

Budget Law for the year 2023 is voted!

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On 15 December 2022, the Luxembourg Parliament passed the budget law for the year 2023 (" **Budget Law**"). A request to dispense with the second vote has been filed with the State Council.

Among the measures foreseen in the Budget Law, it is worth noting the following key takeaways:

- **clarification of the reverse hybrid entity rule ("RHER")** : Article 168^{quater} of the Luxembourg income tax law ("LITL") sets out the conditions of the RHER. Amongst those conditions, the foreign jurisdiction must treat the Luxembourg transparent entity as tax opaque resulting in the net income attributed to the relevant foreign partner not being taxed either in Luxembourg or abroad. The Budget Law amends Article 168^{quater} LITL so as to clarify that the absence of taxation of the net income must result from the divergent tax qualification of the Luxembourg transparent entity and not, e.g., from the subjective tax exemption of the said partner. This amendment must be read as an additional condition for triggering the application of Article 168^{quater} LITL. The revised rule will apply as from 1 January 2022;
- **extension of the deadline for filing the individual income tax return as well as corporate income tax returns** : considering that the original deadline of 31 March of each year was difficult to meet in practice, the Budget Law extends this deadline to 31 December of each year. This measure will apply for the first time to 2022 tax returns;
- **application of the 4% accelerated tax depreciation regime** : the Budget Law limits the benefit of this regime to only two buildings per taxpayer or part thereof dedicated to rental housing acquired or constructed after 31 December 2022;
- **revision of the inpatriate regime** : the Budget Law extends the application of this regime to inpatriates earning an annual gross salary of at least EUR 75,000 (instead of EUR 100,000 under the current rules);
- **amendment of the "prime participative" regime** : under the current regime, Luxembourg

companies can provide a premium to employees, 50% of which is exempt from tax, as long as the premium does not exceed 5% of the positive result of the employer in the relevant year. Under the Budget Law, Luxembourg companies in a fiscal unity within the meaning of Article 164ter LITL can opt for calculating the 5% limit based on the positive algebraic result of all companies forming part of such a fiscal unity.

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ELVINGER HOSS PRUSSEN

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