

## **LUXEMBOURG**

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# 0-SYNOPTIC TABLE: TAXATION OF RESIDENTS AND NON-RESIDENTS

	RESIDENTS	NON-RESIDENTS
CORPORATE INCOME TAX	From 15% to 17% + municipal business tax Further 31% on incomes exceeding € 175,000	17%
TAXES ON CAPITAL GAINS	Taxed as ordinary income	
WITHHOLDING TAXES		
Dividends	0 – 15%	
Interest	0 – 15%	
Royalties	0	
PERSONAL INCOME TAX	0% – 42%	0% - 42%
OTHER TAXES		
Registration tax	€ 75	
Annual subscription tax on shares and securities	0.01% - 0.25%	
Tax on motorvehicles	Applied according to of the certified emission fuel standards	
Real estate transfer tax	6% - 9%	
Annual immovable property tax	0.7% - 1%	
VAT	3% 8% (temporarily reduced to 7% for 2023) 14% (temporarily reduced to 13% for 2023) 17% (temporarily reduced to 16% for 2023) Exports exempt	
LOSSES		
Carried forward	Up to 17 years	
Carried back	Not applied	
DEPRECIATION		
Fixed assets	Plant and machinery: 8%, 10%, 12% Buildings: 2%-4%	
Intangible assets	Goodwill: 5 years	

## AN OUTLINE OF COMPANY LAW

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
<b>Limited liability company</b>	<p>One or more persons, either individuals or legal entities, may form a limited liability company (SA, SAS, SARL or SECA).  Share capital: for an SA, an SAS or a SECA is €30,000, for a SARL is €12,000. The SAS (sociétés par actions simplifiées) was introduced in August 2016. In practice, the SECA has fallen into disuse.  Each shareholder must pay up at least 25% of their part of share capital at incorporation.  Shares may be in registered or bearer form and bearer shares must be deposited in an authorised depositary and registered in a share register.  A SARL requires between one and 100 shareholders, and management by at least one manager.  From 2017, a simplified limited liability company (société à responsabilité limitée simplifiée or SARL-S) may be formed with a minimum share capital of €1.  The profits of a limited liability company are subject to tax twice, once at the corporate level and once in the hands of its shareholders when profits are distributed.</p>	<p>Incorporation of a limited liability company generally occurs through a notarial deed that includes articles of association.</p>	<p>An SA or SAS must have an annual audit of its accounts by a statutory auditor (commissaire aux comptes). An SA or SAS generally must appoint a Luxembourg qualified auditor (réviseur d'entreprises) as its statutory auditor. A small company may appoint an individual or a corporate entity of Luxembourg or foreign nationality as its statutory auditor.</p>
<b>Cooperative society</b>	<p>A cooperative society must have at least 2 members.  Holders, whose number and holdings may vary, make up the cooperative society. One or more managers who do not have to be members oversee the daily management of the cooperative society. Financial supervision is the responsibility of one or more auditors. The shares of a cooperative society are not transferable to third parties, and members only may resign as provided by the law.</p>	<p>A cooperative society may be founded with limited or unlimited liability and the articles of association must state the minimum paid-in capital.</p>	<p>The cooperative society is the only form of business that is subject to official supervision by the Ministry of Justice.</p>

<b>BUSINESS ENTITY</b>	<b>MAIN TRAITS</b>	<b>FORMATION</b>	<b>GOVERNANCE</b>
<b><i>Partnership</i></b>	<p>The general partnership (SENC) is a partnership with at least two partners and is the corporate form applied by family-run SMEs.</p> <p>It is managed by a manager and there is no supervisory body.</p> <p>The limited partnership (SECS) is made up of one or more general partners who are jointly and severally liable for all the obligations of the company, and by one or more limited partners, whose liability is limited to the capital conferred. Taxes are applied to the income and profits received by shareholders.</p> <p>The special limited partnership (SCSp) is similar to the SECS but has no legal personality.</p>	<p>A private contract may create a general corporate partnership.</p> <p>The use of a notarial deed is unnecessary.</p> <p>The private contract, however, must be registered and include some information.</p>	<p>The SENC is managed by a manager. The law does not prescribe any controlling body.</p>
<b><i>Economic interest groupings</i></b>	<p>Two or more natural or legal persons may enter into an agreement, either for a limited or unlimited term, to establish an economic interest grouping. The members of a grouping are jointly and severally liable for all the grouping obligations. Income generated by the grouping's activity is taxed at the level of its members.</p>	<p>The agreement creating a grouping must take the form of a notarised deed or private deed, or it will be null and void.</p> <p>A grouping must register with the Trade and Companies Register.</p>	
<b><i>Non-commercial companies</i></b>	<p>A non-commercial company (société civile) has an independent legal personality and may be converted into a commercial company by a decision of a general meeting of the shareholders convened for this purpose. The shareholders of a non-commercial company are separately liable for a share of the liabilities proportional to the number of members regardless of the amount of individual investment. Sociétés civiles are frequently utilised in the real estate business or in the liberal professions.</p>	<p>Shareholders may form a non-commercial company (société civile) through a private deed.</p>	
<b><i>Temporary partnerships</i></b>	<p>A temporary partnership is a partnership without a business name formed for the purpose of carrying out one or several specific commercial transactions. This type of partnership does not have a legal personality. A temporary partnership is a partnership without a business name formed for the purpose of carrying out one or several specific commercial transactions. This type of partnership does not have a legal personality.</p> <p>Temporary partnerships may be found in various sectors in which individuals wish to work together for a limited time and/or for a specific project.</p>		

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
<i>Joint ventures</i>	A joint venture is a business form in which one or more persons conduct operations that one or more other persons manage in their own name. A joint venture does not have a legal personality, and members may organise the methods in which their joint venture operates without restrictions. Managers are jointly and severally liable to third parties with whom they have done business.		
<i>European companies</i>	The EC European Company Regulation introduced a new form of public company into Luxembourg company law called the European company. Its share capital is of at least €120,000 and is divided into shares. The liability of the shareholders is limited to their contribution.	It can be created in different ways: <ul style="list-style-type: none"> <li>• by the merger of at least 2 public companies located in at least 2 different member states</li> <li>• by converting a Luxembourg public company into a European company</li> <li>• by incorporation of a European holding company by public companies or limited liability companies</li> <li>• by the incorporation of a European company subsidiary</li> </ul>	The rules relating to shares, bonds and other equity, as well as requirements relating to the share capital, are the same as those applicable to public companies (société anonyme).

