



MOORE

# DOING BUSINESS IN LUXEMBURG 2018





# INTRODUCTION

The Moore Europe *Doing Business In* series of guides have been prepared by Moore Global member firms in the relevant country in order to provide general information for persons contemplating doing business with or in the country concerned and/or individuals intending to live and work in that country temporarily or permanently.

*Doing Business in Luxembourg 2018* has been written for Moore Europe Ltd by Moore SARL, Luxembourg. In addition to background facts about Luxembourg, it includes relevant information on business operations and taxation matters. This Guide is intended to assist organisations that are considering establishing a business in Luxembourg either as a separate entity or as a subsidiary of an existing foreign company. It will also be helpful to anyone planning to come to Luxembourg to work and live there either on secondment or as a permanent life choice.

Unless otherwise noted, the information contained in this Guide is believed to be accurate as of 1 June 2018. However, general publications of this nature cannot be used and are not intended to be used as a substitute for professional guidance specific to the reader's particular circumstances.

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**Brussels, June 2018**



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## 1. LUXEMBOURG AT A GLANCE

### **Geography, population, language & religion, climate**

The Grand Duchy of Luxembourg is a country in Western Europe, bordered by Belgium, France and Germany.

It has a population of over half a million people in an area of approximately 2586 km<sup>2</sup>. Luxembourg is a trilingual country. German, French and Luxembourgish are official languages, while English is also widely spoken.

The predominant religion is Roman Catholic, although the country is a secular state.

Luxembourg has an oceanic climate, marked by high precipitation, particularly in spring and late summer.

### **Politics and government**

Luxembourg is a parliamentary democracy headed by a constitutional hereditary monarch, Grand Duke Henri.

Legislative power is vested in the Chamber of Deputies, a unicameral legislature of 60 members, who are directly elected for five-year terms by the list system of proportional representation. The current Prime Minister is Xavier Bettel of the centre-right Democratic Party and the government is composed of a coalition between the Democratic Party and the the centre-left Luxembourg Socialist Workers' Party and the Green Party.

### **Currency, time zone, weights and measures**

The national currency is the euro (EUR) and Luxembourg is in the European Central Time zone (CET), which is one hour ahead of UTC. Between late March and late October, summer time (UTC + 2) is used. At the time of going to press (late June 2018), the euro was quoted against the US dollar at EUR 1 = USD 1.1539.

Luxembourg uses the metric system of weights and measures and the Celsius scale of temperature.



## 2. DOING BUSINESS

### Main forms of business organisation

The principal forms of business organisation in Luxembourg are the following:

- Companies
- Partnerships
- Cooperative societies
- Economic interest groupings
- Branches of foreign companies

### Companies

The two main corporate vehicles in Luxembourg are the joint-stock company (*société anonyme* – SA) and the private limited-liability company (*société à responsabilité limitée* – SARL).

Both types of company have limited liability.

Differences between the formation requirements of a joint-stock company (SA) and a limited-liability company (SARL) are as shown in Table 1.

Table 1

	SA <sup>1</sup>	SARL <sup>2</sup>
Minimum no of shareholders	1	1 (max 100)
Minimum issued share capital	EUR 30 000.00	EUR 12 000.00
Minimum paid-up capital	25%	100%
Form of shares	Registered or bearer	Registered; transfers must be published
Minimum no of directors	1	1
Annual general meeting	Yes	Yes if more than 60 members

Note 1: The Law of 10 August 2016 introduced a variant of the standard SA: the simplified SA (SAS). The main differences are that this form of company allows more flexibility of organisation and more freedom of contract than the SA.

Note 2: The Law of 23 July 2016 introduced a variant of the standard SARL: the simplified SARL (SARL-S). The main differences with the SARL are the following:

- minimum issued share capital: EUR 1.00
- maximum issued share capital: EUR 12 000.00
- shareholders and directors must be natural persons

Both kinds of companies must be formed by a deed as prepared by a notary and the articles of incorporation must be published in full through the website of the Luxembourg Trade Registry, *Recueil Electronique des Sociétés et Associations*. The incorporation of a company can be completed within a week.

Companies must register with the Trade Registry.

### Partnerships

In a general partnership (*société en nom collectif* – SENC), the partners are personally, jointly and severally liable for the partnership's debts. In a limited partnership (*société en commandite simple* – SECS), the limited partners are liable only up to the amount of their capital contributions, but there must also be at least one general partner, who will have unlimited liability.

In a partnership limited by shares (*société en commandite par actions* – SCA), the general partners have unlimited liability for the partnership's debts in partnership with shareholders who are usually passive investors and are only liable up to the amount of their share capital.

### Branches of foreign companies

A branch of a foreign company must publish the following documents:

- The act of incorporation of the foreign company of which it is a branch
- A statement of the board of directors authorising the establishment of the branch
- The appointment of the official representative in Luxembourg

### Labour relations & working conditions

The current rate of unemployment in Luxembourg is 5.6%, considerably below the EU average. In 2017, the number of people actively employed in Luxembourg was 392 900 (of whom 216 300 were residents of Luxembourg). Cross-border ('frontier') workers totalled 176 600, of whom 44 200 came from Germany, 43 800 from Belgium and 88 600 from France.

Employment contracts are compulsory, and fixed-term contracts may be negotiated in certain limited circumstances only. Employees have a high degree of protection once their initial probationary period (which may be no longer than 12 months) is over. Except in cases of serious misconduct, dismissal or redundancy can be a protracted process. Employees with over five years' service are entitled to statutory termination payments.

There is a minimum wage (currently EUR 1998.59 per month for unskilled workers and EUR 2398.30 for skilled workers) and all wages and salaries are index-linked.

Employees are free to join or not to join a trade union. About 50% of the workforce belong to a trade union, and the percentage is much higher in heavy industry. The standard working week is 40 hours and the maximum (including overtime) is 48 hours.

### Social security, pensions and health care

Employee social security contributions are withheld monthly by the employer from salary and have to be accounted for, together with the employer's contributions to the *Centre Commun de la Sécurité Sociale*.

A self-employed worker pays social security contributions based on an amount no less than the minimum wage (EUR 1998.59 per month in 2018) and no more than five times the minimum wage (EUR 9992.95 in 2018).

The legal pensionable age in Luxembourg is 65. Persons who have paid contributions for 40 years (obligatory full periods), may retire no earlier than the age of 57 and no later than the age of 68. A ten-year contribution record is required in order to qualify for a minimum old-age pension.

In addition to the compulsory social security scheme applicable in Luxembourg, persons can make use of extra health-insurance policies (e.g. CMCM (*Caisse Médico Chirurgicale Mutualiste*), DKV (*Deutsche Krankenversicherung*)), which enable them to receive supplementary healthcare reimbursements and services.

**Work permits, residence permits, visas etc**

Persons from within the European Union may live and work in Luxembourg without needing a work permit, but do need a duly signed employment contract. They will then be registered for social security in Luxembourg and make monthly contributions. Salary tax will be withheld monthly from their remuneration.

Persons from outside the European Union need a work permit before settling in Luxembourg. One of the necessary conditions for obtaining a work permit in Luxembourg is to provide the Ministry of Foreign Affairs with an employment contract. Once the worker has obtained his or her work permit, he or she will be registered with the local authority and be able to stay in Luxembourg for a fixed period of time.

### 3. FINANCE AND INVESTMENT

#### Business regulation

Luxembourg has a free-trade policy; restrictions are not imposed on foreign ownership of business. Foreign companies and individuals may handle investments without seeking permission from any authority. Foreign companies and individuals may acquire or form any kind of company or partnership. They are free to acquire immovable property and to obtain mortgages; they are also free to import capital from abroad and to use capital markets.

Commercial activities require an establishment permit. Pursuant to domestic law or the provisions of European directives, this permit is issued by the Ministry for the Middle Class upon request and on proof of knowledge of business management.

Banking, insurance and similar regulated activities, all commercial (e.g. trade and services not linked to professions) and industrial activities, skilled (craft) trade and some regulated (liberal) professions require a business licence. The licence is issued by a ministry and/or supervisory authority on application.



#### Banking & finance

Luxembourg plays a key role in the world financial system. Its fund-administration sector is the second largest in the world (after the United States) through its pre-eminent role in the European market, providing services that are also proving successful in Asia, the Middle East and South America. Another main pillar of the financial industry in Luxembourg is private banking: it is ranked sixth in the world and the largest in the euro zone. Luxembourg is also an attractive base for life insurance and reinsurance companies, including leadership in the area of 'captives', and has a favourable environment for private and corporate philanthropy, since the legal and regulatory framework governing the Luxembourg financial sector is designed to be able to host actors and products from diverse traditions and cultures.

Luxembourg is also a popular centre for corporate finance, and many multinational groups have established their head offices in the country. The stock exchange has an important specialised role in the listing of bonds from thousands of issuers from over 100 countries.

