

## Draft Law 8186

### Amendments to Luxembourg Tax Procedures

Back in March 2023, the Luxembourg Government submitted to the Parliament draft law number 8186 which proposes amendments to the general tax law or Abgabenordnung. The draft law is still under review, yet the changes proposed will be applicable as soon as the law will be published, unless indicated otherwise (some provisions are proposed to entry into force as of tax year 2024).

Below please find a summary of the key changes contained in the draft law:

- **Transfer Pricing:**
  - **Changes concerning Advance Pricing Agreement (APA)** procedure whereby the decision to accept those will be by the competent authorities of the contracting states as determined in the specific Double Tax Treaty (DTT). The administrative fee in Luxembourg for the APA application would increase from the existing maximum fee of €10,000 to a range that goes between €10,000 and €20,000, depending on the complexity of the request.
  - **Changes concerning TP documentation** with the introduction of §171(4), which obliges taxpayers to provide specific type of TP documentation (Master File, Local File, etc.) to support the arms' length price and conditions among associated enterprises on the basis of certain thresholds upon request by the Luxembourg Tax Authorities (LTA). This is expected to apply as from tax year 2024.
- **Administrative appeals:**
  - **The conditions to claim before the director of the LTA** would now be the same conditions existing for the claims against the administrative tribunal (i.e. support the appeal with a summary of the facts and with a legal reasoning, etc.). Otherwise, the claim will be dismissed.
  - **The introduction of a 12 months deadline** to contest the tax director in case of negative silence. Until now, the taxpayer had no deadline to bring the case to the administrative court in case of negative silence from the tax director (i.e. no response after six months of having filed a claim). Under the proposal, if not brought into the administrative tribunal before the 12 months deadline, the tax assessment would become final.



- **Mutual Agreement Procedure (MAP) and arbitrations:** New provision under which tax assessments may be issued, withdrawn or modified as a result of a MAP or arbitration decision in the context of a DTT.
- **Annual accounts binding effect:** It is proposed that as from tax year 2024, annual accounts that have not been filed electronically in due time or in due compliance before the Luxembourg Company Register (RCS), would not be binding for the LTA.
- **Instalments of tax payments:** Tax collectors officers would be able to allow payment of tax by instalments, provided that the immediate tax payment causes considerable difficulties for the taxpayer and that the tax deferral will not put the recovery at risk.
- **Estimated tax assessments (taxation d' office):** These are assessments made ex officio by the LTA when e.g. there is no tax return filed despite of several reminders. It is proposed that as from tax year 2024, the appeal against this assessment will be limited only in the case that the taxpayer could prove that there is more than a 10% difference in value between the actual tax liabilities and the ones as per the calculation of the LTA.
- **Administrative cooperation:** Proposal to reinforced cooperation and exchange of information between the LTA and the Commission de Surveillance du Secteur Financier (CSSF) and the Commissariat aux Assurances (CAA).
- **Modernization of tax administration:** the LTA may request from taxpayers the submission of documents in electronic format (if available). The required format is expected to be standardized with the one used by other administrations (e.g. VAT). Further, external service providers of the LTA would now be subject to tax secrecy, under which tax information shall be kept confidential.

Up to July 2023, there is no public date assigned for debate and vote in Parliament. Andersen Luxembourg will monitor closely any relevant updates.

**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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