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Seminar

Arendt House

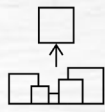
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Modernization of the investment tax credit regime and forthcoming tax changes

Your contacts/speakers



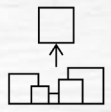
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New Luxembourg Investment Tax Credit rules



Previous ITC regime (1/2)

- Article 152bis ITL:
 - ITC granted **upon request**
 - ITC for eligible investments in an establishment located in **Luxembourg** (intended to remain there permanently) and physically implemented in **Luxembourg** or **EEA territory**

- ITC granted for
 - additional investments
 - global investments

- ITC for **additional** investments:
 - 13% of the additional investment made in eligible assets
 - eligible assets = tangible depreciable assets
 - excl. buildings, farm stock, mineral and fossil deposits, assets depreciable over less than 3 years, assets acquired through universal transfer, used assets
 - additional investment = value of the assets assigned at the end of that financial year less the reference value
 - reference value = arithmetical average of the values of the eligible assets at the end of the 5 previous financial years (min. EUR 1,850)
 - ITC limited to the value of the investments made in eligible assets

Previous ITC regime (2/2)

- ITC for global investments:
 - ITC is calculated on the acquisition/cost price of the eligible investment made during the financial year: ITC of 8% for first tranche not exceeding EUR 150 000 + 2% for the tranche exceeding EUR 150 000
 - possible increase to 9% and 4% respectively in case of certain environmentally friendly investments
 - eligible investments :
 - tangible depreciable assets (excl. buildings, farm stocks, mineral and fossil deposits ...)
 - sanitary and central heating installations for hotels
 - certain buildings of social nature
 - certain fixed assets eligible for special depreciation
 - software (not acquired from an affiliate)

- Resulting cumulative ITC deducted from CIT due in the same tax year of the investments

- Possibility of ITC-carry-forward for up to 10 years if CIT in current year insufficient

Law of 22 December 2023 (Bill N° 8276)

New ITC rules as of tax year 2024 (1/5)

- **ITC for global investments increased from 8% to 12% : regardless of amount invested.**
Investments eligible for special depreciation, *i.e.*, certain environmentally friendly investments may benefit from 14% increased rate
- **ITC for additional investment repealed** : replaced by an ITC for investment in the digital transformation or ecological and energy transition of the business
- **NEW ITC for investments in the digital transformation or the ecological and energy transition of a business** : this ITC may only be granted where investment and expenses are confirmed in a certificate issued by the Minister of the Economy. The ITC is 18%, except for depreciable tangible assets, for which it is 6%

Law of 22 December 2023 (Bill N° 8276)

New ITC rules as of tax year 2024 (2/5)

- The new ITC will apply to the following:
 - investments in depreciable tangible assets other than buildings, livestock, and mineral and fossil deposits.
 - investments in software and patents, except where acquired from an affiliate (such software or patents will no longer be eligible for the IP Box regime).
 - expenditure on the use of, or the right to use, patents or software, other than where granted by an affiliate.
 - expenditure on consultancy, diagnostic and technical support services provided by external service providers which do not relate to the enterprise's normal operating expenditure, such as regular tax or legal consultancy services, or advertising.
 - expenditure on staff directly assigned to the enterprise's digital transformation or ecological and energy transition.
 - training costs for staff directly involved in digital transformation or ecological and energy transition.

- The new ITC is calculated based on the acquisition price or production costs of the relevant investments made or expenditure incurred during the financial year.

