

SETTING UP BUSINESS IN LUXEMBOURG



General Aspect

Luxembourg is a unique gateway to the European market through its location in the centre of Europe, between Belgium, France and Germany. As a member of the Eurozone, Luxembourg monetary unit is the Euro. The total area of the Grand Duchy is 2,586 square kilometres and the total population is around 540,000 people, 44.4% of which do not have the Luxembourg nationality. The official languages are Luxembourgish, French and German, many people, especially in business life, speak English as well.

The Grand Duchy is a small but highly stable country boasting one of the highest GDP per capita in the world. Luxembourg's geographical location, excellent infrastructure, rewarding tax environment and high quality of life make it an attractive place to live and develop a business.

Legal Forms of Business Entities

Topic	Feature	Remarks
Branch Office and Subsidiary	<p>A branch office is an establishment which enjoys a certain degree of independence vis-à-vis the founding company, while not being legally separate from it.</p> <p>A subsidiary is a company with local nationality that is legally independent of the parent company that has a majority holding in the subsidiary.</p>	The parent company must take into account the tax differences between subsidiaries and branches.
Sole Proprietorship	<p>Set up by a single natural person who carries out his activity in his own account or a self-employed intellectual worker. The self-employed entrepreneur is fully liable for the debts contracted by the firm and commits his personal assets.</p> <p>No legal personality, no constitutional document (articles of association) and no minimum capital is required.</p>	This form of operation guarantees independence as well as minimal formalities. Suitable for small businesses and start-ups.
Partnerships There are the following partnerships in Luxembourg law:	A partnership is usually formed by at least two partners who join into business activity.	
General Partnership (Société en nom collectif – S.N.C.)	The S.N.C. may be incorporated by a notarial deed or a private agreement. No minimum or maximum share capital is required. Minimum of 2 partners, which may be natural or legal persons (only commercial companies). The partners of the S.N.C. are deemed to be trading in their own name. The partners have unlimited joint and several liability for all the commitments of the company on their personal assets.	Suitable for small and medium-sized businesses as the S.N.C. is simple to set up with low costs

Limited partnership (Société en commandite simple – S.C.S.)	<p>The S.C.S. may be incorporated by a notarial deed or a private agreement.</p> <p>No minimum or maximum share capital is required. Minimum of one general partner and one limited partner.</p> <p>The general partner has joint and several liability for the commitments of the company. The limited partner is only liable up to the limit of his contribution and is however not entitled to manage the company.</p>	<p>Lightly regulated and characterized by flexibility and contractual freedom.</p>
Special Limited Partnership (Société en commandite spéciale – S.C.Sp.)	<p>The S.C.Sp. regime is accordingly almost identical to the S.C.S regime, except that The S.C.Sp. does not have a legal personality. The assets of the S.C.Sp. will be available exclusively to satisfy the rights of creditors whose claims have arisen in connection with the S.C.Sp. and not in connection with its members.</p>	<p>Particularly adapted for regulated alternative funds in Luxembourg.</p>
Limited Liability Company (Société à responsabilité limitée – S.à r.l.)	<p>The S.à r.l. is incorporated by a notarial deed and must be registered in the commercial register. The minimum share capital of an S.à r.l. is EUR 12,000, which must be fully paid up at incorporation. Shareholders liability is limited to their contribution.</p> <p>The S.à r.l. may have between 2 and 100 partners. There is also a “single member” S.à r.l, allowing a single partner to benefit from the advantages of an S.à r.l.</p>	<p>The most widely used form of company, with high flexibility and relatively few obligations.</p>
Simplified Limited Liability Company (Société à responsabilité limitée simplifiée– S.à r.l.)	<p>The SARL-S is incorporated by a notarial or a private deed and must be registered in the commercial register. The minimum share capital of the SARL-S is minimum EUR 1.- and maximum EUR 12,000 which must be fully subscribed and paid up at incorporation. The company may have between 1 and 100 partners, only natural person(-s).</p>	<p>More flexible than the S.à r.l., the SARL-S is a good way for the entrepreneurs to have an immediate access to the Luxembourgish economic activity.</p>
Public Limited Company (Société Anonyme – S.A.)	<p>The S.A. is incorporated by a notarial deed and comes into existence upon registration in the commercial register. The minimum share capital is EUR 30,000, 25% of which must be paid up at incorporation. Shareholders’ liability is limited to their contribution.</p>	<p>Often chosen as a form of company for large businesses. Shares can be transferred easily, the S.A. can be listed publicly on the stock exchange.</p>
Simplified Public Company (Société par actions simplifiée – S.A.S)	<p>The SAS is incorporated by a notarial deed and must be registered in the commercial register. The minimum share capital of the SAS is EUR 30,000 which must be fully subscribed at incorporation. The shares may be partially paid up to 25%.</p> <p>The management of the SAS is made by a Chairman (president), legal or natural person, shareholder or not, who is the only person able to . Managing directors can be appointed by his side. They may exercise the powers entrusted by the Chairman.</p>	<p>This new flexible legal form introduced into Luxembourg law has been inspired by the French market.</p>

