



A professional services organisation serving the needs of international private clients, their businesses and their families

“... could offer various interesting tax planning opportunities for international operating companies.”

Further Information

STM Fidecs Advisory Limited

PO Box 575
Montagu Pavilion
8 – 10 Queensway
Gibraltar

For further information about the tax changes in Luxembourg and Malta, please contact us on:

Telephone: +(350) 200 42686
Telefax: +(350) 200 42701

Email: tax@stmfidecs.gi
Web: www.stmfidecs.gi

LUXEMBOURG – measures announced to balance its budget

On 5 May 2010, the Luxembourg Prime Minister proposed a number of tax measures for individuals and corporations aimed at balancing Luxembourg's budget deficit and public debt, which are amongst the lowest within the European Union. The main proposals are listed below and, if enforced, would be applicable from 1 January 2010 until the end of 2012, subject to sufficient economic recovery. These proposals are non-exhaustive and are subject to ratification by the Luxembourg Parliament.

Corporations

- The previously announced reduction in the combined corporate tax rate will not yet be implemented. Therefore, corporate income tax will remain at the current rate of 21%. However, due to an increase of the solidarity contribution/unemployment surcharge of 1% (applying on the corporate income tax), the combined rate will increase to 22.05% (not including the municipal tax rate).
- The introduction of a minimum lump sum taxation for certain companies in Luxembourg (e.g. holding company/Soparfi). Although details of the lump-sum taxation have not yet been released, it is expected that the tax may correspond to a lump-sum amount between €2,000 and €3,000. Substantial bonuses including bonuses payable at the end of employment may no longer be treated as a tax deductible expense for the company paying the bonuses.
- The rate of employer's contribution for accident insurance may be set at 1.25% (currently in the range 0.45% to 6%).
- Luxembourg will maintain its efforts to increase its double tax treaty network.

Individuals

- An additional marginal income tax rate of 39% may be introduced. This new top rate of income tax will, for example, apply to married couples earning an income of approximately EUR 83,500 or more.
- The rate of solidarity tax could be increased from 2.5% to 4% (for taxpayers earning more than EUR 300,000 per year the rate is 6%).
- A crisis contribution tax of 0.8% may be withheld from all types of income.

- Tax credit for registration expenses of a new property (e.g. notary deeds) constituting as the taxpayer's main residence may now only be granted depending on the taxpayer's income instead of a fixed amount per owner of the property.
- Interest relief on (new) mortgages for primary residences could be abolished.
- Tax deductible travel expenses could be reduced by 50% in 2011.

Oncke Kipperman, Director of STM's international tax department, said, "The proposed tax measures make sense in light of the recent economic crisis and the impact, it had on Luxembourg (albeit limited), as an international financial centre. I envisage that once the economy has sufficiently recovered, many of the proposed tax measures will be abolished and the previously announced tax amendments, such as the proposed reduction in the corporate tax rate, may be finally implemented." The proposed tax measures are not expected to have a negative impact on Luxembourg as an international financial centre.

MALTA – enhancement of tax rules

In April 2010, the Maltese Parliament approved various amendments to Malta's tax laws which are expected to further enhance Malta's position as a location for international companies. The main amendments are listed below.

- The conditions for the participation exemption to apply are made less restrictive. Previously all three conditions had to be satisfied. Now only two of the three conditions need to be satisfied. Therefore the participation exemption, under which dividends and capital gains of a qualifying non-Maltese subsidiary received by an "equity holding", applies when two of the following conditions are satisfied:

- The parent company has a right to vote;
- The parent company has a right to profits available for distribution; or
- The parent company has a right to any surplus on liquidation of the subsidiary.

Due to the amendments, income and gains from previously non-qualifying subsidiaries may now possibly benefit from the Maltese participation exemption. The amendment is effective for

assessment years starting on or after 1 January 2009.

- As from 1 January 2009, it is possible to claim a step-up in the tax base cost of non-Maltese assets without Maltese tax implications. Furthermore, the revaluation of these assets, from historic to fair market value, should reduce or avoid Maltese taxation on capital gains realized due to the later disposal of these assets. Revaluation of non-Maltese assets is possible for individuals re-locating their residence and/or domicile to Malta, and companies relocating to Malta as a result from a merger in accordance with the EU Merger Directive. Such individuals and companies may not have been a prior resident of Malta.
- Although details are awaited, royalty income and similar income derived from patents in respect of inventions will be exempt from Maltese income tax.
- With effect from 1 January 2009, Malta has extended its relief for double taxation for underlying foreign taxes suffered on the profits out of which a dividend is distributed, to Maltese taxes. In other words, such double taxation relief is now also granted for domestic taxes.
- Although details are awaited, with immediate effect, non-Maltese ordinarily resident individuals receiving income from qualifying income with regard to work or duties carried out in Malta, or in respect of any period spent outside Malta in connection with such work or duties, may opt to be taxed at a flat rate of 15%.

Darren Anton, Tax Manager at STM Fidecs Advisory Ltd., the international tax division of STM Group Plc., stated, "The amendments improve Malta's position as an international financial centre and could offer various interesting tax planning opportunities for international operating companies."

Any reference to legislation and taxation in this publication are based on our understanding of current tax law which may change. Please note that whilst every care and attention has been taken to ensure the accuracy of the contents of this publication, the information contained herein is intended for general guidance only and is not a substitute for professional advice. No responsibility is accepted for any advice taken or not taken on the basis of the information contained in this publication.