Luxembourg

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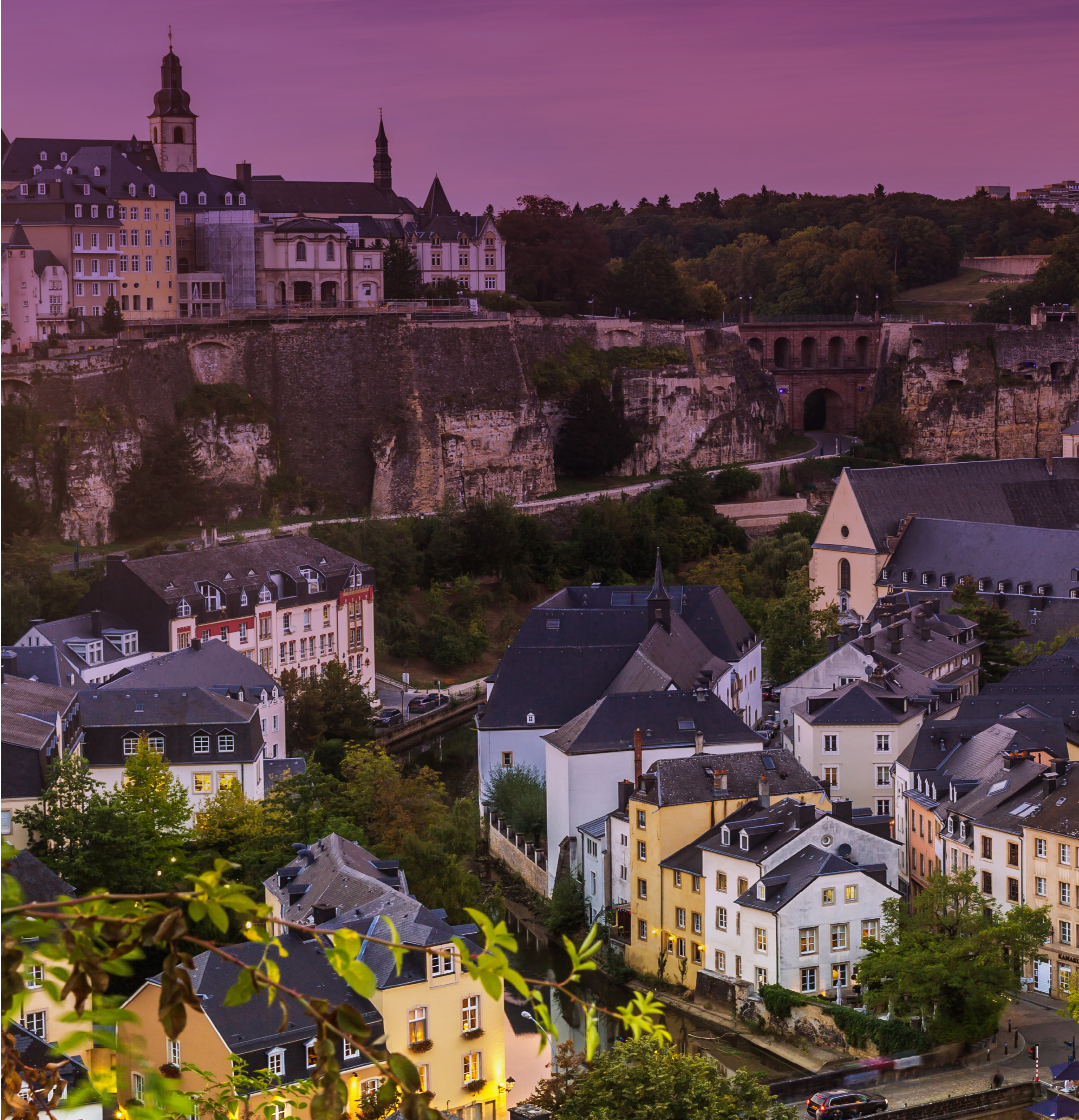


1.0 OVERVIEW

In the heart of Europe, Luxembourg benefits from a longstanding and high level of political, social and fiscal stability. Rated AAA, Luxembourg is very active in cross-border trade and investment all around the world and is an important financial center. Luxembourg is the largest investment fund center in Europe and the second largest in the world after the US, in terms of net assets under management. Luxembourg's legal and tax law system is generally flexible and favorable to investments.

