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The essential guide for individuals in Luxembourg

Tax, social security, labour environment, immigration

2016 Issue

Contents

Foreword

The purpose of this document is to provide a general overview on the tax and social security legislation applicable to individuals in Luxembourg, as well as on the labour environment and the immigration regulations. It has been designed purely as a guide and its application in practice will depend on the circumstances. Users of this guide encountering particular problems are therefore urged to seek appropriate professional advice before relying on the contents of this guide, which is not intended to act in any way as a substitute for such advice.

1 General Information

1.1 Statutory framework

The Income Tax Law (Loi concernant l'impôt sur le revenu, LIR) dates from 4 December 1967. The latest reform came into force on 1st January 2013 and a new tax reform is confirmed to be implemented as per 1st January 2017 (see section 2.5).

The LIR includes individual and corporate income tax; the major part of the provisions applies both to individuals and corporate entities.

1.2 Tax year

The tax year in Luxembourg is the calendar year.

1.3 Tax residency

The extent of the taxation of individual depends on his tax residency status. The Luxembourg residents are obliged to declare their worldwide income in Luxembourg (with available treaty reliefs) while the Luxembourg non-residents are taxable on their Luxembourg source income only.

1.3.1 Resident taxpayer

An individual is considered a tax resident in Luxembourg provided that he maintains his domicile or normal abode there. A domicile is deemed to exist if an individual has a permanent home available to him that he actually uses and intends to maintain. A normal place of abode is deemed to exist if an individual's stay is for more than six consecutive months (short periods of absence are not taken into account). Tax residence applies as of the first day of the individual`s presence in Luxembourg.

1.3.2 Non-resident taxpayer

An individual is considered a non-resident in Luxembourg provided he neither maintains his domicile nor normal abode there.

1.3.3 Special regime available for non-residents

Apart from salaries and pensions, Luxembourg source income derived by non-resident taxpayers is subject to progressive tax rates with a minimum rate of 15%. However, when progressive rates applied to the taxable income increased by the tax exempt band show an average rate of less than 15%, this alternative minimum rate applies.

Non-residents deriving at least 90% of their total income from Luxembourg (and Belgian residents deriving more than 50% of their professional income from Luxembourg) are, upon request, taxed as if they were residents. They are taxed at the rate which would have applied had they been residents and were subject to tax on their entire Luxembourg and foreign income.

This regime can only apply if it provides a favorable result for the non-resident. It allows non-residents to benefit from deductions for special expenses (annuity payments and charges, debit interest, insurance premiums, donations, etc) as well as allowances for extraordinary charges. The income of both spouses is taken into account to calculate the rate of tax applicable (progression clause). The threshold is calculated considering the income of the spouses separately.

1.3.4 Dual residency situation

Provided that an individual is considered to be a tax resident in more than one country based on the local legislations, the relevant double tax treaty concluded between the concerned countries should be applied. The application of the treaty determines in which of the two countries the individual is resident for tax purposes. The treaty also provides the possibility for tax reliefs in order to avoid the double taxation of income.

1.4 Tax filing status

1.4.1 Joint taxation of spouses and children

The taxable unit is the family in Luxembourg. The income of a husband and wife, and their children under the age of 18 (excluding employment income of children under the age of 18), is aggregated together for tax purposes. Tax rates vary with the family status of the taxpayer. Married persons are assessed jointly in the first year of their marriage even if they were married for only part of the year.

Where one spouse is considered a tax resident while the other is considered a non-resident, they do not automatically file jointly. However, they may elect for a joint taxation in Luxembourg if the resident spouse derives at least 90 % of the household's professional income from Luxembourg. This provision grants access to class 2 for the calculation of income tax but may lead to adverse tax consequences so that a case-by-case analysis is recommended.

As of 2015, joint taxation of married couples of the same sex has been introduced.

1.4.2 Joint taxation of partners

Resident taxpayers who have entered into a common partnership agreement are normally considered as single taxpayers for tax purposes. Nevertheless, they are able to elect to be taxed jointly under the same regime as married taxpayers. Non-resident partners are also able to elect for a joint taxation in Luxembourg if they may elect to be taxed under the resident status, i.e. if at least one of the partners generates 90% or more of his/her total income in Luxembourg.

The election is done at the end of the tax year through the filing of a tax return.

To benefit from a joint taxation, the partners must have effectively shared a common residence during the whole tax year, and the partnership agreement must have existed from 1 January to 31 December of the tax year. If these conditions are fulfilled, it can be beneficial to request a joint taxation, especially if only one of the two partners has a professional activity.

It is worth noting that if the partners are jointly taxed, they become joint debtors of the income tax due.

1.5 Impatriate tax regime

The Luxembourg tax authorities introduced at the end of 2010 a special tax regime for highly skilled workers applicable from 1 January 2011.

This regime was amended in 2013 (through circular LIR n°95/2 of 21 May 2013) and the changes mainly focus on relaxing the conditions to benefit from the favorable tax treatment. On 27 January 2014, the Luxembourg tax authorities issued a new tax circular LIR. n°95/2, which replaces the previous one and is in force with retroactive effect as at 1 January 2014. This new circular mainly aims at extending the scope of employees who may benefit from the favourable tax regime.

1.5.1 Summary of conditions

The legislation applies to impatriates, i.e. to employees who are part of an international group and who are seconded to a Luxembourg company of the group, and employees directly recruited abroad by a Luxembourg company or by a company established in another EEA Member State.

General conditions for all impatriates

- Be tax resident in Luxembourg (based on domestic tax law)
- Not have been Luxembourg tax resident / lived at a distance lower than 150 km from the Luxembourg border / subject to Luxembourg income tax on professional income for the 5 years before arrival
- Undertake the local employment as their primary employment and pass on knowledge to local personnel
- Meet minimum annual base salary requirements (i.e. EUR 50,000) and must not replace another non-impatriate employee

Additional conditions in case of intra-group secondment

- Have at least 5 years of seniority in the international group / experience in the sector concerned
- An employment relationship exists between the sending company and the employee
- The secondee must be granted a right to return to the home company
- A contractual arrangement exists between the home and host companies with respect to the secondment

Additional conditions in case of recruitment

- Have acquired a deep specialisation in a sector or profession characterised by difficulties of recruitment in Luxembourg

Conditions relating to the employer

- The Luxembourg entity must employ or commit to employ at least 20 full time employees in the mid term
- If the entity has been in existence for a10 years or more, they can only have a maximum of 30% impatriate employees who benefit from this regime

Procedure

- At the latest by January 31 of each year, the employer is required to provide a report of the employees benefiting from the special regime
- In case non-resident employers are not required to withhold wage withholding tax on salaries and do not opt to do it on a voluntary basis, the individual is required to file a Luxembourg income tax return

1.5.2 Benefits of the regime

If the conditions described above are met, it is possible to obtain a tax relief for certain expenses which fall under the following categories:

- **Relocation** – Tax exempt amounts include costs of moving to Luxembourg and similar repatriation costs at the end of the secondment. Costs to make the Luxembourg home suitable to live in (defined in the circular) and costs for emergency travel can also be exempt from taxation
- **School fees** – A deduction is available for school fees associated with primary and secondary education
- **Lump sum for recurring expenses** - To cover cost of living allowances and miscellaneous expenses associated with the expatriation, a capped lump sum deduction is available
- The following combined costs are also eligible to a tax relief, subject to an overall cap:
- **Rent / Utilities** – The tax exempt amount depends on whether a home is maintained in the home country or not
- **Home Leave** - One trip per year per family member can be exempt from taxation
- **Tax Equalisation** – Costs associated with the difference in taxes between Luxembourg and the home country can be exempt from tax

The impatriate can benefit from the regime for up to five calendar years following the year of arrival, provided the conditions continue to be met.

1.6 Type of tax system

Individual income is subject to five different levies in Luxembourg:

- Income tax, the main state tax
- Municipal business tax, a communal tax levied on trading profits only
- Social security contributions due on professional income
- Employment fund contribution, assessed as a surcharge on income tax
- Dependence insurance contribution, levied on professional income and patrimony income

A description of the taxation of the different types of income is given in the following sections. The individual income tax system is based on the principle of aggregation of income from all categories in one annual assessment, thus securing the full effect of the progressive income tax rates. Taxes withheld at source are generally considered as prepayments of the income tax finally assessed.

The graduate tax scale is characterised by comparatively large tax-free thresholds and a rapid progression up to the maximum rate of 40% (42.80% / 43.60% including the 7% / 9% Employment Fund contribution).

2 Taxable income

2.1 General comments

Taxable income can be divided into the following different categories:

- Entrepreneurial income (i.e. income from trade or business, agriculture and forestry, self-employment)
- Income from employment
- Income from pensions and annuities
- Investment income (i.e. income from dividends and interest)
- Rental income (i.e. rents and royalties)
- Miscellaneous income (including income from casual services and capital gains on private assets)
- Receipts from a source not defined in the above categories are not subject to income tax, e.g. gifts, legacies, lottery and gambling gains.

Various income tax exemptions (e.g. social security benefits, legal severance payment, certain life annuities) are provided by the LIR.

2.2 Calculation of the taxable income

The above categories of income (after deduction of related expenses) are aggregated in order to determine the net total income. This net income is then reduced by various applicable deductions. As a result, the taxable income is determined.

Possible losses arising from one category of income are in principle compensated with positive income from other categories. Income falling under the miscellaneous category cannot be simply compensated with remaining categories, but can be compensated internally with some limitations. Negative investment income can be offset under other types of income within certain conditions only.

2.3 Tax rates and tax classes

Progressive tax rates range from 0% to 40%. The Employment Fund surcharge increases the income tax of 7% for income not exceeding EUR 150,000 for single taxpayers and EUR 300,000 for couples taxed jointly, and of 9% for income above these amounts. Income tax is levied on the income of a household, i.e. a husband and wife may not file separately.

The progressive rates of the income tax scale range as at 1st January 2016 as follows:

Income bracket (EUR)			Tax Rate (Base) %	Tax Rate (Effective*) %
0	-	11,265	0	0
11,265	-	13,173	8	8.56
13,173	-	15,081	10	10.70
15,081	-	16,989	12	12.84
16,989	-	18,897	14	14.98
18,897	-	20,805	16	17.12
20,805	-	22,713	18	19.26
22,713	-	24,621	20	21.40
24,621	-	26,529	22	23.54
26,529	-	28,437	24	25.68
28,437	-	30,345	26	27.82
30,345	-	32,253	28	29.96
32,253	-	34,161	30	32.10
34,161	-	36,069	32	34.24
36,069	-	37,977	34	36.38
37,977	-	39,885	36	38.52
39,885	-	41,793	38	40.66
41,793	-	100,000	39	41.73
100,000	-	150,000	40	42.80
Over 150,000			40	43.60

** Including the Employment Fund surcharge (the Employment Fund surcharge is not a social insurance charge, merely a current additional tax surcharge). Excluding the temporary tax to balance the state budget.*

A temporary tax to balance the state budget ("temporary tax") has been introduced from 2015 amounting to 0.5%. The tax is due on professional and replacement income (e.g. unemployment benefits, pensions, etc.) as well as on income from capital (e.g. dividend and interest income, rental income, etc.) taxable in Luxembourg of both resident and non-resident taxpayers. Luxembourg government recently announced that this temporary tax would be abolished as of 2017 (please see more details on planned 2017 tax reform in the section 2.5).

The rate at which income tax is levied depends not only on the application of the progressive rate scale, but also on the marital status, age and number of children of the taxpayer.

