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Luxembourg corporate tax guide

This publication aims at providing an overview of the common tax regime applicable in Luxembourg. It is intended for general guidance only and does not consist a basis to any advice whatsoever.

Corporate income tax

Under the common regime, all resident companies are subject to corporate income tax on their worldwide income. All permanent establishments of foreign companies are subject to corporate income tax on the income attributable to their activities in Luxembourg.

In accordance with most tax treaties signed by Luxembourg, the taxation of foreign-source income is generally reduced or brought to nil. Income generated by a foreign permanent establishment of a Luxembourg resident company in a non-treaty country is subject to corporate taxation in Luxembourg, with the foreign tax being offset.

The taxable income is calculated on the basis of the net profit as shown in the financial statements, adjusted by withdrawing exempt profits (see below), and by adding non-deductible taxes and other non-deductible expenses (mainly tax fines and penalties in relation with tax, social and criminal matters, and other expenses subject to recapture rule – see below).

For taxable profits exceeding EUR 200,000, the corporate income tax rate is 17 % for financial year 2019 onwards. The latter is increased by a 7 % contribution to the national employment fund, bringing the effective rate to 18.19 %.

A corporate income tax rate of 15 % is applicable to companies with a tax base of less than EUR 175,000 (effective rate of 16.05 % after adding the contribution to the national employment fund at 7 %).

The taxable income between EUR 175,000 EUR and 30,000 EUR is taxed at 31 %.

All tax losses incurred from financial years closing after 31 December 2016 can be carried forward for a maximum period of 17 years, and can be offset against any taxable profit.

Exempt profits and recapture rule

Under the provisions of the EU Parent-Subsidiary Directive and the participation exemption regime, dividends and capital gains received from a subsidiary by fully taxable resident companies are exempt from corporate income tax if the following conditions are met:

- The stake in the subsidiary amounts to at least 10 %, or the acquisition cost amounts to at least 1,200,000 EUR for dividends or 6,000,000 EUR for capital gains;
- The company holds or commits itself to hold the minimum shareholding in order to fulfil the minimum shareholding requirement for an uninterrupted period of at least 12 months;
- The subsidiary is a fully taxable resident company, an entity resident in an EU member state that is covered by Article 2 of the EU Parent-Subsidiary Directive, or a non-resident company fully subject to a tax comparable to Luxembourg corporate income tax (at least 9 % for 2018), levied on a tax base that is determined according to rules and criteria that are similar to those applicable in Luxembourg).

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Example:

A Soparfi acquires 12 % of the capital of a French public limited company for a price of EUR 1,000,000 on February 10, 2020. It receives a dividend on March 31, 2020. That dividend is exempt from income tax provided the Soparfi undertakes to hold at least 10 % of the capital of the subsidiary until February 10, 2021.

The exemption also applies to dividends and capital gains on qualifying participations held through qualifying fiscally transparent entities (for instance civil companies).

The exemption can also be claimed by a Luxembourg permanent establishment of an entity that is resident in another EU state and is covered by Article 2 of the EU Parent-Subsidiary Directive, and a Luxembourg permanent establishment of a company resident in a country with which Luxembourg has signed a double tax treaty.

However, dividends and capital gains qualifying for the above exemption are taxable to the extent that the expenses that are economically related to them and that have been deducted in the current or prior years exceed the exempt income. These related expenses include financing costs for the purchase of such shares and write-downs. This is the "recapture rule".

Example:

In 2014 a Soparfi acquires a 30 % participation in a French public limited company. The Soparfi sells the participation in 2020, making a capital gain of 2,000. On January 1, 2020 the Soparfi has tax losses of 500 carried forward which breaks down into 400 of interest on the loan financing the acquisition of the participation and 100 for management costs. The Soparfi did not realize any taxable income during the years of holding the participation. The exemption of the capital gain of 2,000 will be limited to 1,600; the recaptured balance of 400 will be compensated by the tax losses brought forward.

Municipal business tax

This tax, levied for the benefit of the municipality where the registered office of the Company is located, is calculated on the same taxable income as for the calculation of corporate income tax, minus a standard deduction of 17,500 EUR. The rate is different for each municipality, and amounts to 7.5 % on average. In Luxembourg City, the municipal business tax rate is set at 6.75 %.

The overall tax rate for companies in Luxembourg City is thus brought to a maximum of 24.94 % for financial year 2019 onwards, which includes the corporate income tax and the municipal business tax.

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Net wealth tax

Normal net wealth tax

Companies are subject to a 0,5 %[1] tax on their net wealth (assets minus liabilities) as of 1st January of each year, adjusted for the value of qualifying participations (same rules that the ones applied for the exemption of corporate income tax on dividends – see above).

The value of assets and liabilities is assessed in accordance with the relevant valuation law (for instance, listed bonds and securities are to be added at their market value, whereas unrealized gains cannot be booked under LuxGAAPs). This is the so-called "normal net wealth tax"

Minimum net wealth tax

The Circular I.Fort. n°51 of July 25, 2016 introduced a "minimum net wealth tax" to be paid by commercial companies, with effect on January 1, 2016. A distinction should be made between "financial" and "other" companies in the sense of this Circular.

Financial companies are the ones showing financial assets exceeding 90 % of the balance sheet total in value, provided that the balance sheet total is above 350,000 EUR. Financial assets comprise financial fixed assets, amounts owed by affiliated companies, securities and cash deposits. Those companies are liable to pay a minimum net wealth tax of EUR 4,815.

For the other companies, the minimum net wealth tax depends on the balance sheet total:

Balance sheet total (range)			Minimum net wealth tax
EUR 0	to	EUR 350,000	EUR 535
EUR 350,000	to	EUR 2,000,000	EUR 1,605
EUR 2,000,000	to	EUR 10,000,000	EUR 5,350
EUR 10,000,000	to	EUR 15,000,000	EUR 10,700
EUR 15,000,000	to	EUR 20,000,000	EUR 16,050
EUR 20,000,000	to	EUR 30,000,000	EUR 21,400
		> EUR 30,000,000	EUR 32,100

The net wealth tax to be paid is the higher of the normal net wealth tax or of the minimum net wealth tax.

[1] This rate is applicable up to a net worth of 500,000,000 EUR. When the net worth of the company is above this threshold, the rate applied to the supplement is equal to 0.05%.

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Capital contribution duty

It is worth mentioning that there is no capital contribution levy at incorporation or on any subsequent capital increase.

Withholding taxes on dividends

Dividends distribution by a fully resident company that is fully taxable are subject to a 15 % withholding tax on the gross amount. There would be no withholding tax if the receiving company

- holds, or commits itself to hold for at least one year a minimum participation in the payer of at least 10 % of its capital, or the acquisition cost for the shares in the payer is of at least 1,200,000 EUR.

- is
  - a fully taxable resident company;
  - a company resident in another EU member state covered by Article 2 of the Parent-Subsidiary Directive or a Luxembourg permanent establishment of such an entity;
  - a capital company resident in Switzerland that is fully subject to tax in Switzerland without the possibility of being exempt;
  - a company resident in a state with which Luxembourg has entered into a tax treaty and subject to a tax comparable to the Luxembourg corporate income tax (tax rate of at least 9 %), or a Luxembourg permanent establishment of such a company.

A reduced withholding tax rate may be applicable to dividends paid to companies resident in other countries outside the European Union with which Luxembourg has signed a double tax treaty.