, as was the classification based on the balance sheet total.

<b>Balance sheet total</b>	<b>Other companies</b>	<b>Finance and Holding companies</b>
<b>0 to 350.000</b>	535 €	535 €
<b>350.001 to 2.000.000</b>	1.605 €	3.210 €
<b>2.000.001 to 10.000.000</b>	5.350 €	3.210 €
<b>10.000.001 to 15.000.000</b>	10.700 €	3.210 €
<b>15.000.001 to 20.000.000</b>	16.050 €	3.210 €
<b>20.000.001 to 30.000.000</b>	21.400 €	3.210 €
<b>Exceeding 30.000.001</b>	32.100 €	3.210 €

Moreover, a graduated net wealth tax rate shall become applicable as from 01.01.2016.

- 0,5% for a tax base of up to EUR 500 million (as before)
- For a tax base of over EUR 500 million, the net wealth tax consists of the sum of EUR 2,5 million and 0,05% of the portion of the tax base exceeding EUR 500 million, whereby there is no cap.

In order to apply the minimum tax to securitization vehicles, SICARs, ASSEPs and SEPCAVs, the respective legal provisions, which provide for the general exemption of these companies from net wealth tax, shall also be limited to such an extent that the exemption from net wealth tax only applies subject to this minimum tax.

- **Abrogation of the IP Regime**

In connection with the OECD report published on October 5, 2015 on action 5 of the Action Plan on Base Erosion and Profit Shifting (BEPS Action Plan), it is planned to abolish the Luxembourg IP Regime (Art. 50bis LITL and §60bis BewG) with effect from 1 July 2016 (respectively from 1 January 2017 for the determination of business assets). In line with the OECD recommendations, it should be optional for taxpayers, who already make use of this regulation, to continue to apply the IP Regime for a transitional period of 5 years starting on 1 July 2016 and ending on 30 June 2021.

Currently, no draft for introducing new regulations for a new IP Regime has been submitted yet, which then would be in accordance with the so-called “Nexus Approach” provided for by the OECD. It is however expected that a respective draft bill will be put forward in the near future.

- **Changes impacting individuals**

The draft bill also proposes tax changes with regard to individuals, who are only tax resident in Luxembourg during part of the year. So far, in the event of a partial tax residence, only employees could opt to be treated as if they were tax resident for the entire year. This option might be advantageous, as various lump-sum amounts, limits, allowances, etc. can only be taken into account in the tax assessments in this case. This option shall now be made available to all partial resident taxpayers, regardless of the type of income generated.

Moreover, it is provided for the possibility that individuals, who change their tax residence to Luxembourg, can opt for a so-called “step-up” in relation to their qualifying participation in corporations (> 10%) and the respective convertible loans. This measure is intended to be introduced to prevent possible double taxation, in as much as an exit tax, for instance, is imposed on such securities in the exit country.

With this step-up, the purchase price of the respective securities, from a tax point of view, will be revalued to their market value at the time of the move to Luxembourg. Thus, part of a possible subsequent capital gain, relating to the period before the move, remains tax-free in Luxembourg.

Whereas the initial date of acquisition before the move is used for the calculation of the respective holding period, the year of arrival in Luxembourg should be taken as a basis for the calculation of the revaluation coefficient as laid down in Art. 102 (6) LITL.

**For further information, do not hesitate to contact one of our team members, who will be glad to assist you at any time:**

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