Luxembourg Country Profile

EU Tax Centre

June 2018

Key tax factors for efficient cross-border business and investment involving Luxembourg

EU Member State Yes

Double Tax Treaties With:

Albania[a]	Estonia	Kuwait[a]	Pakistan[a]	Switzerland
Andorra	Finland	Kyrgyzstan[a]	Panama	Syria[a]
Armenia	France	Laos	Poland	Tajikistan
Argentina[a]	Georgia	Latvia	Portugal	Taiwan
Austria	Germany	Lebanon[a]	Qatar	Thailand
Azerbaijan	Greece	Liechtenstein	Romania	Trinidad and Tobago
Bahrain	Guernsey	Lithuania	Russia	Tunisia
Barbados	Hong Kong	Macedonia	San Marino	Turkey
Belgium	Hungary	Malaysia	Saudi Arabia	Ukraine
Botswana[a]	Iceland	Malta	Senegal[a]	UAE
Brazil	India	Mauritius	Serbia	UK
Brunei	Indonesia	Mexico	Seychelles	Uruguay
Bulgaria	Ireland	Moldova	Singapore	US
Canada	Isle of Man	Monaco	Slovakia	Uzbekistan
China	Israel	Mongolia	Slovenia	Vietnam
Croatia	Italy	Morocco	Spain	
Cyprus[a]	Japan	Netherlands	South Africa	
Czech Rep.	Jersey	New Zealand[a]	South Korea	
Denmark	Kazakhstan	Norway	Sri Lanka	
Egypt[a]	Kosovo[a]	Oman[a]	Sweden	

Note: (a) Treaty initialed/signed/approved, but not yet in force
(b) Terminated by Mongolia with effect as from 1-1-2014

Most important forms of doing business Public limited liability company ("société anonyme - SA"), private limited liability company ("société à responsabilité limitée - S.à r.l.").

Legal entity capital requirements SA: minimum share capital of EUR 30,000, 1/4 of which must be paid up at incorporation. Share capital may be represented by bearer and/or registered shares, as well as by voting and non-voting shares, redeemable shares or tracking shares.

SARL: minimum share capital of EUR 12,000 fully paid up at incorporation. Capital is divided into registered shares and may be represented by redeemable shares or tracking shares.

Residence and tax system

A company is tax resident in Luxembourg if its statutory seat or its place of central administration is in Luxembourg. Corporate income tax is levied on worldwide income of resident companies.

Compliance requirements for CIT purposes

The tax year is the calendar year. Corporate tax returns (including corporate income tax, municipal business tax and net wealth tax returns) are due by May 31 (based on an administrative practice) of the following year (extension to December 31 possible). Advance payments of corporate income tax are due quarterly on March 10, June 10, September 10 and December 10. Advance payments of municipal business tax and net wealth tax are due quarterly on February 10, May 10, August 10 and November 10. The amount of the advance payment is based on the latest tax assessment. For certain payments (e.g. dividends), specific withholding tax returns are required.

Corporate income tax rate

For companies with a taxable income above EUR 30,000, the corporate income tax rate is 18 percent. The aggregate rate for these companies in Luxembourg-City is 26.01 percent, including municipal business tax of 6.75 percent and the contribution to the employment fund of 1.26 percent (i.e. 7 percent of the 18 percent CIT rate).

For companies with a taxable income between EUR 25,000 and EUR 30,000, the corporate income tax due is determined as follows: a flat amount of EUR 3,750 (i.e. a 15% corporate income tax rate applied to a taxable base of EUR 25,000), plus 33 percent of the income exceeding EUR 25,000. In addition, these companies should be subject to municipal business tax of 6.75 percent (in Luxembourg-City) and to the contribution to the employment fund (7 percent of the CIT charge).

For companies with a taxable income below EUR 25,000, the corporate income tax rate is 15 percent. In addition, these companies should be subject to municipal business tax of 6.75 percent (in Luxembourg-City) and to the contribution to the employment fund (7 percent of the CIT charge).

Withholding tax rates

On dividends paid to non-resident companies

15 percent (may be reduced, even to 0 percent, under applicable treaties or domestic rules).

On interest paid to non-resident companies

0 percent (except profit participating bond).

On patent royalties and certain copyright royalties paid to non-resident companies

0 percent.

On fees for technical services

No.

On other payments

Yes on certain payments (e.g. salaries, directors' fees, payments connected with non-residents' literary activities, artists' performances and sports activities in Luxembourg, in certain cases).

Branch withholding taxes

0 percent.

Holding rules

Dividend received from resident/non-resident subsidiaries

Participation exemption (100 percent) applies (at least 10 percent or acquisition price of EUR 1,200,000, minimum uninterrupted holding period of 12 months or commitment to hold for 12 months).

Capital gains obtained from resident/non-resident subsidiaries

Participation exemption (100 percent) applies (at least 10 percent or acquisition price of EUR 6,000,000, minimum uninterrupted holding period of 12 months or commitment to hold for 12 months).

