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| <p>Q&A CNC 25/035</p> | <p><u>QUESTIONS / ANSWERS:</u></p> <p>IMPACT OF THE “PILLAR 2” LAW ON ANNUAL OR CONSOLIDATED ACCOUNTS PRESENTED UNDER THE LUX GAAP OR LUX GAAP – FV REGIMES BY A LUXEMBOURG UNDERTAKING OR GROUP</p> |
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Context:

This Q&A CNC 25/035 follows on from Q&A CNC 24/031¹ published in February 2024 and Q&A CNC 24/032² published in March 2024 on the accounting implications of the so-called “Pillar 2” law³ (together “the ‘Pillar 2’ CNC Q&As of 2024”).

Thus, while the “Pillar 2” CNC Q&As of 2024 specifically covered the 2023 financial year⁴, this Q&A CNC 25/035 applies to the financial years preceding the transition year as defined by the “Pillar 2” law⁵ (see section 1) as well as to the financial years starting from this same transition year (see section 2).

As a reminder, the “Pillar 2” law, which aims to ensure a worldwide minimum level of taxation for multinational enterprises (MNEs) and large-scale domestic groups in the EU, implements in Luxembourg a major reform of international taxation.

In the context of the implementation of the “Pillar 2” law, numerous accounting questions arise for preparers of accounts and which relate in particular to the information to be recognised or disclosed in the notes to the annual accounts and to the consolidated accounts of Luxembourg undertakings or groups, which would fall within the scope of the “Pillar 2” law.

In this respect and in parallel with the aforementioned “Pillar 2” CNC Q&As of 2024, this Q&A only applies to Luxembourg undertakings or groups preparing, filing and publishing – for legal / statutory purposes⁶ – their annual accounts or consolidated accounts under the LUX GAAP or LUX GAAP – FV regimes⁷.

¹ Q&A CNC 24/031 "Impact of the "Pillar 2" law on the notes to the annual and consolidated accounts for financial year 2023 presented under LUX GAAP or LUX GAAP-FV" – February 2024

² Q&A CNC 24/032 "Pillar 2 Law and option to present in the notes to the annual accounts for financial year 2023 deferred tax assets and deferred tax liabilities" – March 2024

³ Amended law of 22 December 2023 on minimum effective taxation in view of transposing Council Directive (EU) 2022/2523 of 15 December 2022 to ensure a worldwide minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union.

⁴ More specifically, any financial year starting no later than 30 December 2023 was covered.

⁵ Within the meaning of Article 53, paragraph 1 of the “Pillar 2” law:

"(...) *"transition year"* for a jurisdiction means the first fiscal year in which an MNE group or a large-scale domestic group falls within the scope of this law. By way of derogation from the first sentence, where constituent entities of an MNE group or a large-scale domestic group benefit from the safe harbour rules referred to in Article 59, the transition year in respect of those constituent entities shall be the fiscal year following which the safe harbour rules no longer apply to those constituent entities."

⁶ The presentation of annual or consolidated accounts for legal / statutory purposes means – within the meaning of this Q&A – annual accounts or consolidated accounts drawn up, filed and published pursuant to Luxembourg laws, in particular:

- the law of 19 December 2002 on the trade and companies register as well as the bookkeeping and annual accounts of undertakings;
- the amended law of 10 August 1915 on commercial companies;
- the law of 17 June 1992 relating to the accounts of credit institutions;
- the law of 8 December 1994 relating to the accounts of insurance and reinsurance undertakings.

⁷ See: Q&A CNC 14/001 "Accounting law applicable to undertakings: three distinct regimes".

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Similarly, in the interests of fairness ("*level-playing field*"), this Q&A is again based on the solutions proposed by IAS 12 "Income Taxes" as amended on 23 May 2023 by the IASB⁸ to take into account the implementation of the OECD's Pillar 2 model rules⁹ and as adopted by the European Commission on 8 November 2023¹⁰ in accordance with the *endorsement* procedure provided for in the IAS Regulation of 2002¹¹.

In view of the above, the purpose of this Q&A is to provide preparers of accounts with doctrinal clarifications on the topics referred to below in relation to the information to be disclosed in the notes or recognised in the accounts under the "Pillar 2" law prior to the transition year (see section 1) and from the transition year onwards (see section 2).

