Draft Law 8414
Further amendments to Luxembourg Tax Law – Part II

Introduction

On 17 July 2024, the Luxembourg government published a draft law 8414 (Part II), as a continuation of a broader tax reform, which includes the amendments proposed by draft law 8388 (Part I). As a reminder, the latter includes changes in net wealth tax, clarifications on the redemption of classes of shares and the possibility to opt out of the participation exemption, among others. For further details on Part I, please refer to our Newsletter of June 2024.

As for Part II, the government aims to reduce the corporate income tax (CIT) rate to get it closer to the average rate in OECD countries; create an attractive environment for talent and acquisition via e.g., amendments to the impatriate regime and profit premiums; reduce the income tax burden on individuals e.g., tax class 1A; and support the local financial sector into new investment fund activities, as well as update the SPF Law.

Most of the measures are intended to enter into effect as from 1 January 2025.

Highlights

1. **Reduction of the corporate income tax (CIT) rates:** It is proposed to reduce the CIT rates (from the two main brackets of 15% and 17%), to 14% and 16%. Accordingly, bearing in mind the surcharge of 7% for employment fund and municipal business tax, the maximum aggregate corporate tax rate (in Luxembourg City) will decrease from 24.94% **to 23.87%;** while for "small businesses" from 22.80% to 21.73%.

2. **Changes to the impatriate tax regime (talent acquisition measure):** Currently, the regime provides for the impatriate (i) a tax exemption of listed relocation expenses borne by the company (e.g., housing, school fees, etc.) and (ii) a 50% tax exemption on an "impatriation premium". This is an additional "relocation allowance", which is limited to 30% of the gross annual remuneration (excluding benefits in cash and in-kind), granted to cover additional living expenses in Luxembourg, as host country. The new model simplifies the regime by applying a **fixed 50% tax exemption** on the gross amount of the annual remuneration (excluding benefits in cash and/or in kind). The exemption applies on a maximum of EUR 400,000 of remuneration. The conditions to qualify remain much the same except that now the activity in Luxembourg instead of being the "main one", shall at least represent 75% of the impatriate's working time. Impatriates may switch from the previous regime to the new one, for which a request to the Tax Authorities must be done. As a result of the amendments, the list of "relocation expenses" that were eligible is removed, which simplifies admin tasks for the employers. The regime remains available for 8 years as from the impatriate's starting date of the assignment in Luxembourg.

3. **Changes to the profit-sharing bonus or "participative premium" (talent acquisition measure):** Companies will be able to allocate 7.5% (as opposed to 5%) of the positive result from the previous financial year as a bonus/premium for the employees, with an increased cap of 30% (as opposed to 25%) of the employee's annual gross fixed salary (i.e., excluding benefits in cash and in-kind).

4. **New bonus for young employees (talent acquisition measure):** Granted under the discretion of the employer, the bonus may rank between EUR 2,500 and EUR 5,000 (depending on the annual remuneration). 75% of the bonus is tax exempt for the young employee under the following conditions: (1) by the beginning of the fiscal year, the employee is under 30 years old; (2) this job must be the first indefinite-term contract with a Luxembourg company/permanent establishment (3) the bonus will be paid maximum for 5 years.

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The tax exemption will not apply if the employee decides to change the employer (as the second condition will cease to exist). No tax exemption applies on bonus granted for employees with annual gross remunerations higher than EUR 100,000.

5. **Amendments on Personal Income Tax:** This includes a (i) reduction in tax progression for Tax Class 1A impacting single parents, widows, and citizens above 64 years old; (ii) an increase of the single parent tax credit (EUR 3,504 vs. EUR 2,505); (iii) an increase of the tax deduction for dependent children that are not part of the household (EUR 5,424 EUR vs. EUR 4,422 per child) and (iv) full tax exemption in all tax classes for individuals receiving the unskilled minimum social wage.

6. **New tax credit on paid overtime for cross-border workers:** The tax credit is calculated based on the paid overtime, with a cap set at EUR 700 per year for a gross remuneration above EUR 4,000 per year, and subject to conditions. It applies only to residents of countries with which Luxembourg has entered into a double tax treaty, it will not apply for gross overtime payments below EUR 1,200, it can only be granted upon request (via tax assessment or an annual tax return). This measure will take effect from the 2024 tax year.

7. **Update of the Private Wealth Management Companies ("SPF") Law:** Aiming to mitigate the abusive use of this vehicles, the draft law proposes to increase the minimum annual subscription tax from EUR 100 to EUR 1,000, as well as the possibility of the Luxembourg indirect tax authorities to apply increased penalties up to EUR 10,000 or EUR 250,000, depending on the severity of the violation including the withdrawal of the tax status for SPFs. There are clarifications on the computation of the subscription tax for those companies whose fiscal year does not align with the calendar year.

8. **Exemption from the subscription tax for UCITS ETFs:** These are funds or "Undertakings for Collective Investment in Transferable Securities - Exchange Traded Funds" traded in Luxembourg. To qualify for this exemption, UCITS must be continuously traded on at least one regulated market or multilateral trading facility. The exemption only applies to those classes of units or shares (in case of multiple ones) in the UCITS that meet the criteria for ETFs.

9. **Clarifications on the limitation of deductible borrowing costs:** The amendment aims to clarify the application of this rule for "standalone entities" and its anti-abuse measures.

Contact us

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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