

Luxembourg



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1 Connection Factors

1.1 To what extent is domicile or habitual residence relevant in determining liability to taxation in your jurisdiction?

Individuals having their domicile or usual place of abode in the Grand Duchy of Luxembourg will be considered tax residents and will be subject to tax on their worldwide income (with available treaty and non-treaty relief). By contrast, individuals who are not considered tax residents in Luxembourg acquire non-resident status and will be subject to Luxembourg income taxes only on Luxembourg source income.

1.2 If domicile or habitual residence is relevant, how is it defined for taxation purposes?

A domicile is defined as the place the individual occupies as a home under circumstances which indicate he/she will retain and use it.

A habitual place of abode is deemed to exist if an individual has been present in Luxembourg for a period of at least six months.

1.3 To what extent is residence relevant in determining liability to taxation in your jurisdiction?

As discussed in questions 1.1 and 1.2, residence is essential for establishing the liability to taxation in Luxembourg.

1.4 If residence is relevant, how is it defined for taxation purposes?

Please refer to question 1.2.

1.5 To what extent is nationality relevant in determining liability to taxation in your jurisdiction?

Nationality is not relevant for determining liability to taxation in Luxembourg.

1.6 If nationality is relevant, how is it defined for taxation purposes?

This is not applicable (please refer to question 1.5).

1.7 What other connecting factors (if any) are relevant in determining a person's liability to tax in your jurisdiction?

The other most relevant connecting factor is real estate located in Luxembourg. In this regard, Luxembourg non-residents will be subject to Luxembourg taxation on income and capital gains deriving from real estate assets located in Luxembourg. Further, Luxembourg may, in certain circumstances, levy a transfer duty upon death (*droit de mutation par décès*) and collect a gift tax on immovable properties located in Luxembourg at the time of their transfer.

1.8 Have the definitions or requirements in relation to any connecting factors been amended to take account of involuntary presence in (or absence from) your jurisdiction as a result of the coronavirus pandemic?

Following the generalisation of mandatory teleworking in the coronavirus context, Luxembourg signed mutual agreements with its three neighbouring countries, i.e. France, Germany and Belgium, in order to clarify the individual taxation of commuter workers in those circumstances. The coronavirus pandemic was qualified a case of *force majeure*, justifying the suspension of the physical presence days thresholds over which employees are taxed in their state of residence instead of their state of work (i.e. Luxembourg). Through successive amendments, the current deadlines of the above-mentioned suspension have been extended to 31 December 2021 for all three countries, after which the general rules will be back in force if no subsequent mutual agreement is adopted.

Luxembourg and its neighbouring countries have also agreed to further extend the exceptional provision not to take into account teleworking days linked to the coronavirus pandemic for the determination of social security legislation applicable to cross-border commuters until 31 December 2021 for Belgium and Germany and until 15 November 2021 for France. Until

said deadlines, social security payments by the respective countries shall be taxable only in the jurisdiction from which they originate.

As regards residency in the context of bilateral tax treaties, as Luxembourg never closed its borders, no dual-residence status should arise as a consequence of the lockdown period. If that were to be case, Luxembourg follows the OECD guidelines, which stated that temporary dislocation should have no tax implications by application of a tax treaty.

2 General Taxation Regime

2.1 What gift, estate or wealth taxes apply that are relevant to persons becoming established in your jurisdiction?

- A gift tax will be levied on any donation if the gift is recorded in a Luxembourg notarial deed and/or submitted for registration in Luxembourg. The proportional gift tax is computed on the net fair market value of the asset transferred and the tax rates vary depending on the kinship between the donor and the donee (i.e. 1.8% to 14.4%). Donations of Luxembourg immovable properties recorded in a Luxembourg notarial deed trigger a proportional gift tax and are also subject to a 1% transcription duty (*droit de transcription*). Donations of immovable property located abroad are subject to a fixed gift tax of EUR 12 if they have been registered in Luxembourg.
- An inheritance tax (*droit de succession*) is levied on the net fair market value of the worldwide estate of a Luxembourg tax resident at the moment of his/her death. However, inheritance of immovable property located abroad is expressly exempt from Luxembourg tax, even if this property is not subject to tax in the jurisdiction where it is located. The inheritance tax rates vary depending on the kinship between the parties, on the amount of the transferred estate and on the question of whether or not the estate is received on the portion the heir is entitled to under intestacy rules (no taxation applies in principle to the ascendants or descendants in the direct line for the legal part only). Any inheritance with a net value exceeding EUR 10,000 is subject to a surcharge tax varying between 1/10 and 22/10.

