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NEW LUXEMBOURG INVESTMENT TAX CREDITS REGIME APPLICABLE AS FROM 2024

The approval of bill n° 8276 by the Luxembourg Parliament on 19 December 2023 marks a significant revamping update to the investment tax credits ('ITC') regime under article 152 bis of the Luxembourg Income Tax Law (LITL). The aim of the Law is to support Luxembourg companies in their digital and ecological/energetic transition and to increase and simplify the applicable rates.

Overview of the changes & opportunities of new ITC regime applicable as from 2024 tax year

Changes:

- For simplification purposes, the Complementary ITC is no longer applicable.
- The Global ITC:
 - The tax rate for the Global ITC is raised from 8% to 12%. Additionally, the EUR 150,000 bracket is repealed, simplifying the tax structure to a single rate. The scope of qualifying assets remains largely the same, with one key exception: software acquisitions that fall within the scope of the DET tax credit are excluded from the Global ITC (the combination of the two is indeed not allowed). However, any other software eligible not acquired from a related enterprise and not benefiting from the DET tax credit remains eligible for the Global ITC.
 - Finally, please note that any unused amount of the Global TC will continue to be carried-forward except when granted in relation to a software.



Introduction of a 18% tax credit for investment and operating expenses related to digital and ecological transformation, termed as the "DET Tax Credit."

- One of the most incentives is **the inclusion of specific operating expenses related to the digital and ecological transformation, which may also now qualify for a 18% tax credit**, subject to a specific process.
- This inclusion is anticipated to serve as a substantial incentive for companies to expedite their digital and ecological/energetic transitions.

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Specificities of DET Tax Credit

- For investments in tangible depreciable assets, the DET tax credit is capped at 6%. This is because these assets are expected to qualify for an additional 12% tax credit for Global ITC, **cumulatively achieving the intended 18% tax credit.**
- Eligible investments and expenses must be made by Luxembourg taxpayers, although the projects can be implemented anywhere within the European Economic Area.
- Multi-annual projects, up to a duration of 3 years, are eligible.
- Only investments and expenses **incurred after the submission of the application for the Eligibility Attestation will qualify (see below details).**
- An application process based on the Eligibility Attestation and an Annual Compliance Certificate needs to be completed.
- The DET tax credit would be creditable against the corporate income tax due for the relevant fiscal years and can be carried forward during the 10 subsequent years.

What is the digital transformation?

Digital transformation is the comprehensive integration of digital technology into business, fundamentally altering how the business operates and delivers value to its customers. It involves a holistic approach where a company rethinks its entire operational and organizational model through the implementation and use of digital technologies.

Key Elements of Digital Transformation:

1. **Artificial Intelligence (AI):** Enhancing decision-making, automating processes, and personalizing customer interactions.
2. **Big Data:** Analyzing large volumes of data to gain insights and improve business strategies.
3. **Internet of Things (IoT):** Connecting devices and systems to gather and exchange data, leading to smarter operations.
4. **Blockchain Technologies:** Providing secure and transparent transaction records.
5. **Cloud Technologies:** Enabling scalable and flexible IT solutions.
6. **Supercomputers:** Handling complex computations and large-scale simulations.
7. **Cybersecurity:** Protecting digital assets and ensuring data privacy.

What is the ecological transition?

Ecological transition is a comprehensive shift in a company's operations and strategies towards sustainability and environmental responsibility. It is more than just compliance; it is about leveraging opportunities for innovation and long-term growth in a sustainability-focused ecological world.



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Key aspects of Green transition:

• Sustainable practices

- Adoption of processes that reduce environmental impact power
- Implementing waste reduction strategies
- Enhancing energy efficiency across operations reducing reliance on fossils fuels and decreasing carbon footprint

• Renewable Energy:

- Transition to green energy resources such as solar, wind, and hydro power
- Reducing reliance on fossils fuels and decreasing carbon footprint
- Circular Economy:
- Emphasizing the reuse and recycling of materials.
- Minimizing waste through sustainable resource management



To qualify for the DET tax credit, projects must meet at least one of the following objectives of Ecological Transformation:

1. **Improve Production Process Energy Efficiency:**

Achieve a minimum 20% increase in energy efficiency compared to the average performance over the past five years.