Based on firm but sensitively applied regulation, on laws drawn up in consultation with the industry, with all parties eager to offer solid investor protection and robust action against money laundering, the financial sector allows financial firms to benefit from a range of flexible and sophisticated investment vehicles, under the supervision of the *Commission de Surveillance du Secteur Financier* (CSSF), which ensures that the laws and regulations governing the various areas of the financial sector are enforced and observed.

#### Exchange controls

Luxembourg does not restrict the flow of European or foreign currencies into or out of the country. There are, however, some reporting requirements to prevent money laundering.

**Incentives for investment**

Luxembourg's continuous political and social stability, its liberal economic policy, an attractive, solid and reliable regulatory context, its geographically central position in Europe, together with specific and favourable incentives for investment are reasons why many foreign investors have chosen Luxembourg for commercial, industrial and financial activities.

Luxembourg offers a full range of custom-made investment incentives designed to give a head-start to new ventures, in particular to foster R&D and innovation.

Land may be provided at favourable rates in one of the numerous national, regional or municipal industrial parks. The industrial sites are fully equipped with all public infrastructure and utilities: connection to transport and telecommunications networks, supply of water, sewerage, electricity and natural gas. All are located close to major international motorways, railways and airport networks.

Business and innovation centres offer a platform to host and assist entrepreneurs or technology-based companies wishing to establish a new and innovative activity in Luxembourg. Incubators provide the appropriate support and advice to new projects facilitating their development and growth. They can also serve as relay-centres offering a temporary location to foreign companies setting up their business in Luxembourg.

Financial support may be granted for the funding of specific projects in order to complement equity and bank financing. Support may be granted to small and medium-sized companies and to companies located in development areas. Financial support for research, development and innovation investment focusing on new products, services or processes, as well as for environmental protection or efficient energy utilisation is possible. Capital grants from the Government as well as medium and long-term loans from the National Credit and Investment Corporation (SNCI) are available.

## 4. THE ACCOUNTING AND AUDIT ENVIRONMENT

### Accounting regulations

The annual accounts of Luxembourg companies are prepared in accordance with laws and regulations in force in the Grand-Duchy of Luxembourg and with Luxembourgish generally accepted accounting principles ( Luxembourg GAAP)

The general principles are as follows:

- Formation expenses are recorded at cost and are depreciated by the straight-line method over five years
- Intangible assets and tangible assets are recorded at their acquisition price or at their cost price. They are depreciated by the straight-line method over their estimated useful life
- Financial assets are recorded at their acquisition price or cost price. A provision is recorded where there has been an important and permanent diminution in the value of the investments
- A recovery of the provision is made when the reasons that have justified it no longer exist
- Debtors are stated at their nominal value. Provisions are recorded when it becomes apparent that the amounts will not be fully collectible
- Investments are valued at the lowest of their acquisition price, cost price and market value, at the balance-sheet date. The valuation is made individually and without any compensation between the individual gains and losses
- It is also possible to state financial assets and fixed assets at fair value (but this is an irreversible option)

Companies may maintain their accounts in euros or any other legal currency in which the share capital is denominated and the financial statements are expressed in the same currency. Transactions in other currencies during the financial year are translated into euros or the currency of the annual financial statements at the exchange rates prevailing at the respective transaction dates.

At the balance-sheet date, assets and liabilities (other than fixed assets) expressed in foreign currencies are converted into euros at the exchange rates prevailing at that date.

Realised and unrealised exchange losses and realised exchange gains are included in the income statement.

Under Luxembourg law, a company is required to transfer to a legal reserve a minimum of 5% of its net profit each year until this reserve amounts to 10% of the issued share capital. As regards the SARL-S (introduced by the Law of 2016), this obligation will exist until the sum of the legal reserve and the company's issued and paid-up share capital reaches EUR 12 000.00.

The reserve is not available for distribution.

As is the case with credit institutions and insurance companies, the Law of 10 December 2010 on International Financial Reporting Standards (IFRS) for Undertakings has introduced IFRS for non-listed undertakings in Luxembourg.

Luxembourg companies may opt to prepare their annual and/or consolidated accounts under IFRS.

### Audit requirements

Small companies that do not exceed any of the following limits:

- Balance-sheet total: EUR 4.4 million
- Net turnover: EUR 8.8 million
- Average of full time staff during the financial year: 50

must have their annual financial statements verified by a statutory auditor (*commissaire*). The statutory auditor is appointed by the shareholders' meeting to supervise the general conduct of the business. The statutory auditor is not subject to any restrictions of qualification or independence.

Medium-sized and large companies (those exceeding two of the above limits for two consecutive years) must have their annual financial statements audited by one or more independent auditors (*réviseurs d'entreprises agréés*).

The independent auditor is appointed by the shareholders' meeting to express an opinion as to whether the annual financial statements give a true and fair view and that the directors' report is consistent with the annual financial statements submitted for audit.

General partnerships (*sociétés en nom collectif*), limited partnerships (*sociétés en commandite simple*) and cooperative societies (*sociétés coopératives*) are exempt from the obligation to have their annual financial statements audited whatever their size.

Companies operating in the financial sector or the insurance sector (insurance and reinsurance companies) must have their annual financial statements audited regardless of their size or legal form.

## 5. OVERVIEW OF THE TAX SYSTEM

### Main taxes

The main taxes in Luxembourg are:

- Corporate income tax (*impôt sur le revenu des collectivités*, IRC)
- Local business tax (*impôt commercial communal*, ICC)
- Net [corporate] wealth tax (*impôt sur la fortune*, IF)
- Personal income tax (*impôt sur le revenu des personnes physiques*)
- Value added tax (*taxe sur la valeur ajoutée*)

### Tax authorities

National taxes are administered by government agencies. The Minister of Finance has the ultimate supervisory power. Subordinate to the Minister of Finance is the Director of Taxation, and subordinate to the Director of Taxation are the revenue offices and tax-collection offices. The Director of Taxation is the head of the tax administration. The Director's office supervises the uniform application of the law and oversees the management of the revenue offices.

Taxpayers are required to file annual tax returns. For companies, the tax year is the financial year. Individuals must use the calendar year as their tax year. Corporate tax returns must be filed within five months of the close of the financial year and with effect from 2017 tax returns, electronic filing is mandatory. Individual tax returns must be filed by the end of March. The filing date may be extended upon request.

Advance payments made by companies or individuals, as well as taxes withheld at source from individuals' income, are deducted from the tax assessed. The taxpayer must usually pay the balance of tax due within one month of receipt of the notice of assessment. In the event of late payment, a penalty of 0.6% interest per month is charged on the tax due.

After reviewing tax returns, the tax office may request further information before issuing an assessment. In case of substantial disagreement, the tax authorities will issue a notification to the taxpayer inviting him to react within a given deadline. After this deadline, and once the final assessment has been issued, a formal appeal can be lodged.

If a taxpayer wishes to appeal against an assessment, he must address his first appeal to the Director of Taxation within three months of the date of receipt. If the Director of Taxation rejects the appeal, the taxpayer has three months within which he can appeal against the decision to a tax court. After receiving the decision of the bold, the taxpayer has 40 days to make a further appeal to the tax court.

Whereas in the first stages of an appeal, the taxpayer may represent himself, or be represented by an authorised accountant (*expert-comptable*) or registered auditor (*réviseur d'entreprises*), he will need to be represented before the tax court by a lawyer.

The fact that an assessment is under appeal does not mean that payment of the tax is suspended.

## 6. TAXES ON BUSINESS

### Corporate income tax

#### Scope and extent

Resident companies are taxed on their worldwide income, unless otherwise provided by a tax treaty. Foreign income tax may be offset against corporate income tax.

Non-resident companies whose registered office and place of management are located outside Luxembourg are subject to corporate income tax on income from Luxembourg sources only.

#### Company residence

A company is considered to be resident in Luxembourg for tax purposes if its statutory seat (registered office) or its principal place of management is in Luxembourg. The principal place of management is defined as the centre from which the activities of the company are directed.



#### Taxable entities

Corporate income tax applies to all resident companies and to the Luxembourg permanent establishments of foreign companies. Partnerships and joint ventures are not subject to corporate income tax, but the share in profits of each individual partner is subject to income tax. Partnerships that are limited by shares are subject to corporate income tax.

The following companies and entities in particular are exempt from corporation tax:

- Certain collective bodies whose activity is directly and solely for charitable purposes or in the general interest
- Private wealth-management companies (*Sociétés de gestion de Patrimoine Familial*, SPF) as governed by the provisions of the law of 11 May 2007
- Undertakings for collective investment.

#### Taxable income

Taxable income is based on the annual financial statements. For tax purposes, financial-statement profits are adjusted by adding back all non-deductible expenses (e.g. non-deductible taxes, directors' fees, excessive depreciation) and by deducting exempt income (e.g. as per a double tax treaty or the participation exemption) as well as trading losses carried forward.

