

Luxembourg

Individual Taxation

Introduction

Individuals are subject to a national income tax and a surcharge thereon and inheritance and gift taxes. Individuals may be subject to a municipal business tax if they run a business on their own. Social security contributions must be paid by both employers/employees and the self-employed. For VAT and miscellaneous indirect taxes, *see* Corporate Taxation sections 8. and 9., respectively.

The currency is the euro (EUR).

1. Individual Income Tax

1.1. Taxable persons

Income tax is levied on individuals who are (i) residents of Luxembourg or (ii) non-resident taxpayers who derive income from sources situated in Luxembourg. The rules set out below (and more specifically the applicable deductions) refer to individuals who are resident in Luxembourg for the whole tax year.

An individual is considered a resident of Luxembourg if his domicile or customary place of abode is in Luxembourg. A person's domicile is the place where he occupies a home under circumstances that indicate he will retain and use it. A customary place of abode is deemed to exist if an individual has been present in Luxembourg for a period of at least 6 months.

The income of married couples is aggregated for tax purposes. The income of children who, at the beginning of the tax year, are under 18 years of age is, except for employment income, taxed in the hands of their parents. Unmarried taxpayers living together may be taxable jointly upon request if they have been linked by a civil partnership contracted in Luxembourg or abroad during the whole tax year.

As from tax year 2015, the Luxembourg tax authorities recognize the joint taxation of married couples of the same sex.

1.2. Taxable income

1.2.1. General

Resident individuals are taxed on their worldwide income. The following categories of income are aggregated in computing the total taxable income:

- (1) business income;
- (2) income from agriculture and forestry;
- (3) income from a liberal profession;
- (4) employment income;

- (5) income from pensions and annuities;
- (6) income from movable capital;
- (7) rental income and royalties; and
- (8) miscellaneous income.

Income may be received in money or money's worth. Losses from one category of income can be set off against income from another category in the same year, except for losses incurred in categories (6) and (8).

The income of partnerships is first determined at the partnership level and then taxed at the level of the partners. Each partner is deemed to carry on his own business in proportion to his share in the partnership. Only the municipal business tax is based directly on the profits determined at the partnership level.

Miscellaneous income includes certain capital gains (*see* section 1.6.) and payments received upon the liquidation of a company in which the shareholder has a substantial participation. Income from occasional services and inventions is taxed as miscellaneous income. Certain pension-related items are also taxed as income of this category (*see* section 1.3.3.). This category cannot result in a loss.

Rental income includes income from movable and immovable property and the imputed income from an owner-occupied dwelling. For details, *see* section 1.5.

Taxable income is computed on a cash basis, except for business income (accrual basis) and capital gains (time of transaction).

In general, expenses incurred to obtain or preserve income are deductible in calculating the net result of each category. No deductions are allowed for expenses related to non-taxable or exempt income.

1.2.2. Exempt income

Exempt income includes family allowances, capital payments under certain life insurance policies and 50% of certain annuity payments. *See also* sections 1.3.3., 1.5. and 6.1.1.

1.3. Employment income

1.3.1. Salary

Employment income (category 4) includes salaries, bonuses and benefits in kind arising from employment. Indemnities for dismissal paid after the definitive cessation of the employment and pensions paid before the definitive cessation of the employment belong also to this category of income. Compensation received upon termination of employment may be tax exempt up to a certain

ceiling. The employer is allowed to grant the employee certain tax-free amounts on special occasions (e.g. EUR 2,250 for 25 years of service).

Additional overtime pay for working extra hours may be fully exempt, except for public officials, for whom the exemption is capped at EUR 1,800 gross per year. Certain pay supplements for work at night, on Sundays or other holidays may qualify for the extra hours' exemption (100% exemption applicable to private employees and to public officials).

There is a standard deduction of EUR 540 for expenses in respect of employment income. If both spouses earn employment income, both spouses are entitled to this deduction.

The deduction for the costs of commuting is limited to EUR 2,574 per year, depending on the distance between home and work.

For deductions and allowances deductible from the aggregate income of taxpayers earning employment income, *see* sections 1.7.1. and 1.7.2., respectively.

1.3.2. Benefits in kind

The value of benefits in kind arising from employment is included in the employee's taxable income. There are provisions for taxing a deemed interest on an interest-free loan made to an employee by his employer. Such deemed interest is, in principle, deductible as other interest (*see* section 1.7.1.). If the interest-free loan is granted in respect of the acquisition, construction or renovation of the employee's main dwelling, an exemption of EUR 3,000 is granted (double for couples filing jointly and single parents). For other loans, the exemption is EUR 500 (doubled for couples filing jointly and single parents).