The classes of taxpayers are shown in the table below:

Status of taxpayer	Without dependentchildren	With dependent children (in household)	Aged more than 64 years
Unmarried	1	1a	1a
Married	2	2	2
Separated or divorced	* 2 / 1	* 2 / 1a	* 2 / 1a
Widowed	** 2 / 1a	** 2 / 1a	** 2 / 1a

** Residents and non-residents who get divorced during a specific fiscal year get the benefit of tax class 2 during the next 3 fiscal years provided they did not benefit from the same provision at any time during a period of 5 years before the considered fiscal year.*

*** Residents and non-residents who become widowed during a specific fiscal year conserve the benefit of tax class 2 during the next 3 fiscal years provided they did not benefit from the same transitory provision during the five preceding years.*

Non-resident taxpayers who are married and living together and who derive more than 50% of the household's professional income from Luxembourg are taxed in class 2 (otherwise, class 1a applies). If both spouses derive professional income from Luxembourg, the taxation in class 2 implies a joint taxation of the spouses.

The progressive rates of tax are applied to the taxable income of the above classes as follows:

Category	Application of tax rates
1	Applied to total of net taxable income
1a	Applied to total of net taxable income, less an amount calculated as 50% of the difference between EUR 45,060 and net taxable income when lower than EUR 45,060
2	Applied twice on one-half of the net taxable income

Annex 1 gives formulae for the computation of income tax in class 1 and in class 2 for the various levels of taxable income.

Procedure of obtaining a tax card in Luxembourg

Every employee working for a Luxembourg resident employer must request a tax card from the tax authorities. This tax card includes information (family situation, tax class, tax deductions) that will enable the employer to correctly calculate the monthly withholding taxes. In case no tax card is handed in, the withholding tax must be calculated using the tax class 1 and at the minimum tax rate of 33%, irrespective of the family situation and of the tax deductions that the employee might be entitled to.

In general, as of 2015, the tax cards for both residents and non-resident employees should be issued automatically within a delay of 30 working days following the affiliation (done by the employer) of the individual to the Luxembourg social security administration. As such, no request should be made nor should any action be taken by the employee. Issuance should be automatic for any subsequent year.This procedure is also applicable in case of change of the employer and composition of the taxpayers' household (provided declared at the Caisse Nationale des Prestations Familiales). For resident employees, this also applies in case of change of the taxpayer's address and civil status. However, changes concerning the address and civil status of the non-resident employees need to be announced to the tax authorities by filing a specific form.

2.4 Avoidance of double taxation

Double taxation of one specific income may occur when the same income is subject to tax in two or more countries. The source of the double taxation issue is that one taxing jurisdiction might tax income at its source, while others will tax income based on the residence of the recipient.

2.4.1 Presence of double tax treaty

In order to avoid the double taxation of the individual's income, the tax treaties concluded between Luxembourg and other countries provide the possibility for tax reliefs.

Double taxation treaties override domestic law. Tax treaties can, however, only have the effect of restricting, but never of enlarging, the power to tax that already exists in Luxembourg. The fact that the right to impose a tax may be given to Luxembourg by a treaty is without consequences if the tax in question is not already anchored in domestic law.

There are two methods being used to avoid double taxation that are particularly mentioned in each concluded treaty. The first method is tax exemption and the second one is tax credit.

Tax exemption

The exemption method for avoiding double taxation is for the residence country to altogether exclude foreign income from its tax base. The country of source is then given exclusive right to tax such income.

The comprehensive tax treaties which Luxembourg has signed are generally based, as far as Luxembourg is concerned, on the principle of the exemption of income that is taxable in the other contracting State. This is without prejudice, however, to the granting of a tax credit for taxes deducted at source on income from capital investments abroad. The exemption method has the advantage that proof of payment of the foreign tax is not required in order to reduce the amount of tax payable in the country of residence, as this latter reduction is independent of the amount of tax paid abroad.

Luxembourg, when exempting foreign income, generally employs the exemption with progression method. The taxation procedure, for the purpose of ensuring that the rate is progressive, is that the exempt income is added to the Luxembourg income in order to determine the global tax rate. This latter rate is then applied to the income taxable in Luxembourg. The result is that the income taxable in Luxembourg is taxed at the rate corresponding to the total income of the taxpayer, therefore taking into account his ability to pay tax.

Tax credit

This method reflects the underlying concept that the resident remains liable to tax in the country of residence on its global income, however credit for tax paid in the source country is given by the residence country against its domestic tax, generally up to the amount of domestic tax that is due in respect of the income concerned.

In the treaties concluded by Luxembourg, the credit method is generally used to avoid the double taxation of investment income.

The overview of the treaties concluded between Luxembourg and other countries can be found on Luxembourg tax authorities' website.[1]

2.4.2 Absence of double tax treaty

In the absence of an applicable tax treaty, double taxation may be avoided unilaterally under Luxembourg tax law (LIR). Unilateral relief is granted to tax residents by a credit for foreign taxes paid on income that is defined as being foreign income under LIR. The credit is limited to the foreign taxes actually paid and cannot exceed the Luxembourg income tax attributable to the foreign income. Except in the case of foreign dividends and interest, the country-by-country method must be applied. Any excess credit may be deducted as an expense when calculating taxable income.

For foreign dividends and interest, a global method may be used. At the request of the taxpayer, all such income from different foreign countries is aggregated, and the credit is limited to the amount of Luxembourg income tax applicable to this single total. Under this method, two further limits apply to credits for tax. First, foreign tax above the rate of 25% cannot be credited. Second, the foreign tax credit may not exceed 20% of the Luxembourg income tax charged on the taxpayer's total net taxable income. However, the excess tax is deductible as an expense in computing taxable income.

2.5 Tax reform 2017

On 29th February and 21st April 2016, the Luxembourg government announced measures for the new tax reform planned for 2017. The main changes would be as follows:

- The temporary 0.5% budgetary compensation tax that was introduced per 1st January 2015 would be abolished
- The individual tax top rate would increase progressively from 40% to 42%, for taxable income above EUR 200,000 per year
- Various tax deduction would be increased as:
  - Tax credit for single parent households: from EUR 750 to EUR 1,500, depending on the revenues
  - Tax credit for employees and pensions: from EUR 300 to EUR 600, depending on the revenues
  - Tax deduction mortgage interest on principal residence: 1st five years from EUR 1,500 to EUR 2,000
  - Tax deduction for private pension schemes: EUR 3,200; one amount for all ages
  - Tax deduction for home saving schemes: from EUR 672 to EUR 1,344, if not yet 40 years old
  - Extra-ordinary charges for housekeeping and childcare costs would increase to EUR 5,400/year
- Benefit in kind for company cars : will be determined based on carbon emission as well as the fuel type, from 0.5% to max 1.8 %
- Capital gains from the sale of real property (other than a main residence) sold between 1st July 2016 and 31 December 2017 would be taxed at 25% of the normal rate (i.e. max of circa 12.5%).
- Abolishement of "rental value" on main residence
- Married couples would be able to opt for individual taxation
- Equal treatment of crossborder workers: more specifically the tax regime for non-resident married taxpayers with regard to tax classes and applicable tax deductions
- The withholding tax on interest income in the scope of the Relibi law would increase from 10% to 20%

Note that these are draft proposals and have not yet been officialised by Law.

[1] http://www.impotsdirects.public.lu/conventions/index.html

3 Employment income

3.1 Definition

Income from employment is defined as the income earned in respect of rendering personal services under a link of subordination or under the direction of others. To distinguish employment income from independent personal services, employment is characterised by additional criteria like the absence of personal risk and individual responsibility.

Taxable salary embodies any compensation received by reason of employment, before termination of the employment contract, regardless of whether the emoluments are paid in cash or in kind, periodically or in a lump sum, spontaneously or in respect of a legal claim, whether paid directly to the employee or on his behalf to a third party, and irrespective of whether paid by the employer or by third parties involved (e.g. tips). Even employer's pension payments before termination of employment are considered as salary, e.g. a repurchase of unmatured pension rights under an occupational pension scheme.

After termination of employment, emoluments received are taxable as salary if determined as severance pay, a dismissal indemnity or salary in arrears.

Salaries are subject to withholdings which include both the individual's income tax and contributions to social security. The liability for correct withholdings and timely payment to the entitled administration rests with the employer. He is liable for withholdings on salaries paid as well as on pensions to former employees. The employer has to withhold wage tax and social security contributions each time he pays a salary. He has to account for this to the administration concerned on a monthly basis. Timely payments are required to avoid penalties. At year-end, the sum of payments and withholdings for each particular employee has to be reported on his tax card, which is then returned to the tax administration. There it serves as a voucher for the employer's next salary tax audit and for the annual assessment of the employee.

On salaries and benefits paid net of tax, the wage tax has to be grossed-up. Where an employer pays an employee's tax surplus assessed a posteriori on a take-home-pay, this has a tax-on-tax effect. For employees working simultaneously in Luxembourg and abroad, the salary has to be taxed on a time apportioned basis, i.e. the salary paid has to be divided by the actual number of working days. The daily amount is taxed at the rates in the daily tax tables.

3.2 Cash compensation

Cash compensation represents all forms of cash payments made to an employee for his services, typically base salary plus bonuses and other cash incentives. The employer has to withhold tax and social security contributions on cash salary each time he pays it (the same applies to non-cash remuneration).

3.3 Benefits in kind

3.3.1 General aspects

The basis of taxation of benefits in kind is founded on the general rule that all benefits and perquisites made available to the taxpayer and assessable under a given revenue category are considered to be income and therefore subject to tax. A benefit conferred in connection with paid employment is thus subject to withholding tax.

<u>Non-pecuniary benefits</u>

The assessable amount of non-pecuniary benefits such as accommodation, heating, board, goods and other supplies, is determined on the basis of the average price customarily applied in the locality where the supply is made at the time when the supply is made; in other words, the current market value. In theory, this value represents the costs that would be borne by the taxpayer if he had to pay for the benefit himself. In practice, this can prove quite difficult to quantify.

In order to limit this uncertainty, the tax authorities have introduced a series of standard valuation formulae to be applied to determine the assessable amount of the benefit in given circumstances. Where the formula produces an assessable amount different from that based on current market value, the employer has interest to retain the lower of the two.

Benefit in kind versus expense refund

A clear distinction must be made between these two types of transaction:

- a benefit in kind is a form of remuneration;
- an expense refund is one form in which a business handles expenses incurred by it.

Expense refunds are generally conditional upon production of a valid expense voucher as evidence that the expense has been incurred for the purpose of the employer's business. The tax legislation also provides a number of standard formulae for certain expense refund cases, mainly per diems.

The various types of benefits in kind encountered in practice are detailed below, looking in each case at the options available for determining the assessable amount.

3.3.2 Employer provided accommodation

Where an employer provides an employee with separate living accommodation such as a house or apartment, one must distinguish between two types of arrangement:

Employee contractually liable for rent and lease in his name

Where the employer refunds the rent paid, this is treated as equivalent to a pecuniary benefit, wholly assessable at face value. A pecuniary benefit is, by definition, not a benefit in kind. There are no valuation issues as a simple cash or "money's worth" basis is used to determine the assessable amount.

Employer contractually liable for rent and lease in his name

This case is the quintessential benefit in kind, subject to specific valuation rules depending on the characteristics of the property, or by analogy with the market rent payable for a property of similar type.

A standard valuation formula is equally available based on the so-called "unitary value" of the property occupied by the employee. The monthly assessable amount is fixed at 25% of the unitary value, subject to a minimum limit of 75% of the monthly rent (excluding service charges) paid by the employer. Where the property is owned by the employer, the minimum limit is fixed at EUR 8 per sq. meter of living space for apartments and EUR 7 in all other cases.

