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## **Law of December 15<sup>th</sup> 2020 on Space Activities**

**Law of 15 December 2020 on space activities amending:**

- 1 the amended Law of 9 July 1937 on insurance tax known as “Versicherungssteuergesetz”;**
- 2 the amended Law of 4 December 1967 on income tax**

### **Chapter 1 – Scope of application and general provisions**

#### **Article 1.**

This Law shall apply to space activities carried out:

1. by an operator, whatever the nationality thereof, from the territory of the Grand Duchy of Luxembourg or by means of installations, whether movable or immovable, under the control and jurisdiction of the Grand Duchy of Luxembourg; or
2. in the territory of a foreign State or an area not subject to the sovereignty of a State by natural persons of Luxembourg nationality or by legal persons established under Luxembourg law.

This Law shall not apply to missions involving the exploration and use of space resources governed by the Law of 20 July 2017 on the exploration and use of space resources, except for Articles 15 and 16, paragraph 2.

#### **Article 2.**

For the application of this Law the following should be understood:

1. “space activity”: any activity consisting in launching or attempting to launch one or more space objects into outer space or in controlling one or more space objects or in using them during a stay in outer space, including the return to Earth, as well as any other activity taking place in outer space for which the Grand Duchy of Luxembourg is likely to be held internationally liable;
2. “Liability Convention”: the Convention on International Liability for Damage Caused by Space Objects done in London, Moscow and Washington on 29 March 1972;
3. “damage”: any harm to persons, property, public health or the environment directly caused by a space object within the scope of a space activity, excluding the consequences of use of the signal emitted by that object for users;
4. “space object”: any object launched or intended to be launched into outer space, the component parts of such object and its launch vehicle and parts thereof;
5. “operator”: any person who, on his own behalf, carries out or undertakes any space activity, alone or jointly with others;

6. “qualifying holding”: the holding in an operator, either directly or indirectly, of at least 10% of the capital or voting rights, or any other possibility of exercising considerable influence over the management of that operator;
7. “Space Treaty”: Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, done in London, Moscow and Washington on 27 January 1967.

### **Article 3.**

The authorised operator may only carry out space activity in accordance with the conditions of its authorisation and the international obligations of the Grand Duchy of Luxembourg.

### **Article 4.**

An operator that has obtained authorisation for a space activity shall be fully liable for any damage caused during its space activity, including during any preparation works and duties.

## **Chapter 2 – Authorisation of space activity**

### **Article 5.**

(1) No operator can exercise any space activity without being previously authorised by the Minister in charge of the space policy and legislation, hereinafter the “Minister”.

(2) Obtaining the authorisation referred to in paragraph 1 shall not exempt the operator from the need to obtain other approvals or authorisations required.

(3) Any authorisation to carry out space activity shall take the form of a ministerial order and shall be granted on written application sent to the Minister.

(4) For each application for authorisation, a fee shall be fixed by the Minister to cover the administrative costs incurred in dealing with the application. This fee shall vary between 5,000 euros and 500,000 euros depending on the complexity of the application and the volume of work.

A Grand-Ducal regulation shall determine the procedure applicable for collection of the fee.

(5) Authorisation shall be personal and non-assignable, subject to Article 12.

### **Article 6.**

(1) An operator to be authorised shall provide evidence of the existence in the Grand Duchy of Luxembourg of its registered office and its central administration, including the administrative and accounting structure. An operator to be authorised shall have a robust system of financial, technical and legal procedures and methods by which space activity shall be planned and implemented. It shall also have a robust system

of internal governance comprising in particular a clear organizational structure with well-defined, transparent and consistent lines of responsibilities, effective processes for the detection, management, control and reporting of risks to which it is or could be exposed, adequate internal control mechanisms, including sound administrative and accounting procedures as well as control and security mechanisms for its technical systems and applications.

The systems, processes, procedure and mechanisms referred to in the previous paragraph shall be exhaustive and adapted to the nature, scale and complexity of the risks inherent in the business model of the operator to be authorised as well as the space activity for which authorisation is requested.