The taxable benefit from free housing is valued at a minimum of three fourths of the rent paid by the employer for the dwelling. Any other costs (e.g. water or electricity) paid by the employer are valued at 100% of their amount.

The taxable benefit from the private use of a company car is fixed at 1.5% of the purchase price (VAT and any reductions included) of the car per month.

Stock option plans are treated as follows: with respect to transferable stock options, the employee is regarded as receiving a benefit in kind on the date the option is granted. The taxable benefit is equal to the difference between the market value of the option on that date and the price paid by the employee for the option. A deemed market value may be calculated according to the "Black-Scholes" method or fixed at 17.5% of the value of the underlying share. With respect to non-transferable stock options, the employee is regarded as receiving a benefit in kind only on the date the option is exercised. The taxable benefit is, in principle, equal to the difference between the market value of the share and the exercise price.

1.3.3. Pension income

Pensions in respect of a former private or public employment (first pillar) are taxable as income from pensions and annuities (category 5).

Contributions made by employers to a complementary pension scheme under the Law of 8 June 1999 (second pillar) are taxed at the moment the contribution is made by way of a 20% final withholding tax (excluding the special 0.9% tax on annual contributions to the benefit of the supervisory authorities). The benefits (both capital and interest) paid out of such a pension scheme to the employee upon retirement are exempt as long as they stem from contributions that have been subject to the 20% withholding tax (excluding the special 0.9% tax; *see* above).

Payments made by taxpayers to a qualifying private pension scheme (third pillar) are, within certain limits, deductible (*see* section 1.7.1.). The pensions paid out from such schemes benefit from a 50% exemption if all conditions are fulfilled.

1.3.4. Directors' remuneration

Remuneration of executive directors is considered employment income (category 4) insofar as it is paid in consideration of services consisting of actual day-to-day management. Directors' fees that are not related to day-to-day business are considered income from a liberal profession (category 3).

1.4. Business and professional income

Business income (category 1) and income from a liberal profession (category 3) is, in principle, computed under the net worth comparison method. However, the taxable income may under certain conditions also be calculated on a net-income basis (income less expenses). For details on the taxation of business income, *see* Corporate Taxation section 1.3. For cessation gains, *see* section 1.6.

1.5. Investment income

Investment income is divided into two categories:

- income from movable property, e.g. dividends and credit interest (income category 6); and
- rental income, e.g. royalties and other rents (income category 7).

Gross income from movable capital that is reportable by way of a tax return may be reduced by incidental costs, such as financing costs, safe deposit box rental and agent fees. A standard deduction of EUR 25 (double for couples filing jointly) is allowed in lieu of actual costs. The income from movable capital category may not be negative.

An exemption of EUR 1,500 (double for couples filing jointly) applies to income from movable capital that is reportable by way of a tax return.

1.5.1. Dividends

Dividends are included in taxable income from movable capital (category 6). A 50% exemption is available for dividends paid by a fully taxable resident company. For foreign-source dividends, *see* section 6.1.1.

1.5.2. Interest

A 10% withholding tax is levied on credit interest paid by resident paying agents (e.g. companies and banks) to resident individuals, including credit interest on bank deposits, government bonds and profit-sharing bonds. Unless the interest income pertains to a business, profession or agriculture carried on by the recipient individual, the withholding tax constitutes a final tax and such interest does not have to be reported in the tax return. However, credit interest on savings accounts paid by a paying agent to an individual is exempt from the withholding tax if the interest is paid once a year and the total amount does not exceed EUR 250. The exempt interest does not have to be reported in the annual tax return either. If this threshold is exceeded, the total amount of interest is subject to the withholding tax.

Any interest income that does not fall under the above withholding tax (e.g. low-interest current accounts with banks) is included in taxable income from movable capital (category 6). However, from 1 January 2009, interest paid by home savings institutions to individuals are fully tax exempt, i.e. exempt from withholding tax and income tax.

1.5.3. Royalties

Royalties (category 7) are subject to income tax in the normal manner. Unless the royalties constitute business income or income from independent professional services (*see* section 1.4.), only incidental costs may be deducted.

1.5.4. Income from immovable property

Rental income from immovable property (category 7) includes receipts from letting immovable property or letting the right to use such property. Immovable property rented for private housing purposes is written off at rates between 2% and 6%, depending on the completion date of the property.

Rental income may be reduced by expenses actually incurred or, if the property was completed at least 15 years ago, by a lump-sum deduction. The lump-sum deduction is equal to 35% of the gross rental income but may not exceed EUR 2,700 per year.