#### Capital gains

In general, capital gains are considered ordinary business income and taxed at normal rates when they are realised.

Capital gains resulting from the sale of shares are generally exempt from taxation if the following conditions are met:

- The company in which the investment is held is a corporate entity covered by Article 2 of the EC Parent-Subsidiary Directive, a fully taxable resident company or a non-resident company subject to a tax corresponding to Luxembourg corporate income tax (minimum of 9%)
- The participation must represent a holding of at least 10% of the share capital or an acquisition cost of at least EUR 6 000 000
- The participation has been or will be held for a period of at least 12 months.

Operating expenses related to exempt income are not deductible for tax purposes. Therefore, capital gains are taxable to the extent of interest and expenses deducted in prior years (e.g. interest on loans used to finance the purchase of the shares).

### Deductions

Expenses incurred for business purposes are deductible. Certain expenses deemed to be excessive are either non-deductible or partially deductible. Expenses incurred to produce tax-exempt income are non-deductible.

The straight-line depreciation method and the declining-balance method (except for buildings) are both allowed. Typical straight-line rates are illustrated in Table 2.

Table 2

Type of asset	Straight-line rate (%)
Commercial buildings	1.5 – 4.0
Industrial buildings	4.0
Plant and machinery	10
Office equipment	20
Motor vehicles	25

Inventories must be valued at the lower of cost of acquisition (or production) and fair market value.

Provisions for losses and uncertain liabilities, if based on objective facts, may be deductible for tax purposes.

### Dividends, interest and royalties

#### Dividends

Under section 166 of the Income Tax Act (LIR), dividends and liquidation proceeds earned by:

- a resident and fully taxable company with share capital;
- a Luxembourg permanent establishment of a company that is resident in another EU Member State and is covered by Article 2 of the Parent-Subsidiary Directive (as amended); or
- a Luxembourg permanent establishment of a company with share capital resident in a country with which Luxembourg has entered into a double tax treaty,

are exempt from corporate income tax in Luxembourg, provided the following conditions are met:

- The company paying the dividend is a Luxembourg-resident company subject to corporate income tax, or a company resident in another EU Member State and covered by Article 2 of the Parent-Subsidiary Directive (as amended), or a non-resident company subject to the local equivalent of Luxembourg corporate income tax (minimum effective rate: 9%)
- The participation must represent a holding of at least 10% of the capital or an acquisition cost of at least EUR 1 200 000
- At the time of distribution, the beneficiary holds or undertakes to hold the participation for an uninterrupted period of at least 12 months. Where the level of ownership varies during the 12-month period, full exemption for all dividends received is maintained as long as the minimal ownership levels (10% or EUR 1 200 000) continue to be satisfied

Operating expenses related to exempt income are not tax-deductible. Therefore, the interest charge on a loan contracted to finance the acquisition of an exempt participation is not deductible against other taxable income in the year in which a dividend is received, except for that part which exceeds the exempt income.

**Interest**

Interest received is fully subject to corporate income tax and interest paid (if at arm's length) is fully deductible (but see above).

If a company is engaged in financing activities (e.g. borrowing and on-lending funds), interest received will be fully taxable and interest paid fully deductible as long as the company reports a taxable margin on such activities. The spread should be determined on an arm's length basis. In practice such arm's length spread is calculated on the average amount of funds borrowed and on-lent and depends on the total volume of the financing activities and varies from 0.5% to 1/64%.

**Royalties**

Before 1 July 2016, it was possible under certain conditions to exempt 80% of net royalties from corporate income tax under the so-called IP exemption regime. This regime has now been repealed, subject to a grandfathering rule, under which royalties in respect of eligible IP rights developed or acquired before 1 July 2016 continue to qualify for the exemption until 1 July 2021. Royalties in respect of IP rights acquired after 31 December 2015 will benefit from the grandfathering rules only if the rights have been developed or acquired from an unrelated party or if they have been acquired from a related party that previously qualified for the Luxembourg IP exemption regime or a foreign preferential tax regime comparable to the Luxembourg IP regime prior to their transfer.

	67,000	137,00
	70,000	140,00
	48,778	89,67
	78,551	117,45
	33,737	74,63
	29,500	70,40
	43,115	84,01
	63,991	104,89
	28,877	61,77

**Group taxation**

Luxembourg companies within the same group are allowed, under certain conditions, to choose to be taxed as a consolidated group. The whole group is then taxed as if it were one company. In practice, this allows losses made by one company to be offset against profits made by other Luxembourg-resident companies.

The main conditions for tax consolidation are as follows:

- The consolidating parent company and the consolidated subsidiaries must be resident fully taxable companies (this is commonly known as 'vertical tax consolidation')
- The consolidating parent company must directly or indirectly hold at least 95% (75% in exceptional situations) of the consolidated subsidiaries.

A tax group may also be formed between fellow subsidiaries of a common qualifying non-resident parent company (this is commonly known as 'horizontal tax consolidation'). Such Luxembourg-resident subsidiaries are allowed to be part of a tax group if they are held by a common parent company resident in another EEA state and fully subject to a corporation tax similar to the Luxembourg income tax at a minimum effective rate of 9.0%.

The minimum period for tax consolidation is five years.

### Losses

Trading losses are offset against income or gains derived in the same period. Tax losses incurred before the fiscal year 2017 may be carried forward indefinitely whilst losses incurred from fiscal year 2017 onwards may be carried forward for a maximum period of 17 years only.

### Withholding taxes

#### *Dividends*

Dividends paid by a Luxembourg company with share capital and fully liable to tax are in principle subject to a withholding tax at the rate of 15% (17.65% if the dividend tax is borne by the distributing company). This rate may, however, be reduced under the terms of various tax treaties concluded by Luxembourg.

Furthermore, an exemption from the withholding tax is available under the following conditions:

- The company receiving the dividend is:
  - A fully taxable resident company or
  - A company covered by Article 2 of the Parent-Subsidiary Directive (as amended) or a permanent establishment thereof or
  - A fully taxable company resident in an EEA member state or a permanent establishment of such a company
  - A fully taxable company resident in a country having concluded a double tax treaty with Luxembourg or a permanent establishment of such a company
- The recipient has held or undertakes to hold a participation representing at least 10% of the capital or an acquisition cost of at least EUR 1 200 000 for a period of at least 12 months.

#### *Interest*

Interest paid by a Luxembourg company is generally not subject to withholding tax, except in the case of certain interest paid by a Luxembourg paying agent to a Luxembourg-resident individual, when there is a final withholding tax of 20%.

There is no withholding tax on the distribution of liquidation proceeds in Luxembourg.

#### *Royalties*

Royalties related to patents, trademarks and know-how paid by a Luxembourg company are generally not subject to withholding tax.

#### *Director's fees*

Fees paid to members of the board of a Luxembourg company are subject to a withholding tax of 20% (25% if the tax is borne by the paying company). If a non-resident director's only income in Luxembourg amounts to a gross fee of less than EUR 100 000 per year, the 20% withholding tax is a final tax. For director's fees exceeding EUR 100 000 per year, a non-resident director will have to file an annual income tax return and the fees will be subject to progressive income tax rates.

Director's fees are not deductible for corporate income tax purposes.

### Thin capitalisation

There is no thin-capitalisation rule in Luxembourg. In principle; borrowed money is not limited to a percentage of paid-in capital. However, in relation to shareholders' loans, the tax administration has decided that the maximum debt-equity ratio should be around 6:1 for a normally taxable holding company.

### Transfer pricing

In the past, Luxembourg's tax law did not contain transfer-pricing provisions as such, although the arm's length principle was always applied to transactions between related parties. If the arm's length principle was not met, the profits were readjusted, unless the company making the transfer proved that the transaction was based on business reasons, for example, to protect a market position.

However, with effect from 2016, Luxembourg has implemented a transfer-pricing framework by introducing explicit transfer-pricing documentation requirements in accordance with the OECD's BEPS recommendations. Moreover, with effect from 2017, Luxembourg has introduced a new article into its domestic tax law in order to further specify Luxembourg transfer pricing regulations by making specific reference to the OECD Transfer Pricing guidelines and to the OECD/G20 BEPS-Project.

#### Controlled foreign company (CFC) rules

Luxembourg legislation does not include any CFC rules.

#### Tax incentives

##### *Tax credit for investment*

Investments in assets depreciated over at least three years, other than buildings, land and generally motorised vehicles, may be eligible for a corporate income tax credit. This tax credit for investment (*bonification d'impôts*) has two components:

- A tax credit of 13% of the additional acquisition value of the investments made in the course of the financial year
- A tax credit of 8% for that part of the acquisition value of investments made during the tax year not exceeding EUR 150 000 and 2% for that part of the investment exceeding EUR 150 000

##### *Tax credit for hiring unemployed persons*

A credit equal to 15% of the gross annual salary of new staff who were previously receiving unemployment benefits may be set off against corporate income tax.