Luxembourg levies corporate and personal income tax on its residents in respect of income and capital gains earned on a worldwide basis. Under Luxembourg domestic tax rules, non-resident taxpayers are taxed only on their Luxembourg source income as listed in Article 156 of the Luxembourg income tax law(LIR).

A non-resident company is taxable in Luxembourg on business profits derived by a permanent establishment located in Luxembourg, income from agricultural and forestry exploitations in Luxembourg, profits generated from a professional activity (including, among others, legal services or consulting services) exercised in Luxembourg and income and gains generated by real estate located in Luxembourg, as well as capital gains realized under certain conditions on shares held in Luxembourg companies. In addition, a withholding tax applies to dividends, certain types of interest, salaries and wages, director fees and income from certain literary, artistic and sports activities.

Transactions between related parties (including but not limited to intragroup financing activities) need to comply with the arm's length principle and the transfer pricing rules as developed by the Organisation for Economic Co-operation and Development OECD) standards.

Luxembourg has 82 double-taxation treaties in force, and 13 tax treaties in the pipeline. Luxembourg is also a signatory to the Multilateral Convention to Implement Tax Treaty Related Measures to prevent Base Erosion and Profit Shifting and has agreed to adopt the minimum standards (preamble, principal purpose test and dispute resolution), as well as certain optional provisions. The ratification process has not yet been completed.

2.0 LEGAL SYSTEM

The Grand Duchy of Luxembourg has a civil law system. Due to its history and size, Luxembourg's legal environment has been developed on its neighbors' legal systems. Thus, direct tax law is based upon German sources; company law and criminal law were influenced by Belgian sources; and civil and commercial law are based on the Napoleonic Code (which in turn is based on Roman law).

Commercial companies are governed by the law of August 10, 1915, as amended (the "Company Law"), which was reformed in 2016 to modernize Luxembourg corporate law.

Luxembourg is a member of the EU and bound by its legislation and case law.

3.0 TAXATION AUTHORITIES

Luxembourg taxes are collected by different tax administrations depending on the nature of the tax. The *Administration des Contributions Directes* is responsible for direct taxes (i.e., personal income tax, corporate income tax, municipal business tax, net wealth tax and withholding tax WHT). The *Administration de l'Enregistrement et des Domaines*" is responsible for indirect taxes (value-added tax and registration duties). The Administration des Douanes et des accises is responsible for customs and excise duties.

4.0 BUSINESS VEHICLES

A non-resident may either establish a Luxembourg vehicle to carry on an activity in Luxembourg or operate directly through a foreign entity (with or without a Luxembourg branch). The main vehicles are partnerships, corporations and investment funds.

4.1 Partnerships

The main forms of partnership are:

i. *Société en commandite simple (SCS)*

ii. *Société en commandite spéciale (SCSp)*

iii. *Société en nom collectif (SNC).*

The SCS and SCSp are limited partnerships and the SNC is a general partnership.

A Luxembourg partnership is treated as fiscally transparent for corporate income tax (CIT) and net wealth tax (NWT) purposes. It will not be subject to municipal business tax (MBT), provided that it is not engaged in a business per se nor deemed to be engaged in a business.

The mere holding of shares in a company does not normally constitute a business per se. When an SCS or SCSp is an alternative investment fund (AIF), as defined by the EU alternative investment fund manager directive (2011/61/EU) and the Luxembourg Law of 12 July 2013 implementing such directive, there is an argument that it is not a business based on a circular letter issued by the Luxembourg tax authorities (LTA).

A partnership is deemed engaged in a business when its general partner is a corporation holding 5% or more of the interest in the partnership of a SCS or SCSp, and a majority of its interest or more for a SNC. Foreign partners in a Luxembourg partnership subject to MBT per the above criteria may be considered to have a taxable presence in Luxembourg (permanent establishment or permanent representative) under domestic tax law. Foreign entities are classified as transparent or non-transparent for tax purposes by comparison of their legal features with those of Luxembourg entities.

4.2 Corporations

The main corporate forms are:

i. *Société anonyme (S.A.)*

ii. *Société à responsabilité limitée (S.à r.l.)*

iii. *Société en commandite par action (S.C.A.)*

iv. *Société par action simplifiée (S.A.S)*

Luxembourg resident companies are in principle subject to CIT, MBT and NWT and can benefit from the country's double-taxation treaties.