Disclaimer:

This Q&A does not prejudice the methods for calculating the taxes arising from the "Pillar 2" law as set out in the "Pillar 2" law, which, for the purposes of its own application, sets out specific conditions for taking deferred taxes into account¹².

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⁸ International accounting standards board (IASB)

⁹ Organisation for economic co-operation and development (OECD)

¹⁰ Commission Regulation (EU) 2023/2468 of 8 November 2023 amending Regulation (EU) 2023/1803 as regards International Accounting Standard (IAS) 12

¹¹ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards

¹² See in particular Article 22 of the "Pillar 2" law

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Questions:

Section 1 – Financial years prior to the transition year as referred to in the “Pillar 2” law

- 1.1. Which Luxembourg undertakings or groups are covered by this section of the Q&A and from which financial year onwards is it recommended to disclose information relating to the “Pillar 2” law in the notes to the accounts?
- 1.2. What information relating to the taxes arising from the “Pillar 2” law could Luxembourg undertakings or groups disclose in the notes to their annual or consolidated accounts prior to the transition year as referred to in the “Pillar 2” law?
- 1.3. Does a Luxembourg undertaking that is part of a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law have the option of disclosing its deferred tax assets in the notes to its annual accounts?
- 1.4. Does a Luxembourg group constituting a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law have the option of recognising its deferred tax assets within its consolidated accounts?
- 1.5. Alternatively, may the Luxembourg group referred to in question 1.4 disclose its deferred tax assets in the notes to its consolidated accounts?
- 1.6. What are the methods for calculating deferred tax assets to be disclosed in the notes to the annual accounts or consolidated accounts or, alternatively, to be recognised in the consolidated accounts?

Section 2 - Financial years from the transition year onwards as referred to in the “Pillar 2” law

- 2.1. Which Luxembourg undertakings or groups are covered by this section of the Q&A?
- 2.2. As from the transition year as referred to in the “Pillar 2” law, should Luxembourg undertakings or groups present in the notes to their annual or consolidated accounts qualitative and quantitative information on their exposure to taxes arising from the “Pillar 2” law (cf.: point 1.2.)?
- 2.3. In the absence of qualitative and quantitative information on the exposure of the Luxembourg undertaking or group to the taxes arising from the “Pillar 2” law, what information should be disclosed in the notes to the annual accounts or consolidated accounts as from the transition year as referred to in the “Pillar 2” law?
- 2.4. Is it required for Luxembourg undertakings or groups to recognise or disclose in the notes to the accounts information about deferred tax assets and liabilities arising from the “Pillar 2” law?
- 2.5. May Luxembourg undertakings or groups disclose a roll-forward of their deferred tax assets in the notes to their annual or consolidated accounts?
- 2.6. Is the option of recognising deferred tax assets in the consolidated accounts of Luxembourg groups still available?
- 2.7. From a practical point of view, which accounts of the Standard chart of accounts (PCN) are recommended for use in order to recognise in the annual accounts the tax expense and the tax liability arising from the “Pillar 2” law?

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| <p><u>Questions / Answers:</u></p> <p><u>Section 1 – Financial years prior to the transition year as referred to in the “Pillar 2” law</u></p> <p>1.1. Which Luxembourg undertakings or groups are covered by this section of the Q&A and from which financial year onwards is it recommended to disclose information relating to the “Pillar 2” law in the notes to the accounts?</p> <p>This section of the Q&A applies to Luxembourg undertakings or groups that are part of or constitute a multinational enterprise group (MNE) or a large-scale domestic group as defined by the “Pillar 2” law, presenting their annual or consolidated accounts under LUX GAAP or LUX GAAP – FV and for the financial years prior to the transition year.</p> <p>1.1.1. <u>Application is likely</u></p> <p>It is the responsibility of the administrative or management bodies of the Luxembourg undertaking or group to determine when it appears likely¹³ that the “Pillar 2” law will apply to them. In this respect, the administrative or management bodies are free to use various “internal” indicators. By way of illustration, the first time that the consolidated turnover threshold of EUR 750 000 000 – as defined by the “Pillar 2” law¹⁴ – is exceeded by a group of MNEs or a large-scale domestic group may be taken as an indication that the “Pillar 2” law will soon apply in the event that the threshold is exceeded for a second time in one of the three subsequent fiscal years¹⁵. The administrative or management body may also rely on “internal” forward-looking documents of the undertaking or group, such as the group's budget or business plan.</p> <p>As soon as the application of the “Pillar 2” law appears likely, the Luxembourg undertakings or groups concerned may disclose information relating to the “Pillar 2” law in the notes to the accounts (see points 1.2, 1.3 and 1.5 below).</p> <p>1.1.2. <u>Application is certain</u>¹⁶</p> <p>As from the second time that the threshold of EUR 750 000 000 is exceeded, the Luxembourg undertakings or groups concerned are strongly recommended to disclose information relating to the “Pillar 2” law in the notes to the accounts (see points 1.2, 1.3 and 1.5 below).</p> |
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¹³ N.B.: this is an estimate made by the administrative or management bodies of the undertaking or group on the basis of the probability criterion. In this respect, the estimate may prove to be incorrect. In such a case, the analysis will have to be carried out again in the following financial year, and so on.