##### *Tax credit for investing in professional training*

A credit equal to 10% of the overall cost of the investment made in vocational training may be set off against corporate income tax.

##### *IP exemption régime*

The régime, to the extent that it still exists (see under '*Dividends, interest and royalties*' above), exempts 80% of the net income received as consideration for the use or the authorisation to use software copyrights, patents, trademarks, designs or models. Net income means the gross royalty income less any expenses directly related to this income. The intellectual property has to have been acquired or self-developed by the Luxembourg company after 31 December 2007. To avoid possible abuse, the régime stipulates that the exemption is not applicable to intellectual property that is acquired from related companies.

Based on current income tax rates, the income from qualifying intellectual property is taxed at 5.202% for the year 2018 (20% of income taxed at the total corporate income tax rate of 26.01%).

##### *SPF (société de patrimoine familiale)*

The private wealth-management company (*Société de gestion de Patrimoine Familial*, SPF) is governed by the provisions of the law of 11 May 2007 (the SPF Law).

Corporate objects of the SPF are limited to the acquisition, holding, administration and sale of financial assets. An SPF may hold a

shareholding in another entity provided that it does not interfere in its management. An SPF may grant or guarantee cash advances provided that the latter do not bear interest.

The following persons are eligible to invest in an SPF:

- An individual acting in the context of his or her personal private-wealth management
- A private-wealth entity (i.e. trust, foundation etc) acting solely for one or several individuals
- Intermediaries acting on behalf of either of the above

An SPF is not allowed to carry out any of the following activities:

- Commercial activities, such as trading in financial instruments, or financial services (as such, an SPF falls out of the scope of the EC state aid rules)
- Directly holding immovable property
- Being actively involved in the management of a company
- Rendering services of whatever nature
- Granting interest-bearing loans, not even to subsidiaries

An SPF is exempt from corporate income tax, local business tax and net wealth tax.

An SPF is liable to a subscription tax of 0.25% per year. The minimum annual subscription tax payable by an SPF is EUR 100 and the maximum is EUR 125 000.

The base for the subscription tax is equal to the paid-up share capital of the SPF, its share premium account and its debt to the extent that it exceeds eight times the paid-up capital and the share premium combined as at 1 January.

Profit reserves are not part of the taxable base.

Interest paid to individuals resident in Luxembourg is subject to a final withholding tax of 20%.

Dividends paid by an SPF are not subject to withholding tax.

Non-residents will not be subject to capital gains taxation in Luxembourg upon the sale of their interest in an SPF.

In view of its privileged tax regime, foreign tax administrations may exclude the SPF from the application of their tax treaties and EU Directives.

### Tax rates

Domestic companies are subject to a corporate income tax rate of 18% for the year 2018. This rate is increased by a 7% surcharge for the unemployment fund and thus the effective maximum rate is 19.26% on taxable profits of over EUR 30 000. The rate is 15% (16.05% including the unemployment-fund surcharge) if the taxable income does not exceed EUR 25 000.

Where the taxable profit is between EUR 25 000 and EUR 30 000, corporate tax is fixed at EUR 3750 plus 33% of the excess of the profit over EUR 25 000, plus also the unemployment fund surcharge.

**Assessment procedure**

The tax authorities issue a provisional assessment following the receipt of the tax return. The tax inspector has five years to contest the return before taxation becomes final.

**Returns and payments**

Annual corporate income tax returns have to be filed electronically within five months of the close of the financial year. The tax year is the financial year. The filing date may be extended upon request.

Income tax, local business tax and wealth tax are prepaid in quarterly instalments based on the preceding year's taxable income. Prepayments made by companies are deducted from the tax assessed. Final payments are due within one month of the receipt of the tax assessment.

In the event of late payment, a penalty of 0.6% interest per month is charged on the tax due. In addition, tax authorities may charge a penalty equal to 10% of the tax due for late filing of the returns. However, the tax authorities do not pay interest in the event of an overpayment of tax.

**Value added tax****EU legislation**

Within the European Union, of which Luxembourg is a Member State, VAT is a Union-wide tax, the overall framework of which is provided by the VAT Directive (2006/112/EC) and associated Directives and Regulations.

**Taxable entities**

As a general rule, all taxable persons must register for VAT. A taxable person is any person who independently and habitually carries out any form of economic activity, whatever the purpose or results of this activity and wherever it takes place. A person who carries out occasional transactions of a certain kind may also be a taxable person.

**Taxable activities**

VAT is a general consumption tax, the final burden of which is borne by the end-consumer but which is levied at every stage of the economic process, whenever a transactions carried out in the course of an economic activity and for consideration.

The transaction must be carried out for consideration. The delivery of goods or the provision of a service is subject to VAT if it involves a consideration that corresponds to the payment of the price asked (cash) or the delivery of a good or a service. It does not matter whether the transaction generates a profit or a loss. In addition, there must be a direct link between the service provided and the consideration received. This means that the service must have been provided directly to the customer and that there must be a relationship between the level of the benefits gained by the customer and the consideration paid to the service provider. Where this is the case, VAT is payable.

**Territorial application**

VAT is due on transactions carried out or regarded as carried out in Luxembourg (i.e. where the place of supply of the goods or services is considered to take place).

Transactions carried out with persons established within the European Union are treated differently from those carried out with persons established outside the European Union.

The territorial application rules differ depending on the nature of the supply and (in the case of services) on the status of the customer.

Supplies of goods generally take place where the goods are located or, if transport of the goods is involved, where the transport begins or ends. There are various exceptions to these rules.

For supplies of services, there are two basic rules. For transactions between taxable persons (so-called 'B2B services'), the place of supply is normally where the customer is established. VAT is therefore due in the country in which the taxable customer has his place of business or, failing this, the country in which he has a permanent establishment to which the services in question are provided.

In the case of a supply of services to a non-taxable person, however, the basic rule is that the place of supply is normally where the supplier is established.

There are many exceptions to these rules also. For example, the place of supply for services connected with immovable property is where the property is located.

e-services (electronic services and electronically supplied services) had a special tax treatment which has been modified with effect from 1 January 2015. So, with reference to Luxembourg:

- Services supplied electronically by a Luxembourg business to private or business customers based outside the European Union are exempt from Luxembourg VAT
- Services supplied electronically by a Luxembourg business to non-taxable customers based within the European Union are subject to VAT in the consumer's Member State of residence (before 01.01.2015 : subject to Luxembourg VAT)
- Services supplied electronically by a Luxembourg business to taxable customers based within the European Union are exempt from Luxembourg VAT (but subject to VAT in the customer's Member State) and
- Services supplied electronically by a business from outside the European Union to a private customer in Luxembourg are subject to Luxembourg VAT

When goods are imported into the European Union from a third country or territory, VAT is normally payable on importation. Where goods move from one Member State to another, the supply of those goods is normally exempt but the acquisition of those goods by the customer is normally taxable.

### Exempt transactions

Activities not connected with the economic sector do not fall within the scope of VAT. Therefore, the activities of administrative public services that do not compete with those of the commercial sector are not subject to VAT. Transactions carried out as part of private asset management for individuals are also exempt from VAT.

Although falling within the scope of VAT, some transactions are not subject to this tax either for reasons of the public interest (such as social care, public health services etc) or for other reasons. These exempt activities include insurance and financial services.

Finally, exports to outside the European Union are also exempt.

### Rates of VAT

In addition to the standard rate of VAT, which is 17% , Luxembourg has three reduced rates. All supplies are taxed at the standard rate, unless they are specifically exempt or taxable at one of the reduced rates.

The super-reduced rate of 3% applies, *inter alia*, to:

- Foodstuffs
- Certain passenger transport services
- Medical products
- Hotel accommodation
- Books and newspapers
- Restaurant services
- Children's shoes and clothes
- Water

A reduced rate of 8%, applies, *inter alia*, to:

- Liquefied or gaseous gases, intended as heating, lighting or fuel
- Electricity
- Living plants and other floricultural products
- Hairdressing
- Minor repairs to bicycles, shoes and leather articles
- Alterations to clothes and household linen
- Window cleaning and cleaning of private residential accommodation

A rate of 14% applies, *inter alia*, to:

- Heating fuel and petrol
- Print products
- Safe custody and administration of securities

#### Deductible (input) VAT

As the burden of VAT is intended to fall on the final consumer, but it is levied at every stage of the production process, taxable persons are generally entitled to deduct the VAT they bear on their purchases and acquisitions, provided that those activities are directly connected to taxable outputs. Input VAT incurred in making exempt supplies is not generally deductible, although some exempt activities involve what is called the 'right to deduct', meaning that input VAT incurred in making them is deductible.

Each taxable person is subject to the obligation of paying the tax authorities the difference between the VAT collected on transactions and the deductible VAT paid in respect of their professional activity.