Imputed income from an owner-occupied dwelling (category 7) is calculated at 4% of the unit value of the dwelling up to EUR 3,800 and 6% of the excess. The unit value is based on a valuation on 1 January 1941 (even if the dwelling was built later), which results in low unit values. Income from an owner-occupied dwelling may only be reduced by interest up to a maximum deduction, which depends on how long the taxpayer has occupied the dwelling and on the taxpayer's family situation. The maximum deduction varies between EUR 750 and 1,500,

increased by the same amount for the spouse and for each child who is a member of the taxpayer's household.

1.6. Capital gains

There is no separate capital gains tax, but gains, other than those taxed under categories (1) to (7) (*see* section 1.2.1.), may be taxable under the miscellaneous income category (category 8), as described below.

Capital gains (cessation gains) on the sale of a business or share in a partnership, or part thereof, are deemed to be business income (*see* section 1.4.). An allowance of EUR 10,000 is available if the whole business is sold; this is increased to EUR 25,000 if the business assets sold include immovable property. The cessation gain is taxed at half the average rate on the taxpayer's taxable income.

Special rules apply to speculative capital gains and losses. Gains and losses are speculative if the holding period does not exceed 6 months (movable property) or 2 years (immovable property). Speculative capital gains on the disposal of movable property equal to or exceeding in total EUR 500 in a tax year are included in taxable ordinary income. From 2008, speculative gains on immovable property are taxed as ordinary income at the normal rates; non-speculative capital gains on immovable property are taxed as miscellaneous income at a tax rate corresponding to half of the global tax rate, i.e. 21.4% for the part of the income not exceeding EUR 150,000 (EUR 300,000 for taxpayers in tax class 2) and 21.8% for the part of the income exceeding these limits).

Speculative capital losses may be set off against speculative capital gains of the same year.

Capital gains on the taxpayer's main residence are always exempt and losses cannot be deducted.

Capital gains on a substantial participation in a resident or non-resident company are also taxable if the holding period exceeds 6 months. A substantial participation is a direct or indirect holding of more than 10% of the share capital in a company by the taxpayer alone or together with the spouse and minor children at any time in the 5 years preceding the disposal. The gain is taxed at half the average rate.

The capital gain on properties is exempted if sold to the Luxembourg state.

In general, a deduction of EUR 50,000 (double for couples filing jointly) is granted for the total amount of non-speculative capital gains. The amount of this deduction is reduced by the gains that have benefited from this deduction over the last 10 years. An additional deduction of EUR 75,000 for the capital gain on the sale of the former main residence of the taxpayer's parents acquired by inheritance is available. The EUR 75,000 deduction is granted to each spouse for his part in the sale of his respective parents' former main residence. These deductions may not create a loss.

1.7. Personal deductions, allowances and credits

1.7.1. Deductions

In general, expenses incurred to obtain or preserve income are deductible in calculating the net result of each income category (*see* section 1.2.1.). In addition, a resident taxpayer may claim deductions for special expenses and extraordinary expenses from his aggregate income.

Deductible *extraordinary expenses* include:

- expenses for hospitalization that are not covered by health insurance, expenses for the maintenance of close relatives, expenses related to handicapped persons and expenses for employment of domestic personnel, to the extent that they exceed a certain percentage of taxable income;
- expenses for the education of children not forming part of the taxpayer's household, up to EUR 3,480 per year and per child; and
- household and childcare costs up to EUR 3,600.

Deductible *special expenses* include:

- interest expenses not related to exempt income or immovable property, up to EUR 336, increased by the same amount for the spouse and each jointly assessed child;
- investments in building society savings schemes (including credit interest derived from building society savings schemes) up to EUR 672, increased by the same amount for the spouse and each jointly assessed child;
- premiums for life, health, accident, disability or liability insurance paid to an insurance company recognized in Luxembourg or an insurance company recognized and having its legal seat in another EU Member State. The maximum deduction is EUR 672, increased by the same amount for the spouse and each jointly assessed child. Restrictions apply for unit-linked insurance policies;
- single-premium life insurance tied to a mortgage loan on the taxpayer's personal dwelling, up to EUR 6,000 (increased according to the taxpayer's age), increased by EUR 1,200 for each jointly assessed child;
- payments to a voluntary pension scheme (third pillar). The maximum deductible amounts vary between EUR 1,500 and 3,200, depending on the age of the taxpayer;
- contributions of employees to a complementary pension scheme under the Law of 8 June 1999 (second pillar), up to EUR 1,200;
- alimony paid under a court order or voluntarily to a former spouse, up to EUR 24,000 (taxable income in the hands of the recipient); and
- donations of at least EUR 120 in total to certain cultural and charitable institutions, subject to an overall maximum of EUR 1 million or 20% of the total net income.

