Flash News

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The Luxembourg government has finally released a draft law dated October 1st, 2008, that will boost the attractiveness of the Luxembourg financial centre and would enter into force as from 1 January 2009. In this respect some changes to the tax system would be soon introduced.

0% Capital duty as from 1 January 2009

The draft law foresees to abolish the 0.5% capital duty as from 1 January 2009. Furthermore, the fixed capital duty will be no longer applicable for UCIs within the meaning of the Law of 20 December 2002 and also to SIFs, SICARs, ASSEPs and SEPCAVs and securitization vehicles.

Finally a fixed registration duty varying from EUR 50 and EUR 100 will be introduced on some extraordinary transactions concerning Luxembourg companies.

0% withholding tax on dividends paid to entities resident in a country having concluded a Double Tax Treaty with Luxembourg

As from 1 January 2009, dividends paid to entities resident in a country having concluded a Double Tax Treaty with Luxembourg will be exempted from withholding tax provided that such entity :

- is subject to a Corporate Income tax of at least 10.5% (for year 2009); and
- its taxable basis is determined according to rules that are similar to the Luxembourg rules; and
- holds (or commits to hold) for at least 12 months a shareholding in the Luxembourg fully taxable company of at least 10% or EUR 1.2 million.

Reduction of the overall Corporate Income Tax rate to 28.59%

As from 1 January 2009, for companies resident in the Luxembourg City the overall Corporate Income Tax rate passes from 29.63% to 28.59% (where 21% is the CIT, 4% is the solidarity tax and 6.75% is the Municipal Business Tax).

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Net Wealth Tax Exemption of IP rights

On 2 June 2008, India and Luxembourg signed a first-time income and capital tax treaty. The treaty has to be ratified by both contracting countries before coming into force.

The draft law has expressly totally excluded from the Luxembourg Net Wealth Tax IP rights that qualifies for the 80% Corporate Income Tax exemption (please refer for further details to our Flash News dated February 2008).

SICAR regime becomes more attractive for PE and VC investors

The Luxembourg Parliament has recently voted the Draft Law n. 5842 that enhances the attractiveness of Luxembourg SICARs for PE and VC investors. The following relevant changes will be soon introduced:

- It will be possible to create SICARs having multiple investment compartments with specific investment policies and (eventually) issuing securities of a different par value or no nominal value. In such a case, the rights of investors and debtors will be restricted to the compartments in which they hold securities. Furthermore, the liquidation of a compartment does not entail the liquidation of the SICAR (unless the last compartment is being liquidated).
- Share premium will be considered for the computation of the minimum capital that will have to be at least €1 million.
- Persons involved in the management of the SICAR will be considered "qualified investor" without needing to fulfill any additional conditions foreseen for the other investors.
- SICARs will no longer be obliged to publish the net value of their assets.

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