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Luxembourg Newsflash - 7 March 2019

Finance Bill 2019: CIT reduction and optional extension of interest limitation rules on fiscal unity level

On 5 March 2019 the Luxembourg government filed the new finance bill n° 7450 (“Finance Bill”) with the Luxembourg parliament.

The most important corporate tax measures concern the reduction of the maximum corporate income tax (“CIT”) rate and the introduction of the option provided by the anti-tax avoidance directive (“ATAD”)[1] allowing for the application of the interest limitation rules at the level of a fiscal unity:

- For the time being CIT is levied at a rate of (i) 15% in case the net profits do not exceed EUR 25,000 and (ii) 18% in case the net profits exceed EUR 30,000. In case the net profits range between EUR 25,000 and EUR 30,000, the applicable rate is EUR 3,750 plus 33% of the net profits exceeding EUR 25,000. The Finance Bill envisages (i) increasing the amount of net profits subject to the minimum rate of 15% from EUR 25,000 to EUR 175,000, (ii) introducing an intermediary rate of EUR 26,250 plus 31% of the net profits exceeding EUR 175,000 in case the net profits range between EUR 175,000 and EUR 200,000 and (iii) lowering the marginal rate from the current 18% to 17% applicable in case the net profits exceed EUR 200,000. Accordingly, the aggregate rate of CIT, municipal business tax in the city of Luxembourg and the contribution to the unemployment fund would be reduced from the current 26.01% to 24.94%.

- Under the so-called interest limitation rules introduced by the ATAD and implemented into Luxembourg domestic tax law, net borrowing costs are as a rule only deductible up to the higher of 30% of the taxpayer's EBITDA or EUR 3 million. The net borrowing costs correspond to the amount by which the deductible borrowing costs of a taxpayer exceed taxable interest, revenues and other economically equivalent taxable revenues that the taxpayer receives[2]. The ATAD provided an option to apply the interest limitation rules on a group level in which case the exceeding borrowing costs and the EBITDA may be calculated at the level of the group. The Finance Bill accordingly envisages amending the Luxembourg fiscal unity level in order to give the tax payer the option of applying the rules on the fiscal unity or the individual company.

Other tax measures contained in the Finance Bill are the introduction of the tax credit for the minimum wage (which is thus increased by EUR 100), the application of a reduced VAT rate of 3% to e-books, e-press as well as certain hygienic products, of 8% to certain phytosanitary products, and an increase in excise duties on petrol.

The Finance Bill should enter into force on the 1 May 2019, the reduction of the CIT rate being however applicable to the tax year 2019 and the amendment to the interest limitation rules being applicable as from 1 January 2019.

The measures included in the Finance Bill were largely expected since they had already been announced by the government upon the agreement of the coalition plan[3]. According to the government, these measures are necessary to ensure Luxembourg's overall competitiveness in compliance with EU law.

[1] Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.

[2] For an in-depth description of the rules, please refer to our newsflash available here.

[3] More information on our newsflash available here.

Our tax partners or your usual contact at Arendt are at your disposal to further guide you through these new measures.

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