## 2- WHEN LUXEMBOURG COMPANIES CAN BE CONSIDERED RESIDENT OR NON-RESIDENT?

A company is a resident of Luxembourg if:

- the company's registered office is in Luxembourg, or
- the company's management and control are situated in Luxembourg.

Thus, a company incorporated in a foreign country may be treated as resident if Luxembourg is its place of management.

## 3- BUSINESS AND NON-BUSINESS ACTIVITIES (ADMINISTRATIVE OFFICES, LIAISON OFFICES, PURCHASING OFFICES, ETC.)

Luxembourg's geographic location between France, Germany and Belgium is a strategic location for international operations.

Administrative or liaison activities carried out in Luxembourg will not cause foreign companies to be taxed as Luxembourg residents, provided their central management is not carried on in Luxembourg and they do not conduct trade in the country.

Moreover, most of Luxembourg's tax treaties with other countries provide that a Luxembourg office used for buying goods, collecting information or advertising products will not constitute a Luxembourg taxable branch of the overseas entity that it represents.

#### **4- WHICH FOREIGN LOCAL UNITS CAN BE OPENED IN LUXEMBOURG: SECONDARY ESTABLISHMENTS, BRANCHES, SUBSIDIARIES OR PERMANENT ESTABLISHMENTS?**

A non-resident is not liable for Luxembourg tax on trading or business profits unless they trade or do business in Luxembourg through either a PE or a permanent resident. The terms of the double tax treaty between Luxembourg and a non-resident's country will specify that the non-resident is liable to Luxembourg tax only if they have a branch, PE or representative in Luxembourg.

#### **5- CALCULATING TAXABLE INCOME**

Luxembourg companies are taxed on their worldwide income, while non-resident companies are taxed on Luxembourg sourced income and double taxation treaties generally exempt a resident company's branch profits and gains as well as foreign real estate income and gains Profit, including capital gains, is the difference between the opening and closing net asset values of the taxpayer.

Since profits are computed on the basis of net worth, the valuation of assets and liabilities is important. Business assets are valued differently depending on the nature of the asset.

Non-depreciable assets (land, participations, etc) are valued at the lower of the cost of acquisition or going concern value. Depreciable assets are valued at the cost of acquisition less depreciation.

Interest is deductible for tax purposes, provided it is not related to tax-exempt income.

A company may deduct all necessary business expenses, except those expenses relating to tax-exempt income.

Other intercompany charges such as charges for management services, research and development and royalties are deductible provided they occur at arm's length.

Where expenses paid to related parties are higher than those paid to a third party, the excess is non-deductible and considered a hidden profit distribution to shareholders. A hidden distribution is treated as a dividend, which is subject to a 15% withholding tax.

Taxpayers may deduct:

- provisions for losses or debts
- provisions for pensions within certain calculated limits.

Dividends received by a Luxembourg company are exempt from tax if the Luxembourg company has a greater than 10% participation in the paying company or if the investment in the paying company cost more than €1.2m.

25% of a taxpayer's profits arising from a new Luxembourg venture favourable to Luxembourg's economy are exempt from tax for 8 years.

From 1 January 2018, 80% of royalties on intellectual property are subject to corporate tax and municipal commercial tax.

The following items are non-deductible:

- expenses relating to exempt income
- corporate income tax
- net worth tax (impôt sur la fortune)
- annual subscription tax (taxe d'abonnement)
- expenses to fulfil the requirements stipulated in the articles of association
- fees paid to directors, auditors or other persons for supervisory services
- general provisions for spreading of business costs
- gifts in excess of a certain amount
- gifts to non-authorised institutions
- commercial or criminal fines, penalties for late payments, and
- all distributions of profits.



## 6- TREATMENT OF LOSSES

In Luxembourg there is no distinction between trading losses, other losses and capital losses. A taxpayer may carry forward losses for up to 17 years, but may not carry them back.

In case of change in ownership, resident companies may carry loss forward up to 17 years, provided that the losses have not already been offset, the company has maintained proper accounting during the loss making period and the losses are offset by the company that incurred them.

## 7- IS INTEREST DEDUCTIBLE?

A Luxembourg taxpayer may deduct interest on an accrual basis. Interest paid to shareholders or affiliates is deductible according to arm's length conditions.

Interest incurred on a loan obtained by a Luxembourg company to finance a subsidiary, the ownership of which qualifies for the participation exemption, is deductible unless the Luxembourg company receives dividends from the subsidiary.

The capital gain realised on the sale of the qualifying subsidiaries is exempt up to the amount of interest already paid during the current and previous years unless their deductibility has been cancelled when dividends were paid.

From 1 January 2019, Luxembourg law limits the deductibility of interest payments to the higher of 30% of EBITDA (earnings before interest, taxes, depreciation and amortisation) or €3 million.

However, an equity ratio rule allows members of a consolidated group to request a full deduction of their excess borrowing costs if they can demonstrate that the ratio of their equity over their total assets is equal to or higher than the equivalent ratio of the group.

