

GMS Flash Alert

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Luxembourg – New Budget Law Modifies Stock Option Plans and Impatriate Regime

Luxembourg’s Parliament on 17 December 2020 passed the 2021 budget law.¹ A request to be exempted from the second vote was filed with the State Council.

Key measures in the budget legislation affecting individuals – including international assignees – and their employers introduce changes regarding individual (personal) income taxation, including repeal of the treatment of stock options and warrant plans, as well as changes to the “impatriate regime” and dispensing with tax cards. (Along these lines, the Luxembourg tax authorities announced the withdrawal of Circular L.I.R. n° 104/2 of 29 November 2017 on stock option and warrant plans and Circular L.I.R. n° 95/2 of 27 January 2014 regarding the Luxembourg impatriate regime.)

WHY THIS MATTERS

The measures introduced by the budget legislation may spell some significant changes to the way employers provide incentive compensation to their employees, which will entail some modifications to plan offerings and administration around the new plans.

Moreover, the changes to the impatriate regime also offer new opportunities as compared with the impatriate regime policy in place up to now.

Employers offering warrant / stock option plans and with employees that might avail of the benefits under the impatriate regime, should consult with their professional tax advisers as to where they are currently with their existing policies and practices, and what may need modifying in order to rethink their rewards approach, to benefit from the changes in the new rules, and to foster compliance and talent retention.

Individual Taxation

Stock Option and Warrant Plans Replaced

The new law includes a complete abolishment of stock option and warrant plans from 1 January 2021.

To maintain Luxembourg's appeal, the Bill introduces a new regime for the 2021 tax year: a participative premium that the employer can pay to its employees. Employers will be able to deduct this premium from their taxable income, while 50 percent of the benefit will be considered tax-free to the employee. This benefit is only granted if certain conditions are met. For example, the aggregate amount of the participation premiums cannot exceed 5 percent of the company's profits for the previous year. Additionally, the premium cannot exceed 25 percent of the beneficiary's annual remuneration (excluding bonus and any benefits). The tax authorities will require a detailed communication of all the employers that decide to pay such a premium.

The withdrawal of Circular L.I.R. n° 104/2 of 29 November 2017 on stock option and warrant plans implies, until further notice, that there should no longer be specific reporting to the tax authorities of the benefits-in-kind relating to stock options and share schemes.

Changes to the Impatriate Regime

The new law also gives a legal basis to the impatriate regime and introduces an impatriation premium with a 50-percent exemption. The premium cannot exceed 30 percent of the beneficiary's annual basic salary, and the regime is limited in duration to nine years. A number of the conditions that had to be met to benefit from this regime have been abolished. However, the basic salary level required to benefit from this regime increased to €100,000 (up from €50,000). These new rules will apply from the 2021 tax year onwards.

Changes to Tax Card Process

From the 2022 tax year, tax cards will no longer be sent to employees for submission to their employer: they will be filed via a dedicated platform. The tax authorities may also issue tax cards with extended validity to taxpayers if certain conditions are met.

FOOTNOTE:

1 For the budget, see the Luxembourg government's *Ministère de Finances* webpage: <https://budget.public.lu/lb.html>. (*Le projet de loi n° 7666 concernant le budget des recettes et des dépenses de l'Etat pour l'exercice 2021.*)

For a related report, see "[Luxembourg: New tax measures included in budget law for 2021](#)" (18 December 2020), a publication of the KPMG International member firm in Luxembourg.

For additional information on Luxembourg's budget, see "[Everything you need to know about the newly released 2021 budget](#)," in [Luxembourg Tax Alert 2020-17](#) (15 October 2020), a publication of the KPMG International member firm in Luxembourg.

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