2024 Tax Forecast

OUR INSIGHTS AT A GLANCE

- Various tax measures such as the major reform of the current investment tax credit framework and the adjustment of income tax scales will be applicable as from tax year 2024.
- In the 2023-2028 coalition agreement of the recently elected Luxembourg government, various measures related to income taxes, subscription tax, housing, the modernisation of tax administration and the tax procedure were announced.
- The new double tax treaty between Luxembourg and the UK as well as the new protocol to the double tax treaty between Luxembourg and Germany are on the way to be soon applicable.
- We provide hereafter an overview of the main changes to be introduced.

Luxembourg Income Tax Measures

- **Investment tax credit regime to be modernised as from 2024**

On 19 December 2023, the law introducing a major reform of the current investment tax credit ("**ITC**") framework was passed and will be applicable with effect as from tax year 2024. The law not only implements the investment tax credit modifications agreed upon in the tripartite agreement of 28 September 2022, but also completely reforms the current regime.

First, it increases the rates of the global investment tax credit. Further, it replaces the current additional investment tax credit by an additional tax credit for investments and operating expenses linked to the digital transformation and the ecological and energy transition and introduces a new system to certify the nature and reality of such investments and operating expenses.

The reform of the ITC regime is a positive initiative to accelerate the digital transformation as well as the ecological and energy transition of Luxembourg businesses and strengthen their competitiveness. However, since the new procedure of certification (which is only applicable to benefit from the new additional ITC) seems heavy, it remains to be seen how it will work in practice, given the related additional administrative burden for both taxpayers and the administration.

Read more about this new law in our previous Alert: Luxembourg Parliament adopts law modernising investment tax credit regime as from 2024

- **Individual taxation and tax brackets**

Given the difficult economic situation and the polycrisis context, the coalition agreement for the period 2023-2028 dated 16 November 2023 (hereafter referred to as the "**Coalition Agreement**") provides for a set of tax measures in order to strengthen the purchasing power of households.

To that aim, on 20 December 2023, a tax law was passed in order to adjust the income tax scale by 4 index brackets as from 1 January 2024. The tax relief provided for by the new law is in line with the Tripartite Agreement dated 3 March 2023, which had already provided for an adjustment of the tax scale by 2.5 index brackets implemented by a law dated 5 July 2023, which 1.5 additional brackets have now been added to. The law also reviews the tax scale for class 1A - which applies to single parents, widows and widowers - to ease the tax burden on single earners.

In practice, the law provides for an adaptation of tax brackets of 10.38% compared to the rate applicable since 2017.

According to the Luxembourg government, taking into consideration the economic tax credit (*crédit d'impôt conjoncture* or "**CIC**") applicable in 2023, the law involves the following tax reductions:

Class 1:

From this income*	Up to this income*	Rate
€0	€12,438	0%
€12,438	€14,508	8%
€14,508	€16,578	9%
€16,578	€18,648	10%
€18,648	€20,718	11%
€20,718	€22,788	12%
€22,788	€24,939	14%
€24,939	€27,090	16%
€27,090	€29,241	18%
€29,241	€31,392	20%
€31,392	€33,543	22%
€33,543	€35,694	24%
€35,694	€37,845	26%
€37,845	€39,996	28%
€39,996	€42,147	30%
€42,147	€44,298	32%
€44,298	€46,449	34%
€46,449	€48,600	36%
€48,600	€50,751	38%
€50,751	€110,403	39%
€110,403	€165,600	40%
€165,600	€220,788	41%
€220,788		42%

*adjusted taxable income

Employed taxpayers in tax class 1

Annual salary:

Gross annual salary	Adjusted annual taxable income	Tax due for 2023	Tax due for 2023* with eco-nomic tax rate	Tax due for 2024	Impact in €	Impact in %	Impact with the 2023 CIC applied
€37,000	€31,891	€3,046	€2,787	€2,598	-€448	-14.7	-€189
€45,000	€39,008	€5,066	€4,689	€4,369	-€697	-13.8	-€320
€50,000	€43,455	€6,586	€6,135	€5,710	-€876	-13.3	-€425
€60,000	€52,350	€10,023	€9,495	€8,928	-€1,095	-10.9	-€567
€75,000	€65,692	€15,210	€14,682	€14,115	-€1,095	-7.2	-€567
€100,000	€87,930	€23,887	€23,359	€22,793	-€1,094	-4.6	-€566
€125,000	€110,168	€32,666	€32,090	€31,470	-€1,196	-3.7	-€620
€150,000	€132,526	€41,606	€41,030	€40,408	-€1,198	-2.9	-€662

*not including the employment fund

Employed taxpayers in tax class 1A

Annual salary:

