

ATOZ TAX ALERT



13 October 2017

2018 Budget: Main Tax Measures

On 11 October 2017, Finance Minister Gramegna presented the 2018 budget to the Parliament. The 2018 budget draft law includes some tax measures. An additional reform is in the pipeline, with some upcoming changes to the tax regime of stock option plans. In this ATOZ Tax Alert, we summarise the main tax changes to come in 2018.

Corporate income tax measures

Scope of investment tax credit extended to the acquisition of software

The draft law extends the scope of the investment tax credit (bonification pour investissement) to the acquisition of software. However, the benefit of the investment tax credit is subject to certain conditions and limitations:

- The investment tax credit only applies if the software is acquired from a third party. Therefore, acquisitions from related parties within the meaning of article 56 Income Tax Law (ITL) are excluded.
- It is not possible to benefit both from an intellectual property regime and from the investment tax credit for the same software. Thus, if a tax payer claims the investment tax credit benefit for the acquisition of specific software, the income generated by this software will not be able to benefit from an IP regime.
- The global investment tax credit amounts to 8% for the first tranche of EUR 150,000 and 2% for the tranche exceeding EUR 150,000. However, the tax credit may not exceed 10% of the tax due for the tax year during which the operating year is ending during which the acquisition was made.

Scope of investment tax credit extended to the acquisition of software

The scope of the investment tax credit is extended to zero-emission cars under certain conditions.

Individual tax measures

Tax classes & non-resident tax payers

As announced this summer by the Luxembourg Government, the draft law extends the scope of situations in which non-resident tax payers will be able to be taxed in the same way as resident taxpayers (application of article 157ter ITL).

The draft law provides that non-resident taxpayers who do not have at least 90% of their worldwide income taxable in Luxembourg will still be able to be taxed in the same way as Luxembourg resident taxpayers if the portion of their foreign income which is not taxable in Luxembourg amounts to less than EUR 13,000.

In addition, when determining whether the 90% requirement is met, the part of the salary income which becomes taxable in the residence state of the taxpayer in application of a double tax treaty (because the maximum amount of days spent by the taxpayer outside of Luxembourg, as provided by the tax treaty, is exceeded) is disregarded. This means that the part of the salary which is taxed in the residence state of the taxpayer is still assimilated to income taxable in Luxembourg in order to determine whether the 90% requirement is met. However, this applies only up to a maximum of 50 days spent outside of Luxembourg.

Finally, the law on the 2017 tax reform has granted married couples as of tax year 2018 the possibility to choose whether they would like to continue being taxed collectively in tax class 2 or whether they would like to be taxed separately. To complement this measure and provide married couples with more flexibility, the draft law provides that married couples will have until 31 March of the tax year following the tax year concerned (i.e. 31 March 2018 for tax year 2017) to make their choice.

Tax deduction for eco-friendly vehicles extended to plug-in hybrid electric vehicles

The tax deduction introduced last year for eco-friendly vehicles is extended to plug-in hybrid electric vehicles. The maximum amount of tax credit applicable to these vehicles will be EUR 2,500.

Other measures of the draft law

Amendments to the rules on exchange of information upon request

Following the decision of the Court of Justice of the European Union in the Berlioz case (C-682/15), the Luxembourg rules on exchange of information upon request have had to be amended in order to bring them in line with EU law.

The draft law amends the law of 25 November 2014 on the procedure of exchange of information upon request in order to make sure, among others, that the Luxembourg authorities can verify the foreseeable relevance of the information that is being requested so as to safeguard against any fishing expeditions by requesting Member States.

VAT changes

Some provisions of the VAT law will be amended, including the extension of the scope of the VAT exemption applicable to fund management services (article 44, § 1 d of the VAT law) to the management of internal collective life insurance funds (fonds d'investissement internes collectifs d'assurance-vie) under certain conditions.

Other announcements – Stock options plans

Finally, during the presentation of the 2018 budget, a reform of the tax regime of stock-options or warrants has been announced, the aim of which would be to align the tax rate to half the global rate of income tax, as is currently the case for capital gains.

It will be necessary to await the release of a draft law in this respect in order to assess the impact of the changes to be introduced to this tax regime.

Can we help? Do you have further questions?



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