



## NEW TAX REGIME FOR IMPATRIATES

Early 2011, we informed you about the issuance of a circular<sup>1</sup> by the direct tax administration (ADC) introducing a favorable tax regime for highly skilled and specialized workers moving to Luxembourg: <http://www.ifgroup.lu/en/news/archive/newsletter-expatriates>.

On 21 May 2013, the ADC issued a new circular which replaces the circular of 2010 and facilitates the conditions of application of this tax regime<sup>2</sup>.

This circular is part of the strategy aiming to improve the competitiveness of the country and to attract foreign experts to Luxembourg, in order to satisfy a need for skilled and specialized labor.

The companies willing to develop innovative and sustainable products, technology or services have often to hire highly qualified staff on the international market. To encourage them coming to Luxembourg, employers are required to pay for all or part of their installation costs.

The circular aims to provide a tax framework for the expenses in connection with the recruitment of these employees on the international market, called now impatriates<sup>3</sup>.

### ENTRANCE INTO FORCE OF THE CIRCULAR OF 2013

The new circular is applicable to employees who established or will establish themselves in Luxembourg as from 1 January 2013.

### CONDITIONS OF APPLICATION OF THE TAX REGIME TO IMPATRIATES

The circular of 2013 reduces significantly the conditions of application of the tax regime to impatriates. The table below summarizes the changes.

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<sup>1</sup> Circulaire du Directeur des contributions L.I.R. n°95/2 du 31 décembre 2010 « Encadrement fiscal des dépenses et charges en relation avec l'embauchage sur le marché international de salariés hautement qualifiés et spécialisés »

<sup>2</sup> Circulaire du Directeur des contributions L.I.R. n°95/2 du 21 mai 2013 « Encadrement fiscal des dépenses et charges en relation avec l'embauchage sur le marché international de salariés »

<sup>3</sup> Impatriate either means the employee who normally works abroad, is seconded from a company of an international group based outside Luxembourg to take a job in a Luxembourg company belonging to the same international group or the employee directly recruited abroad by a Luxembourg company to take a job within this company.

|                                     | CIRCULAR OF 31.12.2010                                                                                                                                                                                           | CIRCULAR OF 21.05.2013                                                                                                                                                                                                                                                                            |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Common conditions for all employees | <b>Highly skilled workers</b> temporarily seconded or recruited abroad                                                                                                                                           | Unchanged                                                                                                                                                                                                                                                                                         |
|                                     | Activity mainly performed in Luxembourg                                                                                                                                                                          | Unchanged                                                                                                                                                                                                                                                                                         |
|                                     | Establish his/her tax residence in Luxembourg                                                                                                                                                                    | Unchanged                                                                                                                                                                                                                                                                                         |
|                                     | For the 5 preceding years: <ul style="list-style-type: none"> <li>Not have been Luxembourg resident</li> <li>Not have been subject to Luxembourg individual income tax on his/her professional income</li> </ul> | For the 5 preceding years: <ul style="list-style-type: none"> <li>Not have been Luxembourg resident</li> <li><b>Not have been living less than 150 km from the Luxembourg border</b></li> <li>Not have been subject to Luxembourg individual income tax on his/her professional income</li> </ul> |
|                                     | Master degree or <b>at least 5 years</b> professional experience in the sector concerned                                                                                                                         | <b>Abolished condition</b>                                                                                                                                                                                                                                                                        |
|                                     | Base gross remuneration <sup>4</sup> corresponding at least to the maximum social security ceiling: <b>€ 112.451,28/year</b> (index 756,27)                                                                      | Base gross remuneration <sup>3</sup> of at least <b>€ 50.000/year</b>                                                                                                                                                                                                                             |
|                                     | Not replace another employee (not qualifying for the special tax regime)                                                                                                                                         | Unchanged                                                                                                                                                                                                                                                                                         |
| Seconded employees                  | Seniority within the group or specialized professional experience in the sector ≥ 5 years                                                                                                                        | Unchanged                                                                                                                                                                                                                                                                                         |
|                                     | Under employment contract with the original employer + assignment letter foreseeing a right to return                                                                                                            | Unchanged                                                                                                                                                                                                                                                                                         |
| Employees recruited abroad          | Specialization in a sector characterized by difficulties of recruitment in Luxembourg                                                                                                                            | Unchanged                                                                                                                                                                                                                                                                                         |
| Employer                            | Employ - or commit to employ in the medium term - at least 20 employees working full-time in Luxembourg                                                                                                          | Unchanged                                                                                                                                                                                                                                                                                         |
|                                     | <b>Maximum 10%</b> of staff can benefit from this regime (except for the undertakings existing for less than 10 years in Luxembourg)                                                                             | <b>Maximum 30%</b> of staff can benefit from this regime (except for the undertakings existing for less than 10 years in Luxembourg)                                                                                                                                                              |