The unitary value is a reference value used primarily for the computation of land tax. It corresponds to the value of property expressed in prices as at 1 January 1941.

Example	**EUR**
Unitary value of property	2,500
Effective monthly rent	1,000
Unitary value x 25%	625
Rent x 75%	750
Assessable amount per formula	750

Where such ancillary expenses as service charges are borne by the employer, they are included in the assessable amount of the benefit at full face value. Where the accommodation is furnished, the benefit amount is automatically uprated by 10%.

Any amounts made good by the employee are deductible from the taxable base.

In practice, therefore, the employer will need to be aware of the unitary values of any property owned or let by him. This information is available on request from the relevant department of the Luxembourg tax authorities (Administration des Contributions).

3.3.3 Company car

The use of a company car is a common perk granted to management grades. The employee has full and free access to the vehicle and may use it for business and private travel alike.

There is basic assumption of private use, unless the employee can demonstrate that he uses his private vehicle for the journey between home and work and that the company car is left on the employer's premises outside normal working hours.

Alternative rules exist for determining the taxable amount of the benefit in kind.

Actual cost basis

The employee maintains a detailed mileage log, distinguishing private from business mileage. The journey between home and work counts as private mileage. The employer must determine the standard cost per km according to the type of vehicle. The amount of the benefit corresponds to the total private mileage at the standard cost per km. A return is submitted monthly and a schedule attached to the employee's payslip.

Lump-sum basis

The monthly amount of the benefit is fixed arbitrarily at 1.5% of the total cost new of the vehicle, inclusive of VAT and any options fitted to the vehicle, irrespective of whether the vehicle is owned, leased or hired by the employer.

Where the vehicle is owned outright by the employer, an employee contribution to the fixed capital cost of the vehicle may be used to reduce the assessable amount of the benefit by prorating the contribution against the monthly benefit over a certain period, subject to a maximum limit of 20% of the actual purchase cost borne by the employer.

Where the vehicle is the subject of a lease or rental contract, an employee contribution to the fixed cost may be deductible in the same way, subject to a maximum limit of 20% of the actual cost borne by the employer.

Amounts paid by the employee with respect to variable costs such as fuel, maintenance or repairs are not deductible under this option.

3.3.4 Preferential loans and interest subsidies

Principle

It is general practice for employers, within the banking sector particularly, to grant employees low interest or interest-free ("preferential") loans.

The law provides a standard valuation formula to assess the benefit resulting from below-market rate or interest-free loans. The benefit resulting from an interest-free loan is fixed at 1.50% of the loan per year (official interest rate fixed by law as from 2015). If the interest rate borne by the employer is lower than 1.50%, the benefit is computed on the difference between the interest rate granted and the 1.50% rate. This applies whether the loan is granted directly by the employer or indirectly via a third party.

The employer may also reimburse all or part of the interest borne on a loan contracted by the employee (interest subsidy). The benefit in kind is then valued at the nominal amount of interest refunded.

Conditional relief

The law provides for an exemption of the first EUR 3,000 per year of the assessable benefit. In case of joint taxation of couples and single-parent families, the exemption amounts to EUR 6,000 per year.

This relief is only available where the loan is directly attributable to the taxpayer's declared principal private residence, or contracted for the purpose of financing the purchase of the relevant plot of land, the construction or renovation thereof. Secondary residences, such as holiday homes, do not qualify.

A more modest annual relief of EUR 500 (or doubled, as above) does, however, apply to loans for other purposes under the terms of the same regulation.

3.3.5 Employer's occupational pension schemes

Principles

The law of 8 June 1999 on occupational pension schemes delivers a framework for employers to draw up supplementary occupational pensions. Occupational pension schemes may be set up for all employees of a company or for some categories of employees only. They may provide coverage for retirement, disability, death and survivors. The scheme may be a defined contribution scheme or a defined benefit scheme. Employers are free to set up a pension scheme and to define the details of the scheme within the legal framework (contributions, benefits, financing, etc).

The law provides two funding options: internal schemes (book reserve) and externally funded schemes (pension funds or group insurance). In any case, the death and disability coverage must be specifically insured by an insurance company.

The financing must be regular and correspond to a funding plan approved by the Social security authorities, acting as the supervisory authority in this respect. Minimum funding rules are fixed by law and checked by the social security authorities.

Pension's regulation

Setting up a pension plan is mandatory and must cover the main following items:

- The type of pension scheme and the definition of benefits granted to the scheme members and, when applicable, to their survivors
- The participants to the scheme and the conditions of eligibility
- The rules concerning the individual contributions
- The rules to determine the accrued and vested rights
- The way to inform the scheme members
- The way to pay the benefits
- The conditions and methods to maintain, transfer and buy back acquired rights
- The method to compute the affiliation periods

The maximum vesting period provided by the law is 10 years.

Scheme's member rights

Membership of the scheme is mandatory for all new qualifying personnel pertaining to a category covered by the scheme. Employee contributions may be made mandatory for new personnel, but must remain optional for existing staff at the time the scheme is introduced. Any employee may refuse that the personal contributions be increased.

Any scheme member must receive a copy of the pension plan as well as an annual certificate stating his vested rights and his long-term benefit rights.

After the vesting period, the employee who leaves his employer is entitled to his vested rights, even in case of dismissal for professional misconduct. The computation of the entitlement depends on the type of scheme, i.e. defined contribution plan or defined benefit plan.

Vested rights must be totally guaranteed up to the age of retirement. In some cases where the employee leaves the employer before the retirement age, the entitlement may be transferred to another employer or bought back by the employee.

Tax treatment

Employer's contributions are subject to a flat 20% tax charge payable and borne by the employer. This tax is also deductible as operating expenses to the extent it relates to contributions that are deductible. A surcharge of 0.9% is due for the financing of the supervisory authorities.

Benefits paid out, transferred or paid back to the employee are tax exempt in the hands of resident taxpayers. Non-resident taxpayers must refer to statutory provisions of their country of residence.

Employer's contributions are deductible for corporate income tax purposes as operating expenses to the extent that they do not exceed 20% of the normal annual remuneration of the scheme member. The annual ordinary remuneration is the monthly salary multiplied by 14.4. Specific rules are available for employees participating to a defined benefit pension scheme set up before 1st January 2000.

Employee contributions are deductible for personal income tax purposes up to a maximum annual amount of EUR 1,200.

3.3.6 Life insurance and Home saving & loan contracts

Where the contributions to a life insurance (not covering the death) or a home saving & loan contract are paid over by the employer on the employee's behalf, they are subject to taxation through wage withholding tax deduction in the usual way.

The employee may claim a corresponding deductible expense within the applicable limits and conditions.

In practice, there are relatively rare cases of employer involvement in employee's life insurance cover and home saving and loan schemes.

3.3.7 Stock grants

Stock granted to employees by their employer or by a company of the group their employer belongs to can be granted free of charge or at a reduced price. Such schemes enable the employee to participate in the capital of the company or the group the company belongs to. No specific legislation rules in Luxembourg the grant of shares to employees.

From a tax point of view, stock granted free of charge or at a reduced price by the employer to his employees is considered as a taxable benefit in kind, whether the stocks have been issued by the employer or another company.

Taxation occurs when the shares are economically transferred to the employee, which time point may vary from one scheme to the other. The taxable basis consists of the market value of the shares at the moment of transfer, less any price paid by the employee.

For quoted stocks, the market value to retain is the stock value at the date of transfer. For non-quoted stocks, a specific valuation needs to be done.

<u>Capital gains treatment</u>

For Luxembourg residents, capital gains realised on the sale of shares are taxable only in the case they are held for a period of less than or equal to 6 months. Specific provisions apply to capital gains realised upon the sale of shares that qualify as a significant shareholding (i.e. they represent more than 10% of the capital of the company).

Luxembourg non-residents must refer to the legislation prevailing in the country where they reside.

3.3.8 Stock options

Granting stock options to employees enables them to acquire, at a certain price and under certain conditions, stocks from their employer or from a company of the group their employer belongs to. No specific legislation rules in Luxembourg the grant of stock options. An administrative circular defines their tax treatment.

As a general rule, two types of options have to be considered for taxation purposes:

- Transferable stock options
- Non-transferable stock options or individual options

Transferable options

Transferable options are options that can be freely sold by the employee to a third party. They are considered as a benefit-in-kind in the hands of the employee and are taxable at the time of grant. The amount subject to tax is the difference between the stock exchange or market value of the options at the time of grant and the price paid by the employee for the option (if any).

The market value of transferable unquoted options may be determined either in accordance with a recognised valuation method or by taking a fixed 17.5% of the market value of the underlying share at the time of grant.

Non-transferable options

Non-transferable options, on the other hand, may not be sold by the employee and have no intrinsic value attributable to them. Hence, such options are taxable only at the time they are exercised.

The basis of assessment is the stock exchange or market value of the shares at the date of exercise, less any option price paid by the employee.

If the employee is required to hold the shares for a certain period of time, this may affect their market value. The employee is therefore entitled to a 5% per annum relief against the stock exchange or market value in determining the amount of the taxable benefit. The relief is limited to a maximum of 20% of the value of the shares.

Capital gains treatment

For Luxembourg residents, any gain realised on the sale of securities, shares and options acquired through a stock option plan is taxable only in the case the holding period is less than or equal to 6 months. In addition to this general rule, no tax is due on a capital gain where the disposal of the shares acquired through a stock option plan takes place within 7 days of the option exercise date. Specific provisions apply in case of gains realised on the sale of substantial shareholding (more than 10%).

Luxembourg non-residents must refer to the legislation prevailing in the country where they reside.

3.3.9 Luncheon vouchers

Luncheon vouchers provided by employers to their employees are tax-exempt up to the difference between the average price of a meal (fixed by law at EUR 2.80) and 3 times this value (EUR 8.40), i.e. a maximum amount of EUR 5.60. Therefore, when the employee is required to pay EUR 2.80 per luncheon voucher, the employer can provide luncheon vouchers of a maximum value of EUR 8.40 completely tax free.

As from 2017, it is to be expected that the value of a voucher would increase to EUR 10.80.

3.3.10 School fees

A strict reading of the provisions of the law by the tax authorities deems the refund of such costs as a taxable benefit in kind rather than a necessary business expense, except under the special tax regime for highly skilled mobile employees (see section 1.5).

3.3.11 Tax planning for employers

Dual employment contracts / split payroll

A dual employment contract or a split payroll may be a useful planning strategy for reducing tax costs.

Timing of transfer

The timing of the transfer to or from Luxembourg is a useful planning strategy for reducing tax costs. This strategy is particularly beneficial if there is no requirement to deduct tax at source.

Deferral / Advancement of income streams to non-resident periods

The deferral or advancement of income streams to a non-resident period, including tax reimbursements, is a useful strategy for reducing tax costs. The date that income is “made available” is the key. Although salary still is taxable, an employee may benefit from greater overall allowances and use of the tax rate bands.

Tax reimbursement methods

The following tax reimbursement methods are acceptable for recognising company-provided tax reimbursements to employees while on assignment in Luxembourg:

- Current-year gross-up (if the employer has a permanent establishment in Luxembourg or if an economic employer is recognised in Luxembourg, and there is by way of consequence a wage withholding tax obligation, this reimbursement method usually will be the only acceptable method).
- Current-year reimbursement (usually acceptable only if the employer does not have a permanent establishment in Luxembourg or if no economic employer is recognised in Luxembourg; otherwise, current year gross-up should be used).
- One-year rollover (usually acceptable only if the employer does not have a permanent establishment in Luxembourg or if no economic employer is recognised in Luxembourg; otherwise, current year gross-up should be used).

