

Liste non exhaustive de questions potentielles destinées à la Chambre des Députés:

Have you started investigation in your Parliament following Luxleaks? If yes, what are your conclusions/first assessments?

The Luxembourg Parliament pursued a number of investigations and discussions in the aftermath of "Luxleaks". Quite recently, a very fruitful "interpellation" took place. Our members generally considered that rulings in Luxembourg are both legal and necessary. End of last year, the Luxembourg Parliament adopted a modernization of a long standing administrative practice and provided for an explicit legal basis for rulings and transfer pricing. It has to be noted that corresponding draft bills had been deposited before Parliament well before Luxleaks. A grand-ducal decree which provides inter alia for a centralized ruling commission within the Direct tax administration and for the publication of anonymized summaries of rulings is applicable as from beginning of this year.

In the same spirit of evolution, the Luxembourg Parliament had given its consent to the automating exchange of information pursuant to the savings directive and to new legislation ensuring compliance with the requirements of the Global Forum on Transparency and exchange of information for tax purposes (OECD/Council of Europe Mutual Assistance Convention, law introducing the immobilisation of bearer shares, law changing the procedure for exchange of information upon request).

What is/should be the role of tax policy in your country strategy to attract investors?

The Luxembourg tax policy has always been seen in context of the 3 "C's", Compliance, Competitiveness and Continuity (stability).

Being a small and open economy, Luxembourg has no other choice than to be fully compliant with evolving international rules while at the same time being competitive. Our country views tax as one element amongst others in order to attract investors. In case of evolving international rules, Luxembourg will adapt accordingly.

What are your intentions as regards the BEPS works at OECD? Do you already debate/request action from your government? Do you think actions should be taken at national/EU level?

As stated before, Luxembourg wants to be compliant with new international rules on taxation. The Luxembourg Parliament has been informed about the willingness of the Government to adhere to the proposed amendments of the Parent Subsidiary Directive. Discussions took place before the Government decided to sign the "early adopters" convention in Berlin and to adhere to the date of application of the directive on administrative cooperation.

We do consider that, while not putting the cart in front of the horses, Luxembourg should be amongst the first countries to transpose BEPS initiatives into national law, provided these initiatives reflect a level playing field, and do not discriminate against smaller Member States and respect the EU Treaty and its corresponding freedoms.

We do support the government's intention to be amongst the first countries to transpose the amendments to the Parent Subsidiary Directive into national law. In the same spirit, we are prepared to holding discussions in the near future with a view to adapting the IP regime to the "modified nexus" approach.

Do you think the NP has enough say on tax policy? Do you think the way tax rulings are delivered in your country have enough democratic scrutiny?

Yes, we do consider the National Parliament has enough say on tax policy. In Luxembourg each and every tax privilege has to be introduced by law. Over the past years, European tax initiatives, especially those concerning hard law, have increasingly been discussed in Parliament.

Concerning rulings, given the fact that in Luxembourg such rulings set out the mere interpretation of existing tax law in order to provide for legitimate legal certainty, the Luxembourg Parliament does not consider that there is an issue about missing democratic scrutiny, the underlying tax law being subject to scrutiny as such.

Are you aware/conscious that some of your tax practices may be harmful for other MS tax bases?

We do not have any reasons to consider that the Luxembourg tax features should be more harmful than those of other countries.

What are the tax practices within the EU/outside the EU and which are the most harmful for your economy?

Ongoing work in international fora, as well as the BEPS initiative as such, clearly show that there are potentially harmful features in the tax regimes and practices of countries all over the world. A lot of harmful features stem from the interaction of national tax systems in combination with international treaties.

Do you see a need to modify other EU legislation than tax legislation to address the problem of aggressive tax planning (Corporate law, internal market law, professional law, protection whistleblowers, ...)?

In case further work shows (on BEPS or other issues such as the capital market union) show there is a need to modify other legislation than tax legislation, Luxembourg, will participate constructively in those discussions.

From the Luxembourg point of view, the internal market law needs to be maintained as such.

What are the views of the Parliament on the CCCTB? Do you think it would be THE solution to solve aggressive tax planning issues? What are your views/expectations in this file? Do you see a possible solution to advance the proposal? If not dealt with the CCCTB, how should transfer pricing issues be dealt with?

Over the past years, Luxembourg has not been amongst the Member States trying to slow down progress on the CCCTB. The Luxembourg Parliament has issued an opinion on the issue of consolidation, which according to our analysis could be particularly detrimental to the Luxembourg economy. We are currently looking forward to a new impetus in these discussions. We don't view the CCCTB as being the only solution to solve aggressive tax planning issues. Transparency is key. Transfer pricing issues should be dealt with at OECD and Joint Transfer Pricing Forum level.