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Samantha Merle began working in Luxembourg in the tax department of Arthur Andersen in 1998 and subsequently Ernst & Young in 2002 where she had been intensively involved in international tax projects focusing on the financial & private equity sector. Since 2005, Samantha has been working as the Head of the Knowledge Department of Atoz. She is also a member of the core knowledge leader team of Taxand and responsible for the European Taxand trainings at the level of the Taxand Training Committee. Samantha holds a Bachelor degree in German and French Business Law and a LLM from the Universities of Paris - Sorbonne (France) and Cologne (Germany). She specialised in French business and tax law at the University of Lyon (France) and hold a Master (DESS) and DJCE in French Business and Tax Law.

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Future Tax Reform in Luxembourg

"While the new Luxembourg Government has released an ambitious programme with a lot of positive tax measures, which reflect a clear aim to make sure that Luxembourg remains attractive, investors should keep in mind the current international tax context and more especially the on-going work aiming at fighting against base erosion and profit shifting"

In December 2013, the new Luxembourg Government released its programme, which includes positive tax measures and, more generally, contains encouraging messages for Luxembourg as a competitive location for business. Even if these are only announcements that will have to pass through the legislative process, many of the measures reflect a strong willingness of the Government to make sure that Luxembourg remains a competitive jurisdiction within and outside the EU. The Government wants to make sure that Luxembourg will keep on attracting new investments and will take the necessary steps to motivate existing investors to keep Luxembourg as their jurisdiction of choice in the future.

Luxembourg has over the last years run deficits and incurred government debt, although both at very modest levels by international standards. In order to restore budgetary stability, the Government will prioritise cost reduction and growth, instead of increasing tax rates. In addition, compliance deadlines will be tightened and self-assessment will be introduced in order to accelerate collection of taxes.

Tax policy will be guided by the objective of creating confidence in a stable, predictable system. The main tax the Government intends to increase is VAT, where the rate will, as expected, be increased to compensate the future loss in VAT revenues in the E-commerce sector. Indeed and as from January 1st, 2015, service providers established outside the EU having located their European headquarters in Luxembourg will no longer be entitled to charge Luxembourg VAT with respect to the E-services invoiced to EU customers (B2C). As of this date, the VAT rate applicable to these transactions will be the VAT rate applicable in the country where the customer is located. Although the new VAT rates as well as the timing of the rise are still discussed, the Government has committed to make sure that the Luxembourg VAT rate will remain the lowest in the EU (likely increase from 15 % to 17 % for the standard VAT rate).

The Government announced it will seek to attract headquarters of international groups, upgrading the intellectual property tax system, the parent subsidiary exemption regime, transfer pricing and substance rules, while making sure that Luxembourg is in line with all EU and OECD standards. A regime of notional interest deduction is also considered as a possible tool to stimulate businesses to increase their equity funding.

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The Government intends also to make sure that the Luxembourg legal and tax system in place is improved in such a way that it is in line with the needs and expectations of the market place and investors. 2 measures illustrate this: the Government announced that Luxembourg will formalise its ruling/advance tax agreement ("ATA") practice, which should make the ATA system more efficient and sustainable. The Government will establish an advisory committee of tax experts which will provide for regular update on the global tax environment and help Luxembourg tax system to adapt to all the coming changes.

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As far as the financial sector is concerned, the good news is that, contrary to what has been reported occasionally, the subscription tax due by Undertakings in Collective Investment, be they Alternative Investment Funds ("AIFs"), Undertakings for Collective Investment in Transferable Securities ("UCITS") or Specialised Investment Funds ("SIFs"), will not be increased. Finally, the favourable carried interest regime which was introduced recently within the scope of the AIFM Directive is planned to be extended to all new investment funds set up in Luxembourg. Net Wealth Tax for individuals will not be reintroduced.

Luxembourg will remain against the introduction of a Financial Transaction Tax at the level of the EU but may agree to introduce one if this is done at global level.

Preparing for Reform

While the new Luxembourg Government has released an ambitious programme with a lot of positive tax measures, which reflect a clear aim to make sure that Luxembourg remains attractive, investors should keep in mind the current international tax context and more especially the on-going work aiming at fighting against base erosion and profit shifting (BEPS). As the latest OECD webcast on BEPS has clearly illustrated, the international tax context is currently evolving and it will change at many levels very rapidly over the coming months. Some recommendations will be made at OECD level before year-end and many jurisdictions will have to adapt their tax system accordingly. These recommendations, such as the ones expected in respect of hybrid instruments to avoid situations of double non-taxation, will bring more tax harmonisation in the world and will thus reduce the possibilities for jurisdictions to compete.

It means that Luxembourg will on one hand try as much as possible to implement measures, as the ones announced, aiming at attracting investments, but on the other hand Luxembourg will probably also have to revisit some of its existing tax measures or practices so that it can makes sure that these still comply with the EU or international standards in future.

Even in a more harmonized tax environment, Luxembourg will still offer attractive solutions for investors and investments through the large and efficient panel of fund vehicles and its comprehensive but highly secured corporate law regime.

In this very rapidly evolving tax environment, investors should remain very prudent and seek the advice of their tax adviser for any new investment or change in their existing investment structures.

About ATOZ

ATOZ is a Luxembourg high end independent advisory service firm offering comprehensive solutions, encompassing the entire life cycle of an investment entity: from tax planning and corporate implementation, management and compliance / maintenance, to exit planning (sale, M&A or dissolution) with a strong focus on alternative investment PE / PERE funds, multinational corporations, financial institutions and high net worth families. ATOZ is a founding member of TAXAND, the first independent global organisation with tax professionals in nearly 50 countries. Taxand provides high quality, integrated tax advice worldwide. The Taxand tax professionals, nearly 400 tax partners and over 2.000 tax advisors in nearly 50 countries—grasp both the fine points of tax and the broader strategic implications, helping companies mitigate risk, manage tax burden and drive business performance.