Luxembourg income taxes 2013: Guide for individuals

A clear understanding of your tax liability

Income Tax

Resident vs. Non-Resident

Resident taxpayer

An individual taxpayer qualifies as a resident of Luxembourg provided that he has his tax domicile or usual abode in Luxembourg. Nationality is irrelevant to determining tax residence. The tax domicile is defined as a permanent place of residence that the individual actually uses and that he intends to maintain. Individual taxpayers who do not have their tax domicile in Luxembourg will qualify as resident of Luxembourg if they have a usual abode in Luxembourg. Such a usual abode is deemed to exist after a continuous presence in Luxembourg of six-months (short absences being disregarded). The underlying six-month presence can overlap two calendar years. Tax residence applies as from the first day of presence.

Non-resident taxpayer

An individual taxpayer qualifies as a non-resident of Luxembourg if he has neither his tax domicile nor his usual abode in Luxembourg. Luxembourg tax liability applies to Luxembourg residents on their worldwide income and to Luxembourg non-residents on their Luxembourg source income.

Income subject to taxes

Income subject to tax includes professional, investment and rental income, and capital gains. The categories of income, after deduction of related expenses, are aggregated to determine the “net” total income. The “net” income is then reduced by various deductions so as to determine the taxable income. Non-resident taxpayers are in principle not entitled to the whole range of deductions available to Luxembourg resident taxpayers. Non-residents, who are taxable in Luxembourg on more than 90% of their worldwide income, can opt to be treated as if they were Luxembourg residents. As for Belgian residents, the option regime can be applied as soon as a threshold of 50% of the professional income is reached. The tax benefit of the option regime has to be considered on a case-by-case basis.

Tax year

In Luxembourg, the tax year corresponds to the calendar year.

Income tax rates

Income tax rates are progressive. They vary from 0% up to 40%. A 7% surcharge for unemployment fund applies on the income tax due. This surcharge for employment amounts to 9% for taxpayers in tax class 1 or 1A with taxable annual income exceeding EUR 150,000 (EUR 300,000 for taxpayers in tax class 2).

Filing jointly

Married taxpayers file jointly (with specific conditions to be met for non-residents). Civil partners who have a partnership agreement recognised in Luxembourg and who were living together for a full tax year can elect to file jointly (certain conditions apply for non-residents).

Tax classes

Luxembourg income tax liability is based on individuals' personal situation (e.g. family status). For the latter purpose, individuals are granted a tax class. Three tax classes have been defined: tax class 2, tax class 1.a, and tax class 1.

	Yearly net taxable income			
Tax liability depending on tax class	EUR 30,000	EUR 60,000	EUR 120,000	EUR 240,000
Tax class 1	EUR 2,790	EUR 14,384	EUR 39,625	EUR 91,697
Tax class 1.a[1]	EUR 950	EUR 13,326	EUR 39,006	EUR 91,078
Tax class 2[1]	EUR 307	EUR 6,164	EUR 28,628	EUR 79,988

	Residents	Non-residents
Tax class 2	Married taxpayers	Same as a resident if not living apart and taxable in Luxembourg on more than 50% of their household's total professional income
	Widowed persons for the three years following the year in which they became widowed	Same as residents[2]
	Divorced or separated individuals for the three years following the year of divorce or separation	Same as residents[2]
	Civil partners and married same-sex couples who live together for a full fiscal year who elect to file jointly and have a recognised partnership in place for the full year	Same as residents if the Luxembourg professional income derived by either partner exceeds 90% of his/her professional income in Luxembourg for the full year
Tax class 1.a	Widowed persons not included in tax class 2	Same as residents[2]
	Individuals aged at least 65 on January 1	Same as residents if specific conditions are met[2]
	Single parents where the child forms part of their household	Married taxpayers not living apart and taxable in Luxembourg on 50% or less of their household's total professional income[2]
Tax class 1	Taxpayers not included in tax classes 2 or 1.a	Same as residents[2]

Employment income

Taxable employment income generally includes all benefits in cash or in kind received within the context of an employment activity. The taxable value of benefits in kind is in principle assessed at the fair market value (i.e. the cost that the employee would have paid if he had purchased the benefit himself).

