

Legal 500

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Luxembourg
Private Client

Contributor

ATOZ



Romain Tiffon

Partner, International & Corporate Tax | romain.tiffon@atoz.lu

Marie Bentley

Chief Knowledge Officer | marie.bentley@atoz.lu

This country-specific Q&A provides an overview of private client laws and regulations applicable in Luxembourg.

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Luxembourg: Private Client

1. Which factors bring an individual within the scope of tax on income and capital gains?

Under Luxembourg tax law, individuals are considered resident for Luxembourg tax purposes if they have either their domicile or their habitual abode in Luxembourg.

The term "domicile" under Luxembourg tax law is interpreted more restrictively than the "permanent home" as generally construed under double tax treaties, although the definitions are very similar. There is, however, no strict definition. Luxembourg tax law refers to the individual circumstances based on which it may be concluded that the individual has a domicile available to them and that they have retained for their permanent use. The threshold under Luxembourg domestic tax law is relatively low so even the stay of an executive director/employee in a hotel for a few months or the use of a Luxembourg address for official Luxembourg purposes may constitute tax residency in Luxembourg. A flat that is rented by the taxpayer themselves, or their spouse may also constitute a domicile under Luxembourg tax law. In case of transferred/seconded individuals, the case is not clearcut and depends on the individual fact pattern.

A "habitual abode" is assumed under Luxembourg tax law where an individual does not merely temporarily reside in Luxembourg. To determine the habitual abode, the circumstances must be examined as a whole; a continuous stay of more than six months (183 days) in any twelve-month period commencing or ending in a fiscal year invariably constitutes a habitual abode in Luxembourg under domestic tax law.

Apart from the above, tax residency is always assumed for executive directors and executive employees of a Luxembourg company involved in the day-to-day management of the Luxembourg company.

Finally, non-resident individuals may be subject to tax in Luxembourg if they earn Luxembourg-sourced income, which may notably include income from employment physically exercised in Luxembourg, capital gains from the sale of real estate located in Luxembourg or from a participation of more than 10% in a Luxembourg company that is sold within six months of acquisition.

2. What are the taxes and rates of tax to which an individual is subject in respect of income and capital gains and, in relation to those taxes, when does the tax year start and end, and when must tax returns be submitted and tax paid?

A Luxembourg resident taxpayer is subject to income tax on the basis of their worldwide income, unless otherwise provided by double tax treaties. For individuals, the tax rates range from 0% to 42%, with a surcharge of 7% for the employment fund and 9% for a taxable income of more than EUR 150,000 (EUR 300,000 for a household of two persons). Therefore, the marginal income tax rate for 2026 is 45.78%.

Different types of income and gains have special tax treatments such as for example:

Luxembourg provides for an impatriate tax regime which aims at attracting highly qualified foreign workers to Luxembourg through specific tax provisions. With effect as of tax year 2025, a new impatriate regime replaces the previous one. The new impatriate regime provides for an exemption of 50% of the gross annual remuneration, including benefits in kind, paid to the impatriate, capped at EUR 400,000. Most conditions for benefiting from the new regime are identical to the ones applicable under the current regime. However, it is specified that to benefit from the exemption the impatriate must carry out the relevant professional activity for at least 75% of their working time (while the current regime requires that the impatriate be employed for a job that is their main professional occupation).

Since 2021, Luxembourg tax law provides for an attractive employee profit-sharing tax regime (prime participative). As from tax year 2025, a profit sharing bonus paid by a Luxembourg company to its employee(s) is 50% exempt from Luxembourg income tax, provided the two following conditions/limitations are met: (1) the total amount of profit sharing bonus paid by the employer to its employees does not exceed 7.5% of the accounting profits of the employer as of the end of the accounting year preceding the allocation of the profit sharing bonus and (2) the amount of profit sharing bonus paid by the employer to the employee does not exceed 30% of the annual gross salary (excluding the amount of profit share) of the employee concerned.

Luxembourg has implemented a dedicated tax regime for carried interest applicable to individuals who are employees of AIF managers or AIF management companies. As from tax year 2026, this regime clearly distinguishes between:

- Contractual carried interest entitlement (not linked to an investment), which is taxed as speculative income at a quarter of the marginal tax rate of the taxpayer (i.e., maximum 11.45%)
- "Invested" carried interest – which targets carried interest rights materialised by shares/units (participation) yielding carried interest and contractual carried interest "intrinsically linked" to an ordinary investment (i.e., where the manager is mandatorily required to subscribe to such investment embedded in financial instruments (e.g., LP units or carried shares) – are fully exempt provided the investments are held for more than six months and do not constitute a significant shareholding (i.e., less than 10% of the capital in the first opaque entity). The invested carried interest is fully taxable if the investment was held for less than six months and is taxable at the half of the marginal rate if the taxpayer hold a significant shareholding in an opaque AIF.

Taxable income is divided into eight different categories, which notably include (i) income from employment, (ii) capital income and (iii) miscellaneous income.

The tax year in Luxembourg starts on 1 January and ends on 31 December. While tax on employment income is performed by way of withholding tax, individuals whose total annual income is above EUR 100,000 have to file a tax return. Personal income tax returns must be submitted by 31 December of the year following the relevant tax year.

