Deloitte.

Taxation and Investment in Luxembourg 2016

Reach, relevance and reliability

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1.1 Business environment

The Grand Duchy of Luxembourg is a constitutional monarchy. The function of the monarch is largely ceremonial, with political power resting with the government and the unicameral parliament. The government is headed by a prime minister.

Luxembourg has a long-standing tradition as a financial competence and business center. The country's strategic geographic location in the heart of Europe, political stability, its multicultural and highly qualified workforce, together with a strong legal environment and attractive tax framework, have been key factors in establishing Luxembourg as a hub for international trade in the financial sector, as well as in the industrial and commercial sectors.

One of the smallest EU member states, Luxembourg is located between Belgium, France and Germany. It has an area of 2,586 square kilometers and approximately 550,000 inhabitants. Once dominated by the steel industry, Luxembourg has managed its evolution over the last 50 years into diversified industries and a highly performing financial services sector. The country has become one of the leading European financial market jurisdictions by serving a broad range of European and worldwide investors through a network of well-established bank and financial services.

EU Member States		
Austria	Germany	Netherlands
Belgium	Greece	Poland
Bulgaria	Hungary	Portugal
Croatia	Ireland	Romania
Cyprus	Italy	Slovakia
Czech Republic	Latvia	Slovenia
Denmark	Lithuania	Spain
Estonia	Luxembourg	Sweden
Finland	Malta	United Kingdom*
France		
EU Candidate Countries		
Albania	Montenegro	Turkey
Macedonia	Serbia	
European Economic Area (EEA) Member States		
EU member states	Liechtenstein	Norway
Iceland		

* In a referendum on 23 June 2016, the UK electorate voted for the country to leave the EU, but the country will remain an EU member state until a secession agreement is concluded with the EU.

Trade with other EU member states benefits from Luxembourg's strategic location in the EU, its proximity to other European capital cities and major business centers, and the presence of numerous European institutions. Luxembourg also has developed international trading relations with the Americas, Asia and the Middle East, which have contributed to the diversification of its export markets and the origins of its imports. Luxembourg has a significant trade surplus, with its annual surplus representing more than 10% of GDP. This performance is mainly due to the export of services.

As an EU member state, Luxembourg is required to comply with all EU directives and regulations which it follows with regard to trade treaties, import regulations, customs duties, agricultural agreements, import quotas, rules of origin and other trade regulations. The EU has a single external tariff and a single market within its external borders. Restrictions on imports and exports apply in areas such as dual-use technology, protected species and some sensitive products from emerging economies. Trade also is governed by the rules of the World Trade Organization (WTO).

Luxembourg also is a member of the Organization for Economic Co-operation and Development.

OECD member countries		
Australia	Hungary	Norway
Austria	Iceland	Poland
Belgium	Ireland	Portugal
Canada	Israel	Slovakia
Chile	Italy	Slovenia
Czech Republic	Japan	Spain
Denmark	Korea (ROK)	Sweden
Estonia	Latvia*	Switzerland
Finland	Luxembourg	Turkey
France	Mexico	United Kingdom
Germany	Netherlands	United States
Greece	New Zealand	
Enhanced engagement countries		
Brazil	India	South Africa
China	Indonesia	
OECD accession candidate countries		
Colombia	Costa Rica	Lithuania

* Accession date 1 July 2016.

Price controls

Luxembourg has a free market economy in which the principle of market forces is applied to price formation. Traders generally are not allowed to sell at a loss, except, for example, duly authorized discount sales and liquidation sales or sales of goods liable to rapid deterioration that cannot be preserved. The government may enact temporary measures lasting up to six months to prevent excessive price fluctuations in exceptional circumstances. The government also sets maximum prices for taxi fares, pharmaceutical and petroleum products.

Intellectual property

The level of intellectual property (IP) protection in Luxembourg is high. IP protection is mainly provided by the Benelux Intellectual Property Convention, Luxembourg's 1992 patent law and the 2001 law on copyrights, related rights and databases. Luxembourg is a party to all the major conventions in such matters (e.g. European Patent Convention, Patent Co-operation Treaty and Madrid Protocol).

Protection in Luxembourg may be obtained in several ways:

- An application may be filed with the Intellectual Property Service of the Luxembourg Ministry of Economy.
- A European patent application may be filed with the European Patent Office in Munich, Berlin or The Hague.

- An international patent application may be filed with the World Intellectual Property Organization in Geneva.

IP litigation is dealt with by the local courts of justice, which may require a suspension of activity and impose penalties for infringements.

1.2 Currency

The currency in Luxembourg is the Euro.

Countries participating in the Economic and Monetary Union		
Austria	Greece	Malta
Belgium	Ireland	Netherlands
Cyprus	Italy	Portugal
Estonia	Latvia	Slovakia
Finland	Lithuania	Slovenia
France	Luxembourg	Spain
Germany		

1.3 Banking and financing

The two principal pillars of Luxembourg's financial services sector are private banking and fund administration. With approximately 140 highly experienced and skilled banking institutions, a successful investment fund industry, a dynamic insurance sector, skilled workers and specialized companies, Luxembourg has a full range of diversified and innovative financial services to offer to large and medium-sized companies.

In addition to services linked to the launch, acquisition, transfer or sale of a company, the financial services sector provides treasury, management services (factoring, trade finance and insurance, market risk management) and financial engineering (financial structuring, asset and liability management, etc.)

1.4 Foreign investment

The Luxembourg government welcomes foreign investment and there are no special procedures for the approval of foreign direct investment. The government particularly encourages environmentally friendly light industries, such as communications, finance and high technology, as a way to diversify the economy and provide new employment in industries with high value added, in which high wage costs will not place Luxembourg at a disadvantage.

Responsibility for attracting foreign investment lies with the Board of Economic Development. According to the board, Luxembourg offers a full range of tailored investment incentives for new ventures. The government may grant support for funding specific projects for small and medium-sized companies; companies located in development areas; research, development and innovative investment focusing on new products, services or processes; and environmental protection or the efficient use of energy.

Financial support may take the form of capital grants and medium and long-term loans from the National Credit and Investment Corporation (SNCI).

1.5 Tax incentives

Luxembourg offers tax credits for qualifying investments in enterprises situated in the country and for eligible assets physically used in another country within the EEA. Eligible assets primarily consist of depreciable tangible goods other than buildings, livestock and deposits (fossil or mineral) and vessels operating in international traffic. A global investment tax credit is available on the acquisition price of investments made during the year, which amounts to 7% for the first EUR 150,000 of such expenditure and 2% on the excess over EUR 150,000. A supplementary investment tax credit of 12% of the acquisition value of qualifying investments made during the tax year also is available. Any unused credit may be carried forward for 10 years.

As a result of discussions at the EU and OECD levels, Luxembourg's IP regime was repealed as from 1 July 2016 (from 1 January 2017 for net worth tax purposes), although some grandfathering rules will apply, subject to the fulfillment of certain conditions (see 3.3 below). Under the IP regime, 80% of income derived from, or gains on the disposal of, IP rights acquired or created by a Luxembourg company or permanent establishment after 31 December 2007, are exempt from income tax. A replacement IP regime is expected to be announced in the near future.

Luxembourg also is a domicile of choice for cross-border distribution of investment products. Luxembourg investment funds may benefit from a wide range of exemptions: no taxation on income and capital gains, no withholding tax and no wealth tax. Only a subscription tax and the minimum net worth tax (see 3.8 below) may apply to a fund. Luxembourg also offers an attractive environment for Islamic finance investments. The regulatory environment for investment funds is particularly flexible and provides the possibility of structuring regulated vehicles in such a way that they can efficiently accommodate all Sharia'a-compliant investments.

Various tax incentives are available for shipping companies (e.g. tax credits, municipal business tax exemption).

1.6 Exchange controls

Luxembourg has no exchange controls and its ability to introduce controls is constrained by EU membership.

There are a number of reporting requirements for statistical purposes and to prevent money laundering. Statistics must be filed with the central bank. The reporting is controlled by the financial institution handling the transaction. Large companies that do not use financial intermediaries for their cross-border financial transactions are the only exception to this rule. Luxembourg has implemented the relevant EU anti-money laundering directives.

2.0 Setting up a business

2.1 Principal forms of business entity

The two most commonly used corporate entities in Luxembourg are the *société anonyme* (SA) and the *société à responsabilité limitée* (SARL). The SA corresponds to a public limited company and the SARL to a private limited company, both of which are limited liability companies.

