



# Taxation of international executives: Luxembourg



November 2023

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**01**

# **Overview and Introduction**

# 1 Overview and Introduction

Individuals domiciled in Luxembourg are subject to income tax on their worldwide income unless exempt under the provisions of a treaty. Domicile does not refer to the Anglo-Saxon term, but is a term used in Luxembourg tax law essentially equivalent to the term residence in most jurisdictions.

Non-residents (non-domiciliary) are subject to tax on certain categories of income from Luxembourg sources.

The official currency of Luxembourg is the Euro (EUR).

Herein, the host country/jurisdiction refers to the country/jurisdiction to which the employee is assigned. The home country/jurisdiction refers to the country/jurisdiction where the assignee lives when they are not on assignment.

**02**

# **Income tax**

# 2 Income Tax

## 2.1 Tax Returns and Compliance

### When are tax returns due? That is, what is the tax return due date?

31 December of the following year.

### What is the tax year end?

31 December.

### What are the compliance requirements for tax returns in Luxembourg?

If the resident taxpayer's taxable income includes only one salary subject to the Luxembourg withholding tax on wages and that does not exceed EUR100,000, the taxpayer does not have to file a tax return. In respect of non-resident taxpayers, the same rule applies to taxpayers who have worked at least 9 months on a continued basis in Luxembourg during the tax year, and derived

salary subject to the Luxembourg withholding tax on wages, and that does not exceed EUR100,000. Other thresholds may apply depending on the situation.

## 2.2 Tax rates

### What are the current income tax rates for residents and non-residents in Luxembourg?

The tax rates applicable for 2023 are as follows.

#### Residents and non-residents

##### Income tax table for 2023

The 2023 income tax table for single taxpayers (tax class 1) is as follows:

Taxable income bracket		Tax rate on income in bracket
From EUR	To EUR	Percent
0	11,265	0
11,266	13,173	8
13,137	15,009	9
15,009	16,881	10
16,881	18,753	11
18,753	20,625	12
20,625	22,569	14
22,569	24,513	16
24,513	26,457	18
26,457	28,401	20
28,401	30,345	22

Taxable income bracket		Tax rate on income in bracket
From EUR	To EUR	Percent
30,345	32,289	24
32,289	34,233	26
34,233	36,177	28
36,177	38,121	30
38,121	40,065	32
40,065	42,009	34
42,009	43,953	36
43,953	45,897	38
45,897	100,002	39
100,002	150,000	40
150,000	200,004	41
>200,004	42	>200,004

A fixed monthly child bonus of EUR 76.88 was granted for each child falling within the scope of the Luxembourg family allowances regime, irrespective of the taxable income of the parents. The child bonus is deducted as tax credit from the tax liability up to the amount of tax due through the tax return for taxpayers who do not receive family allowances.

For taxpayers who receive Luxembourg family allowances, the child bonus is merged with the family allowance, and a unique amount of family allowance is paid per child (EUR 292.54/month).

Child tax relief is still applicable however under limited conditions.

- Family allowances – additional monthly amount/child, EUR 22.11 if the child is between 6 and 11, EUR 55.19 for children of 12 years and older)
- Supplementary special family allowances for disabled children – monthly amount/child (EUR 200 paid until the age of 25 years old)
- Back-to-school allowance – annual amount/child EUR 115 for children between 6 and 12 years, EUR 235 for children of 12 years and older

Taxpayers are divided into three classes.

#### **Class 2 - married couples who are filing jointly, including couples in a same-sex marriage:**

- 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).

Taxpayers in this category apply the tax rates to one half their incomes and then multiply the liability by two (that is splitting system).

#### **Class 1a - 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.

For tax class 1a the taxable amount is calculated as follows:

50 percent of the difference between net taxable income and EUR45,060, provided that the maximum rate cannot exceed 39 percent for the income bracket between EUR37,842 and EUR100,002, 40 percent for the income bracket between EUR100,002 and EUR150,000, 41 percent for the income bracket between EUR150,000 and EUR200,004 and 42 percent for the income in excess of EUR200,004.

Class 1 Taxpayers (singles) who do not belong to either Class 1a or Class 2.

Taxpayers living in a registered partnership can, upon request, be treated as a married couple through the filing of a joint annual personal tax return, as long as the partnership vs. the marriage has been valid during the whole tax year. In this case, partners will file jointly, and will be granted tax Class 2.

Starting the year 2018, married couples can opt to be taxed individually during the tax year concerned. This election has to be made at the latest by 31 December of the tax year following the tax year concerned.

Registered partners remain taxable individually during the tax year concerned and can opt to be taxed jointly after year-end of the tax year concerned. This election has to be made at the latest by 31 December of the tax year following the tax year concerned. These elections can be made every year.

For couples requesting to file separately, most tax deductions applicable to the household should then, in principle, be equally split between spouses/registered partners. The tax class applicable in these circumstances will be the tax class 1. However, couples may opt for a different allocation of the taxable income. Such different allocation of income will have no impact on the ceilings of deductions for special expenses.

The extra-professional abatement will amount to EUR2,250 per spouse/registered partner filing separately.

A surcharge amounting to:

- 7 percent (of the computed income tax liability) for taxable income not exceeding EUR150,000 in tax classes 1 and 1a or EUR300,000 in tax class 2
- 9 percent (of the computed income tax liability) for taxable income exceeding EUR150,000 in tax classes 1 and 1a or EUR300,000 in tax class 2

is levied as a contribution to the employment fund.

## 2.3 Residence rules

### For the purposes of taxation, how is an individual defined as a resident of Luxembourg?

An individual may be considered a Luxembourg resident for tax purposes to the extent the following circumstances are met, subject to double taxation treaty provisions.

An individual is considered a resident of Luxembourg if their domicile or customary place of abode is in Luxembourg. A person's domicile is the place where they occupy a home under circumstances that indicate they 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.

- This is not restricted to 6 months in the calendar year. If an individual arrives on 1 October in year N and is still staying in the country/jurisdiction on 2 April in year N + 1, the 6-month' stay will be deemed met. In such case, the individual is deemed to be a resident taxpayer in Luxembourg retrospectively to 1 October in year N.

**Is there, a de minimus number of days rule when it comes to residency start and end date? For example, a taxpayer can't come back to the host country/jurisdiction for more than 10 days after their assignment is over and they repatriate.**

No, there is no de minimus number of days in Luxembourg. It is essentially based on facts and circumstances.

**What if the assignee enters the country/jurisdiction before their assignment begins?**

The assignee is considered as a Luxembourg tax resident as of the first day they arrive in Luxembourg.

## 2.4 Termination of residence

**Are there any tax compliance requirements when leaving Luxembourg?**

Upon termination of Luxembourg residence (domicile), the taxpayer leaving Luxembourg may have to file an income tax return for income received during the tax year until the date of departure, which is confirmed by the taxpayer's deregistration at the commune of residence. The deadline for filing such return is also 31 December of the following year. Compulsory wage tax withholding may be considered as final tax depending on the circumstances. This should be assessed on a case-by-case basis.

**What if the assignee comes back for a trip after residency has terminated?**

The assignee will not be considered as a Luxembourg tax resident.

**Communication between immigration and taxation authorities**

**Do the immigration authorities in Luxembourg provide information to the local taxation authorities regarding when a person enters or leaves Luxembourg?**

Indeed the civil file of a taxpayer is accessible at all levels of the public authorities.

**Filing requirements**

**Will an assignee have a filing requirement in the host country/jurisdiction after they leave the country/jurisdiction and repatriate?**

If the assignee receives, after repatriation, an income which relates to a professional activity performed in Luxembourg (such as cash bonus), this income is taxable in Luxembourg.

Compulsory wage tax withholding may be considered as final tax depending on the circumstances. This should be assessed on a case-by-case basis.

## 2.5 Economic employer approach

**Do the taxation authorities in Luxembourg adopt the economic employer approach to interpreting Article 15 of the Organisation for Economic Co-operation and Development (OECD) treaty? If no, are the taxation authorities in Luxembourg considering the adoption of this interpretation of economic employer in the future?<sup>1</sup>**

The Luxembourg tax authorities adopt the economic employer approach. When determining the economic employer, the Luxembourg tax authorities look at, among other criteria, the integration into the Luxembourg organization. Also, for whose risk and benefit the activities are performed play an important role in the determination of economic employer. The recharge of salary costs can play a second level role in this determination but is not a decisive factor on its own. Even without a recharge of salary costs to Luxembourg, the Luxembourg company might be regarded as the economic employer based on other elements.

**De minimus number of days**

**Are there a de minimus number of days before the local taxation authorities will apply the economic employer approach? If yes, what is the de minimus number of days?**

There is no de minimus number of days in Luxembourg.