Law of 22 December 2023 (Bill N° 8276)

New ITC rules as of tax year 2024 (3/5)

- To be eligible, **investments relating to the digital transformation must fulfill at least one of the following alternative criteria:**
 - redefinition of an entire production process so as to substantially improve the enterprise's productivity, energy efficiency or raw materials efficiency
 - implementation of an innovative business model within the enterprise, including the circular economy, so as to create new value for stakeholders
 - significant redefinition of the overall service delivery in a way that creates new value for stakeholders
 - significant transformation of the enterprise's organization so as to create new value for stakeholders
 - significant redefinition of all the enterprise's processes in order to substantially increase the identification and mitigation of the digital risks of the enterprise's activities

Law of 22 December 2023 (Bill N° 8276)

New ITC rules as of tax year 2024 (4/5)

- To be eligible, **investments relating to ecological and energy transition must fulfill at least one of the following alternative criteria** :
 - Significant improvement in energy efficiency of the production process (at least 20% savings in energy consumption) compared to reference period of 5 years before implementation
 - Significant decarbonization of the production process, so as to reduce greenhouse gas emissions by at least 40%, compared to reference period of 5 years before implementation
 - Production or storage of renewable energy in order to meet the business' energy needs self-sufficiently
 - Reduction in air pollution beyond legally prescribed limits, whereas the reduction potential is determined by a reference to a period 5 years before implementation of the measures
 - Significant improvement in suage of (primary) raw materials used by (a) reducing it by at least 15% or (b) by replacing it by at least 20% with by-products or secondary raw materials (compared to reference period of 5 years before implementation)
 - Implementation of a production process that extends the use of products by reusing them

Law of 22 December 2023 (Bill N° 8276)

New ITC rules as of tax year 2024 (5/5)

- New procedure for the grant of the new ITC
 - application for an **attestation of eligibility** to be submitted to the Minister of the Economy
 - decision within 3 months
 - implementation
 - application for an **eligibility certificate** to be submitted to the Minister of the Economy - request to be filed for each financial year within 2 months following the closure of the financial accounts / delivery (if the conditions are fulfilled) within 9 months
 - eligibility certificate to be joined to the tax return

- The eligibility certificate binds the ACD.

The image features two skydivers in freefall against a background of white clouds. The skydivers are wearing full gear, including helmets and parachutes. The background is split into a white cloud-filled area on the left and a dark blue area on the right with a white geometric pattern of overlapping triangles. The text 'Personal tax updates as of January 1st, 2024' is written in white on the blue background.

Personal tax updates as of January 1st, 2024

The logo for the firm 'arendt' is displayed. It consists of the word 'arendt' in a lowercase, sans-serif font, enclosed within a blue square frame that has a small gap at the top and bottom.

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Personal tax updates as of January 1st 2024

■ **Law dated 22/12/2023 - Memorial A n°826/2023 and GDRs Memorial A n° 827/2023 and 828/2023)**

- Update of the Luxembourg income tax brackets by **10,38%** corresponding to **four automatic salary increase**

Gross monthly salary	EUR 4 000	EUR 10 000
Taxes due previous tax scale	529,80	2 754,70
Taxes due new tax scale	458,30	2 652,10
	-71,50	-102,60

*All amounts are in EUR

- Adjustment of the **revaluation coefficients outlined in Article 102 al. 6 ITL** in line with the price index evolution (every 2 years)

■ **Law dated 22/12/2023 - Memorial A n°832/2023**

- Increase in the maximum CO2 tax credit from **EUR 144 to EUR 168 per year** (equivalent to a maximum CI-CO2 of €14 per month)
- Initially implemented by the law dated 05/07/2023
- **Degressive tax credit up to an annual gross income of EUR 80 000**
- Available for self-employed individuals (realizing business, agricultural, or forestry profits), employees, pensioners, or individuals in liberal professions



Focus on upcoming tax measures for individuals

Focus on upcoming tax measures for individuals

Bill of law N°8353

- **Measures announced during the Government press conference of January 31st, 2024**
 - Implementation of emergency measures to revive the construction sector and facilitate access to housing
 - Housing support measures
 - Tax measures
 - **Bill No. 8353** was introduced in front of the Chamber of Deputies on February 7th, 2024, and is currently under examination by the Finance Committee, the Housing Committee, and the Regional Development Committee.

