

ATOZ ALERT

Tax rulings granted prior to 2015 no longer valid

14 October 2019

Today, the 2020 budget draft law was submitted by the Luxembourg Minister of Finance to the Luxembourg Parliament.

One of the tax measures of the 2020 budget draft law aims to limit the period of validity of advanced tax agreements (“**ATA**”) which were granted before the current ATA procedure (the “**Current ATA Procedure**”) was introduced by the law of 19 December 2014 (i.e. tax rulings granted prior to 1 January 2015).

As ATAs granted to taxpayers bind the tax authorities in the tax assessment process, the Luxembourg government wants to ensure legal consistency between the old and the Current ATA Procedure for issuing ATAs.

For that purpose, the foreseen measure is intended to ensure that a maximum period of validity, like the 5-taxation year period referred to in the Current ATA Procedure, also applies to ATAs granted before 1 January 2015. As a result, taxpayers may therefore rely on an ATA issued before 1 January 2015 for the last time in the context of tax returns related to the 2019 taxation year, provided that the ATA complies with the law in force. Taxpayers will no longer be able to rely on ATAs issued before 1 January 2015 for subsequent taxation years. This measure is not retroactive so that the binding effect of ATAs will not be put into question for previous taxation years.

If the taxpayer would like an ATA for taxation years subsequent to the 2019 taxation year, the taxpayer will have to file a new application, in accordance with the procedure set out by the law of 19 December 2014 ([please see our previous article on this subject](#)). As of now, the 2020 budget draft law does not include a transitional measure or a transitional period in this respect.

Since the result of the new measure is that ATA granted prior to 1 January 2015 will be valid up until the end of tax year 2019, taxpayers should start assessing the potential impact of these changes on existing investment structures as soon as possible, and closely monitor whether the introduction of a new ATA request is required and possible.

Can we help? Do you have further questions?



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