## 8- IS DEPRECIATION DEDUCTIBILITY ACKNOWLEDGED ?

Straight-line depreciation is the most common method of depreciation in Luxembourg, even if for some tangible assets (except buildings) the declining balance method can be applied.

A taxpayer may switch from the declining balance method to the straight-line method, but not vice versa.

General straight-line depreciation rates are as follows:

Asset	%
Buildings (excluding land)	2–4
Plant	8–12
Machinery	10
Office machines	20
Office furniture	10–15
Vehicles	20–25
Fixtures and fittings	20–25

A taxpayer may depreciate up to 80% of environmental or energy-saving investments over €2,400 during the year of acquisition.

A taxpayer may accelerate depreciation on assets subject to excessive usage.

A taxpayer may take a full deduction in the year of acquisition for depreciable assets with an economic life under a year or with a value under €870 (excluding deductible VAT).

The depreciation of an intangible asset (e.g. trademarks, patents and copyrights) coincides with its statutory period of protection. A taxpayer may depreciate goodwill over a five-year period with a depreciation rate of 10%.

Taxable income includes gain arising from the disposal of an asset, although a taxpayer may defer such gain in certain cases. Such gain is equal to the difference between the sale price and the depreciated book value of the asset.

## 9- WHAT TAX TREATMENT IS APPLIED TO RESIDENT COMPANIES?

Taxable income and capital gains are subject to corporate income tax at the following rates, applicable since 2019:

<i>Annual taxable income</i>	<i>Tax payable</i>
€ 0 – € 175,000	15%
€ 175,000 - € 200,000	€ 26,250 + 31% of the excess over € 175,000
Over € 200,000	17%

There is a supplemental levy (as a contribution to the unemployment fund, otherwise known as an employment fund surcharge) of 7% of the corporate income tax due.

Note that all companies conducting trade activities in Luxembourg (except certain real estate, investment fund and shipping companies) are also subject to municipal business tax.

### **Holdings and investment companies**

The SoParFi (*Société de participation financière*) (fully taxable holding) is a normal SA or SARL which can trade and do all kinds of business, subject to a trading permit. It is fully subject to all Luxembourg corporate taxes on profits and capital gains, wealth taxes and withholding taxes. However, it can also benefit from some reliefs. For example, dividends paid to a SoParFi from any company in which the SoParFi has at least a 10% shareholding are exempt and capital gains derived from the sale of a shareholding of at least 10% are exempt.

The SPF (*Société de gestion de patrimoines familiales*) is used to manage private assets of individuals and can be considered the successor to “Holding 29”, the tax exempt Luxembourg holding company form which was abolished in January 2007. It is exempt from corporate income tax, municipal business tax and net worth tax and can take different legal forms: public limited company (SA), private limited company (SARL), partnership limited by shares (SCA) and cooperative organised in the form of a public limited company (société cooperative organisée comme une société anonyme).

## 10- ARE GROUP COMPANIES CONSIDERED SINGLE COMPANIES FOR FISCAL PURPOSES?

A Luxembourg resident company may request authorisation to consolidate with its Luxembourg parent for corporate income tax and municipal business tax purposes (but not for net worth tax purposes). The tax consolidation regime is also available to qualifying companies that have the same parent company. The parent company must be resident in a European Economic Area jurisdiction and be subject to a tax similar to Luxembourg’s corporate income tax. The Luxembourg tax authorities will only grant authorisation to consolidate if the resident company fulfils the following conditions:

- another fully taxable resident company directly or indirectly holds at least 95% of the shareholding of the company. In certain circumstances, consolidation will be permitted with a minimum holding of 75%, provided 75% or more of the minority shareholders agree

- the parent and the affiliate present the request jointly
- the parent and the affiliate close their annual accounts on the same day, and
- the consolidation period will last for a minimum of five tax years.

The advantage of integration is that companies pool their results together, and one company may offset its losses against the profits of another. However, one company in a group may not use losses incurred by another company before that company's integration into the group. Additionally, a parent company may not transfer losses that occur during the period of fiscal integration to a subsidiary in the year in which that subsidiary leaves the group or subsequently. Dividend payments between members of a group of companies are free from withholding tax and corporate income tax if they fulfil the requirements for a participation exemption.

The transfer of fixed assets or inventory is subject to tax. However, a taxpayer may avoid taxable profit by transferring assets for consideration equal to the tax value of the assets transferred. VAT, stamp duties and immovable property tax apply to transfers between group members.

One company in a group cannot defer its capital gains by reference to the acquisition of an asset by another company in the group. All companies must have separate financial statements.

## **11- WHAT TAX TREATMENT IS APPLIED TO FOREIGN LOCAL UNITS AND NON-RESIDENT COMPANIES?**

A non-resident is not liable for Luxembourg tax on trading or business profits unless they trade or do business (eg conclude a contract of sale, engage in manufacturing or perform services) in Luxembourg through either a PE or a permanent resident.

The computation of a branch's taxable trading profits and capital gains is the same as that of a resident company. However, the following exceptions apply:

- even if the income attributable to the Luxembourg branch is under €175,000, the rate is still 17% unless the parent company's worldwide income is below €175,000
- a branch may carry forward losses for corporate income tax purposes if it maintains proper separate accounting records, and
- a branch receiving dividends from a substantial participation can benefit from the participation exemption.

A branch's tax liability is limited to the income tax on its trading profits.

All capital gains realised from branch assets located in Luxembourg, except those falling within the participation exemption, are included in the branch's trading profits and taxed at the normal rate of corporate income tax.

Net worth tax and MBT apply to branch assets.