4.3 Investment funds

There are multiple ways to structure an investment fund in Luxembourg. A fund can be regulated, meaning it is subject to the direct supervision of the Luxembourg financial supervisory authority (CSSF, in its French acronym), or unregulated. Investment funds can be further classified based on the target investors to whom they are being marketed.

Among regulated funds, undertakings for collective investments in transferable securities (UCITS) are suited for retail investors. Three other fund types are generally dedicated to professional/institutional investors:

i. Funds falling under part II of the Law of 17 December 2010 (Part II Funds)

ii. Investments companies in risk capital, subject to the Law of 15 June 2004 (SICARs)

iii. Specialized investment funds, subject to the Law of 13 February 2017 (SIFs).

Reserved alternative investment funds (RAIFs), subject to the Law of 23 July 2016, present another option to the alternative offering. They are not subject to direct supervision of the CSSF but have to appoint an alternative investment fund manager, who in turn is under the oversight of the CSSF or of the competent authority in another EU member state.

UCITS, SICARs, SIFs and RAIFs all have their specific legal regimes and are subject to so-called product laws. On the other hand, an investment fund can also be established as an unregulated structure that is not subject to any of the product laws. However, they cannot form compartments (sub-funds) and they do not benefit from any tax advantages, unless they qualify as alternative investment funds under the alternative investment fund manager directive.

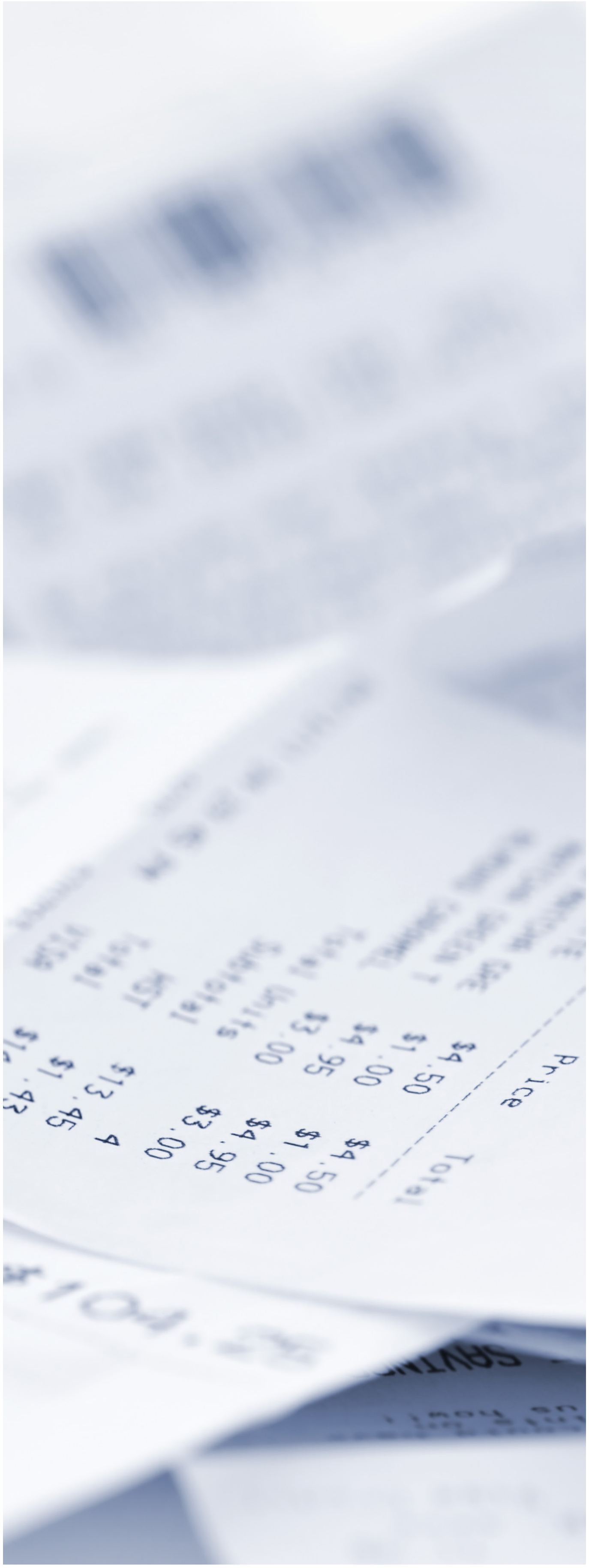
The above-mentioned investment funds can be established under a contractual (FCP), corporate or partnership form. There are certain exceptions to this rule; most notably, SICARs and unregulated funds cannot figure in contractual form and UCITS cannot elect the form of an S.à r.l., SCS or SCSp.