Luxembourg Income Tax Law, however, provides for a lump sum valuation method or exemptions for certain benefits in kind:

- **Luncheon vouchers**
  The taxable benefit per voucher is equal to EUR 2.80 for a voucher value of EUR 8.40 maximum. The taxable basis is reduced to the extent that the employee contributes to the related cost.
- **Company car**
  The taxable fringe benefit generated by the private use of a company car is equal to the private mileage multiplied by the kilometre cost of the car. A logbook indicating private mileage is to be held by the employee. A lump sum evaluation method is also authorised. Based on the latter evaluation method, the monthly taxable fringe benefit corresponds to 1.5% of the price of the new vehicle reduced by any discount granted (options and VAT included).
- **Free accommodation**
  The taxable fringe benefit amounts to the monthly rent and other rental charges paid by the employer. A reduction of 75% is applied, subject to certain conditions (the reduction does not apply to other rental charges).
- **Interest free (reduced) rate loan by the employer - Interest subsidy by the employer**
  A loan granted by the employer at an interest rate lower than 2% (rate applicable in 2013) generates a taxable fringe benefit. The taxable benefit corresponds to the difference between the 2% rate and the discounted interest rate.

  Interest subsidies paid by the employer apply where the employer provides financial support in connection with loan interest that the employee has with a third party. The interest subsidy by the employer generates a taxable fringe benefit in the hands of the employee.

  The above benefits are tax-exempt up to EUR 3,000 for mortgage loans related to the acquisition of a main residence and up to EUR 500 for other personal loans. These tax-exempt amounts are doubled for taxpayers filing jointly and single taxpayers with dependent children.
- **Occupational pension schemes**
  The employer's contributions to a qualifying occupational pension scheme are subject to a flat tax rate of 20% to be borne by the employer[3]. Benefits received are tax-exempt in Luxembourg.
- **Specific income tax exemptions**
  - Gifts by the employer based on the employee's seniority with the company. The exemption varies between EUR 1,120 and EUR 4,500.
  - Overtime pay and extra pay for working nights, Sundays or on public holidays.
  - Severance pay (conditions).

[1] A tax bonus of EUR 922.50 per year and per dependent child is granted to (most) taxpayers by the "Caisse Nationale des Prestations Familiales", on monthly instalments of EUR 76.88.
[2] If they derive professional income taxable in Luxembourg.
[3] An additional tax of 0.9% assessed on the same basis has to be paid by the employer.

Deductible items

Professional expenses

Professional expenses related to employment income are tax deductible. A yearly lump sum deduction of EUR 540 is available. This deduction can be replaced by real expenses incurred (evidence is then required). Commuting expenses are deductible based on the distance between the employee's home and work place. On a yearly basis, the maximum deduction is EUR 2,574.

Special expenses

- **Mandatory State social security contributions**
  Mandatory State social security contributions paid to the Luxembourg social security scheme and contributions paid to a foreign State scheme further to a social security treaty application are tax deductible.
- **Gifts (+)**
  Gifts made to a Luxembourg or European qualifying institution are tax deductible if total yearly gifts amount at least to EUR 120. Tax deductibility is limited to EUR 1,000,000 and 20% of the total net income.
- **Voluntary contributions to an occupational pension scheme**
  Employee's voluntary contributions to a qualifying occupational pension scheme set up by the employer are tax deductible up to EUR 1,200 (yearly cap).
- **Lump sum deduction**
  A yearly lump sum deduction of EUR 480 is available for employees (deduction is doubled for taxpayers filing jointly who both derive employment income).