If the taxpayer has no or less than EUR 480 of special expenses in a year, a fixed deduction of EUR 480 for such expenses is granted. For married couples, this amount is doubled, provided that both spouses are employed.

1.7.2. Allowances

An extra-professional allowance of EUR 4,500 is granted to jointly taxed married couples if both spouses receive professional income.

1.7.3. Credits

A credit in the form of a monthly cash payment of EUR 76.88 per child, irrespective of the taxable income of the parents, is granted to taxpayers if the children are entitled to child benefits in Luxembourg. If the children are not entitled to child benefits in Luxembourg, the tax credit is granted to the taxpayer through the assessment of the tax return/tax reclaim (*decompté*) in the limits of the income tax due.

From 1 January 2009, the following personal allowances are replaced by corresponding tax credits:

- the compensatory allowance for employees and pensioners is replaced by a credit of EUR 540 for employees and EUR 300 for pensioners (double if both spouses have employment or pension income);
- the single-parent allowance for taxpayers in class 1a (*see* section 1.7.4.) is replaced by a credit of EUR 750; and
- the allowance for individuals who operate a business independently in their own name is replaced by a tax credit of EUR 300.

If the amount of tax credits exceeds the amount of income tax due, the excess is refunded.

1.7.4. Tax classes

The calculation of effective tax is different for each class of taxpayers.

Taxpayers, who are single, separated or divorced and under 65 fall under class 1.

The following taxpayers fall under class 1a, as long as they do not fall under class 2:

- taxpayers separated or divorced and aged 65 or over;
- single parents; and
- widow(er)s.

The following taxpayers fall under class 2:

- married couples who are filing jointly;
- persons who became widowed in the 3 years preceding the tax year; and
- persons who separated or divorced in the 3 years preceding the tax year (as long as they did not apply for this provision within the last 5 years).

The specific classes for taxpayers with dependent children have been abolished. The number of children is still considered to determine the ceilings for deductions (loan interest, life insurance premiums, etc.).

1.8. Losses

Losses from a business (category 1), agriculture and forestry (category 2) or a liberal profession (category 3) may be set off against income from other categories in the same tax year. Any excess may be carried forward indef-

initely, provided that certain conditions are fulfilled. Losses may not be carried back.

Losses of income from movable capital (category 6) and miscellaneous income (category 8) may not be set off against other positive income in the same tax year. Losses of categories (6) and (8) may only be set off against positive income of the same category; the restriction for category (6) does not apply where the taxpayer holds a substantial participation in a company and derives more than 50% of his professional (independent activity and salary) income from that company.

Losses incurred from rental income and royalties (category 7) may be set off against the positive income of other income categories, but only in the same tax year. No carry-forward or carry-back is allowed.

For capital losses, *see* section 1.6.

1.9. Rates

1.9.1. Income and capital gains

The following income tax rates are applicable to the annual aggregate income (*see* section 1.2.1.):

Taxable income (EUR)	Rate (%)
Up to 11,265	0
11,265 – 13,173	8
13,173 – 15,081	10
15,081 – 16,989	12
16,989 – 18,897	14
18,897 – 20,805	16
20,805 – 22,713	18
22,713 – 24,621	20
24,621 – 26,529	22
26,529 – 28,437	24
28,437 – 30,345	26
30,345 – 32,253	28
32,253 – 34,161	30
34,161 – 36,069	32
36,069 – 37,977	34
37,977 – 39,885	36
39,885 – 41,794	38
41,794 – 100,000	39
Over 100,000	40

The income tax computed according to the table is increased by a 7% surcharge for the employment fund for taxable income not exceeding EUR 150,000 (tax classes 1 and 1a) and EUR 300,000 (tax class 2), or 9% for taxable income exceeding EUR 150,000 (tax classes 1 and 1a) and EUR 300,000 (tax class 2). This results in a maximum marginal tax rate of 42.80% for the part of the income below the limit of EUR 150,000 (EUR 300,000 for taxpayers in tax class 2) and 43.6% for the part of the income exceeding these limits. With effect from 1 January 2015, a 0.5% temporary tax (introduced to balance the budget) is payable on income that is taxable in Luxembourg.

For households including spouses or partners filing jointly, a split rate applies. This table applies to tax class 1 (*see* section 1.7.4.). The tables for tax classes 1a and 2

are derived from this table (specific deduction for class 1a and a splitting rule for class 2).

Certain types of occasional income, generally income attributable to more than 1 tax year, may be taxed separately at special rates.