2.2 How and to what extent are persons who become established in your jurisdiction liable to income and capital gains tax?

Luxembourg tax residents are, as a rule, subject to taxation on their worldwide income and capital gains. Taxable income is divided into eight different categories:

- income from trade or business;
- income from agriculture and forestry;
- income from self-employment;
- income from employment;
- income from pensions and annuities;
- income from movable property;
- rental income; and
- miscellaneous income (including income from casual services and capital gains on private assets).

The individual income tax rates are progressive, ranging from 8% to 42%; all the rates in the scale must be increased by an employment fund contribution of 7% (9% for income exceeding EUR 150,000 in case of single taxpayers or EUR 300,000 for couples jointly assessed).

All taxpayers are divided in three tax classes: a tax class is a computation formula whereby the income tax burden is recalculated in order to take account of family/personal circumstances.

- Tax class 1: all taxpayers not in class 1a or class 2; ex. single taxpayers.
- Tax class 1a: widows for more than three years, taxpayers above 64 years old, taxpayers living with dependants in the household.
- Tax class 2: spouses jointly assessed, widows for less than three years and divorced persons for less than three years.

2.3 What other direct taxes (if any) apply to persons who become established in your jurisdiction?

Luxembourg levies an annual municipal business tax (MBT) on the net profits realised by resident individuals carrying on a business in Luxembourg. This tax is only levied on trading income and not on self-employment or agricultural income. This tax is assessed on the business profit. The rates vary depending on the municipality (6.75% for Luxembourg City in 2021).

Further, Luxembourg collects a dependency insurance of 1.4% on the professional and replacement income (such as pensions) and the patrimony income when issuing the taxpayer's tax statement.

2.4 What indirect taxes (sales taxes/VAT and customs & excise duties) apply to persons becoming established in your jurisdiction?

Luxembourg has transposed the provisions of the European (EU) Directives on Value Added Tax (VAT) into its national law. Thus, Luxembourg VAT law is largely based on the interpretation given by the European Court of Justice.

The standard VAT rate in Luxembourg is 17%. Reduced rates of 3%, 8% and 14% apply to supplies of goods and services specified in the three appendices to the Luxembourg VAT law. While located in Luxembourg, certain supplies of goods and services may benefit from a VAT exemption.

Luxembourg is part of the EU single market without customs barriers: imports within the EU are not subject to custom duties. Imports from outside the EU are subject to customs duties as determined by the Common Customs Tariff.

Excise duties are levied on certain products such as spirits, petrol and tobacco in accordance with EU regulations.

2.5 Are there any anti-avoidance taxation provisions that apply to the offshore arrangements of persons who have become established in your jurisdiction?

Luxembourg provides for anti-avoidance tax provisions, including, in particular, the *abuse of law theory*. According to this provision, transactions that are deemed to be artificial or to have no purpose other than to reduce taxation may be reassessed by the Luxembourg tax authorities.

Further, Luxembourg provides for specific anti-avoidance provisions that apply directly to offshore arrangements, i.e. the Controlled Foreign Company (CFC) rules, which are applicable only to Luxembourg corporate taxpayers.

2.6 Is there any general anti-avoidance or anti-abuse rule to counteract tax advantages?

As described in question 2.5, the domestic law contains a general anti-abuse provision (Paragraph 6 of the *Steueranpassungsgesetz*),

which has been amended by the EU Anti-Tax Avoidance Directive I (ATAD I) by aligning the existing rule with the concept of artificial arrangements.

Under the amended provision, there is an abuse of law if the legal route that, having been used for the main purpose or one of the main purposes of circumventing or reducing tax contrary to the object or purpose of the tax law, is not genuine having regard to all relevant facts and circumstances. An arrangement or a series of arrangements are regarded as non-genuine to the extent that they are not put in place for valid commercial reasons that reflect economic reality.