Investments funds are exempt from CIT, MBT and NWT (except the corporate SICAR and RAIF SICAR which are subject to CIT, MBT and minimum NWT) but subject to an annual subscription tax of their aggregate net asset value.

Non-resident investors are in principle not subject to tax on capital gains or income derived from the fund, except if the fund is owned through a permanent establishment or a permanent representative in Luxembourg.

SICAR tax regime is more favorable and depends on its form (i.e., corporate form will be subject to CIT, MBT but exempt from NWT and SICAR under the form of a partnership will be in principle not subject to CIT, MBT and NWT).

RAIFs are exempt from CIT, MBT and NWT but subject to a reduced subscription tax of 0.01% (only for RAIF-SIF). RAIF-SICAR follows the SICAR tax regime as described.



5.0 FINANCING A CORPORATE SUBSIDIARY

5.1 Equity increase

A share capital increase can be realized in cash or in kind, either in exchange of new shares or via an increase of the nominal value of the existing shares. A contribution to an equity account without issuing shares, known as account 115, is also possible. The contribution to account 115 does not require a notarial deed where a share capital increase does.

5.2 Share capital reduction and share premium repayment

The repayment of share capital and share premium (or account 115) are treated the same way for tax purposes. Such redemption is in principle not subject to WHT to the extent that (i) the Luxembourg company has no distributable profits/retained earnings (whether capitalized or not), and (ii) the repayment of share premium is motivated by genuine economic reasons.

If share premium is repaid by the Luxembourg company despite the existence of distributable reserves, the latter will be deemed to be distributed first as a dividend, triggering WHT subject to (i) an exemption under domestic rules, or (ii) an exemption or WHT reduction under a double-taxation treaty. The same rule will apply if the company has no distributable reserves but the repayment is not motivated by genuine economic reasons.

5.3 Debt financing

5.3.1 Withholding tax implications

Arm's length interest payments made by a Luxembourg resident corporation to a lender are generally not subject to WHT, except for certain types of profit-sharing debts and payments made under silent partnership arrangements. However, non–arm's length interest payments between related parties, or payments that are not compliant with the debt-to-equity ratio, will be requalified into dividend distributions and thus subject to 15% WHT (17.65% on the gross amount). The WHT rate can be reduced or eliminated under a double-taxation treaty, or eliminated under domestic rules.

5.3.2 Thin capitalization

There is no specific law or other legislative reference on thin capitalization, nor an excess of debt over equity, other than transfer pricing rules. Consequently, Luxembourg tax authorities address thin capitalization by establishing a default debt-to-equity ratio of 85/15, unless the taxpayer can makes a reasonable case for another ratio. The thin capitalization rules aim to restrict the deductibility of interest paid or payable by a corporation resident in Luxembourg where the ratio of debt to equity exceeds 85/15.

To the extent that the prescribed debt-to-equity ratio is exceeded, there will be a proportionate denial of the interest deduction. Any payment of interest that is subject to restriction under these rules may be deemed to be a dividend for WHT purposes (WHT exemptions remain available).

5.3.3 Anti-tax avoidance directive

Further to the OECD recommendations on base erosion and profit-shifting initiative, an EU anti-tax avoidance directive has been adopted on July 12, 2016 (ATAD1), which provided several tax measures to be implemented by member states. Some of these tax measures include: controlled foreign company (CFC) rules, exit taxation rules, interest limitation rules, anti-hybrids and general anti-avoidance rules (GAAR). These rules are to be implemented starting on January 1, 2019. Luxembourg has not yet passed a domestic law implementing these rules.

On May 29, 2017, the EU adopted another anti-tax avoidance directive, ATAD2, amending ATAD1 by extending the scope of the anti-hybrid provisions. Measures of ATAD2 should be implemented and applicable from January 1, 2020.

5.3.4 Interest limitation rule

Luxembourg will implement a new limitation rule on interest into its domestic tax legislation. The deduction of so-called "exceeding borrowing costs" will be limited to the higher of: (i) 30% of EBITDA (generally referred to as earnings before interest, tax, depreciation and amortization but subject to a more specific definition in the law/directive), or (ii) €3,000,000.

