

Flash News

Draft Budget law 2023: new tax measures

On 12 October 2022, the 2023 budget bill (hereinafter “the Budget bill”) has been released. In order to be enforced as from 1 January 2023, the Budget bill needs the approval of the Parliament (which may amend its content), expected in December 2022.

The Budget bill does not introduce any major change with regards to tax measures, but includes the following main tax-related elements:

- New deadline for the submission of tax returns;
- Extension of scope of the impatriate regime and modification of profit-sharing scheme rules;
- Clarification on the interpretation of the reverse hybrid rules;
- Technical changes for some Luxembourg Income Tax Law (“LITL”) provisions, such as restriction of accelerated depreciation regime for rental property, minimum wage tax credit, single parent tax credit;
- VAT amendments;
- Amendments of the Law on Excise Duties¹

New deadline for the submission of the tax returns

The Budget bill provides for an extension of the filing deadline for corporate income tax, municipal business tax, net wealth tax and personal income tax returns. In addition, the filing deadline for the request to be made by partners and married resident/ non-resident taxpayers when opting to the individual/ joint taxation will be extended. As from fiscal year 2022 (and as from 1 January 2023 for net wealth tax returns), the official deadline for the above-mentioned tax returns and requests will be 31 December of the following year (instead of 31 March).²

The extension follows the common tax practice. At the same time, the Budget bill proposes to restrict the possibility for the taxpayers to ask for an extension of the filing

¹ *Loi du 17 décembre 2010 fixant les droits d'accises et taxes assimilées*

² Cf. Art. 3 Budget bill modifying Art. 3bis (5), Art. 3ter (1) LITL, and Art. 4 Budget bill modifying § 167 (3) of the General Tax Code (*Loi générale des impôts*).

deadline, through the repeal of § 167 (4) of the General Tax Code. As a consequence, the taxpayer is required to submit the tax return within the new legal deadline.

As a reminder, penalties for late or non submission of a tax return are equal to 10% of the tax due and up to EUR 25.000.

Extension of scope of impatriate regime and modification of profit-sharing scheme rules

In the aim of strengthening the competitiveness of Luxembourg companies and attracting talents, the Budget bill proposes to extend the scope of the impatriate regime and to modify the profit-sharing scheme rules with the following provisions:

- The Budget bill suggests reducing the minimum annual remuneration (excl. benefits in kind or cash) required for an impatriate to benefit from the regime from EUR 100.000 to EUR 75.000;
- The current profit-sharing scheme rules grant an exemption of 50% of the remuneration (i.e. *prime participative*) for the employee hired from abroad, provided that the remuneration does not exceed 5% of the positive result of the employer company for the year; the Budget bill suggests to compute the 5% threshold based on the aggregate result of all companies forming a tax unity (in case of a group of companies).

Clarification on the interpretation of reverse hybrid rules

ATAD2 rules, including the reverse-hybrid mismatch measures are applicable from 2022 in Luxembourg. Art. 168^{quater} of the LITL states that an entity, which is treated as transparent for Luxembourg tax purposes, but seen as opaque in the jurisdiction of the partners shall be regarded as a Luxembourg tax resident and be subject to tax on the portion of net income which is otherwise not taxed due to this mismatch of qualification.

The Budget bill clarifies the existing rule by specifying that these rules apply only if the double non-taxation of the net income or part of the net income results from the different qualification of the Luxembourg entity.

Various technical changes to LITL provisions

The Budget bill proposes the following technical changes related to certain LITL provisions:

- Limitation of the application of the reduced accelerated depreciation of 4% for rental properties (introduced with 2021 Budget Law) to two rental properties/

parts of rental properties, acquired or constituted after 31 December 2022 for the entire taxable period of the taxpayer in Luxembourg;

- Increase of the amount of the social minimum wage tax credit³ (CISSM) and the single-parent tax credit (CIM), in line with the increase of the minimum social wage.

VAT amendments

In the view of supporting the country's energy transition, the Budget bill proposes to extend the scope of certain VAT rates:

- The super reduced rate of 3% shall apply to the supply and installation of solar panels on private residential and public properties;
- The reduced rate of 8% (7% in 2023) shall apply to the repair of household appliances and for the sale, renting and repair of bicycles (including electric ones).

Furthermore, on 20 October 2022 the Parliament has adopted a bill which introduces a temporary reduction of three of the VAT rates by 1% for the period from 1 January to 31 December 2023.

As a consequence, the standard VAT rate will decrease from 17% to 16%; the intermediary VAT rate will decrease from 14% to 13% and the reduced VAT rate from 8% to 7%.

Amendments of the Law on Excise Duties

With the aim to promote the use of energy produced from renewable sources, biofuels and bioliquids shall be exempt from the CO₂ tax.

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

Matthias Gutknecht	(Partner)	Phone: +352 26 86 63-330
Asbed Chahbazian	(Partner)	Phone: +352 26 86 63-315
Gabi Roeder	(Partner)	Phone: +352 28 800 266
Christel Begué	(Director)	Phone: +352 26 86 63-325
Alexia Christodoulou	(Director)	Phone: +352 26 86 63-321

³ The Budget bill modifies Art. 139quater (3) LITL.