Gross annual salary	Adjusted annual taxable income	Tax due for 2023	Tax due for 2023* with eco-nomic tax rate	Tax due for 2024	**Impact in €**	**Impact in %**	Impact with the 2023 CIC applied
€37,000	€31,891	€1,650	€1,391	€1,050	**-€600**	**-36.4**	-€341
€45,000	€39,008	€4,109	€3,732	€2,990	**-€1,119**	**-27.2**	-€742
€50,000	€43,455	€5,844	€5,393	€4,684	**-€1,160**	**-19.8**	-€709
€60,000	€52,350	€9,315	€8,787	€8,155	**-€1,160**	**-12.5**	-€632
€75,000	€65,692	€14,502	€13,974	€13,342	**-€1,160**	**-8**	-€632
€100,000	€87,930	€23,180	€22,652	€22,019	**-€1,161**	**-5**	-€633
€125,000	€110,168	€31,959	€31,383	€30,697	**-€1,262**	**-3.9**	-€686
€150,000	€132,526	€40,899	€40,323	€39,634	**-€1,265**	**-3.1**	-€689

*not including the employment fund

***Collective taxpayers in tax class 2** - each earning a salary (split 2/3 and 1/3)*

Annual salary:

Gross annual salary	Adjusted annual taxable income	Tax due for 2023	Tax due for 2023* with eco-nomic tax rate	Tax due for 2024	**Impact in €**	**Impact in %**	Impact with the 2023 CIC applied
€50,000	€37,935	€1,470	€1,212	€1,184	**-€286**	**-19.5**	-€28
€75,000	€60,173	€5,252	€4,718	€4,468	**-€784**	**-14.9**	-€250
€90,000	€73,515	€8,747	€8,064	€7,523	**-€1,224**	**-14.0**	-€541
€100,000	€82,410	€11,586	€10,854	€10,019	**-€1,567**	**-13.5**	-€835
€125,000	€104,648	€20,007	€19,151	€17,818	**-€2,189**	**-10.9**	-€1,333
€150,000	€126,885	€28,685	€27,706	€26,496	**-€2,189**	**-7.6**	-€1,210
€175,000	€149,123	€37,362	€36,281	€35,173	**-€2,189**	**-5.9**	-€1,108

*not including the employment fund

The forecast impact of adapting the tax scale by 4 index brackets on budgetary revenue is estimated at EUR 480 million. This corresponds to an additional "tax waste" of EUR 180 million compared to the adaptation of 2.5 index brackets, retained in the Tripartite Agreement.

In the Coalition Agreement of the recently elected Luxembourg government, it was announced that in case the government manages to keep its finances healthy, it will also commit to catching up with the four missing index brackets in the tax scale over the next five years.

The government finally commits to carrying out a major tax reform over the coming years in order to implement a single tax scale. This project was introduced by the former government but never materialised, first delayed due to the pandemic and ultimately shelved when inflation and the energy crisis hit. Now, the new government says it plans to present a bill establishing the single tax by 2026. The new government opposes, however, the idea of increasing the maximum tax rates for the highest income brackets.

- **More to come in the following years**

The Coalition Agreement includes other tax measures, which the government intends to introduce in the course of the upcoming five years, but the date as from which they will be introduced remains to be confirmed.

Announced reforms in relation to the Luxembourg **income taxes** are the following:
- Revision of corporate income tax and municipal business tax rates in the medium term so as to bring them in line with the average tax rate applicable in OECD countries;
- Introduction of a tax allowance up to a certain income level for people entering the working life;
- Clarification and simplification of the tax treatment of benefits in kind granted by companies to their employees;
- Introduction of a tax scheme to encourage investment by individuals in young innovative companies in the field of the dual sustainable and digital transition;
- Strengthening of the participatory bonus scheme (*prime participative*) and the impatriate regime to support the recruitment and retention of talents;
- Incentives for employee participation in the capital of companies employing them.

The government also announced that the possibility of reducing the **subscription tax** for actively managed UCITS-ETF funds will be analysed and, to strengthen the competitiveness of the financial centre, the legal framework applicable to Funds will be adapted on an ongoing basis. In the same spirit, the government will analyse the impact of a subscription tax reduction for investment funds investing in sustainable economic activities and will assess whether further subscription tax reductions would increase investments in these activities.

Among the measures listed in the coalition agreement, several tax measures target the **housing and construction** crises in Luxembourg. Several of these are limited measures designed to stimulate the construction market in the short term, such as:
- A reduction of the capital gains tax;
- An accelerated depreciation rate for rental housing;
- An increase in the "Bëllegen Akt" tax credit, which will benefit buyers looking to purchase their main residence. This may also apply to individuals looking to invest in rental property;
- A higher deduction for annual interest for owners taking out property loans will be permitted when filing tax returns in order to facilitate their credit without harming purchasing power;
- An increase of the net income exemption to 90% for investors renting through social rental management organisations.

The Coalition Agreement is also targeting unoccupied housing units, planning to introduce a register to list empty homes and planning to revise taxes both for empty units and land. For these purposes, the government could be willing to bring forward the draft law n°8082 already presented in 2022 by the previous government with the aim of carrying out a reform of the Luxembourg property tax that would come into force in 2026. The three major axes of this draft law were based on a modernisation of the property tax and the introduction of two new taxes encouraging property owners to mobilise building land (tax on the mobilisation of land) and uninhabited dwellings (tax on the non-occupation of housing) to combat the increasing housing shortage in Luxembourg. However, while the Council of State agreed with the objectives of the reform, the Council of State raised several concerns regarding the proposed legislative framework and expressed 17 formal objections to the draft law. According to the Council of State, some aspects of the measures proposed were not in line with the Luxembourg Constitution because:

- Some do not meet the criteria of clarity and accessibility required by the Luxembourg Constitution to achieve legal certainty;
- Some others go against the principle of equal treatment;
- Some are not in line with the principle of proportionality; and
- Some go against the right to an effective remedy and a fair trial.