This rule should not negatively impact companies having a back-to-back financing activity, receiving only interest payments or reporting a positive arm's length margin, because the limitation will apply to exceeding costs—i.e., the difference between interest income (or its economic equivalents) less borrowing costs. The notion of income economically equivalent needs to be further clarified to determine if it will include capital gains on receivables.

5.3.5 Anti-hybrid rules

ATAD1 and ATAD2 target hybrid mismatches (due to different qualifications) in financial instruments or entities. The mismatch may arise between Luxembourg taxpayers and taxpayers in other EU member states, or when commercial or financial relationships between a Luxembourg taxpayer and an associated enterprise established in another EU member state result in a double deduction or a deduction without (taxable) inclusion. Interest expenses incurred by a Luxembourg taxpayer would not be deductible if, in view of a hybrid mismatch, (i) they are deductible in another EU member state where the expenses have their source; or (ii) such expenses have their origin in Luxembourg but are not taxable in the hands of the recipient (EU member state under ATAD1, extended to other jurisdictions under ATAD2).

5.3.6 Controlled foreign company rules

Luxembourg has opted to limit the income that has arisen from non-genuine arrangements having been put in place in essence to obtain a tax advantage. As a result, only the income that has actually been generated through the assets and risks linked to significant people functions carried out by the Luxembourg controlling entity will be subject to taxation in Luxembourg. The CFC income would be subject to CIT but not to MBT.

6.0 CORPORATE INCOME TAX

6.1 Corporate income tax and municipal business tax

Luxembourg companies are subject to CIT on their worldwide profits. For taxable income of more than €30,000, the CIT rate is 18% plus a solidarity surcharge for the employment fund of 7%. As a result, the effective CIT burden is 19.26% in 2018 for taxable profits exceeding €30,000. The CIT is governed by the LIR dated December 4, 1967, as amended.

In addition, Luxembourg levies a MBT on the net profits realized by Luxembourg companies. The MBT is governed by the municipal business tax law as amended dated December 1, 1936. Rates vary by municipality. For 2018, the combined CIT and MBT rate is 26.01% for a company established in Luxembourg City. This rate may be progressively reduced in the future.

6.2 Net wealth tax

Luxembourg levies an annual NWT based on the unitary value determined in accordance with the net wealth tax law and valuation law dated October 16, 1934. The unitary value corresponds to the difference between the assets generally estimated at their fair market value and the liabilities with third parties as per a certain key date (in principle, on January 1 of each year).

The NWT rate is 0.5% of the unitary value, reduced at 0.05% for the NWT basis exceeding €500 million. From January 1, 2016, onwards, Luxembourg introduced a minimum NWT charged from €535 to €32,100. The minimum has been determined at €4,815 for companies whose financial assets, transferable securities and cash deposits exceed, cumulatively, 90% of their total balance sheet plus €350,000.

An NWT reduction can be claimed for the portion of NWT exceeding the minimum NWT, subject to certain conditions. Among these conditions, an amount corresponding to five times the NWT reduction must be allocated to a special NWT reserve in the balance sheet and maintained for the following five years.

6.3 Corporate residency

A company is considered as a tax resident in Luxembourg if its statutory seat or its effective place of central administration is located in Luxembourg. Non-resident companies are subject to Luxembourg taxation only on its Luxembourg source income as listed in Article 156 LIR. Consequently, where a foreign company is resident in a country with which Luxembourg has a double-taxation treaty pursuant to which the corporation may claim treaty benefits, the corporation will generally be exempt from Luxembourg taxation on its business profits, except to the extent that the profits were earned through a permanent establishment situated in Luxembourg. A corporation that operates through a Luxembourg permanent establishment (such as a branch) will be subject to CIT and MBT.

6.3.1 Taxable base

A taxpayer is subject to tax on its profits from carrying on its business. Business income as defined by the Article 14 LIR is part of the taxable base. Due to their corporate form, corporations generate per se business incomes. As a general rule, the accounts for tax purposes follow the commercial accounts (except otherwise provided). To obtain the taxable profit for the current year, the tax exemptions (e.g., due to any applicable participation exemption or treaty benefits) and possible differences in deductions or depreciations are taken into account.