¹⁴ Turnover as defined in article 2, paragraph 6 of the “Pillar 2” law as amended.

¹⁵ According to article 2, paragraph 1 of the “Pillar 2” law, a group of MNEs or a large-scale domestic group whose consolidated turnover – as shown in the consolidated accounts of the ultimate parent undertaking – is equal to or greater than the numerical threshold of EUR 750 000 000 for at least two of the four fiscal years immediately preceding the fiscal year under review falls within the scope of said law.

¹⁶ This recommendation also applies to the financial years covered by article 59 of the “Pillar 2” law.

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1.2. What information relating to the taxes arising from the “Pillar 2” law could Luxembourg undertakings or groups disclose in the notes to their annual or consolidated accounts prior to the transition year as referred to in the “Pillar 2” law?

CNC is of the opinion that the Luxembourg undertaking or group referred to in this section could disclose in the notes to the accounts information that is known or can reasonably be estimated that would help users of the annual accounts or consolidated accounts to understand the exposure of the Luxembourg undertaking or group to the taxes arising from the “Pillar 2” law.

In order to meet the above objective and by analogy with the aforementioned amendments to IAS 12, the Luxembourg undertaking or group could provide qualitative or quantitative information on its exposure to taxes arising from the “Pillar 2” law 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 reasonably be estimated, the Luxembourg undertaking or group should disclose this fact and provide information on the status of its exposure assessment.

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

- qualitative information, in particular on how the Luxembourg undertaking or group would be affected by the “Pillar 2” law and the main countries where the Luxembourg undertaking or group could be exposed to taxes arising from the “Pillar 2” law;
- quantitative information, such as :
 - . an indication of the proportion of profits likely to be subject to tax as a result of “Pillar 2” law and the average effective tax rate applicable to these profits;
 - . an indication of how the “Pillar 2” law, if it already applied, would impact the overall tax burden.

1.3. Does a Luxembourg undertaking that is part of a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law have the option of disclosing its deferred tax assets in the notes to its annual accounts?

Article 53, paragraph 2 of the “Pillar 2” law states that a multinational undertaking (MNE) or a large-scale domestic group “shall take into account all the deferred tax assets and deferred tax liabilities reflected or disclosed in the financial accounts¹⁷ of all the constituent entities in a jurisdiction (...)”.

This raises the question of whether a Luxembourg undertaking that is part of a group of MNEs or a large-scale domestic group may disclose deferred tax assets accumulated at the end of the last financial year preceding the transition year in the notes to the annual accounts prepared under LUX GAAP or LUX GAAP – FV.

¹⁷ In the English version of Council Directive (EU) 2022/2523 of 14 December 2022 to ensure a worldwide minimum level of taxation for large multinational enterprises and domestic groups in the European Union, known as the “Pillar 2” Directive: “(...) disclosed in the financial accounts (...)”.

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It is considered that disclosure of deferred tax assets in the notes to the annual accounts of a Luxembourg undertaking that is part of a group of MNEs or a large-scale domestic group has the advantage of offering greater granularity and better traceability (by entity and by jurisdiction) than a presentation in the consolidated accounts alone¹⁸.

