

Luxembourg announces tax and financial measures in response to COVID-19

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Executive summary

In response to the threat posed by the continuing spread of COVID-19, the Luxembourg Government has established a set of measures to help mitigate the economic effects and ensure the continuation of the Luxembourg economy.

Following a postponement of the payment of taxes as well as an extension of the deadline for filing the annual tax returns, a draft law providing for a special aid regime for companies in temporary financial difficulties has been transmitted to the Luxembourg Parliament. In addition, businesses are allowed to resort to various short-time working (*chômage partiel*) schemes.

The various measures are detailed below.

Detailed discussion

Direct taxes

Legal entities and individuals exercising commercial, agricultural and forestry or self-employed activities facing liquidity problems due to COVID-19 can request a cancellation of their advance corporate income and municipal business tax payments for the first two quarters of 2020. It is important to note that a cancellation of the advance net wealth tax payments is currently not foreseen.

A dedicated form is available on the Luxembourg Direct Tax Administration's website. Alternatively, taxpayers may also request a reduction of the amount of the advances to be paid rather than a cancellation. Such request has to be made via simple letter to the competent taxation office, explaining the reasons for the request and indicating the reduced amount of advances proposed to be paid.

In addition, a request can be made to postpone by four months the payment of corporate income, municipal business and net wealth tax for which the due date is set after 29 February 2020. This extension of the payment date will be granted without computation of interest for late payment.

To benefit from the cancellation of advance payments and/or the extension of the payment date for taxes due, the aforementioned specific forms must be sent to the Luxembourg Direct Tax Administration. The requests will be systematically accepted by the tax authorities upon receipt.

It should be noted that no payment extension is granted for withholding tax on salaries; employers are required to levy and pay such tax within the ordinary deadlines.

Furthermore, the deadline for filing the annual tax return is postponed: (i) from 31 March 2020 to 30 June 2020 for individuals with respect to the filing of their 2019 income tax return; and (ii) from 31 May 2020 to 30 June 2020 for corporations with respect to their 2019 corporate income, municipal business and net wealth tax returns. The deadline to submit, revoke or amend a request for individual taxation is extended to 30 June 2020 as well.

Computation of days for Belgian cross-border workers working from home

Given that one of the measures to avoid the continuing threat of COVID-19 consists in encouraging teleworking, the Luxembourg and Belgian authorities announced that they have reached an agreement on taxation of cross-border workers. As per the final Protocol to the Belgium - Luxembourg double taxation treaty, cross-border workers are in principle entitled to work for a maximum period of 24 days outside the jurisdiction where the activity is normally performed while remaining taxable in this jurisdiction. Given that the current situation constitutes a force majeure, it has been agreed that homeworking in Belgium as of 14 March 2020 will not be counted towards the 24-day limit. This will apply until further notice. It is possible that a similar agreement may also be reached with France and Germany.

Reimbursement of value-added tax (VAT) credit balances

Starting this week, the Indirect Tax Administration will reimburse VAT credit balances below €10,000, which should help to improve cash positions of approximately 20,000 enterprises established in Luxembourg.

Furthermore, the Indirect Tax Administration announced that due to COVID-19, a possible failure to file VAT returns within the normally applicable deadlines will not be fined. This measure will apply until further notice.

Draft law providing for a special aid regime for enterprises in temporary financial difficulties

Following its adoption by the Council of Government last week, a draft law providing for a special aid regime for small and medium-sized enterprises (SMEs) in temporary financial difficulties because of an unforeseeable and unique event of national or international dimension was transmitted to Parliament on 16 March 2020. The new instrument constitutes an addition to the already existing support measures, being the aid foreseen by the law of 9 August 2018 on an aid scheme in favor of SMEs or the regime on short-time work (see below). The aid foreseen by the draft law is granted under the form of a recoverable advance payment and is subject to three conditions, being: (i) that an unforeseeable event has officially been recognized by the Council of Government as having a detrimental impact on the economic activity of certain enterprises during a given period; (ii) that the enterprise faces temporary financial problems; and (iii) there is a causal link between these difficulties and the unforeseeable event at stake. The aid can amount up to 50% of the admissible expenses but cannot exceed €200,000. Admissible expenses for calculating the amount of the aid are limited to the loss of income that must be established after a comparative analysis between the result realized during the three previous tax years and the forecast result of the months following the unforeseeable event.

On 17 March 2020, the Council of Government adopted several amendments to the draft law so as to extend its scope to large enterprises and to self-employed persons. In addition, the initially maximum amount of €200,000, granted in the form of a recoverable advance, has been raised to €500,000 per group of companies. On top of that, for simplification purposes, the draft legislation now considers staff and rental expenses as admissible expenses with rental expenses being capped at €10,000 per month for a group of enterprises as defined by the draft law.

With respect to self-employed persons, the amended text assimilates to staff costs the income generated by a self-employed activity provided that the self-employed persons are affiliated as such according to the provisions of the Social Security Code with a cap set at 2.5 times the amount of the minimum social wage.

The financial aid will have to be reimbursed starting at the earliest 12 months after its payment.

General aid regime for SMEs

As mentioned above, there is a wide range of financial aid schemes specifically dedicated to SMEs and some of them appear to be suitable for enterprises suffering from the repercussions of COVID-19. In particular, in the framework of the so-called investment aid, which aims to support SMEs having an investment project whose objective is to promote the creation, the development, the diversification and the fundamental change of the production process, investments in hygiene can be added to applications for benefitting from this investment aid, using the appropriate form.

In addition, mutual insurance schemes (Mutualité de Cautionnement and Mutualité des PME) can stand guarantee for part of the amount borrowed from approved credit institutions if the guarantees supplied by the business are not sufficient. As a result, businesses experiencing cashflow problems are invited to contact one of these organizations.

Short-time work (*chômage partiel*)

As per the Luxembourg Labor Code, businesses are entitled to rely on various types of short-time work in the event of force majeure under certain conditions and depending on the nature of the difficulties encountered. The short-time working scheme in the event of force majeure can be applied in exceptional circumstances to businesses who encounter economic difficulties following the occurrence of an event beyond their control and which prevents the continuation of their ordinary economic activity.

It applies in principle to all sectors of the economy if the causes invoked are directly related to COVID-19.

In order to apply for the short-time working scheme in the event of force majeure related to COVID-19, the Ministry of the Economy has made available a specific form. If an application is approved, the Employment Fund (Fonds pour l'Emploi) pays 80% of ordinary salaries, subject to a maximum of 250% of the minimum social wage for an unskilled employee, for a maximum of 1,022 hours per employee per year.

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