The members of the operator's governing body shall have the honourability, knowledge, skills and experience required to exercise their duties at all times. Honourability shall be assessed based on judicial records and all aspects able to establish that the persons referred to have professional honourability and present all the guarantees of irreproachable activity.

Any change in the persons referred to in the foregoing paragraph must be notified to the Minister in advance.

There must be at least two persons responsible for the management of the operator and they must be authorised to determine the direction of space activity effectively. They must have gained adequate professional experience by having already carried out similar activities with a high level of responsibility and independence in the space sector or a related sector.

(2) Authorisation shall be subject to notification to the Minister of the identity of the shareholders or partners, whether direct or indirect, natural or legal persons, who have a qualifying holding, and of the amount of such holdings or, if the threshold provided for in Article 2, point 6, is not reached, of the identity of the twenty main shareholders or partners.

Authorisation shall be refused if, taking into account the need to guarantee a sound and prudent operation, the capacity of the aforesaid shareholders or partners is not satisfactory.

The concept of sound and prudent operation shall be assessed in light of the following criteria:

1. the professional honourability of the operator to be authorised and of the shareholders and partners referred to in section 1;
2. the honourability, knowledge, skills and experience of every member of the governing body of the shareholders and partners referred to in section 1;
3. the financial soundness of the shareholders and partners referred to in section 1;
4. the existence of reasonable grounds for suspecting that a transaction involving or an attempt at money laundering or terrorist financing is in progress or has taken place in relation to the space activity envisaged or that such activity could increase the risk thereof.

The honourability of the members of the governing body of the shareholders or partners referred to in section 1 shall be assessed according to the terms of Article 6, paragraph 1, section 4, second sentence.

(3) Any change in the persons referred to in paragraph 1, section 4, must be notified to the Minister in advance. The Minister may request any information necessary on the persons that may be required to fulfil the legal conditions of professional honourability or experience. The Minister shall object to the change envisaged if such persons do not have adequate professional honourability or adequate professional experience or if there are demonstrable objective reasons for considering that the change envisaged risks jeopardizing a sound and prudent operation.

(4) Applications for authorisation must be accompanied by an assessment of the risks of space activity. They shall specify the coverage of such risks by the operator's own financial resources, by an insurance policy arranged with an insurance company not belonging to the same group as the operator to be authorised or by a guarantee issued by a credit institution not belonging to the same group as the operator to be authorised.

Authorisation shall be subject to the existence of financial bases appropriate to the risks associated with space activity.

(5) Authorisation shall be subject to the condition that the operator to be authorised assigns the audit of its annual accounting documents to one or more approved auditors (*réviseurs d'entreprises agréés*) providing evidence of adequate professional experience.

Any change in the approved company auditors (*réviseurs d'entreprises agréés*) must be authorised by the Minister in advance.

The institution of *commissaires* who may form a supervisory board, provided for by the amended Law of 10 August 1915 on commercial companies, shall only apply to operators if required by the Law on commercial companies, even if there is a company auditor (*un réviseur d'entreprises*).

## **Article 7.**

Any application for authorisation must be accompanied by all useful information for the assessment thereof as well as an activity programme. The standard content of an application for authorisation may be established by a Grand-Ducal regulation.

## **Article 8.**

(1) The authorisation shall describe the way in which the operator to be authorised satisfies the conditions of Articles 6 and 7. It may also contain provisions on:

1. the activities having to be carried out in or from the territory of the Grand Duchy of Luxembourg;
2. the limits to which the space activity could be subject;
3. the procedure for supervision of space activity;

4. the conditions serving to ensure that the operator to be authorised fulfils its obligations.

(2) The authorisations shall be subject to payment by the operator of an annual fee to the State. The annual fee shall be between 2,000 euros and 50,000 euros depending on the costs incurred by supervision, and it may be increased by experts' expenses incurred without being able to exceed 500,000 euros per annum. A Grand-Ducal regulation shall determine the procedure applicable for collecting the annual fee.

