

New tax developments

Extension of dividend withholding tax exemption, reduction of corporate income tax rate and abolition of capital duty

On 16 December 2008, Luxembourg Parliament has adopted two laws, applicable as from 1 January 2009, which will increase the interest of Luxembourg as a holding and financing hub. In the light of the global economic environment, the various measures proposed to adapt Luxembourg tax rules to IFRS principles have been postponed.

1. Dividend withholding tax exemption

Dividends paid by Luxembourg companies subject to corporate income tax to a foreign company which is subject in its home jurisdiction to tax comparable to Luxembourg corporate tax will be exempt from Luxembourg withholding tax, if a tax treaty exists between Luxembourg and the foreign jurisdiction (a "treaty jurisdiction"). This exemption is currently limited, in respect of foreign companies, to companies which have their seat in another EU/EEA Member State or Switzerland and to Luxembourg permanent establishments of foreign companies resident in a treaty jurisdiction. The benefit of the exemption remains subject to the recipient company holding (or taking the commitment to hold) a minimum investment of 10% (or shares with an acquisition price of at least 1.2 m€) for an uninterrupted period of at least 12 months in the dividend paying company.

2. Corporate income tax rate

Corporate income tax rate is reduced from 22 to 21 % which results in the aggregated tax rate for Luxembourg corporate income tax (including solidarity surcharge) and trade tax to be reduced from 29.63% to 28.59% (for Luxembourg City).

3. *Capital Duty*

0.50% capital duty will be abolished as from 1 January 2009, including for transactions subject to the 5-year claw back. Contribution to Luxembourg companies or migration to Luxembourg will be subject to a nominal registration fee between 50€ to 100€

Due to the abolishment of capital duty, contribution of Luxembourg *situs* real estate to a company in exchange for shares will again be subject to real estate transfer taxes. The applicable tax will be 1.1% (0.60% registration tax plus 0.50% transcription duty), unless the transaction qualifies for the tax exemption available for business re-organisations.

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