6.3.2 Deductions

A taxpayer is generally permitted to deduct genuine business expenses provided that they are at arm's length and not related to tax exempt income. This includes interest incurred for the purpose of earning income from a business or property (subject to the thin capitalization rules and other limitation rules discussed below).

6.4 Participation exemption regime

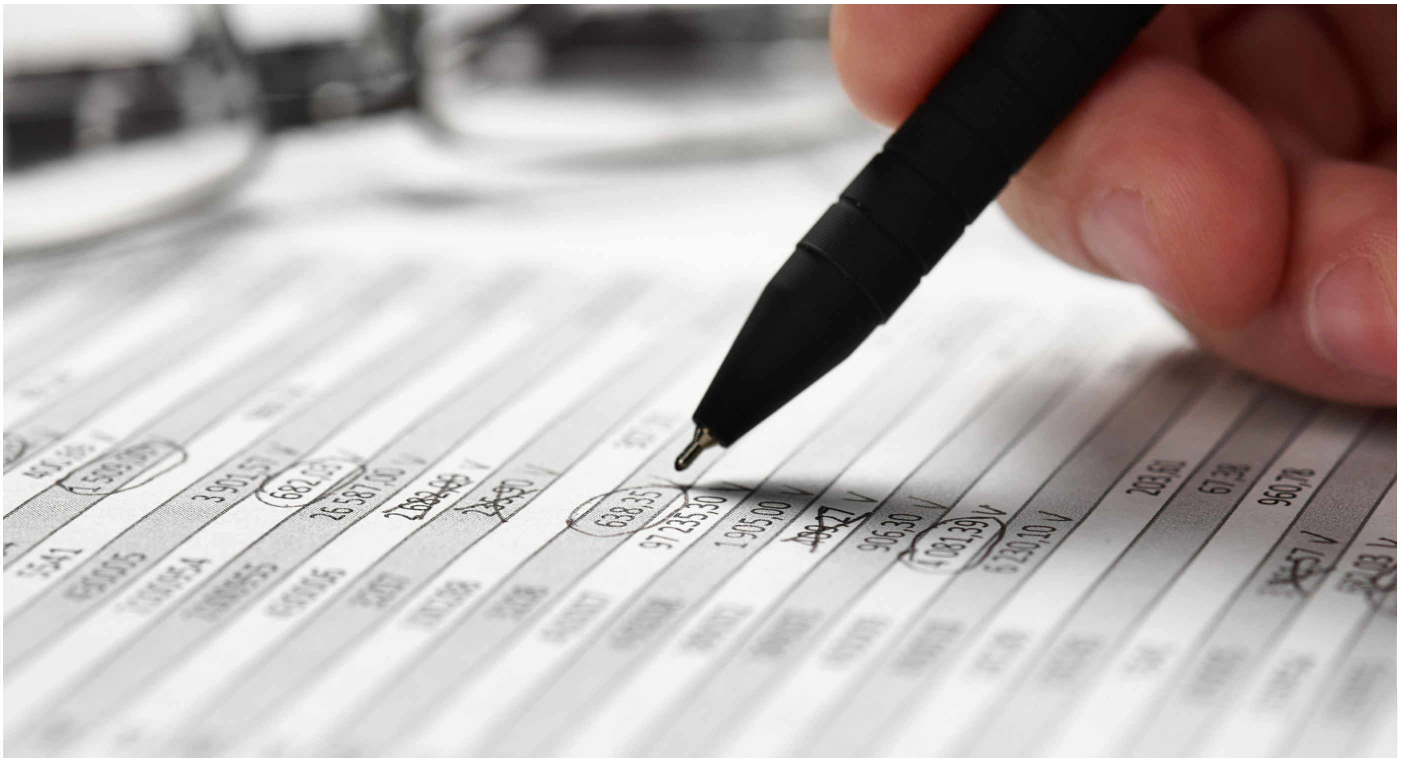
6.4.1 Dividends

In principle, dividends are taxable at a combined rate of 26.01% CIT and MBT (in 2018 for companies in Luxembourg City), unless the participation exemption applies. Companies subject to dividend tax are:

i. Resident corporations
ii. Permanent establishments of a company covered by the Parent Subsidiary Directive
iii. Permanent establishments of a company resident in a country with which Luxembourg has a double-taxation treaty
iv. Permanent establishments of a company resident in an EU or European Economic Area (EEA) member state.

