

**Q&A
CNC
24/031**

QUESTIONS / ANSWERS:

IMPACT OF THE “PILLAR 2” LAW ON THE NOTES TO THE ANNUAL AND CONSOLIDATED ACCOUNTS FOR FINANCIAL YEAR 2023* PRESENTED IN ACCORDANCE WITH LUX GAAP OR LUX GAAP-FV

* This Q&A applies to financial years beginning before the entry into force of the rules introduced by the “Pillar 2” law, i.e. in practice any financial year beginning no later than 30 December 2023.

Context:

The Law of 22 December 2023 on minimum effective taxation with a view to transposing the Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for groups of multinational enterprises and large-scale domestic groups in the Union¹ (hereinafter the “Pillar 2” law) implements a major reform of international taxation in Luxembourg.

The question of the impacts of the “Pillar 2” law on the notes to the annual and consolidated accounts presented under LUX GAAP or LUX GAAP-FV² for financial years beginning before the entry into force of the “Pillar 2” law – in practice, any financial year beginning no later than 30 December 2023 – arises for preparers of accounts.

In this regard, the “*Commission des normes comptables*” (Accounting Standards Board) (hereinafter ‘CNC’) notes that IAS 12 ‘*Income Taxes*’ was amended by the International accounting standards board (IASB) on 23 May 2023 to take into account the implementation of the rules model of Pillar 2 of the Organisation for Economic Co-operation and Development (OECD). This amendment to IAS 12 was adopted by the European Commission on 8 November 2023³ in accordance with the procedure laid down in the IAS Regulation of 2002⁴.

In this context, and considering that Luxembourg undertakings and groups have the option – and in some cases the obligation – to prepare and publish their annual accounts and/or consolidated accounts in accordance with IFRS – EU⁵ (including IAS 12 as amended) pursuant to Articles 72bis LRCS and 1780-1 LSC or even directly from the IAS Regulation of 2002 (undertakings whose securities are admitted to trading on a regulated market)⁶, it appeared appropriate – in order to ensure a level playing field – for Luxembourg undertakings and groups that, regardless of the accounting regime used (LUX GAAP, LUX GAAP – FV or IFRS – EU), the information to be presented in the notes to the accounts (‘disclosures’) should be equivalent or even identical.

In view of the above, this Q&A is intended to incorporate the aforementioned amendments to IAS 12 relating to disclosures⁷ and to recommend their application also to Luxembourg undertakings and groups affected by the “Pillar 2” law and which prepare and publish their annual accounts and/or consolidated accounts under LUX GAAP or LUX GAAP – FV.

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¹ Official Journal of the Grand Duchy of Luxembourg, Memorial A, No. 864 of 22 December 2023.

² See: Q&A CNC 14/001 ‘Accounting law for undertakings: three distinct regimes’, November 2014.

³ Commission Regulation (EU) 2023/2468 of 8 November 2023 amending Regulation (EU) 2023/1803 as regards International Accounting Standard IAS 12.

⁴ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

⁵ See: supra 2.

⁶ Pursuant to the IAS Regulation of 2002, undertakings whose securities are admitted to trading on a regulated market are required to prepare and publish their consolidated accounts in accordance with IFRS as adopted by the European Union.

⁷ This Q&A focuses exclusively on the information to be provided in the notes to the accounts (“disclosures”) and does not address aspects relating to the possible recognition and measurement of assets or liabilities, expenses or income in the annual accounts and/or consolidated accounts.

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Question:

What are the implications of the “Pillar 2” law on the notes to the annual accounts of Luxembourg undertakings concerned and on the notes to the consolidated accounts of Luxembourg groups concerned, prepared in accordance with LUX GAAP or LUX GAAP – FV and relating to financial years beginning before the entry into force of the “Pillar 2” law, i.e. in practice any financial year beginning no later than 30 December 2023?

Answer:

Pursuant to Articles 26, paragraph 3 LRCS and 1712-1, paragraph 3 LSC, which provide that the annual accounts and consolidated accounts must give a true and fair view of the assets, liabilities, financial position and results of the undertaking and/or group, and Articles 26(4) LRCS and 1712-1(4) LSC, which provide that where the application of the legal provisions is not sufficient to give a true and fair view, additional information must be provided in the notes, CNC is of the opinion that Luxembourg undertakings and Luxembourg groups affected by the “Pillar 2” law should disclose the following information in the notes to their annual accounts and/or consolidated accounts presented in accordance with LUX GAAP or LUX GAAP – FV and relating to financial years beginning before the entry into force of the “Pillar 2” law, i.e. in practice any financial year beginning no later than 30 December 2023.

The Luxembourg undertaking and/or Luxembourg group should provide in the notes to the accounts the information that is known or can be reasonably estimated that would help users of the annual accounts and/or consolidated accounts to understand the exposure of the Luxembourg undertaking and/or the Luxembourg group to income tax arising from the “Pillar 2” law.

In order to meet the above objective, the Luxembourg undertaking and/or the Luxembourg group should provide qualitative and quantitative information on their exposure to income tax arising from the “Pillar 2” law as at the balance sheet date. This information would not have to reflect all the specific provisions of the “Pillar 2” law and could be presented in the form of an indicative range. To the extent that the information is not known or cannot be reasonably estimated, the Luxembourg undertaking and/or the Luxembourg group should disclose this fact and provide information on the progress of the assessment of their exposure.

By way of illustration, examples of information that the Luxembourg undertaking and/or the Luxembourg group could provide in the notes to the annual accounts and/or consolidated accounts presented in accordance with LUX GAAP or LUX GAAP – FV would include:

- qualitative information, in particular on how the Luxembourg undertaking and/or the Luxembourg group would be affected by the “Pillar 2” law and the main countries where the Luxembourg undertaking and/or the Luxembourg group could be exposed to income tax arising from the “Pillar 2” law;
- quantitative information, such as:
 - . an indication of the proportion of their profits that could be subject to income taxes arising from the “Pillar 2” law and the average effective tax rate applicable to those profits;
 - . an indication of how the “Pillar 2” law, if in force, would have changed their global effective tax rate.

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Disclaimer

This document – provided as a courtesy – is an unofficial translation of the French original document entitled “Incidences de la loi ‘Pilier 2’ sur l’annexe des comptes annuels et consolidés de l’exercice 2023 établis en régimes LUX GAAP ou LUX GAAP-FV”. In case of discrepancy in interpretation, the French version shall prevail.

The “questions and answers” published by the “Commission des normes comptables (CNC)” (Accounting Standards Board):

- are of a general nature and do not refer to the specific situation of any natural or legal person;
- are intended to contribute to the development of accounting doctrine in accordance with Article 73(b) of the amended Law of 19 December 2002 on the trade and companies register, as well as on the bookkeeping and annual accounts of undertakings;
- only represent the opinion of the GIE CNC on a number of doctrinal and interpretative issues;
- do not prejudice the tax implications that may arise from the accounting treatments mentioned.

The administrative or management bodies of undertakings remain responsible in accordance with general law for any decisions taken based on this document.