4 Entrepreneurial income

Entrepreneurial income subsumes income from a trade or business, income from agriculture and forestry and income from self-employment. These three activities are characterised by their independent character. Therefore, the following are excluded: activities where the taxpayer is an employee, hobbies, where there is no element of gain, or incidental activities, the income from which would be categorised as miscellaneous income.

An individual's taxable entrepreneurial income is usually computed according to the rules for companies, where profits and charges are accounted for on an accrual basis. A simplified method of computation, considering income and expenses on a cash basis, may be used in certain cases.

4.1 Business income

Trading profit (business income) is income derived from a commercial, industrial, mining or craft work undertaking.

Trading income is characterized by four major criteria:

- Carried out on an independent basis
- With intent to profit
- On a permanent basis
- Involving participation in economic life

The law specifies that any activity that satisfies these criteria and that is neither agricultural in nature nor a self-employed activity must be considered to be an activity generating trading income. This definition is likely to lead to disputes and fiscal practice has, in fact, had frequently to refer to the supplementary regulation or to the interpretation of the courts in order to distinguish between trading activities, self-employed activities and agricultural activities, or further between commercial and private wealth management (e.g. the renting or sale of private buildings). Moreover, trading income is the only income that is subject to municipal business tax.

4.2 Income from self-employment

The entrepreneurial activities where the resulting income is considered to be independent professions income are:

- Scientific, artistic, literary, teaching or educational activities
- The professional activities of doctors, dentists, veterinarians, midwives, physiotherapists, lawyers, notaries and solicitors, bailiffs, trustees, testamentary executors, accountants, tax advisors, engineers, architects, chemists, inventors, expert advisors, journalists, interpreters and all other similar professional activities
- The activities of directors and statutory auditors of companies limited by shares (for further information regarding the taxation regime of director's fee, see 4.4.)

These activities are only considered to be self-employed activities if the persons engaged in them are self-employed. If the professional in question employs other individuals he must take an active and guiding part himself in the activity concerned in order to avoid that the activity qualifies as trading income instead of self-employment income.

4.3 Income from farming and forestry

Income from farming and forestry is defined by the legislation as being the proceeds of the exploitation of the land by:

- The production of crops
- The raising and fattening of animals on an agricultural holding
- A subsidiary activity intended to process the products produced by the main activity

- The letting of land (e.g. for the purposes of hunting or fishing) in correlation with the pursuit of agriculture or forestry
- The disposal of the undertaking

4.4 Directors' remuneration

Directors' remunerations for activities of appointed directors and similar supervisory positions in corporate entities qualify as self-employed income and are usually referred to as directors' fees.

4.4.1 Personal tax consequences

The tax regime applicable to directors' fees provides that a withholding tax of 20% applies to the directors' remuneration gross amount and is creditable against the personal income tax due by the director.

Resident taxpayers

The resident taxpayers must submit a tax return whenever their income includes directors' fees whose amount exceeds EUR 1,500.

Non-resident taxpayers

For non-resident taxpayers, the 20% withholding tax is final provided the director has no other Luxembourg source professional income and the total directors fees earned do not exceed EUR 100,000 per annum.

However, a director may elect to file a tax return in order to profit from an average tax rate that may be less than the withholding tax rate (20%). In case of tax return filing, the taxpayer is entitled to the tax class that corresponds to his family status and to available tax deductions. It is important to consider the fact that directors' fees derived by a non-resident director would then be subject to progressive tax rates with a minimum rate.

Finally, whenever directors' fees exceed EUR 100,000, it is compulsory for the non-resident taxpayer to file a tax declaration.

Director's income related to day-to-day management duties is categorized as employment income.

Parallel board membership and employment activities are compatible.

4.4.2 Tax consequences for company

The directors' fees are non-deductible in hands of the paying company.

The paying company must file a withholding tax return whenever directors' fees are paid out. It must also keep a withholding tax register and deliver annual remuneration certificates to the directors.

5 Pension and annuities

Pension and annuity income includes payments made to a retired employee, whether they result from contributions made by the employer, the employee or both, or from life or other annuities.

For tax purposes, the law discriminates between "earned" pensions and “private” pensions.

Earned pensions derive from a personal activity, whether as a trader, a farmer, an independent person or an employee. Earned pensions are subject to the same wage withholding tax procedures as salaries. Earned pensions include:

- Social security (State) pensions
- Pensions paid by a former employer

Private pensions are taxable by assessment and only insofar as they are deductible for the payer or the donor. These pensions are:

- Life or other annuities paid by way of a private insurance
- Life annuities settled in consideration for a sold or bequeathed asset
- Alimony or private annuities settled by notarial deed or by a court decision

By exception, pensions received in respect of an approved occupational pension scheme set up by the employer (under the law of 8 June 1999, see section 3.3.5) are tax exempt.

Foreign source pensions

Residents deriving pensions from a non-treaty country are subject to Luxembourg tax with credit for foreign income tax paid. When derived from a treaty country the following applies:

- Private pensions are taxable in Luxembourg
- Social security (State) pensions are either tax exempt or taxable in Luxembourg, depending on the relevant treaty
- Foreign public pensions for governmental service are generally tax exempt

Computation of pension income

Tax-free and tax-reduced pensions:
- 50% of life annuities or income from a lifelong usufruct is tax exempt if settled for a single valuable consideration
- Lump-sum payments in lieu of pension may be completely tax free or taxable at one half of the average rate, depending on the nature of the premiums paid

Deductible expenses and standard allowances comprise the compulsory social security contributions and a minimum lump sum deduction of EUR 300 for expenses (an individual may opt to prove actual expenses incurred) which is deductible for all pensioners and is automatically taken into account for pensions subject to pension withholding tax.

6 Dividends and interest

6.1 Dividends

Dividends include any distributions of corporate profit to holders of shares or participating certificates or similar claims, whether paid in cash or in any other form.

Dividends are taxed as investment income. Distributions of profits by fully taxable resident companies are subject to a 15% withholding tax.

Moreover, 50% of the dividends allocated by all EU-resident companies covered by the Parent Subsidiary Directive and (under conditions) companies resident in countries with which Luxembourg has a double tax treaty are tax free in the hand of a Luxembourg resident.

No such tax free amount applies if the paying company is a tax-exempt holding company, or an undertaking for collective investment with a corporate form. There is no withholding tax applied to distributions by such entities when they are resident in Luxembourg.

Dividends are taxed on the basis of expenses and receipts paid or cashed in the calendar year. Recurrent receipts or expenses are allocated to the year concerned if they occur shortly (i.e. about 2 weeks) before or after that year. Gross income may be reduced by incidental costs such as financing costs, safe rentals, agent's fees or, instead, a standard allowance of EUR 25 (or EUR 50 for couples jointly taxable).

A tax credit is given for withholding tax paid at source. Investment income (both dividends and interest income excluded from the 10% final withholding tax) is tax free up to EUR 1,500 (or EUR 3,000 for couples jointly taxable) annually.

6.2 Interest

Interest income covers any revenue from fixed-income investment.

The law provides for a final withholding tax of 10% on interest income paid by a paying agent established in Luxembourg to beneficial owners resident in Luxembourg. Interest income subject to this final withholding tax does not have to be reported in the annual tax return. However, the withholding tax is not considered as a final withholding tax if the income derives from business assets of the investor rather than private assets (i.e. self-employment or business activities).

The main types of income concerned are:

- Interest on savings accounts
- Interest on current accounts or fixed terms deposits
- Interest on bonds

In order to protect the interests of those with modest incomes, the law provides that interest that are paid once a year on savings accounts and that do not exceed EUR 250 per person and per paying agent are exempt from withholding.

The 10% final taxation can also be applicable if the paying agent is established in the European Economic Area (EU Member States and Iceland, Liechtenstein and Norway) or in a State which has concluded an agreement with Luxembourg including measures equivalent to those of the EC Savings Directive. Individual taxpayers resident in Luxembourg who want to opt for the 10% withholding tax should send a specific declaration at the latest by 31 March after the end of the calendar year in which the interest was received.

Moreover, as of 1st January 2009, interest paid by home savings institutions to individuals is fully tax exempt. This is applicable to home savings institutions agreed in Luxembourg or in any EU Member State.

Income excluded from the 10% final withholding tax is taxable at progressive rates upon filing the annual tax return.

Interest income excluded from the 10% final withholding tax is taxed on the basis of expenses and receipts paid or cashed in the calendar year. Recurrent receipts or expenses are allocated to the year concerned if they occur shortly (i.e. about 2 weeks) before or after that year. Gross income may be reduced by incidental costs such as financing costs, safe rentals, agent's fees or, instead, a standard allowance of EUR 25 (or EUR 50 for couples jointly taxable).

A tax credit is given for withholding tax paid at source. Investment income (both dividends and interest income excluded from the 10% final withholding tax) is tax free up to EUR 1,500 (or EUR 3,000 for couples jointly taxable) annually.

Interest paid on profit-sharing bonds is considered the equivalent of dividends and, thus, is subject to a 15% withholding tax when paid by a Luxembourg resident company, which is creditable for resident recipients against the final income tax assessed.

7 Rents and royalties

Income from the letting and leasing of real estate and other property, movable or not, and royalty income from patents and copyrights are all considered rental income. The rental value of the taxpayer's own private residence also is included as taxable income.

Payments of royalties to both residents and non-residents are not subject to withholding tax.

7.1 Real estate income

7.1.1 Owner-occupied property

Living in one's own home is a taxable advantage. The imputed income is based on a very low fictitious rental value derived from the unitary value of the house. The unitary value is a reference value that corresponds to the value of property expressed in prices as at 1 January 1941. For private dwellings it is generally less than 1% to 2% of the market value. The imputed income is equal to 4% of the unitary value not exceeding EUR 3,800 and to 6% of the unitary value above EUR 3,800.

Where the dwelling has been financed by a loan, the deduction of mortgage interest leads normally to a negative income from owner-occupied premises. Mortgage interest deduction is limited; the annual maximum depends on the year of occupation of the dwelling by the owner and varies between EUR 750 and EUR 1,500 per family member. While construction is in progress, mortgage interest and other financing costs are fully deductible.

No other expenses are deductible for the owner-occupier except life annuities payable in consideration of the acquisition of the property.

7.1.2 Other real estate

Rental income from immovable property includes receipts from letting of real estate or letting of the right to use real estate (sublease, easement, and usufruct).

For computation of rental income and to account for a long-term investment, which real property generally is, the deductible-when-cashed rule is waived for some expenses?

- Acquisition price of the building is written off at the following rates:
  - 6% for buildings less than 6 years old (under conditions)
  - 2% for buildings between 6 and 60 years (inclusive) old
  - 3% for buildings more than 60 years old
- Expenses for renovation and major repair are considered an investment, if thereby the building has been altered in such a way that it is held to be a different building or that it has been significantly improved. If so, the expenses have to be capitalized and written off as above.
- If the repair costs are significant maintenance or upkeep costs, the taxpayer may elect to have them spread over a period up to 5 years, provided he does not use the premises for professional purposes.

Current expenses deductible in the year they are incurred include miscellaneous repairs, insurance, management expenses, property tax and operating expenses (electricity, water, refuse collection expenses not reimbursed by the tenant) and debt interest.

Maintenance and repair costs, operating expenses not reimbursed by the tenant and depreciation expenses can, at the taxpayer's request, be replaced by a flat-rate deduction for income-related expenses. The flat-rate deduction applies only to buildings whose construction, as at 1 January of the tax year, had been completed at least 15 years before and are an integral part of the taxpayer's private wealth. The flat-rate deduction is equal to 35% of the gross rental income and excludes charges reimbursed by the tenant. The deduction is nevertheless capped at EUR 2,700 per year.