The *Societas Europaea* or SE company form also is available. The SE is designed to enable companies to operate across the EU with a single legal structure, to facilitate mergers and create flexibility for companies wanting to move their head office from one EU state to another. Companies from two or more EU member states are permitted to merge to form an SE or create an SE holding company or branch. A company may convert an existing firm to SE status without liquidating. One advantage of an SE is that it is possible to move headquarters to another EU member state with minimal formalities.

Businesses also can establish as a European Economic Interest Grouping (EEIG). Companies (even non-EU companies if the vehicle is a subsidiary in an EU country) that want to start working with a Luxembourg company, but do not want to commit to a formal joint venture, may set up an EEIG. The grouping functions much like a partnership in that the income is taxed in the hands of the member companies. At least two of the companies involved must be from different EU member states.

Formalities for setting up a company

A business license is required to set up a company having a commercial purpose in Luxembourg, which takes about two months. The business license is linked to the individual acting as director/manager and not to the company itself and the individual applicant must supply evidence of his/her professional qualifications and good standing. There are special requirements for the financial, insurance and reinsurance sectors, and certain professions need additional authorization.

Once established, the company must be registered. Membership of the Luxembourg Chamber of Commerce or Chamber of Skilled Crafts is required, although some professions may be exempt from these requirements. Registration for income tax, value added tax (VAT) and social security also is necessary.

Forms of entity

Requirements for an SA and SARL

Capital. *SA*: The minimum issued share capital is EUR 31,000, of which at least 25% must be paid up at incorporation. The share capital may be issued in a foreign currency. It must be subscribed in cash or in kind and an independent auditor must determine the value of noncash contributions. Five percent of net profits must be allocated annually to a legal reserve until the reserve equals 10% of the subscribed capital. *SARL*: The minimum share capital is EUR 12,400, which must be fully paid up in cash or in kind upon incorporation. The transfer of shares is subject to strict regulations and publication requirements.

Founders, shareholders. *SA*: There must be at least one founder or shareholder. *SARL*: There is a minimum of one founder or shareholder and a maximum of 40 partners. *Both:* There are no residence or nationality requirements.

Board of directors. *SA*: There is a minimum of three members appointed for up to six years. However, where the SA has been formed by a single shareholder, the board of directors can be composed of one member. In large firms, employee representatives have a right to sit on the board of directors or form a mixed works council together with the management. *SARL*: One or more managers are required. *Both*: There are no residence or nationality requirements.

Management. *Both*: The person designated as having responsibility for day-to-day management of the company (managing director) must be in a position to exercise effective oversight of the establishment in Luxembourg on an ongoing basis (which implies a physical presence in the Luxembourg operation most of the time). A one-person operation may hold the business license in his/her own name. There are no nationality or residence requirements.

Employee representatives. *SA*: An SA with at least 1,000 employees within the past three years, a state participation of at least 25% or whose main activity is the exploitation of a state concession, must have at least nine directors, at least three (and up to one-third) of whom should be appointed by the employees. *Both*: An SA or an SARL with at least 150 employees must establish a mixed works council with an equal number of employer and employee representatives. All firms with more than 15 employees must have at least one employee representative.

Taxes and fees on incorporation. *Both*: Notary fees are a percentage of the company's share capital. There also are fees for registration with the Trade and Company Register and for publication of the articles in the official gazette. A specific registration tax of EUR 75 applies for company incorporation, amendments to the bylaws and the transfer of a seat of a foreign company to Luxembourg. Membership of the Chamber of Commerce is mandatory for all commercial companies with their legal seat in Luxembourg (see 3.8 below).

Types of share. *SA*: Preferred shares without voting rights may be issued when a company is incorporated, when there is a capital increase or through the conversion of ordinary shares if the articles of association provide for the issue of preferred shares. Redeemable shares may be issued if permitted by the company's articles and if shareholders' equity is not reduced as a result. Each ordinary share must carry one vote. A company also may issue certificates entitling the owner to participate in a specified manner in profit distributions, but these may not carry voting rights or any claim on the company's assets. Shares may be bearer shares (which it is mandatory to deposit with a depositary). *SARL*: Only registered shares are authorized.

Control. *SA*: A general meeting of shareholders must be held at least annually. The company's articles define a simple voting majority but in practice, the support of two-thirds of the shareholders (with at least one-half of the shareholders present or represented by proxy), is required for amendments to the articles of association. The migration of a company's seat and the increase of the shareholders' commitments require the unanimous consent of the shareholders. *SARL*: An annual meeting must be held if there are more than 25 shareholders. Otherwise, resolutions can be made in writing.

Branch of a foreign corporation

A foreign company can set up a branch to conduct business in Luxembourg, but will be required to register with the Trade and Companies Register. Further, the branch must publish in the *official gazette*, inter alia: (i) its articles of association (if the head office is not governed by the law of an EU member state but has a legal form comparable to the company types to which the EU company directive applies) or indicate where they are published (in the case of an EU head office); (ii) the appointment of the branch's manager(s), stating the extent of the manager's (or managers') authority. The branch's manager will need to provide evidence of managerial capability or experience. Similar publication costs as for the incorporation of a company are due. Neither capital duty nor notary fees are payable upon the setting up of a Luxembourg branch.

The head office remains fully liable for the liabilities of the branch.

Branches exercising a commercial activity are subject to the same taxes and the same rates as domestic companies.

2.2 Regulation of business

Mergers and acquisitions

Any merger that will lead to the strengthening of a dominant position in Luxembourg may require prior clearance from the European Commission, depending on the size and market share of the companies concerned and irrespective of whether the companies are headquartered in Luxembourg (or in the EU). The EU has jurisdiction:

- When the combined aggregate worldwide turnover of all the undertakings concerned is more than EUR 5 billion and the aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR 250 million, unless each of the undertakings concerned achieves more than two-thirds of its aggregate EU-wide turnover in a single member state; and
- When the aggregate global turnover of the companies concerned exceeds EUR 2.5 billion for all businesses involved, aggregate global turnover in each of at least three member

states is more than EUR 100 million, the aggregate turnover in each of these three member states of at least two undertakings is more than EUR 25 million and the aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR 100 million unless each achieves more than two-thirds of its aggregate EU-wide turnover within the same state.

Companies falling outside these definitions that are required to apply for clearance in at least three EU member states under national laws may apply to the European Commission for it to act as a one-stop shop. The Commission also can delegate to national competition authorities mergers that fall within the Commission's jurisdiction but that, in practice, will have an impact only in one country.

The thresholds for notifying the stock exchange authorities when acquiring stakes in listed companies are 10%, 20%, 33⅓%, 50% and 66⅔%.

Takeovers and mergers in the banking sector are vetted by the Financial Sector Surveillance Commission to ensure that the resulting financial institution will be financially sound. The Commission cannot oppose a merger or acquisition by a financial institution from another EEA country unless there is good reason.

Monopolies and restraint of trade

Luxembourg law prohibits the abuse of market dominance. An independent administrative authority, the Competition Council, monitors compliance with competition law. It has power to carry out investigations and can take protective measures or impose fines and penalties. Price fixing, market sharing, discrimination between customers and the imposition of terms on suppliers that would prevent them from doing business with competitors constitute *prima facie* abuses under the law.

The principles of Luxembourg competition law are those underpinning EU law, and the European Commission has jurisdiction over anti-competitive practices, even where national law has not been invoked. Luxembourg and EU law restrict price fixing agreements; market sharing or allocation; exclusion of newcomers from the market; sales or production quotas; discriminatory selling; refusal to sell, supply or grant credit; tie-in sales and exclusive dealing arrangements.

2.3 Accounting, filing and auditing requirements

Upon incorporation, companies must file the articles of association and names of all directors/managers with the Trade and Company Register, and publish that information in the official gazette. The approved annual balance sheet, profit and loss statements, notes to the accounts, annual reports and auditors' reports also should be filed with the Trade and Company Register.

The rules for publication of the company's balance sheet, profit-and-loss account and notes are eased for small and medium-sized companies. Small companies are only required to publish a simplified balance sheet and simplified notes to the accounts. Medium-sized companies may publish an abridged profit and loss account, whilst the notes to the accounts do not need to include information on turnover.

Small companies are defined as those that do not exceed two of the three following limits: (1) annual net turnover not exceeding EUR 8.8 million; (2) a balance sheet total of no more than EUR 4.4 million; and (3) no more than an average number of 50 full-time employees during the accounting year. Medium-sized companies are those that do not meet the test for small companies but fall within at least two of three higher limits: (1) up to EUR 40 million in annual net turnover; (2) up to EUR 20 million in total balance sheet and (3) up to 250 employees. Other filing requirements apply to listed companies, financial institutions, insurance companies and certain investment companies.