The LIR sets the following conditions under which the participation exemption applies:

i. i. The distributing company is either a fully taxable Luxembourg company or a company listed in the EU Parent Subsidiary Directive, or a capital company subject to a comparable tax (i.e., a tax levied at rate equal to at least 50% of the CIT rate on a tax basis that is comparable to the basis determined under Luxembourg tax rules);
ii. The recipient company holds or commits to continue to hold a direct participation in the share capital of the distributing company of at least 10% or with an acquisition price of at least €1,200,000 for an uninterrupted period of 12 months; and



iii. The GAAR and the anti-hybrid rule do not apply.

In principle, dividends paid by a fully taxable Luxembourg resident company are in principle subject to a WHT of 15% (or 17.65% of the gross amount). The rate may be reduced under an applicable double-taxation treaty. Article 147 of the LIR allows a dividend WHT exemption under certain conditions:

i. The recipient company is either a Luxembourg resident fully taxable company, or a company covered by the Parent Subsidiary Directive or a Luxembourg Permanent Establishment thereof, or a company resident in a country having a double-taxation treaty with Luxembourg and liable to a tax equivalent to the Luxembourg CIT (i.e., 50% of the Luxembourg CIT rate on a tax basis that is comparable to the basis determined under Luxembourg tax rules); and

ii. The recipient company holds or commits to continue to hold a direct participation in the share capital of the distributing company of at least 10% (or a participation with an acquisition price of at least €1,200,000) for an uninterrupted period of 12 months; and

iii. The GAAR does not apply.

6.4.2 Capital gains

In principle, realized capital gains are subject to CIT and MBT at a combined rate of 26.01% (in 2018 for companies in Luxembourg City). The same companies as defined under 6.4.1 above are subject to this tax. An exemption applies if the following conditions are met:

i. The company is a fully taxable Luxembourg company, a company covered by the Parent Subsidiary Directive or a non-resident company subject to a tax equivalent to the Luxembourg CIT (i.e. 50% of the Luxembourg CIT rate on a tax basis that is comparable to the basis determined under Luxembourg tax rules); and

ii. At the moment of the disposal, the parent company has continuously held a direct participation in the share capital of the company alienated of at least 10%, or a participation with an acquisition price of at least €6,000,000 for an uninterrupted period of 12 months.

Expenses, such as operating charges and interest on debt, incurred by a parent company in connection with the holding of its participation are tax deductible, for a given tax year, in the absence of exempt income or to the extent that they exceed exempt incomes. When an exempt capital gain is realized, the latter will remain taxable up to the amount of the related expenses deducted for the participation transferred for the past years. This mechanism is called "recapture" and is generally tax-neutral for a company holding only shares benefiting from the participation exemption regime, since the taxable gains (corresponding to related expenses deducted) should be offset by tax losses carried forward (constituted by the expenses deducted).

6.5 Tax losses

Tax losses can be carried forward for 17 years. No carry-back is allowed.

6.6 Tax consolidation

A vertical and horizontal tax consolidation regime is available under certain conditions for companies for CIT and MBT purposes (but not for NWT purposes) under Article 164bis LIR.

Affiliated Luxembourg resident companies can benefit from the tax consolidation to the extent that:

i. The consolidating company is either a resident company fully taxable or a Luxembourg permanent establishment of a non-resident company which is fully subject to tax comparable to Luxembourg CIT;

ii. The consolidated companies are fully taxable residents;

iii. The consolidating company holds directly or indirectly at least 95% (or 75% under certain conditions) of the consolidated companies for an uninterrupted period of at least five years as from the beginning of the first accounting period for which the regime is requested; and

iv. A written request must be filed to the Luxembourg tax authorities before the end of the first accounting period for which the tax consolidation regime is requested.

6.7 Intellectual property regime

Certain income from intellectual property assets benefit from a specific tax regime. This regime has been recently amended as of March 2018 through article 50ter LIR to be in line with OECD requirements. It allows an 80% exemption, from a CIT and MBT perspective, on adjusted and compensated net income. Qualified intellectual property assets benefit from a 100% exemption from a NWT perspective.

6.8 Royalties

Arm's length royalties paid by a Luxembourg company are in principle not subject to WHT.