## 2.6 Types of taxable compensation

**What categories are subject to income tax in general situations?**

As a rule, all types of remuneration and benefits received by an employee for services rendered constitute taxable income regardless of where paid, directly or indirectly. Typical items of an expatriate compensation package are fully taxable unless otherwise indicated below:

- Base salary
- Reimbursements of foreign and/or home country/jurisdiction taxes
- School tuition reimbursements
- Cost-of-living allowances
- Expatriation premiums for working in Luxembourg
- Housing allowances are fully taxable.
  - However, where an employer puts accommodation at the disposal of an employee (whether owned or rented by the employer), the taxable value of the accommodation to the employee may be assessed on a flat-rate basis.
- Benefits-in-kind generally form part of taxable compensation.
  - Where a company car is provided, the deemed taxable value of the employee's private use of the vehicle may be assessed on a flat-rate basis, dependent on the CO2 emission of the vehicle.
- Granting cash interests subsidies, or a loan to an employee interest-free or at a reduced interest rate, are considered earned income from employment, and are taxable either at nominal cash value, or at the difference between the interest rate charged and 1.5 percent in 2023.
  - Exemptions apply on this taxable deemed income of EUR3,000 per year for a single person, or EUR6,000 (for couples filing jointly and single parents' households) where the loan is in connection with the employee's household's principal private residence, or EUR500 per year (single), EUR1,000 (for couples filing jointly and single parents) if the loan was made for other purposes.

A deferred compensation scheme may result in reduced Luxembourg tax if the deferred payment is paid in a year after departure from Luxembourg. As the bonus is likely to constitute the only income from Luxembourg source during that year, it may be subject to individual income tax at the lower progressive income tax rates.

### Intra-group statutory directors

**Will a non-resident of Luxembourg who, as part of their employment within a group company, is also appointed as a statutory director (i.e. member of the Board of Directors in a group company situated in Luxembourg) trigger a personal tax liability in Luxembourg, even though no separate director's fee/remuneration is paid for their duties as a board member?**

If no separate director's fee/remuneration is paid to the individual, the non-remunerated directorship will not trigger a personal tax liability. The individual's tax liability would come from the employment activity performed in Luxembourg (if any).

**a) Will the taxation be triggered irrespective of whether or not the board member is physically present at the board meetings in Luxembourg?**

Director's fee/remuneration paid from a Luxembourg entity in relation to directorship is taxable in Luxembourg, irrelevant of the presence of the individual in Luxembourg.

**b) Will the answer be different if the cost directly or indirectly is charged to/allocated to the company situated in Luxembourg (i.e. as a general management fee where the duties rendered as a board member is included)?**

In that case the income might be qualified either as service fee or director's fees. A specific analysis would be required.

**c) In the case that a tax liability is triggered, how will the taxable income be determined?**

The income to be taxed in Luxembourg will be the director's fee paid in relation to non- executive directorship (attendance to board meetings) in Luxembourg. Actual expenses covered by the director (or a lump sum deduction) may be claimed to reduce the taxable income.

## 2.7 Tax-exempt income

**Are there any areas of income that are exempt from taxation in Luxembourg? If so, please provide a general definition of these areas.**

The following categories of income are exempt from Luxembourg tax:

- A 50 percent exemption is available for dividends paid by a company qualifying for the European Union (EU) Parent-Subsidiary Directive, or a company resident in a country/jurisdiction with which Luxembourg has concluded a tax treaty, provided that the company is subject to a tax comparable to the Luxembourg corporate income tax
- A 50 percent exemption may apply on certain annuity payments (subject to conditions).
- Capital paid out in respect of a life insurance contract (subject to conditions).
- The first EUR1,500 of investment income.
- The exemption covers all income from investments such as dividends, interests not been subject to the 20 percent final withholding tax on credit interests paid by resident paying agents to Luxembourg resident individuals. The amount is doubled for couples filing jointly.
- Interests paid out from home savings and loan contracts (building societies) approved in Luxembourg or another EU Member State, or in another European Economic Area (EEA) State situated outside the EU (subject to further conditions).
- State birth allowances and child benefits.
- Net rental income derived from approved bodies (covered by the modified law of 25 February 1979 concerning the housing support) can benefit from a 75 percent personal tax exemption.
- Income from qualifying pension plans.

In addition, social security benefits may not be taxable in Luxembourg to the extent that they are granted by a public social security institution and are not considered income from a salaried occupation in the form of cash remuneration. However, the following benefits are tax exempted:

- healthcare in-kind benefits in case of sickness or maternity
- accidents at work, or professional diseases.

Gift and inheritances are not subject to individual income tax in the hands of the beneficiaries but are subject to the inheritance and gift tax provisions.

### Dividend income

Dividends received from an EU resident company or company resident in a State with which Luxembourg has concluded a double taxation treaty provided that the company is subject to a tax comparable to the Luxembourg corporate income tax are 50 percent exempted.

### **Certain annuity payments**

Life annuities from a lifelong usufruct may be 50 percent exempted (under conditions).

### **Life insurance**

See section discussing special expenses.

### **Investment income**

Dividends and interest income are taxable in Luxembourg.

### **Child benefits**

Luxembourg legislation provides child benefits (limited based on children's age) to taxpayers who contribute into the Luxembourg social security system.

### **Cash sickness benefits**

The sickness indemnity aims to compensate the loss of income due to the fact that the insured person is temporarily not able to work.

The insured person is entitled to the sickness indemnity as of the first day of non-exercise of the professional activity subject to insurance.

The remuneration is paid by the employer as of the first day of work disability until the end of the month during which the 77th day of incapacity for work is located. At the end of this period, the sickness indemnity is paid by the health fund with a maximum of 78 weeks over a reference period of 104 weeks.

### **Cash maternity benefits**

#### **Maternity leave**

Maternity leave starts 8 weeks before the anticipated date of birth and ends 12 weeks after the effective date of birth. The father is entitled to up to 10 days of paternity leave.

#### **Parental leave**

All employees who are legally and continuously occupied at a workplace in Luxembourg, and who have been affiliated to the Luxembourg social security for at least 12 months at the birth can be entitled to a parental leave.

If the two parents are entitled to the parental leave, the first parent has to take the parental leave immediately after the maternity leave, and the second parent can take the parental leave any time until the sixth birthday of the child (12th birthday for adopted children). If only one parent is entitled to parental leave, they can take the leave any time until the sixth birthday of the child.

The parental leave can be either full time for 6 months, or part time for a year (the latter being subject to employer's approval).

### **Cash benefits following work accident or illness**

A work accident is defined as an accident which occurs by reason of, or on the occasion of work.

At the time of the accident, a link must exist between the employment and the activity having caused the injury. The activity must have been performed in the interest of the company by which the insured person is employed, and the latter must have been placed under subordination of their employer at the moment of the accident.

An accident while travelling to works is defined as an accident which occurs on the normal and direct way to go from home to the place of work and back.

### Other leaves

Other leaves were introduced for paternity, child's illness, leave to accompany a dying person or for the adoption of a child.

## 2.8 Expatriate concessions

### Are there any concessions made for expatriates in Luxembourg?

Following the entry into force of the 2021 budget law, the Luxembourg tax authorities announced the withdrawal of Circular L.I.R. n° 95/2 of 27 January 2014 regarding the Luxembourg impatriate regime. This new budget law modifies, among other things, the impatriate regime in Luxembourg. Impatriate workers who benefited from the old regime and for which the 5 years of contact are not yet reached, will benefit for the new regime.

The New specific tax provisions apply in Luxembourg to impatriate workers relocating to Luxembourg since 1 January 2022, to the extent that specific conditions related to employees, employer, and salaried employment in Luxembourg are fulfilled. These provisions aim at exempting part of impatriate workers' costs and expenses in relation with their impatriation to Luxembourg.

Extended business travelers who do not become residents of Luxembourg would not qualify for this tax regime.

### Scope of the circular

The aim of the circular is to attract foreign workers to Luxembourg to respond to a need for skill and labor.

### Persons covered

- Employees usually working abroad, assigned by a company located outside of Luxembourg to perform an employment activity in a Luxembourg company, member of the same international group (i.e. companies financially linked and incorporated in at least two other countries/jurisdictions).
- Employees hired abroad by a Luxembourg company or by a company located in the European Economic Area to work in Luxembourg for the company.
- Among other criteria, the employee should have an annual fixed base salary of at least 75.000.

### Tax regime

Assignment costs typically represent a heavy financial burden to employers. Thus, the principle of this law is the exemption of the part of relocation expenses exceeding those, which would have incurred had they remained in their home country/jurisdiction. The law stipulates that the costs should remain reasonable.