An SA must appoint a statutory or external auditor depending on annual turnover, the balance sheet amount and the number of employees. An SARL needs a statutory auditor if the company has more than 25 shareholders also but will need an external auditor when annual turnover, the balance sheet amount and the number of employees exceed certain limits.

Legally required annual stand-alone or consolidated accounts should be prepared in accordance with Luxembourg GAAP or IFRS, with IFRS mandatory for the consolidated accounts of an undertaking whose securities are admitted to trading on a regulated market of any EU member state. Financial statements must be submitted annually and revised by a statutory or an independent auditor. Luxembourg companies and branches of foreign companies must file their annual accounts with the Commercial and Companies Register within the month of their approval and no later than seven months after the end of the financial year of reference.

3.0 Business taxation

3.1 Overview

Companies doing business in Luxembourg are subject to corporate income tax, municipal business tax, Chamber of Commerce contribution, net worth tax and VAT. There is no branch tax or excess profits tax.

As explained above in 1.5, special tax regimes are available for: securitization vehicles (all remuneration paid, including dividends, is tax deductible); SICARs (exempt on all income from securities and on transit funds); undertakings for collective investments (SICAVs, SICAFs, FCPs), specialized investment funds (lightly regulated vehicles); and SPFs (private wealth management vehicles).

A SOPARFI is a company that carries out holding or financing activities under the general tax regime (although it may engage in other activities if so provided in the company's bylaws). The appeal of the SOPARFI lies in its access to the benefits of the EU directives, eligibility for tax deductions, unlimited loss carryforwards and access to Luxembourg's broad network of tax treaties.

Luxembourg has transposed into national law the EU parent-subsidiary, interest and royalties, and merger directives. Luxembourg also had implemented the savings directive, which required the exchange of information between tax administrations when interest payments were made in one EU member state to an individual resident in another member state. The directive was repealed from 1 January 2016 to coincide with the introduction of the common reporting standard (CRS) within the EU through the implementation of a new directive on the mandatory exchange of information.

The Chamber of Representatives is responsible for passing laws. However, a law must be signed by the Grand-Duc before it can enter into force; the law is then published in the *official gazette*. The Direct Tax Administration is responsible for the assessment and collection of taxes.

Luxembourg Quick Tax Facts for Companies	
Corporate income tax rate	21%
Branch tax rate	21%
Capital gains tax rate	0%/21%
Basis	Worldwide income
Participation exemption	Yes
Loss relief	
− Carryforward	Indefinite
− Carryback	No
Double taxation relief	Yes
Tax consolidation	Yes
Transfer pricing rules	Yes
Thin capitalization rules	No (other than for the holding of participations)
Controlled foreign company rules	No
Tax year	Calendar year or fiscal year
Advance payment of tax	Yes
Return due date	31 May
Withholding tax	

− Dividends − Interest − Royalties − Branch remittance tax	0%/15% 0%/(15% in certain cases) 0% 0%
Capital tax	No
Municipal business tax	6.75%-12%
Employment surcharge	7%
Net worth tax	0.5%
Minimum net worth tax	Varies
Chamber of Commerce contribution	0.025% to 0.2%
Social security contributions	12.42% to 15.2%
Real estate tax	0.7%-1%
Transfer tax	6% (+ 1% transcription tax)
Specific registration duty	0.6% or 6% (+ 1% transcription tax)
VAT	17% (standard rate)/14%, 8%, 3%, 0% (reduced rates)

3.2 Residence

A company is resident in Luxembourg if its legal seat or central administration is in Luxembourg.

3.3 Taxable income and rates

Resident companies are subject to tax on their worldwide income. Nonresident companies are subject to tax only on Luxembourg-source income. Branches in Luxembourg are taxed on Luxembourg-source income and no withholding tax applies to profit remittances.

A corporate income tax rate of 21% applies to companies whose taxable income exceeds EUR 15,000. Companies whose income does not exceed EUR 15,000 are taxed at a rate of 20%. The tax is increased by a 7% contribution to the unemployment fund.

Luxembourg's effective corporate income tax rate includes the statutory rate of 22.47% (21%, plus the 7% surcharge) and the municipal business tax (discussed below at 3.8). For example, the effective tax rate for a company with its registered seat in Luxembourg City is 29.22%.

A minimum net worth tax applies to Luxembourg entities (see 3.8 below).

Taxable income defined

Taxable income is calculated based on the profits as stated in the commercial balance sheet, plus certain adjustments provided for under the tax law (e.g. nondeductibility of taxes, an exemption for dividends). Taxable income of companies resident in Luxembourg includes business income from all sources. Therefore, foreign-source income, whether distributed or undistributed, is included in taxable income, subject to any specific exemptions.

A number of tax credits are available (see 1.5) that may be used to reduce corporate income tax.

Participation exemption

Dividends received by a Luxembourg company are included in taxable income (and subject to corporate income tax and municipal business tax) unless the participation exemption applies. Under the participation exemption, dividends will be exempt from tax in Luxembourg if the following requirements are met:

- The Luxembourg recipient is either a resident company fully subject to tax in Luxembourg, the Luxembourg permanent establishment of an entity that falls within the scope of the EU parent-subsidiary directive, a capital company resident in a country that has concluded a tax treaty with Luxembourg, or a capital or a cooperative company resident in a country within the EEA other than an EU member state;

- The Luxembourg recipient company holds or commits to hold directly or indirectly (e.g. through a tax transparent entity at least 10% of the capital of the payer company (or the shares were acquired for at least EUR 1.2 million) for an uninterrupted period of at least 12 months (tax transparency for these purposes is to be determined on a case by case basis); and
- The Luxembourg recipient company holds or commits to hold directly or indirectly (e.g. through a transparent entity) at least 10% of the capital of the payer company (or the shares were acquired for at least EUR 1.2 million) for an uninterrupted period of at least 12 months; and
- The payer company is another Luxembourg company, a qualifying company under the EU parent-subsidiary directive or a non-EU company that is resident in a country in which it is subject to a tax corresponding to the Luxembourg corporate income tax.

Dividends received from participations that do not qualify for the participation exemption (for example, because the participation or holding period requirements are not met) can benefit from a 50% exemption if the dividends are paid by a fully taxable resident company, a company falling within the scope of the EU parent-subsidiary directive or a capital company resident in a tax treaty country that is subject to a tax corresponding to the Luxembourg corporate income tax.

Luxembourg has implemented the amended EU parent-subsidiary directive into its domestic law, as a result of which there is a general anti-avoidance rule and a rule to prevent the double nontaxation of certain profit distributions. As from 1 January 2016, dividend payments received by an eligible Luxembourg parent entity from an eligible subsidiary located in another member state are not exempt under the participation exemption regime in cases where:

- Such income is deductible in that member state (to avoid situations of double nontaxation deriving from mismatches in the tax treatment of profit distributions between member states); or
- The transaction qualifies as an abuse of law following the common EU anti-abuse rule (general anti-abuse rule).

IP regime

Under Luxembourg's IP regime, 80% of income derived from and gains from the disposal of, IP rights acquired or established by a Luxembourg company or permanent establishment after 31 December 2007, are exempt from income tax. IP rights directly acquired from a related party, however, are excluded from the regime. Taxpayers that use a self-developed patent for their own business benefit from a notional deduction amounting to 80% of the net positive income they would have earned from a third party as consideration for the right to use the patent. The regime applies to all net income received in consideration for the use of, or the right to use, directly or indirectly, any software copyrights, domain names, patents, trademarks, designs and models. Qualifying assets also benefit from a full exemption from net worth tax.

As a result of the discussions and the agreement reached at both the EU and OECD levels, the provisions in Luxembourg law relating to the domestic IP regime are repealed as from 1 July 2016 (1 January 2017 for net worth tax purposes), although some “grandfathering” rules apply subject to the fulfillment of certain conditions. Taxpayers benefiting from the current regime that create, acquire or definitively improve qualifying IP rights before 1 July 2016 are able to continue to benefit from the regime until 30 June 2021. New entrants could be admitted to the existing regime until 30 June 2016. This transitional period, however, is subject to two “safeguard” conditions:

- The benefit of the transitional period does not apply after 31 December 2016 for IP rights that are acquired directly or indirectly from related parties after 31 December 2015, unless the IP rights were eligible at the time of their acquisition for the Luxembourg IP regime or a foreign IP regime corresponding to the Luxembourg regime.
- The term “related parties” is broadly defined by reference to Luxembourg’s Income Tax Law as an undertaking participating directly or indirectly in the management, control or capital of another undertaking, or a situation in which the same persons participate directly or indirectly in the management, control or capital of two undertakings.