However, the following expenses are fully deductible even if the taxpayer opts for the flat-rate scheme:

- Management expenses and payments for security staff and concierges
- Real estate tax and municipal tax if not paid by the tenant
- Annuity instalments and debt interest

7.2 Royalties

Payments for the use of property are chargeable to tax as rental income.

This income includes:

- Royalties for the use or the right to use intangible, intellectual and industrial property such as copyrights for literary, artistic, scientific work or patents, trademarks, know-how and other commercial property
- Royalties for the use or the right to use industrial, commercial or scientific equipment or information

Royalties for copyrights and patents are taxable as rental income where the recipient is not actively involved. Where copyrights and patents are invested in an undertaking, royalties received therefrom are taxable as either business or professional income.

As of 1 January 2008, new provisions apply to royalty income to promote R&D activities in Luxembourg and increase its attractiveness as a place for intellectual property management. Accordingly, an exemption of 80% is granted on income derived from some intellectual property rights (e.g. copyright on software, patents, trademarks, designs and models) acquired or constituted after 31 December 2007 by a Luxembourg company or a Luxembourg permanent establishment of a foreign entity.This partial exemption covers:

- Income arising from the use or the right to use the eligible intellectual property rights
- The use of a self-developed patent by a company for its own activities
- The disposal of the eligible intellectual property rights

There is no withholding tax on royalties paid to residents or non-residents.

Royalties may not be reduced by any specific deduction other than incidental cost. The scope of deductible expenditure however varies considerably depending on whether the royalties are considered rental income or whether they become chargeable to tax as business income or income from independent services. In both cases, the taxable income may be reduced by items like depreciation, accrued expenses or VAT, items that would not be allowed for deduction of rental income.

8 Capital gains

Capital gains are not subject to a separate tax but are taxable at the standard or reduced rates of income tax, depending on the kind of income under which the capital gain arose. Where an asset was invested in a business, the capital gain is included in the taxable trading profit. Capital gains on the disposal of assets held by individuals are taxable as miscellaneous income. The tax on capital gains varies considerably according to whether the asset is sold within or after a minimum holding period.

8.1 Short-term (speculative) gains

A transaction is speculative when:

- Immovable property is sold within 2 years from purchase or
- Movable property is sold within 6 months from purchase or
- The sale precedes the purchase

A speculative gain is calculated as the sales proceeds minus the purchase price and minus incidental costs (notary's fees, transfer tax, agents' commission, advertising, improvement costs, etc).

Speculative gains are taxed at the full marginal rates if they exceed EUR 500 per year.

Speculative gains may be compensated with speculative losses, i.e. losses on immovable property within 2 years from purchase and on movable property within 6 months from purchase.

8.2 Long-term gains

On long-term gains, i.e. gains on immovable property held longer than 2 years and gains on substantial participation (i.e. if an individual holds directly or indirectly more than 10% of the entity's capital) held longer than 6 months, the tax burden is mitigated by three major reliefs:

- The purchase price is revalued using the revaluation ratios for inflation during the period of ownership. The ratios are updated once every two years
- The first EUR 50,000 (doubled for couples taxed jointly) of gains realised in an 11-year period are exempt
- An additional flat deduction of up to EUR 75,000 is available to an heir who sells the dwelling last used by his parents
- Long-term capital gains are taxed at half the individual’s global tax rate, i.e. a maximum of 21.80%

Gains on business assets do not benefit from this treatment; however, the treatment does apply to gains realised on the cession of an individual business.

The income relating to the sale of movable property (e.g. securities) kept longer than 6 months is not considered taxable, except if a substantial participation is involved.

Long-term gains may be compensated with long-term losses, i.e. losses on immovable property after 2 years from purchase and on substantial participation after 6 months from purchase. The balance of speculative gains/losses and of long-term gains/losses may be compensated against each other.

Compensation with other categories of income is not allowed.

New Law on long-term capital gains realized on immovable property (Law of 3rd May 2016):

In order to encourage the real estate market, by increasing the number of building lots and houses, the government has voted a temporary measure by which the long-term capital gains realized on immovable property would be taxed at a quarter of the global tax rate (around 10,9%).

This measure would only be applicable for immovable property held for more than 2 years and belonging to the private assets of the individual. The measure is temporary and will be in force for the period from 1st July 2016 until 31st December 2017.

8.3 Principal residence

Gains arising on the disposal of the taxpayer's private home are tax free if the taxpayer has resided there since the acquisition or at least 5 years before the sale, or if he has to move for professional or family reasons. If the taxpayer is the owner of a new dwelling, the tax exemption on the former residence is available only until the end of the year after he has moved out.

9 Deductions and allowances

As a Luxembourg resident taxpayer, an individual is entitled to deduct from his taxable income a certain number of expenses and investments realised during the respective tax year.

These tax concessions are also open to non-resident taxpayers, provided they generate at least 90% of their total income in Luxembourg (and to Belgian resident taxpayers who generate more than 50% of their professional income in Luxembourg). The total income of the household is taken into account for the computation of the average tax rate applicable to the Luxembourg income. See section 1.3.3 for further information.

In view of the announced tax reform as per 1st January 2017, it is expected that the ceiling of a number of deductions will increase (see section 2.5).

9.1 Deductions

The following deductions are available in Luxembourg:

9.1.1 Standard deductions

The following standard deductions are allowed as income-related costs:

- Employment income: EUR 540, increased by an amount up to EUR 2.574 for commuting costs
- Pension and annuity income: EUR 300
- Investment income: EUR 25

9.1.2 Social security contributions

An unlimited deduction is provided to residents and non-residents for Luxembourg social security contributions. Foreign contributions are deductible provided they are paid to a regime referred to by a bi- or multilateral social security agreement.

9.1.3 Insurance premiums

By contributing to a life insurance or a third-party liability, death, accident, illness or disability insurance contracted with an insurance company approved in Luxembourg or in another EU Member State, a taxpayer may benefit from a deduction of the premiums paid up to EUR 672 per member of the household. Contributions to societies recognised in Luxembourg or in another EU Member State for insurance covering illness, accident, inability to work, disability, unemployment, retirement or death also qualify. The tax relief for life insurance premiums applies provided the contract runs for a minimum period of 10 years; it is open to “conventional” contingency products and to unit-linked products provided they include a substantial death coverage.

Contributions paid to an insurance company located in a non-EU country are deductible provided the contract was concluded at least six months before the individual moved to Luxembourg, and the insurance company is duly agreed in the country where it is established.

9.1.4 Home saving and loan schemes

Should an individual wishes to set aside savings for a future home of his own, it is worth noting that amounts paid into a home saving and loan scheme are tax deductible up to EUR 672 per member of the household provided they are paid to institutions that are approved in Luxembourg or in another EU Member State and they are put towards the financing of the construction, purchase or conversion of the private residence or for the repayment of debt contracted for the same purpose.

9.1.5 Debit interest

An individual may obtain a deduction for debit interest on private loans, credit cards or debit bank accounts up to a maximum of EUR 336 per member of the household. Mortgage loans qualify for a separate deduction under specific conditions (financing of principal residence, see section 7.1.1).

9.1.6 Mortgage interest

Interest for the taxpayer's owner-occupied house is deductible against an insignificant amount of imputed income representing the benefit of the taxpayer's living in his own private residence (see section 7.1.1). This deduction is subject to a limit of EUR 1,500 per member of the household for the first six years of occupation, EUR 1,125 for the next five years and EUR 750 for subsequent years.

9.1.7 Private old age pension schemes

Contributions to private old age pension schemes are deductible up to certain ceilings depending on the taxpayer's age, and provided the following conditions are simultaneously met:

- Contributions are made to specific products supplied by insurance companies or banks, that comply with the provisions of the law; foreign products generally do not comply;
- The payment of benefits is deferred for at least a 10-year period after the subscription;
- The payment of benefits occurs not before the age of 60, but at the latest at the age of 75;
- The payment of benefits takes the form of monthly annuities for at least 50 percent of the total benefits.

The ceilings of deduction of the contributions range as follows:

Age of subscriptor at the beginning of the tax year	Maximum tax deduction
less than 40 years old	max. EUR 1,500
between 40 and 44 years old	max. EUR 1,750
between 45 and 49 years old	max. EUR 2,100
between 50 and 54 years old	max. EUR 2,600
between 55 and 74 years old	max. EUR 3,200

When married taxpayers assessed jointly subscribe each a private pension scheme, the ceiling of deduction is computed individually for each spouse.

9.1.8 Charitable contributions

A deduction for charitable contributions to Luxembourg approved organizations, or to organisations which public interest is recognized in another State of the European Union or in Iceland, Liechtenstein, Norway or Switzerland, is allowed subject to minimum contributions of EUR 120 and to maximum contributions of EUR 1,000,000 or 20% of taxable income (whichever is lower). Charitable contributions that exceed the maximum deductible amount can be carried forward over the two subsequent years.

9.1.9 Alimonies to divorced spouse

An allowance is provided for annuities and expenses paid to a divorced spouse (with specific requirements for divorces pronounced by Court Order before 1st January 1998). These charges are deductible up to an annual amount of EUR 24,000.

9.1.10 Lump sum deduction

A fixed minimum deduction of EUR 480 (EUR 960 for married couples who are both employed) applies for the aggregate of deductions relating to annuities, insurance premiums, private old age pension schemes, contributions to saving and loan contracts and debit interest. This is deductible for non-residents as well.

9.2 Allowances and tax credits

The following reliefs and allowances are provided in Luxembourg:

9.2.1 Tax credit for wage-earner

An employed taxpayer is entitled to a compensatory tax credit of EUR 300 per year, EUR 25 per month or EUR 1 per day. The tax credit is granted by the employer on a monthly basis and is deductible from the withholding tax. As a consequence, this tax credit is not granted to an employee not subject to withholding tax.

9.2.2 Tax credit for pension-earner

A retired taxpayer is entitled to a pension/annuity tax credit of EUR 300 under the same conditions and modalities as the tax credit for wage-earners.

9.2.3 Tax credit for self-employed

A self-employed individual is entitled to a compensatory tax credit of EUR 300 per year. The tax credit shall be claimed upon filing of the individual's tax return.

9.2.4 Tax credit for bearing children

When children being part of the household give right to Luxembourg family allowances, the taxpayer receives an additional allowance (boni pour enfant) of EUR 76.88 per month and per child. When children do not give right to family allowances but benefit from a scholarship or from an allowance for volunteers paid by the Luxembourg State, the additional allowance (boni pour enfant) is paid with the scholarship or allowance for volunteers.

When children do not give right to family allowances or to scholarship/allowance for volunteers, the taxpayer is able to claim the payment of the tax rebate for bearing children through his tax return. The rebate that amounts to EUR 922.50 per annum is credited against the final income tax burden; any excess over the final tax burden is not refundable.

9.2.5 Tax credit for single parent

A single parent is allowed a tax credit of EUR 750, which can be reduced if a child receives an allowance exceeding this amount.

9.2.6 Extraprofessional abatement

A joint abatement of EUR 4,500 is provided for jointly taxed couples if each realises own professional income. Upon request, this abatement is also granted to households where one spouse has retired for less than 3 years, while the other is still working.