1.9.2. Withholding taxes

Salaries, wages and pensions (first pillar) are subject to a wage (or pension) withholding tax. Social security contributions are also withheld by the employer (or the pension institution).

The salary subject to withholding tax includes all benefits granted by the employer, whether in cash or in kind. The wage withholding tax is generally an advance payment, which is credited against the final tax liability. The tax may, however, constitute a final tax for resident taxpayers.

Directors' fees paid to resident non-executive directors are subject to income tax by way of withholding at a rate of 20% deducted from the gross fees. The fees are included in the taxable income of resident directors and the tax withheld is credited against the final income tax liability.

In general, a 15% withholding tax is levied on dividends paid by resident companies to resident individuals. The withholding tax may be credited against the individual income tax due, any excess being refundable. Liquidation payments are not subject to withholding tax. Dividends paid by SPF holding companies and investment funds are exempt from withholding tax.

For withholding tax on certain types of interest, *see* section 1.5.2. There is no withholding tax on royalties paid to resident individuals.

Approved second-pillar employer pension scheme premiums or allocations to reserves are taxed at a 20% flat rate. This withholding tax is a final tax for employees resident in Luxembourg, notably Belgium. The taxation of the pension payments will depend on the country of residence of the employee when he retires.

1.10. Administration

1.10.1. Taxable period

The tax year is the calendar year.

1.10.2. Tax returns and assessment

All taxpayers must file a tax return if their income exceeds EUR 100,000 per year. This limit is reduced to EUR 30,000 or EUR 36,000 (depending on the tax class) in the case of multiple income subject to withholding tax. Tax returns are due by 31 March of the year following the tax year concerned. An extension is permitted until 30 June of the year following the tax year concerned.

1.10.3. Payment of tax

Besides the withholding tax on wages (*see* section 1.9.2.), taxes may be collected quarterly during the tax year by

pre-assessment. The amounts payable are based on the tax due in the previous tax year, and taxes withheld are taken into account. Prepaid taxes are creditable against the final tax liability.

1.10.4. Rulings

Advance tax agreement (ruling) practice is now open to individuals in Luxembourg. *See also* Corporate Taxation section 1.8.4.

2. Other Taxes on Income

2.1. Municipal business tax

Individuals carrying on a business in Luxembourg are liable to a municipal business tax.

The taxable base is generally the same as for business income for individual income tax purposes (*see* section 1.5.). However, certain specific deductions apply for municipal tax. Resident individuals are entitled to an exemption of EUR 40,000.

The basic rate of the business tax is 3%. It is multiplied by coefficients determined by the municipality in which the business establishment is located. These coefficients vary from 225% to 400%. The effective rate for the city of Luxembourg is 6.75% (3% x 225%).

3. Social Security Contributions

3.1. Employed

The social security contributions payable by employees are included in the wage withholding by the employer (*see* section 1.9.2.). The taxable base is comprised of gross wages and salaries, including benefits in kind (with some exceptions), subject to a monthly ceiling of EUR 9,614.82 (from 1 January 2015); the ceiling is not applicable to the dependency insurance. The rates are as follows:

Contribution for	Rate (%)
Pension insurance	8.00
Health insurance	3.05 ¹
Dependency insurance	1.40

1. On monthly cash payments. The rate is 2.8% on non-periodic remuneration (the 13th month payment, bonuses, etc.) and benefits in kind.

The contributions are deductible for income tax purposes, except for the dependency insurance.

Dependency insurance is also applicable on any patrimonial income.

For social security contributions payable by the employer, *see* Corporate Taxation section 4.2.

3.2. Self-employed

The social security contributions payable by the self-employed are calculated on their business or professional

income as determined for income tax purposes for the preceding year, subject to a monthly ceiling of EUR 9,614.82 (from 1 January 2015) (not applicable to the dependency insurance). The rates are as follows:

Contribution for	Rate (%)
Pension insurance	16.00
Health insurance	6.10
Accident	1.10
Mutual health care insurance	0.51 – 3.04 ¹
Dependency insurance	1.40

1. This coverage is optional and the rates are 0.51%, 1.32%, 1.94% and 3.04%, depending on the absenteeism rate of the individual.

The contributions are deductible for income tax purposes, except for the dependency insurance.

4. Taxes on Capital

4.1. Net wealth tax

The net wealth tax on individuals has been abolished with effect from 1 January 2006.

4.2. Real estate tax

The local real estate tax is levied on owners of immovable property. The tax is calculated on the unit value determined in accordance with the Valuation Law. The tax is computed by applying a basic rate to the unit value of the property.