The said lump sum deduction can be replaced by the following actual deductions:

	Yearly limit
Alimony paid to a divorced spouse (+)	EUR 24,000
Interest payments[4] (+)	EUR 336
Insurance premiums[5] (+) life, death*, disability, accident, sickness, civil liability	EUR 672
Contributions to home ownership savings plan[5] (+)	EUR 672
Private old-age pension schemes[6] (+)	from EUR 1,500 up to EUR 3,200
*Single death insurance premium related to a mortgage loan[7] (+)	EUR 6,000

Extraordinary charges (+)

Extraordinary charges are tax deductible provided that they exceed a percentage of the taxpayer's taxable income. The said percentage will vary based on the taxpayer's taxable income and his tax class. Alternatively, costs for child care, for household employees, and home assistance for the disabled are also deductible. The deduction is subject to a cap of EUR 3,600 on a yearly basis.

Single parent tax credit

Single parents with dependent children may claim a yearly tax credit amounting up to EUR 750.

Education and maintenance costs - Non-dependent children

Education and maintenance costs paid for children who do not qualify as dependent can be tax deductible up to EUR 3,480 per year and per child.

Tax credit for employees

Employees are entitled to a EUR 300 tax credit on a yearly basis (applicable to each married spouse and civil partner earning a taxable salaried income).

Extra-professional deduction

Married taxpayers and civil partners are entitled to a EUR 4,500 tax deduction on a yearly basis provided that they are filing jointly and both earn professional income taxable in Luxembourg.

Dividend and interest income

A 15% withholding tax applies on Luxembourg domestic dividends (this withholding tax is not a final discharge of tax). For final taxation, dividend income is subject to progressive income tax rates. A 50% tax exemption can be obtained on dividend income paid by a fully taxable company resident in a European Union Member State or a State that has concluded a tax treaty with Luxembourg.

Interest paid or attributed to Luxembourg resident individuals by a paying agent located in Luxembourg is subject to a 10% withholding tax which is in full discharge in the hands of the taxpayer.

Resident taxpayers receiving cross-border interest income can also apply for 10% flat rate taxation to the extent that the paying agent is located in another EU Member State, or EEA State. A specific request should be submitted to the tax authorities before 31 March 2013 for the 2012 tax year.

Interest payments which do not fall within the scope of the 10% taxation (e.g. income received from a UCIT, interest paid by certain foreign paying agents, etc) continue to be subject to final taxation according to progressive income tax rates. A total lump-sum deduction of EUR 1,500 (doubled for taxpayers taxable jointly) applies on total dividend and interest income (subject to final taxation) received during the tax year.

Capital gains on real estate

A capital gain on the sale of the taxpayer's main residence is tax-exempt. Capital gains on other real estate property:

- Are subject to progressive income tax rates if the disposal takes place within two years of acquisition;
- Are subject to a reduced tax rate if the disposal takes place more than two years after acquisition. The said reduced tax rate will not exceed half of the marginal tax rate. A tax deduction of up to EUR 50,000 (doubled for married taxpayers and civil partners filing jointly) valid every ten years may be claimed on the capital gain. The said tax deduction may also be increased by EUR 75,000 for inherited property (heir of line).
- Under specific conditions, taxation of capital gains from the disposal of property can be deferred to the extent that it is used to fund the acquisition of a new property located in Luxembourg, which the owner intends to rent out.

Capital gains on shares

	Income tax regime
Short-term capital gains Shares are disposed of within six months of the acquisition date	Taxation based on Luxembourg progressive income tax rates if total gain of the year amounts to at least EUR 500
Long-term capital gains Shares are disposed of more than six months after the acquisition date	Capital gain is tax-exempt if the taxpayer does not hold a major shareholding (10%) Capital gain is taxed at a reduced tax rate (max. half of marginal tax rate) if the taxpayer holds a major shareholding (10%) A tax deduction of up to EUR 50,000 valid every ten years may be claimed on the capital gain (doubled for married taxpayers and civil partners filing jointly)

(+) Tax deductible items for non-residents to the extent that they opt to be treated as Luxembourg tax residents.
4 Increased by EUR 336 for jointly taxable taxpayers and each dependent child.
5 Increased by EUR 672 for jointly taxable taxpayers and each dependent child.
6 The tax deduction limit is determined based on age. The said deduction is doubled for taxpayers taxable jointly who both took out a private pension insurance scheme.
7 The deduction can be increased based on the individual's personal situation (age, number of dependent children).