With regard to the possibility for a Luxembourg undertaking that is part of a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law to disclose its deferred tax assets in the notes to its annual accounts prepared under LUX GAAP or LUX GAAP – FV, CNC notes that, pursuant to Article 26, paragraph 4 LRCS¹⁹, it is the undertaking's responsibility – where appropriate – to disclose in the notes to its annual accounts any additional information which, in the light of the “Pillar 2” rules, contributes to the true and fair view objective referred to in Article 26, paragraph 3 LRCS²⁰.

1.4. Does a Luxembourg group constituting a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law have the option of recognising its deferred tax assets within its consolidated accounts?

With regard to the possibility for a Luxembourg group constituting a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law to recognise its deferred tax assets within its consolidated accounts, CNC notes that according to Luxembourg practice, which is explicitly recognised by draft law 8286²¹, the recognition of deferred tax assets (e.g. deferred tax assets on tax losses carried forward) in consolidated accounts prepared under LUX GAAP or LUX GAAP – FV is permitted when it is highly probable that the deferred tax assets will be recovered in the foreseeable future.

1.5. Alternatively, may the Luxembourg group referred to in question 1.4. disclose its deferred tax assets in the notes to its consolidated accounts?

As the recognition of deferred tax assets is an option within consolidated accounts prepared under LUX GAAP or LUX GAAP – FV, the question arises as to whether there is an alternative for Luxembourg groups.

¹⁸ It should be noted that if deferred tax assets have been recognised or disclosed in the consolidated accounts of a group of MNEs or a large-scale domestic group, then a disclosure of deferred tax in the notes to the annual accounts of a constituent entity does not replace this recognition or disclosure in the notes to the consolidated accounts. On the contrary, in such a case, disclosure in the notes to the annual accounts supplements the information disclosed in the group's consolidated accounts by providing granularity and facilitating the traceability of said deferred taxes (by entity and by jurisdiction).

¹⁹ Article 26, paragraph 4 LRCS states that:
“Where the application of the provisions set out hereafter would not be sufficient to give a true and fair view within the meaning of paragraph (3), additional information must be given”.

²⁰ Article 26, paragraph 3 LRCS provides that:
“The annual accounts shall give a true and fair view of the undertaking's assets, liabilities, financial position and results”.

²¹ With regard to the topic of the recognition of deferred tax assets in consolidated accounts presented under LUX GAAP and LUX GAAP – FV, draft law 8286 has confirmed in the comments to article 420-2, paragraph 13, that according to Luxembourg practice applicable to consolidated accounts, the recognition of deferred tax assets (e.g. deferred tax assets on tax losses carried forward) is permitted when it is highly probable that they will be recovered in the foreseeable future. Bill 8286 envisages explicitly enshrining in law this option of recognising deferred tax assets in consolidated accounts presented under LUX GAAP or LUX GAAP – FV.

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In this respect, CNC notes that a Luxembourg group constituting a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law still has the option of disclosing its deferred tax assets in the notes to its consolidated accounts presented under the LUX GAAP or LUX GAAP – FV regimes, pursuant to article 1712-1, paragraph 4 LSC²² according to which any additional information may be provided in the notes if it contributes to the objective of a true and fair view referred to in article 1712-1, paragraph 3 LSC²³.

1.6. What are the methods for calculating the deferred tax assets to be disclosed in the notes to the annual accounts or to the consolidated accounts or, alternatively, to be recognised in the consolidated accounts?

Besides, there is also the question of how to calculate the deferred tax assets (base and rates) relating to the *tax attributes*²⁴ and temporary differences to be presented, where applicable, in the annual accounts (notes) or consolidated accounts (consolidated notes or – alternatively – consolidated balance sheet and profit and loss account) of the Luxembourg undertaking or group forming part of or constituting a group of MNEs or a large-scale domestic group.

