DENTONS

Tax Compliance and Litigation
For Corporate Taxpayers

Luxembourg



2026

In recent years, tax litigation in Luxembourg has grown significantly, driven by increased scrutiny from the Luxembourg direct tax authorities (**LDTA**), an ever-increasing number of taxpayers and by legislative inflation. Maintaining proper and up-to-date tax compliance and accounting reporting is both mandatory and strengthens the taxpayer's position in the event of litigation with the LDTA.

In this brochure, we provide a summary of relevant tax compliance aspects for corporate taxpayers, outlining the pre-litigation and litigation phases as well as highlighting certain aspects of criminal tax law.



1. Reporting and assessment procedure

The taxpayer must (i) prepare periodic tax returns and report all relevant information for the determination and the calculation of taxes legally due and (ii) pay all applicable taxes.

The LDTA establishes the amount of taxes due based on the tax returns provided by the taxpayer and verifies whether the information provided is complete and accurate.

1.1 Tax filings and payment of taxes

Taxes. Luxembourg corporate entities (subject to ordinary taxation rules) must submit annual tax returns for corporate income tax (**CIT**), municipal business tax (**MBT**) and net wealth tax (**NWT**).

Deadline. Corporate tax returns for a given year must be filed online by 31 December of the following calendar year.

Annual accounts. The tax treatment follows in principle the accounting treatment. Therefore, a company must file its annual accounts on which the tax returns are based. Annual accounts must be filed with the Luxembourg Trade and Companies Register (*Registre de commerce et des sociétés* – **RCS**) within one month following approval of the accounts, and no later than seven months after the end of the financial year (**FY**).

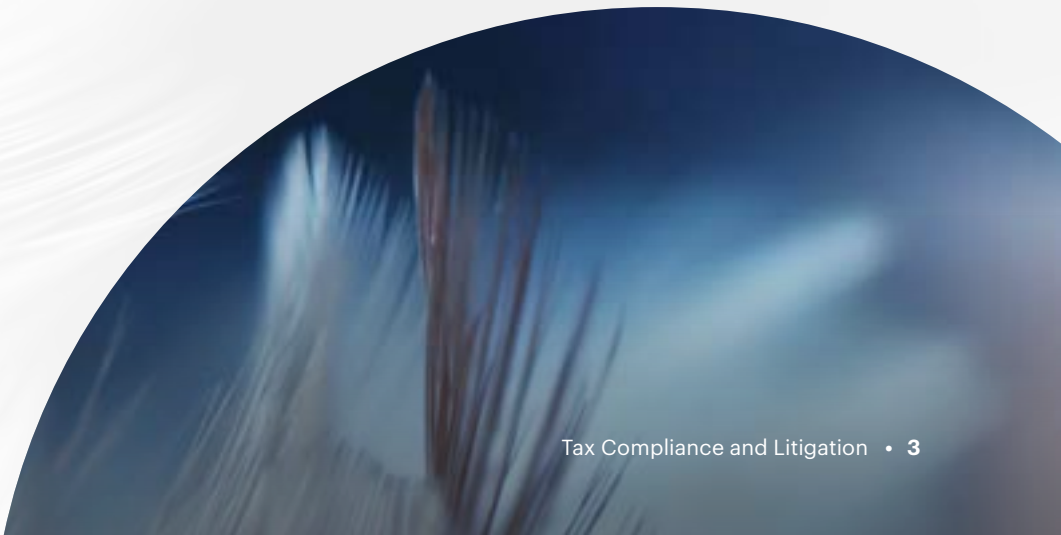
The LDTA can render a company's annual accounts non-binding (i.e., taxpayers would be unable to rely on their own accounting data) if they are not filed electronically on time or correctly. In that case, the LDTA may proceed to an ex officio assessment (unilateral determination of the taxpayer's tax base).

Filing. The filing of the tax returns must also be done electronically (with certain exceptions, e.g. liquidation tax returns).

Assessment and payment. Following the electronic filing of the tax returns, taxpayers are, in practice, automatically assessed in provisional tax assessments (*bulletins provisoires*), under §100a (1) of the general tax law (*Abgabenordnung* – **AO**) (see below). The taxpayer has one month from the date of receipt of the provisional tax assessment to pay any tax due. Failing this, penalties and late interest may apply.

Advance tax payments. Taxpayers must, in principle, pay tax advances on a quarterly basis each FY corresponding to one quarter of the tax which results from the last tax assessment. The amount may be adjusted in certain cases (including at the taxpayer's request). The dates for payment of the advance tax payments are indicated in the table below.

Penalties. Late filing of corporate tax returns or late payment of the taxes due may trigger penalties. Additional penalties apply to entities that are found to have intentionally filed inaccurate or incomplete corporate tax returns or that intentionally fail to submit direct tax returns.