For taxpayers benefiting from the Luxembourg IP regime in connection with IP rights acquired or created after 6 February 2015, the spontaneous exchange of information takes place three months after the Luxembourg tax authorities have been informed, or no later than one year after the filing of the tax returns by the taxpayer.

For the purposes of the transitional period, IP rights transferred through a tax-neutral corporate reorganization (e.g. a merger, division or contribution) would be deemed to be acquired on the date of the reorganization.

A replacement IP regime is expected to be presented in the near future.

Tax functional currency

Companies incorporated in Luxembourg can prepare their commercial accounts in a currency other than the Euro and may, under certain conditions, use a currency other than the Euro in calculating their taxable results. The use of a foreign currency in determining the tax results reduces the tax administrative burden and eliminates tax-related foreign currency exchange gains or losses that are not recognized from an accounting perspective.

Deductions

Luxembourg tax law permits the deduction of normal operating expenses in calculating taxable income. Deductible items include depreciation, losses, interest paid to third parties, royalties, real property tax, registration tax, certain gifts (up to specified limits), tax losses and contributions to pension plans. Profit distributions, corporate income tax, municipal business tax, net worth tax and directors' fees are nondeductible.

Depreciation

Depreciation of fixed assets is deductible. The straight-line depreciation method usually is applied, although the declining-balance method is acceptable, except for buildings and intangible assets. It is possible to switch from the declining-balance method to the straight-line method but not the reverse.

Under the straight-line method, the cost of the asset is written off in equal amounts over the asset's useful life. Under the declining-balance method, a fixed rate of depreciation is applied to the year-end book value of assets at a rate that may not exceed three times the rate applicable if the straight-line method is used or 30% of the value of the depreciated asset.

For plant, the useful life generally is estimated at 25 years. Other buildings may be depreciated over 25 to 66 years, depending on their structure and use. Goodwill is depreciated over at least 10 years unless a shorter period can be justified. Fixed assets purchased for no more than EUR 870 may be depreciated in full in the year of acquisition. Depreciation allowances must be taken in the year to which the depreciation applies; if not taken, the allowances may not be recovered in subsequent years.

Equipment no longer in use may be completely written off.

Participations and portfolio investments may be written down to the lower market value if the reduction in value is not temporary. Depreciation taken on a participation whose market value subsequently increases must be reversed.

Reserves

A Luxembourg company must allocate at least 5% of its annual profits to a reserve until the reserve reaches 10% of its capital. Otherwise, a company also may create reserves for own shares that are specifically provided for in its bylaws.

Losses

Losses may be carried forward without limit; the carryback of losses is prohibited.

3.4 Capital gains taxation

Luxembourg generally does not make a distinction between income and capital gains: both are considered ordinary business income and are subject to corporate income tax. Tax on gains on certain fixed assets held for more than five years may be deferred against the cost of replacement assets acquired in the same tax year or within two years thereafter.

A participation exemption applies to gains derived from the sale of shares, provided the following requirements are met:

- The Luxembourg company holds directly at least 10% of the shares of the relevant company (or the shares had an acquisition price of at least EUR 6 million); and
- The participation has been held (or the shareholder commits to hold the shares) for at least 12 months.

3.5 Double taxation relief

Unilateral relief

Luxembourg generally uses the credit method to eliminate double taxation of dividend, interest and royalty income. This method allows a credit for tax paid in the foreign country but the deduction may not exceed the income tax computed on such income. When a resident company derives other income under a tax treaty, Luxembourg usually will apply the exemption method but to calculate the amount of tax on the remaining income of the taxpayer, it will apply the same tax rates that would have applied in the absence of an exemption.

Tax treaties

Luxembourg has a broad tax treaty network, with most treaties following the OECD model treaty. Treaties generally provide for relief from double taxation on all types of income; limit the taxation by one country of companies resident in the other; and protect companies resident in one country from discriminatory taxation in the other. All of Luxembourg's income tax treaties include a mutual agreement procedure and an exchange of information procedure.

Companies in the form of SICAFs or SICAVs can benefit under most of Luxembourg's treaties but these entities are not subject to income tax or, in principle, withholding tax on outgoing distributions. Based on a circular issued by the Luxembourg tax authorities, from 2015, where treaty jurisdictions have agreed to grant the benefits of the relevant treaty to Luxembourg SICAFs or SICAVs, the tax authorities have agreed to issue tax residence certificates to such funds. Furthermore, the Luxembourg tax authorities have confirmed that FCPs can benefit from some tax treaties as a result of special wording in the treaties (e.g. treaties with Germany, Saudi Arabia, etc.).

To obtain reduced rates under a tax treaty, the payer of the income must submit a form to the tax authorities who will verify whether the recipient satisfies the treaty conditions. The payer of the income must declare and pay the withholding tax due to the direct tax authorities within eight days from the date the income is made available.

Luxembourg Tax Treaty Network			
Armenia	Guernsey	Malaysia	Slovakia
Austria	Hong Kong	Malta	Slovenia
Azerbaijan	Hungary	Mauritius	South Africa
Bahrain	Iceland	Mexico	Spain
Barbados	India	Moldova	Sri Lanka
Belgium	Indonesia	Monaco	Sweden
Brazil	Ireland	Morocco	Switzerland
Bulgaria	Isle of Man	Netherlands	Taiwan
Canada	Israel	Norway	Tajikistan
China	Italy	Panama	Thailand
Croatia	Japan	Poland	Trinidad & Tobago

Czech Republic	Jersey	Portugal	Tunisia
Denmark	Kazakhstan	Qatar	Turkey
Estonia	Korea (R.O.K.)	Romania	United Arab Emirates
Finland	Laos	Russia	United Kingdom
France	Latvia	San Marino	United States
Georgia	Liechtenstein	Saudi Arabia	Uzbekistan
Germany	Lithuania	Seychelles	Vietnam
Greece	Macedonia	Singapore	

3.6 Anti-avoidance rules

Transfer pricing

Luxembourg has specific transfer pricing legislation, requiring transactions between related parties to be conducted on arm's length terms. The tax authorities can request documents to investigate related party transactions and if a transaction does not meet the arm's length standard, they may recharacterize the payment as a hidden contribution/hidden distribution.

A taxpayer may enter into an advance pricing agreement (APA) with the tax authorities, for which an administration fee is payable. (For further details, see Rulings under 3.7 below.)

Country-by-country (CbC) reporting

On 2 August 2016, the Luxembourg parliament issued draft legislation that would introduce CbC reporting obligations based on the recommendations in the OECD's final reports on the base erosion and profit shifting (BEPS) initiative and transpose the EU directive regarding the mandatory automatic exchange of information in the field of taxation into domestic law. The proposed CbC rules would require Luxembourgish ultimate parent entities of multinational companies with a consolidated group turnover of EUR 750 million or more to file a CbC report with the Luxembourg competent tax authority. The Luxembourg parliament now must review, discuss and, if necessary, modify the draft law before it can be approved.

According to the draft tax law and in line with the OECD guidance, the CbC report would consist of three parts:

1. An overview of the aggregate allocation of income, taxes, and business activities (including capital, assets, and employees) to each tax jurisdiction;
2. A list of all "constituent entities" of the multinational group included in the aggregation for each tax jurisdiction; and
3. Additional information necessary to understand the information provided under 1. and 2.

The draft law also envisages, subject to conditions, a secondary filing mechanism whereby a "surrogate parent entity" or any "constituent entity" that is not the ultimate parent company, may be designated as a "reporting entity." The draft includes rules for the determination of a "surrogate parent entity" and a "constituent entity" resident in Luxembourg as a "reporting entity" for the purposes of the CbC reporting rules.

The CbC report would be required for fiscal years starting on or after 1 January 2016, with a filing deadline of 12 months after the last day of the relevant fiscal year.

Under the draft legislation, CbC reporting would apply where consolidated group revenue exceeds EUR 750 million (or an equivalent amount in local currency as at January 2015). If this threshold is not exceeded in the preceding fiscal year, CbC reporting would not be required.

The draft law provides for a penalty of up to EUR 250,000 where: i) the CbC report is not filed within the prescribed period or the data submitted is incomplete or incorrect; ii) the conditions subject to which a reporting entity is designated have not been observed; and iii) the relevant notifications to the competent tax authority have not been submitted.

The draft law would introduce a mechanism for the automatic exchange of CbC reports between the competent tax authorities in Luxembourg and the jurisdictions in which a reporting obligation arises. As a result, the automatic exchange of CbC reports would be initiated with EU member states, as well as with other jurisdictions, as signatories to the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports under BEPS Action 13. The Luxembourg competent tax authorities generally would be obliged to exchange CbC reports within three months of their submission although this is extended to six months for reports for the first fiscal year starting on or after 1 January 2016 to which the reporting requirement applies.