#### Registration

To register for VAT, a taxable person must submit an initial declaration to the Land Registration and Estates Department of the Ministry of Finance (*Administration de l'Enregistrement et des Domaines – AED*). As a general rule, all taxable persons must register for VAT.

#### Exemption for small businesses

Taxable persons whose VAT-exclusive turnover (including exempt supplies) did not exceed EUR 30 000 in the previous calendar year and has not exceeded EUR 30 000 in the current year are not obliged to register for VAT. If they avail themselves of this exemption, they do not charge VAT on their supplies, and nor may they deduct VAT they incur.



If this threshold is exceeded during the year, VAT becomes payable on transactions carried out from the first day of the month after that during which turnover net of VAT for the current calendar year exceeds the amount of EUR 30 000. Businesses qualifying for the exemption may register voluntarily. Having done so, they must remain registered for at least five years.

The following must register for VAT

- Any person established in Luxembourg who commences a taxable activity and expects annual turnover to exceed EUR 30 000
- Any person who is not established in Luxembourg, but who carries out taxable transactions in Luxembourg, such as the occasional and temporary provision of services (including services attached to immovable property located in Luxembourg and the delivery of goods with installation or assembly in Luxembourg), whatever their turnover
- Any taxable person exempted from registration for VAT (see exceptions below), as well as any non-taxable legal person who carries out intra-EU acquisitions of goods for an annual amount in excess of EUR 10 000
- Any taxable person established in Luxembourg who only carries out exempt transactions without the right to deduct and who purchases services from a taxable person established abroad for which he (the customer) is liable for tax
- Any taxable person established in Luxembourg who only carries out exempt transactions without the right to deduct and who provides taxable services in another EU Member State on which the customer is liable for the tax
- Any person established in Luxembourg and is subject to the flat-rate scheme for farmers and makes supplies of alcoholic beverages or timber in an annual amount in excess of EUR 30 000
- Any taxable person established and registered for VAT in another EU Member State who carries out deliveries of goods, including the dispatch or transport, to persons not registered for VAT and established or domiciled in Luxembourg, for an annual amount in excess of EUR 100 000. This category of delivery of goods is commonly referred to as 'distance sales'



Before registering for VAT, businesses must have opened a bank account or a direct deposit account (CCP) at a Luxembourg or foreign bank. In order to register for VAT, the taxable person must submit an initial declaration to the relevant tax office.

### Taxable period

Taxable persons with an annual turnover of less than EUR 112 000 need only make annual VAT returns. Those with a turnover of EUR 112 000 or more but less than EUR 620 000 must make quarterly returns, whereas those with an annual turnover of EUR 620 000 or more must make monthly returns. Taxable persons making monthly or quarterly returns must also make recapitulative annual returns.

The competent tax office will rule on the application for registration. In addition to the information provided on the initial declaration, the administration may require other information or documents relating to the business activity of the person applying for registration or for a VAT number.

Once registered for VAT, the taxable person (or non-taxable legal person) receives a VAT identification number composed of a unique group of 8 figures preceded by the letters 'LU'.

The VAT identification number is used for intra-EU trade and must be shown on all VAT invoices issued by the taxable person.

### Other taxes on business

#### *Local business tax (impôt commercial communal)*

A local business tax on income is levied by local authorities. The tax base is the same as that for the purposes of corporate income tax. The rate varies according to the local authority in which the company's registered office is located. In Luxembourg City, this tax is levied at a rate of 6.75%. The first EUR 17 500 is exempt.

The combined total effective rate of income tax thus totals 26.01% for a company registered in Luxembourg City (including the 7% unemployment surcharge).

#### Net wealth tax (IF)

Companies (but not individuals) are subject to an annual net wealth tax or net assets tax at a rate calculated on the net asset value of the company. Participations are excluded from the taxable base if they amount to at least 10% of the capital of a fully taxable company (resident or non-resident) or if their acquisition price amounts to at least EUR 1 200 000. As from 1 January 2016, the rate of the net wealth tax is 0.5% on the first EUR 500 million and 0.05% on the remainder.

As from 1 January 2016, a minimum net wealth tax has replaced the minimum corporate income tax. This minimum tax applies to the Luxembourg-resident companies and amounts to EUR 4500 per year (EUR 4815 including the unemployment fund surcharge of 7%) for companies more than 90% of whose total assets consist of:

- Financial assets
- Receivables held against affiliated undertakings and related parties
- Transferable securities or
- Bank deposits and cash
- And exceed EUR 350 000

For all other companies more than 90% of whose financial assets, receivables against affiliated undertakings and related parties, transferable securities, bank deposits and cash do not exceed 90% of their total balance sheet and EUR 350 000, the minimum tax varies between EUR 500 and EUR 30 000 (EUR 535 and EUR 32 100 including the unemployment-fund surcharge) as shown in Table 3:

Table 3

Balance – sheet total (EUR)	Minimum net wealth tax (excluding 7% surcharge)
Less than 350 001	500
350 001 – 2 000 000	1500
2 000 001 – 10 000 000	5000
10 000 001 – 15 000 000	10 000
15 000 001 – 20 000 000	15 000
20 000 001 – 30 000 000	20 000
Greater than 30 000 000	30 000

For the computation of the balance-sheet totals, the net value of assets generating income that Luxembourg is not allowed to tax according to a double tax treaty, e.g. income derived from foreign immovable property, must be excluded.

The minimum net wealth tax is reduced by an amount equal to the corporate income tax (including the surcharge for unemployment fund and after tax credits) paid during the preceding tax year.

Wealth tax may be reduced by 20% of the balance as at the beginning of the tax year of a special balance-sheet reserve that must be maintained during the five following tax years. The reduction is limited to the corporate income tax due (before tax credits) for the preceding tax year. After this reduction, the net wealth tax cannot be lower than the minimum net wealth tax determined and reduced as above.

Net wealth tax is not deductible for the purposes of corporate income tax.

## 7. PERSONAL TAXATION

### Income tax

#### Scope of income tax

Individuals resident in Luxembourg are taxed on their worldwide income unless otherwise provided by tax treaties.

General and limited partnerships are considered as transparent for tax purposes and the partners are subject to income tax directly on their shares of partnership income.

Non-residents are subject to tax on their Luxembourg-source income only. However, they can opt to be taxed as a Luxembourg resident provided at least 90% of their professional and non-professional income is derived from Luxembourg sources (50% for Belgian residents). This option has to be requested on the Luxembourg income tax return.



#### Residence

Individuals are considered resident in Luxembourg if their permanent residence or habitual place of abode is in Luxembourg or if they are physically present in Luxembourg for an uninterrupted period of more than six months (this period can straddle two calendar years).

An individual's citizenship is irrelevant in determining tax residence.

#### Structure of income tax

Income tax is charged on eight categories of income:

- Trade and business income
- Income from agriculture and forestry
- Income from self-employment
- Income from employment
- Income from pensions and annuities
- Income from movable property
- Rental income
- Miscellaneous income

#### The family unit

Married persons are taxed jointly on all types of income, taking into account the income of husband and wife and any dependent minor children. Under certain conditions, joint taxation is also possible for registered couples. As from 2018, an optional separate taxation regime for both married couples and civil partners has been introduced .

Income of the couple's minor children is included in the couple's income for tax purposes, except where derived from employment. The age of majority is 18.

Taxpayers are classified into the following main classes:

- Tax Class 1 for single individuals, separated individuals or divorced individuals without children
- Tax Class 1a for individuals 65 and over, widowed or living alone with dependants in their household
- Tax Class 2 for married couples jointly assessed and for partners having concluded a partnership contract and who ask for joint taxation

### Taxation of employment income

Taxable employment income includes wages, bonuses and all benefits in cash or in kind received within the context of an employment.

#### *Director's fees*

Where a director carries out a day-to-day management function (i.e. he or she is an executive director), the fees are considered to be employment income. In the case of non-executive directors, however, the fees are regarded as income from self-employment and not deductible by the company. Persons who hold a number of non-executive directorships on a regular and habitual basis are in all likelihood taxable persons for VAT purposes and should charge VAT on their fees.

#### *Benefits-in-kind*

The taxable value of benefits-in-kind is in principle assessed at their fair market value. However, some benefits are taxable on a lump-sum value or are tax-exempt:

#### *Free accommodation:*

The taxable benefit amounts to 75% of the rent provided that the lease agreement is concluded by the employer. If the accommodation is owned by the employer, the benefit is the higher of 25% of the 'unitary value' (*Einheitswert*) of the property and EUR 7 to 8 per square metre.

#### *Company car (private use):*

The monthly taxable benefit varies from 0.5% to 1.8% of the acquisition cost of the new car (options and VAT included) depending on the carbon-dioxide emissions level of the car.

#### *Interest-free or reduced-rate loan or interest subsidy*

The taxable benefit for the interest saving corresponds to the difference between the rate of 1.5% and the lower interest rate granted by the employer.

