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ACCOUNTING – Impact of the Luxembourg Pillar 2 rules on 2023 annual and consolidated accounts

In February and March 2024, the Luxembourg accounting standards board (CNC) published two Q&As that provide useful guidance on the impact of the pillar 2 rules on 2023 (consolidated) financial statements of concerned Luxembourg entities and groups.

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In February and March 2024, the Luxembourg Accounting Standards Board (CNC) published two [Q&As](#) (No. 24/031 and No. 24/032) that provide useful guidance on how the [law of 22 December 2023](#) implementing Council Directive (EU) [2022/2523](#) of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (**Pillar 2 Law**) will impact financial disclosures and the disclosure of deferred tax expenses in the notes to the financial statements of in-scope Luxembourg entities and groups.

The Pillar 2 Law applies to constituent entities located in Luxembourg that are members of an MNE group or a large-scale domestic group which had an annual revenue equal to or above EUR 750,000,000, including the revenue of excluded entities, in its ultimate parent entity's (UPE) consolidated financial statements for at least two of the four fiscal years immediately preceding the tested fiscal year. In-scope MNE groups and large-scale domestic groups will pay a **top-up tax** whenever the effective tax rate (ETR) of constituent entities determined on a jurisdictional basis is below the minimum rate of 15%. Deferred tax assets and liabilities are considered in the ETR calculation, provided that they are reflected or disclosed in the financial accounts of the constituent entities in the relevant jurisdiction. The provisions apply to tax years starting on or after 31 December 2023. The Pillar 2 Law [is summarised here](#).

The Q&As concern the annual and/or consolidated financial statements prepared under Lux GAAP or Lux GAAP with Fair Value option (Lux GAAP-FV) in relation to a **financial year starting no later than 30 December 2023** (2023 (consolidated) financial statements), for example a financial year starting on 1 January 2023 and closing on 31 December 2023.

The purpose of the Q&As is to clarify the impact of the Pillar 2 Law on:

- the content of notes to the 2023 financial statements of in-scope Luxembourg entities and the 2023 consolidated financial statements of in-scope Luxembourg group, by recommending the application of the amendment made in May 2023 to IAS 12 Income Taxes, and

- the option to disclose deferred tax expenses in the notes to the 2023 financial statements.

Q&A 24/031 – Impact of the Pillar 2 Law on the notes to the 2023 (consolidated) financial statements

Luxembourg commercial and accounting laws provide that the annual (consolidated) financial statements must give a true and fair view of an entity's and/or group's financial situation and profit or loss. Where this requirement is not met, additional information must be provided in the notes to the (consolidated) financial statements.

In a similar fashion to IAS 12 Income Taxes, the CNC recommends providing **qualitative and quantitative disclosures in the notes** to the 2023 (consolidated) financial statements to help readers understand the Luxembourg entity and/or group's exposure to the top-up tax.

However, the CNC also states that:

- the information does not need to reflect all Pillar 2 provisions and can be presented in the form of an indicative range;
- if the information is not known or cannot reasonably be estimated, the Luxembourg entity and/or group should disclose this fact and provide information on the assessment of exposure to the top-up tax.

Furthermore, the CNC provides examples of information that the Luxembourg entity and/or group could indicate in the notes to the annual (consolidated) financial statements:

- qualitative information on how the Luxembourg entity and/or group would be impacted by the Pillar 2 Law and the main jurisdictions where the Luxembourg entity and/or group could be exposed to top-up tax;
- quantitative information, such as an indication of the proportion of the profits that could be subject to top-up tax and the average ETR applicable to these profits, or how the Pillar 2 Law, if in force, would affect the overall ETR.

Q&A 24/032 – Impact of the Pillar 2 Law on the possible disclosure of deferred tax expenses in the notes to the 2023 financial statements

The CNC states that it is up to the entity – where appropriate – to provide in the notes to its 2023 financial statements any additional information on deferred tax expenses. As per the CNC's opinion and the Pillar 2 rules, this additional information should contribute to providing a true and fair view, as detailed above.

As regards the methods for calculating the amount of deferred tax expenses, the CNC is of the opinion that it should be carried out on the basis of the gross amount of the tax attributes (including carry forward tax losses and available tax credits) or temporary differences by applying the relevant income tax rate, e.g. a rate of 24.94% for companies whose registered office is located in Luxembourg City.

The CNC considers that in the case of carry forward tax losses the income tax rate of 24.94% will apply to all available carry forward tax losses without having to analyse the recoverability of the related deferred tax asset.

Conclusion

The Q&As recently issued by the CNC are to be welcomed as they provide useful information to entities and groups in scope of the Pillar 2 Law on how to take into account the new measures in their 2023 (consolidated) financial statements.

How can we help?

The Tax Law Partners and your usual contacts at Arendt & Medernach are at your disposal to help you fully understand your situation in the context of Pillar 2 and how it will impact your operations in Luxembourg_

For key insights on the Pillar 2 impacts in Luxembourg, watch the recording of our webinar “Pillar 2 in Luxembourg: main takeaways”_

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