9.2.7 Childcare costs and housekeeping costs

If an individual has incurred childcare costs or domestic service costs during the taxable year, he may apply for a standard rebate of taxable income for extraordinary expenditure, simultaneously covering:

- Childcare costs for services relating to dependent children aged under 14 on 1st January of the tax year, and provided by persons and organisations (crèches, day nurseries and public nurseries) approved in Luxembourg or in another EU Member State;
- Housekeeping costs for services rendered in the taxpayer's dwelling by a staff hired by the taxpayer either directly or indirectly through an enterprise or association to the double condition that they are duly registered with the social security authorities and that they do mainly domestic work inside the dwelling of the taxpayer.

The rebate is granted up to a single ceiling of EUR 3,600 per year, limited to actual expenses and to EUR 300 per month.

9.2.8 Alimonies for children outside the household

A deduction is allowed for alimonies paid in respect of children who are not part of the household, subject to an annual maximum of EUR 3,480 per child.

9.2.9 Extraordinary charges

Charges may be defined as exceptional if they are unavoidable. Thus, exceptionally high expenses can occur as a result of illness, accident, disability, lawsuit, fortuitous events or the support of needy relatives. Such expenses are deductible insofar as they exceed a "reasonable burden" which the taxpayer is supposed to be able to bear. The non-deductible "reasonable burden" is defined as a percentage of the individual's income and depends on the number of family dependents. It varies between 0% and 10% of the taxable income. When the actual expenses do not exceed the non-deductible part, standard allowances are available for partial disability, support of ascendants, child care or housekeeping.

10 Tax administration

10.1 Tax return filing deadlines

The tax year ends on 31 December in Luxembourg. Legally, a taxpayer must file a tax return by March 31 of the year following the tax year if his taxable income exceeds certain thresholds. In practice, late filing not exceeding a couple of months is usually acceptable by tax authorities without penalties.

In Luxembourg, not everyone is obliged to file a tax return. Whether or not you are obliged to file one depends on a number of factors (e.g. the level of income). If no tax return is required, the taxes withheld at source are considered as final. Or under certain conditions you may opt to file a tax return in order to deduct certain expenses and obtain a tax refund.

Self-employed persons generally must pay income tax in advance in the same way that companies do.

The tax authorities may charge a penalty for late filing amounting up to 10% of the taxpayer's final tax and impose fines up to EUR 1,239.47.

10.2 Tax advance payments and tax payable

Taxes are paid quarterly in advance during a tax year (on 10 March, 10 June, 10 September and 10 December). These payments are based on the tax due in the last assessed year after allowing a credit for taxes withheld at source. Any tax prepaid or withheld is credited against the final tax liability for that year.

A final assessment of tax is made on the basis of the return filed, and any tax payable is due within one month after that assessment. A taxpayer may appeal against this assessment within three months of its issue. Interest amounting to 0.6% per month of the final tax may be imposed on late payments.

Tax is withheld at source from employment income, pensions and dividends. Over-withholding on employment income may be refunded to taxpayers according to a special return called "décompte annuel" (year-end adjustment request), if they do not fulfill the conditions to file a tax return. A "Décompte annuel" request must be strictly filed by 31 December of the year following the tax year.

11 Other taxes

11.1 Value Added Tax

Value added tax (VAT) is charged on the importation of goods, or the acquisition of goods from other EU member states and on the delivery of goods and rendering of services in Luxembourg by persons habitually performing these activities in the course of business. VAT is accounted for on a monthly basis if turnover exceeds EUR 620,000; otherwise, it may be accounted for less frequently.

The standard VAT rate is 17%, but there are reduced rates of 14%, 8% and 3% applied to some goods and services deemed to be essential. Some services are exempt, such as medical and health services and many banking and financial services.

11.2 Municipal / Local Tax

A municipal business tax on profits is levied on residents who carry on businesses in Luxembourg, and on non-residents who have permanent establishments in Luxembourg. The tax is levied on business income with a number of adjustments. The rate of tax can vary depending on the municipality (for example, the overall rate is 6.75% for the city of Luxembourg).

A relatively low annual land tax is levied on real estate situated in Luxembourg. The tax applies to residents and non-residents alike and is levied on the unitary value of real estate, which is much lower than the market value. Rates vary by municipality and type of property.

There are no cantonal or church taxes imposed in Luxembourg.

11.3 Inheritance / Wealth Tax

Estate Tax

If the last residence of the deceased was in Luxembourg, all the deceased's assets are subject to inheritance tax, except for real estate located outside Luxembourg. If the last residence of the deceased was not in Luxembourg, the tax assessable on death is transfer tax, not inheritance tax, which is charged only on the deceased's real estate in Luxembourg (if any).

No inheritance / transfer tax is due on transfers of property in direct line of descent (for example, transfers from parents to children). The same applies to the transfer of assets in favor of the spouse or declared domestic partner in presence of common children or descendants.

In absence of common children or descendants, the surviving spouse or partner benefits from an abatement of EUR 38,000. After application of the abatement, the share of the asset transferred is subject to the progressive rate scale.

For the determination of the taxable basis subject to inheritance / transfer tax, it is possible to deduct liabilities guaranteed by the assets transferred as well as liabilities relating to the purchase, improvement and keeping of the assets, as they exist on the day of the death.

Inheritance tax and transfer tax are progressive, and vary from 0% to 48% (including a surcharge) according to the degree of relationship between the beneficiary and the deceased and the value of the property inherited.

Gift Tax

A gift tax is levied on the donee of a gift at rates varying from 1.8% to 14.4%. These rates are determined by the degree of relationship between the donee and donor. If the donor is a resident of Luxembourg, the tax is levied on any asset received at its market value. If the donor is a non resident, the tax is levied only on immovable property located in Luxembourg.

11.4 Stamp Duty

There is no stamp duty or similar tax arising on the sale of shares. The sale of real estate is usually subject to registration duties at 6% of the market value of the real estate (or generally 9% if the property is situated in Luxembourg City) plus a 1% transaction duty. However, the acquisition of real estate by individuals for use as their own dwelling may, subject to certain conditions, give right to an abatement of up to EUR 20,000 (doubled in case of joint taxation) of registration duties.

11.5 Miscellaneous Taxes

There are no other significant taxes in Luxembourg.

12 Social security contributions

Employers, employees and independents are obliged to pay social security contributions in Luxembourg. The social security rates, administration process and calculation of the assessable basis are summarised below.

12.1 Wage earners

12.1.1 Social security rates

Luxembourg social security contributions applicable to wage earners as of 1st January 2016 are as follows:

Coverage	**Employee's part**	**Employer's part**
Sickness (1) (2)	2.80 % / 3.05 %	2.80 % / 3.05%
Pension (1)	8.00 %	8.00 %
Accident (1)	-	1.00 %
Mutual insurance (1) (3)	-	0.51% to 3.04 %
Health at work (1)	-	0.11 %
Dependence (4)	1.40 %	-
Total	12.20 % / 12.45 %	12.42 % to 15.20 %

(1) Capped for both employee and employer to an annual ceiling of EUR 115,377.84 (cost of living index 775.17); tax deductible
(2) Rate varying depending on the nature of the remuneration (base salary, benefits in kind, etc)
(3) Depends on the average rate of absenteeism of the employer
(4) Not capped; not tax deductible

12.1.2. Assessment basis

Both employer and employee social security contributions are computed on an employee's yearly gross remuneration both in cash and in kind and capped to the annual social security ceiling, which amounts to EUR 115,377.84 as at 1s January 2016.

A special regime applies to the dependence insurance contribution due by employees.The base is gross salary, less 25% of the minimum salary (i.e. EUR 480, 74 per month as at 1st January 2016). The social security ceiling does not apply. The dependence insurance contribution also applies to net passive income, namely investment, rental and capital gains income, as well as some pension income of resident individuals.

Employer contributions are not considered as a taxable benefit.

Employee contributions are tax deductible, with the exception of the 1.4% dependence insurance contribution.

12.1.3 Social security administration

The employer withholds employee's social security contributions at source on the employee's remuneration and remits the total contributions (employee's and employer's parts) to the social security authorities.

The employer submits monthly returns to the competent authorities (Centre Commun de la Sécurité Sociale), which includes all employment income for a specific month. This monthly reporting is due around the 20th of the month following the month concerned. The social security administration then calculates the effective amount of contributions due and issues a statement. Payment is due around 2 months following the month concerned, i.e. within 10 days from receipt of the statement from the authorities.

Foreign employer

Provided the employee is subject to Luxembourg social security, the foreign employer is obliged to register with the Luxembourg social security even if he does not have a fixed base in Luxembourg.

The foreign employer must register with the Luxembourg social security before the employee starts his activities on the Luxembourg territory. Once the employer is registered, he is obliged to register each employee with the Luxembourg social security regime within 8 days of their first day of work. Once the employee's registration is confirmed, the employer files a form called "fiche d'embauchage" to the employment administration. The employer obtains an appointment at the adequate health organisation for the medical examination of the employee. After the examination, the employer receives a work certificate for the employee.

12.2 Independents

12.2.1 Social security rates

Luxembourg social security contributions applicable to independents as at 1st January 2016 are as follows:

Coverage	Contributions
Sickness (1)	6.10 %
Pension (1)	16.00 %
Accident (1)	1.00 %
Mutual insurance (1) (3)	0.51% to 3.04%
Dependence (2)	1.40 %
Total	25.01 % - 27.54%

(1) Capped to an annual ceiling of EUR 115,377.84 (cost of living index 775.17); tax deductible
(2) Not capped; not tax deductible
(3) Optional. Depends on the average rate of absenteeism of the individual

12.2.2 Assessment basis

Independents' social security contributions are computed on the basis of their net business profit as determined for income tax purposes, or provisionally on the profit for the last tax year assessed. The contributions are capped to the annual social security ceiling, which amounts to EUR 115.377,84 as at 1st January 2016.

A special regime applies to the dependence insurance contribution due by independents.The base is net business profits, but the social security ceiling does not apply. The dependence insurance contribution also applies to net passive income, namely investment, rental and capital gains income, as well as some pension income, of resident individuals.

Independents' social security contributions are tax deductible, with the exception of the 1.4% dependence insurance contribution.

12.2.3 Social security administration

No filing is requested since the information passes spontaneously between the tax authorities and the social security authorities. Contributions are provisionally calculated on the last tax year assessed and are invoiced monthly. Invoices are payable within 10 days from being issued. Provisional contributions may be reduced in response to a justified request. An adjustment is operated once the profit of the tax year concerned is assessed by the tax authorities.

12.3 International aspects

Under EU regulation n°883/2004, EU nationals working temporarily in Luxembourg and their employers may be exempt from making contributions in Luxembourg for two years if they can supply evidence that the assignment is temporary and they get a valid certificate of coverage in this respect. EU regulations n°883/2004 apply to Switzerland since 1st April 2012 and to Norway, Iceland, Liechtenstein since 1st June 2012. Nationals of other countries with which Luxembourg has a social security agreement may be exempt from making contributions in Luxembourg for periods that vary from one agreement to the other.

Luxembourg has international social security agreements with a number of countries. Social security agreements help people receive the benefits to which they are entitled and enable to determine the country of affiliation to a social security system. An overview of the social security treaties concluded between Luxembourg and other countries can be found on website of the Luxembourg social security administration.

Workers temporary transferred to Luxembourg from countries with which Luxembourg has no social security agreement may also be exempt from contributing to the Luxembourg system under certain conditions.

13 Social security benefits

13.1 Retirement, survivors and disability benefits

13.1.1 Retirement benefits

Qualifying conditions

To qualify for a State retirement pension at normal retirement age, at least 120 months of insurance are needed.