<sup>4</sup> Excluding any additional benefits in kind or in cash.

## TAX EXEMPTION

The expenses borne by the employer are tax deductible for the company and do not constitute taxable employment income in the hands of the employee<sup>5</sup>.

The tax exemptions foreseen by the circular of 2013 remain unchanged from the circular of 2010:

| COSTS AND EXPENSES BORNE BY THE EMPLOYER |                                                                                                                                                                                                                                                                                                                                                                                 | TAX EXEMPTION                                                                                                                                                                                                                                                                           |
|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Housing and travel expenses</b>       | Moving expenses from the home country to Luxembourg for the employee and his/her family                                                                                                                                                                                                                                                                                         | Total exemption                                                                                                                                                                                                                                                                         |
|                                          | Furnishing costs related to the Luxembourg accommodation (purchase of furniture and home appliances)                                                                                                                                                                                                                                                                            | Total exemption                                                                                                                                                                                                                                                                         |
|                                          | <ul style="list-style-type: none"> <li>Total amount of the rent + heating, gas, electricity in relation with the Luxembourg accommodation (if an accommodation is maintained in the home country)</li> <li>Differential between the cost of the Luxembourg accommodation and the one in the home country (if an accommodation is not maintained in the home country)</li> </ul> | Exemption not exceeding: <ul style="list-style-type: none"> <li>Neither € 50,000/year (or € 80,000 /year if the employee lives in Luxembourg with his/her spouse or partner)</li> <li>Nor 30% of the fixed annual salary</li> </ul>                                                     |
|                                          | Cost for an annual trip to the home country for the employee and his/her family                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                         |
|                                          | Tax equalization (differential tax burden between Luxembourg and the home country)                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                         |
|                                          | Travel expenses to the home country (birth, marriage or death of relatives)                                                                                                                                                                                                                                                                                                     | Total exemption                                                                                                                                                                                                                                                                         |
|                                          | Definitive return costs to the home country                                                                                                                                                                                                                                                                                                                                     | Total exemption                                                                                                                                                                                                                                                                         |
| <b>School fees</b>                       | School fees imposed by the primary and secondary school                                                                                                                                                                                                                                                                                                                         | Total exemption                                                                                                                                                                                                                                                                         |
| <b>Lump sum allowance</b>                | Allowance covering the differential cost of living between Luxembourg and the home country + miscellaneous expenses in relation with the expatriation                                                                                                                                                                                                                           | Exemption not exceeding: <ul style="list-style-type: none"> <li>8% of the employee's monthly fixed salary with a maximum of € 1,500/month</li> <li>16% with a maximum of € 3,000/month if the employee lives in Luxembourg with his/her spouse or partner who is not working</li> </ul> |

<sup>5</sup> Provided that their amount is reasonable.



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## DURATION OF THE REGIME AND ANNUAL REPORTING

The new circular took over the fact that the employee concerned can benefit from the regime for a maximum of five years following the beginning of employment in Luxembourg.

The old circular foresaw the obligation to file a written request to the competent withholding tax office in order to obtain the recognition of the status of a highly skilled and specialized worker. The new circular does not foresee the obligation to file such a request anymore.

The annual reporting obligation is maintained. No later than 31 January of each year, the employer has to provide the withholding tax office with a list of the employees for whom the regime of the circular has been applied.

IF Advisory is at your disposal for any assistance in relation with the implementation of this new circular.

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