2.7 Are there any arrangements in place in your jurisdiction for the disclosure of aggressive tax planning schemes?

The Luxembourg law of 25 March 2020, implementing the EU Directive 2018/822 dated 25 May 2018, regarding the mandatory exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC 6 Law), introduces a mandatory reporting obligation for Luxembourg resident intermediaries or relevant taxpayers, on cross-border arrangements and transactions involving Luxembourg entities with characteristics or features presenting an indication of potential risk of tax avoidance (hallmarks as listed in the DAC 6 Law).

3 Pre-entry Tax Planning

3.1 In your jurisdiction, what pre-entry estate, gift and/or wealth tax planning can be undertaken?

As Luxembourg is an attractive place in terms of inheritance and gift law, no pre-entry estate and gift tax planning should be required.

3.2 In your jurisdiction, what pre-entry income and capital gains tax planning can be undertaken?

The law of 18 December 2015 introduced the *step-up* principle with regard to securities forming part of a significant shareholding (i.e. more than 10% in the target company) in the assets of an individual upon the transfer of tax residence to Luxembourg. This domestic rule provides for a revaluation of the acquisition price of the above-mentioned securities at the fair market value as of the date of migration to Luxembourg without having any impact on their holding period.

3.3 In your jurisdiction, can pre-entry planning be undertaken for any other taxes?

There are no other taxes in Luxembourg for which pre-entry planning should be undertaken.

4 Taxation Issues on Inward Investment

4.1 What liabilities are there to tax on the acquisition, holding or disposal of, or receipt of income from investments made by a non-resident in your jurisdiction?

The liabilities will depend on the type of investment, as follows:

- Luxembourg-source dividends are generally subject to a 15% withholding tax. A partial or total refund may be available for non-resident shareholders by virtue of a double tax treaty.

- No Luxembourg withholding tax is levied upon arm's-length interest payments to a non-resident individual (provided the debt-to-equity ratio is met).
- A non-resident individual may be liable to Luxembourg income tax on capital gains realised on the disposal of movable assets, in particular where the non-resident individual has held, either alone or together with his/her spouse and his/her minor children, directly or indirectly, at any time within the five years preceding the disposal of the shares, more than 10% of the capital of a Luxembourg company and he/she has either (i) held the shares for less than six months, or (ii) been a Luxembourg resident taxpayer for more than 15 years and became a non-resident less than five years before the realisation of the capital gains on the shares (subject to the provisions of the relevant double tax treaty).
- Capital gains deriving from the disposal of a secondary residence located in Luxembourg and held for less than two years are treated as speculative gains and are fully taxable at the applicable Luxembourg progressive income tax rate.

Capital gains deriving from the disposal of a secondary residence located in Luxembourg and held for more than two years are taxable at a preferential rate corresponding to half of the applicable Luxembourg income tax rate (i.e. 0% to 22.89%) and EUR 50,000 allowance (doubled for couples jointly taxed) every 10 years.

4.2 What taxes are there on the importation of assets into your jurisdiction, including excise taxes?

Common Customs Tariff duties are applicable to all goods imported into the EU from third countries.

When entering Luxembourg, all persons must declare the goods they are transporting to the customs office. They must also pay any taxes due.

However, they are entitled to allowances and will not have to pay duty or tax on specific quantities of goods such as tobacco, perfume, coffee and tea in accordance with EU regulations. If a natural person moves from a third country to Luxembourg, it is possible, under certain conditions, to benefit from exemptions on personal property he/she is transporting. In this case, no duties or taxes will apply.

4.3 Are there any particular tax issues in relation to the purchase of residential properties by non-residents?

The purchase of Luxembourg immovable property situated in Luxembourg is subject to a 6% registration duty (*droit d'enregistrement*) and a 1% transcription fee (*droit de transcription*).

Further, a municipal surcharge of 50% is applicable on the amount of the registration duty for commercial properties located in Luxembourg City.

5 Taxation of Corporate Vehicles

5.1 What is the test for a corporation to be taxable in your jurisdiction?

From a Luxembourg tax perspective, an entity is subject to Luxembourg corporate tax on its worldwide income if its legal seat (*siège statutaire*) or its central administration (*administration centrale*) is located in Luxembourg.