- Non-recurring expenses: removal expenses in respect of the domicile transfer to Luxembourg, housing (furniture, etc.), special travel costs (e.g. birth, wedding, death of a family member), etc.
- Recurring expenses in case of cross-border domicile transfer (limited thresholds): housing costs (e.g. rent, utilities, heating, etc.), yearly home travel, and tax equalization. These recurring expenses are limited to the lesser of EUR50,000 per year (or EUR80,000 per year if the employee shares a house with their spouse or partner) and 30 percent of the impatriate worker's total annual fixed remuneration.
- School fees (primary and secondary education): borne by the employer for the children of the impatriate worker, of their spouse or partner, if the children move with their parent(s) and have to change school.

- Tax-free lump-sum indemnity for other recurring expenses (i.e. cost of living adjustment and other relocation-related expenses not covered anywhere else by the Law): a 50% personal tax exemption on the assignment premium would apply.

### Application

Specific tax regime applies to impatriate workers relocating to Luxembourg if different conditions related to the employee, the Luxembourg employer and the salaried employment in Luxembourg are fulfilled.

### Procedure

At the beginning of each year (by 31 January at the latest), the employer is required to provide the Tax Authorities with a nominative list of employees covered by this measure.

If the non-resident employer does not have any legal requirements to withhold taxes and to grant tax credits on salary and does not do it on a voluntary basis, the employee will have to file a Luxembourg individual income tax return to the Luxembourg tax authorities in order to benefit from this regime.

### Duration of the specific tax regime

The benefit of the specific tax provisions for impatriate workers may be applied until the end of the 8th tax year following the impatriate's starting date in Luxembourg.

## 2.9 Salary earned from working abroad

### Is salary earned from working abroad taxed in Luxembourg? If so, how?

Residents of Luxembourg are subject to Luxembourg tax on their worldwide income, including salary earned from working abroad. The taxable salary of residents cannot be reduced by allocating income to foreign business trips, except where exclusions are available under double taxation treaties. In such instances there is a tax relief to avoid double taxation.

The principle of a split salary structure consists of diversifying the geographical income sources and location of professional activities in order to apportion the right of taxation of the global income between several countries/jurisdictions.

Two possibilities regarding a split salary should be considered.

- There is no double taxation treaty between Luxembourg and the country/jurisdiction concerned so that the foreign income will be subject to Luxembourg taxes with a potential tax credit for foreign taxes suffered. As a result, the individual is not likely to benefit from any tax saving, as the total tax burden suffered amounts to at least the Luxembourg taxes on their worldwide income.
- A double taxation treaty is in force between Luxembourg and the country/jurisdiction concerned, which provides for an exemption (with progression) of the employment income from Luxembourg taxes. However, the income is taken into consideration for the determination of the global tax rate applicable to the household's total taxable income in Luxembourg.

## 2.10 Taxation of investment income and capital gains

### Are investment income and capital gains taxed in Luxembourg? If so, how?

#### Interest

A 20 percent final withholding tax is levied on qualifying (under the 'Relibi'-law) interest paid by resident paying agents to resident individuals in Luxembourg, including interest on bank deposits, government bonds, and profit-sharing bonds. The withholding tax constitutes the final tax and is not reported in the individual's annual tax return (if part of their private wealth).

For interest, as long as they fall in the Relibi law, paid or credited by foreign paying agents located inside the EU (or another covered State situated outside the EU), the Luxembourg resident taxpayer may opt for the 20 percent withholding tax via a specific tax form, and simultaneously pay the 20 percent withholding tax. Deadline is 31 December of the following tax year for both the filing of the tax return and the payment of the 20 percent tax. This tax is final, and the interest is not reported in the individual's annual tax return. If the option is not exercised, the individual has to report the interest income in their annual tax return, and the interest will be subject to the upper progressive income tax rates.

The Relibi law's current wording amends the definition, clarifying that only a paying agent that pays out interest as part of its normal economic activity will fall under the scope of the Relibi law. Furthermore, the Relibi law withholding tax will not apply if the debt security has not been publicly issued on a regulated market.

Interests paid by a Luxembourg paying agent to a Luxembourg resident are exempt from the 20 percent withholding tax if the amount (paid once a year) does not exceed EUR250. The exemption applies to each individual bank account holder.

### **Capital gains on investments**

Capital gains on the sale of private assets held for 6 months or less (speculative gain) are taxed as ordinary income at the normal tax rates.

Capital gains held for more than 6 months are exempt from income tax.

However, capital gains on the sale of significant shareholdings held more than 6 months are taxed at half the global rate. A once-off allowance of EUR50,000 (doubled for couples filing jointly) is granted to each taxpayer per 11-year period. A shareholding is significant when the transferor has owned, directly or indirectly, alone or together with their spouse/declared domestic partner and minor children, a shareholding of more than 10 percent, at any point of time during the 5 years period preceding the sale or redemption.

### **Capital gains on sale of real estate**

The capital gain is equal to the difference between the sale price and the revalued acquisition cost, including related expenses.

The capital gains on the sale of immovable property within 2 years or less are taxed as ordinary income at the normal income tax rates. As from 2019, any immovable property held for more than 2 years is subject to half of the global tax rate.

In addition, a dependency contribution of 1.4 percent is due for individuals subject to the Luxembourg social security system on the taxable part of the gains.

A single allowance of EUR50,000 (doubled for couples filing jointly) is granted to each taxpayer per 11-year period. An additional allowance of EUR75,000 is granted for a capital gain on sale of a property inherited in the direct line, which was the parents' main residence. Each spouse is entitled to this additional allowance in respect of their own parents' property.

Any capital gain on the sale of a taxpayer's principal residence is exempt.

Capital losses may be set off against capital gains incurred during the same year.

### **Step-up system for individuals**

Latent capital gains on shares/convertible loans prior to an individual's transfer of residence to Luxembourg are not taxable in Luxembourg. This applies to taxpayers who hold a significant participation (>10 percent) and applies retroactively to 2015.

### **Rental income**

Rental income in Luxembourg is taxed at the progressive tax rates as regular income. Rental income is taxed in the country/jurisdiction where the property is located. In case the property is located in a double taxation treaty country/jurisdiction, Luxembourg provides for a tax exemption. For Luxembourg residents, the foreign rental income is however taken into account for the determination of the global tax rate applicable to the taxable Luxembourg source income. For real estate located in a non-double taxation treaty country/jurisdiction, Luxembourg would tax rental income and allow that the taxes paid in the other country/jurisdiction are credited against the Luxembourg individual income tax due.

### **Gains from stock option**

#### **Abolition of the current "stock option" regime**

In its 2018 coalition agreement, the Luxembourg government announced the creation of a future legal framework allowing employees to participate in their employer's value creation. However, the long-term existing stock option regime was intended to be abolished gradually.

In line with this announcement, the draft law would repeal tax circular LIR No. 104/2 dated 29 November 2017 relating to stock option plans as of 1 January 2022.

This repeal would require affected Luxembourg employers to rethink the remuneration strategy and to refocus on the fundamental elements of the Luxembourg individual income tax law.

#### **Introduction of a profit-sharing bonus (prime participative)**

Further to the abolishment of the current "stock options" regime, and in order to ensure tax fairness, the government introduced a participation premium. The employer will be able, at its discretion, to pay a participation premium to all or some of its employees (and not only to the former beneficiaries of the warrant/stock options plan). However, conditions are required for the employer and employee:

- the employer should realize a positive profit;
- the total amount of the participation premium that can be allocated to employees is limited to 5% of the positive profit for the operating year N-1;
- the employer should keep a regular accountancy during the tax year the participation premium is granted as well as during the one preceding the tax year of grant.

The participation premium is considered as an operating expense, and therefore tax deductible for the employer.

For the employee, the participation premium may not exceed 25% of the gross amount of his/her annual remuneration (benefits in kind/cash, allowances, bonuses and premium excluded). In addition, the employee should be affiliated to a social security system.

This participation premium benefits from a tax exemption of 50%, i.e. taxation at half of the global taxation rate with a maximum rate of 24.29% (or 22.89% + 1.4% dependence insurance) instead of 47.18% (i.e. 45.78% + 1.4% dependence insurance).

The main advantage of this participation premium is that it allows the employer to grant the payment of a premium on a discretionary way to all or only part of its employees.

The 5 percent threshold for the calculation of the total amount of the participation premium can be determined in relation to the positive sum of the results of the members of the integrated group to which the employers belong.

#### **Foreign exchange gains and losses**

In principle, gains relating to goods held in the private wealth are taxable according to the conditions noted in the section Taxation of Capital Gains.

