



Luxembourg

Introduction

Individuals domiciled in Luxembourg are subject to income tax on their worldwide income unless exempt under the provisions of a treaty. Under Luxembourg tax law, the concept of “domicile” is essentially equivalent to the term “residence” as used in most jurisdictions. In this article, the two terms are used interchangeably.

Nonresidents (nondomiciliary) are subject to tax on certain categories of income from Luxembourg sources.

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

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Key messages

Extended business travelers who are not residents of Luxembourg are likely to be taxed on employment income relating to their Luxembourg workdays.

Income tax

Liability for income tax

Individual liability to Luxembourg tax is determined by residence status. A person can be a resident or a nonresident.

An individual will be considered domiciled in Luxembourg for tax purposes if either of the following circumstances is met, subject to tax treaty provisions:

- The individual maintains a permanent home in Luxembourg. When an individual's family (spouse and children) resides in Luxembourg, the individual may be considered to have a home in Luxembourg, even if the individual is absent from Luxembourg for most of the year. Special rules may apply, however, for married couples where one of the spouses lives abroad.
- The individual has an abode in Luxembourg. This circumstance is deemed met if the individual remains in Luxembourg for more than six months in a given calendar year. This is not restricted to six months in the calendar year. If an individual arrives on October 1 in year N and is still staying in the country on April 2 in year N+1, the six-month stay will be deemed to have been met. The individual will be deemed to have been resident in Luxembourg from October 1 in year N.

Tax trigger points

To consider the start and end dates of residency status, there is no minimum number of days in Luxembourg. The determination is essentially based on facts and circumstances. The assignee is considered to be a Luxembourg tax resident as of the first day the individual arrives in Luxembourg (according to Luxembourg domestic tax rules).

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income, Luxembourg-sourced income, and gains from taxable Luxembourg assets (such as real estate, fringe benefits, broadly noncash employment).

Specific tax regime for highly skilled workers

On December 31, 2010, the Luxembourg Tax authorities published a circular (L.I.R n°95/2 of December 31, 2010) regarding the tax regime applicable to highly skilled workers (the Circular).

As from January 1, 2011, specific tax provisions apply in Luxembourg to highly skilled workers relocating to Luxembourg after December 31, 2010. These provisions attempt to exempt part of highly skilled workers' remuneration on their assignments in Luxembourg.

Scope of the Circular:

The aim of the Circular is to attract highly skilled workers with specific skills and knowledge who represent a key advantage for companies located in Luxembourg.

Persons covered:

- Employees usually working abroad, assigned by a company located outside of Luxembourg, to perform a professional activity for a limited period of time as employees in a Luxembourg company
- Employees hired by a Luxembourg company to work in Luxembourg for a limited period of time.

Tax regime:

On written request to the Luxembourg tax authorities, tax exemption of the part of relocation expenses (repetitive and nonrepetitive) that exceed those that would have applied had the employee remained in the employee's home country.

- Nonrepetitive expenses: removal expenses, housing (furniture, etc.), special travel costs (e.g., birth, wedding, death of a family member), etc.
- Repetitive expenses: housing costs (e.g., rent, utilities, heating), yearly home travel, tax equalization, school fees
- Tax-free lump-sum indemnity for other repetitive expenses (cost of living adjustment): fixed at 8 percent of the employee's fixed monthly remuneration, capped at €1,500 per month. The lump-sum indemnity can be doubled (i.e., 16 percent capped at €3,000 per month) where the employee shares housing with a spouse or partner who does not perform any professional activity.

Application:

A specific tax regime applies to highly skilled workers relocating to Luxembourg as of January 1, 2011 if different conditions related to the employee, the Luxembourg employer, and the salaried employment in Luxembourg are fulfilled.

Duration of the specific tax regime:

The benefit of the specific tax provisions is granted for the duration of the employee's assignment, capped at five years.

Tax rates

Net taxable income is taxed at graduated rates ranging from 0 percent to 40.56, 41.34 percent for the part of the taxable income exceeding €150,000 (€300,000 for couples jointly taxed), including a 4 to 6 percent unemployment contribution. Nonresidents are subject to minimum tax rate of 15 percent on their income not subject to withholding tax.

Social security

Liability for social security

In Luxembourg, registration with the social security authorities is compulsory for all employees. An exemption from paying Luxembourg social security contributions may be granted under a social security treaty signed by Luxembourg. The benefits cover:

- Old-age pension, disabilities pension, survivors' pension
- Health and medical expenses
- Allowance in cash for children

The employee's part of social security contributions ranges between 13 percent and 13.25 percent. The employer's part of social security contributions ranges between 12.68 percent and 14.69 percent. Both are capped.

Employee's part:

- Pension (1st pillar): 8 percent
- Sickness: 3.05 percent
- Maximum annual contribution basis: €105,453.72 (index 719.84)

Nontax-deductible contributions:

- Dependency insurance: 1.4 percent minus a deduction of €439.39 per month on gross salary. No ceiling is applicable.
- Crisis contribution: 0.8 percent minus a deduction of €1,757.56 per month on gross salary. No ceiling is applicable.

Compliance obligations

Employee compliance obligations

Tax returns are due by March 31 following the tax year-end, which is December 31. Filing of tax returns may be required by nonresidents who derive Luxembourg-sourced income under certain conditions.

Employer reporting and withholding requirements

The Luxembourg employer has the legal obligation to withhold the correct amount of tax on salaries paid to employees.

Advance payments of tax, together with tax withheld at the source, are deductible from the final income tax liability. Any overpayment of tax is refunded. Tax withheld on wages and pensions is adjusted annually when the tax is not calculated by assessment. If an expatriate establishes residence in Luxembourg during the course of the year, the expatriate will generally be required to provide the Luxembourg tax authorities with evidence of salary earned during the part of the year the expatriate was not resident in Luxembourg. The computation of the expatriate's salary for the entire year allows the determination of a possible refund of tax withheld in excess.

The amounts of the prepayments are based on the amount of 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.

Other

Work permit/visa requirements

For non-EU citizens, a visa must be applied for before the individual enters Luxembourg. The type of visa required will depend on the purpose of the individual's entry into Luxembourg.

Double taxation treaties

In addition to Luxembourg's domestic arrangements that provide relief from international double taxation, Luxembourg has entered into double taxation treaties with 62 countries to prevent double taxation and allow cooperation between Luxembourg and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has (such as the power to sign contracts on behalf of the employer).

Indirect taxes

Value-added tax (VAT) is applicable to transactions and sales. The standard VAT rate applicable in Luxembourg is 15 percent.

Transfer pricing

Luxembourg applies the OECD guidelines in terms of transfer pricing, hence, a transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction and no corresponding recharge is performed, in other words, if a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Luxembourg has data privacy laws.

Exchange control

Luxembourg does not restrict the flow of European or foreign currency into or out of the country.

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