6.9 Income tax reporting & tax returns

Luxembourg resident corporations and non-resident corporations that carry on business in Luxembourg or that dispose of taxable Luxembourg income are required to file annual income tax returns for CIT, MBT and NWT purposes. Tax returns must be filed by May 31 of the following year in order to avoid late filing penalties (e.g., 2018 returns are due by May 31, 2019). However, an extension may be granted upon demand on a case-by-case basis.

Dividend WHT returns need to be filed within eight days following the distribution of the dividends. Quarterly tax advances are required in respect of current-year taxes, the estimation of the tax due being made on the previous year. For new taxpayers, the tax advances correspond at least to the minimum net wealth tax.

However, the LTA can also require the taxpayer to provide an estimation of the expected taxable income. Penalties for late filing may result in a fine up to €25,000. Late payment may result in interest of 0.6% per month starting from the month following the due date.

7.0 CROSS-BORDER PAYMENTS

7.1 Transfer pricing

Luxembourg's transfer pricing regime generally conforms to the OECD's arm's length principle. It has been reflected in article 56, 56bis and 164 of the LIR. In addition, a circular letter has been issued from the LTA n°56/1 - 56bis/1 dated December 27, 2016. This circular provides practical guidance on:

- The methods to be used to determine the arm's length remuneration
- The minimum equity-at-risk required by the Luxembourg company
- The substance and functions required by the Luxembourg company, especially on the management of the company where
  - *i.* A majority of the board should be residents of Luxembourg;
  - ii. The management should be employing or have access to adequate employees with skills to perform the functions to run intragroup financing transactions and to take the opportune decisions about its risks;
  - iii. The key decision shall be taken in/from Luxembourg with at least one annual meeting in Luxembourg; and

iv. The company shall not be considered as a tax resident in another state.

Luxembourg taxpayers are required to maintain transfer pricing documentation in respect of transactions subject to the transfer pricing rules.

8.0 PAYROLL TAXES

8.1 Payroll taxes

In Luxembourg, employers are required to withhold wage tax on salaries of their employees.

8.2 Social security contributions

Employers must make social security contributions on behalf of their employees by withholding part of the employee's salary. Employers and employees both contribute a part of the social security contributions. The taxable base includes gross wages and salaries, including benefits in kind.

The social security contributions cover pension and disability, health insurance, accident insurance, health at work, mutual health insurance (for a rate of approx. 11.05% for the employee and 12.52% to 15.01% for the employer) and dependency insurance (1.40% not capped, solely contributed by the employer).

9.0 INDIRECT TAXES

9.1 Value-added tax (VAT)

VAT is imposed on the final domestic consumption of most goods and services supplied in Luxembourg. VAT is neutral for companies having commercial activities. Those companies collect the tax on their own sales and deduct the tax they have paid on purchase of goods and services. The net VAT payable is the difference between collected VAT and deductible VAT. VAT credits can be reimbursed under certain conditions. Exports outside of the EU are VAT-exempt.

The VAT rules as applied in Luxembourg are derived from the provisions of EU directives on VAT and are governed by the Luxembourg VAT law dated February 12, 1979, as amended. Luxembourg applies the lowest standard rate available in the EU at 17%, along with an intermediary rate of 14%, a reduced rate of 8% for items such as, electricity and heating and a super-reduced rate of 3% that applies to household essentials such as, food, children's clothing, books, broadcasting, etc.

The activities carried out by UCITS, UCIs, SIFs, securitization vehicles and AIF/RAIFs, along with the management of such entities, are generally exempt from VAT. The notion of management services includes day-to-day management of the investment portfolio and investment advice, but excludes control and supervision services provided by a depositary.

9.2 Registration duties

Registration duties are either fixed (€12 or €75) or variable. A company must pay a €75 registration duty to increase its share capital, amend its articles of association or migrate out of Luxembourg.

A deed that is voluntarily registered that must be legally registered, or that is appended to a deed that must itself be deposited in the minutes of a notary or must be legally registered, is subject to a registration duty. The amount of the registration duty will depend on the nature of the document to be registered.

A transfer of real estate assets located in Luxembourg is subject to registration duties of 7% (10% for real estate assets located in Luxembourg City, except residential assets, which remain subject to the 7% rate). Contributions in kind of real estate assets located in Luxembourg in exchange for shares are subject to a 1.1% registration duty rate (1.4% for assets located in Luxembourg City, except residential assets, which remain subject to a 1.1% rate in case of contribution in exchange for shares). Transfers and contributions of assets located outside Luxembourg are not subject to registration duties.