The amount of the interest subsidy given by the employer is taxed in the hands of the employee.

The following tax exemptions apply to the above benefits:

- EUR 3000 per year for mortgage loans related to the taxpayer's main residence
- EUR 500 per year for other loans

These amounts are doubled for taxpayers filing jointly and for single taxpayers with dependent children.

#### *Luncheon vouchers*

The taxable benefit per voucher is equal to EUR 2.80 for a voucher of a value of EUR 10.80 maximum.

#### *Occupational pension schemes*

Employer's contributions to a qualifying occupational pension scheme are subject to a flat tax rate of 20% to be paid by the employer. Benefits received are tax-exempt in Luxembourg.

#### *Deductions*

A standard deduction of EUR 540 for employment-related expenses is granted annually (EUR 1080 for a couple if both spouses or partners receive employment income). An additional deduction up to EUR 2574 is granted for travel expenses (depending on the distance between home and place of work).

**Salary tax**

Employment income is subject to withholding tax at source. The factors that determine the amount of tax to be withheld from each employee are registered on the employee's tax card, which local authorities issue annually for each employee. This tax card states their tax category based on their personal status (single, married, separated, divorced or widowed).

**Taxation of income from agriculture and forestry**

This is defined as income from the exploitation of land in e.g. the production of crops, the raising of livestock and the cultivation of timber. Like income from (professional) self-employment, it is not subject to local business tax. It is computed on the basis of accruals accounting. The deduction of expenses follows broadly the same rules as apply to companies.

**Taxation of personal business income**

Business income is derived from a commercial activity, either as a result of self-employment or partnership. The taxable income includes all income and capital gains attributable to self-employment or business activities. It is computed on the basis of accruals accounting, although certain small businesses may opt for cash accounting. As from 2017, farming businesses are allowed to deduct 30% of the amount of any new investment of up to EUR 250 000 and 20% of the excess.

The deduction of expenses follows broadly the same rules as apply to companies.

The net business income is subject to both income tax and local business tax.

**Taxation of professional self-employment income**

It is important to distinguish between personal business income and other income from self-employment, as the latter is not subject to local business tax. Broadly speaking, income from self-employment in this sense is derived by persons exercising a profession rather than carrying on a trade. It is computed on the basis of accruals accounting, although taxpayers in this category may opt for cash accounting. The deduction of expenses follows broadly the same rules as apply to companies.

**Taxation of investment income****Dividends**

A 15% withholding tax applies to dividends from Luxembourg sources. The tax is not final, and dividend income is aggregated with other taxable income and subjected to progressive rates. An exemption of 50% is granted on dividend income received from a fully taxable company resident in an EU Member State (including Luxembourg itself) or in a state with which Luxembourg has concluded a double tax treaty.

For non-residents, the withholding tax rate on dividends is final, but may be reduced by tax treaties.

**Interest**

There is a final withholding tax of 20% on certain interest paid by a Luxembourg paying agent to a Luxembourg-resident individual. Resident taxpayers receiving cross-border interest income can opt for a final 20% tax to the extent that the paying agent is established in another EU Member State or in an EEA state.

Interest payments that do not fall within the scope of the 20% withholding tax continue to be subject to taxation according to progressive income tax rates.

**Royalties**

Luxembourg does not levy withholding tax on royalties related to patents, trademarks and know-how.

### *Rental income*

Taxable income derived from letting immovable property is based on actual net rents. The taxpayer may either claim a lump-sum deduction of 35% of the gross annual rental income, subject to a maximum of EUR 2700 or actual itemised expenditure. The lump-sum deduction is intended to cover maintenance and repair costs, insurance and depreciation, but not loan interest, which is deductible additionally. Taxpayers claiming itemised expenditure may also claim straight-line depreciation of between 2% and 6% in respect of the buildings. Loan interest is also deductible.

### *Capital gains*

Capital gains are taxed at the standard income tax rate if they arise from the disposal of immovable property that has been held for less than two years or from the disposal of moveable property held for less than six months.

Capital gains from immovable property held for more than two years are taxable at 50% of the overall tax rate (subject to a maximum of 22.89%). The taxable gain is the difference between the selling price and the purchase price adjusted by official coefficients to account for inflation. Where the disposal occurs during the period from 1 July 2016 to 31 December 2018, the capital gain is taxable at 25% of the overall tax rate (subject to a maximum of 11.44%).

A standard exemption of EUR 50 000 applies to sales of immovable property held for at least two years prior to sale. This allowance is doubled if the property is owned by a married couple filing jointly. This allowance is available every ten years.

If the property was inherited by the taxpayer as a direct lineal descendant of the deceased transferor and was the taxpayer's parents' or spouse's principal residence, the tax deduction is increased by EUR 75 000.

The gain from the sale of a taxpayer's principal place of residence is exempt.

A capital gain on the sale of a minority shareholding (one amounting to less than 10% of the company's share capital) is tax-exempt if the gain is realised more than six months after acquisition of the shares. If the shareholding is 10% or greater and has been held for more than six months, the capital gain is taxed at 50% of the overall tax rate (subject to a maximum of 22.89%).

As from the tax year 2015, it is possible for non-resident individuals becoming resident in Luxembourg to claim a 'step-up' of the acquisition cost of their substantial shareholdings (holdings of more than 10%) for the purposes of tax on capital gains.

### *Allowances and deductions*

#### *Deductions*

Certain personal expenditure is deductible in calculating taxable income. This includes:

- Contributions of up to EUR 1200 to an occupational pension scheme
- Gifts made to recognised charitable institutions (if total annual gifts amount at least to EUR 120). The maximum deductible amount is the smaller of EUR 1 million and 20% of the taxable income)
- Mortgage interest on the taxpayer's principal residence, limited to between EUR 1000 to EUR 2000 per member of the household, depending on the period of occupation
- Alimony paid to a divorced spouse, subject to a maximum EUR 24 000
- Maintenance paid to children, subject to a maximum of EUR 4020 per child
- Debit interest on private loans, credit cards, overdrafts
- Insurance premiums for life insurance, death cover, accident, sickness, third-party liability, subject to a maximum of EUR 672 per member of the household
- Contributions to private pension schemes, subject to a maximum of EUR 3200 per taxpayer
- Contributions to home savings plans, subject to a maximum of EUR 1344 per member of household if subscriber age is between 18 and 40 years, EUR 672 otherwise.

Extraordinary expenditure relating to costs for childcare, for household employees and home assistance for the disabled are also tax deductible up to EUR 5400 annually.

#### **Allowances**

A personal allowance of EUR 480 per taxpayer is available, if the total of deductible personal expenditure is less.

An extra-professional allowance of EUR 4500 is granted for jointly taxed married taxpayers or civil partners where both derive earned income taxable in Luxembourg.

#### **Tax credits**

Taxpayers with dependent children are entitled to a tax credit of EUR 922.50 per child.

Employees are entitled to a tax credit of up to EUR 600, progressively decreasing to EUR 0 depending on the level of income.

#### **Tax rates**

Income tax is computed on a scale of progressive rates, as shown in Table 4, in relation to Class 1 taxpayers. The basic rates of income tax must all be increased by the 7% employment-fund surcharge (9% as from EUR 150 000). It should also be borne in mind that the bands are applied differently for Class 1a and Class 2 taxpayers, as explained below. For taxpayer classifications, see under 'The family unit' above.

Table 4

<b>Taxable income (EUR)</b>	<b>Basic tax rate (%)</b>	<b>Tax rate including surcharge (%)</b>
First 11 265	0	0
Next 1872	8	8.56
Next 1872	9	9.63
Next 1872	10	10.70
Next 1872	11	11.77
Next 1872	12	12.84
Next 1944	14	14.98
Next 1944	16	17.12
Next 1944	18	19.26
Next 1944	20	21.40
Next 1944	22	23.54
Next 1944	24	25.68
Next 1944	26	27.82
Next 1944	28	29.96
Next 1944	30	32.10
Next 1944	32	34.24
Next 1944	34	36.38
Next 1944	36	38.52
Next 1944	38	40.66
Next 54 105	39	41.73

Taxable income (EUR)	Basic tax rate (%)	Tax rate including surcharge (%)
Next 49 998	40	42.80
Next 50 004	41	44.69
Balance over 200 004	42	45.78

For Class 1a taxpayers, the 42% (45.78%) rate of income tax applies on taxable incomes of EUR 200 004 and above.

For Class 2 taxpayers, the tax payable is twice the total tax payable on one-half of the taxable income.

#### *Special expatriate regime*

An expatriate régime for highly skilled employees came into force on 1 January 2011. In May 2013 and in January 2014, this régime was amended. It no longer refers to highly skilled workers but to so-called 'impatriates'.