(3) The granting of authorisation shall imply for the operator the obligation to notify the Minister voluntarily, in writing and in a complete, consistent and comprehensible manner of any substantial change in the information used by the Minister to examine the application for authorisation.

#### **Article 9.**

(1) Authorisation shall be withdrawn if:

1. the conditions for granting it are no longer fulfilled;
2. the authorisation was obtained by means of false declarations or by any other irregular means;
3. the operator does not make use of it within a period of thirty-six months as from the granting thereof, and abandons or has ceased to carry out its activity in the last six months.

(2) In the event of the withdrawal of authorisation, the Minister shall take all necessary measures to prevent the space activities for which the authorisation was withdrawn from affecting the safety of persons or property or the environment or causing an increased risk of international liability for the Luxembourg State. The Minister may request the services of third parties for these purposes or transfer control over the space object to another operator to ensure the continuity of flight operations and guidance and, if necessary, to ensure re-orbiting or de-orbiting, even if such operations risk giving rise to the loss or destruction of the space object.

#### **Article 10.**

The Minister shall keep a public register of authorisations granted under this law, according to the terms established by the Grand-Ducal regulation.

### **Chapter 3 – Supervision of space activities**

#### **Article 11.**

Operators authorised to carry out space activity under Article 5 shall be subject to the Minister's continuous supervision.

### **Chapter 4 – Transfer of space activities**

#### **Article 12.**

(1) Unless authorised by the Minister in advance, any transfer to a third party of the space activities authorised or of real or personal rights, including guarantee rights, involving the transfer of actual control over the space object, shall be prohibited.

For the purposes of this article, “actual control” shall be deemed to mean: the authority exercised over the activation of the means of control or telecommand and, where appropriate, the associated monitoring devices, required for the execution of the launch, flight operation or guidance activities of one or more space objects.

(2) Requests for authorisation to transfer shall be made jointly by the transferor operator and the transferee operator.

(3) All the provisions applicable to the authorisation referred to in Article 6, paragraph 1, sections 2 et seq. and in paragraphs 2 to 4 shall apply to the authorisation to transfer.

(4) When the transferee operator is not established in the Grand Duchy of Luxembourg, the Minister shall refuse transfer authorisation in the absence of a special agreement with the State of which the transferee operator is a national or which has international liability for the space activities thereof and which guarantees the Luxembourg State against any recourse brought against it on account of its international liability or for compensation for loss or damage.

## **Chapter 5 – Change of control**

### **Article 13.**

(1) Any natural or legal person that has taken the decision to acquire or increase, either directly or indirectly, a qualifying holding in an operator, resulting in the proportion of capital units or voting rights held amounting to or exceeding the thresholds of 20%, 30% or 50% or such operator becoming its subsidiary, shall inform the Minister of its intention in advance in writing.

(2) Any natural or legal person that has taken the decision to transfer, either directly or indirectly, a qualifying holding or to reduce its qualifying holding so that the proportion of capital units or voting rights held amounts to less than the thresholds of 20%, 30% or 50% or the operator ceases to be its subsidiary, shall inform the Minister of its intention in advance in writing.

(3) The potential acquirer of a qualifying holding shall provide the Minister with information indicating the amount of the holding envisaged. The Minister shall publish a list specifying the information required to assess the notification having to be submitted to him at the time of notification.

(4) If the influence exercised by a potential acquirer referred to in paragraph 3 is likely to be exercised to the detriment of sound and prudent operation by the operator, the Minister shall object thereto or take appropriate measures to end such a situation.

For the purposes of section 1, the Minister may suspend exercise of the voting rights attached to the shares or units held by the shareholders or partners concerned.

When a holding is acquired despite the Minister's objection, the Minister may suspend exercise of the corresponding voting rights or request the nullity or invalidation of the votes cast.

