

New tax measures proposed for 2018

Luxembourg government presents budget law



KPMG Luxembourg Tax Alert 2017



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The bill (bill 7200) for the budget law 2018 foresees some material changes to the taxation of individuals, in particular for non-resident taxpayers. For corporate entities, the bill introduces a new investment tax credit for software acquisitions. The decrease of the corporate income tax rate to 18% (excluding contribution to unemployment fund and municipal business tax) as from 2018 was already announced (and enacted in Luxembourg tax law) in the tax reform last year ([KPMG Tax Alert 2016](#)). As regards VAT, the management of specific types of insurance funds shall also benefit from an exemption. During an exchange of information upon request from foreign tax authorities, taxpayers shall now have the right to file a claim in front of Luxembourg courts against information orders from the Luxembourg tax authorities.

Please find below a summary of the most important measures which, once voted, shall become effective 1 January 2018:

Individual tax measures

The deadline for **married taxpayers** to opt for joint or individual taxation shall be extended: married resident taxpayers (who by default are jointly taxable) will be able to opt for individual taxation with or without reallocation of income until the 31 March of the year following the tax year concerned.

The conditions for **non-resident married taxpayers** shall be relaxed, so that they can be treated like resident taxpayers and obtain the **benefit of tax class 2**. The conditions will be that either:

- one of the spouses generates at least 90% of his/her worldwide income in Luxembourg; or
- one of the spouses' annual taxable income not subject to Luxembourg taxation is less than €13,000

For the purpose of calculating the 90% threshold (90% of the taxpayer's worldwide income being taxable in Luxembourg), the first 50 days worked outside Luxembourg are deemed to be taxable in Luxembourg. Belgian resident taxpayers can still be assimilated to resident taxpayers based on the Belgium-Luxembourg tax treaty conditions (i.e. "50% threshold"). For more details on this new regime, see our tax alert [here](#).

In order to facilitate the transition to zero emissions for mobility, the **sustainable mobility allowance** (so far granted for zero emission vehicles and cycles) has been extended to individual plug-in hybrid electric cars with emissions not exceeding 50g CO2/km. This tax deduction amounts to €2,500 (whereas it amounts to €5,000 for zero-emission vehicles and to €300 for cycles).

The **stock option/warrant regime** will be reformed and the applicable tax rate is expected to be aligned to half the global tax rate (21% excluding the 9% surcharge to the unemployment fund), i.e. the rate that applies so far to capital gains realised on securities that are held for more than 6 months and when the shareholding exceeds 10% of the company's capital. More details are expected in this respect, as this measure has been announced by the government but is not embedded in the bill.



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With respect to the issuance of **tax cards for employees**, the tax authorities will be able to issue electronic tax cards directly to the employer. In this case, the employees are exempted from handing over the paper tax card to the employer.

Investment tax credit – extended to zero-emission cars and to software acquisitions

Upon request, corporate and individual business owners can benefit from a tax credit against income tax for certain investments (other than land and buildings):

- i. a tax credit for “complementary” (additional) investments in certain tangible property of 13%; and
- ii. a tax credit for so-called “global” investments in specified property of 8% for the first portion of the investment not exceeding €150,000 and 2% for the portion exceeding €150,000

As from 2018, the complementary and the global investment tax credit shall also be granted for the acquisition (up to an acquisition price of € 50,000 for the global tax credit) of certain electric and hydrogen passenger cars.

As from 2018, corporate and individual business owners shall benefit from a tax credit for their “global” investments in software, i.e. 8% for the first portion until €150,000 and 2% for the portion of the investment exceeding €150,000. This tax credit shall, however, not exceed 10% of the income tax due for the tax year of acquisition. Self-created software and software acquired from an associated enterprise shall be excluded. Taxpayers applying for the investment tax credit on a software acquisition will not be able to apply any IP tax regime to the income generated by this software.

Inheritance tax – exemption also for couples without kids

The exemption from inheritance tax – applicable so far between spouses or partners with at least one child – shall be extended to spouses or partners without common children or other descendants. The 5% inheritance tax and the abatement of €38,000 applicable to the surviving spouse or partner having no common children or other descendants will therefore be abolished.

VAT exemption – extended to life insurance collective internal funds

The VAT exemption for investment funds shall be extended to collective internal funds underlying life insurance contracts (“les fonds d’investissement internes collectifs d’assurance-vie”). The management of these funds shall benefit from a VAT exemption, provided that the subscribers bear the financial risk and the fund is subject to the supervision of the Luxembourg Insurance Commission (“Commissariat aux Assurances”). This measure would put these insurance funds on par with specialised investment funds.

Exchange of information upon request – compliant with EU law

In 2014, Luxembourg changed its legislation for the exchange of information upon request and extended the information gathering and enforcement powers of the tax authorities – to the detriment of taxpayer’s rights.

The Court of Justice of the EU upheld the taxpayer’s rights in the case of Berlioz C-682/15 (see our tax alert [here](#)). In reaction to this decision, the purpose of the bill is to reinstall the taxpayers’ right to file a claim against any information order with the Luxembourg administrative courts. Note that this claim has a suspensive effect, so that the taxpayer does not have to provide the information requested until the case is ruled.

To improve administrative efficiency, the court proceedings shall be accelerated (i) by reducing the time-limits to file a claim to one month after notification of the information order and an appeal within 15 days after the first-tier decision, (ii) by limiting the judicial review to an analysis whether the requested information manifestly has no foreseeable relevance, and (iii) by installing a fast-track procedure.

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