In order to qualify, the employee must:

- Not have been resident in Luxembourg for tax purposes before or have lived at a distance of less than 150 km from the Luxembourg border or not have been subject to Luxembourg income tax on earned income for the five previous years
- Become resident in Luxembourg for tax purposes
- Be recruited abroad to work in Luxembourg for a Luxembourg company or be assigned by a foreign company that is part of an international group to a Luxembourg company of the group
- Have a specific knowledge and skills which benefit the staff of the company
- Earn a minimum base salary of EUR 50 000 and not replace another non-impatriate employee

The Luxembourg company employing the impatriate must employ or commit to employ at least 20 individuals working full-time in Luxembourg. The number of impatriates may not exceed 30% of all staff (only applicable to companies established in Luxembourg for more than 10 years).

Provided that these conditions are met, it is possible to obtain tax relief for the following expenses:

- Moving costs, including transportation of goods, furnishing and domestic equipment costs, travel expenses, tax equalisation expenses as well as costs related to housing in Luxembourg. These costs, however, may not exceed EUR 50 000 per year (increased to EUR 80 000 if the employee shares housing with his/her spouse or partner) or 30% of the annual remuneration
- School fees for children in primary and secondary education
- A lump-sum allowance for cost of living, amounting to 8% of the employee's fixed salary with a maximum of EUR 1500 per month (increased to 16% and EUR 3000 if the employee shares housing with his/her spouse or partner who is not deriving earned income).

Each year, the employer must provide the tax authorities with a list of the impatriates benefiting from the tax régime. The régime is applicable for a maximum of five years following the year of the employee's arrival in Luxembourg.

#### **Returns and payments**

Taxpayers are required to file annual tax returns. These returns must be filed by 31 March following the end of the calendar year. The filing date may be extended upon request.

After reviewing the tax return, the tax office issues a formal assessment notice to the taxpayer. Taxes withheld at source from individuals' income, as well as prepayments, are deducted from the tax assessed.

Payment is generally due within one month of receipt of the assessment notice.

Taxpayers are required to make advance payments in four equal instalments of tax on sources of income not subject to withholding, each of 25% of the preceding year's tax liability.

Late payments are charged interest of 0.6% per month on the tax due. In addition, the tax authorities may charge a penalty equal to 10% of the tax due for late filing of returns.

## Inheritance and gift taxes

### Inheritance tax

Inheritance tax (*droits de succession*) is charged on the market value of the worldwide movable property and Luxembourg situs immovable property left by a Luxembourg resident at the time of his or her death.

In the case of non-residents, only Luxembourg situs immovable property is subject to tax (in this event, known as transfer tax – *droits de mutation par décès*).

### Exemptions and reliefs

The following exemptions are available:

- Transfers in the direct line (of no more than the guaranteed share on intestacy)
- Any transfers between spouses or registered partners of more than three years' conjugal status with at least one child in common
- Any transfer by the surviving spouse in the form of a usufruct or annuity, in cases where the decedent's children of a previous marriage inherit the property subject to that right of usufruct or have responsibility for the annuity
- Any transfer of a net value not exceeding EUR 1250 (in respect of Luxembourg-resident decedents only)
- Transfers to certain charitable organisations
- The first EUR 38 000 of transfers between spouses with no issue in common
- Transfers between spouses under the common ownership régime where the entire property automatically passes to the surviving spouse

### Rates

The rates of inheritance tax and transfer tax are identical. They vary according to the value transferred and the degree of consanguinity of transferor and transferee.

For the applicable rates, see Table 5. For this purpose, transferees can be divided into six distinct classes, as follows:

- Class 1 Transferees in the direct line; spouses and registered partners (of more than three years' conjugal status) with issue in common
- Class 2 Spouses and registered partners (of more than three years' conjugal status) with no issue in common
- Class 3 Siblings
- Class 4 Avuncular relations (i.e. uncles, aunts, nephews, nieces) and adoptive parents and children
- Class 5 Grand-avuncular relations (i.e. great-uncles etc) and adoptive grandparents and grandchildren
- Class 6 All other transferees

The transfer of immovable property by way of gift is also subject to a 1% transcription duty (*droit de transcription*).

Table 5

Net taxable amount (EUR)	Tax rate (%)					
	Class of transferee					
	Class 1 <sup>1</sup>	Class 2	Class 3	Class 4	Class 5	Class 6
Up to 10 000	0.0	5.0	6.0	9.0	10.0	15.0
10 001 – 20 000	0.0	5.5	6.6	9.9	11.0	16.5
20 001 – 30 000	0.0	6.0	7.2	10.8	12.0	18.0
30 001 – 40 000	0.0	6.5	7.8	11.7	13.0	19.5
40 001 – 50 000	0.0	7.0	8.4	12.6	14.0	21.0
50 001 – 75 000	0.0	7.5	9.0	13.5	15.0	22.5
75 001 – 100 000	0.0	8.0	9.6	14.4	16.0	24.0
100 001 – 150 000	0.0	8.5	10.2	15.3	17.0	25.5
150 001 – 200 000	0.0	9.0	10.8	16.2	18.0	27.0
200 001 – 250 000	0.0	9.5	11.4	17.1	19.0	28.5
250 001 – 380 000	0.0	11.0	13.2	19.8	22.0	33.0
380 001 – 500 000	0.0	11.5	13.8	20.7	23.0	34.5
500 001 – 620 000	0.0	12.0	14.4	21.6	24.0	36.0
620 001 – 750 000	0.0	12.5	15.0	22.5	25.0	37.5
750 001 – 870 000	0.0	13.0	15.6	23.4	26.0	39.0
870 001 – 1 000 000	0.0	13.5	16.2	24.3	27.0	40.5
1 000 001 – 1 250 000	0.0	14.0	16.8	25.2	28.0	42.0
1 250 001 – 1 500 000	0.0	14.5	17.4	26.1	29.0	43.5
1 500 001 – 1 750 000	0.0	15.0	18.0	27.0	30.0	45.0
Above 1 750 000	0.0	16.0	19.2	28.8	32.0	48.0

<sup>1</sup> Where an heir in the direct line receives more than his or her guaranteed share on intestacy, the tax rate is 2.5% on as much of the amount transferred as does not exceed the free part of the estate and 5% on any excess.

#### Gift tax

Gifts must normally be registered before a notary and are subject to registration tax regardless of the residence status of the donor or donee. Gift tax is payable by the donee on the gross market value of the assets received and the percentage rate varies according to the degree of consanguinity between transferor and transferee.

However, gifts of certain types of property are subject to a nominal fixed rate of transfer duty of 12 and in other cases, e.g. of movable

property transferable by delivery (so-called *dons manuels*), there is no need of a deed and no gift tax. The principal example of a gift subject to the fixed EUR 12 duty is that of immovable property situated abroad. By contrast, the transfer of immovable property situated in Luxembourg will always be subject to the variable rate even if the transfer is executed abroad.

A 50% surcharge is applied to properties located in Luxembourg City.

#### Rates of gift tax

See Table 6.

Table 6

Identity of transferee	Rate of tax (%)
Direct line (without <i>dispense de rapport</i> ) <sup>1</sup>	1.8
Direct line (with <i>dispense de rapport</i> ) <sup>1</sup>	2.4
Spouses and registered partners of more than 3 years' conjugal status <sup>2</sup> ; local authorities; hospices; non-registered charities	4.8
Siblings <sup>3</sup>	6.0
Non-profit organisations	7.2
Avuncular relations <sup>4</sup> ; adoptive parents and children; parents-in-law and children-in-law <sup>5</sup>	8.4
Grand-avuncular relations <sup>5</sup> ; adoptive parents and adoptive grandchildren and remoter direct descendants thereof <sup>6</sup>	9.6
All other transferees <sup>7</sup>	14.4

<sup>1</sup> *Dispense de rapport* is a form of donation under which the donor makes it clear that he or she does not wish to benefit all statutory heirs equally on death. Without a *dispense de rapport*, a lifetime gift would be taken into account when distributing the estate at death among the statutory beneficiaries.

<sup>2</sup> Spouses with a marriage contract or a contract in contemplation of marriage benefit from a 2.4% rate.

<sup>3</sup> Gifts made between siblings in connection with a marriage contract or a contract in contemplation of marriage benefit from a 3% rate.

<sup>4</sup> 'Avuncular relations' means uncles, aunts, nephews and nieces. 'Grand-avuncular relations' means great-uncles, great-aunts, great-nephews and great-nieces.

<sup>5</sup> Gifts made between any of the parties in this row made in connection with a marriage contract or a contract in contemplation of marriage benefit from a 4.2% rate.

<sup>6</sup> Gifts made between any of the parties in this row made in connection with a marriage contract or a contract in contemplation of marriage benefit from a 4.8% rate.

<sup>7</sup> Gifts made between these parties made in connection with a marriage contract or a contract in contemplation of marriage benefit from a 7.2% rate.

#### Wealth tax

Wealth tax for individuals was abolished on 1 January 2006.

