



NEWS FLASH

The self assessment procedure since February 2010

A so-called “self assessment” procedure for corporate income tax/municipal business tax and net wealth tax assessments has been introduced in Luxembourg.

In a nutshell, the expected practical impact of this new procedure is that (i) tax returns will have to be filed faster than before (the tax authorities informally indicated that reminders for the filing of tax returns will be sent out on a more expeditious basis); (ii) where the self assessment procedure is followed, assessments will be issued (more) promptly by the tax authorities after the filing of the tax return and (iii) since such assessments will not be final and since the tax authorities will still be able to issue a final assessment after an audit of the tax return filed, as such the amount of tax due will remain uncertain until the end of the fifth calendar year after the end of the relevant tax year (the “**Statutory Period**”).

The current/old procedure

The current/old procedure is that tax authorities are able to issue a tax assessment within the Statutory Period (extended to 10 years in certain cases). Once issued, the tax assessment is final. Only in the case new facts come to light within a certain period, the tax authorities can issue an additional assessment.

If the taxpayer disagrees with the assessment, he can file an appeal with the tax authorities within 3 months following the notification of the tax assessment.

The new procedure

The tax authorities have an option to issue a tax assessment in accordance with the tax return filed by the tax payer (“**self assessment notice**”), without having to perform an immediate review of the file. The self assessment notice is not final: the tax authorities have (within the Statutory Period) the right to review the tax return. Following the issuance of a self assessment notice, the tax authorities can issue a final tax assessment after a tax review of the file, if required. If such final tax assessment has not been issued, the self assessment notice becomes final at the end of the Statutory Period.

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It is noticed that also for a self assessment notice the normal objection procedures are applicable.

Since the self assessment notice should specify the reservation made by the tax authorities that they may review the tax return afterwards - "*imposition suivant déclaration (§ 100 AO) sous réserve d'un contrôle ultérieur*" - one can assume that in the absence of such statement the tax assessment is a final one.

This new procedure is not replacing the current/old system. The two procedures may be used alternatively and on a discretionary basis by tax authorities without any option for the taxpayer to elect for one procedure or the other.

Late interest payment/penalties are not applicable in case of a difference between the amount due by the taxpayer on the self assessment notice and the final tax assessment notice.

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