#### **Principal residence proceeds**

Sale proceeds relating to the sale of principal residence are in principle tax exempted.

#### **Capital losses**

Capital losses may only be deducted from and up to the amount of taxable capital gains in the same year, there is no carry-over to other years.

#### **Personal use items**

In principle, gains relating to the sale of any personal item are taxable according to the conditions noted in the section Taxation of Capital Gains.

#### **Gifts**

A gift tax is levied on all assets received if the donor is a Luxembourg resident. Gifts from a non-resident are subject to gift tax only in respect of real estate located in Luxembourg.

Inheritance and gift tax are based on graduated rates according to the degree of family relationship of the respective individuals.

## **2.11 Additional capital gains tax (CGT) issues and exceptions**

### **Are there additional capital gains tax (CGT) issues in Luxembourg? If so, please discuss?**

Not applicable in Luxembourg.

### **Are there capital gains tax exceptions in Luxembourg? If so, please discuss?**

#### **Pre-CGT assets**

Not applicable in Luxembourg.

#### **Deemed disposal and acquisition**

Not applicable in Luxembourg.

## **2.12 General deductions from income**

### **What are the general deductions from income allowed in Luxembourg?**

#### **Income related expenses**

Itemized deductions or a flat-rate deduction may be made. (See also the section on social security contributions.)

Employee's contribution to a qualifying occupational (second pillar) pension scheme up to EUR1,200 per year is deductible.

Employment income related expenses are deductible. The minimum flat-rate amount is EUR540 for non-travel related expenses (incurred for an employment income unless the taxpayer can prove they had incurred higher professional expenses).

### Special expenses

The following items (called special expenses), which are not related to income of a particular source, are deductible within certain conditions and limitations, from total taxable income.

- Certain premiums paid for life, sickness, accident and civil liability insurance plus interest expenses on loans and bank facilities limited to EUR672 per member of the taxpayer's household per year (such as, spouse/partner, minor or dependent children).
- Premiums paid to voluntary individual pension scheme up to EUR3,200 per year. The allowance is granted for both spouses if each one takes out separate insurance. No additional deduction is possible for dependent children.
- Contributions to approved building societies saving schemes in Luxembourg or EU companies, limited to EUR1,344 per member of the taxpayer's household, per year, if the taxpayer is between 18 and less than 41 years old. The maximum deduction in other instances amounts to EUR672 per year. The corresponding credit interests are fully tax exempt (under conditions).
- Periodic payments contractually due, such as alimony. Alimony of up to EUR24,000 paid to a former spouse is tax deductible (under certain conditions).
- If the individual has no itemized special expenses, a standard minimum deduction of EUR480 per year is allowed, which is doubled if the taxpayer is married, or lives in a legal partnership, and both individuals received salaried income.

### Allowances

- A lump-sum annual deduction of EUR5,400 in general for a household help, home assistance for disabled or for childcare is granted on request (supporting documents are needed/subject to conditions).
- An abatement of EUR4,422 (per child) for children attending primary or secondary school and who are not part of the taxpayer's household is granted on request (supporting documents are needed).
- An extra-professional abatement of EUR4,500 is granted to couples, who are jointly taxed, where they both receive income from a salaried/independent occupation. As of 2018, the extra-professional abatement will amount to EUR2,250 per spouse/registered partner filing separately.

### Child bonus

Children benefiting from a child bonus before 1 August 2016 in the form of a monthly cash payment of EUR76.88 per child, irrespective of the taxable income of the parents, which is granted to taxpayers if the children are entitled to child benefits in Luxembourg, will still benefit from this payment. Otherwise, the bonus is merged with the family allowance, and a unique amount of family allowance is paid per child born of EUR292.54/month.

- Family allowances – additional monthly amount/child, EUR22.11 if the child is between 6 and 11, EUR55.19 for children of 12 years and older)
- Supplementary special family allowances for disabled children – monthly amount/child (EUR200 paid until the age of 25 years old)
- Back-to-school allowance – annual amount/child EUR115 for children between 6 and 12 years, EUR235 for children of 12 years and older

Refundable tax credits:

- tax credit for single parents: between EUR 750 and EUR 2,505 per year, dependent on the income

- tax credit for employees, pensioners and self-employed workers: maximum of EUR696 per year, nil where the adjusted taxable income exceeds EUR80,000.

### Double taxation treaties

Luxembourg has a broad network of income tax treaties (double taxation treaties), some of which cover wealth taxes. Beneficiaries of income tax treaties may in general be exempt from Luxembourg individual income tax on certain income, but such exempt income must nevertheless be reported on the individual income tax return, and it is used to increase the rate of tax applied to other taxable income (that is, exemption with progression). Income exempt under Luxembourg double taxation treaties may include salaries paid abroad for services rendered there to foreign companies, income from the rental of foreign real estate, and foreign business income when the taxation right goes to the other contracting state.

Foreign tax credits are often available under a double taxation treaty for taxes paid at the source on foreign dividends, interest, and royalties.

When a Luxembourg resident receives income from a country/jurisdiction where no double taxation treaty exists, the domestic law grants either a tax credit or a tax deduction for the effective foreign taxes paid on the foreign-sourced income derived from that non-double taxation treaty country/jurisdiction.

## 2.13 Tax reimbursement methods

### What are the tax reimbursement methods generally used by employers in Luxembourg?

The current-year gross-up method is most commonly used in Luxembourg.

## 2.14 Calculation of estimates/prepayments/withholding

### How are estimates/prepayments/withholding of tax handled in Luxembourg? For example, Pay-As-You-Earn (PAYE), Pay-As-You-Go (PAYG), and so on.

The tax prepayments and the tax withheld at the source are provisional and can be credited against the final income tax due at the individual's level. In principle, an overpayment of tax may be refunded. Expatriates who establish their residence in Luxembourg during the course of the year will generally be required to provide the Luxembourg tax authorities with evidence of their salary earned during the part of the year they are not resident in Luxembourg. The computation of their whole salary allows the determination of a possible refund of tax withheld in excess.

The amounts of the tax prepayments are based upon the amount of individual income tax due for the previous year. The income tax withheld monthly on employment income and pension income is computed according to tax tables set forth by the government. Dividends and interest on profit-sharing bonds paid by a resident company (exception for Luxembourg investment funds among others) to its shareholders or creditors are subject to a withholding tax of 15 percent. The amounts withheld may be creditable against the final individual income tax liability.

### Pay-as-you-go (PAYG) withholding

The employer has the legal obligation to make the correct withholding tax on the salaries paid to employees.

Second pillar pensions schemes are subject to 20 percent withholding tax and to 0.9 percent special tax, fully borne by the employer.

Royalties (Luxembourg-sourced) paid to a non-Luxembourg resident are subject to a 10 percent withholding tax.

Director's fees are subject to a 20 percent withholding tax calculated on the gross amount (or 25 percent of the net amount).

First pillar pension is taxable in Luxembourg if paid by Luxembourg State.

Second pillar pension: instalments are not taxable upon retirement in Luxembourg if 20 percent tax has been paid upfront (upon payment of the qualifying employer's contributions), in Luxembourg.

**When are estimates/prepayments/withholding of tax due in Luxembourg? For example: monthly, annually, both, and so on.**

Tax prepayments calculated by the Luxembourg tax authorities are due four times per year: 10 March, 10 June, 10 September, and 10 December.

The monthly tax on salaried income is withheld by the employer and is due before the 10th of the following month.

## 2.15 Relief for foreign taxes

**Is there any Relief for Foreign Taxes in Luxembourg? For example, a foreign tax credit (FTC) system, double taxation treaties, and so on?**

In the absence of a treaty, a Luxembourg resident is also subject to tax on all their income from foreign sources. The foreign individual income taxes paid on that income may, however, be credited against the Luxembourg tax liability. In principle, the foreign tax credit must be determined separately for the income and tax paid in each foreign country/jurisdiction (per country/jurisdiction method) and cannot exceed the Luxembourg tax on that income. A global method of imputation is also permitted within limits, upon request of the taxpayer. In order to be creditable, the foreign tax must be an individual income tax similar to the Luxembourg tax.

Luxembourg has concluded double taxation treaties with various countries/jurisdictions. Beneficiaries of income tax treaties may be exempted from Luxembourg income tax on certain income, but Luxembourg generally retains the right to include this income for purposes of determining the applicable tax rate on the income taxable in Luxembourg (exemption with progression).

## 2.16 General tax credits

**What are the general tax credits that may be claimed in Luxembourg? Please list below.**

Not applicable.