5.2 What are the main tax liabilities payable by a corporation which is subject to tax in your jurisdiction?

- Luxembourg levies an annual corporate income tax (*impôt sur le revenu des collectivités* – CIT) on the net worldwide profits (subject to double tax treaties) of Luxembourg companies. Profits and expenses are taken into account for the financial year during which they have been realised or exposed, irrespective of the actual payment. Several exemptions from CIT may apply, such as the participation exemption regime on eligible shareholdings and roll-over reliefs may be available for reinvested capital gains in certain circumstances. The CIT rate varies between 15% and 17%. A solidarity surcharge for the employment fund is levied on companies at a rate of 7%, which results in a maximum effective tax rate of 18.19% in 2021.
- Luxembourg companies are also subject to an annual MBT (*impôt commercial communal*) on net profits. In 2021, the MBT rate is 6.75% in Luxembourg City.
- Luxembourg levies an annual net worth tax (*impôt sur la fortune* – NWT) on the net assets of Luxembourg companies. Net wealth is referred to as the unitary value as determined on 1 January of each year. The unitary value is basically calculated as the difference between (i) assets estimated at their fair market value, and (ii) liabilities *vis-à-vis* third parties. The NWT is levied at a rate of 0.5% on the unitary value not exceeding EUR 500 million and at a rate of 0.05% on the portion exceeding EUR 500 million. As from 1 January 2016, a minimum NWT was introduced where the amount of taxation varies between EUR 535 and EUR 32,100 depending on the circumstances.

5.3 How are branches of foreign corporations taxed in your jurisdiction?

Should a foreign corporation have a branch in Luxembourg, this branch will be considered a permanent establishment of the foreign corporation. The permanent establishment in Luxembourg will thus be liable to CIT and MBT on its income and to NWT on the assets allocated to the permanent establishment.

6 Tax Treaties

6.1 Has your jurisdiction entered into income tax and capital gains tax treaties and, if so, what is their impact?

Luxembourg has entered into income and capital gain tax treaties with more than 80 jurisdictions. The objectives of the tax treaties are to avoid double taxation, to prevent tax evasion by the exchange of information and to provide for mutual assistance in the collection of taxes.

Luxembourg has also agreed to join the Multilateral Instrument, meaning that the provisions chosen by Luxembourg will prevail for the terms of a number of treaties. In this regard, Luxembourg has adopted a restrictive approach by opting out of all recommendations that are not minimum standard and has opted for the default rule on treaty abuse, which is the principal purpose test.

6.2 Do the income tax and capital gains tax treaties generally follow the OECD or another model?

Most of Luxembourg's income and capital gains double tax treaties follow the OECD model.

6.3 Has your jurisdiction entered into estate and gift tax treaties and, if so, what is their impact?

As of 2021, Luxembourg has not concluded any estate and gift tax treaties.

6.4 Do the estate or gift tax treaties generally follow the OECD or another model?

This is not applicable (please refer to question 6.3).

7 Succession Planning

7.1 What are the relevant private international law (conflict of law) rules on succession and wills, including tests of essential validity and formal validity in your jurisdiction?

With the entry into application on 17 August 2015 in Luxembourg of EU Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (EU Regulation), the possibility for a person to choose his/her national law to be applicable to his/her succession has been introduced and the previous regime of scission of the law applicable to the succession (distinction between movable and immovable assets) ceased to exist for successions opened after 17 August 2015.

As a result, under Luxembourg law, there is only one law applicable to the succession as a whole for successions opened after 17 August 2015.

The applicable law may be the law of the deceased's last place of residence (applicable by default) or of his/her nationality (by express stipulation in dispositions of property upon death or resulting from the terms of such a disposition).

Moreover, Luxembourg has ratified the Hague Convention of 5 October 1961 on conflicts of law relating to the form of testamentary provisions. According to the said convention, a will is formally valid if its execution conforms to the internal law of either:

- a. the place where the disposition was made by the testator, i.e. where the will was executed;
- b. the country of which the testator was a national at the time of his/her death or when he/she made the disposition;
- c. the place where the testator was domiciled at the time of his/her death or when he/she made the disposition;
- d. the habitual residence of the testator at the time of his/her death or when he/she made the disposition; or
- e. in the case of immovable property, the *situs* of the property, i.e. where the property is located.

In this regard, the admissibility and the substantive validity of a disposition of property upon death shall be governed by the law that, under the EU Regulation, would have been applicable to the succession of the person who made the disposition if he/she had died on the day on which the disposition was made (article 24 of the EU Regulation).

7.2 Are there particular rules that apply to real estate held in your jurisdiction or elsewhere?

Movable and immovable assets are governed by the unified succession law in accordance with the EU Regulation. As a consequence, there are no particular rules that apply to real estate held in Luxembourg.