Partnership limited by shares (Société en commandite par actions – S.C.A.)	<p>The S.C.A. is incorporated by a notarial deed and must be registered in the commercial register. The minimum share capital is EUR 30,000, 25% of which must be paid up at incorporation. The company is formed by at least 2 partners, namely one general partner and one limited partner.</p> <p>General partners have a joint and several unlimited liability. Limited partners have a liability limited to the amount of their contribution, as long as they do not interfere in the management of the company.</p>	The partnership limited by shares combines structures of a S.A. and a Limited S.C.S.
Civil Company (Société civile)	<p>The civil company is governed by the provisions of the Luxembourg Civil Code. No minimum or maximum share capital. At least 2 shareholders are required. It is frequently used to manage immovable assets in the form of a real-estate company constituted under civil law (société civile immobilière – S.C.I.). The civil company may have a commercial purpose but in this case the tax situation as well as other aspects of the company will change.</p>	Suitable for any natural or legal person that wishes to carry out a non-commercial activity.
Cooperative company (Société coopérative – S.C.)	<p>The S.C. may be incorporated by a notarial deed or a private agreement. It is characterized by its variable capital and the absolute non-transferability of shares to third parties. A minimum of 7 shareholders is required.</p>	Suitable for economy of scale by pooling resources and for the diversification of business activities.

Organizational Questions

Topic	Feature	Remarks
Commercial Register	<p>The articles of association must be registered and filed with the Luxembourg trade and companies register (Registre de Commerce et des Sociétés - RCS) and published in the Luxembourg Official Journal C (the "Mémorial C").</p>	Modifications of the articles of association (statutes) are covered by the same publication requirements.
Business Licence	<p>Issued by the Ministry of Middle Classes for a commercial activity or by the Ministry of Economy and Foreign Trade for industrial activities upon request and on proof of knowledge of business management. Among other things, evidence of professional qualification and proof of professional integrity are required. Certain activities which are mainly intellectual in nature and carried out by an individual in their own name do not require a business licence.</p>	Most permits are granted within a week provided that the application file is complete. The Ministry must however make its decision within three months. Failing this, the permit is granted by default.

Bank Account	To open a bank account, individuals need a valid passport and a proof of address. Companies need the draft articles of association, a copy of the identity documents of the representatives, the address of the company's registered office and the legal address of the representatives.	The amount of the share capital must be transferred to the bank account before the passing of the deed of incorporation.
Transfer of Goods and Machinery	Within the EU goods and machinery can circulate freely. Imports from non-EU states to Luxembourg cause customs, import turnover tax, and in some cases special excise taxes.	There are several customs exemptions to be considered.
Transfer of Capital	Free movement of capital (i.e. capital can be moved in and out of Luxembourg without any restrictions).	Subject to Anti-Money Laundering (AML) and Counter Terrorist Financing (CTF) rules and regulations.
Visa and Residence permit	All EU citizens can set up business and take up self-employed work in Luxembourg without the requirement of any permit. Most of the non-EU nationals need a visa to enter Luxembourg but there are several exceptions.	

