

GMS Flash Alert

2017-124 | July 31, 2017



Luxembourg – Last Call for Tax Amnesty “Regularizations”

Individuals subject to income tax in Luxembourg have been given the opportunity to file corrective tax returns until 31 December this year, under the temporary tax amnesty regime.¹

WHY THIS MATTERS

The remaining six months of the amnesty program can be seen as a “last call” for taxpayers who heretofore have failed to report undeclared income (and related assets) to the Luxembourg tax authorities.

Affected taxpayers who do not “regularize” their tax affairs with the authorities could face increased risk of being reported and may face criminal charges in court.

The tax amnesty regime, until it expires, stipulates that “normal” sanctions (i.e., sanctions that otherwise apply to tax fraud and non-intentional tax evasion) will not apply, if the taxpayer duly regularizes his or her situation.

Background

This regime was first introduced by the Law of 23 December 2016. It was intended to encourage delinquent or neglectful taxpayers to take steps to regularize their tax affairs. The motivation behind the legislation was to help prevent fraud and tax evasion and to inhibit money laundering.

Obligations of Banks

Under the new rules introduced in the 2017 tax reform package, so-called “aggravated” and “serious” tax fraud will constitute offenses equivalent to money laundering.

Luxembourg banks will be obliged to review their entire client population in light of fraud risk. Where banks have reasonable suspicion that failure to declare income is a (serious or aggravated) tax fraud, they will have to report those taxpayers to the State Prosecutor's Office. Therefore, concerned taxpayers who do not regularize their fiscal affairs could face increased risk of being reported and may face criminal charges in court.

Who is Concerned?

Generally speaking, the tax amnesty is offered to all taxpayers that have failed to report taxable income or otherwise obtained undue tax advantages or caused a reduction of tax revenues within the past 10 years. Such taxpayers may be individuals or companies, Luxembourg resident or nonresident.

What Costs May Be Entailed?

The tax amnesty provides protection against sanctions which otherwise apply to the relevant tax offences. In the case of:

- aggravated tax fraud, this can be imprisonment of up to three years, and a fine between €25,000 and six times the tax evaded or reimbursement unduly received;
- serious tax fraud, imprisonment of up to five years, and a fine between €25,000 and 10 times the tax evaded or reimbursement duly received.

In addition, according to § 396 General Tax Law, a surcharge penalty of 20 percent can be applied on the tax due when regularizing one's tax affairs. When regularizing under the tax amnesty, the tax authorities will assess the return, and, then, notify the tax bill to the taxpayer – this is comparable to the ordinary tax assessment the taxpayer receives every year. The tax amnesty requires the payment be made in full and within one month from receipt of the tax bill.

How to Apply?

In order to benefit from the tax amnesty, concerned taxpayers have to file a single amended tax return. This so-called "regularization return" is "unique," i.e., it must cover all the relevant years, all the relevant taxes (income tax, net wealth tax, VAT, inheritance tax, etc.), and all items of undeclared income (assets).

The regularization return has to meet certain criteria to be in proper compliance; failing to meet such criteria could mean the application of sanctions.

The **regularization return must be filed before 31 December 2017**. Corrective filings after this deadline are likely to trigger the "normal" sanctions applicable, above-mentioned.

KPMG NOTE

- This regime is intended to help reinforce the government's fight against tax fraud and money laundering.
- For any person preparing to file a regularization return, it is important to consider appropriate strategies for responding to the tax authorities, where necessary.

Taxpayers who may choose to regularize their tax affairs under the amnesty should be aware that the regularization return requires adequate preparation time and although 31 December seems like a long time away, taxpayers would be advised to consult with their qualified tax professional and get the process started as soon as possible.

FOOTNOTES:

1 Tax amnesty: Article 4 de la loi du 18 décembre 2015 concernant le budget des recettes et des dépenses de l'État pour l'exercice 2016 et introduisant un § 489 dans la loi générale des impôts modifiée du 22 mai 1931.

Aggravated tax fraud: Articles 7 et 13 de la loi du 23 décembre 2016 portant mise en oeuvre de la réforme fiscale 2017 et portant modification des §§ 396 et 402 de la loi générale des impôts du 22 mai 1931 («Abgabenordnung») et de l'article 29 de la loi modifiée du 28 janvier 1948 tendant à assurer la juste et exacte perception des droits d'enregistrement et de succession.

[Full text](#) (electronic version) of the law (in French) as published in *Mémorial A* n° 274 de 2016 (27 décembre 2016)

* * * *

Please Take Our GAPP Survey!

The Global Assignment Policies and Practices ("GAPP") survey, conducted by our GMS Mobility Consulting Services group, continues to provide valuable trends and insights regarding how global organizations administer their international assignment and relocation programs. We are very proud that the GAPP survey is recognized as an industry-leading benchmarking survey.

Participation will continue to be free, and survey takers' results will be available immediately upon completion.

It's quick and easy! Here's how you can get started now:

– Please [click here](#) to access the 2017 GAPP Survey website page on KPMG.com.

– At the 2017 GAPP Survey website page you will find a direct URL link to take the survey. Helpful information regarding the GAPP Survey's design and important instructions for taking the survey are also provided.

Please note that it is necessary to complete the survey in order to view results. If you encounter any problems accessing the site or registering, please contact us at: us-taxgmssurvey@kpmg.com.

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Luxembourg:



Frédéric Scholtus

Tel. + 352 22 5151 5333
frederic.scholtus@kpmg.lu



Audrey Counet

Tel. + 352 22 5151 5480
acounet@kpmg.lu



Laurent Engel

Tel. + 352 22 5151 5535
laurent.engel@kpmg.lu

The information contained in this newsletter was submitted by the KPMG International member firm in Luxembourg.

© 2017 KPMG Luxembourg, Société coopérative, a Luxembourg entity and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.

© 2017 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159