With regard firstly to the methods for calculating the amount of deferred tax assets disclosed in the notes to the annual accounts or consolidated accounts, CNC is of the opinion that the deferred tax assets should be calculated on the basis of the gross amount of the *tax attributes* or temporary differences by applying – where appropriate – the known income tax rates applicable in Luxembourg, i.e. – for deferred tax assets existing at the close of financial year 2024 – a rate of 23.87% corresponding to the income tax rate for financial year 2025 – for undertakings whose registered office is located in Luxembourg City. It is understood that this rate is bound to vary over time and according to the municipality in which the registered office of the Luxembourg undertaking or group is located and that the amount of deferred tax assets must be adjusted – if necessary – according to changes in said income tax rate. Thus, taking as an example the case of tax losses carried forward²⁵ at the end of financial year 2024, an undertaking based in Luxembourg City will apply an income tax rate of 23.87% to all the tax losses carried forward which the undertaking believes it can claim²⁶. It should be noted that it is not necessary for the undertaking or group to carry out an analysis of recoverability of deferred tax assets in relation to tax attributes, as the calculation can be based on the gross amount of said tax attributes.

²² Article 1712-1, paragraph 4 LSC provides that:
“Where the application of the provisions of this Title would not be sufficient to give a true and fair view within the meaning of paragraph 3 above, additional information must be given”.

²³ Article 1712-1, paragraph 3 LSC states that:
“Consolidated accounts shall give a true and fair view of the assets, liabilities, financial position and profit or loss of the undertakings included therein taken as a whole”.

²⁴ *Tax attributes* include, but are not limited to, tax losses carried forward, additional borrowing costs carried forward and tax credits carried forward.

²⁵ Note that in the case of tax credits, unlike tax losses carried forward, the full amount of the tax credit is taken into account as a deferred tax asset, without applying the tax rate.

²⁶ These are tax losses carried forward as declared in a tax return (adjusted – if necessary – following taxation and not disputed by the taxpayer) as well as realised tax losses not yet declared. If a tax loss carryforward is disputed or is expected to be disputed, then the disputed amount should be disclosed in the notes to the annual or consolidated accounts, provided that it is material in relation to the true and fair view objective.

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Alternatively, if a Luxembourg group constituting a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law chooses to recognise its deferred tax assets – as opposed to disclosing them in the notes to the accounts – the same process applies except that an analysis of recoverability of the deferred tax assets must then be carried out. Only deferred tax assets whose recoverability is highly probable can be recognised in consolidated accounts presented under LUX GAAP or LUX GAAP – FV.

Section 2 - Financial years as from the transition year onwards as referred to in the “Pillar 2” law

2.1. Which Luxembourg undertakings or groups are covered by this section of the Q&A?

This section of the Q&A applies to Luxembourg undertakings or groups forming part of or constituting a group of MNEs or a large-scale domestic group, presenting their annual or consolidated accounts in accordance with LUX GAAP or LUX GAAP – FV as from the transition year as referred to in the “Pillar 2” law.

2.2. As from the transition year as referred to in the “Pillar 2” law, should Luxembourg undertakings or groups present in the notes to their annual or consolidated accounts qualitative and quantitative information on their exposure to taxes arising from the “Pillar 2” law (see point 1.2.)?

The purpose of presenting in the notes the qualitative or quantitative forward-looking information referred to in point 1.2. and inspired by IAS 12 as amended, was to enable users of the accounts to assess the potential impact prior to its application of the “Pillar 2” law on the annual accounts or consolidated accounts of the Luxembourg undertaking or group. However, once the “Pillar 2” law applies, it is no longer a question of assessing the potential impact of this legislation but rather of calculating and recognising in the accounts the actual impact of this legislation on the Luxembourg undertaking or group (see point 2.3.).

2.3. In the absence of qualitative and quantitative information on the exposure of the Luxembourg undertaking or group to the taxes arising from the “Pillar 2” legislation, what information should be disclosed in the notes to the annual or consolidated accounts as from the transition year as referred to in the “Pillar 2” legislation?

In the absence of any legal specification on the content of the notes, CNC considers that reference should be made to general accounting principles and in particular to the true and fair view objective²⁷ and to the concept of materiality²⁸ of the accounting information.

²⁷ Pursuant to articles 26, para. 3 LRCS (annual accounts) and 1712-1, para. 3 LSC (consolidated accounts), the accounts must give a true and fair view of the assets and liabilities, financial position and results of the undertaking or group.

²⁸ Pursuant to articles 26, para. 6 LRCS (annual accounts) and 1712-1, para. 6 LSC (consolidated accounts), materiality is defined as the status of information where its omission or misstatement could reasonably be expected to influence decisions that users make on the basis of the undertaking's annual accounts or the group's consolidated accounts.