Employment

Topic	Feature	Remarks
Work permit	<p>Citizens of the European Union, the European Economic Area (EEA), or Switzerland can work in Luxembourg without any restrictions.</p> <p>All nationals from non-EU countries need a work permit to work legally in Luxembourg, except members of the management board of body corporates.</p>	<p>As from 1 January 2014, Bulgarian and Romanian citizens no longer need to apply for a work permit in order to access the Luxembourg job market.</p> <p>However, Croatian citizens remain subject to a work permit during their first year of professional activity in Luxembourg.</p>
Labour law	<p>In Luxembourg there are detailed employment regulations. A minimum of 25 days of paid holidays a year is guaranteed, in addition to public holidays.</p> <p>The law provides for a working time of 40 hours per week and eight hours per day. The maximum working week (inclusive of overtime) is 48 hours. Statutory limits on working time are part of extensive health and safety regulations. The notice period for termination of employment depends on seniority of the employee. A special law for protection against unfair dismissal offers great protection for employees.</p>	

Social system

Regular Luxembourg social security contributions consist of an employer's and an employee's portion. Both are computed on a gross remuneration capped at EUR 9,614.82 per month as from 1 January 2015. The following rates are applicable for 2016:

Health	Employee's portion	Employer's portion
- periodic remuneration	3.05%	3.05%
- non-periodic remuneration (e.g. bonus)	2.80%	2.80%
Sickness (Mutuality of employers)	-	0.51% - 3.04%
Pension	8%	8%
Accident	-	1.10%
Health at work	-	0.11%
Total	11.05%	12.77% - 15.30 %

A dependency contribution of 1.40% is due on professional income and income from net assets (investment, rental, and miscellaneous income).

As from 1 January 2015, the Luxembourg Government introduced a new temporary tax 0.50% for the purpose of budget balancing (see below *Taxation* section).

Taxation

Luxembourg offers an attractive tax environment.

As such, the participation exemption regime provides an exemption from income, withholding and net wealth tax for qualifying investments held by qualifying entities (i.e. dividends, capital gains and liquidation proceeds).

A favourable tax regime applicable to intellectual property rights (IP regime) was implemented in Luxembourg and provides an 80% exemption on royalties and capital gains derived from many types of IP rights: patents, trademarks, designs/models, internet domain names and software copyrights. Nonetheless, IP rights acquired directly from a related party are excluded from the regime.

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

In order to avoid the double taxation of the income, Luxembourg has concluded 76 tax treaties as at 1 February 25, 2016.

Tax	Feature	Remarks
Corporate Income Tax (Impôt sur le revenu des collectivités)	<p>Corporate income tax applies to all tax resident corporations and to Luxembourg permanent establishments of foreign corporations.</p> <p>An annual corporate income tax is levied on the profit and loss account of the company at a rate of 20.33% (including the surcharge for the contribution to the unemployment fund) when the taxable income exceeds EUR 15,000. The rate is set at 22.8% (including the surcharge for the contribution to the unemployment fund) when the taxable income does not exceed EUR 25,000.</p> <p>For companies with a tax base between EUR 25,000 and EUR 30,001, the corporate income tax charge will be EUR 3,750 plus 39% of the basis above EUR 2,500 for financial year 2017, and EUR 3,750 plus 33% of the basis above EUR 25,000 for financial year 2018.</p>	<p>The Luxembourg tax law provides that certain types of income (dividends, capital gains and liquidation proceeds) may be exempt from taxation under certain conditions.</p>
Municipal business tax (Impôt commercial communal)	<p>Levied on income of businesses operating in Luxembourg (residents and non-residents who have permanent establishments in Luxembourg). Municipal business tax is cumulative with corporate income tax and is therefore non-deductible. Municipal business tax rate varies by municipality from 6% to 10.5% (6.75% for Luxembourg city).</p>	<p>Municipal business tax does not apply to sole proprietors of agricultural and forestry businesses and the liberal professions.</p>
Standard aggregate corporate income tax	<p>Based on the above, the standard aggregate corporate income tax is 27.08% for Luxembourg city (for 2017).</p>	
Tax losses	<p>For income tax and municipal business tax purposes, the carrying forward of tax losses incurred as from 1 January 2017 is limited to 17 years. The older tax losses shall be deducted first. However, tax losses incurred between 1 January 1991 and 31 December 2016 are carried forward without any limitation in time.</p>	
Withholding Tax	<p>A withholding tax of 15% is levied on dividend payments, unless tax treaties provide for lower rates or the Luxembourg participation exemption regime reduces withholding tax to 0%.</p> <p>Normal interest payments (i.e. not profit-linked interest) and liquidation proceeds are generally not subject to withholding tax. Luxembourg does not levy withholding tax on royalty payments.</p>	
Personal Income Tax in case of transparent partnerships and sole proprietorship	<p>Personal income tax applies to the entrepreneur in a sole proprietorship and the partners, natural persons, in transparent partnerships (S.N.C., S.C.S., or civil companies). If the partner is an opaque capital company, corporate income tax applies.</p>	