A withholding tax of 15% applies to dividends received by non-resident companies unless the participation exemption or the EU Parent Subsidiary Directive applies. Interest paid in respect of profits from a profit-sharing bond/loan is treated as a dividend distribution and subject to withholding tax at the rate of 15%.

The participation exemption applies if a branch is a PE of a company that is a resident of the EU (as listed in the EU Parent Subsidiary Directive). It also applies to a PE of a company that is a resident of a country with which Luxembourg has a double tax treaty.

## **12- ARE CAPITAL GAINS TAXED?**

There is no separate corporate capital gains tax in Luxembourg. Capital gains are taxed as part of ordinary income.

Taxation can be deferred in the following cases:

- If an asset is destroyed by an act of God, is expropriated, or is sold to avoid expropriation, and if there is a capital gain, taxation of this gain may be deferred provided some conditions are met;

- If a new asset is not acquired before the end of the year in which the loss occurred, the gain may be immunised provided some conditions are met;
- If a taxpayer realises gains on the sale of buildings or the sale of non-depreciable assets, including non-acquired goodwill, the taxpayer may deduct these gains from the cost of replacement assets acquired so long as some conditions are met;
- If the reinvestment does not take place in the year of the sale, the gain may be immunised provided some conditions are met;
- If the asset sold is a participation, reinvestment is possible if it is a substantial shareholding (ie greater than 10% or over €6 million in value).
- If the asset sold is the transfer of the assets of a Luxembourg branch to a Luxembourg company in exchange for shares, then the latent capital gains arising on the assets transferred are immunised until the shares of the Luxembourg company are sold.
- Gains arising on reorganisation of a company may be exempt in certain circumstances.

Capital gains arising from the sale of shares by a Luxembourg company, a PE of an EU resident company or a company resident in a treaty country, or by a partnership in which a Luxembourg company is a partner, are exempt from tax if some conditions are met.

Capital gains arising from the disposal of foreign branch assets, other than sales of shares qualifying for the participation exemption and foreign real estate, are fully taxable because Luxembourg companies pay tax on their worldwide income including capital gains. However, double taxation treaties may provide for exemption from Luxembourg tax and, if such a treaty does not exist, Luxembourg law allows a foreign tax credit on the income received by the company.

Luxembourg reintroduced an intellectual property regime from 1 January 2018. The current regime applies to net income derived from patents (and equivalent rights) and copyrighted software. Qualifying income is subject to an 80% corporate income tax exemption and a 100% net worth tax exemption.

### **13- WHAT TAX TREATMENT IS APPLIED IN CASE OF COMPANY LIQUIDATION?**

A company is subject to corporate income tax on profits realised on liquidation. Taxation ceases until the end of the liquidation procedure unless the procedure lasts longer than three years. In such case, taxation occurs every year. Taxable profit is equal to the difference between the net assets of the company at the end of the financial year before the decision to dissolve and the amount of taxable profit available for distribution to shareholders.

A withholding tax of 15% or a reduced treaty rate applies to the distribution of profits realised on liquidation, but if the parent company benefits from the participation exemption, the distribution of profits is exempt.

### **14- TRANSFER OR REPURCHASE OF SHARES: HOW ARE THEY TAXED**

Luxembourg companies subject to a reduction of capital must maintain their minimum required capital (eg €30,000 for an SA and €12,000 for a SARL). A reduction of capital is tax free to the extent that it is a repayment of capital previously paid in and that reserves no longer exist. Any other amounts are treated as a capital gain or loss to the shareholder.

A reduction of capital is not subject to withholding tax as a dividend.

The Luxembourg tax result of the repurchase of shares is the same as that applied to the reduction of capital.

## **15- WHAT OTHER TAXES ARE APPLIED IN LUXEMBOURG?**

### **VAT**

VAT applies to the domestic supply of goods and services within Luxembourg and to the importation of goods by Luxembourg entities from countries that are not members of the EU.

A service is deemed to be rendered in Luxembourg if the supplier or the client has a PE in Luxembourg.

The standard VAT rate is 17%; 3% on basic commodities; 8% (temporarily reduced to 7% for 2023) on water and electricity supplies; 14% (temporarily reduced to 13% for 2023) on wine, fuels, tobacco (taxed under a specific regime), loan management, custody and management of securities. A zero rate of VAT applies to intra-community supplies of goods and services, export to non-EU companies (goods and services), and associated shipping services. From 1 January 2021 to 31 December 2022, the zero rate also applied to supplies, imports and intra-community acquisitions of COVID-19 vaccines.

### **Registration duty**

A fixed registration duty of €75 covers several transactions pertaining to Luxembourg companies, including incorporation, transfer of seat from a foreign country to Luxembourg and amendment of the bylaws. Contribution in kind consisting of the transfer of real estate into a company is subject to a specific registration tax as follow

### **Annual subscription tax**

Annual subscription tax on the average value of shares or other securities issued by resident companies applies to Luxembourg at rates going from 0.01% to 0.25%.

### **Annual immovable property**

Municipalities levy an annual immovable property tax on all domestic real property. This tax is normally between 0.7% and 1% of the tax value of the property, multiplied by coefficients of between 210% and 750% that are fixed by each municipality.

### **Social security contributions**

Luxembourg requires the payment of social security contributions. Employee social security rates represent up to 12.45% of pay. Employer social security rates vary and are typically between 14.47% and 17%. Contributions are calculated on an employee's gross salary including benefits in kind up to a ceiling of €150,532.10 for 2023. Most social security contributions are tax deductible for both employees and employers.

### **Real estate transfer tax**

A 6% tax applies to the transfer of Luxembourg real estate. This tax is 9% if the property is located in the city of Luxembourg. There is also a mortgage registration duty of 1%. The tax base is the price paid for the real estate. A company owning Luxembourg real estate does not face tax on the transfer of its shares.

