

Luxembourg formalizes extension of certain filing deadlines

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Executive summary

As announced late December 2020 by Luxembourg's Ministry of Finance, a draft law (Draft Law) to formalize the extension of certain filing deadlines for tax returns of individuals and businesses was adopted by the Parliament on 9 February 2021.

In brief, the Draft Law confirms the general filing extension of 2019 tax returns for individual taxpayers to 31 March 2021 and extends the deadline for 2020 tax returns for both individual and corporate taxpayers to 30 June 2021.

Detailed discussion

2019 tax returns

The Draft Law formally extends the filing deadline for the 2019 personal income tax returns for individuals to 31 March 2021. The law of 12 May 2020 had already extended the deadline from 31 March 2020 to 31 December 2020. The same extension is foreseen for municipal business tax returns to be filed by individuals that carry out a commercial activity privately, i.e., without lodging such activity in a company.

Under certain conditions, taxpayers who do not meet the conditions for filing a personal income tax return may request a tax refund through the filing of a tax refund return, provided that such request is filed by 31 December of the calendar year following the tax year concerned. The Draft Law does however not provide for any extension of said deadline. Nevertheless, according to the parliamentary documents, the Direct Tax Administration has instructed its taxation offices, in parallel with the introduction of the aforementioned measure, to proceed, by administrative tolerance, in the event of the submission by 31 March 2021 of a tax refund return, with possible tax refunds in relation to income from the 2019 tax year.

Regarding corporations and their 2019 corporate income, municipal business and net wealth tax returns, the Ministry of Finance had announced in December 2020 that the Direct Tax Administration will exceptionally display flexibility with respect to the filing of tax returns for the year 2019. Concretely, the various taxation offices in charge of companies will be supported in the approach to not impose late filing surcharges (an increase of up to 10% of the tax due) on corporate income and municipal business tax returns for the year 2019, which are submitted by 31 March 2021 at the latest.

2020 tax returns

For individuals, the filing deadline for the 2020 personal income tax and municipal business tax returns is set at 30 June 2021 (instead of 31 March).

According to the General Tax Law, individuals may generally request an extension for the filing of their personal income and municipal business income tax returns of a given year until 30 June. The Draft Law provides for an exceptional extension of this period with respect to the 2020 tax returns until 31 December 2021.

Partnerships are generally required to file a tax return, irrespective of the nature of the activity carried out or the nature of the income generated. The profit or income is in a first step determined at the level of the partnership and in a second step allocated to and taxed in the hands of the partners (insofar as the profit or income is taxable in Luxembourg) in proportion of their share in the profits or income of the partnership. If a partnership realizes commercial profits due to the nature of its activity or because it is commercially tainted by one or more of its partners, it has to file a specific tax return and will be liable itself to municipal business tax.

Whereas the Draft Law does not specifically address the extension of the filing deadline for tax returns to be filed by partnerships, it is likely that, by extension of the provisions foreseen for individuals and corporations, partnerships may also file their 2020 tax return (irrespective of whether the income qualifies as commercial profit) until 30 June 2021.

Corporations are generally liable to corporate income, municipal business and net worth tax and the corresponding tax returns have to be filed until 31 May of the calendar year following a given tax year. The Draft Law formally extends the filing deadline for the corporate income and municipal tax returns for the year 2020 to 30 June 2021. It should be noted that the General Tax Law further foresees the possibility for taxation offices to extend the deadline for the filing of tax returns on a case-by-case basis, even with effect for later tax years for taxpayers who keep extensive records. In practice, the authorities typically grant extensions until 31 December following the tax year for which the return is due.

Option for final 20% tax on interest

Under certain conditions, resident individuals may opt for a final 20% tax on eligible interest paid during a given tax year by a paying agent established in the European Economic Area. Where the option generally must be exercised by 31 March of the calendar year following the year of allocation of the interest income, the Draft Law proposes to extend the deadline to 30 June 2021 with respect to interest income allocated in respect of the tax 2020.

Option for individual taxation of resident taxpayers

Under certain conditions, jointly taxed spouses may opt to be taxed individually, provided the option is exercised by 31 March of the calendar year following the tax year for which the individual taxation is requested.

The aforementioned deadline was already extended with respect to the tax year 2019, to 30 June 2020, and the same extension is now foreseen for exercising the option with respect to the tax year 2020, i.e., 30 June 2021. In addition, taxpayers that may already have expressed their choice in the course or before the year 2020 may still revoke or amend it until 30 June 2021.

Similarly, the option deadline for individual taxation of resident registered partners is extended to 30 June 2021 as well.

Option for individual taxation of nonresident taxpayers

Married nonresident taxpayers can benefit from tax class 2 if more than 90% of the taxpayer's overall income is taxable in Luxembourg and if the taxpayer's foreign income does not exceed €13,000. As it is the case for resident married taxpayers, the nonresident taxpayers concerned are taxed jointly, unless they jointly file a request to be taxed separately by 31 March of the tax year following the tax year concerned. Again, the Draft Law proposes to extend the deadline for filing such request in relation with the tax year 2020 to 30 June 2021.

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