IF GROUP

NEWSLETTER

Tax reform: tax classes for married non-residents as from January 1st, 2018

Further to the tax reform voted in December 2016**[1]**, the Direct Tax Administration began sending a letter to non-resident married taxpayers informing them of changes regarding tax classes starting in 2018 tax year.

As of October 3rd, the Direct Tax Administration also published a newsletter detailing the main lines of the reform: **www.impotsdirects.public.lu**

As from 2018, non-resident married taxpayers will be ranked, by default, into tax class 1.

However, they will be entitled to a withholding tax rate based on the tax class 2 tariff according to the conditions and formalities of the tax assimilation regime**[2]**.

The tax assimilation consists of taking into consideration the household foreign income to determine the tax rate applicable to the Luxembourg income (giving rise to a joint taxation).

To benefit from the tax assimilation regime, the taxpayers must necessarily fulfill one of the following conditions:

- At least 90% of one of the spouses' worldwide income is taxable in Luxembourg, knowing that the first 50 days taxable abroad, pursuant to a double tax treaty, are assimilated to Luxembourg taxable income**[3]**.

OR

- More than 50% of the household professional income is taxable in Luxembourg **(only valid for Belgian frontier workers[4])**.

OR

- Net income taxable abroad of one of the spouses is less than €13,000 (i.e. gross income less income related expenses).

A form presenting two possible options is attached to the letter:

- Option 1: Accepting the proposed 2018 withholding tax rate (which has been determined based on income available to the Tax Administration);
- Option 2: Providing the 2018 estimated household income (when the required information to determine the tax rate is missing) to allow the Tax Administration to determine it.

For a priority treatment, the form must be returned before October 31, 2017 through the secured platform: **www.guichet.lu**
In case of tax assimilation, the filing of an income tax return will be mandatory.

In the absence of reaction further to the letter of the tax administration, the taxpayers will automatically be ranked into tax class 1. It will be however possible to ask for the fixation or change of the rate on the tax card during the year 2018, or to ask for the collective taxation through the filing of a tax return before 31 March, 2019**[5]**.

As with Luxembourg married residents, married frontier workers will be entitled to opt for an individual taxation (each spouse being liable in this case to pay the tax on his/her own income only) until March 31, 2019**[6]**.

For more information, please do not hesitate to contact us.

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[1] Law of December 23, 2016 implementing the 2017 tax reform.
[2] Article 157*ter* L.I.R.
[3] Subject to the parliamentary approval of the bill 7200 introduced by the government.
[4] Article 24§2(4) of the double tax treaty concluded between Luxembourg and Belgium.
[5] Subject to the parliamentary approval of the bill 7200 introduced by the government.
[6] *Ibid* 5.

EXPERTS EN FORMATIONS FISCALES ET SOCIALES

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