<p>Net Wealth Tax (NWT) (Impôt sur la fortune)</p>	<p>Luxembourg opaque companies (e.g. S.A., S.à r.l.) whose unitary value equal or is below EUR 500 million are subject to NWT at the rate of 0.5%. The rate of 0.05% is applied for the part of the unitary value exceeding EUR 500 million. The basis for this annual tax is the market value of the net assets, set by the unitary value of the company, as of 1 January of each year. Resident opaque companies are taxed on their global assets whereas non-resident opaque companies are taxed only on net wealth held on Luxembourg soil.</p> <p>A minimum NWT charge applies from 1 January 2016, for all corporate entities having their statutory seat or central administration in Luxembourg.</p> <p>Such entities, for which the sum of their fixed financial assets, transferable securities and cash at bank (as reported in their commercial accounts presented in the standard Luxembourg form) exceeds 90% of their total gross assets and EUR 350,000, are subject to a minimum NWT charge of EUR 4,815.</p> <p>All other corporations having their statutory seat or central administration in Luxembourg, are subject to a minimum NWT charge of from EUR 535 to EUR 32,100, dependent on total gross assets as shown in the balance sheet.</p>	<p>Assets qualifying for the Luxembourg IP regime are exempt from NWT.</p> <p>Participations in companies qualifying for the participation exemption regime are exempt from NWT.</p>
<p>Personal Income Tax (Impôt sur le revenu des personnes physiques)</p>	<p>Progressive tax rates range from 0% to 45.78% (including the Employment Fund surcharge). 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.</p>	<p>An expatriate tax regime directed at highly skilled employees came into effect on 1 January 2011 (tax relief for certain expenses).</p>

Land and Property Tax (Impôt foncier)	Property tax is an impersonal tax, implemented by the communes, which is levied on all property situated in Luxembourg, built on or otherwise, belonging to natural and legal persons. The tax of 0.7% to 1% is levied on the unitary value of the property, which is much lower than the market value. Rates vary by municipality and type of property.	Land and property tax in Luxembourg is low compared to its neighbouring countries.
Value Added Tax (VAT)	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 such as food, books and newspapers. Some services are exempt, such as medical and health services, and many banking and financial services.	As from 1 January 2015, for services provided to EU private customers, the applicable VAT will be levied in the country of residence or domicile of the client and no longer in the country of the supplier.
Non-resident Taxation	Non-resident individuals and companies having a “permanent establishment” in Luxembourg are subject to Luxembourg taxation with their Luxembourg-sourced income (e.g. dividends, capital gains). Double taxation of this income is avoided by double taxation agreements between Luxembourg and other countries. Non-residents individuals deriving at least 90% of their total income from Luxembourg are, upon request, taxed as if they were residents.	Apart from salaries and pensions, Luxembourg source income derived by non-resident individual taxpayers is subject to progressive tax rates with a minimum rate of 15%.
Chamber of Commerce contribution	The Chamber of Commerce contribution is imposed annually on any person carrying on commercial, financial or industrial activities in Luxembourg. The contribution is levied on taxable profits of the penultimate year at a rate ranging from 0.025% to 0.2%. A minimum contribution will be levied, but it cannot exceed EUR 140 for public companies, partnerships limited by shares and European companies and EUR 70 for partnerships and private limited liability companies (EUR 14 for individuals). A lump sum fee of EUR 350 is due for companies principally carrying out holding activities that are listed as such under the NACE Code (the EU’s code for statistical classification of economic activities).	
Registration duties and Transfer tax	A fixed registration duty of EUR 75 is due on incorporation, modification of bylaws or transfer of the statutory seat or central management to Luxembourg. Sales of immovable property (land, buildings), specific contributions to companies, rental leases and donation are subject to registration duties of 6% plus 1% transcription tax. Exemptions are available for the 6% transfer tax and the 1% transcription tax.	

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