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| <p>In this context and by way of illustration, the following two cases can be distinguished.</p> <p>2.3.1. <u>Case of a Luxembourg undertaking or group to which the “Pillar 2” law applies but for which the taxes arising from the “Pillar 2” law are not material or for which there is no tax charge arising from the “Pillar 2” law</u></p> <p>In this case, and in accordance with the true and fair view objective and the general accounting principles applicable under LUX GAAP or LUX GAAP – FV, no information is in principle required to be disclosed in the notes to the annual or consolidated accounts, as the latter give a true and fair view of the assets and liabilities, financial position and results of the undertaking or group in accordance with article 26, para. 3 LRCS and article 1712-1, para. 3 LSC.</p> <p>It should be noted, however, that if the information covered by the “Pillar 2” law is considered by the administrative or management bodies of the undertaking or group to be relevant to the users of the accounts, additional information should be provided in the notes to the accounts in accordance with articles 26, para. 4 LRCS²⁹ and 1712-1, para. 4 LSC³⁰.</p> <p>2.3.2. <u>Case of a Luxembourg undertaking or group to which the “Pillar 2” law applies and for which the taxes arising from the “Pillar 2” law are material</u></p> <p>In this case, and in accordance with the true and fair view objective and the general accounting principles applicable under LUX GAAP or LUX GAAP – FV, additional information should be provided in the notes to the accounts in application of articles 26, para. 4 LRCS and 1712-1, para. 4 LSC.</p> <p>However, as the content of this additional information in the notes is not specified by law, it is the responsibility of the administrative or management body to determine the nature and extent of the information to be provided in the notes in order to achieve the true and fair view objective.</p> <p>By way of illustration, CNC is of the opinion that the information to be presented in the notes to the accounts could consist of a distinct presentation of the current tax charge / expense arising from the “Pillar 2” law.</p> |
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²⁹ Article 26, paragraph 4 LRCS states that:
"Where the application of the provisions set out hereafter would not be sufficient to give a true and fair view within the meaning of paragraph (3), additional information must be given".

³⁰ Article 1712-1, paragraph 4 LSC states that:
"Where the application of the provisions of this Title would not be sufficient to give a true and fair view within the meaning of paragraph 3 above, additional information must be given".

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2.4. Is it required for Luxembourg undertakings or groups to recognise or disclose in the notes to the accounts information about deferred tax assets and liabilities relating to taxes arising from the “Pillar 2” law (QDMTT, IIR and UTPR)³¹?

The answer is no, by analogy with IAS 12 as adopted by the European Union.

For groups that usually recognise deferred tax assets and liabilities in their consolidated accounts, CNC is of the opinion – given the complexity of applying the Pillar 2 rules – that it is appropriate to apply the measurement principles of IAS 12 with regard to the mandatory exception from recognition and disclosure of deferred tax relating to Pillar 2 income taxes (QDMTT, IIR and UTPR)³² and the requirement to disclose the application of the exception^{33/34}.

2.5. May Luxembourg undertakings or groups disclose a roll-forward of their deferred tax assets in the notes to their annual or consolidated accounts?

CNC is of the opinion that it is useful for Luxembourg undertakings or groups that are part of or constitute a group of MNEs or a large-scale domestic group – that have opted to disclose deferred tax assets in the notes to their annual or consolidated accounts – to monitor information relating to deferred tax, in particular the use or increase of tax attributes³⁵. This makes it possible to maintain the granularity and traceability of the information and to provide a true and fair view of the annual accounts or consolidated accounts, in accordance with the rules in force.

2.6. Is the option of recognising deferred tax assets in the consolidated accounts of Luxembourg groups still available?

As mentioned above, the option for a Luxembourg group constituting a group of MNEs or a large-scale domestic group within the meaning of the “Pillar 2” law to recognise its deferred tax assets in its consolidated accounts presented under LUX GAAP or LUX GAAP – FV is permitted³⁶ where it is highly probable that the deferred tax assets will be recovered in the foreseeable future³⁵.