## 2.17 Sample tax calculation

This calculation assumes a married taxpayer resident in Luxembourg with two children whose 3-year assignment begins 1 January 2021 and ends 31 December 2023. The taxpayer's base salary is 100,000

US dollars (USD) and the calculation covers 3 years. The calculation does not take into account the specific tax regime for impatriates.<sup>2</sup>

	2021	2022	2023
	USD	USD	USD
Salary	100,000	100,000	100,000
Bonus	20,000	20,000	20,000
Cost-of-living allowance	10,000	10,000	10,000
Housing allowance	12,000	12,000	12,000
Company car	3,000	3,000	3,000
Moving expense reimbursement	20,000	0	20,000
Home leave	0	5,000	0
Education allowance	3,000	3,000	3,000

Average exchange rate used for calculation: USD1.00 = EUR0.9490

#### Other assumptions

- All earned income is attributable to local sources.
- Bonuses are paid at the end of each tax year and accrue evenly throughout the year.
- Interest income is not remitted to Luxembourg.
- The company car is used for business and private purposes is an electric car matriculated in 2017(< 180 KWh).
- The employee is deemed resident throughout the assignment.
- The impatriate tax regime is not taken into account.
- For all years joint taxation is assumed and tax class 2.
- Tax treaties and totalization agreements are ignored for the purpose of this calculation.

#### Calculation of taxable income

Year-ended	2021	2022	2023
	EUR	EUR	EUR
Days in Luxembourg during year	365	365	365
Earned income subject to income tax			
Salary	94,900	94,900	94,900
Bonus	18,980	18,980	18,980
Cost-of-living allowance	9,490	9,490	9,490
Net housing allowance	11,388	11,388	11,388
Company car	3,000	3,000	3,000
Moving expense reimbursement	18,980	0	18,980
Home leave	0	4745	0
Education allowance	2,847	2,847	2,847

Total earned income	159,585	145,350	159,585
Other income	2,847	2,847	2,847
Total income	162,432	148,197	162,432
Deductions	- 16,633	- 16,375	- 16,633
Total taxable income	145,799	131,822	145,799

### Calculation of tax liability

	2021 EUR	2022 EUR	2023 EUR
Taxable income as above	145,799	131,822	145,799
Total Luxembourg tax	38,579	32,758	38,579

KPMG in Luxembourg has assumed that the social security contributions were due in Luxembourg and the child bonus was paid by the family fund. The 1.4 percent dependence insurance has not been taken into account for these calculations.

### Footnotes

<sup>1</sup>Certain tax authorities adopt an "economic employer" approach to interpreting Article 15 of the OECD model treaty which deals with the Dependent Services Article. In summary, this means that if an employee is assigned to work for an entity in the host country/jurisdiction for a period of less than 183 days in the fiscal year (or, a calendar year of a 12-month period), the employee remains employed by the home country/jurisdiction employer but the employee's salary and costs are recharged to the host entity, then the host country/jurisdiction tax authority could treat the host entity as being the "economic employer" and therefore the employer for the purposes of interpreting Article 15. In this case, Article 15 relief would be denied, and the employee would be subject to individual income tax in the host country/jurisdiction.

<sup>2</sup>Sample calculation generated by KPMG Luxembourg, Société Anonyme, a Luxembourg entity and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

**03**

**Special considerations  
for short term  
assignments**

# 3 Special considerations for short-term assignments

For the purposes of this publication, a short-term assignment is defined as an assignment that lasts for less than 1 year.

## 3.1 Residency rules

### Are there special residency considerations for short-term assignments

If the individual is considered as resident in both countries/jurisdictions, the individual remains resident in the country/jurisdiction where they have their family and economic links (i.e. center of vital interests). There is no specific consideration for short-term assignments in Luxembourg.

## 3.2 Payroll considerations

### Are there special payroll considerations for short-term assignments?

No. In presence of an economic employer in Luxembourg, Luxembourg workdays are taxable there from Day 1.

The Luxembourg government has transposed in the Luxembourg Tax Law of a section of the EU Directive in respect of the automatic exchange of information on salaries, pensions and directors' fees.

Therefore, Luxembourg employers had to report prior end of February 2023 the information related to calendar year 2022 salaries to the Luxembourg tax authorities.

Each year on 30 June, the EU Member State of residence of the employees will be automatically provided information on this income (i.e. salaries, pensions and directors' fees), and will be able to tax this income based on the applicable tax treaty provisions.

In addition, any individual holding a financial account (e.g. bank account, unit in investment vehicles, custodial account or a certain life insurance contract) with a Luxembourg Financial Institution might be subject as of 30 June each year to automatic exchange of information to the Luxembourg tax authorities which will exchange at a later stage with the authorities in the residence state. The information to be exchanged includes financial information such as the account balance or value owned on the financial account and any payments paid or credited to such financial account during the year concerned.

## 3.3 Taxable income

### What income will be taxed during short-term assignments?

The taxation depends on the double taxation treaty provisions between Luxembourg and the other contracting country/jurisdiction.

For more information, please see section Economic Employer Approach.

If there is no double taxation treaty between Luxembourg and the other contracting country/jurisdiction, the individual would be taxable in Luxembourg on their salaried income as of the first day of professional activity performed (or put to use/value) in Luxembourg. Providing the short-term assignee is a non-Luxembourg resident, they would be taxable only on Luxembourg-sourced income.

### **3.4 Additional considerations**

**Are there any additional considerations that should be considered before initiating a short- term assignment in Luxembourg?**

None.

**04**

# **Other taxes and levies**

# 4 Other taxes and levies

## 4.1 Social security tax Employer and employee

In Luxembourg the registration with the social security authorities is compulsory for all employees. An exemption from paying Luxembourg social security contributions may be granted by the Luxembourg social security Code, a bi- or a multilateral social security agreement applicable to Luxembourg.<sup>1</sup> The benefits cover the following:

- healthcare
- sickness
- accidents at work
- maternity
- family
- unemployment
- old-age pension
- invalidity pension
- survivor pension.

The State requires contributions from employees and employers as outlined below. The rates apply to employment income including benefits-in-kind (with a limited number of exemptions).

Type of insurance	Paid by employer	Paid by employee	Total
Pension and disability	8.00%	8.00%	16.00%
Health insurance	2.80%* or 3.05%**	2.80%* or 3.05%**	5.60% or 6.10%
Mutual health care	0.72%, 1.22%, 1.76% or 2.84%***	0.00%	0.72%,
			1.22%,
			1.76%,
			Or 2.84%***
Accident insurance	0.75% multiplied by the bonus-malus factor (0.9; 1,0; 1,1; 1,3 or 1,5)****	0.00%	0.75% multiplied by the bonus-malus factor (0.9; 1,0; 1,1; 1,3 or 1,5)****
Dependence contribution		1.4%	1.4%
National service for health at work	0.14%	0.00%	0.14%

Total Percent	12.335% to 15.155%	12.20% to 12.45%	24.535% to 27.605%
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\* 2.80 percent on non-periodic remunerations (13-month, bonus, gratifications) and benefits- in-kind (such as a company car).

\*\* 3.05 percent on salary.

\*\*\* Contribution rate depends on the financial absenteeism rate of the employees in the company.

\*\*\*\* The unique contribution rate is multiplied by a bonus/malus factor determined and provided by the accident insurance authorities.

The noted contributions are levied up to ceilings, which are adjusted periodically. The maximum yearly contribution basis for the employee is EUR 12.854,64 at index 944,43. The employee's contributions are withheld from salary and paid monthly by the employer together with its own employer's contributions to the authorities.

The employee's mandatory social security contributions are in principle considered as tax deductible from the Luxembourg individual income tax standpoint.

Foreign equivalent contributions may be tax deductible to the extent that they are mandatory and covered by a bi- or a multilateral social security agreement applicable to Luxembourg.

### Dependency contributions

A dependency contribution of 1.4 percent is due on professional income and income from net assets (investment, rental, and miscellaneous income). It is not capped and not deductible from the taxable basis from the Luxembourg individual income tax standpoint. It is calculated on the gross income from salary and state pension less a monthly abatement of EUR 642,73 (index 944,43). For the other categories of income, it is calculated on net income after tax abatements.

## 4.2 Gift, wealth, estate, and/or inheritance tax

### Are there any gift, wealth, estate, and/or inheritance taxes in Luxembourg?

Luxembourg inheritance/gift taxes may be due on transmission of property by a deceased or donor resident in Luxembourg, or for non-resident deceased or donor with respect to real estate located in Luxembourg. Gift tax is levied on the donee in respect of all gifts made in writing. Rates vary depending on the degree of family relationship with the deceased (inheritance), or between the donor and the donee (gift), from 0 percent up to 48 percent.

There may be no inheritance tax liability (depending on the level of transmission) on inheritances by direct descendants, or by spouses or registered partners.

