# New tax measures in budget bill no. 7666 for 2021

*On Wednesday 14 October 2020, Luxembourg's Finance Minister, Pierre Gramegna, outlined the budget bill for 2021.*
*The main tax changes announced are set out below.*

1. **Introduction of a "property tax" payable to the Luxembourg Inland Revenue (Administration des contributions directes – ACD) by certain investment vehicles**

**Proposal:** To introduce a tax on income from a property located in the Grand Duchy of Luxembourg, to be paid by certain types of investment fund, in particular specialised investment funds (FIS).

This property tax will be paid on (i) income from letting the property, (ii) capital gains resulting from the disposal of a property, and, (iii) under certain conditions, capital gains resulting from the disposal of shares in certain types of company, provided that this income comes from a property located in the Grand Duchy of Luxembourg and is generated or received directly or through a tax-transparent company (article 175, subparagraph 1 of the income tax act (**LIR**), as amended) or a mutual fund (FCP) by an investment vehicle.

The rate of the property tax is 20% of the income (particularly gross rent excluding VAT and net capital gains) from a property located in the Grand Duchy of Luxembourg. The property tax is not deductible when calculating the amount of income generated by a property, and may not be charged or deducted by anyone (under the terms of the bill).

**Objective:** To limit certain plans linked to property in the Grand Duchy of Luxembourg, managed by investment funds as a bulk investment, and subject to subscription tax only.

2. **Family holding companies (SPF)**

**Proposal:** SPFs will no longer be able to hold buildings through one or more partnerships or mutual funds.

3. **Stock options/Warrant plans – Repeal of the administrative circular by the end of 2020 and gradual abolition of the current stock option system**

**Proposal:** Repeal of the flat-rate valuation of stock option plans and introduction of a tax measure for employees to share in their companies' profits.

The current stock option system will be abolished gradually over the course of this legislative period. LIR Tax Director circular no. 104/2 of 29 November 2017 on stock option plans will be repealed **by the end of 2020.**

PKF Audit & Conseil Sàrl
Licensed audit firm - RC B222994
37 rue d'Anvers, L-1130 Luxembourg
+352 28 80 12

**New profit-sharing bonus (article 115, 13a, LIR):** Employers may award a “profit-sharing bonus” to one or more of their employees.
50% of this bonus will be conditionally exempt from income tax otherwise payable by the employee. The total amount of profit-sharing bonuses that an employer awards to its employees may not exceed 5% of the operating profit for the year immediately proceeding the one for which the profit-sharing bonuses are awarded to the employees.

Meanwhile, the **immigrant worker regime is incorporated into the tax act** (article 115, 13b, LIR): Luxembourg employer’s coverage of the costs arising from a foreign worker’s move to the Grand Duchy of Luxembourg – on certain conditions.

4. **Increase in transfer duties on the transfer of buildings located in Luxembourg in exchange for company shares**

**Proposal:** The transfer duty when a property located in the Grand Duchy of Luxembourg is transferred outright to a civil or commercial company (of Luxembourg or any other nationality) in exchange for company shares will be raised to 2.4% (instead of 0.6% stamp duty on the market value of the property, as at present).

A 50% surcharge continues to apply for certain buildings located in Luxembourg-City (with the notable exception of single family homes, apartment buildings, etc.) on stamp duty that has fallen due.

The aforementioned transfer is also subject to a transaction duty, which rises from 0.5% now to 1%.

**Objective**: To triple current transfer duties to ensure fairer taxation through stamp duty on transactions involving (i) the acquisition of units or shares in a company through the transfer of a building relative to (ii) payment for a building where the assignor is remunerated by means other than the issue of shares or interests.

There is also a proposal to change the holding period in which stamp duty and transaction duty remain payable from 5 to 10 years in cases where a property is transferred **to a partner other than the one who originally transferred it** when a company is wound up or liquidated, or when there is a capital reduction.

5. **Landlords (accelerated depreciation)**

**Proposal:** To introduce an accelerated depreciation rate of 6%, over 10 years, for capital expenditure laid out **for energy improvements**.

The current accelerated depreciation rate of 6% for homes will be revised to 5%, applicable if the building was completed within five years of the beginning of the year, provided that the total amount used to calculate accelerated depreciation does not exceed EUR 1,000,000. Beyond this amount, the accelerated depreciation rate will be 4%.

**Objective:** To encourage landlords to renovate existing homes sustainably.

6. **Introduction of an allowance for rent reductions granted on a commercial lease during the COVID-19 crisis**

**Proposal:** Taxpayers who own a building let out commercially may, on request, receive an allowance for rent reductions granted if this taxpaying property owner waives some or all of the rent owned by tenants - whether natural persons or legal entities - for the 2020 calendar year by 31 December 2020 at the latest. The amount of the allowance is double the rent that the owner has permanently waived (without exceeding EUR 15,000 per property or part of a property that has been let).

7. **Taxation of certain emergency grants awarded during the crisis declared on 18 March 2020**

**Proposal:** Emergency grants to be tax free.

8. **Tax integration regime within the meaning of article 164*bis*, LIR and switch to horizontal tax integration**

**Proposal:** Where the establishment of the tax integration regime within the meaning of article 164*bis*, sub-paragraph 3, LIR (tax integration with a non-integrating parent company – editor's note: tax integration that can therefore be horizontal) leads to the dissolution of an existing integrated group within the meaning of article 164*bis*, sub-paragraph 2 (vertical tax integration with an integrating parent company), the change of fiscal integration regime **exceptionally** has no implications for the taxation of individual members of the integrated group that has been wound up, <u>if certain conditions are all met</u>. The request must be made before the end of the 2022 tax year.

9. **Introduction of a CO2 tax (additional autonomous excise duty)**

10. **Reduced subscription tax on investments in sustainable business by investment funds**

11. **Gradual introduction of multi-year electronic records for tax paid on wages and salaries, so that employers can access their employees' tax records**

12. **Changes to the amount of tax credits for freelancers (article 152ter, (2), LIR), employees (article 154quater, (2), LIR) and pensioners (article 154*quinquies,* LIR)**

**PKF Audit & Conseil S.à r.l.** teams are available to answer any questions you may have on these future tax measures. In particular, please do not hesitate to contact **Aurélie Moline** at the following email address: **aurelie.moline@pkf.lu**