It should be noted that once the option to recognise deferred tax assets has been exercised, the group is then durably committed – in application of the principle of permanence of methods / accounting policies³⁷ – to continuing to recognise said deferred tax assets in its consolidated accounts and to presenting a roll-forward of said deferred tax assets in the notes to the accounts.

³¹ See point 2.7.

³² Supra note 31

³³ IAS 12, para. 4A, last sentence:

"As an exception to the requirements in this Standard, an entity shall neither recognise nor disclose information about deferred tax assets and liabilities related to Pillar Two income taxes".

³⁴ IAS 12, paragraph 88A:

"An entity shall disclose that it has applied the exception to recognising and disclosing deferred tax assets and liabilities related to Pillar Two income taxes (see paragraph 4A)".

³⁵ It should be noted that this Q&A does not prejudice the methods for calculating the taxes arising from the “Pillar 2” law as set out in the “Pillar 2” law, which sets out specific conditions for the recognition of deferred taxes for the purposes of its own application.

³⁶ See point 1.4.

³⁷ See art. 51, para. 1^{er}, point b) LRCS

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| <p>Q&A CNC 25/035</p> | <p><u>QUESTIONS / ANSWERS:</u></p> <p>IMPACT OF THE “PILLAR 2” LAW ON ANNUAL OR CONSOLIDATED ACCOUNTS PRESENTED UNDER THE LUX GAAP OR LUX GAAP – FV REGIMES BY A LUXEMBOURG UNDERTAKING OR GROUP</p> |
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2.7. From a practical point of view, which accounts in the Standard chart of accounts (PCN) should be used in order to recognise in the annual accounts the tax expense and the tax liability arising from the “Pillar 2” law?

It should be noted that the PCN does not include any specific accounts that allow easy or intuitive allocation of the amounts of tax expenses and liabilities arising from the "Pillar 2" law, i.e.:

- *Qualified domestic minimum top-up tax (QDMTT)*;
- *Income inclusion rule (IIR) tax*;
- Tax relating to the *Undertaxed profit rule (UTPR)*.

For undertakings subject to the PCN, this raises the question of which PCN accounts to use.

In view of the above, CNC recommends that the QDMTT, IIR and UTPR expense be recorded in the 688 “Other taxes” account or, alternatively, in subdivisions to be created in said account, i.e. for example:

- an account 6881 “Qualified domestic minimum top-up tax (QDMTT) – current year”;
- an account 6882 “Tax relating to the Income inclusion rule (IIR tax) – current year”;
- an account 6883 “Tax relating to the Undertaxed profit rule (UTPR) – current year”.

As a reminder, this account 688 (as well as its subdivisions created for internal purposes by the undertaking) flows into line 17. “Other taxes not shown under items 1 to 16” of the profit and loss account and abridged profit and loss account. The allocation / assignment provided for in the standard mapping table is therefore inappropriate and should be adapted or customised by allocating account 688 to caption 15 “Tax on profit or loss” in the profit and loss account and abridged profit and loss account.

As for the counterpart to the QDMTT, IIR and UTPR expenses, CNC notes that in the absence of specifically adapted PCN accounts, it appears possible to post them in PCN account 46128 “ACD – Other amounts payable” or in subdivisions to be created of said account, namely for example:

- an account 461281 “Qualified domestic minimum top-up tax (QDMTT) – Tax liability payable”;
- an account 461282 “Tax relating to Income inclusion rule (IIR tax) – Tax liability payable”;
- an account 461283 “Tax relating to the Undertaxed profit rule (UTPR tax) – Tax liability payable”.

As a reminder, this account 46128 (as well as its subdivisions created for internal purposes by the undertaking) flows into section C. “Creditors”, caption 8 “Other creditors”, sub-caption a) “Tax authorities” of the balance sheet and into section C. “Creditors”, caption a) “becoming due and payable within one year” of the abridged balance sheet. Consequently, the allocations / assignments provided for in the standard mapping table are appropriate and do not need to be adjusted.

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This document – provided as a courtesy – is an unofficial translation of the French original document entitled “Incidences de la loi ‘Pilier 2’ sur les comptes annuels ou consolidés établis en régimes LUX GAAP ou LUX GAAP – JV par une entreprise ou par un groupe luxembourgeois”. In case of discrepancy in interpretation, the French version shall prevail.

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- 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;
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