### **Excise duties**

Luxembourg levies excise duties on ethyl alcohol and spirits produced inside or outside of Luxembourg.

### **Tax on motor vehicles**

Luxembourg imposes an annual tax on motor vehicles (taxes sur les véhicules), calculated on the basis of the certified emission fuel standards for the vehicle and engine capacity.

### **Tax on insurance premiums**

The rate of tax is 4% (plus 6% for fire and natural elements insurance), applicable on the amount of the gross premium.

## **16- DIVIDENDS, INTERESTS AND ROYALTIES: HOW ARE THEY CONSIDERED AND TAXED?**

### **Dividends**

Where the participation exemption does not apply, 50% of the gross dividends received by a Luxembourg company from another Luxembourg company, from an EU-resident company (as defined by the EU Parent Subsidiary Directive) or from a company resident in a treaty country are exempt from corporate tax.

This exemption applies if the following conditions are fulfilled:

- the recipient and the payor must both be subject to a corporate income tax of at least 10.5%
- the recipient has held or intends to hold at least 10% of the share capital of the payor company for an uninterrupted period of at least 12 months, and
- the recipient company must have a direct investment of at least 10% of the issued shares in the payor company or the acquisition price of its holding must have been at least €1.2m.

The participation exemption applies to holdings in foreign companies, whether inside or outside the EU.

The exemption may, however, be disregarded if the dividend is part of a transaction, or series of transactions, for which the main or principal purpose is obtaining a tax benefit or if the paying company qualifies for a dividend tax deduction in its country of residence.

A withholding tax of 15% applies to dividends and other profit participations paid by Luxembourg companies that do not qualify for the participation exemption or for the EU Parent Subsidiary Directive.

If a company distributes dividends before the parent company has held the participation for more than 12 months, the distributing company may:

- pay the withholding tax, or
- pay the withholding tax when the distribution takes place, and claim the tax back as soon as the conditions are fulfilled.

Dividends paid to shareholder companies incorporated in Switzerland and in the EU that have a qualifying participation are exempt from Luxembourg withholding tax.

Dividends paid to fully taxable shareholder companies subject to a tax similar to Luxembourg corporate income tax computed on a similar basis (at least 10.5%) that are resident in a country with which Luxembourg has concluded a tax treaty, are also exempted from withholding tax if the shareholder companies hold at least 10% (or €1.2m) for an uninterrupted period of at least 12 months.

Dividends paid by a foreign company out of Luxembourg branch profits are not subject to withholding tax. Luxembourg branch remittances are not subject to withholding tax.

### **Interests**

There is no withholding tax on payments of ordinary interest. However, interest on participation bonds and Luxembourg real estate insured loans will be subject to a withholding tax of 15%, unless otherwise provided by tax treaty.

### **Royalties**

Royalties paid to non-residents are not subject to withholding.

If the payee is a non-resident with a permanent establishment in Luxembourg, the withholding tax will be credited against the non-resident's corporate income tax liability on the business of the PE.

## **17- HOW ARE CALCULATED STOCKS OR INVENTORIES?**

A taxpayer must value inventory items individually at the lower of the cost of acquisition or the going concern value.

Fungible goods can be valued at their weighted average cost, or through the first-in, first-out (FIFO), last-in, first-out (LIFO) or high-in, first-out (HIFO) method.

## **18- HOW ARE RESIDENT INDIVIDUALS TAXED?**

### **Tax liability criteria**

Individuals are considered as taxable residents or non-residents according to whether or not they maintain their domicile or customary place of abode in the Grand Duchy of Luxembourg. Residents are subject to Luxembourg income tax on their worldwide income.

### **Tax rates**

For 2023, income tax of both residents and non-residents is charged at progressive rates up to 42%, graduated in 23 bands. The tax rates and income bands applicable are as follows:

<i><b>Taxable income</b></i> <b>€</b>	<i><b>Cumulative tax</b></i> <b>€</b>	<i><b>Tax rate</b></i> <b>%</b>
0 – 11,265	0	0
11,265 – 13,137	150	8
13,137 – 15,009	319	9
15,009 – 16,881	506	10
16,881 – 18,753	712	11
18,753 – 20,625	937	12
20,625 – 22,569	1,209	14
22,569 – 24,513	1,520	16
24,513 – 26,457	1,559	18
26,457 – 28,401	1,948	20
28,401 – 30,345	2,376	22
30,345 – 32,289	2,843	24
32,289 – 34,233	3,346	26
34,233 – 36,177	3,890	28
36,177 – 38,121	4,473	30
38,121 – 40,065	5,096	32
40,065 - 42,009	5,757	34
42,009 – 43,953	6,457	36
43,953 – 45,897	7,196	38
45,897 – 100,002	28,297	39
100,002 – 150,000	48,296	40
150,000 – 200,004	68,798	41
Over 200,004		42

### **Main deductions and reliefs**

From 1 January 2018, married couples may choose to be taxed jointly or separately. In the case of joint taxation, married couples are required to file a joint return under the system of splitting. The couple's tax liability is computed by dividing their joint taxable income by 2 and multiplying the resulting tax due (at the rates applicable to a single person) by 2.

Deductions are available in respect of special expenses for dependent children, spouses, parents, mentally ill and handicapped parents, and students being supported financially by the taxpayer.

A standard deduction of €450 per month (maximum €5,400 per year) is available for child care. Taxpayers who have children who are not part of their household (ie as a consequence of separation or divorce) can deduct a tax allowance of up to €4,020 per child per year in relation

to child support payments, if the child is under the age of 21, or over 21 and in full-time education.

