

LUXEMBOURG TAX UPDATE

EXISTING MEASURES AND THOSE COMING INTO FORCE IN 2017

I. Temporary measures already in force

A. CAPITAL GAINS MADE BY INDIVIDUALS ON REAL ESTATE

Capital gains made on the sale of real estate involving a taxpayer's private wealth will be taxed at **25% of the taxpayer's overall effective tax rate** (instead of the standard 50%). The taxpayer must have owned this property for at least two years. This measure is valid from 1 July 2016 until 31 December 2017. Capital gains made on the sale of a main residence are not taxable and are therefore not affected by this temporary measure.

B. TAX AMNESTY

Until 31 December 2017, taxpayers who have not met their tax obligations may, under certain conditions, rectify their tax situation with the tax authorities. This temporary scheme means that taxpayers will not face tax fraud sanctions, which can be as much as fines of up to ten times the amount of unpaid taxes combined with a prison sentence ranging from 1 month to 5 years.

The tax amnesty allows any previously undeclared income/assets to be declared. As such, natural persons and companies having held assets or received income – from a Luxembourg or foreign source – for which no Luxembourg tax return has been filed, may follow this temporary procedure. In particular, it covers:

- income tax,
- net wealth tax,
- inheritance tax and
- stamp duty.

With regard to **banking income**, this applies to assets or income held in **a Luxembourg or foreign bank**.

How to rectify your tax situation:

Taxpayers wishing to rectify their tax situation must file a **single and exhaustive voluntary corrective tax return covering all assets held and/or income received** that have not been declared in a tax return filed with their tax office in the past 10 years, accompanied by supporting documents. It is not possible, therefore, to benefit from the tax amnesty on more than one occasion.



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If the corrective tax return is filed in 2016, taxpayers will pay the amount of unpaid tax plus a surcharge corresponding to 10% of the amount of unpaid tax. If the corrective tax return is filed in 2017, taxpayers will pay the amount of unpaid tax plus a surcharge corresponding to 20% of the amount of unpaid tax. Taxpayers must pay the unpaid tax plus the surcharge within one month from the date of notification of the corrective tax notice.

The corrective tax return must be filed unprompted, and the situation can only be rectified if, in particular, no administrative or judicial proceedings have already been initiated involving the unpaid tax before the date of filing of the corrective tax return.

From 2018, the tax amnesty procedure as described above will cease to apply. Taxpayers will therefore be subject to the sanctions laid down by the tax legislation.

From 2017, Luxembourg will automatically exchange information relating to 2016 within the European Union, as well as with non-european countries.

In this respect, Luxembourg will receive information concerning Luxembourg residents that hold accounts abroad. The automatic exchange of information relating to 2017 between Switzerland and Luxembourg will take place in 2018.

II. Measures announced under the 2017 tax reform

As the reform is a bill, these measures are yet to be adopted and may be amended before the final vote on the text.

A. MEASURES CONCERNING INDIVIDUALS

1. **The temporary budget balancing tax of 0.5%** on professional income, income substitution benefit and capital income will be abolished.
2. The **tax scale** will be revised with an adjustment made to the tranches and a new rate of tax introduced for class 1, namely **41%** for annual income above EUR 150,000 and a maximum rate of **42%** for annual income exceeding EUR 200,000.
3. The **rate of final withholding tax on interest will increase** from 10% to 20%. As is the case currently, withholding tax will not apply to savings accounts and books for which interest is credited once, provided that the interest does not exceed an annual amount of EUR 250 per person and per credit institution.
4. **Tax on the rental value** of a property occupied by the owner will be abolished.

The **maximum deductible amounts for mortgage interest** for properties occupied by the homeowner will be increased per member of the household as follows:

	First year of occupation and 5 subsequent years	5 subsequent years	Subsequent years
Currently	EUR 1,500	EUR 1,125	EUR 750
Reform	EUR 2,000	EUR 1,500	EUR 1,000

source: *reforme-fiscale.public.lu*

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- The annual maximum deductible amount on payments made into a **home savings scheme** will be doubled for taxpayers under the age of 40 (EUR 1,344 per person belonging to the household, compared with EUR 672 currently). This measure affects both new and existing policies.

Take advantage of this new threshold and find out more about our Schwäbisch Hall home savings schemes, which allow you to finance a property purchase while benefiting from tax deductions.

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- To stimulate the supply of **social housing**, 50% of net income arising from the rental of housing to approved social organisations (such as Agence Immobilière Sociale) is exempt.
- With regard to **pension savings schemes**, the current scale of annual maximum deductible amounts ranging from EUR 1,500 to EUR 3,200 according to the policyholder's age (article 111bis of the law on income tax) will be abolished. On 1 January 2017, the maximum deductible amount for these policies will be increased to EUR 3,200 regardless of the policyholder's age. This measure affects both new and existing policies.

Our OptiPension⁺ retirement pension plan allows you to take full advantage of this reform for both new and existing policies.

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- As regards the **redemption of savings accumulated as part of a pension savings scheme**, the reform will abolish the current obligation to redeem up to 50% of the accumulated savings as a lump sum and, with the remaining balance, take out or change to an insurance policy offering a life annuity payable monthly. In future, savings may be redeemed as a lump sum, as a life annuity payable monthly or as a combination of both in the proportions determined by the policyholder. Existing policies will also be affected by this measure.

In practice:

Until 31/12/2016	As of 01/01/2017
≤ 50% of the capital, the rest as a life annuity	When the pension savings scheme reaches maturity, clients may redeem: <ul style="list-style-type: none">• the full amount as a lump sum (new)• the full amount as a lifetime annuity payable monthly• a combination of both (50/50)

9. The **annual maximum deductible** amounts of EUR 336 for **debit interest** and EUR 672 for insurance premiums will be merged to create a combined annual maximum deductible amount of EUR 672 per person belonging to the household.
10. An **allowance** of EUR 5,000 for the purchase of **new zero-emission vehicles** and EUR 2,000 for **hydrogen-powered vehicles** has been introduced. The purchase of a **new traditional bike or e-bike** is eligible for an allowance of EUR 300.

B. MEASURES AFFECTING NATURAL PERSONS ENGAGED IN A COMMERCIAL ACTIVITY AND COMMERCIAL COMPANIES

1. The **carrying forward of tax losses** is limited to 17 years. Tax losses incurred before 2017 may still be carried forward without any time limitation.
2. The different **rates of tax credit for investment** (global investments on the first tranche of investments not exceeding EUR 150,000, additional investments, investment in assets eligible for a special depreciation) will increase by 1%.
3. An option to request the deferral **of normal depreciation for wear and tear on capital assets** has been introduced in the tax legislation.
4. The **tax credit** for the hiring of unemployed persons is extended until 31 December 2019.

C. MEASURES CONCERNING CAPITAL COMPANIES (E.G. S.A., S.A.R.L., SCA)

1. **Corporate income tax** is to be decreased gradually from 21% (currently) to 19% in 2017 and 18% from 2018.
2. **The minimum net wealth tax** applicable to SOPARFIs (financial holdings companies) is to increase from EUR 3,210 to EUR 4,815.
3. **Electronic filing** of returns for income tax, municipal business tax and net wealth tax is to become a mandatory requirement for companies subject to corporate income tax.

For more information on the tax reform, visit : www.reforme-fiscale.public.lu