7.3 What rules exist in your jurisdiction which restrict testamentary freedom?

As in most civil law countries, forced heirship rules are part of Luxembourg inheritance law, meaning that in the presence of certain heirs, the deceased may only freely dispose of a certain portion of his/her estate by donation during his/her lifetime and/or by will. However, Luxembourg law does not recognise any forced heirs other than the descendants (i.e. the children and their descendants) who are entitled by law to the “reserved portion”. The surviving spouse can thus be excluded from the estate. The amount of the reserved portion and the freely disposable portion depends on the number of forced heirs. The reserved portion represents (i) half of the estate in the presence of one child, (ii) two-thirds in case the deceased left two children, and (iii) three-quarters when there are three children or more, the remaining part being the freely disposable portion of the estate. (The reserved portion is shared equally between the children.)

The forced heirship rules are compulsory rules, meaning that most estate planning tools (e.g. testamentary provisions, donations, corporate structures, trusts, insurance policies, etc.) are only acceptable to the extent that they do not infringe upon forced heirship rights.

8 Trusts and Foundations

8.1 Are trusts recognised/permitted in your jurisdiction?

Luxembourg has no specific domestic trust legislation. However, Luxembourg ratified the Hague Convention of 1 July 1985 and thus recognises foreign trusts that are correctly set up and governed by the law of another jurisdiction, provided this recognition is not manifestly incompatible with public policy (*ordre public*).

8.2 How are trusts/settlors/beneficiaries taxed in your jurisdiction?

Since the concept of trust is unknown under Luxembourg law, the general rules of Luxembourg tax law need to be applied in order to determine the tax treatment of a foreign trust. According to the current practice of the Luxembourg tax authorities, the qualification of a foreign entity (which should be the case for the trust) is generally determined by comparing the legal regime of the foreign entity with those of existing entities under Luxembourg law (*Rechtstypenvergleich*).

Therefore, the Luxembourg tax authorities generally consider that a revocable trust and a fixed interest trust is to be assimilated to a fiduciary agreement (tax transparent entity); whereas an irrevocable discretionary trust should generally be assimilated to a collective organisation, in particular as a *patrimoine d'affectation* (tax opaque entity).

In case of a revocable trust and a fixed interest trust (assimilated to a fiduciary), the resident settlor is considered the economic owner and will be thus fully taxable as if he/she holds the trust assets directly. Therefore, any ongoing income and capital gains derived from the trust assets should be allocated to him/her and taxable in his/her hands.

In case of an irrevocable and discretionary trust (assimilated to a collective organisation), the ongoing income received by the trust should not be taxed in Luxembourg, unless the management of the assets is carried out in Luxembourg.

8.3 How are trusts affected by succession and forced heirship rules in your jurisdiction?

Trusts cannot contravene the forced heirship rules, provided that Luxembourg law is applicable to the succession.

8.4 Are private foundations recognised/permitted in your jurisdiction?

Similar to the trusts, Luxembourg has no specific private foundations legislation.

8.5 How are foundations/founders/beneficiaries taxed in your jurisdiction?

To the extent the beneficiary/ies together with the settlor will be entitled to more than 50% of the income of the foundation, the foundation and its ongoing income will, regardless any effective distributions, be fiscally allocated to the settlor if he/she is a Luxembourg fully taxable resident.

In the opposite case, the foundation is to be considered the tax recipient of the ongoing income. In such case, the foundation is as a rule classified as an opaque entity based on the so-called doctrine of *Rechtstypenvergleich*, and thus the ongoing income will not be taxed in Luxembourg (unless the management of the assets of the foundation is carried out in Luxembourg).

8.6 How are foundations affected by succession and forced heirship rules in your jurisdiction?

Please refer to question 8.3.

9 Matrimonial Issues

9.1 Are civil partnerships/same-sex marriages permitted/recognised in your jurisdiction?

Since 2004, Luxembourg has recognised the right of two persons of the same sex or of different sexes to enter into a civil partnership.

Legal partnership, as opposed to cohabitation, entails rights and obligations for the partners that are somewhat similar to those existing between spouses.

Marriage, as well as adoption, by same-sex couples has been permitted since a reform that entered into force on 1 January 2015 with a view to offering Luxembourg citizens a more egalitarian society.