Deductions are available in respect of special expenses for dependent children, spouses, parents, mentally ill and handicapped parents, and students being supported financially by the taxpayer.

A married couple in a fiscal family unit is eligible for an extra professional allowance of €4,500 if both spouses have taxable income from employment or professions. The allowance is given to the spouse with the lower income.

#### **Inheritance and gift tax**

Inheritance tax is chargeable on all of the estate transferred at the death of a resident of Luxembourg (with the exception of foreign real estate). The tax is payable by the legatees/transferees and the rate depends upon the value received by each transferee and the degree of relationship with the deceased. Base rates vary between 0% and 15%, depending on the degree of relationship. Inheritances received by children, by a spouse, or by a partner of at least three years are tax free.

#### **Pension, social security and national health policy**

Both employed and self-employed Luxembourg residents must normally make contributions to compulsory social security schemes.

Employees' social security contributions provide coverage for old age, illness, accident, family allowances and unemployment.

The applicable rates are as follows:

	<i>Employees</i> %	<i>Employers</i> %
Health insurance	3.05	3.05
Old age pension	8	8
Dependence insurance	1.4	-
Surcharge based on illness/average age of employees	-	0.72 – 2.84
Accident	-	0.75
Family benefits	-	1.7
Occupational health		0.14

The 1.4% “dependence insurance” was created to finance services for dependent persons (eg invalids, aged people).

In addition to social security contributions, resident and non-resident employees can pay extra fees to mutual funds to cover certain medical costs.

## **19- HOW ARE FOREIGN INDIVIDUALS TAXED? WHEN ARE THEY CONSIDERED RESIDENT?**

#### **Tax liability criteria**

Individuals are considered as taxable residents or non-residents according to whether or not they maintain their domicile or customary place of abode in the Grand Duchy of Luxembourg.

Non-residents are subject to tax only on their Luxembourg sourced income and the income deriving from capital goods is subject to withholding.

#### **Tax rates**

For 2023, income tax of both residents and non-residents is charged at progressive rates up to 42%, graduated in 23 bands. The tax rates and income bands applicable are as follows:



<i><b>Taxable income</b></i> €	<i><b>Cumulative tax</b></i> €	<i><b>Tax rate</b></i> %
0 – 11,265	0	0
11,265 – 13,137	150	8
13,137 – 15,009	319	9
15,009 – 16,881	506	10
16,881 – 18,753	712	11
18,753 – 20,625	937	12
20,625 – 22,569	1,209	14
22,569 – 24,513	1,520	16
24,513 – 26,457	1,559	18
26,457 – 28,401	1,948	20
28,401 – 30,345	2,376	22
30,345 – 32,289	2,843	24
32,289 – 34,233	3,346	26
34,233 – 36,177	3,890	28
36,177 – 38,121	4,473	30
38,121 – 40,065	5,096	32
40,065 – 42,009	5,757	34
42,009 – 43,953	6,457	36
43,953 – 45,897	7,196	38
45,897 – 100,002	28,297	39
100,002 – 150,000	48,296	40
150,000 – 200,004	68,798	41
Over 200,004		42

### **Inheritance and gift tax**

If the deceased was not resident in Luxembourg at the date of death, only Luxembourg real estate is subject to estate tax. On the death of a non-resident, all transfers of land and buildings located in Luxembourg are subject to inheritance tax at a base rate of between 0% and 15%, plus an increase of between 1/10 and 22/10 (see above). The rate depends upon the amount received and the degree of relationship between the beneficiaries and the deceased.

Estate duty is not covered by Luxembourg's tax treaties.

### **Pension, social security and national health policy**

Being an EU member, Luxembourg must take EC directives on social security into consideration. The regulations cover 3 basic principles:

- equality of treatment for migrant workers and national workers
- aggregation of periods of coverage relating to professional activities in more than one country both in respect of the individual's social security entitlement and the calculation of that entitlement
- payment of long-term benefits in an EU member state.

As a rule, the regulations stipulate that social security legislation of the country where the professional activities (as an employee or self-employed worker) are carried out will be applied, notwithstanding the fact that an individual contributor may reside in another member state.

Outside the European Union, Luxembourg also has social security agreements with: Albania, Argentina, Bosnia & Herzegovina, Brazil, Canada, Cape Verde, Chile, China, Iceland, India, Japan, Liechtenstein, Macedonia, Moldova, Montenegro, Morocco, Norway, the Philippines, Quebec, Serbia, South Korea, Switzerland, Tunisia, Turkey, Uruguay and the United States.

In addition to social security contributions, resident and non-resident employees can pay extra fees to mutual funds to cover certain medical costs.

## **20- TERMS FOR TAX PAYMENT: THE FISCAL YEAR IN LUXEMBOURG**

The Luxembourg tax year is the calendar year. However, the tax authorities may approve a tax year ending on a different date, particularly when the accounting date of a group of companies does not end with the calendar year.

Entities subject to corporate income tax must file an annual tax return before 31 May of each year (extended to 30 June 2021 in respect of the 2020 tax year). The filing date may be extended upon request.

A corporation must remit corporate income tax within one month from the receipt of the tax assessment.

A corporation must make advance payments quarterly on 10 March, 10 June, 10 September and 10 December based on its tax assessment for the preceding year.

If the payment is late, 1% interest accrues per month on the total tax due. In addition, a penalty of 10% of the tax due may also apply for the failure to file or for the late filing of a return.

## **21- WHAT TAX INSPECTIONS ARE MADE?**

It is in the tax administration's discretion to conduct a tax audit of a company. The tax administration carries out an audit where it doubts the accuracy of the tax returns.

Taxpayers submit returns to the tax authorities together with all relevant account documents.

