FREQUENTLY ASKED QUESTIONS

INTRODUCING AUTOMATIC EXCHANGE OF INFORMATION IN LUXEMBOURG

1. What does automatic exchange of information mean?

Financial institutions (mostly banks) in Luxembourg will transmit the information foreseen in the EU Savings Directive 2003/48/EC to the *Administration des Contributions Directes* which is the Luxembourg Revenue Service for direct taxation. This administration will then confidentially transmit the information to the corresponding revenue service in the EU Member State in which the beneficial owner is a resident.

Automatic exchange of information in tax matters is limited to an exchange of information among competent government tax authorities. Professional secrecy will continue to be applicable.

2. Why does Luxembourg decide to introduce exchange of information now?

The evolution towards automatic exchange of information as an emerging international standard has been a long process. Until recently, Luxembourg insisted on the arrangement of the EU Savings Directive by which automatic exchange and the withholding tax co-existed. In 2009, right after the financial crisis erupted in 2008, exchange of information upon request according to OECD standards was internationally adopted. Luxembourg has been in this context more specifically considered to be *"a jurisdiction that has substantially implemented the internationally agreed tax standard"*. Automatic exchange of information was not, until recently and although strongly advocated by some, the general standard for effective fight against tax fraud and evasion.

However, and although the Luxembourg Government still considers the withholding tax to be a most effective instrument to guarantee effective taxation and client privacy, dialogue with its partners has shown that international developments, such as FATCA and the failure of the Rubik agreement between Germany and Switzerland, point to a broader use of automatic exchange of information in tax matters.

Hence, ten years after the adoption of the EU Savings Directive and given these developments in tax transparency, the Luxembourg Government has therefore decided to end the transitional period foreseen in the EU Savings Directive and to introduce automatic exchange of information on 1 January 2015.

Luxembourg will effectively apply the following mechanisms <u>as of fiscal year 2015</u>:

- Automatic exchange of information as defined in EU the Savings Directive within the EU and applicable to interest paid to individuals resident in an EU Member State other than the one where interest is paid;
- Exchange of information upon request as agreed in double-tax treaties with third countries;
- Other bilateral arrangements with third countries, ie as currently negotiated with the US with respect to the implementation of FATCA;
- Withholding tax for Luxembourg residents as currently applicable.

The date of 1 January 2015 coincides with the date of entry into force of the Council Directive 2011/16/EU on administrative cooperation in the field of taxation and Council

Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures.

3. Will Luxembourg now agree to the mandate for negotiation for the European Commission (EU Savings Directive)?

The mandate remains imprecise in its wording, especially with respect to the scope and objective. The issue of level playing field was also never adequately taken into account. As in other discussions that touch on the general competitiveness of the internal market and the problematic of capital flight outside the EU (ie FTT), Luxembourg remains cautious in discussions that do not diligently address these serious risks. Luxembourg will therefore favor a mandate which would be ambitious to the point of achieving level playing field with competing financial centers outside the EU.

4. Is the Government's decision a consequence of the FATCA negotiations?

FATCA is certainly a key development in this respect that Luxembourg has taken into account and is dealing with on a bilateral basis with the USA. Today's decision must however be seen in the spirit and terms of the 10 year old EU Savings Directive, thus limited to savings income in the form of interest payments on debt claims and applicable only to EU residents.

5. What type of information will be exchanged with other foreign tax authorities?

The information to be exchanged is defined in article 6 of the EU Savings Directive and is limited to information regarding savings income in the form of interest payments on debt claims.

6. Will this have a negative impact on wealth management in Luxembourg?

Wealth management in Luxembourg is based on key assets like its international orientation, sophisticated and diversified products and multilingual service. Professional secrecy, confidentiality and data protection will remain important pillars for wealth management in Luxembourg.

Beside this, its AAA sovereign rating, the high solvency ratios of the banks as well as the political stability and predictability of the legal environment are particularly appreciated and will continue to attract investors from all over the world. The introduction of automatic information exchange in its bilateral relations with all EU Member States will further enhance Luxembourg's position as a stable, modern and transparent financial center.

7. What are the main reasons for non-resident clients to use Luxembourg for financial services in the future?

Non-resident clients use Luxembourg as a hub for investments in Europe and beyond. Luxembourg has over the past decades developed an international financial center in the euro zone which is characterized by its highly-skilled workforce, its international expertise, its marked innovative spirit as well as ever-evolving high standards in tax transparency and anti-money laundering legislation. Political stability, the solidity of its banking sector, the international orientation of the wealth management and investment fund sectors as well as the efficiency of its supervisory framework and mechanisms make it stand out as an excellent and diversified financial sector which attracts clients from all over the world.

8. Is this in reaction to the international pressure in the aftermath of the Cyprus crisis and the publication of the "offshore leaks"?

Decisions of this importance have a preparatory phase that extends back far longer than those two very recent events. It is the result of a process of reflection and consultation, both with key actors in and outside of Luxembourg.

In the past months the Minister of Finance has started to share the thinking process in interviews, conferences and bilateral talks with partners abroad, thus pro-actively preparing, as smoothly as possible, the transition such a development implies. Recent events in Cyprus and the publication of "offshore leaks" have not impacted that thinking process but rather added certain acuteness to the context that Luxembourg finds itself in today.

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