## 4.3 Real estate tax

### Are there real estate taxes in Luxembourg?

A real estate property transfer tax of 6 percent to 9 percent, depending on where the real estate property is located is levied on the acquisition of Luxembourg real estate property together with a transcription duty of 1 percent. In case of purchase of a principal residence, each purchaser may benefit (under certain conditions) from a maximum abatement of EUR20,000 (doubled for couples).

Should the real estate property be acquired for resale, then the registration duty rate is increased to amount between 7.2 percent and 10.8 percent. The transcription duty rate remains at 1 percent. In case the subsequent resale is registered within 2 years after the acquisition, the initial registration duties are reduced by 6 percent or 9 percent so the aggregate transfer duties for the acquisition amount to 2.2 percent and 2.8 percent respectively, including transcription duty. If the resale is registered within 4 years

after the acquisition, the initial registration duties are reduced by 4.8 percent and 7.2 percent (if the municipal surcharge applies) so the aggregate transfer duties for the acquisition amount to

3.4 percent and 4.6 percent (if the municipal surcharge applies).

## 4.4 Sales/VAT tax

### Are there sales and/or value-added taxes in Luxembourg?

The different VAT rates applicable in Luxembourg for 2022 on are 3 percent, 8 percent, 14 percent, and 17 percent.

## 4.5 Unemployment tax

### Are there unemployment taxes in Luxembourg?

As far as the individual income tax is concerned, the tax rate for unemployment fund is 7 or 9 percent depending on the taxable income and the tax class.

## 4.6 Other taxes

### Are there additional taxes in Luxembourg that may be relevant to the general assignee? For example, customs tax, excise tax, stamp tax, and so on.

#### Local taxes

There is a municipal tax on commercial income derived by an individual in Luxembourg. This tax is not levied on wages earned by the taxpayer, who does not derive commercial income linked to that wage. Furthermore real estate is subject to a ground tax.

#### Foreign Financial Assets

### Is there a requirement to declare/report offshore assets (e.g. foreign financial accounts, securities) to the country/jurisdiction's fiscal or banking authorities?

No, there is no separate filing for this.

Footnotes

[1Centre Commun de la Sécurité Sociale](#)

**05**

# **Immigration**

# 5 Immigration

**Following is an overview of the concept of Luxembourg's immigration system for skilled labor.**

(e.g., which steps are required, authorities involved, in-country and foreign consular processes, review/draft flow chart illustrating the process)

This summary provides basic information regarding business visits to, and work authorization for Luxembourg. The information is of a general nature and should not be relied upon as legal advice.

With regard to entry and residence into Luxembourg it has to be differentiated between nationals of the European Union respectively the European Economic Area, nationals from Privileged countries and so-called third-country nationals.

Most foreign nationals who intend to engage in active, productive employment in Luxembourg will need a Residence and Work Permit. Depending on the purpose of travel to Luxembourg and the nationality of the traveller, there are different types of visas that will apply to the occasion, and which vary in their processes and processing times. For all work authorization types, foreign nationals must coordinate with their employer to collect and legalize corporate and personal documentation.

EU citizens have the right to Freedom of movement, which means they have unrestricted access to the Luxembourg labor market. A work and residence permit or visa won't be required to either enter or work in Luxembourg. The same rules apply to citizens of Iceland, Liechtenstein, Norway and Switzerland.

Unless evidence can be provided that one is an EU/EFTA national, a permit will be required to work and reside in Luxembourg.

Luxembourg distinguishes further between Non-Visa Nationals and Visa Nationals. Non-Visa Nationals can enter Luxembourg for business visitor purposes without the need to apply for an entry visa.

Luxembourg also has specific agreements with several countries, which provides nationals of those countries' privileges, when it comes to immigration to Luxembourg. List of non-visa nationals:

<https://maee.gouvernement.lu/dam-assets/services-aux-citoyens/visa-et-immigration/liste-des-pays-non-soumis-a-l-obligation-de-visa.pdf>

List of visa nationals:

<https://maee.gouvernement.lu/dam-assets/services-aux-citoyens/visa-et-immigration/liste-des-pays-soumis-a-l-obligation-de-visa.pdf>

However, a Non-Visa national may not start working until the appropriate work and residence permit has been issued. Applicants from privileged nations will not need to obtain an entry visa and can submit the application for the Residence and Work Permit directly to the local municipalities and local immigration authorities after entering Luxembourg. The Immigration Authorities will review the application and issue the permit, on most occasion the involvement of the Federal Employment Agency will be required.

Except for nationals of privileged states, a residence permit must be obtained by means of a visa before entering Luxembourg. The Luxembourg embassy/consulate abroad are responsible for visa applications. Before granting a visa, the embassies and consulates must seek consent from the local authorities (labor/immigration). Visa Nationals are citizens of countries who are neither part of the EU/EFTA nor from Visa exempt countries. Nationals from these countries are required to apply for a national visa (D) in conjunction with the application for the Residence and Work Permit to enter Luxembourg. The entry visa is typically valid for a short period of time and must generally be converted to a work and residence permit

upon arrival in Luxembourg. If necessary, an additional work authorization pre-approval from the Federal Employment Agency needs to be applied for.

## 5.1 International Business Travel/Short-Term Assignments

**Describe (a) which nationalities may enter Luxembourg as non-visa national, (b) which activities they may perform and (c) the maximum length of stay.**

If Non-European nationals visit Luxembourg as either tourists or business visitors, they are allowed to enter Luxembourg as tourists or business visitors using their passports for up to 90 days within 180 days rolling period.

In some cases, a treaty or special agreement authorizes citizens of certain countries to enter Luxembourg without obtaining a visa. There are many countries that have established visa exemptions with Luxembourg. Luxembourg visa waivers often permit foreign nationals to conduct business activities for up to 90 days, provided they are citizens of a country that has a mutual immigration agreement with Luxembourg.

Overview of visa exemptions for entry into Luxembourg is provided on the list above.

All third-country nationals who wish to **work in Luxembourg** during their period of stay of less than 90 days must **first** apply for [a work permit](#) at the [Immigration Directorate](#) (Direction de l'Immigration). Exceptions are made for a stay less than 90 days per calendar year for:

- Staff from fairground attractions, circuses and other travelling establishments;
- Workers in the entertainment industry without regular employment;
- Athletes, Sportsmen;
- Invited researchers, conference speakers and university lecturers;
- Persons on business trips, such as travel to visit business partners, to explore and develop professional contacts, to negotiate and conclude contracts, to participate in fairs, shows and exhibitions as well as to take part in meetings of the board of directors and general meetings of the company;
- All persons carrying out a service within the same group of companies (excluding any work carried out in the framework of subcontracting).

In Luxembourg, business visitors must generally limit their activities to the following:

- Business trips (visiting professional partners, negotiating and concluding contracts, etc.);
- Participating in conferences (conference speakers and university lecturers) exhibitions, fairs or shows;
- Participating in board of directors' meetings and general meetings;
- Providing services within the same business group, etc.;

The following mode of calculation will apply: a traveller is required to count back 179 days from the current day of stay. The current day of stay counts as the 180th day. Within this time frame the days of stay in all Schengen member states must not exceed 90 days. Days of stay spent in the issuing Schengen member state (in this case: Luxembourg) on the basis of a national visa or national residence permit do not count against the 90 days limitation.

The short-stay calculator on the following website can be used for calculating the period of allowed stay under the Schengen rules:

<https://ec.europa.eu/assets/home/visa-calculator/calculator.htm?lang=en>

In addition to Luxembourg, the following countries are considered as Schengen member states: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lichtenstein, Lithuania, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

**Describe (a) the regulatory framework for business travelers being visa nationals (especially the applicable visa type), (b) which activities they may perform under this visa type and the (c) maximum length of stay.**

Visa nationals are required to obtain a Schengen (C) visa to be able to enter into Luxembourg for business visitor activities. The Schengen Visa is typically issued for multiple entries. Although circumstances may vary, a business visitor may receive authorization to visit Luxembourg for up to 90 days within a 180-day rolling period.

Schengen Visas are generally not eligible for in-country extension, however in exceptional cases an extension would be possible.

The Schengen visa must be requested at the consulate of the country the applicant intends to visit, or, if he intends to visit more than one Schengen State, at the consulate of the country of his primary destination (i.e. main purpose of stay or longest stay). If the applicant intends to visit several Schengen states for a stay of equal duration, the visa application must be sent to the consulate of the country whose external borders the applicant will cross first when entering the Schengen area.

As a general rule, the visa application must be submitted in the country in which the applicant legally resides, at a Luxembourg consulate or a diplomatic mission representing Luxembourg. Should there be no Luxembourg consulate in that country, and should Luxembourg not be represented there, the application must be submitted at the consulate with territorial competence for visa applications.