Temporary measures for tax year 2024 (with retroactive effect as of January 1st, 2024)

Bill of law N°8353

- **Increase in the "Bëllegen Akt" tax credit for the purchase of a principal residence**
 - From **EUR 30 000 to EUR 40 000** per individual (in case the EUR 30 000 tax credit has already been used, an additional credit of EUR 10 000 is available for 2024)
 - Only available for the purchase of the **main residence**
 - **Example:** a taxpayer will pay no registration or transcription duty on the purchase of a property up to a maximum property value of EUR 571 000 (EUR 1 142 000 for a couple)

- **New "Bëllegen Akt" for investment in rental housing**
 - Available for investment in **rental housing**
 - Amount of the credit set at **EUR 20 000** per individual or **EUR 40 000** for a couple
 - Exclusively dedicated to off-plan sales (**VEFA**) and the purchaser must commit to renting out the property for a **minimum period of two years**

- **Reduction of the capital gains tax rate to one-quarter of the global tax rate**
 - Long term capital gains (**art. 99ter ITL**) realized in 2024 on immovable properties held for **more than 2 years** will be taxed at a **quarter of the global tax rate**
 - Maximum tax rate of cir. **11.5%** (instead of the half-rate system)
 - The date of realization of the property must be **in 2024** (i.e. date of the notarial deed, date of the equivalent judgment, or the date of equivalent administrative act)

Temporary measures for tax year 2024 (with retroactive effect as of January 1st, 2024)

Bill of law N°8353

- **Reactivation of the capital gains transfer system (art 102 al. 8 ITL)**

- **Tax-neutral transfer of long-term capital gains** reinvested in certain properties (taxation occurring when the second property is sold)
- Reinvestment in immovable property allocated to **social rental purposes or properties reaching an A+ energy performance level**

- **Introduction of a « special construction allowance » (art. 129f ITL)**

- Increase in the **depreciation rate and duration** available to off-plan properties acquired in 2024 (date of the notarial deed)
- For **rental properties** only
- An additional **4% depreciation rate is capped at EUR 250 000/year** (corresponding to a maximum depreciable value of EUR 6 250 000) on top of the standard 2% depreciation rate
- Available for **the year in which the building is completed (prorated) and the following 6 years**
- Not applicable to properties benefiting from the 4% depreciation rate and the 1% special property allowance

Long-term tax measures for individuals

Bill of law N°8353

■ New rent allowance for young workers

- Introduction of a partial **tax exemption** on premiums paid by employers for **renting** a main residence (**art. 115 n° 13c ITL**)
- Available to **young professionals** (employees under 30 years old on January 1st of the tax year)
- The employee's annual gross remuneration should not exceed **30 times the minimum monthly social wage** for a qualified worker (**EUR 92 553,30** in 2024)
- Exemption corresponding to **25% of the premium paid** by the employer with a **double cap**:
 - Amount of the rent excluding charges paid by the employee, or
 - EUR 1,000 per month.
- A GDR will specify the details of **art. 115 n° 13c ITL**

■ From January 1st, 2025 long term capital gains regime will only be available if the holding period exceeds 5 years

- Short-term capital gain : marginal tax rate of **45,78%**
- Long-term capital gain only for properties held for more than 5 years : **half-rate mechanism** (marginal tax rate of **22,89%**)

Long-term tax measures for individuals

Bill of law N°8353

- **33% increase in the deduction ceilings for interest expenses in relation with the taxpayer's main residence**

- Ceiling available per household member, depending on the first year of occupancy

Year of occupancy	1st and +5	6 to 10	11+
Previous ceiling	3 000	2 250	1 500
Ceiling as of 2024	4 000	3 000	2 000

*All amounts are in EUR

- In the case of first occupancy in 2024, from 2024 until 2029 inclusive, a 4-person household will be able to claim €16,000 instead of the current €12,000, corresponding to a maximum net tax saving of EUR 1,830 per year

- **Exemption of net income from social rental purposes increased from 75% to 90% (art. 115 n° 22a ITL)**

- Previously increased from 50% to 75% in January 2023
- Available for properties rented out through an accredited organization (*organisme œuvrant dans la gestion locative et sociale*)

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