The Minister may take the same measures in respect of natural or legal persons that fail to observe the obligation to provide prior information provided for by this article.

The measures provided for in this paragraph may be the subject of an appeal for reversal before the administrative court ruling on the substance of the case.

(5) Every operator shall be required to inform the Minister, as soon as it becomes aware thereof, of any acquisitions or transfers of qualifying holdings in its capital.

## **Chapter 6 – Sanctions**

### **Article 14.**

(1) Anyone who has infringed or attempted to infringe Articles 3, 5, paragraph 1, or 12, paragraph 1 or paragraph 4 shall be penalized with imprisonment from eight days to five years and a fine of €5,000 euros to 1,250,000 euros or just one of these penalties.

(2) Anyone who has infringed or attempted to infringe the provisions of Articles 5, paragraph 5, 6, paragraph 1, section 5, 6, paragraph 5, sections 1 and 2, or the terms of the authorisation, respectively, shall be penalized by imprisonment from eight days to one year and a fine of 1,250 euros to 500,000 euros or just one of these penalties.

(3) Without prejudice to paragraphs 1 and 2, the court applied to may pronounce termination of the space activity contrary to the provision of this Law under a penalty of a fine whose maximum amount may not exceed 1,000,000 euros per day of infringement established.

## **Chapter 7 – Registration of space objects launched**

### **Article 15.**

(1) A National Register of Space Objects, hereinafter referred to as the "Register" is set up by the Minister in charge of Space Policy and Legislation. The space objects for which the Grand Duchy of Luxembourg shall assume a registration obligation under Article VIII of the Space Treaty and Article II of the Convention on Registration of Objects Launched into Outer Space, adopted by the United Nations General Assembly in New York on 12 November 1974, shall be entered in the Register. This Register shall be public.

(2) An operator taking the initiative to launch or to procure the launch of a space object into outer space must provide the Minister with all information allowing to identify the space object, its launch and the position it has to occupy in outer space, including the nodal period, inclination, apogee, perigee and in particular the launching date and territory or place, the main parameters of the orbit and the general function of the space object.

(3) The operator must inform the Minister without delay of any change or risk of change in the parameters of the space object, particularly the danger of unintentional de-orbiting.

(4) If the space object is marked by a registration indication or number, the operator shall inform the Minister thereof.

## **Chapter 8 – Amending, transitional and final provisions**

### **Article 16.**

(1) Article 4 of the amended Law of 9 July 1937 on insurance tax, known as “Versicherungssteuergesetz”, shall be amended as follows:

1. The figure “8.” is inserted before the words “for contracts of insurance covering ships”;
2. A point 9 is added worded as follows: “9. for contracts of insurance related to space objects falling within the scope of application of Article 15 of the Law of 15 December 2020 on space activity.”

(2) Article 152*bis* of the amended Law of 4 December 1967 on income tax is amended as follows:

1. In section 1, the terms “paragraphs 2 and 7” shall be replaced by the terms “sections 2 and 7”.
2. A section 1a is inserted, worded as follows: “The condition indicated in section 1 shall not apply to space objects as defined in Article 2, point 4, of the Law of 15 December 2020 on space activity.”

### **Article 17.**

(1) Operators benefiting from a concession under Article 20 of the amended Law of 27 July 1991 on electronic media authorising the performance of space activities and granted prior to the entry into force of the Law may continue to perform these activities without obtaining authorisation under Article 5, paragraph 1, until 31 December 2022.

(2) The other operators that already carry out space activities on the date of entry into force of this Law shall be required to submit an application for authorisation to the Minister within a period of nine months as from the entry into force of the Law and may continue to carry out these activities while awaiting the Minister’s decision.



(3) Any operator continuing space activity at the time of entry into force of this Law shall have a period of two months to deliver to the Minister the information provided for by Article 15 for the purposes of inclusion of the space objects in the Register.

**Art. 18.**

The reference to this Law shall be made as follows: “Law of 15 December 2020 on space activity”.