Retirement age

The normal retirement age is 65 for both men and women. Early retirement is permitted from age 57 or 60, under certain conditions:

- Early retirement is possible from age 60, provided 480 months of insurance apply, of which at least 120 months are of insurance under the compulsory social security scheme. The remainder of period can consist of both periods of credited social security coverage and of voluntary social security coverage
- Early retirement is possible from age 57, provided 480 months of insurance under the compulsory social security scheme apply

The early retirement pension is not subject to an early retirement reduction factor.

Retirement can be deferred beyond age 65, with an upper age limit of 68, provided the insured pension fulfils the eligibility conditions for a normal retirement pension at age 65. In the case of late retirement, the retirement pension is actuarially increased.

Retirement pension

The annual pension is made up of a basic (flat-rate) amount and an earnings-related amount.

The flat-rate amount is currently equal to around 23.950% of a reference amount of EUR 2,085 at index base 100, after an insurance coverage of 40 years. The flat-rate amount needs to be revalued according to the consumer price index as well as with a readjustment factor. The flat-rate amount is built up at a rate of 1/40th per year of insurance.

The earnings-related amount is equal to around 1.825% of total salary declared during the periods of professional activity. In order to determine this figure, salary is set at index 100 and subsequently adjusted to the current level in a reference year, i.e. 1984. The earnings-related amount is then revalued according to the consumer price index and a readjustment factor.

Covered earnings in any year are earnings up to the annual social security ceiling. The ceiling is EUR 115.377,84 per annum.

Pensions are paid monthly and in advance.

13.1.2 Survivors' benefits

Qualifying conditions

The following qualifying conditions must be fulfilled:

- The deceased insured person must have been insured under the compulsory insurance system for at least 12 months in the preceding 3 years before the decease, or have been receiving a retirement or disability pension. This condition does not apply when death results from an accident of any kind or from a recognised occupational disease

- Spouse's benefits: at the date of marriage the insured personmust not have been receiving a retirement or disability benefit and the marriage or partnership must have taken place at least one year before death or retirement or disability of the insured person
- Orphan's benefits: the child must be unmarried and dependent, whether it is a legal, legitimised, adopted or natural child

Benefits

The spouse/partner's pension is equal to the flat-rate amount of the retirement or disability pension, plus 75% of the earnings-related part of this retirement or disability pension.

The orphan's pension is equal to one-third of the flat-rate amount of the retirement or disability pension, plus 25% of the earnings-related part of this retirement or disability pension. The pension is payable until age 18 (27 for students). The orphan's pension is doubled when both parents are deceased. The combined spouse and children's pensions cannot exceed the deceased person's pension entitlement at the date of death.

13.1.3 Disability benefits

Qualifying conditions

In order to be eligible to receive a disability pension, a person should have made at least 12 months' credited contributions in the preceding 3 years, unless disability results from an accident of whatever nature or from a recognized occupational disease.

Benefits

Benefits are paid up to age 65, when they are replaced by the old-age pension. The benefits are equal to the accrued flat-rate and earnings-related amounts of old-age pension. If disability occurs prior to age 55, the pension is increased by around 1.85% of annual average earnings for each missing year up to age 55.

Work-related disability benefits

All employees must be insured against death or disability arising from an occupational accident or disease. Benefits include medical treatment and medicine, a disability pension of 85.60% of annual earnings (capped and prorated depending on the degree of work incapacity), spouse/partner's and orphans' pensions and funeral grants.

13.2 Health care benefits

13.2.1 Cash sickness benefits

Qualifying conditions

Eligibility for a cash sickness benefit applies from the first day of illness after salary ceases to be legally or conventionally (as stipulated in a collective labor agreement) required. Salary continuance applies by law for employees until the end of the month in which the 77th day of work incapacity occurs. 80% of the salary paid by the employer during this period is refunded by the social security authorities.

Benefits

The monthly cash sickness benefit is calculated based on the gross base salary and complementary cash benefits paid monthly, but is limited to EUR 9,614.82. The minimum monthly cash sickness benefit is equal to EUR 1,922.96.

The cash sickness benefit is paid for a maximum period of 52 weeks, to insured people under age 68.

13.2.2 Medical benefits

Qualifying conditions

All employees, self-employed, those entitled to replacement income as well as pensioners, together with their dependants, are eligible for medical care benefits.

Benefits

The benefits in kind that can be claimed are:

- Medical and dental treatment
- Paramedical treatment
- Laboratory tests and investigations
- Dentures and orthopedic prosthesis
- Medicines
- Aids and appliances
- Stay in hospital
- Therapeutic treatment and convalescent care
- Travel and transport expenses

As a rule, the benefits are reimbursed on the basis of a tariff agreed between the Union of Sickness Funds and the practitioners or establishments providing treatment. The State program covers 100% of inpatient hospital expenses and 80% of outpatient treatment costs. The cost of drugs is reimbursed at varying rates of 0%, 40%, 80% and 100%.

Payment of benefits

- The patient should pay all bills for treatment provided and then apply to the sickness fund for a refund
- However, the costs of hospitalization, medicines and laboratory tests and investigations are settled directly between the sickness fund and the practitioners or establishments which provided the relevant services. In these cases, the patient needs to pay only the amount which is not for the account of the sickness fund

13.2.3 Maternity benefits

Qualifying conditions

Female employees must have at least 6 months of credited service in the year preceding maternity leave in order to qualify for maternity benefits.

Benefits

Maternity benefits are paid for the duration of the legal maternity leave, i.e. for at least 8 weeks before and 8 weeks after the birth. In case of premature or multiple births, as well as for mothers who are breastfeeding their child the post-natal period is extended up to 12 weeks.

13.3 Labour accidents and occupational diseases

Qualifying conditions

All employees and self-employed are covered by insurance against accidents at work and occupational diseases. The insurance covers accidents sustained while at work, accidents sustained while traveling to or from work and occupational diseases.

Benefits

The following benefits are provided:

- Benefits in kind for an accident or occupational disease
- Cash benefits for incapacity for work;

- Survivors' benefits if the person concerned died as a result of an accident or occupational disease:
  - Indemnity for moral damage
  - Pension for the surviving spouse/partner
  - Pension for the children of the deceased

13.4 Unemployment benefits

Qualifying conditions

In order to qualify for unemployment benefits, the individual must be:

- A resident of Luxembourg
- Unemployed involuntarily and not dismissed for serious fault
- Aged between 16 and 64 and not in receipt of a pension (retirement or disability)
- Willing and able to accept employment
- Enrolled with an employment agency
- In employment for at least 26 weeks in the year before enrolling with the employment agency

Benefits

The unemployment benefit is equal to 80% of the average earnings in the three months preceding unemployment (85% if there are dependent children), subject to a maximum monthly benefit of 2.5 times the minimum social wage of EUR 1,922.96 for the first 6 months of coverage, 2.0 times the minimum social wage for the next 6 months, and 1.5 time the minimum social wage thereafter. The benefits are payable for a maximum of one year although this can be extended by 6 to 12 months for unemployed persons over the age of 50, and by 182 days in some other circumstances.

Unemployment benefits are increased each year in line with the cost of living index and are subject to social security contributions and taxes.

13.5 Social benefits

13.5.1 Parental benefits

Qualifying conditions

To qualify for a parental benefit, the insured needs to fulfill the following conditions:

- To be raising one or several children under the age of 5 in respect of whom family allowances are paid
- To be educating the(se) children and not to have any professional activity for more than half-time
- To be domiciled and reside continuously in Luxembourg
- To be legally and continuously occupied at a place of activity which is located on the Luxembourg territory at the moment of birth and to be compulsorily affiliated to the social security system for a continuous period of at least 12 months, immediately preceding commencement of the parental leave period

Benefits

The parental benefit corresponds to EUR 1,778.31 per month in case of a total suspension of the professional activities. It corresponds to EUR 889.15 per month in case the beneficiary maintains a half-time professional activity. This benefit is exempt from the levy of personal income tax and is only subject to the social security contributions for sickness and dependence.

Each parent fulfilling the eligibility conditions can upon request benefit from parental leave of 6 months in respect of each child.

Subject to the agreement of the employer a parent can take half-time parental leave for a maximum of 12 months.

In case of a multiple birth the above periods are extended by two months (full leave) and four months (half-time leave) for each child as from the second child.

It is not possible to split out the parental leave period over different periods of leave.

The amounts of parental leave benefits and its duration should be subject to a reform planned by the Luxembourg government. Based on recent information from the Luxembourg authorities, the reform is currently under discussions and will not become effective before the end of 2016.

13.5.2 Family allowances

The standard family allowance

Every child raised in Luxembourg and who is a resident is entitled to family allowances up to the age of 18, or up to the age of 27 as long as they are in vocational education system or in secondary school. No age limit applies for children with a physical or mental handicap.

The amount of the allowance depends on the number and age of children in the household. The monthly allowance for one child amounts to EUR 185.60. For two children the amount is EUR 440.72, and EUR 802.74 for three children. Total allocation is increased by EUR 361.82 for each additional child. The monthly allowance is increased by EUR 16.17 per child from 6 to 11 and by 48.52 per child of 12 and above.

The reform of family allowances that will affect the amount of allowances payable was initially planned by the Luxembourg government for June/July 2015. However, based on recent information from the Luxembourg authorities, the legislative procedure has not been completed yet and changes foreseen by the reform should not become effective before the end of 2016. Once effective, and according to the bill, a flat-rate amount of EUR 265 will be attributed for each child. The additional allowance (boni pour enfant) will then be incorporated in the family allowances. The bill provides that the amount of increases for age will be raised to EUR 20 per child from 6 and 11 years, and EUR 50 per child of 12 and above. There are a variety of transition regulations for families who already have children before reform take place.

The supplementary allowance

A supplementary allowance of EUR 185.60 is paid for each child aged under 18 with a physical or mental disability of at least 50% compared with normal children of the same age. There is no age limit if the child is unable to meet his own needs.

The allowance paid at the beginning of the school year

The allowance payable at the beginning of the school year is paid each year in August for children from the age they start primary school. Its rate varies according to the child's age and the number of children in the household, i.e. from EUR 113.15 to EUR 323.34 per child.

The childbirth allowance

On the birth of a child, a childbirth allowance of EUR 1,740.09 becomes payable. It is paid in three parts, one third as a prenatal allowance, one third as a birth grant and one third as a postnatal allowance.

The education allowance

The education allowance has been abolished as of 1st June 2015. Mothers already receiving the allowance however continue to do so. There is also a transition period for applications submitted before 1st June 2015 but not yet processed.

13.5.3 Dependent person benefits

Qualifying conditions

The dependent person benefit is a compulsory insurance that provides for help and medical care for people who become dependant on other people for the essential activities of daily living as a result of mental or physical incapacity.

Benefits

The system bears the cost of help and medical care relating to the essential activities of daily living for up to a maximum of 24.5 hours per week. This can be increased by 2.5 hours per week in respect of domestic help; and in exceptional circumstances this increase can be put at 4 hours per week. The activities of assistance are limited to a maximum of 12 hours per week.

The benefits are due at the earliest as from the first day of the request for the dependence insurance. The benefits can be granted for either a determined or an undetermined period.

13.5.4 Student financial aid (Higher educational studies)

The financial aid for pursuing the higher education studies was initially available only to children of residents. As of 20 June 2013, the European Court of Justice has however widened the scope of existing financial aid for residents and has extended it to non-resident workers who are nationals of Luxembourg, the EU, the EEA or Switzerland.The parents claiming the aid on behalf of their children are required to have worked continuously in Luxembourg for a minimum of 5 years and for at least 50% of the legal working hours at the date of the request.

