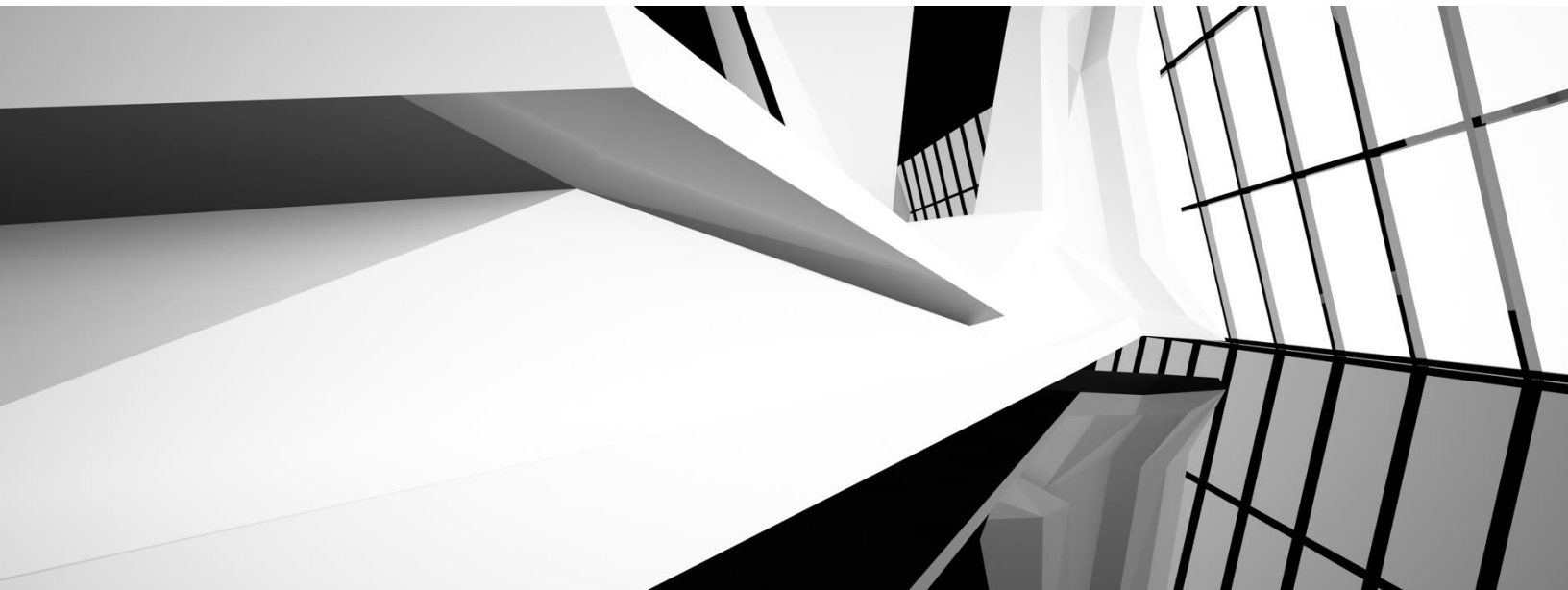


Praxio Tax Alert

December 2019

**Tax administration guidance with respect to the tax rulings issued
before 2015**



Creativity

Efficiency

Sophistication

Knowledge

On 14 October 2019, the Luxembourg government issued the 2020 draft budget law ([bill 7500](#), “the Bill”). The main proposed tax measure concerns existing tax rulings (i.e., Advance Tax Agreements (“ATA”) and Advance Pricing Agreements (“APA”)) issued by the Luxembourg Tax Authorities (“LTA”) before 1 January 2015. According to the Bill, the ATAs and APAs would cease to be binding on the tax authorities as from 1 January 2020. By anticipation, on 3 December 2019, the LTA issued further guidance with regard to the operational aspects for the expiring ATA and APA.

Background:

With effect from 1 January 2005, Luxembourg put in place a legislative and regulatory framework for ATAs/APAs. The process was only based on administrative practice until 2015 (the Act of 19 December 2014 introduced §29a into the General Tax Act of 22 May 1931 complemented by a Grand Ducal Regulation of 23 December 2014). As from 2015, any tax ruling granted is be valid for a maximum period of five years.

The Bill proposes the introduction of a new provision in domestic law, which provides that tax rulings issued prior to 1 January 2015, which in most cases do not indicate an end date, will expire by operation of law at the end of tax year 2019.

LTA Guidelines:

In order to ensure legal certainty and a smooth transition for companies having their ATA/APA ending by end 2019 the LTA issued additional [guidance](#) (only available in French).

The LTA is making considerable effort to tackle the transition, by instauring notably a hotline handled by the Secrétariat de la Commission des décisions anticipées (“CDA”) reachable at seccda@co.etat.lu or (+352) 247-52134. The aim of this service is to cover operational questions that can be raised by taxpayers and that are not already covered in the guidance.

The LTA further indicates that:

- Taxpayers have the possibility to file an ATA or APA for operations that "have not yet produced their full legal effects" pursuant to the new procedure provided by §29a of the General Tax Law.
- ATAs expiring by end 2019 for taxpayers having divergent financial years, the same rules as for 2019 applies for tax year 2020.
- The request must contain all the required information, and a mandatory form must be attached to the application (such form can be obtained upon request to the CDA) as well as a sworn statement on the accuracy of background facts.

The LTA further highlighted the fact that for ATA/APA covering a cross-border operation, the filing of “Standard form for the international exchange of information on advance cross-border rulings and advance pricing agreements” Form n°777 E, is mandatory.

Finally it should be noted that, the Bill still needs to go through the legislative process and is thus subject to amendment.

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