Thin capitalization

Luxembourg does not have specific thin capitalization rules but the arm's length principle applies. If a Luxembourg resident obtains a loan from a related party on terms that differ from those which an independent party would have provided, the tax authorities can recharacterize all or part of the debt as capital. Consequently, interest payments may be regarded as hidden profit distributions.

In practice, the tax authorities use a debt:equity ratio of 85:15 for the holding of participations. Where this ratio is exceeded, the surplus may be considered a contribution to capital. Interest on this surplus may be deemed nondeductible and treated as a dividend distribution potentially subject to a withholding tax of 15% (which may be reduced or exempt under a tax treaty).

Controlled foreign companies

Luxembourg does not have CFC legislation.

General anti-avoidance rule

The principle of a general anti-abuse rule is embedded in Luxembourg tax law. Following the administrative tax case law, the following conditions must be fulfilled to conclude that there has been a tax abuse of law: the use of forms or of institutions offered by private law, a tax saving consisting of a distortion or reduction of the tax due, the use of an inappropriate path and the absence of valid nontax reasons justifying the path chosen. The application of this measure by the Luxembourg tax authorities depends on the relevant facts and circumstances. The measure will not apply where the taxpayer, who may choose to structure its business to limit its tax liability, provides evidence of nontax reasons for the path chosen.

See also "Participation exemption" under 3.3.

BEPS

The following table summarizes the steps Luxembourg has taken to date to implement specific BEPS recommendations in accordance with the OECD initiative. In respect of the other BEPS actions, namely: CFCs (Action 3), interest deductions (Action 4), harmful tax practices (Action 5), prevent treaty abuse (Action 6), permanent establishment status (Action 7), transfer pricing (Actions 8-10), disclosure of aggressive tax planning (Action 12) and dispute resolution (Action 14), it is not yet known what additional steps will be taken to implement the recommendations at local level.

Action	Implementation
VAT on business to customers digital services (Action 1)	The EU VAT directive applies and already has been implemented into domestic law.
Hybrids (Action 2)	It is unclear whether unilateral action will be taken with respect to Action 2. The government has implemented the amended EU parent-subsidiary directive into domestic legislation.
Transfer pricing documentation and CbC reporting (Action 13)	Implementation will be through specific legislation (see CbC reporting above). Luxembourg is one of the countries that signed a multilateral competent authority agreement for the automatic exchange of CbC reports.

3.7 Administration

Tax year

The tax year for a company is, in principle, the calendar year. Alternatively, it may be the accounting year ending in a particular calendar year.

Filing and payment

Companies are required to make four quarterly advance payments of tax based on the latest assessment.

Corporate income tax, net worth tax and business tax returns must be submitted before 31 May of the following tax year, although an extension may be possible at the request of the taxpayer. Tax return information must be provided in Euro.

Capital companies (i.e. SAs, SARLs and partnerships limited by shares) may be entitled to self-assessment. The tax authorities can assess the tax due solely on the basis of the tax return filed by these taxpayers (i.e. without verifying the return). The tax position becomes final after the five-year statute of limitations period expires (see below).

A monthly interest charge at 0.6% applies for failure to pay or late payment of tax. Failure to submit the tax return or a late submission results in a penalty of 10% of the tax due, as well as a fine. In the case of a late payment authorized by the tax authorities, penalties of up to 0.2% per month may apply.

Luxembourg resident commercial companies can file their corporate income tax, net worth tax and business tax returns electronically. Electronic filing gradually will become mandatory.

Consolidated returns

A vertical fiscal unity can be formed between Luxembourg resident companies where a company and one or more of its 95%-owned subsidiaries are financially integrated, provided they meet the five-year holding requirement. As from fiscal year 2015, a Luxembourg permanent establishment of a nonresident company, subject to a tax equivalent to the Luxembourg corporate income tax, may form part of the tax consolidation as an integrated company.

Also as from fiscal year 2015, a horizontal fiscal unity is possible under which sister companies with the same direct or indirect parent company can form a fiscal integration together, without the parent company forming part of the consolidation. In such a case, the results would be regrouped at the level of the chosen integrating company and not at the level of the nonintegrated direct or indirect parent company. The nonintegrating parent company must directly or indirectly hold a minimum 95% participation in the integrating companies and the five-year minimum holding period requirement must be met.

A company cannot simultaneously be part of more than one tax consolidated group.

Under the fiscal unity regime, each member of the group individually computes its own results (and files a tax return), after which the losses of each group company are totaled and allocated to the head of the group, which files a consolidated return and pays tax on the aggregate result of the group.

Each member of a tax consolidated group is accountable for the tax liabilities, interest on late payments, charges and penalties of the consolidating parent company or consolidating subsidiary company.

Statute of limitations

The statute of limitations for tax assessment and collection is five years starting from 1 January following the year to which the tax return relates (e.g. for income relating to the 2015 tax year, the limitations period starts on 1 January 2016). The period may be extended to 10 years if no return is filed or if incorrect information has been provided (regardless of whether there is an intentional failure to pay tax), and may be interrupted by certain circumstances.

Tax authorities

The Direct Tax Administration is divided into a central authority and several tax offices that are competent for a particular territory and/or certain taxpayers for the purposes of income tax, municipal business tax and net worth tax. VAT, subscription tax and transfer taxes are entrusted to the Indirect Tax Administration.

Rulings

A taxpayer may submit a written request for an advance tax decision. The request must be made in the prescribed form and the tax inspector of the relevant tax office may issue an advance tax decision. The decision may not result in a tax exemption or a tax reduction and is valid for a specified period of time that cannot exceed five tax years. The decision will bind the direct tax authorities, unless:

- The circumstances or the transactions were incomplete or inaccurately described in the taxpayer's request;
- Subsequent circumstances or transactions differ from those on which the tax authorities based the advance tax decision; or
- The advance tax decision does not conform to national, EU or international law.

Requests related to business taxation are submitted by the tax inspector to a commission for its opinion.

An applicant (a corporate taxpayer, an undertaking or an independent professional) requesting an advance tax decision related to business taxation is required to pay an administrative fee ranging from EUR 3,000 to EUR 10,000, depending on the complexity of the case and the volume of work required by the tax authorities. The fee is payable within one month from the date on which the level of the fee is set by the head of the tax authorities. The tax authorities will not issue their decision until the fee is paid. The fee is not refunded even if the taxpayer withdraws their request or if the tax authorities issue a negative decision.

From 2016, advance tax decisions are published anonymously in the tax authorities' annual activity report.

Taxpayers also may enter into an advance pricing agreement (APA) with the tax administration. APAs are subject to the same process and limitations as described above for advance tax decisions.

3.8 Other taxes on business

Municipal business tax

Profits derived from carrying out business activities in Luxembourg are subject to municipal business tax at rates ranging from 6.75% to 12%, depending on the location. For companies operating in Luxembourg City, the rate is 6.75%. A deduction of EUR 17,500 applies to the municipal business tax base for entities liable to corporate income tax and EUR 40,000 for other businesses.

Minimum income tax

The minimum corporate income tax has been abolished and replaced by a minimum net worth tax as from fiscal year 2016.

Net worth tax

A net worth tax is levied annually on the taxable wealth of resident companies.

As from 1 January 2016, the net worth tax rate applies on a digressive scale as follows:

- On taxable wealth up to EUR 500 million – 0.5%.
- On taxable wealth above EUR 500 million – EUR 2.5 million plus 0.05% on the taxable wealth exceeding EUR 500 million.

The net worth tax charge may be reduced or eliminated if the relevant entity creates and maintains for five years a specific reserve amounting to five times the reduction in the net worth tax. The calculation of the reduction of the net worth tax charge is adjusted with the introduction of the minimum net worth tax regime. Assets qualifying for the IP regime and shareholdings qualifying for the participation exemption regime are exempt from net worth tax.

Minimum net worth tax

All collective entities (including securitization, SICAR) with their statutory seat or central administration in Luxembourg are liable to minimum net worth tax, regardless of whether they are regulated and subject to net worth tax.

Luxembourg permanent establishments of foreign companies are outside the scope of the minimum tax since, in principle, foreign companies have their statutory seat or central administration outside Luxembourg.