## 8. OTHER TAXES



### Immovable property transfer tax

The transfer and sale of immovable property is subject to a registration duty (*droit d'enregistrement*) at a standard rate of 6% levied on the market value of the transferred land and buildings. This tax can be increased by a municipal surplus (3% for Luxembourg City). In addition, a transcription duty of 1% is levied for the modification in the mortgage register.

### Registration and stamp duties

Capital duty (*droit d'apport*) applicable to companies was abolished on 1 January 2009 and replaced by a fixed duty of EUR 75. However, where a company's capital is increased by a contribution-in-kind of a property (land or building) located in Luxembourg, a 0.6% registration duty plus a 0.5% transcription tax apply.

There is no Luxembourg registration tax, stamp duty or any other similar tax or duty payable in Luxembourg by the holders of shares as a consequence of the issuance and transfer of the shares.

### Property and property transfer taxes

#### Immovable property tax

An immovable property tax (*impôt foncier*) is levied annually by local authorities. The tax varies according to the type and location of the property and ranges from 0.7% to almost 7.5% of the 'assessed unit value' (*Einheitswert* – which is much lower than actual market value).

## 9. SOCIAL SECURITY CONTRIBUTIONS

### Employee and employer contributions

Social security contributions are payable by both employers and employees and are paid into six different funds, although employees pay into only three and employers into only five. They are charged on the employee's gross salary (including taxable benefits-in-kind). There is no threshold, but there is a ceiling. Different rules apply in respect of long-term care insurance.

In 2018, the ceiling is EUR 119 915.16 per year (or EUR 9 992.93 per month), equivalent to five times the minimum wage for an unskilled worker in Luxembourg).

The rates applicable in 2018 are shown in Table 7.



Table 7

Type of fund	Employee rate (%)	Employer rate (%)
Health insurance	3.05	3.05
Old-age pension insurance	8.00	8.00
Long-term care insurance <sup>1</sup>	1.40	0.00
Accident insurance	0.00	0.90
Occupational health insurance	0.00	0.11
Employers' mutual insurance fund	0.00	0.46 - 2.95
<b>Total</b>	<b>12.45</b>	<b>12.52 - 15.01</b>

<sup>1</sup> There is no ceiling in respect of these contributions but they are payable after deducting a monthly allowance of EUR 499.65 (in 2018)

<sup>2</sup> Rates vary according to which of four classes the employment falls into. These classes are determined according to the average amounts of sick leave taken by employees in that sector.

### Self-employed contributions

The self-employed normally pay both employer and employee contributions. Their contributions are based on their taxable income from self-employment for the previous tax year. While this may not be less than the minimum salary for an unskilled worker (23 983.08 a year in 2018), it is also capped at EUR 119 915.16 per year. The rates payable for 2018 are shown in Table 8.

Table 8

Type of fund	Self-employed rate (%)
Health insurance	6.10
Old-age pension insurance	16.00
Long-term care insurance <sup>1</sup>	1.40
Accident insurance	0.90
Occupational health insurance	0.00
Employers' mutual insurance fund	0.46 - 2.95 <sup>1</sup>
<b>Total</b>	<b>24.86 - 27.35</b>

<sup>1</sup> There is no ceiling in respect of these contributions but they are payable after deducting a monthly allowance of EUR 499.65 (in 2018).

## 10. MOORE IN LUXEMBOURG

Moore in Luxembourg is represented by Moore SARL in Luxembourg City and Moore Audit SARL in Leudelange. Their contact details are as follows:

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International liaison: Horst Schneider

## APPENDIX I: DOUBLE TAX TREATIES

### Comprehensive double taxation treaties

Luxembourg has double taxation treaties with the following jurisdictions:

Andorra	Ireland	Russia
Armenia	Isle of Man	San Marino
Austria	Israel	Saudi Arabia
Azerbaijan	Italy	Serbia
Bahrain	Japan	Seychelles
Barbados	Jersey	Singapore
Belgium	Kazakhstan	Slovakia <sup>1</sup>
Brazil	Korea (South)	Slovenia
Brunei	Laos	South Africa
Bulgaria	Latvia	Spain
Canada	Liechtenstein	Sri Lanka
China (PR)	Lithuania	Sweden
Croatia	Macedonia	Switzerland
Czech Republic <sup>1</sup>	Malaysia	Taiwan
Denmark	Malta	Tajikistan
Estonia	Mauritius	Thailand
Finland	Mexico	Trinidad & Tobago
France	Moldova	Tunisia
Georgia	Monaco	Turkey
Germany	Morocco	Ukraine
Greece	Netherlands	United Arab Emirates
Guernsey	Norway	United Kingdom
Hong Kong	Panama	United States
Hungary	Poland	Uruguay
Iceland	Portugal	Uzbekistan
India	Qatar	Vietnam
Indonesia	Romania	

<sup>1</sup> The treaty with the former Czechoslovakia

Treaties have been signed but are not yet in force with Albania, Argentina, Botswana, Egypt, Kuwait, Kyrgyzstan, Lebanon, New Zealand, Oman, Pakistan, Senegal and Syria.

### Double taxation treaties: estates, gifts and inheritances

Luxembourg has no agreements covering taxes on estates, gifts and inheritances.

### Agreements for exchange of information or administrative assistance

Within the European Union, mutual administrative cooperation in the field of taxation is governed by Directive 2011/16/EU, which was implemented by Luxembourg on 29 March 2013, with effect from 1 January 2013.

On 26 March 2014, Luxembourg transposed the remaining portion of the Directive 2011/16/EU concerning the automatic exchange of information on specific types of income (income from employment, director's fees and pensions), with effect from 1 January 2015.

The Law of 25 November 2014 introduced the automatic exchange of information relating to the taxation of savings income (and the abolition of the withholding tax levied on interest paid by a Luxembourg paying agent to a non-resident individual).

Under the Law of 18 December 2015 applicable as from 1 January 2016 (transposition of Directive 2014/107/EU amending Directive 2011/16/UE), Luxembourg financial institutions are obliged automatically to communicate information relating to each person who holds a financial account. This Law has been amended by the Law of 23 July 2016, which is a transposition of Directive 2015/2060/EU with effect from 1 January 2017.

On 23 December 2016, Luxembourg transposed Directive 2016/881/EU regarding Country-by-Country reporting. Reports have to be filed for large multinational groups for the fiscal year starting as from 1 January 2017 and after.

### Social security agreements

The interaction of national social security systems within the European Economic Area is governed by EU Regulations which also extend, by agreement (and with some differences), to Switzerland. Luxembourg has pre-existing bilateral agreements with some of these states. These have largely been superseded by the EU regulations, but may be applied where, occasionally, they give a more beneficial result. The following non-EEA countries have social security agreements with Luxembourg, the terms of which differ from case to case.

Albania	India	Québec
Argentina	Japan	Serbia
Bosnia-Herzegovina	Macedonia	Tunisia
Brazil	Moldova	Turkey
Canada	Montenegro	United States
Cape Verde	Morocco	Uruguay
Chile	Philippines	

## APPENDIX 2: MOORE GLOBAL AROUND THE WORLD

Moore member firms may be found in 105 countries and territories around the world, with correspondent firms in another ten.

Albania	Ecuador	Liechtenstein*	Saudi Arabia
Argentina	Egypt	Lithuania	Serbia
Australia	El Salvador*	Luxembourg	Seychelles
Austria	Finland	Macedonia	Singapore
Azerbaijan	France	Malaysia	Slovakia
Bahamas	Germany	Malta	South Africa
Bahrain	Ghana*	Mauritius	South Korea
Bangladesh	Gibraltar	Mexico	Spain
Belgium	Greece	Moldova	Sri Lanka*
Belize	Guatemala	Monaco	Suriname
Bermuda	Guernsey	Mongolia*	Sweden
Bolivia	Honduras	Morocco	Switzerland
Brazil	Hong Kong	Nepal*	Taiwan
British Virgin Islands	Hungary	Netherlands	Tajikistan*
Bulgaria	India	New Zealand	Thailand
Burundi	Indonesia	Nicaragua	Tunisia
Cambodia*	Iraq	Nigeria	Turkey
Canada	Ireland	Norway	Uganda
Cayman Islands	Isle of Man	Oman	Ukraine
Chile	Israel	Pakistan	United Arab Emirates
China	Italy	Panama*	United Kingdom
Colombia	Japan	Paraguay	United States
DR Congo	Jersey	Peru	Uruguay
Costa Rica	Jordan	Philippines	Venezuela
Croatia	Kazakhstan	Poland	Vietnam
Cyprus	Kenya	Portugal	Yemen
Czech Republic	Kuwait	Qatar	Zambia
Denmark	Latvia	Romania	Zimbabwe*
Dominican Republic	Lebanon	Russia	

\*denotes a correspondent firm only

For more detail, see [www.moore-global.com](http://www.moore-global.com) under 'Locations'.

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## CONTACT US

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