	Scope	Amount
Administrative fine	Applicable in the event of (i) a failure to file a tax return or (ii) filing of an intentionally incomplete or inaccurate return filed.	5% to 25% of the tax evaded or the refund unduly obtained
Tax increase	Applicable if the tax return is filed late	Up to 10% of the tax due
Late payment interest	Applicable in the event of late payment of taxes or non-payment of taxes (in which case the basis is increased)	Up to 0.6% per month
On-call duty	Applicable if a taxpayer fails to fulfill its tax obligations	Up to €25,000

Summary table of the relevant dates of the FY for tax filing and payments.



1.2 Tax assessment

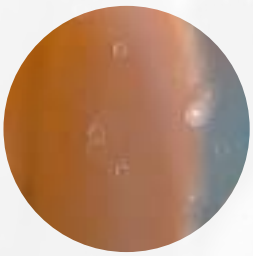
The LTDA are required to establish the tax lawfully due. Under the reporting system where the taxpayer must report the taxable basis, the LDTA are required to (i) verify the data reported by the taxpayer in the tax returns and (ii) assess the information provided by considering elements that are both favorable and adverse to the taxpayer.

In the absence of questions, or after having verified the data in case of doubts/questions (if any), the LDTA will issue tax assessments fixing the amount of tax due.

The LDTA's investigation powers

If the LDTA have questions or doubts concerning a taxpayer's tax returns or situation, they are entitled to request additional information or documents, perform on-site visits and audits or request the cooperation of third parties.

During such investigation procedures, the taxpayer is obliged to cooperate with the LDTA.



Tax assessments

While the LTDA may issue final assessments from the outset, in practice, they will generally issue provisional tax assessments (*bulletins provisoires*) under §100a (1) AO based solely on information and figures contained in the taxpayer's returns. Once a provisional tax assessment is issued, the LDTA have up to five years (increased to ten years in cases of incomplete/inaccurate returns (with or without fraudulent intent)) to verify the tax returns or request additional information. After this period has lapsed, the provisional tax assessment automatically becomes final, unless the LTDA release a final assessment before that date.

Tax assessments are notified to the taxpayer. The notification is deemed to have been completed on the third working day following its delivery to the post office.

Furthermore, the LDTA may also issue *ex officio* tax assessments when taxpayers who have failed to file their tax returns by the required deadline or if the submitted tax returns are incomplete, inaccurate or not sufficiently detailed to allow an accurate assessment.



2. Litigation

The litigation procedure is divided in two phases being the (i) pre-litigation phase—handled by the director of LDTA (**Director**) and (ii) the litigation phase—handled by administrative jurisdictions.

2.1 Pre-litigation phase

The pre-litigation phase consists of filing a claim (*réclamation*) with the Director as a first-instance authority. This phase is mandatory and must be initiated before any litigation is lodged before the Administrative Tribunal (*Tribunal Administratif*).

A claim can be lodged against tax assessments (of various forms), certain individual administrative decisions, such as the rejection of a tax refund application, or against fines. The taxpayer or its representative generally has three months from the notification of the disputed decision to lodge a claim.

The taxpayer's representative can be an attorney-at-law or another professional (e.g. accountant, auditor). While a fully qualified attorney-at-law, registered with the Luxembourg bar, is deemed to have power of attorney to act on behalf of the taxpayer, any other representative must justify her/his/its capacity to lodge a claim by presenting a proxy of the taxpayer.

The formal requirements of the claim itself are limited. In practice, the claim is in writing (even if an oral claim is theoretically possible) and contains the taxpayer's legal arguments aiming at overruling the LTDA's decision.

The Director acts as an administrative authority and will carry out a full re-examination of the case and has the same powers and duties as the competent tax office. In principle, claims (like other appeals) have no suspensive effect, i.e. the tax remains due and payable. The Director may rule in favor or against the taxpayer or not respond at all.

2.2 Litigation phase

The taxpayer can lodge an appeal (*recours*) with the Administrative Tribunal against the Director's decision or lack of response. If the Director has rendered a decision, the deadline to lodge an appeal is three months after the receipt of the Director's decision. If the Director fails to respond to a claim, an appeal with the Administrative Tribunal can be lodged after a six-month period of the challenged decision of the LTDA.

The Administrative Tribunal is the court of first instance, and its decision can be appealed before the Administrative Court (*Cour Administrative*), Luxembourg's second and highest administrative jurisdiction.

The taxpayer or the state can appeal a decision of the Administrative Tribunal within 40 days of the notification of the judgment rendered by the Administrative Tribunal.

The ruling of the Administrative Court is not subject to appeal and marks the end of the litigation procedure.

A taxpayer can either represent himself/herself/itself in front of the Administrative Tribunal or be represented by a fully qualified attorney-at-law (*Avocat à la Cour*) or another professional (e.g. accountant, auditor). The rules concerning the proxy are the same as those described for the claim (*réclamation*): A fully qualified attorney-at-law is deemed to hold a proxy to represent the taxpayer, while any other professional must hold (and provide) an express proxy.

For the appeal in front of the Administrative Court, the taxpayer must be represented by a fully qualified attorney-at-law (*Avocat à la Cour*). No self-representation or representation through other professionals are allowed.