The amount of minimum net worth tax due by a Luxembourg collective entity depends on the composition of its balance sheet. For this purpose, Luxembourg collective entities are divided into two categories:

1. Collective entities that have qualifying holding and financing assets exceeding 90% of their balance sheet and have qualifying assets exceeding EUR 350,000 are liable to a minimum flat net worth tax of EUR 3,210.
2. Entities other than those in 1. Above are subject to a progressive minimum net worth tax depending on their total balance sheet assets. The tax ranges from EUR 535 (for a total balance sheet up to EUR 350,000) to EUR 31,200 (for total balance sheet exceeding EUR 20 million).

All Luxembourg collective entities under consolidation for corporate income tax and municipal business tax purposes are subject to the minimum net worth tax. However, the aggregate amount due by a tax consolidated group is limited to EUR 31,200.

The above fixed minimum net worth tax (between EUR 535 and EUR 32,100) will apply only where the amount of net worth tax calculated by applying the rates on the total net assets results in an amount lower than the fixed minimum. The minimum net worth tax is not an advance payment but is reduced by corporate income tax due in the previous year.

Chamber of Commerce contribution

The Chamber of Commerce contribution is imposed annually on any person carrying on commercial, financial or industrial activities in Luxembourg. The fee applies to all commercial companies that have their statutory seat in the country, as well as to Luxembourg branches of foreign companies that carry out qualifying activities.

The contribution is levied on taxable profits at a rate ranging from 0.025% to 0.2%, but may not exceed 0.4% of the taxpayer's commercial profits. In the event of a tax loss year, a minimum contribution will be levied but this cannot exceed EUR 140 for public companies, partnerships limited by shares and European companies; EUR 70 for partnerships and private limited liability companies and EUR 14 for individuals.

A lump sum fee system exists for companies principally carrying out holding activities that are listed as such under the NACE Code (the EU's code for statistical classification of economic activities). Under this special regime, the amount of the contribution is set at EUR 350 per year.

4.0 Withholding taxes

4.1 Dividends

Luxembourg levies a 15% withholding tax on dividends unless a lower rate applies under an applicable tax treaty. However, no tax is withheld where dividends are paid to a qualifying company under the EU parent-subsidiary directive. Under Luxembourg's rules implementing the directive, dividends distributed by a Luxembourg subsidiary to its qualifying EU parent company will be exempt from withholding tax, provided the recipient of dividends has one of the company forms listed in the directive and holds or commits to hold directly or indirectly at least 10% of the capital of the payer company (or the shares were acquired for at least EUR 1.2 million) for an uninterrupted period of at least 12 months. Luxembourg has extended the benefit of this regime to Swiss capital companies subject to corporate income tax with no possibility of exemption, EEA capital companies and corporations located in a treaty country that are subject to a tax similar to the Luxembourg corporate income tax.

As from 1 January 2016, where an eligible Luxembourg entity distributes dividends to an eligible entity located in another EU member state, the withholding tax exemption under the participation exemption regime will be denied if the transaction constitutes an abuse of law following the common EU anti-abuse rule discussed in 3.6 above.

4.2 Interest

Luxembourg does not levy withholding tax on interest. However, income from profit-sharing bonds and debt instruments with remuneration linked to the issuer's profits is taxed as dividends at the 15% rate.

For personal income tax purposes, interest paid to a Luxembourg resident individual by a Luxembourg paying agent is subject to a 10% final withholding tax. A final instalment of 10% on interest paid by an EU/EEA company or a company located in a state with which Luxembourg has concluded a tax treaty may also apply (subject to conditions).

4.3 Royalties

Luxembourg does not levy withholding tax on royalty payments.

4.4 Branch remittance tax

Luxembourg does not levy a branch remittance tax.

4.5 Wage tax/social security contributions

Social security contributions apply to wages and salaries and must be withheld by the employer at rates of 12.42% to 15.2% depending on various factors. Contributions are payable up to a specified annual income base (approximately EUR 115,400 for 2016). Unemployment contributions are financed through a tax surcharge applied on individual income tax, known as the solidarity tax. The surcharge rate for individuals is 7% for income not exceeding EUR 150,000 (EUR 300,000 for couples taxed jointly), and 9% for income exceeding these amounts.

For regular remuneration, the employee and the employer each pay 3.05% for health benefits. The rate is 2.8% for benefits in kind and non-periodic remuneration, such as bonuses. The employer is required to pay 1% of an employee's compensation for accident insurance and 0.11% of payroll to fund the National Health at Work Service. The employer also is liable to a contribution of 0.51% to 3.04% to finance the mutual insurance institution created to ensure cash sickness benefits. The employee must make a 1.4% contribution to fund dependence insurance.

5.0 Indirect taxes

5.1 Value added tax

The VAT framework in Luxembourg must conform to the EU VAT directive.

VAT is levied on all goods and services purchased or sold for consumption within Luxembourg, and on imports. VAT is levied at each stage of the production and distribution process (including the retail level) or when services are supplied in Luxembourg.

Luxembourg's standard 17% VAT rate is the lowest standard rate in the EU. In addition to the standard rate, an intermediate rate of 14% applies to certain financial services (safekeeping of shares and management of credit, by someone other than the person granting the credit), wines, printed advertising and marketing materials. A reduced rate of 8% applies to gas and electricity, and a special 3% rate applies to printed materials, water, pharmaceuticals, most food products, and radio and television broadcasting services.

Credit, loans and deposits, transactions concerning currency, bank notes and coin also are exempt, as are services relating to shares and securities, although such VAT exempt services may result in VAT obligations. Services such as advisory, management and data processing services (i.e. other than core activities) generally are subject to VAT at the standard rate.

Exports and certain services (including medical and health services and some banking activities) are exempt from VAT. In general, imports are not exempt.

There are no specific restrictions on the deduction of input VAT to the extent the costs incurred relate to VAT taxable activities. VAT may however be accounted for on the self-supply/private use of certain goods or services (such as company cars).

VAT returns are remitted on a monthly, quarterly or annual basis, depending on the annual turnover of the company. Where the company submits monthly or quarterly returns, it also must prepare a final annual return. VAT due is paid at the time the VAT return is submitted. A franchise regime exists for taxpayers whose annual turnover is below the threshold of EUR 25,000.

VAT grouping is not possible in Luxembourg. However, a VAT exemption is available (under certain strict conditions) for services rendered to its members by an independent group of persons.

5.2 Capital tax

Luxembourg does not levy capital duty.

5.3 Real estate tax

Municipalities in Luxembourg impose a land tax of 0.7% to 1% on the unitary value of real property, including industrial plant. This is multiplied by coefficients fixed by each municipality and varying by the type of real property (land, industrial building or dwelling). However, since the assessments of value are based on the "unitary value" set by the government, they are well below market levels.

In addition to the land tax, the transfer of immovable property is subject to a transfer tax (see 5.4 below).

The contribution of immovable property to a Luxembourg company in exchange for shares is subject to a specific registration duty of 0.6% (plus a transcription tax of 0.5%). In other cases, the contribution will be taxed at a rate of 6% (plus a transcription tax of 1%). However, the transfer will be free of any proportional duty in the case of a corporate reorganization.

5.4 Transfer tax

The transfer of Luxembourg immovable property generally is subject to tax at 6%, plus a 1% transcription tax. The tax base is the higher of the purchase price or the fair market value of the property. For real estate located in the municipality of Luxembourg, an additional charge amounting to 50% of the transfer tax is imposed. Exemptions are available for the 6% transfer tax, 1% transcription tax and the Luxembourg municipality tax. These taxes are deductible for income tax purposes by way of depreciation over the life of the real estate to the extent the property is depreciated. The transfer tax is paid by the buyer.

Other transfer taxes are gift tax, subscription tax, tax on the registration of lease contracts and tax on the registration of loan agreements.

5.5 Stamp duty

Stamp duty is levied at various rates on the registration of notary deeds, bailiff deeds and certain acts of the judiciary.

5.6 Customs and excise duties

As an EU member state, Luxembourg has adopted customs rules applied in the EU. Customs controls at the internal borders of the EU and customs formalities have been abolished for the movement of goods within the EU. Customs duties are imposed on the import of goods from outside the EU.

Luxembourg levies excise duties on various items, including electricity, gas, oils, manufactured tobacco and alcohol.

5.7 Environmental taxes

Luxembourg levies environmental taxes (eco taxes) on packaging materials (e.g. glass, steel, aluminum) and on electrical and electronic equipment.