The rate depends on the municipality and the classification of property. The basic rates on business premises and non-developed land range from 0.7% to 1%, depending on the municipality. The basic rate is multiplied by municipal coefficients, which vary between approximately 100 and 1000. For individuals, real estate tax is only deductible if the property is used commercially or rented out.

For real estate taxation of companies, *see* Corporate Taxation section 5.2.

5. Inheritance and Gift Taxes

5.1. Taxable persons

5.1.1. Inheritance tax

Inheritance tax is due if the deceased, at the moment of his death, was a resident of Luxembourg or had his centre of economic interests in Luxembourg. The tax is imposed on the share received by each beneficiary.

5.1.2. Gift tax

Gift tax is levied on the donee in respect of all gifts made in writing. The written form is compulsory for donations of immovable property in Luxembourg and must be registered by a notarial deed. Gift tax has the character of a registration duty.

5.2. Taxable base

5.2.1. Inheritance tax

The taxable base is generally the fair market value of worldwide assets, except for foreign-situs immovable property. The tax is assessed on each beneficiary's share of the net amount after the deduction of liabilities attributable to the share.

Foreign-situs immovable property is excluded from the taxable base, but its value reduces the amount of deductible liabilities. Gifts received from the deceased in the year before his death are taken into account, unless they were subject to gift tax (*see* section 5.2.2.).

Inheritances in the direct line are exempt from inheritance tax to the extent that they do not exceed the amount that would have been received on intestacy (the legal portion). The share received by the surviving spouse is exempt if there are one or more common descendants or adopted children or descendants of the latter. An annuity to be paid to the surviving spouse by the children of the deceased is also exempt. Finally, any inheritance of less than EUR 1,250 is exempt.

5.2.2. Gift tax

The duty is calculated on the fair market value of all gifts received by a donee from the same donor in a calendar year.

5.3. Personal allowances

5.3.1. Inheritance tax

The surviving spouse is entitled to an allowance of EUR 38,000, if there are no common descendants.

5.4. Rates

5.4.1. Inheritance tax

The basic rates depend on the proximity of the relationship. In order to calculate the effective rate, the basic rate must be increased by a coefficient that depends on the value of the share received.

For inheritances in the direct line, the basic rate is 2.5% (on the part exceeding the legal portion); for surviving spouses without children or other descendants, 5%; between brothers and sisters, 6%; for uncles, aunts, nephews and nieces, 9%; for great-uncles, great-aunts, great-nephews and great-nieces, adopted children and their descendants in the direct line, 10%; and for all other relationships, 15%.

The coefficients vary between 0.1 of the basic rate on the part of the taxable inheritance between EUR 10,000 and 20,000 and 2.2 on the part of the taxable inheritance exceeding EUR 1,750,000. The effective rates vary between 0% and 48% for beneficiaries with no family ties to the deceased.

5.4.2. Gift tax

The rates vary, depending on the relationship between the donor and the donee. For direct ascendants or descendants, the rates vary from 1.8% to 2.4% (1.8% if the gift is an advance of an inheritance from a parent not exceeding the legal portion); between spouses, 4.8% (2.4% if it is donated on the occasion of marriage); between brothers and sisters, 6% (3% if it is donated on the occasion of marriage); for uncles, aunts, nephews and nieces, 8.4%; for great-uncles, great-aunts, great-nephews and great-nieces, 9.6%; and for other relationships, 14.4%.

Donations of immovable property are, moreover, subject to a 1% real estate transfer tax (with some exceptions).

5.5. Double taxation relief

5.5.1. Inheritance tax

Unilateral relief is granted in the form of an exemption for foreign immovable property that is subject to tax in the foreign country, and for movable property because of the nationality of the deceased or the donor. The tax paid on such property is therefore not deductible. Luxembourg has not concluded any inheritance and gift tax treaties.

5.5.2. Gift tax

See section 5.2.2.

6. International Aspects

6.1. Resident individuals

For the concept of residence, *see* section 1.1.

6.1.1. Foreign income and capital gains

Resident individuals are subject to income tax on their worldwide income and capital gains. Foreign income is generally subject to the same income tax rates as domestic income.

No special tax treatment is accorded to foreign-source royalty, business or professional income. The gross amount of foreign dividends is generally included in taxable income, i.e. before deducting any foreign taxes paid. However, a 50% exemption is available for dividends paid by (i) a company qualifying for the EU Parent-Subsidiary Directive or (ii) a company resident in a country with which Luxembourg has concluded a tax treaty, provided that the company is subject to a tax comparable to the Luxembourg corporate income tax.

The gross amount of foreign interest is generally included in taxable income, i.e. before deducting any foreign taxes paid. Foreign-source interest paid through a paying agent based in Luxembourg or another EU Member State may be subject to withholding tax (*see* section 1.5.2.).

