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GLOBAL TAX

Financier Worldwide canvasses the opinions of leading professionals on current trends in global tax.

LUXEMBOURG

ATOZ Tax Advisers

Respondent

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Romain Tiffon is a partner in the international and corporate tax department at ATOZ. A tax professional since 2006, he has experience in structuring pan-European alternative investment funds across all asset classes, as well as coordinating tax structuring advice and implementation for a wide range of institutional investors. He also has extensive experience in structured finance, M&A transactions and sovereign wealth funds.

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Q. Could you outline what you consider to be the key developments relating to tax regulations that you have seen in Luxembourg over the last 12-18 months?

A. Luxembourg has introduced several tax measures aimed at enhancing its attractiveness as a hub for asset management and innovation, and at improving Luxembourg's ability to attract and retain highly skilled talent. A key development is the reform of the carried interest regime, which modernises and clarifies the existing framework, broadens the scope of eligible beneficiaries and offers highly competitive tax treatment. Depending on the structure, carried interest may be taxed at only one quarter of the taxpayer's marginal income tax rate or even benefit from a full exemption where certain conditions are met. Another notable initiative is the proposed stock option reform for innovative start-ups. The draft law would defer taxation until the disposal of the underlying shares, with gains taxed at one quarter of the employee's marginal tax rate. It also codifies the taxation of stock options under the ordinary regime, providing long-awaited legal certainty. Finally, Luxembourg has introduced a new Start-Up Tax Credit for individuals investing in qualifying innovative companies, demonstrating the government's commitment to entrepreneurship, innovation and the development of the domestic start-up ecosystem.

Q. What factors are driving the political agenda on tax-related decisions? Does there seem to be a motivation to get tougher on tax enforcement, for example?

A. The main driver of Luxembourg's tax agenda appears to be competitiveness rather than stricter tax enforcement. The government has focused on measures aimed at attracting investment funds, talented employees, entrepreneurs and private capital, while enhancing legal certainty. While Luxembourg continues to align with international tax standards, the recent reforms are primarily geared toward enhancing attractiveness, fostering innovation and providing greater legal certainty, rather than signalling a broader policy shift toward tougher domestic tax enforcement.

Q. To what extent is transfer pricing a key challenge for multinational enterprises?

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Many tax risks stem not from aggressive planning, but from weak tax governance and poor coordination.

Are too many companies underestimating the importance of compliance and risk management in this area?

A. Transfer pricing (TP) is one of the most significant tax challenges facing multinational enterprises today. Tax authorities in Luxembourg and abroad are increasingly scrutinising intragroup transactions, and Luxembourg has even established a dedicated TP division to strengthen expertise in this area. TP is now systematically reviewed during tax audits, making it a key risk area for international groups. Many companies still underestimate the importance of compliance and risk management. A common mistake is treating TP documentation as a retrospective compliance exercise rather than preparing robust contemporaneous documentation when transactions are entered into.

In practice, most disputes arise from inadequate documentation, while well-supported TP analyses remain one of the most effective defences against audit challenges and double taxation. As fiscal pressures and audit activity continue to increase globally, TP should be viewed as a strategic governance and risk management

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issue rather than a mere compliance requirement.

Q. How would you describe the tax laws in Luxembourg as they relate to foreign entities? Has there been an effort to tighten laws and crack down on using offshore tax jurisdictions?

A. Luxembourg's tax system remains highly international and attractive to foreign investors, but recent years have seen a clear move toward greater transparency and the implementation of robust anti-abuse measures. The objective is not to discourage cross-border investment, but to ensure that tax outcomes are aligned with genuine economic activity, economic substance and commercial rationale. In line with Organisation for Economic Co-operation and Development (OECD) and European Union (EU) initiatives, Luxembourg has adopted a range of measures designed to curb aggressive tax planning. These include defensive measures targeting transactions involving jurisdictions included on the EU list of non-cooperative jurisdictions, such as restrictions on the deductibility of certain interest and royalty payments and increased scrutiny of arrangements involving those jurisdictions. That said, the overall policy direction is best characterised as compliance with international tax standards rather than a crackdown on foreign entities or offshore jurisdictions. Luxembourg has consistently implemented major international reforms, including the OECD base erosion and profit shifting recommendations, the EU Anti-Tax Avoidance Directives, mandatory disclosure rules and the Pillar Two global minimum tax. As a result, Luxembourg continues to combine international competitiveness with a strong commitment to transparency, substance and internationally accepted tax principles.

Q. Have you seen an increase in tax disputes in Luxembourg? What lessons can companies learn from their outcome?

A. Tax disputes have become more frequent in Luxembourg over recent years, reflecting a broader international trend toward increased tax scrutiny and enforcement. Disputes most commonly arise in areas such as TP, cross-border financing structures, withholding taxes and the application of anti-abuse provisions. A key lesson from recent cases is that economic substance and commercial rationale are critical. Tax

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authorities and courts increasingly look beyond the legal form of a transaction to assess its underlying economic reality. Structures that lack a clear business purpose or cannot be adequately substantiated are more likely to be challenged. Another important takeaway is the value of robust contemporaneous documentation. Companies that can clearly document their transactions, decision-making processes and TP policies are generally in a much stronger position during audits and litigation. Overall, businesses should view tax risk management as an ongoing governance matter rather than a purely compliance-driven exercise. Regular reviews of cross-border structures and documentation can significantly reduce the likelihood of disputes and improve the chances of a successful outcome when challenges arise.

Q. If a company does find itself the subject of a tax-related investigation, or enquiry, what steps should it take to manage its relationship with tax authorities?

A. If a company becomes the subject of a tax investigation or enquiry in Luxembourg, the most important step is to engage with the tax authorities in a proactive, transparent and professional manner. Companies should promptly assess the scope of the enquiry, preserve all relevant documentation and ensure that responses are accurate, consistent and supported by evidence. Equally important is strict compliance with procedural requirements. Luxembourg tax litigation is highly formalistic, and a significant number of cases are dismissed on procedural grounds without the courts ever examining the substantive tax issues. Companies should therefore pay close attention to statutory short deadlines, filing requirements and the proper form of administrative appeals. Missing a deadline, filing an incomplete appeal or failing to be duly represented where required can result in a claim being declared inadmissible. For this reason, taxpayers should seek specialised advice at an early stage and implement a clear audit and litigation strategy. Good procedural management is often just as important as having a strong technical tax position, as procedural errors can prevent even well-founded arguments from being heard by the courts.

Q. What general advice would you give to companies on effective management of

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their tax affairs? How important is it to improve internal functions and processes across the organisation?

A. Effective tax management starts with treating tax as a strategic business matter rather than a year-end compliance exercise. Companies should ensure that significant transactions are reviewed from a tax perspective at an early stage, that key decisions are properly documented, and that tax positions are aligned with the commercial reality of the business. Equally important is the strength of internal functions and processes. Many tax risks stem not from aggressive planning, but from weak tax governance and poor coordination. Tax, finance, legal and operational teams should be involved early in key decisions, while significant transactions should be assessed before implementation. Strong governance, clear responsibilities and robust documentation are essential to managing tax risk effectively. Companies should invest in clear governance procedures, robust documentation and regular reviews of their tax positions. Strong internal controls reduce the risk of disputes and penalties and enable businesses to respond efficiently to requests from tax authorities. ❑

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Founded in 2004, **ATOZ** is a high-end independent advisory firm based in Luxembourg offering a comprehensive and integrated range of direct and indirect tax solutions as well as transfer pricing, corporate and aviation finance and tax litigation services to both local and international clients.

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