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NEW LUXEMBOURG TAX MEASURES FOR INDIVIDUALS AND COMPANIES TO BE INTRODUCED AS FROM JANUARY 2011

*MEASURES FOLLOW THE SUBMISSION OF BILL N° 6166 TO THE PARLIAMENT
AS A RESPONSE TO THE FINANCIAL AND ECONOMIC CRISIS*

Certain new tax measures for both individuals and companies have been proposed in Luxembourg in a move to counter the impact of the economic and financial crisis. These changes follow the submission of a draft law (Projet de loi N° 6166) to the parliament on 30 July 2010 by the Minister of Finance and subject to enactment, are due to take effect as from January 2011. They will apply to financial years closing during the course of 2011, excluding the disallowance of severance payments and leaving bonuses, the latter of which will remain entirely deductible insofar as they have been allocated before 1 January 2011.

1. New Tax measures For Individuals

- **Individual Tax Increases**

The bill outlines an increase of the individual tax rate to 39% for taxable income exceeding EUR 41,793 (as opposed to the current rate of 38%). The current maximum tax rate of 38% will apply to taxable income between EUR 39,885 and 41,793.

The unemployment surcharge will increase from 2.5% to 4% and to 6% for income above EUR 150,000 (EUR 300,000 for couples taxed jointly).

As a result, the aggregate tax rate for single persons will increase from 38.95% to 40.56% (41.34% for the portion of income exceeding EUR 150,000).

- **Temporary Special Crisis Contribution**

For the years 2011 and 2012, a temporary special crisis contribution of 0.8% will be levied on all types of income of both residents and non-residents in relation to their total Luxembourg source income. The tax will be collected by the Luxembourg social security administration (for professional and related income) and the direct tax administration (for all other types of income).

As a personal tax, the contribution cannot be deducted for income tax purposes. The taxable basis will, however, exclude income which is exempt as a result of an applicable double tax treaty, even if such income may have been taken into account to determine the individual income tax rate.

If added to the individual income tax rate, a single person will be subject to total taxes at the marginal rate of 41.36%, representing an increase of 2.41%. For the portion of income exceeding EUR 150,000, the marginal tax rate will be 42.14%, representing an increase of 3.19%.

- **Reduction in Tax Deduction Thresholds for Travel Expenses**

The minimum and maximum thresholds for deductible amounts applicable to travel expenses will be cut by approximately 50%, from EUR 99 to EUR 51 per unit, resulting in a minimum of EUR 204 and a maximum of EUR 1,530 per annum.

- **Move to Repel 'Golden Handshakes'**

To repel the so-called 'golden handshakes', severance payments and leaving bonuses exceeding EUR 300,000 will no longer be deductible for the employer.

The bill also provides for an anti-abuse measure which tackles payments spread over several years aiming to circumvent the ceiling of EUR 300,000.

- **Registration Duties and Transcription Taxes**

The rebate for registration duties and transcription taxes on notary deeds where there has been an acquisition of private real estate used as the principal place of residence will no longer be granted if the acquirer's income exceeds a certain threshold.

- **Favourable Tax Measures**

The bill also contains certain favourable new measures. To encourage investments that benefit the environment or that improve energy efficiency, the maximum special depreciation rate will increase from 60% to 80%.

Further, to foster investments which enhance entrepreneurial competition, the bill proposes to increase the complementary and global investment credit to 13%, respectively 7% (3% on the part exceeding the first portion of EUR 150,000).

2. New Tax measures For Companies

- **Minimum Taxation for Certain Companies**

Collective entities with net assets made up of more than 90% of financial fixed assets, securities and banking assets, and of which their activity is not subject to the authorisation or license of a public authority, will be liable to a lump sum taxation of EUR 1,500 (to be increased with the unemployment surcharge – see below). Following the latter rule, *inter alia* Soparfi's will be subject to the flat minimum tax.

For fiscally integrated companies, this tax will only be due by the Luxembourg top holding company (or permanent establishment) which is subject to corporate income tax on behalf of the fiscal unity.

- **Unemployment Surcharge**

As for individuals, the unemployment surcharge will increase from 4% to 5%. In light of current circumstances, the previously announced gradual decrease of the corporate income tax rate can no longer be upheld (State of the Nation Speech of 22 May 2008). Even though the current rate of 21% will not increase, the increase of the unemployment surcharge will result in an increase of the global corporate income tax rate to 22.05% (as opposed the current rate of 21.84%).

Overall, the new tax measures in the draft law will predominantly be applicable to the individual rather than business where proposed changes remain limited. They have been introduced accordingly to safeguard Luxembourg's position as an attractive and stable business environment, particularly during times of economic and financial uncertainty such as these.

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