## **22- CAN TAXPAYERS AGREE IN ADVANCE THEIR TAX TREATMENT?**

A taxpayer may request an advance tax ruling from Luxembourg's tax administration.

## **23- WHAT EXCHANGE CONTROLS ARE CARRIED OUT?**

The Banque Centrale de Luxembourg (BCL) is responsible for the orderly operation of the currency exchange markets. Foreign investors are free to set up businesses or make investments in Luxembourg.

Luxembourg, as a part of the EU, must conform to EU legislation against money laundering. Luxembourg is a member of the Financial Action Task Force (FATF), an international agency based in Paris that is a global watchdog for money laundering and terrorist financing.

## **24- WHAT TAX RELIEFS AND INCENTIVES ARE GRANTED BY THE LUXEMBOURG GOVERNMENT?**

### **Incentives and grants to commercial companies and the skilled craft trades**

#### Investment in tangible and intangible fixed assets

Luxembourg provides financial aid to small and medium-sized businesses (SMEs) for investment in tangible and intangible fixed assets. The maximum amount of aid granted is 20% of eligible costs for small businesses and 10% of eligible costs for medium-sized businesses.

#### Services provided by outside advisers

From October 2018, SMEs in Luxembourg may receive financial aid - up to 50% of eligible costs - for services provided by outside advisers. To qualify, the advisory services must satisfy some conditions

#### Participating in a trade fair or an exhibition

From October 2018, Luxembourg provides financial aid to SMEs for taking part in a trade fair, for costs relating to renting, setting up and managing a stand for participating in fairs or exhibitions. The maximum amount of aid granted is 50% of eligible costs.

#### Encouraging and supporting businesses in protection of the environment and rational use of natural resources

Luxembourg may grant financial aid for investments by SMEs aimed at complying with new community standards on the environment. The gross maximum amount of financial aid is 15% of the eligible costs for 3 years from the adoption of these standards, increasing to 30% in case of further investments made even in the absence of EU directives.

#### Food safety

Enterprises that invest in equipment used for the manufacture, processing, packing, storing, handling, tracing, sale or provision of foodstuffs intended for human consumption and animal feedstuffs, where the effect of such investment is to improve health and safety conditions and the quality of the foodstuffs within the company, are eligible for financial aid up to 40%.

#### European cooperation projects

From 5 October 2018, Luxembourg provides financial aid to SMEs that undertake cooperation projects within Europe, up to 50% of eligible costs.

#### **Incentives and grants to industrial companies and service providers**

##### Economic development of certain regions of the country

These are financial aid in the form of capital subsidies and tax exemptions to promote the creation, expansion, modernization and adaptation of the interests that play a key role in the economic development of a specific region.

##### Tax relief

Taxpayers that set up new companies or start new manufacturing processes that contribute to regional economic development or improve the geographical spread of economic activities may receive an exemption for part of the profits generated by their new companies or manufacturing processes for purposes of income tax or corporation tax and municipal trade tax on profits, for 10 financial years of operation.

##### De minimis aid scheme

From 1 January 2020, a de minimis aid scheme applies to companies that carry out projects promoting the Luxembourg economy, including employment. The scheme applies to projects that are not eligible for other available aid schemes. Under the scheme, aid may be granted up to €200,000 per company over a period of 3 fiscal years.

#### **Incentives and grants given by the National Credit and Investment Corporation (SNCI - *Société Nationale de Crédit et d'Investissement*)**

It is a public banking institution that specialises in the medium and long-term financing of investments made by Luxembourg businesses. Its financial resources are based on its capital and the issuing of bonds and savings certificates. The aim of this type of loan is to increase the capital of persons who cannot provide guarantees or security in order to help them set up or take over businesses, in addition to the usual bank loans and facilities.

##### **Tax relief on investment**

Article 152 bis of Luxembourg's Law on Income Tax (LIR) allows taxpayers to apply for tax rebates for investments made in their business. The business must be permanently located in Luxembourg. A separate tax rebate of 13% applies to additional investments that take the form of purchases of depreciable tangible goods other than buildings, livestock and mineral and fossil mines during the financial year of operation.

##### **Incentives and grants for exports (Office du Ducroire)**

The Office du Ducroire helps Luxembourg companies export to neighbouring markets, markets in new EU member states, or other countries to increase their activity and their turnover. Companies that identify new customers abroad may use the Office du Ducroire as a safety net to protect themselves against bad payers, the insolvency of their existing customers and political risks.

**Incentives and grants for protection of the environment**

The Ministry of the Economy may provide financial aid for operations involved in the protection of the environment and the rational use of energy by industrial undertakings or service providers, where the companies involved play a key role in economic development. Under certain circumstances, the Ministry may grant financial aid for investments aimed at producing energy from so-called renewable sources by commercial companies incorporated in Luxembourg.

Where an undertaking makes an investment that contributes to the protection of the environment, it may, under certain conditions, receive investment aid up to 30% of the eligible costs.

**Incentives and grants for companies who hire job seekers**

Financial aid in the form of repayment of social security contributions paid by the employer is available when older unemployed workers are hired.

**Incentives and grants for continuing vocational training**

Luxembourg's Labour Code promotes continuing professional education in companies based on joint financing of training costs. All undertakings legally established in Luxembourg may receive this aid.

**Financial aid for investments in the audiovisual field**

Grants are available for resident companies involved in audio production, provided that both the companies and the products meet certain requirements.

**Tax rebate for venture capital investment**

The Law of 22 December 1993 created a special tax scheme promoting venture capital investments in companies that begin using new production processes or technologies.

**Incentives and grants for research, development and innovation activities**

Companies carrying out research activities can benefit from financial subsidies of 25%, 50% or 100% of the costs incurred, depending on the type of investments made.