In addition, married same-sex couples have the same rights as married couples of different sexes.

9.2 What matrimonial property regimes are permitted/recognised in your jurisdiction?

Luxembourg law provides for several matrimonial property regimes:

- The legal regime known as the community of acquests is applicable if there is no marital contract. The assets acquired and the income received during the marriage are, in principle, common to the spouses except for the assets received by donation or succession that are personal to each spouse. The properties acquired before the marriage remain, in principle, personal to the spouses.
- The conventional regimes entered into by notarial deed:

- A separate ownership regime whereby each spouse retains sole ownership of the assets and debts irrespective of whether they have been acquired before or after the marriage has been contracted.
- A universal community regime whereby all assets and debts are owned in common between the spouses notwithstanding the date of their acquisition. Often, this matrimonial regime is coupled with the attribution of the assets to the surviving spouse whereby, in case of death of one of the spouses, no estate will be opened and all the assets will be transferred to the surviving spouse within the matrimonial regime (and without triggering any inheritance taxes, see below). Note that this provision is fully applicable only in the presence of common children or in the absence of any children.
- A participation in acquests whereby during the marriage all the assets remain personal to each spouse and at the time of the dissolution of the marital bond the spouses share the increase of their wealth.

9.3 Are pre-/post-marital agreements/marriage contracts permitted/recognised in your jurisdiction?

From a strictly Luxembourg legal perspective, the only agreement known is the matrimonial agreement, which provides for the choice of matrimonial regime and the stipulation of matrimonial advantages to the exclusion of any provisions relating to maintenance obligations or any compensatory benefits. Nevertheless, if there is an international element (i.e. one or both spouses are foreign nationals/residents), foreign prenuptial agreements may be effective in Luxembourg, provided that they are drafted by express stipulation and in accordance with the referring foreign law and not contravening public order.

Postnuptial agreements do not exist under Luxembourg law, with the exception that in the case of a divorce by mutual consent, the spouses must establish a convention determining their rights and obligations, particularly with regard to possible maintenance obligations. This agreement must be submitted for review and approval to the judge within the framework of the divorce.

9.4 What are the main principles which will apply in your jurisdiction in relation to financial provision on divorce?

The Luxembourg law of 27 June 2018 reformed the divorce law. The main amendment consists in the removal of divorce on the grounds of fault.

As a result, the two current types of divorce are: divorce on the grounds of irretrievable breakdown of marriage; and divorce by mutual consent.

Alimony may be granted to one of the spouses according to his/her needs and the financial capacity of the debtor spouse.

10 Immigration Issues

10.1 What restrictions or qualifications does your jurisdiction impose for entry into the country?

Nationals of the Member States of the European Union, the Swiss Confederation, Liechtenstein, Iceland and Norway may legally take up a professional activity and/or reside in Luxembourg without being required to obtain a prior temporary residence authorisation and/or long-term permit.

Foreign nationals from third country States are required to undergo a more complex procedure to obtain a valid temporary

authorisation to stay and a long-term permit before they may legally take up service and reside in Luxembourg. In this regard, the Immigration Act as amended (*loi du 29 août 2008 sur la libre circulation des personnes et l'immigration telle que modifiée*) provides for different categories of resident permits for which a foreign national may apply: employed person; highly qualified employee; self-employed person; seconded employee; sportsman; research professor; student; family member; and for private reasons.

10.2 Does your jurisdiction have any investor and/or other special categories for entry?

Foreign nationals from third-country States can ask for residency provided that they invest in Luxembourg.

The investment options are as follows:

- to invest at least EUR 500,000 in an existing Luxembourg company (with commercial, industrial or craft activities) and commit to maintaining the existing employment structure for five years, except if the company is in difficulty at the time of the purchase, in which case the aforementioned employment condition is not applicable;
- to invest at least EUR 500,000 in a new Luxembourg company (with commercial, industrial or craft activities) and commit to creating at least five positions of employment in the next three years (the vacancies must be filled in collaboration with the Luxembourg Employment Agency);
- to invest at least EUR 3,000,000 in an existing or new investment/management structure having its registered office in Luxembourg, which must have appropriate substance; or
- to invest at least EUR 20,000,000 by deposit in a financial institution established in Luxembourg and maintain this investment for at least five years.

For all these options, investments relating directly or indirectly to real estate are prohibited and the investments must be made prior to the authorisation to stay.