3. Criminal law aspects

In recent years the number of criminal prosecutions against taxpayers has increased. Indeed, in case of a tax adjustment (*redressement fiscal*), the LDTA may refer the case to the public prosecutor's office if there is suspicion of a criminal offence.

A tax offense will be characterized if three elements are fulfilled: a legal element (a law sanctio ning the behavior), a material element (the offense itself) and a moral element (an intention to commit the offense).

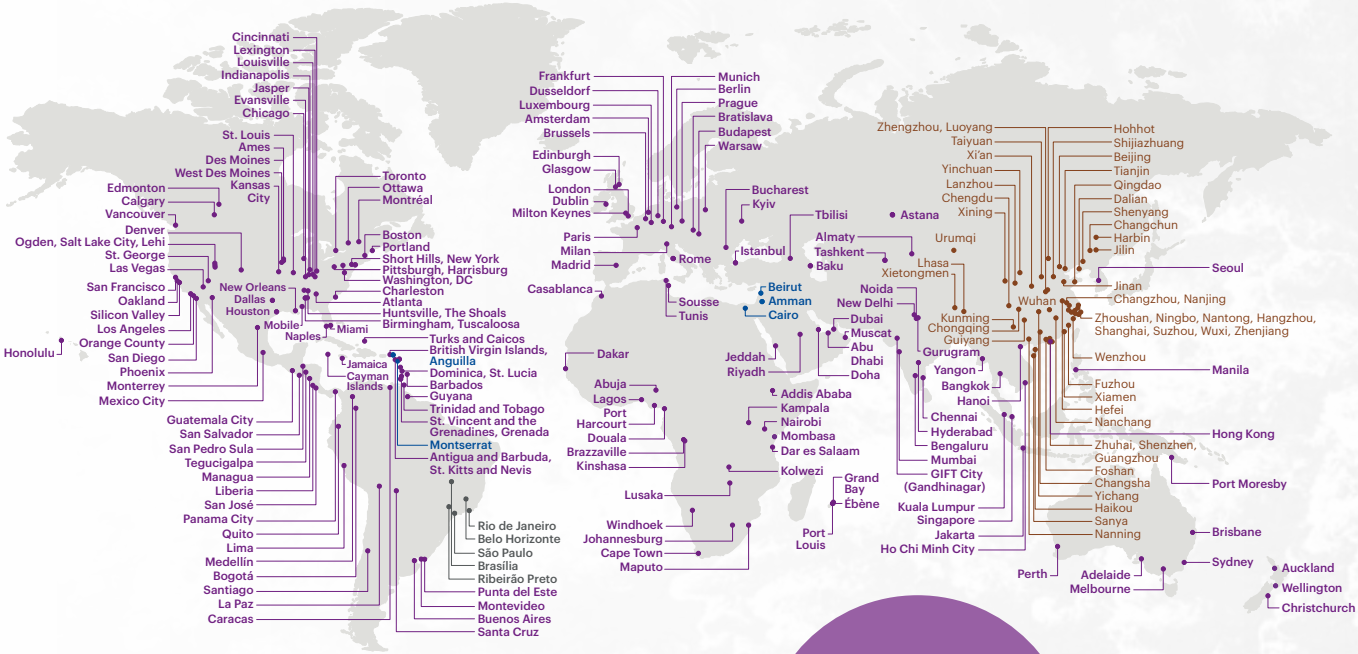
There are two criminal tax offenses: aggravated tax fraud (*fraude fiscale aggravée*) and tax swindling (*escroquerie fiscale*).

The criminal judge is bound by the assessment of a given situation made by the LDTA or by the administrative jurisdictions in case of litigation, i.e. a criminal jurisdiction will not perform a separate analysis of the material element. It is therefore of utmost importance for taxpayers to systematically litigate tax adjustments. Indeed, failing to do so establishes the material element of the offense and may be considered as confession of guilt if brought before a criminal jurisdiction.

	Aggravated tax fraud	Tax swindling
Legal element	§396(5) AO	§396(6) AO
Material element	The fraud involves the following amounts: i. an amount of tax exceeding 25% of the annual tax effectively due (with a minimum €10,000 threshold), or an undue refund exceeding 25% of the annual refund effectively due (with a minimum €10,000 threshold) or ii. the amount of the annual tax evaded or the annual refund to be paid exceeds €200,000	The fraud involves the following two elements: i. a significant amount either c absolute terms or in relation to the annual tax due or the annual refund due and ii. the fraud has been committed through the systematic use of fraudulent maneuvers designed to conceal relevant facts to the LDTA or to persuade the LDTA of inaccurate facts
Moral elements	The fraud must be carried out intentionally. The attempt is also sanctionable.	The fraud must be carried out intentionally. The attempt is also sanctionable.
Criminal sanctions	• Imprisonment from one month to three years. • Fine from €25,000 to six times the amount of tax evaded / tax unduly refunded.	• Imprisonment from one month to five years. • Fine from €25,000 to 10 times the amount of tax evaded / refund unduly received.

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SOUTH KOREA	50+
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