5.8 Other taxes

None

6.0 Taxes on individuals

Luxembourg Quick Tax Facts for Individuals	
Income tax rates	Progressive to 40%
Capital gains tax rates	0%/50%/100% of applicable income tax rate
Basis	Worldwide income
Double taxation relief	Yes
Tax year	Calendar year
Return due date	31 March
Withholding tax	
− Dividends	15%
− Interest	10% (for resident); 0% (for nonresident)
− Royalties	0%
Employment surcharge	7%-9%
Temporary tax to balance state budget	0.5%
Net worth tax	No
Social security	12.2%-12.45% withheld by employer
Inheritance tax	0%-48%
Gift tax	1.8%-14.4%
Real estate tax	0.7%-1%
VAT	17% (standard rate)/14%, 8%, 3%, 0% (reduced rates)

6.1 Residence

An individual is resident if his/her domicile or normal place of abode is in Luxembourg. A normal place of abode is created when an individual lives in Luxembourg for six consecutive months without any significant interruption, whether within a given tax year or in two consecutive years. However, even if an individual spends this amount of time in Luxembourg, he/she still may be considered nonresident if his/her customary place of abode is outside Luxembourg.

6.2 Taxable income and rates

Taxable income

In general, resident individuals pay tax on worldwide income. Nonresidents usually are taxed only on their Luxembourg-source income.

Taxable income of individuals includes income from a business or profession, income from employment (including all benefits in kind), investment income (i.e. income from movable and immovable property, rental income and royalties) and miscellaneous income (e.g. capital gains, etc.).

Dividends are taxed as investment income, but 50% of dividends paid by EU resident companies covered by the EU parent-subsidiary directive and (provided certain conditions are satisfied) companies resident in countries that have concluded a tax treaty with Luxembourg, are tax-free for a Luxembourg resident.

Interest payments received by a Luxembourg resident are, under certain conditions, subject to a 10% withholding tax (see “Rates” below).

A tax credit may be available for individuals who have paid tax on income earned in countries with which Luxembourg has no tax treaty. Income derived from treaty countries generally is exempt in Luxembourg if it has been taxed in the treaty partner jurisdiction. Dividends and interest are an exception but are likely to carry the right to a tax credit.

Short-term capital gains of individuals are fully taxed as miscellaneous income; long-term capital gains receive more favorable treatment, including (i) an exemption of EUR 50,000 for gains realized over a 10-year period and (ii) taxation of remaining long-term gains at one-half the taxpayer's global rate. Gains derived by individuals on the sale of real estate are long-term if the property was held for more than two years; gains on an individual's private residence normally are exempt. Gains derived by an individual on shares are long-term if the shares are held for more than six months and are only taxable insofar as the shareholding exceeds 10%. Gains on other movable assets are exempt if the holding period is more than six months.

Deductions and reliefs

Luxembourg residents are entitled to deduct income-related expenses at a flat amount of EUR 480 per taxpayer, or more if the expenses can be justified in computing taxable income. Subject to limitations, deductions are permitted for items including: insurance premiums for life, accident and sickness; individual pension schemes; alimony and annuities; childcare and housekeeping costs; charitable contributions; interest on personal and mortgage loans; and home saving and loan schemes. Tax credits are granted to wage-earners, pension earners, self-employed individuals and single parents. The total amount of dividend and interest income is subject to a tax-free allowance of EUR 1,500 (EUR 3,000 for couples assessed jointly) and income related expenses can be deducted at a flat amount of EUR 25 per taxpayer (or more if justified). Lump sum deductions are also granted for employment income and pension income.

Compulsory contributions to social insurance, including medical and retirement insurance (other than the 1.4% dependency contribution), are deductible. This also applies to contributions paid to social insurance schemes in countries with which there is a social security agreement in force.

An annual tax credit of EUR 922.50 per child is granted to a taxpayer whose household includes children (when not already paid on a monthly basis by the social security authorities).

Rates

The personal income tax rate schedule is adjusted periodically for inflation. Liability is based on the individual's personal status (e.g. family status, dependent children). The three tax classes are Class 2 (married taxpayers), Class 1a (intermediate) and Class 1 (single taxpayers). The maximum overall marginal personal income tax rate is 40% on income exceeding EUR 100,000 (EUR 200,000 for couples taxed jointly).

Tax liability is increased by: (i) the solidarity premium for the employment fund, which imposes a surcharge on the income tax rates that amounts to 7% for income not exceeding EUR 150,000 (EUR 300,000 for couples taxed jointly) and to 9% for income above these amounts; (ii) a 1.4% dependency contribution (included in the employee's social security contributions); and (iii) a 0.5% temporary tax to balance the state budget.

A final withholding tax of 10% is levied on interest income paid by a paying agent established in Luxembourg to beneficial owners resident in Luxembourg, including interest on bank deposits, government bonds and profit-sharing bonds. Interest income subject to this final withholding tax need not be reported in the annual tax return. This regime may be extended, at the election of the taxpayer, to certain interest income credited by a paying agent established in another EU/EEA member state or in a state that has concluded a treaty equivalent to the EU savings tax directive. If the taxpayer is a Luxembourg resident, income excluded from the 10% final withholding tax will be taxable at progressive rates under the normal tax rules.

Directors' fees are subject to a flat 20% withholding tax and then taxed as part of normal income in the case of residents (if net director's fees exceed EUR 1,500 per year). The tax withheld is deducted from the final liability. For nonresidents, the withholding tax represents the final liability on the income if the gross amount of directors' fees in Luxembourg does not exceed EUR 100,000 and the nonresident has no other professional income in Luxembourg.

Expatriates

An expatriate tax regime is available for highly skilled mobile expatriates coming to Luxembourg. To benefit from the regime, the following conditions must be satisfied:

- The company must employ at least 20 local full-time staff and meet certain administration criteria. For companies established in Luxembourg for at least 10 years, a maximum of 30% of full-time employees can benefit from the expatriate regime.
- The expatriate must have a higher education degree or at least five years' experience in the sector concerned and must make a significant economic contribution to Luxembourg and pass know-how on to local staff. The Luxembourg job must be the individual's primary position, he/she must be Luxembourg resident, must not replace a nonexpatriate employee, must meet minimum wage criteria and must not have been taxable in Luxembourg in the previous five years.
- If an intragroup transfer, the employee must retain his/her home employment with a right to return and a contract must be concluded between the home company and the Luxembourg company. There also are requirements to be met at the group level. For a direct recruit, the expatriate employee must have a specialty that cannot be recruited locally.

If the above conditions are satisfied, the following benefits are granted:

- Costs relating to relocation, certain furniture/appliances, emergency travel, repatriation and school fees can be provided tax-free.
- Ongoing assignment costs relating to housing, utilities, home leave and tax equalization can be provided tax free, subject to certain limitations and an overall cap.
- Cost of living allowances can be paid tax-free, subject to a monthly cap.

Provided all the conditions continue to be satisfied, the regime may be applied for the year of arrival and the following five tax years.

6.3 Inheritance and gift tax

Inheritance tax is levied in Luxembourg if the deceased was resident in Luxembourg at the time of death. The tax base is the market value of the entire net estate inherited at the time of death. The tax rates range from 0% to 48%, depending on the proximity of the relationship and the amount of the assets bequeathed to each beneficiary. Exemptions are applicable in certain cases.

Certain gifts and donations must be registered (notably immovable property). The tax rates range from 1.8% to 14.4%, depending on the relationship between the donor and the donee.

6.4 Net wealth tax

Net wealth tax was abolished in 2006.

6.5 Real property tax

Municipalities in Luxembourg impose a land tax of 0.7% to 1% on the unitary value of real estate, including industrial plant. This is multiplied by coefficients fixed by each municipality and varies according to the type of real estate.

6.6 Social security contributions

Social security contributions apply to wages and salaries and must be withheld by the employer at rates of 12.42% to 15.2% depending on the nature of the remuneration. Employee contributions are payable at 12.2% to 12.45% and both are computed on a capped basis (approximately EUR 115,400 for 2016). Self-employed individuals must register for social security purposes and contribute at approximately the same combined rate as those for the employer and employees.

6.7 Other taxes

Stamp duty usually is levied on the registration of notary deeds, bailiff deeds and certain acts of the judiciary.

6.8 Compliance

Individuals are taxed on a calendar year basis.

Income tax on employment income for salaried employees is withheld by the employer every month, with a year-end adjustment if necessary. Tax returns are due by 31 March of the year following the tax year, although the deadline may be extended upon request. Self-employed individuals must make quarterly prepayments of tax in amounts that are fixed by the tax authorities based on the most recent final assessment.

Late payment of tax triggers automatic default interest of 0.6% per month. Failure to submit a tax return or a late submission is subject to a penalty of 10% of the tax due and a fine up to EUR 1,239.47. If late payment is authorized by the tax authorities, penalties at rates of up to 0.2% per month may apply.