In regard to the permitted activities and permitted duration of stay please see answers to question 2.

**Outline the process for obtaining the visa type(s) named above and describe (a) the required documents (including any legalization or translation requirements), (b) process steps, (c) processing time and (d) location of application.**

- 1 Document gathering (1-2 weeks)
- 2 Book visa appointment at the Luxembourg embassy/ consulate at the place of residence (1-3 days, however, certain Consulate can be overloaded and making an appointment may cause delays)
- 3 Prepare Visa application (1-3 days)
- 4 File Visa application with the Luxembourg embassy/ consulate at the place of residence (1-2 weeks)
- 5 Obtain Visa and travel to Luxembourg (1 day)

**General requirements for business visitors**

Documents to be provided either in French, German or in English

- 2 recent and identical identity photos;
- a valid passport or a travel document accepted in the Schengen area, which is valid for at least another 3 months after the expiry date of the requested visa;
- supporting documents associated with the purpose of the journey, such as:
  - legalized formal obligation from the reference person in Luxembourg; It should be noted that the formal obligation (affidavit of support) is not mandatory. But it is strongly recommended to submit this document in order to prove that the applicant is financially supported by a Luxembourg resident;
  - official letter of invitation for a business visit;
  - a hotel reservation;

- a return airline ticket;
- proof of sufficient means of subsistence (bank account statements, cash, credit cards, etc.); In certain cases, this document can be replaced by a formal obligation from the reference person in Luxembourg;
- proof of legal residence in the usual country of residence; health insurance covering the travel period;

### **Are there any visa waiver programs or specific visa categories for technical support staff on short-term assignments?**

Non-Visa Nationals are exempt from the obligation to obtain a visa for Luxembourg, only the notification from the National Employment Agency (Agence pour le développement de l'emploi – ADEM) is required.

Since 2023, ADEM can issue the notification within a period of 5 working days to 3 weeks. The process timing varies depending on the specific profession concerned.

If the position concerned is a profession considered to be in “very shortage profession” according to the list published by ADEM in Luxembourg, then the notification would be issued within 5 working days.

If the position does not appear on the list, ADEM has 7 working days to carry out market checks and an additional 10 days if a candidate available on the Luxembourg market has been proposed.

## **5.2 Long-Term Assignments**

**What are the main work permit categories for long-term assignments to Luxembourg? In this context please outline whether a local employment contract is required for the specific permit type.**

### **Salaried worker (local employment contract for Luxembourg required)**

Every third-country national requires an authorization to stay and then a work permit if they:

- Either reside abroad and intend to set up residence in Luxembourg to carry out a salaried activity;
- Or already legally reside in Luxembourg without having worked there and wish to carry out a salaried activity;
- Or already legally reside and work in Luxembourg but intend to carry out a profession or work in an area of activity for which they are not yet duly authorized.

A pre-approval for the work authorization by the National Employment Agency (Agence pour le développement de l'emploi – ADEM) or exemption of the work in question needs to be obtained.

### **EU Blue Card EU for highly skilled employees (local employment contract required)**

The EU Blue Card can be a viable option for assignments if a Luxembourg employment contract will be given to the assignees.

A foreigner, a citizen of a non-EU- country, can apply for the EU Blue Card if the candidate has

- hold a valid passport;
- check whether or not they [have to obtain a visa](#) to enter the Schengen area;
- satisfy the conditions of higher professional qualification, i.e.:
  - have an employment contract of one year at least for highly qualified work;
  - have an offer for a remuneration:
    - at least equivalent to 1.5 times the amount of the Luxembourg average gross annual salary (EUR 82,628) or;

- at least equivalent to 1.2 times the Luxembourg average gross annual salary (EUR 66,902.40) for work in one of the following professions and for which the government has noticed a particular need to employ third-country nationals:
  - mathematicians, actuaries and statisticians;
  - systems analysts;
  - software developers;
  - web and multimedia developers;
  - applications programmers;
  - software and application developers and analysts, multimedia developers not listed elsewhere;
  - database designers and administrators;
  - systems administrators;
  - computer network professionals;
  - database and network professionals not elsewhere classified;
- show a document proving that they possess the high professional qualifications required for the activity or sector mentioned in the employment contract, or that they meet the requirements to carry out the regulated profession indicated in the employment contract.

The EU Blue Card is at first valid for 4 years. If the working contract covers a period of less than 4 years, meaning it is limited, the EU Blue Card will be valid for the time of the working contract plus 3 months.

After 5 years of lawful and uninterrupted stay on the territory of Luxembourg, third-country nationals may submit an application for a long-term residence permit.

#### **ICT (local employment contract for Luxembourg not required)**

The ICT Card (Intra-Corporate Transfer) is a temporary residence permit for managers, specialists or trainees employed in entities based outside of the EU. Transfer may only last up to three years for managers and specialist and one year for trainees.

Holder of an ICT Card are allowed to temporarily work in Luxembourg subsidiaries of their employer's entities located in other EU member states, if the majority of the total stay is in Luxembourg. Should the majority of the stay will be in another EU member state, a residence permit needs to be applied for in that state.

Requirements are:

- The host subsidiary in Luxembourg belongs to the employing home company;
- An uninterrupted 3-month pre-employment for managers and specialist in the home company prior to the transfer;
- The intra-corporate transfer lasts for more than 90 days;
- Employment at the host subsidiary in Luxembourg as a manager, specialist or trainee.
- Proof of professional qualifications, a valid employment contract and, if necessary, an assignment letter;
- Health insurance coverage;
- Internship agreement for the trainee.

A pre-approval for the work authorization by the National Employment Agency (Agence pour le développement de l'emploi – ADEM) or exemption of the work in question needs to be obtained.

#### **Seasonal worker card (local employment contract for Luxembourg required)**

The seasonal worker card is a temporary residence permit for workers who retain their principal residence in a third country and stays legally and temporarily in Luxembourg to exercise the work in the season's

rhythm. Third-country nationals who apply for an authorization to stay to work in Luxembourg as a seasonal worker can only exercise this seasonal activity.

The following are considered to be seasonal activities:

- Harvesting (incl. grape harvesting, etc.);
- Packaging of harvested products;
- The activities engaged in by leisure and holiday instructors and coordinators;
- The activities engaged in by holiday-tour and tourist guides;
- Surveillance and maintenance of beaches, outdoor swimming pools and camp sites;
- Positions in retail stores, hotels and restaurants which are only open at certain times of the year, or which have a regular and foreseeable season-related increase in activity during the year;
- Jobs in companies involved in aviation and in the transport of passengers that have a regular and foreseeable increase in activity at certain times of the year;

Employers hiring seasonal workers from third countries have to:

- Request to see the seasonal worker's authorization to stay before beginning the working relationship;
- Request a copy of the seasonal worker's authorization to stay and keep said copy for the whole duration of the contract;
- Notify the beginning of the working relationship to the Ministry of Foreign and European Affairs within 3 working days from the first day of work.

A pre-approval for the work authorization by the National Employment Agency (Agence pour le développement de l'emploi – ADEM) or exemption of the work in question needs to be obtained.

**Work and Residence Permits for Trainees (employment contract for Luxembourg not required)**

Third country nationals may also be granted residence permits for in-company training in Luxembourg. The in- company training does not require a work permit if it is less than 3 months within 12 months. Foreigners who require an entry visa for Luxembourg are able to apply for a Schengen Visa for the duration of their training at their place of residency.

In case the Training is supposed to take longer than three months an approval of the National Employment Agency (Agence pour le développement de l'emploi – ADEM) will be required. The same rules applies for non in-company training, which are less than three months.

Requirements for in- company training longer than three months / non- in company training for a shorter period of time:

- Main aspect of the activities in Luxembourg is receiving training
- Training schedule for the duration of stay
- Minimum wage salary

**Work and Residence Permit for investors from third countries (local employment contract not required)**

Third-country nationals can apply for a residence permit as an investor provided they plan to invest:

- at least EUR 500,000 in an existing company with its registered office in Luxembourg and commit to keep for a duration of at least 5 years:
- their investment;

- a level of employment which must be equivalent to the level at the time of the investment (in the case of an acquisition of a company in difficulty and under a redundancy plan, the aforementioned requirement does not apply); or
- at least EUR 500,000 in a new business still to be created, with its registered office in Luxembourg and at least 5 work positions which must be created within 3 years of the incorporation of the business. The recruitment of staff must be in collaboration with the National Employment Agency (Agence pour le développement de l'emploi - ADEM) or;
- at least EUR 3 million in a management and investment structure, either existing or still to be created, with its registered office in Luxembourg where it must have and maintain the necessary substance or;
- at least EUR 20 million in the form of a deposit of funds with a financial institution established in Luxembourg, and with the commitment to keep said deposit for at least 5 years.

