

## Luxembourg Parliament adopts draft law implementing EU ATAD 2 on hybrid mismatch arrangements

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On 19 December 2019, the Luxembourg Parliament voted and adopted the draft law (Draft Law) implementing Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 (ATAD) as regards hybrid mismatches with third countries (ATAD 2).

Following the issuance by the State Council of its generally positive opinion on the Draft Law and the acknowledgment of the legislative choices taken by the Government, the Luxembourg Budget and Finance Commission (Commission) suggested certain linguistic adaptations that were either formally requested or suggested by the State Council. The Commission first adopted the requested linguistic amendment with respect to the secondary measure in the case of deduction without inclusion (inclusion by the beneficiary if the payer jurisdiction allows the deduction of a payment), so as to express more clearly that this measure only applies if the hybrid mismatch is not already neutralized through the application of the anti-hybrid provision provided for by the European Union (EU) Parent-Subsidiary Directive. The Commission also proposed inserting a stand-alone definition of the concept of "organism" for the purpose of the new anti-hybrid provisions. In addition, the Commission suggested to slightly reword the provision on reverse hybrid entities to delineate more clearly which income is concerned by the provision at stake.

It is expected that the final law will be published in the *Official Gazette* (Mémorial A) in the coming days and will be applicable as from 1 January 2020.

A detailed Tax Alert discussing the provisions of the final law as well as their implications is forthcoming.

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