2. **Decarbonize Production processes:**

Reduce greenhouse gas emissions by a minimum of 40% compared to the average emissions over the past five years.

3. **Utilize Renewable Non-Fossil Sources for Energy Generation and Storage:**

Generate or store energy from renewable sources such a wind or solar for self-consumption needs.

4. **Reduce Air Pollution Beyond Regulatory Limits:**

Decrease air pollution at the production site beyond existing regulatory limits, measure against the site's average over the past five years

5. **Enhance Material Efficiency in Production:**

Reduce primary raw material use by at least 15% or replace 20% with recycled materials compared to past usage.

6. **Implement Production Processes to Extend Product Lifespan:**

Develop and implement production processes that extend the lifespan of products through reuse, fostering sustainable usage, and reduce waste. This may include designing products for durability, reparability, and recyclability.

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The scope of eligible investments and expenses for the DET tax credit is expansive and includes the following items:

1. Investments in Tangible Depreciable Assets:

This covers investments in machinery, equipment, and other tangible assets used in the company's operations. Excluding buildings, live agricultural livestock, and mineral and fossil deposits.

2. Investment in Software or Patents:

This covers investments in software, patents, and expenses incurred for the use or right to use patents or software, excluding those acquired from or granted by a related company.

3. Consulting, Diagnostic, and Technical Support Services:

Expenses for services provided by external providers that are not related to the company's normal operating expenses. This includes consulting services, diagnostic assessments, and technical support related to digital transformation or ecological and energy transition initiatives.

4. Personnel expenses:

Direct personnel expenses assigned to the company's digital transformation or ecological and energy transition efforts. This may include salaries, wages, and other employee-related costs for staff directly involved in implementing these initiatives.

To clarify, the following items are not eligible for the DET tax credit:

- **Assets Depreciable Over Less Than Three Years:** Investments in assets that have a depreciable period of less than three years are not eligible for the tax credit.
- **Automotive Vehicles:** Expenses related to the acquisition or use of automotive vehicles are not eligible for the tax credit.
- **Expenses for Legal or Regulatory Compliance:** Investments and operating expenses aimed solely at bringing the company into compliance with legal or regulatory obligations are not eligible for the tax credit.

Procedure

- **Before making the investment or expense,** taxpayers must submit an application file to the Ministry of Economy to obtain the Eligibility Attestation to the DET tax credit. The application should detail several aspects of the investment/expense, in particular their financing, nature and objective. The application will be analyzed by a specific commission, which should provide a reply within three months.
- **After the end of the fiscal year,** taxpayers must request a certificate of compliance from the Ministry of the Economy which should verify the reality and eligibility of the investments and/or expenses based on the documentation provided by the taxpayer. The deadline for the request is two months after the end of the fiscal year and the reply should be provided within nine months of the end of the fiscal year.
- **When filing tax returns, taxpayers must attach the certificate of compliance** issued by the Ministry of Economy in addition to the existing ITC forms.

NEWSLETTER

The tax reductions associated with this new DET tax credit may be substantial. However, as above-mentioned, some formalities must be completed in due time.

Do not hesitate to contact us to explain your project in advance, we will be more than happy to help you and assist you in the different steps to obtain this new DET tax credit.

Last but not least: Financial aids for SMEs

Finally, in addition to the DET tax credit, there are financial aids provided by the government in order to accelerate the digitalization and/or sustainability transition of small and medium-sized businesses ('SMEs') in Luxembourg.

You will find here-below the links with the eligibility criteria to benefit from these financial aids, the prerequisites and the competent bodies that can guide you:

[Fit 4 Programmes - Guichet.lu - Luxembourg_\(public.lu\)](#).

[Support to SMEs - Guichet.lu - Luxembourg_\(public.lu\)](#).

Please note that accountant companies and fiduciaries are, for instance, out of scope of these aids. So be careful to check that you are not out of scope before contacting the competent bodies.

If you have any questions, feel free to contact our **Fiduciaire Eurolux Tax department**.