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Luxembourg Newsflash - 6 December 2018

New tax measures revealed in the coalition agreement published by the future government – ATAD Bill amendments

Further to the elections for Parliament held in October this year, the former ruling coalition between the liberal, ecological and socialist parties emerged victorious and the Prime Minister was appointed by the Grand Duke to form a new government.

On 3 December 2018, the coalition partners finalised their governing plan for the next 5 years in a coalition agreement ("**Coalition Agreement**") which was signed the same day. The Coalition Agreement confirms the ambition, amongst others, to pursue a responsible, sustainable and innovative financial policy based on sound public finances. It also recognises the importance of maintaining an attractive economic environment through a competitive economic and tax environment as well as a high level of infrastructure investments. Furthermore it provides for diversification of the economy and the financial centre for high-tech businesses.

On 5 December 2018, the government also submitted to the Parliament a modified bill implementing the ATAD. Contrary to some expectations in the market, the new bill did not include any substantial changes, however, and was limited to some technical and linguistic modifications as suggested by the State Council. Therefore, from a substantive perspective, the initial ATAD bill remains largely unchanged. With regard to the initial ATAD implementation bill, please revert to the related Newsflash.

The Coalition Agreement contains amongst others several tax related provisions, which may be summarised as follows:

Public Finances

The future government has committed itself to continuing to pursue a responsible budget policy by observing the medium term objective of its public finances throughout its term and maintaining public debt at all times below the 30% GDP threshold. It has also committed itself to maintaining Luxembourg's AAA rating.

Corporate taxation

– Reduction of the aggregate corporate income and municipal tax rate by 1% as from 1 January 2019 (currently the maximum aggregate rate is 26.01% for Luxembourg-city);
– Increase in the maximum profit base benefitting from the reduced corporate tax rate of 15% from € 25,000 to € 175,000;
– Commitment to taking into account the consequences of technical progress, Brexit and international developments (ATAD I and II, CCTB, CCCTB, etc.) in order to ensure that the effective taxation of business will not exceed its current level;
– Exemption of all financial state support;
– Simplification of the tax system and modernisation of the tax regime of non-profit institutions;
– Replacement of the current tax regime of warrants by an improved regime for highly qualified impatriates and employee participation schemes;
– Improvement of the current tax regime for the use of electric and low-emission vehicles;
– Review of carried interest taxation; and
– Review of certain energy taxes in compliance with Luxembourg's international commitments.

Individual taxation

– Simplification of personal income tax, e.g. introduction of a single tax class, lump-sum exemptions in respect of benefits in kind and allowances, simplification regarding the deductibility of donations;
– Review of the withholding tax system for royalties paid to non-resident artists performing in Luxembourg;
– Development of electronic tax filings;
– Introduction of a favourable tax regime for investments in start-ups; and
– Review of the tax consequences on home office activities of cross-border workers.

Value added tax

Extensions of the reduced rate of 3% to renovations of real estate properties older than 10 years (as opposed to 20 years), digital books and press, eligible repair works, essential hygiene goods and certain phytosanitary goods regarding biological production.

Real estate tax

Reform of the current real estate tax in order to tackle real estate speculation.

Inheritance taxes

Review of the possibility of adjusting certain inheritance and death transfer (in indirect line) tax rates in order to account for the evolution of real estate prices.

Conclusion

The tax provisions included in the Coalition Agreement do not significantly change the Luxembourg fiscal landscape but confirm the political will to pursue a continued stable fiscal policy taking into account international developments and the interests of the Luxembourg financial centre. The Coalition Agreement opposes for instance the introduction of digital taxation and refrains from introducing a financial transaction tax (FTT) until a global worldwide agreement has been concluded. It is also committed to preventing an increase in the current subscription tax applicable to funds and to further encouraging the development of alternative funds. Nevertheless the Coalition Plan also mentions the intention to increase the resources of the Luxembourg tax authorities and to tackle certain abuses, in particular the abuse of the SIF's tax exempt status in the context of real estate assets situated in Luxembourg. However, the much awaited reforms required to secure Luxembourg's competitiveness, such as the abolition of dividend withholding tax and net worth tax, have once again not been included in the government's plans.

In relation to the ATAD implementation, the government and parliament are on track to implement the directive by the end of the year. However, some helpful suggested amendments proposed by the Chamber of Commerce, for instance, have not yet been taken into account and the impact of those new rules needs to be carefully monitored. In the legislative process, there is however still the possibility that the Finance Committee may suggest certain amendments to the ATAD implementation bill in order to address certain issues - like the absence of the tax group exemption for the interest limitation rules - which have not yet been taken into account by the government.

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