Directors' fees

Gross directors' fees, whether they are paid to a resident or a non-resident director, are subject to withholding tax at the rate of 20%[8]. The 20% tax is used as a tax credit against final income tax liability assessed on the basis of an income tax return. The 20% tax withheld is in full discharge in the hands of non-resident directors if (i) the gross directors' fees do not exceed EUR 100,000 and if (ii) they have no other Luxembourg source professional income. However, said directors may opt to file an income tax return. In the scope of an individual income tax return, tax is assessed pursuant to progressive income tax rates. The opportunity to apply for the income tax return has to be considered on a case-by-case basis.

Income tax return

In Luxembourg, not all taxpayers are subject to an income tax return filing obligation. But those who are, must file their annual income tax return prior to 31 March of the year following the income tax year (extension is possible upon request). If the taxpayer is not subject to a filing obligation, he may request a yearly calculation to the extent that certain conditions are met. The purpose of such a request is to obtain a refund of excessive payroll taxes (if any). The said request must be filed prior to 31 December of the year following the income year.

Please note that the aggregated elements to be taken into consideration in order to determine if a taxpayer is liable to file an income tax return or request for a yearly calculation are:

- His/her residence status;
- His/her tax class;
- His/her level of income;
- The nature of income;
- The number of days worked in Luxembourg.

Luxembourg social security contributions

Regular social security contributions

Regular Luxembourg social security contributions consist of an employer's and an employee's portion. Both are computed on a gross remuneration capped at EUR 9,370.94 per month as from 1 January 2013[9]. The following rates are applicable for 2013.

	Employee's portion	Employer's portion
Health		
• periodic remuneration	3.05%	3.05%
• non-periodic remuneration (e.g. bonus)	2.80%	2.80%
Sickness[10] (Mutuality of employers)	/	0.42% - 2.64%[10]
Pension	8%	8%
Accident	/	1.10%
Health at work	/	0.10% - 0.11%[11]
Total (periodic remuneration)	11.05%	12.67% - 14.90 %

Mandatory social security contributions borne by the employee (employee's portion referred to above) are deductible for Luxembourg income tax purposes.

Dependency contribution

In addition to the above-mentioned regular social security contributions, employees are subject to a monthly contribution ("contribution dependance") assessed on the gross remuneration decreased by EUR 5,622.60 per year for the year 2013. This contribution amounts to 1.4%. Contrary to regular social security contributions, the dependency contribution is assessed on a basis that is not capped and it is not tax deductible. The dependency contribution is also due by Luxembourg residents on their patrimonial income provided that they benefit from the Luxembourg health insurance.

German resident cross-borders/Luxembourg employees

Cross-borders working in Luxembourg under a Luxembourg employment contract may have a taxation issue in the State of residency if they derive income from work performed outside of Luxembourg. As an example, a mutual agreement between Luxembourg and Germany states that where over 19 days a year are performed outside of Luxembourg, taxation of the related income falls back to Germany (2 days per month if you did not work in Luxembourg for the entire year)

Special tax regime for qualifying international employees (circular 95.2 LIR)

Qualifying international employees, relocating or assigned to work in Luxembourg, have the opportunity to avail of a special tax regime providing for tax exemptions (capped) of various allowances, including moving expenses, accomodation costs, school fees, cost of living allowance and others.

The regime is to be approved by the relevant authorities following a request that needs to be filed within two months following the arrival of the taxpayer in Luxembourg.

[8] Net director's fees are subject to a 25% rate.
[9] The annual ceiling applicable for 2013 amounts to EUR 112,451.28 subject to modification by the Luxembourg Government.
[10] Depends on absenteeism rate.
[11] Or EUR 43/year if the employer is registered to the ASTF.

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