Financial aid is also provided for technical feasibility studies, innovative investments, innovative start-ups, innovation in organization and processes, for research infrastructures and for innovation poles.

**Specialised investment funds (SIFs)**

SIFs can be implemented in contractual form (as a *fonds commun de placement* - FCP), in corporate form as an investment fund with variable capital (*société d'investissement à capital variable* - SICAV) or as an investment fund with fixed capital (*société d'investissement à capital fixe* - SICAF).

**Venture capital investment vehicle (*société d'investissement en capital risqué* - SICAR)**

The SICAR is a venture capital and private equity investment vehicle for knowledgeable investors, which provides a simplified and regulated structure compared to a SIF. The eligible investors are the same as for the purpose of SIFs (above)

**Reserved alternative investment fund (*fonds d'investissements alternatifs réservés* - FIAR))**

The FIAR is a flexible and fiscally neutral investment vehicle tailored for experienced investors. FIARs are established by private or notarial deed, must be registered with the company register and are not subject to the supervision of the financial sector supervisory authority (CSSF).

**Securitisation vehicle**

Securitisation is a transaction under which a vehicle acquires or assumes directly or through another vehicle the assets of a company such as claims, other fixed or current assets, or engagements assumed by third parties or inherent to all or part of the activities of third parties. The vehicle funds the acquisition of such assets with cash or securities.

**Captive reinsurance companies**

The Luxembourg tax authorities encourage captive reinsurance undertakings in order to increase diversification and attract insurance and reinsurance companies operating internationally.

**Investment vehicles for private wealth investment (*société de gestion de patrimoine familial*)**

An SPF can be set up under the legal form of a public limited liability company (SA), a private limited liability company (SARL), a corporate partnership limited by shares (SECA), or a cooperative society and the purpose is limited to the acquisition, holding, management and disposal of financial assets.

**Expatriate regime**

An expatriate regime enables Luxembourg, EU and EEA companies or branches to encourage highly skilled workers to move to Luxembourg. Relocation allowances or indemnities paid to qualifying employees are tax deductible for the employer and free from income tax for the employees.

**25- HAS LUXEMBOURG SIGNED BILATERAL TAX AGREEMENTS WITH OTHER COUNTRIES? TABLE OF WITHHOLDING TAXES**

Luxembourg has concluded tax treaties with a number of countries. There is no Luxembourg withholding tax on interest or royalties paid to non-residents.

	<i>Dividends</i>	<i>Interests</i>	<i>Royalties</i>
	<i>%</i>	<i>%</i>	<i>%</i>
<i>Non-treaty countries</i>	15	0	0
<i>Treaty countries</i>			
Andorra	0/5/15	0	0
Armenia	5/15	0	0
Austria	0/5/15	0	0
Azerbaijan	5/10	0	0
Bahrain	0/10	0	0
Barbados	0/15	0	0
Belgium	0/10/15	0	0
Brasil	15	0	0
Brunei	0/10	0	0
Bulgaria	0/5/15	0	0
Canada	5/15	0	0
China	5/10	0	0
Croatia	0/5/15	0	0
Cyprus	0/5	0	0
Czech Republic	0/10	0	0
Denmark	0/5/15	0	0
Estonia	0/10	0	0
Finland	0/5/15	0	0
France	0/15	0	0
Georgia	0/5/10	0	0
Germany	0/5/15	0	0
Greece	0/7.5	0	0
Guernsey	5/15	0	0
Hong Kong	0/10	0	0
Hungary	0/10	0	0
Iceland	5/15	0	0
India	10	0	0
Indonesia	10/15	0	0
Ireland	0/5/15	0	0

Isle of Man	5/15	0	0
Israel	5/15	0	0
Italy	0/12	0	0
Japan	5/15	0	0
Jersey	5/15	0	0
Kazakhstan	0/5/15	0	0
Korea	10/15	0	0
Kosovo	0/10	0	0
Laos	0/5/15	0	0
Latvia	0/5/10	0	0
Liechtenstein	0/5/15	0	0
Lithuania	0/5/15	0	0
Macedonia	5/15	0	0
Malaysia	0/5/10	0	0
Malta	0/5/15	0	0
Mauritius	5/10	0	0
Mexico	5/15	0	0
Moldova	5/10	0	0
Monaco	5/15	0	0
Morocco	10/15	0	0
Netherlands	0/2.5/15	0	0
Norway	5/15	0	0
Panama	5/15	0	0
Poland	0/15	0	0
Portugal	0/15	0	0
Qatar	0/10	0	0
Romania	0/5/15	0	0
Russia	5/15	0	0
San Marino	10/15	0	0
Saudi Arabia	5	0	0
Senegal	5/15	0	0
Serbia	5/10	0	0
Seychelles	0/10	0	0
Singapore	0	0	0
Slovakia	0/5/15	0	0
Slovenia	0/5/15	0	0
South Africa	5/15	0	0
Spain	0/5/15	0	0
Sri Lanka	7.5/10	0	0
Sweden	0/15	0	0
Switzerland	0/5/15	0	0
Taiwan	10/15	0	0
Tajikistan	0/15	0	0
Thailand	5/15	0	0
Trinidad & Tobago	5/10	0	0
Tunisia	10	0	0
Turkey	5/15	0	0
Ukraine	5/15	0	0
United Arab Emirates	0/5/10	0	0
United Kingdom	5/15	0	0
United States of America	0/5/15	0	0
Uruguay	5/15	0	0
Uzbekistan	5/15	0	0
Vietnam	5/10/15	0	0

Luxembourg has not entered into any TIEAs. Information exchange provisions are generally found in Luxembourg's tax treaties.