



Conditions and deadlines for filing the 2012 Tax Return

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Many taxpayers are wondering if they are forced, or not, to submit a Tax Return.

Please find hereafter the main assumptions when the taxpayer is taxable by the submission of a Tax Return whether he is a resident or a non-resident:

Taxation of resident taxpayers in Luxembourg

Mandatory

The resident taxpayer is taxable by submission of a Tax Return if he meets one of the following criteria:

- Taxable income subject to withholding tax (salary, pension, dividends, director's fees) exceeds 100.000 €, or
- Spouses receive a salary or a pension whose incomes exceeds 36.000 € for taxpayers in tax class 1 and 2 and 30.000 € for taxpayers in tax class 1a, or
- The taxable income includes in addition to the salary, pension, dividend, director's fees incomes other incomes non subject to withholding tax for more than 600 € (e.g.: rental income, independent income,...), or
- The taxable income includes over 1.500 € of director's fees or securities income that are subject to withholding tax, or
- The taxable income consists wholly or partly in salaries or pensions non subject to a withholding tax in Luxembourg, or

Are also required to submit an income Tax Return, the taxpayers who receive from the Tax Authorities an invitation to file the Tax Return form.

Optional



Resident taxpayer may claim a loss deduction on income not subject to withholding tax. The most common is the rental loss in relation with the main residence by deduction of the mortgage interests. The taxpayer may also claim the deduction of withholding taxes on director's fees, artist's incomes or investment incomes.

Taxation of non-resident taxpayers

Mandatory

The non-resident taxpayer is subject to two cumulatives conditions for being taxed by filling a Tax Return:

1st condition

Either the non-resident taxpayer is engaged continuously as an employee in Luxembourg for at least 9 months,

Either the taxpayer is classed in tax class 2 because he has more than 50% of the household income in Luxembourg and is also engaged continuously as an employee in Luxembourg for at least 9 months.

2nd condition

The non-resident taxpayer is taxable by submission of a Tax Return if he meets the following criteria:

- The taxable income subject to withholding tax (salary, pension, dividend, director's fees) exceeds 100.000 €, or
- The spouses receive a salary or a pension whose incomes exceeds 36.000 € for the taxpayer in tax class 1 and 2 and 30.000 € for the taxpayers in tax class 1a, or
- The taxable income includes, in addition to salary, pension, dividend, director's fees incomes other incomes non subject to withholding taxes for more than 600 € (e.g. : rental income, independent income,...), or
- The taxable income includes in addition to 1.500 € of director's fees or securities income that are subject to withholding tax, or
- The income consist solely in director's fees for an amount of more than 100'000 €, or
- The taxable income consists wholly or partly in salaries or pensions non subject to a withholding tax in Luxembourg, or



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Optional

- The non-resident taxpayer may be treated as a resident taxpayer in order to deduct some expenses (special expenses, extraordinary charges) or to claim a loss on incomes non subject to withholding taxes (e.g.: rental loss,...) provided that at least 90% (50% for the taxpayer who are resident in Belgium) of the worldwide incomes are taxable in Luxembourg.
- In order to get back a part or the whole withholding tax on director's fees, artist's incomes or investment incomes, the non-resident taxpayer can also submit a Tax Return.



Deadlines for submitting the Tax Return in 2013

Further to the automatic sending of a warning penalty the 30 November 2012 by the Tax Authorities to every taxpayer who did not have filled their previous Tax Return (2011) and setting a deadline on the 05 January 2013, the deadlines hereafter are applicable for filling the next Tax Return.

In order to avoid any misunderstanding, please note in your agenda the following deadlines:

- **Deadline for the filling of the Tax Return**

The deadline for filling the Tax Return is theoretically set the 31 march of the year following the tax year of the income. By a motivate application and following the article 167 § 4 from the tax law, this deadline can be extended up to the 30 of June. Actually, there is no risk of warning penalty if you exceed the deadline of 31 of March but you have to submit it before the 31 of October.

In order to avoid any risk of penalty (between 250 and 1250 EUR), or interests for late filing, it is best to meet the deadline of 31 October.

- **Deadline in order to get a reimbursement following the filing of a Tax Return**

Following the article 153 of the tax law, the Tax Authorities are entitled to refuse any tax refund obtained through your tax return if you do not respect the deadline of 31 December the year following the tax year of income.



The Tax Authorities seems to interpret the article 153 on the following manner for the resident and non-resident taxpayers:

- For taxpayers **exempted from filing a Tax Return** (including those who earn less than 100 000 € / 36 000 € of taxable income for single / married couples where both spouses are gainfully employed)
 - => Tax Refund **refused** if the December 31 deadline is exceeded.
- For taxpayers **required to file a tax return** (including those who have more than 100,000 € / 36,000 € of taxable income for single / married couples where both spouses are gainfully employed. See art. 153 : other criteria for taxation through tax return)
 - => Tax Refund in principle **tolerated** even if the December 31 deadline has passed.

- **Deadline for filling your withholding tax adjustment 2012**

The Deadline for submitting your withholding tax adjustment is set the 31 December of the year following the income tax year. After this deadline, every withholding tax adjustment are refused.

E.g. : The 2012 withholding tax adjustment is to submit the 31 december 2013 at the latest.

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advisory@ifgroup.lu

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