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GLOBAL TAX

Financier Worldwide canvasses the opinions of leading professionals on current trends in global tax.

LUXEMBOURG

ATOZ Tax Advisers

Respondent

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Q. What do you consider to be among the key developments affecting corporate tax in Luxembourg over the last year or so?

A. Over the past year, Luxembourg's parliament enacted draft laws introducing significant corporate tax reforms aimed at enhancing the country's competitiveness. Key changes include a revised and reduced minimum net wealth tax to align with constitutional requirements, clarification of tax treatment for share class redemption proceeds as capital gains not subject to withholding tax, and the introduction of an option to waive participation exemption benefits in specific circumstances. A separate law under the new tax package titled "Relief Package. Unity. Future. For Everyone" introduces a 1 percent corporate income tax cut as from fiscal year 2025 and exempts actively managed exchange-traded funds from subscription tax. Additionally, electronic filing rules have been updated. Parliament also passed a law amending and refining the 2023 Pillar Two law to align with the European Union (EU) Directive on global minimum taxation for multinational and large domestic groups. This law incorporates Organisation for Economic Co-operation and Development/G20 guidance to help enterprises navigate Global Anti-Base Erosion rules, ensuring Luxembourg remains aligned with international tax standards.

Q. To what extent have tax authorities in Luxembourg increased their monitoring and enforcement activities?

A. Luxembourg focuses on maintaining its attractiveness as a financial centre and on positioning itself as a hub for FinTech and blockchain technology. While tax enforcement is not a central political focus, the Luxembourg tax authorities have steadily enhanced their oversight capabilities. This has been achieved primarily through the digitalisation of corporate tax return filings, which reduces administrative burdens and allows inspectors to allocate more time to monitoring and enforcement activities. Additionally, the establishment of a dedicated tax audit division reflects a broader strategic effort to strengthen tax compliance without adopting a more aggressive enforcement stance. Under the impetus of its new director, the Luxembourg tax authorities have

announced that they will simplify and improve the digitalisation of their services alongside a general simplification of administrative procedures. The objective is to streamline the analysis of simple files while dedicating more time to more complex ones.

Q. How are tax authorities approaching the issue of transfer pricing? In your experience, do companies tend to underestimate the risks and challenges in this area?

A. Luxembourg remains a leading European financial hub and a preferred base for holding and financing companies. Recently, there has been a notable rise in the establishment of treasury entities aimed at optimising group-wide cash management. These entities are heavily involved in intragroup dealings and have now fully integrated transfer pricing considerations into their operational frameworks, reflecting its growing importance in sound corporate governance. As the tax environment in Luxembourg becomes more contentious, transfer pricing has emerged as a key focus during audits. Authorities often scrutinise it closely, especially when no supporting documentation exists. Preparing comprehensive transfer pricing documentation in advance of agreements can serve as a strong safeguard against challenges from tax authorities. Given that tax assessments in Luxembourg can be revised for up to five years, companies must adopt a proactive and robust tax risk management strategy to mitigate long-term exposure and ensure compliance.

Q. How would you describe tax laws in Luxembourg as they relate to foreign entities? Are there any unique regulatory aspects, whether positive or negative, that need to be considered?

A. Luxembourg has fully aligned with EU standards regarding foreign and offshore entities. The country has implemented Controlled Foreign Company rules as part of its adoption of the Anti-Tax Avoidance Directive, which have now been in effect for several years. Additionally, the EU list of non-cooperative jurisdictions directly influences three Luxembourg tax measures: denying corporate income tax deductions for interest and royalty payments made to entities in blacklisted

jurisdictions, requiring disclosure of transactions with such jurisdictions in tax returns, and applying mandatory reporting obligations under the Directive on Administrative Cooperation 6 (DAC6) for certain cross-border arrangements. For 2025, the restriction on interest and royalty deductions is based on the EU blacklist as of 1 January 2025, which corresponds to the October 2024 version. These measures reflect Luxembourg's commitment to transparency and compliance with international tax standards.

Q. Have you seen an increase in tax disputes in Luxembourg? What lessons can companies learn from recent settlements, prosecutions, penalties and court rulings?

A. Over the past decade, tax disputes in Luxembourg have become more frequent. A significant number of recent rulings by the administrative courts are focused on procedural issues such as deadlines for filing claims, the validity of proxies and taxpayers' rights to be properly informed by the tax authorities. The courts have also examined the tax classification of

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interest-free loans, assessing on a case-by-case basis whether such loans should be classified as debt instruments or equity instruments. These rulings offer valuable guidance on what the distinguishing factors are when determining whether an instrument qualifies as debt or equity for tax purposes. Additionally, Luxembourg courts are more frequently called upon to evaluate whether certain taxpayer arrangements constitute abuse of law. This trend highlights the growing scrutiny of tax planning strategies and reinforces the importance of substance and documentation when structuring transactions.

Q. What is your advice to a company that finds itself subject to a tax-related audit, investigation or enquiry?

A. Luxembourg offers a business-friendly environment where government agencies remain accessible and cooperative. In recent years, it has become increasingly common for the Luxembourg tax authorities to request information from taxpayers, not necessarily as part of a formal audit, but often to better understand corporate structures. When such inquiries evolve into audits, taxpayers are legally required to cooperate. This includes providing relevant and reasonably accessible documentation to support their tax positions. Since 2015, this duty of cooperation has extended to transactions between associated enterprises, although no formal transfer pricing documentation requirements were initially specified. However, a draft law of 28 March 2023 aims to address this by requiring associated enterprises to present documentation justifying their transfer pricing policies upon request. This reflects a growing emphasis on transfer pricing compliance, which should ideally be addressed at the time a transaction is implemented to ensure readiness for potential scrutiny.

Q. What steps can companies take to ensure they maintain robust tax compliance processes while maximising tax efficient structures?

A. To manage tax affairs effectively, companies should enhance internal processes and coordination across departments. In recent years, compliance and disclosure obligations have expanded

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significantly. Beyond the Foreign Account Tax Compliance Act, Common Reporting Standard and Register of Beneficial Owners requirements, DAC6 has introduced additional complexity, extending into areas like investor relations and reputational considerations. In the alternative investment fund sector, limited partners are increasingly attentive to DAC6 monitoring and reporting. This concern is valid. Disclosing an arrangement under a hallmark that involves the main benefit test implies that tax was a primary motivation, which can complicate arguments for treaty eligibility under the principal purpose test. As a best practice, any transaction presented to the board should be accompanied by a DAC6 analysis to ensure transparency and mitigate risk. ❑

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Founded in 2004, **ATOZ** is a high-end independent advisory firm based in Luxembourg offering a comprehensive and integrated range of direct and indirect tax solutions as well as transfer pricing, corporate and aviation finance and tax litigation services to both local and international clients.

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