Income from immovable property located abroad is exempt in Luxembourg if the property is located in a tax treaty country. The income is, however, taken into consideration in order to fix the tax rate on the other taxable income in Luxembourg (exemption with progression).

6.1.2. Foreign capital

There is no net wealth tax applicable to individual taxpayers. Real estate tax is not levied on immovable property located abroad.

6.1.3. Double taxation relief

Unilateral relief from double taxation is granted to residents in the form of a foreign tax credit against the Luxembourg tax attributable to the foreign income. The credit is only granted in respect of foreign national taxes that are comparable to the Luxembourg income tax.

The credit is generally subject to a per-country limitation, i.e. the credit for foreign tax on income derived from a particular country is limited to the amount of Luxembourg tax attributable to the income. Any effective foreign tax that cannot be credited because of the limitation is deductible from the foreign income. However, a tax that is only deemed to have been levied under a tax treaty (i.e. not effective) is not deductible.

With respect to foreign dividend and interest income, however, the taxpayer may opt for an overall limitation. In that situation, the credit allowed per item of foreign income may not exceed 25% of that income. The total credit relating to such income is restricted to 20% of the total amount of Luxembourg income tax computed before taking into consideration the foreign taxes.

Under Luxembourg's tax treaties, double taxation relief is usually provided under the foreign tax credit method (*see above*) for foreign-source investment income, such as dividends and interest, derived directly (i.e. not through a permanent establishment). For other types of income, e.g. business income derived through a permanent establishment, the exemption with progression method is applied.

6.2. Expatriate individuals

Specific tax provisions apply in Luxembourg to workers relocating to Luxembourg as of 1 January 2014 ("in-patriate workers"). Under this regime, an exemption is granted to a part of remuneration obtained by such workers in relation to their assignments in Luxembourg.

Eligible for this regime are:

- employees usually working abroad, assigned by a company located outside of Luxembourg to perform employment activities for a Luxembourg company that is a member of the same international group; and
- employees directly hired abroad by a Luxembourg company, or a company located in the European Economic Area to perform employment activities in the company.

The following conditions should be met at the level of the in-patriate:

- the in-patriate must fulfil the residency criteria for a Luxembourg resident (*see section 1.1.*); and
- the in-patriate must neither have been a Luxembourg tax resident nor have been living less than 150 km from the Luxembourg border, nor have been subject to personal income tax on professional income

during the 5 years preceding the starting date of his professional activities in Luxembourg.

Under the regime, the reasonable expenses and allowances paid to or on behalf of the in-patriates are exempt from income tax in the hands of the employee. The exemption is granted in the amount exceeding the expenses that the employee would have incurred if he remained in his home country. The following expenses fall under the regime:

- non-repetitive expenses: moving and housing expenses (e.g. furniture), special travel costs (e.g. birth, wedding, death of a family member); and
- repetitive expenses: housing costs (e.g. rent, utilities, heating), yearly home travel, tax equalization, school fees.

In addition, a tax-free lump-sum indemnity for other repetitive expenses (cost of living adjustment) is granted, which amounts to 8% of the employee's fixed monthly remuneration, capped at EUR 1,500 per month. The lump sum can be doubled (i.e. 16% capped at EUR 3,000 per month) to the extent the employee shares a common residence or domicile with his/her spouse or partner, and the latter does not perform any professional activity.

The benefit of the specific tax provisions for in-patriate workers is granted for the duration of the employee's in-patriation. It applies until the end of the 5th tax year following the in-patriate's starting date in Luxembourg.

6.3. Non-resident individuals

For the concept of residence, *see section 1.1.*

6.3.1. Taxes on income and capital gains

6.3.1.1. General

Non-resident individuals are generally subject to income tax in Luxembourg on various types of Luxembourg-source income, including:

- employment income if the employment is exercised in Luxembourg or if the income originates from Luxembourg sources (in the latter situation an exception applies if the employer is involved in commerce, industry or transport and the employee is subject to income tax in his state of residence);
- pensions and annuities, if paid from Luxembourg in respect of a former employment or by a public fund;
- business income derived through a permanent establishment located in Luxembourg;
- income from a liberal profession exercised in Luxembourg or derived from Luxembourg sources;
- income derived by artists and sportsmen from an activity in Luxembourg;
- investment income subject to withholding tax on dividends and other profit distributions paid by residents;
- income from immovable property located in Luxembourg;
- capital gains on immovable property located in Luxembourg;
- capital gains on a substantial participation (*see section 1.6.*) in resident companies if the holding period is less than 6 months; and

- capital gains on a substantial participation if the holding period exceeds 6 months if the taxpayer was resident in Luxembourg for more than 15 years and had been non-resident for less than 5 years at the time of the disposal or liquidation.