With regard to investments in existing or still to be created businesses (investments of at least EUR 500,000), the company must or will have to carry out a commercial, crafts or industrial activity.

### **Provide a general process overview to obtain a work and residence permit for long-term assignments (including processing times and maximum validation of the permit).**

- 1 Document gathering (1-2 weeks)
- 2 File application with the National Employment Agency (Agence pour le développement de l'emploi – ADEM) to obtain a work permit preapproval (10-15 business days)
- 3 Book visa appointment at the Luxembourg embassy/ consulate at the place of residence (1 day)
- 4 Prepare Visa application (1-2 days)
- 5 File Visa application with the Luxembourg embassy/ consulate at the place of residence (10- 15 business days) in some circumstances the processing times at the embassy/ consulate can take several weeks
- 6 Obtain Visa and travel to Luxembourg (1 day)
- 7 Register address with local municipalities within two weeks of moving into long term residence (1 day)
- 8 Undergo a medical check (1 day)
- 9 Book appointment with Immigration authorities and file application for final permit (1-2 days)
- 10 Attend appointment and provide biometric data for final data
- 11 Pick up final work and residence permit

The general processing time highly depends on the permit type, the authorities involved in the process and the place of filing the application. In general the process can take anywhere from 1 – 16 weeks, from the day of filing with the National Employment Agency (Agence pour le développement de l'emploi – ADEM).

### **Is there a minimum salary requirement to obtain a long-term work and residence permit for assignments? Can allowances be taken into account for the salary?**

There is a minimum salary requirement for all work and residence permits in Luxembourg. In general it would be required that the foreign national must earn a salary equivalent to a comparable Luxembourg local employee in the Luxembourg company where the foreigner intends to work/ be based.

Allowances can be taken into account, if they are paid as a lump sum and for free disposal of the assignees. Only allowances which are paid out to the employee for his free use in return for the work performed are considered for the minimum salary.

Some permit types, like the EU Blue Card for local hires, require a specific minimum salary. The minimum EU Blue Card will require a gross annual compensation of at least € 83,628 or a contract in the so-called shortage occupation (scientists, mathematics, engineers, doctors and IT- skilled workers) with a minimum salary of € 66.902,40.

### **Is there a fast-track process which could expedite the visa/ work permit?**

No, currently there is no fast-track option for Luxembourg.

### **At what stage is the employee permitted to start working when applying for a long-term work and residence permit (assignees/ local hire)?**

The employee is permitted to start working, once he obtained either a valid Visa for Luxembourg or the immigration authorities have either issued him an interim permit with work authorization or he has obtained his final work and residence permit.

A third-country national who wishes to come to Luxembourg to work for a period of more than 3 months, must follow a procedure in 2 consecutive steps:

Step 1: before entering the country:

- Submit an application for a temporary authorization to stay to the Immigration Directorate of the Ministry of Foreign and European Affairs (ministère des Affaires étrangères et européennes);
- Be in possession of a valid passport;
- Request a type D visa after having obtained the temporary authorization to stay;

Step 2: after entering the country:

- Make a declaration of arrival in the new commune of residence in Luxembourg;
- Undergo a medical check;
- Then submit an application for a residence permit for third-country national salaried workers.

An employer who has not been presented with a suitable candidate from the National Employment Agency (Agence pour le développement de l'emploi - ADEM) within 7 days following his declaration of a vacant position can request a certificate from the director of the ADEM which will allow him to recruit a third-country national.

For certain position, the notification could be issued within 5 working days.

### **Can a short-term permit/ business visa be transferred to a long-term permit in Luxembourg?**

Technically it would be possible to transfer a short-term permit/ business visa to a long-term permit in country. This needs to be reviewed case by case as it is highly depended on the circumstances. If a transfer would not be possible, the applicant would need to leave Luxembourg and apply for his place of residence outside of Luxembourg.

### **Is it possible to renew work and residence permits?**

At the latest 2 months before the residence permit expires, the third-country national must apply for renewal of the residence permit to the Immigration Directorate of the Ministry of Foreign and European Affairs, and submit the following documents:

- a copy of the filled-in pages of the valid passport;
- a signed hosting agreement with an approved research institute;
- the financial statement of support drafted by the approved research institute;
- the researcher's certificate of affiliation with the Luxembourg social security which must include all the researcher's affiliations to date;
- a recent extract of their Luxembourg police record;
- proof of payment of a fee of EUR 80 to account IBAN LU46 1111 2582 2814 0000 (BIC: CCPLULL, beneficiary: ministère des Affaires étrangères, Direction de l'Immigration; Communication: titre de séjour dans le chef de 'insert your name here').

After 5 years of lawful and uninterrupted stay on the territory of Luxembourg, third-country nationals may submit an application for a long-term residence permit.

#### **Is there a quota or system or a labor market test in place?**

Luxembourg does not have a quota system.

For some permit types a labor market test could take place to check out whether a Luxembourg or EU national is available for the position. The labor market test is a discretionary decision of the responsible labor authorities, who will decide if one will be required.

### **5.3 General Immigration Related Questions**

#### **Would it be possible to bring family members to Luxembourg?**

Dependents are allowed to join the main applicant, if the assignment duration is longer than 12 months at the time of the dependent's application. According to Luxembourg immigration law, spouses (marriage certificate is required) and/ or children under 18 years (birth certificates is required) are considered as dependents. Spouses, including same-sex spouses, may accompany employees to Luxembourg.

The residence permit held as a "family member" in Luxembourg gives access under certain conditions, also since 2023, to the Luxembourg job market.

#### **Is it possible to obtain a permanent residence permit?**

After 5 years of lawful and uninterrupted stay in Luxembourg, citizens of an EU Member State or of a country treated as such (Iceland, Norway, Liechtenstein and Switzerland) and the members of their family (also citizens of an EU Member State or of a country treated as such) have the right of permanent residence and may submit an application for a permanent residence permit.

#### **What if circumstances change after the Work and Residence application process?**

Any change in the term of the employment or personal situation, including job title, job role or salary may require that a new Employment Permit needs to be secured or an appropriate notification to be made.

#### **How long can a permit holder leave Luxembourg without his permit becoming invalid?**

Any extended absences from Luxembourg may affect future Long-Term Residency and Citizenship applications. In particular, absences of more than 6 months, and in some cases up to 12 months for certain permit types, might will lead to invalidity of the permit if an approval of absence has not been obtained from the local immigration Authorities.

#### **Must immigration permissions be cancelled by the end of the assignment/employment?**

In case of a termination of the employment before the end of the validity of the permit, the immigration authorities should be informed. A de-registration at the local municipalities needs to take place when the foreigner leaves Luxembourg for good. The municipalities' hall will then inform the immigration authorities automatically about the departure. In the case of a departure for longer than 6 months, third-country nationals holding a residence permit must return the latter to the Directorate of Immigration of the Ministry of Foreign and European Affairs.

#### **Are there any penalties for individuals and/or companies in place for non-compliance with immigration law?**

Luxembourg differs between penalties for the individual and the companies. Penalties could be deportation of the employees, restriction on re-entering Luxembourg, monetary fines or imprisonment. The fines for the company can be up to EUR 20.000 per individual in irregular situation. For the maximum fine to apply, serious and repeated violation need to take place. Besides monetary fines, the company could face addition sanctions such as a prohibition on employing foreigner for a period of time, exclusion from obtaining subsidies or temporary/permanent closure of the company.

## 5.4 Other Important Items

List any other important items to note, or common obstacles faced, in Luxembourg when it comes to the immigration processes.

Below you will find a list of other important items to note and the most common obstacles:

- **Salary in renewal cases** – it is of high importance that the salary indicated in the first application has been paid during the entire period of the assignment.
- **Salary needs to be comparable to a salary of a Luxembourg employee**
- **Degree verification** – the Luxembourg authorities only recognize certain listed degrees for certain permit types.
- **Apostilles/Legalization/ Verification process**
- **Translations** – certain documents would require a French, German or English translation.
- **Occupation confirmation** - Landlord needs to provide a confirmation of property occupation.
- **Previous stays in Luxembourg** – if an individual has previously lived and worked in Luxembourg, the Embassy/ Consulate is obligated to request internal approval from the local immigration office in Luxembourg.
- **Prior criminal records** – these can often result in a refusal of a residence permit
- **Inconsistencies in documentation** – for example if there is a discrepancy in the name of the applicant as shown on his passport, degree or marriage certificates, the authorities may require further supporting documentation.

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