Financial aid available

The maximum amount of financial aid available is EUR 17,700 (including subscription fees) per academic year. This aid is available for a limited period of time depending on the nature of the studies undertaken (e.g. a maximum of four years of aid is granted for a three years bachelor degree). The financial aid granted is paid twice per annum (i.e. once per semester) and is divided as follows:

- 50% as a scholarship; and
- 50% as a student loan (at 2% interest rate).

There is no obligation to take out the loan.

Application for the financial aid

To apply for the aid, an individual has to complete the form that can be found on the CEDIES website (www.cedies.public.lu/fr/formulaires/index.html), along with all the requested documents

13.6 International aspects

The social security benefits described under this section are those provided by the Luxembourg internal law only. Mobile workers shall also take into account the rules of international social security agreements, which may have a significant impact on the application of internal rules.

14 Cross-border workers situation

Luxembourg working environment is very unique as there are a lot of non-Luxembourg residents commuting to work to Luxembourg on a daily basis (mainly from Germany, Belgium and France). Based on the international tax and social security rules in place, this may result in some individual tax and social security consequences. The purpose of this section is to provide some high-level information and create awareness for individuals who are in a cross-border situation. In such case, we recommend the individuals concerned to contact the tax advisor directly to analyze their situation in more details on an individual basis.

14.1 Tax consequences

14.1.1 Basic principle

Taxation on Luxembourg source income in Luxembourg

Cross-border employees (as Luxembourg non-resident taxpayers) working for the Luxembourg employer are taxable in Luxembourg as long as they physically work in Luxembourg. Any employment income they receive from the Luxembourg employer relating to the workdays spent outside of Luxembourg (i.e. in a country of residence or a third country), is taxable in country of residence and exempt from Luxembourg taxation. These days also include training days, client meetings, working from home, etc.

Special attention should be paid to German and Belgian cross-border workers as mutual agreements linked to the existing double tax treaties are in place. Both agreements relate to the taxation of employment income earned by these cross-border workers and introduce a general maximum of workdays per calendar year that an employee can spend outside Luxembourg before such days would be considered as taxable in the country of residence. The mutual agreement between Germany and Luxembourg (signed in May 2011) introduces a maximum of 19 workdays per calendar year and the agreement between Belgium and Luxembourg (signed in March 2015) provides a maximum of 24 workdays per calendar year.

Employees who have a “pied-à-terre” in Luxembourg (i.e. an accommodation that they use during the week) are usually considered as Luxembourg non-residents as well as their place of abode is outside of Luxembourg.

Taxation on worldwide income in state of residence

Cross-border workers are on the other hand obliged to declare the worldwide income in their state of residence (i.e. the state where they are domiciled or have their usual place of abode or where the family is living). The state of residence will (in accordance with an appropriate double tax treaty) provide a tax relief in relation to income that has been taxed in Luxembourg.

As such, the employees in a cross-border situation should track their workdays spent outside of Luxembourg by a travel calendar.

14.2 Social Security consequences

14.2.1 Social security affiliation of cross-border employees working in Luxembourg

The cross-border workers working for the Luxembourg employer are, in principle, subject to the Luxembourg social security.

Considering the social security affiliation of cross-border workers, the only exception from the above principle applies to a cross-border worker who works in more than one state (i.e. Luxembourg) and pursues a substantial part of his activity (at least 25%) in his country of residence (e.g. business trips, trainings, home office work etc.). In such case, he would be covered by the social security legislation of country of his residence. As a consequence, his Luxembourg employer would have to register for social security purposes and pay the social security for such employee in that country.

14.2.2 Health care benefits

As a general rule, health care benefits (incl. hospitalization, medical treatment or medicines) are provided according to the rules of state where the cross-border resides. However, a cross-border worker may also access health care in the country where he works (i.e. Luxembourg). The members of his family can currently enjoy the same rights only in a few states (incl. Belgium, France, Germany and Luxembourg).

For more information on health care benefits in Luxembourg, please see the section 13.2.

14.2.3 Retirement benefits

Within the EU, a cross-border worker will get –subject to conditions - an old-age pension from every country in which he was insured. The amounts of pension will correspond to the insurance periods completed in each of the countries concerned. If the period for which a cross-border worker has been insured in one country (i.e. Luxembourg) is not long enough to qualify for a pension there, it will not be lost but taken into account by the other country.

For more information on retirement benefits in Luxembourg, please see the section 13.1.1.

14.2.4 Family allowances

If a cross-border worker and/or his children’s other parent works abroad, he might be entitled to family benefits from different countries. In such cases, the relevant national authorities will take account of both parents' situations and decide which country has primary responsibility for paying the benefits. Their decision will be based on "priority rules".

If the benefits a cross-border worker receives from the "primary" country turn out to be lower than what he would have received from the "secondary" country where he also had rights (because he works there), the “secondary” country will pay a supplement equivalent to the difference between the two benefits. By this way, a cross-border worker is ensured of receiving the maximum benefits to which he is entitled.

For more information on family allowances in Luxembourg, please see the section 13.5.2

15 Labour environment

15.1 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 circumscribed 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 contract. Increases in the cost of living automatically trigger wage hikes. 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 situations where a company is merged into or 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.

15.2 Working hours and vacation

The legal working week (five days) is 40 hours. The maximum working week (inclusive of overtime) is 48 hours. The statutory maximum daily working time is 10 hours. In certain businesses, e.g. with continuous operation or shift work, longer hours are permissible but in most circumstances the permission of the Labour and Mines Inspectorate will be needed.

The statutory minimum overtime rate is 40% for both blue-collar workers and white-collar workers. Overtime rates for working on Sundays and public holidays are much higher. Overtime may also be recovered through time off at a rate of 1.5 hour for 1 hour of overtime.

Employees are entitled to 25 working days of annual vacation upon the successful completion of three months of continuous service for an employer. There are 10 public holidays each year. Employees are entitled to additional paid days off on family or compassionate grounds.

15.3 Wages and benefits

All wages in Luxembourg have been linked to the retail price index.

The minimum wage is adjusted on the same basis, as well as periodically in line with inflation.

The minimum monthly wage for unskilled workers is EUR 1,922.96 and for skilled workers EUR 2,307.56. Wage increases may also be negotiated collectively.

The law provides that salary must be paid 12 times year, however many companies have introduced a bonus in the form of a 13th month salary. Collective agreements also often provide for additional payments on the top of the minimum legal requirements.

15.4 Termination of employment

Most employment contracts allow for a probation period (a minimum of two weeks and a maximum 12 months under conditions). Two weeks' notice at a minimum must be given when the trial employment is being terminated, 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 notice periods are 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 pre-dismissal 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.

Indemnities paid in respect of the termination of an employment contract are tax deductible in the hands of the employer only up to a maximum ceiling of EUR 300,000.

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 can 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 subsidising the pay of workers on reduced hours.

15.5 Labour-management relations

Workers' right to strike and employers' right to lock out workers are subject to strict conciliation 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 unionised, but this rises to nearly 100% in the steel sector. Unions have always taken a moderate approach in negotiations and usually co-operate with the government and employers. Strikes are rare.

Large companies are generally covered by collective bargaining agreements. Unions have the right to represent all workers, even non-members, 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 (the legal maximum). Collective agreements must be registered with the Labour and Mines Inspectorate.

Every private sector employer with 15 or more employees must set up an employee committee. Where a company is spread over 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 where employer and employee representatives sit in equal numbers. This committee's agreement must be obtained for recruitment, promotion, transfer and dismissal policies, employee appraisal, health and safety policy, and similar issues. It must also be consulted and informed on a wide range of issues. If the committee is deadlocked on a decision in an area where its agreement must be obtained, the issue may be referred to the National Conciliation Service.

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

15.6 Posted workers

The posted worker is defined by the Luxembourg law as the employee whose regular employment is performed outside Luxembourg and who is temporarily assigned to Luxembourg to perform a work in the frame of a service agreement.

The foreign employer who assigns workers in Luxembourg shall respect the provisions of public order provided by the Luxembourg labor law.

Any secondment of employees to Luxembourg shall be declared to the Luxembourg authorities (Inspection du Travail et des Mines). Information and documents necessary for the authorities to perform their controls must be kept on the Luxembourg territory during the length of the assignment.

16 Immigration

16.1 Entrance

Nationals of EEA countries and Switzerland do not need a work permit. As from 1st July 2015, Croatian nationals no longer need to apply for a work permit in order to access the Luxembourg job market.

Other foreign nationals who intend to perform a salaried activity in Luxembourg must obtain a residence permit which includes both the work permit as well as the sojourn permit and takes the form of a chip card containing the biometric data. The residence permit is first delivered for one year and enables the foreign national to work for any employer but only for a particular sector and occupation. At the first renewal, the permit stays 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 mentioning that particular provisions exist for highly-skilled employees, intra-group transfers, assignments and other cross-borders situations, as well as for certain categories of individuals other than employees.

16.2 Departure

On departure, an expatriate must inform the municipality of the departure.

17 Appendix

Computation of income tax

17.1 Tax class 1

Taxable income R (EUR)		Income tax on taxable income R (EUR)
-	11.265	-
11.265	13.173	(R x 8,56%) - 964
13.173	15.081	(R x 10,70%) - 1.246
15.081	16.989	(R x 12,84%) - 1.569
16.989	18.897	(R x 14,98%) - 1.932
18.897	20.805	(R x 17,12%) - 2.337
20.805	22.713	(R x 19,26%) - 2.782
22.713	24.621	(R x 21,40%) - 3.268
24.621	26.529	(R x 23,54%) - 3.795
26.529	28.437	(R x 25,68%) - 4.363
28.437	30.345	(R x 27,82%) - 4.971
30.345	32.253	(R x 29,96%) - 5.621
32.253	34.161	(R x 32,10%) - 6.311
34.161	36.069	(R x 34,24%) - 7.042
36.069	37.977	(R x 36,38%) - 7.814
37.977	39.885	(R x 38,52%) - 8.627
39.885	41.793	(R x 40,66%) - 9.480
41.793	100.000	(R x 41,73%) - 9.927
100.000	150.000	(R x 42,80%) - 10.997
150.000	-	(R x 43,60%) - 12.197

17.2 Tax class 2

Taxable income R (EUR)		Income tax on taxable income R (EUR)
-	22.530	-
22.530	26.346	(R x 8,56%) - 1.929
26.346	30.162	(R x 10,70%) - 2.492
30.162	33.978	(R x 12,84%) - 3.138
33.978	37.794	(R x 14,98%) - 3.865
37.794	41.610	(R x 17,12%) - 4.674
41.610	45.426	(R x 19,26%) - 5.564
45.426	49.242	(R x 21,40%) - 6.536
49.242	53.058	(R x 23,54%) - 7.590
53.058	56.874	(R x 25,68%) - 8.726
56.874	60.690	(R x 27,82%) - 9.943
60.690	64.506	(R x 29,96%) - 11.241
64.506	68.322	(R x 32,10%) - 12.622
68.322	72.138	(R x 34,24%) - 14.084
72.138	75.954	(R x 36,38%) - 15.628
75.954	79.770	(R x 38,52%) - 17.253
79.770	83.586	(R x 40,66%) - 18.960
83.586	200.000	(R x 41,73%) - 19.855
200.000	300.000	(R x 42,80%) - 21.995
300.000	-	(R x 43,60%) - 24.395

Main contacts

The Global Employer Services department is a dedicated team of highly skilled tax professionals providing comprehensive consultancy and compliance services in the area of individual taxation and social security.

Our solid knowledge of local and international regulations, combined with our wide experience of individual engagements and issues allow us to serve our clients in a tailored, responsive and value-added manner.

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