Taxable income is generally calculated under the rules that apply to residents. The income tax for non-residents is calculated under the same progressive rates (increased by the surcharge) that apply to residents (*see* section 1.9.1.). Their foreign income is, however, not taken into consideration for the progressive rates (except if they so opt or in some cases where they ask for a refund). However, except for certain types of earned income, a minimum income tax rate of 15% (increased by the surcharge) applies for non-residents, e.g. if they only rent immovable property in Luxembourg. Such taxpayers may opt to apply a standard progressive tax rate instead of the 15% rate (increased by the surcharge); the progressive rate is, however, calculated by adding EUR 11,265 (the tax-exempt amount) to the actual income.

Non-residents are subject to the municipal business tax (*see* section 2.1.) only with respect to income from a permanent establishment in Luxembourg.

6.3.1.2. Earned income

The wage withholding tax is, in general, final for non-residents. However, non-residents exercising employment in Luxembourg for a period of at least 9 consecutive months in a tax year are entitled to an assessment under the same conditions as residents. Non-resident married taxpayers are entitled to such an assessment if they both work in Luxembourg, at least one spouse derives dependent income subject to withholding tax and more than 50% of the professional income (income from dependent and independent activities) of the household is taxable in Luxembourg.

Non-residents deriving employment income from Luxembourg and residing less than 9 months in the country may under strict conditions be entitled to a refund of the withholding tax levied on their salaries to the extent this withholding tax exceeds their income tax liability.

Non-residents deriving professional income taxable in Luxembourg are, in general, taxed in the same class as residents (*see* section 1.7.4.). However, non-resident married taxpayers deriving professional income taxable in Luxembourg are taxed in tax class 1a. If more than 50% of the professional income of a household is taxable in Luxembourg, the non-resident spouses are taxed in tax class 2 (if both spouses derive professional income in Luxembourg, they are taxed jointly).

A non-resident who is taxable in Luxembourg on at least 90% of his total income may elect to be taxed at the same rates and benefits from the same deductions applicable to residents. Both his domestic and foreign income is then taken into account to determine the applicable rate under the progressive income tax rates (*see* section 1.9.1.). In this regard, all foreign income must be included in the calculation of the global tax rate. Consequently, non-resident taxpayers are entitled to claim the deduction of their

mortgage interest on their principal residence. Non-resident married taxpayers may only make this election if at least one of the spouses is taxable in Luxembourg on at least 90% of his or her total income. If an election is made, married taxpayers are taxed jointly. Such an election is only selected to the extent that it is to the advantage of the non-resident taxpayer.

For non-resident directors, the withholding tax (*see* section 1.9.2.) is final if the fees do not exceed EUR 100,000 per year and are the only Luxembourg-source professional income of the non-resident. Non-resident directors may nevertheless opt to be assessed.

6.3.1.3. Investment income

Dividends and interest on profit-sharing bonds derived directly from resident companies are taxed by way of a 15% withholding tax. For rates under tax treaties, *see* Corporate Taxation section 6.3.5.

Interest (other than interest on profit-sharing bonds) and royalties paid to non-residents are not subject to withholding tax. Under the provisions of the EU Savings Directive, however, resident paying agents paying interest to, or securing the payment of interest for, the immediate benefit of individuals who are residents in another EU Member State or in an associated and dependent territory asking for reciprocity, must withhold tax during a transitional period. The rate is 20% from 1 July 2008 until 30 June 2011 and 35% thereafter. Interest also includes income from certain investment funds. Payments made or secured to some entities (known as residual entities) will also suffer the withholding tax. Specific procedures (exchange of information or tax exemption certificate) allow the paying agent not to withhold the tax. The transitional period will expire when third states, such as Andorra, Liechtenstein, Monaco, San Marino, Switzerland and the United States, commit themselves to exchange information upon request.

6.3.2. Taxes on capital

There is no net wealth tax. Non-resident individuals are subject to real estate tax (*see* section 4.2.) on their immovable property located in Luxembourg.

6.3.3. Inheritance and gift taxes

See section 5.

6.3.4. Administration

Non-residents deriving taxable income from sources in Luxembourg that are not subject to Luxembourg withholding tax must file a tax return. Non-residents who derive income that has been subject to Luxembourg withholding tax must, in general, only file a tax return if such income exceeds EUR 100,000 per year. This limit is reduced to EUR 30,000 or EUR 36,000 in the case of multiple income subject to withholding tax (depending on the tax class).