10.3 What are the requirements in your jurisdiction in order to qualify for nationality?

Luxembourg citizenship can be acquired by option or by naturalisation. For example, in order to obtain citizenship by naturalisation, it is required that the applicant:

- has legally resided in Luxembourg for at least five years;
- has sufficient knowledge of the Luxembourgish language; and
- has taken the “*Vivre ensemble au Grand-Duché de Luxembourg*” course or passed the test covering the topics taught in this course.

10.4 Are there any taxation implications in obtaining nationality in your jurisdiction?

There are no taxation implications as regards obtaining Luxembourgish nationality.

10.5 Are there any special tax/immigration/citizenship programmes designed to attract foreigners to become resident in your jurisdiction?

The Luxembourg residency regime for foreign nationals investing in Luxembourg is described under question 10.2.

11 Reporting Requirements/Privacy

11.1 What automatic exchange of information agreements has your jurisdiction entered into with other countries?

Luxembourg has entered into several automatic exchange of information agreements in the past 10 years, e.g.:

- Development of AEOI standards by entering into the multilateral convention on exchange of information whereby Luxembourg agreed to abolish the strict banking secrecy rules for non-residents.
- FATCA measures under which Financial Institutions have the obligation to check the documentation of US clients and investors as well as report to the Luxembourg tax authorities.
- Directive 2011/16/EU (DAC) on administrative cooperation in the field of taxation, which provides for automatic exchange of information on request between tax authorities.
- Directive 2014/107/EU (DAC 2), which implements the OECD Common Reporting Standard (CRS) into EU legislation and which requires Financial Institutions to disclose to the tax authorities the financial account information for Luxembourg taxpayers.
- Directive 2015/2376 (DAC 3) regarding exchange of rulings and advance pricing arrangements.
- Directive 2016/881/EU (DAC 4) regarding country-by-country reporting.
- Directive 2016/2258 (DAC 5), which provides for access to anti-money laundering information by tax authorities.
- DAC 6 with the obligation for intermediaries to disclose cross-border arrangements/aggressive tax planning (under Luxembourg draft law N° 7465 of 8 August 2019).

11.2 What reporting requirements are imposed by domestic law in your jurisdiction in respect of structures outside your jurisdiction with which a person in your jurisdiction is involved?

Please refer to question 11.1.

11.3 Are there any public registers of owners/beneficial owners/trustees/board members of, or of other persons with significant control or influence over companies, foundations or trusts established or resident in your jurisdiction?

The law of 13 January 2019 created a register of beneficial owners (RBO) of Luxembourg entities (the RBO Law). The RBO Law imposes two new obligations on the entities falling within its scope: the obligation to set up an internal file relating to the beneficial owner (the BO) of such entity; and the obligation to file the relevant information on the BO (name, surname, address as well as nature and scope of effective interests held) with the RBO. All the entities registered in the Luxembourg Trade and Companies' Register and professionals with AML obligations (banks, insurance companies, authorised PFS), with or without legal personality (including, for example, partnerships), fall within the scope of the RBO Law.

Unless a restriction of access has been granted following a duly justified request to that effect, the information listed above and contained in the RBO will be made available electronically to competent authorities, for the purposes of their supervisory duties, and self-regulatory bodies as well as to any member of the public.

Recently, the law of 10 July 2020 created an obligation for *fiducies* and trusts to set up a similar internal file and be registered with the register of *fiducies* and trusts (RFT).

This applies to all *fiducies* and express trusts for which a fiduciary agent or a trustee is established or domiciled in the Grand Duchy of Luxembourg, as well as all *fiducies* and express trusts for which a *fiduciary agent* or trustee is established in a third country, but enters into a business relationship in the Grand Duchy of Luxembourg with a professional or acquires real estate located in the Grand Duchy of Luxembourg on behalf of the trust.

The information contained in the RFT (identification number, legal name, date of enactment, BO's information and whether the *fiducie* or express trust holds or has a controlling interest in a company or other legal entity through direct or indirect ownership) will be made available electronically to national competent authorities and self-regulatory bodies for the purpose of their supervisory duties, and to professionals within the context of their customer due diligence measures, as well as to any person demonstrating a legitimate interest by a duly motivated request addressed to the *Administration de l'Enregistrement, des Domaines et de la TVA*.



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