7.0 Labor environment

7.1 Employees' rights and remuneration

An employment contract is compulsory and generally permanent. Fixed term contracts are regarded as an exception to this rule and the circumstances in which it is possible to conclude a fixed term contract are prescribed by law.

All employers are bound by the minimum wage. Remuneration of most blue collar workers and some white collar employees is set by collective bargaining contracts. Increases in the cost of living automatically trigger wage rises. Executive compensation is set by negotiation.

Employees enjoy extensive protection. After an initial probationary period, it is difficult to discharge employees. Employees who have been discharged because the employer was experiencing economic problems are entitled to be rehired first when the company expands. Acquired rights are protected by law in merger situations or where one company is taken over by another.

The workforce has broad rights to information and consultation, and in some cases determination of company policies. Equal pay must be provided for equal work.

Working hours

The legal work week (five days) is 40 hours. The maximum work week (inclusive of overtime) is 48 hours and the statutory maximum daily working time is 10 hours. Longer hours are permissible in businesses with continuous operation or shift work but in most cases, it will be necessary to obtain permission from the Labor and Mines Inspectorate.

The statutory minimum overtime rate is 40% for both blue and white collar workers. Overtime rates for working on Sundays and public holidays are much higher. In some circumstances, time off must be given in addition to overtime.

7.2 Wages and benefits

All wages in Luxembourg are linked to the retail price index.

The minimum wage is adjusted on the same basis, as well as periodically in line with inflation. Since 1 January 2015, the minimum monthly wage for unskilled workers has been EUR 1,922.96 and for skilled employees, EUR 2,307.56. Wage increases also may be negotiated collectively.

Pensions

The employer pays 8% of an employee's pretax salary towards the statutory pension scheme. The employee and the state pay the same amount into the scheme. Income subject to contributions is capped at five times the minimum wage (i.e. EUR 9,614.80 monthly or EUR 115,377.60 annually).

Some companies partly fund group pension schemes for their employees. Both employer and employee contributions are tax-deductible within certain limits.

Social insurance

While all employers must contribute to a wide range of employee benefits, contribution levels are relatively low compared to other EU member states because the state matches the employee contributions to pensions, maternity and sickness benefits.

Social security contributions and benefits are the same for blue and white collar employees, except for sickness benefits. Contributions are payable up to a specified annual income base (currently EUR 115,377.60).

On regular remuneration, the employee and the employer must each pay 3.05% for health benefits. The rate is 2.8% for benefits in kind and nonperiodic remuneration, such as bonuses. The employer is required to pay 1.15% of an employee's compensation for accident insurance and 0.11% of payroll to fund the National Health at Work Service. The employer also is liable to a contribution of 0.42% to 2.64% to finance the mutual insurance institution created to ensure cash sickness benefits. The employee must make a 1.4% contribution to fund dependence insurance.

Unemployment contributions are financed through a tax surcharge on individual income tax, known as the solidarity tax. The surcharge rate for individuals is 7% for income not exceeding EUR 150,000 (EUR 300,000 for couples taxed jointly) and 9% for income above these amounts.

Other benefits

Salaried and hourly paid employees are entitled to 25 working days of annual vacation upon the successful completion of three months of continuous service for an employer. Many companies have introduced a bonus in the form of a 13th month salary. There are 10 public holidays per year. Employees are entitled to additional paid days off on family or compassionate grounds.

Maternity benefits during maternity leave normally are paid from social security. Prenatal maternity leave of eight weeks is, in principle, compulsory but in specific circumstances a woman can choose to continue working; an eight-week postnatal leave is compulsory (increasing to 12 weeks for premature or multiple births or breastfeeding mothers). Postnatal leave rules also apply in the event of adoption but either parent may take the leave. An employee cannot be dismissed during pregnancy or while on postnatal leave.

Employees who are parents may take six months of parental leave (or 12 months of part-time leave). One parent may opt for the leave immediately after the maternity leave and the other parent may take it at any time up to the child’s fifth birthday. During parental leave, the employee receives a benefit paid out by the National Family Allowances Fund.

Draft legislation introducing reforms to the provisions for parental leave and other benefits is currently before parliament.

7.3 Termination of employment

Most employment contracts allow for a probation period which must be a minimum of two weeks and a maximum of 12 months. At least two weeks’ notice must be given to terminate the trial employment but the decision to end the contract does not have to be justified.

If both the employee and the employer agree to terminate the contract, the only requirement is that the agreement must be confirmed in writing. Otherwise, an employee being dismissed must be notified by registered letter. Notice periods vary depending on years of service. If the notice period is not respected, compensation must be paid. At the employee’s request, a full explanation of the reasons for the dismissal must be supplied. In companies with more than 150 employees, a preliminary meeting must first be held with the employee. The employee may appeal to the courts within three months. If successful, the employee must be compensated or rehired.

Employees can be summarily dismissed only for serious misconduct. A predismissal interview is mandatory.

Employees with five years’ continuous service are entitled to severance pay. The minimum is one month’s pay and the amount varies according to the employee’s monthly pay averaged over the preceding year and length of service.

An employer planning to lay off seven or more employees within 30 days or 15 or more employees over a three-month period, must agree with the trade unions on how to mitigate social hardship, such as through retraining and outplacement programs. If the parties fail to agree, the National Conciliation Service may intervene by imposing a binding decision. The minimum notice period in the event of mass redundancies is 75 days but this may be longer on the basis of length of service or the collective bargaining agreement. The government has the power to extend the period to 90 days to allow more time to resolve the problems caused by the collective dismissal. The minimum notice period at a company that is receiving state aid may be extended to 120 days.

The government can intervene to prevent dismissals in the event of company restructuring by subsidizing the pay of workers on reduced hours.

7.4 Labor-management relations

Employees’ right to strike and employers’ right to lock out employees are subject to strict reconciliation procedures. Strikes and lockouts are permitted only after due warning and after negotiations supervised by the National Conciliation Service. Employers may dismiss illegal strikers on the spot.

About 50% of the workforce is unionized, rising to nearly 100% in the steel sector. Unions have always taken a moderate approach in negotiations and usually cooperate with the government and employers. Strikes are rare.

Large companies generally are covered by collective bargaining agreements. Unions have the right to represent all workers, even nonmembers, in collective bargaining committees. The government is not represented in wage negotiations and intervenes (if necessary) only through the conciliation service.

Collective bargaining may be conducted at the sector or company level but in practice sectoral agreements are few. Agreements normally last two years but are increasingly extended to three, which is the legal maximum. Collective agreements must be registered with the Labor and Mines Inspectorate.

Every private sector employer with 15 or more employees must set up an employee committee. Where a company operates in several locations, it must set up an enterprise employee committee. These committees must be informed of and consulted on terms and conditions of employment.

A company with at least 150 employees must have a joint works committee comprising equal numbers of employer and employee representatives. This committee's agreement must be obtained for recruitment, promotion, transfer and dismissal policy, employee appraisal, health and safety policy, and similar issues. It also must be consulted and informed on a wide range of issues, including pay. If the committee is deadlocked on a decision in an area where its agreement must be obtained, the National Conciliation Service arbitrates.

One-third labor representation on the board of directors is required for companies with 1,000 or more employees, companies with at least 25% state ownership or companies operating under government license. Firms with more than 1,000 workers in the EU and at least 150 employees in two or more member states must form a European Works Council for informing and consulting with employees.

7.5 Employment of foreigners

Nationals of EEA countries and Switzerland do not need a work permit.

Other foreign nationals who intend to perform a salaried activity in Luxembourg must obtain a residence permit, which includes both the work permit and the sojourn permit. The residence permit is first issued for one year and enables the foreign national to work for any employer but only within a particular sector and occupation. At the first renewal, the permit is valid under the same restrictions of sector and occupation but its validity increases to two years. Starting with the second renewal, the foreign national is allowed to change sector and occupation; the residence permit is then issued for consecutive periods of three years. Any renewal is subject to the opinion of an advisory committee.

It is worth noting that specific rules apply to highly-skilled employees, intragroup transfers, assignments and other cross-borders situations, as well as for certain categories of individual other than employees.

Seconded employees

Under Luxembourg law, a posted worker is defined as an employee whose regular employment is performed outside Luxembourg and who is temporarily assigned to Luxembourg to perform work under a service agreement. The foreign employer who assigns workers in Luxembourg must respect the public policy provisions under Luxembourg labor law.

Any secondment of employees to Luxembourg must be declared to the Luxembourg authorities (Labor and Mines Inspectorate). Information and documents necessary for the authorities to perform their controls must be kept in Luxembourg during the length of the assignment.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

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