Tax losses

Carry-forward of tax losses incurred as of January 1, 2017 is limited to 17 years. The older tax losses must be deducted first.

Tax losses incurred between January 1, 1991 and December 31, 2016 can still be carried forward without any time limitation.

No carry-back of tax losses possible.

Tax consolidation rules/Group relief rules

Yes, for corporate income tax and municipal business tax, but not for net wealth tax purposes. A Luxembourg parent share capital company (or a Luxembourg permanent establishment of a fully taxable non-resident share capital company) and its direct or indirect 95 percent subsidiaries (a Luxembourg share capital company or a Luxembourg permanent establishment of a fully taxable non-resident share capital company) can, under certain conditions, apply for fiscal integration. As of the tax year 2015, the "horizontal" fiscal integration is possible whereby domestic fully taxable share capital companies / permanent establishment of a fully taxable non-resident share capital company can consolidate under certain conditions without the parent company (that could be a fully taxable Luxembourg share capital company, a domestic permanent establishment of a fully taxable foreign share capital company, a fully taxable EEA share capital company, a fully taxable permanent establishment of a fully taxable EEA share capital company) participating in the fiscal integration.

Registration duties

Only a fixed fee of EUR 75 is due upon incorporation of a Luxembourg company, upon amendment of its by-laws and upon transfer of its statutory seat.

Transfer duties

On the transfer of shares

0 percent (provided the company is not a Luxembourg real estate property holding company).

On the transfer of land and buildings

The transfer of Luxembourg immovable property is subject to registration duty of 6 percent of the value of the real estate, plus an additional transfer duty of 1 percent.

For certain real estate in Luxembourg City, there is a supplementary municipal duty of 3 percent.

Stamp duties

On any deed that is registered, depending on the size of the document (mainly notarial deeds).

Real estate taxes

The transfer of Luxembourg immovable property is subject to registration duty of 6 percent of the value of the real estate, plus an additional transfer duty of 1 percent.

For certain real estate in Luxembourg City, there is a supplementary municipal duty of 3 percent.

Controlled Foreign Company rules

No - CFC rules of the EU anti-tax avoidance directive (ATAD) to be transposed in domestic law by December 31, 2018 with effect as of January 1, 2019.

Transfer pricing rules

General transfer pricing rules

The Luxembourg income tax law makes explicit reference to the arm's length conditions agreed between independent businesses as a standard for evaluating the conditions agreed between related parties. This standard is applied for both resident and non-resident parties and allows for upward or downward adjustments of profits for transfer pricing purposes. According to a circular for intra-group financing companies (issued December 27, 2016), a transfer pricing study should - based on a comparability analysis - identify the functions performed, the assets used and the risks related to the intra-group financing activity. The study should then determine whether the Luxembourg financing company has the financial capacity to manage the risks should they eventuate. The equity at risk should be appropriately remunerated and may be used to finance the company's loan portfolio or other assets. The return on equity at risk should, in principle, be subject to direct taxation in Luxembourg.

In general, particular attention is given to transfer pricing documentation.

	Documentation requirement Yes.
Thin capitalization rules	A debt-to-equity ratio of 85:15 is applicable to the funding of participations or real estate located in Luxembourg
General Anti-Avoidance rules (GAAR)	General abuse of law principle. It is expected that Luxembourg will adapt its GAAR as a result of the ATAD transposition by December 31, 2018 with effect as of January 1, 2019.
Specific Anti-Avoidance rules/Anti Treaty Shopping Provisions/Anti-Hybrid rules	Yes, with effect from January 1, 2016, an anti-hybrid rule and a general anti-abuse rule (GAAR) have been included in the domestic participation exemption regime for profit distributions derived from participations falling within the scope of the EU Parent-Subsidiary Directive.
Advance Ruling system	Yes
IP / R&D incentives	The IP regime granting an 80 percent exemption on royalties and capital gains with regard to certain intellectual properties was repealed as of July 1, 2016 (with grandfathering rules until June 30, 2021). On August 4, 2017, the government submitted a bill proposal to the parliament introducing a new intellectual property tax regime based on the OECD "modified nexus approach" (i.e. the “new IP regime”). The bill provides for an 80% tax exemption on income derived from qualifying patents (including IP assets functionally equivalent to patents) and copyrighted software. Based on the Bill, the new IP regime should be applicable with effect from January 1, 2018. Qualifying IP assets would be fully exempt from net worth tax.
Other incentives	Investment tax credits - Incentives for new industrial activities - Venture capital investment certificates - SICAR - Securitization regime
VAT	The standard VAT rate is 17 percent, the intermediary rate is 14 percent, the reduced rate is 8 percent and the super-reduced rate is 3 percent.
Other relevant points of attention	No

Source: Luxembourg tax law and local tax administration guidelines, updated 2018.

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