Whether the government proposes a new draft law or redrafts the one currently on the table in order to address the Council of State's concerns, we can still expect such reform to come into force in 2026, as initially announced. Read more about the reform in our previous article: "The Luxembourg property tax reform: too slow to address efficiently the housing challenges!".

The government is also committed to creating tax incentives to enable companies to create and make available, on favourable terms, housing for their employees. The government will also analyse the introduction of a tax exemption for premiums paid by companies for rental housing purposes. To that aim, the premium to be exempted will be capped and will be reserved for young employees whose level of income does not exceed a certain threshold to be determined.

As part of a cross-policy to modernise **tax administrations**, the government also announced that they will adapt their organic laws on an ad hoc basis and make them more accessible, with the aim of strengthening the relation of trust between taxpayers and the tax authorities. Finally, tax legislation and **administrative procedures** will be simplified to ensure efficient processes. On 28 March 2023, a draft law as well as drafts of Grand-Ducal Regulations were presented by the previous government in order to amend the Luxembourg tax procedure. Some proposed provisions are positive as they would bring more certainty for taxpayers. Unfortunately, it seemed that the main purpose of the changes to be introduced was mainly to reduce the duties of the tax authorities or to relieve the tax authorities' congestion rather than to increase the tax certainty for taxpayers. This is also the conclusion reached by the Council of State in its opinion on the draft law released on 11 July 2023. It remains to be seen how this draft law will evolve over the legislative process. Nevertheless, we hope that the new government will take this opportunity to address the current needs of modernisation of the Luxembourg tax procedure. Read more about the current draft law in our previous article: "Direct tax procedure: Commentary on upcoming amendments".

The government will continue its efforts to digitise tax administrations. Similarly, digital exchanges with the tax authorities will be encouraged and administrative procedures will be digitalised, also using artificial intelligence.

Double tax treaties ("DTT")

- **DTT between Luxembourg and the UK**

On 18 September 2023, Luxembourg ratified the law approving the new DTT with the UK, as published in the Official Journal on 4 October 2023. The new DTT entered into force in respect of both contracting parties on 22 November 2023, in accordance with Article 29 of the DTT which states that: "*The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its law for the entry into force of this Convention have been satisfied. This Convention shall enter into force on the date of receipt of the later notification*".

As a result, the new provisions of the DTT between Luxembourg and the UK become applicable as follows:

In Luxembourg, it would apply:

- in respect of taxes withheld at source, to income

derived on or after 1 January 2024; and
- in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January 2024.

In the UK, the DTT would apply:
- in respect of taxes withheld at source, to income derived from 1 January 2024;
- in respect of income and capital gains tax, to any year of assessment from 6 April 2024; and
- for corporation tax (including corporation tax on capital gains), for any financial year beginning on or after 1 April 2024.

In the UK, whilst for corporation taxpayers the earliest the new treaty could apply is therefore 1 April 2024, in reality it could be the year after. A number of companies and groups have financial years starting 1 January and for these the DTT would only apply from 1 January 2025.

Once in force and effective, the new treaty will replace the old DTT as amended by the 1978, 1983 and 2009 protocols.

- **DTT between Luxembourg and Germany**

On 14 December 2023, the Luxembourg Parliament voted the law ratifying the protocol (the "2023 Protocol") to the Germany - Luxembourg double tax treaty ("**DTT**") signed on 6 July 2023. The 2023 Protocol introduces both amendments to the DTT and amendments to the protocol to the DTT signed in 2012 (the "**2012 Protocol**") currently in force.

The 2023 Protocol mainly (i) extends the tolerance threshold for cross-border workers from 19 to 34 days under the DTT, (ii) incorporates into the DTT the options taken by the two countries to implement the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("**MLI**"), (iii) amends the provisions applicable to treaty benefits for investment funds and (iv) adapts the current provisions of the DTT in order to take into account some recent German tax law changes (e.g. dealing with Real Estate Investment Trusts, "**REITs**"). For more details on the implications of the 2023 Protocol, please read our previous publication on the topic: "Luxembourg and Germany sign amending protocol to their tax treaty" in our Insights of August 2023."

On 8 December 2023, Germany ratified the 2023 Protocol by way of publication in the Official Gazette (Bundesgesetzblatt) of 13 December 2023.

As a result, provided Luxembourg and Germany exchange their respective instruments of ratification before year-end, the 2023 Protocol will enter into force and should thus generally become applicable as from 1 January 2024. If Luxembourg and Germany do not manage to finalise the ratification process and exchange the instruments of ratification prior to the end of 2023, the new Protocol will not enter into force and will thus not become applicable as from 1 January 2024.

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