Once a tax assessment is issued by the Luxembourg tax authorities, the taxes due must be paid within a month. A taxpayer may also be requested to pay quarterly instalments which are determined based on the last filed tax returns.

3. Does your jurisdiction provide advantageous tax regimes for individuals directly investing in or holding certain types of assets from an income tax or capital gains tax perspective?

Luxembourg tax law offers:

- a capital gain tax exemption on capital gains derived by a Luxembourg resident individual on a shareholding that represents 10% or less of the share capital of the issuer which is held for more than 6 months. Capital gains derived by a Luxembourg resident individual on a shareholding that represents more than 10% of the share capital of the issuer which is an opaque entity that are realised within a six-month period is taxable at the half of the marginal tax rate.
- A tax exemption is also granted on 50 % of dividend income from fully taxable capital stock companies (such as public limited companies SA, private limited companies SARL, etc.) that are resident in (i) Luxembourg (ii) or another EU Member State, (iii) or a country having entered into a double taxation avoidance agreement with Luxembourg.

4. Are withholding taxes relevant to individuals and, if so, how, in what circumstances and at what rates do they apply?

A Luxembourg resident taxpayer who is employed in Luxembourg is subject to tax on their employment income that is withheld by the employer. The rate of withholding tax will depend on two main factors: (i) the annual income and (ii) the personal situation of the employee. The tax rates range from 0% to 42%, with a surcharge of 7% for the employment fund and 9% for a taxable income of more than EUR 150,000 (EUR 300,000 for a household of two persons). Consequently, the marginal income tax rate for 2026 is 45.78%.

Withholding tax also applies to dividend distributions made by Luxembourg corporate entities (other than those that are specifically excluded such as sociétés de gestion de patrimoine familial (SPF), undertakings for investments in risk capital (SICAR), undertakings in collective investments (UCI) and undertakings for collective investment in transferable securities (UCITS)) to Luxembourg resident individuals. The withholding tax rate on these distributions is 15% but this may be credited against the personal income tax liability of the recipient.

Withholding tax also applies to interest on certain debt that is paid by a Luxembourg paying agent to a Luxembourg resident individual. The withholding tax is a final tax and applies at a rate of 20%.

Finally, directors' fees are subject to a 20% withholding tax.

5. How does the jurisdiction approach the elimination of double taxation for individuals who would otherwise be taxed in the jurisdiction and in another jurisdiction?

Under most double tax treaties concluded by Luxembourg, foreign-sourced investment income that is also taxed in a country that has concluded a treaty with Luxembourg will generally be exempt in Luxembourg. In principle, the exempt income will nevertheless be included for the purpose of determining the progressive rate of tax to be applied in Luxembourg, unless the other contracting states applies the provisions of the treaty to exempt such income from tax.

When the exemption method is not the applied method, double taxation relief may be obtained under the foreign credit method.

Where there is no double tax treaty, Luxembourg will provide unilateral relief under the form of credit for foreign taxes against the Luxembourg tax paid on that income. This is only possible to the extent the tax levied in the other country is comparable to the Luxembourg personal income tax.

Under certain conditions, Luxembourg also allows the uncredited portion of the foreign tax to be deductible as a tax-deductible expense.

Luxembourg ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (multilateral convention or "MLI"). The MLI entered into force on 1 August 2019 in Luxembourg. Luxembourg took the approach to have all its double tax treaties in force covered by the MLI.

6. Is there a wealth tax and, if so, which factors bring an individual within the scope of that tax, at what rate or rates is it charged, and when must tax returns be submitted and tax paid?

Wealth tax for individuals was abolished in Luxembourg as from fiscal year 2006. The recently elected government has confirmed no wealth tax on individuals will be reinstated.

7. Is tax charged on death or on gifts by individuals and, if so, which factors cause the tax to apply, when must a tax return be submitted, and at what rate, by whom and when must the tax

be paid?

Inheritance tax is due upon the death of an individual who has their domicile or centre of economic interests in Luxembourg at the time of death. The taxable basis for the inheritance tax is the fair market value of the inheritance assets which includes all worldwide assets (except any foreign property) that is reduced by the amount of liabilities.

The inheritance tax rates vary depending on the degree of relationship between the deceased and the heirs, on whether the heirs receive the legal share (collected as a result of their capacity, i.e. children, spouse, brother, etc.) or extra-legal shares (i.e. collected as a result of a will, etc) and on the value of the share received. The base rates for the legal share vary from 0% to 15% (excluding increase).

The following categories of heirs shall be exempt from inheritance tax with respect to property received under intestate succession:

- Ascendants and descendants in the direct line shall not be subject to inheritance tax.
- Spouses shall not be subject to inheritance tax in respect of successions opened on or after 1 January 2018.
- Partners bound by a civil solidarity pact (PACS), designated as legatees under a valid testamentary disposition, shall not be subject to inheritance tax in respect of successions opened on or after 1 January 2018.

As regards gift taxes, donations that are made before a notary public are subject to registration duty, the rate of which depends on the nature of the relationship between the donor and the donee.

8. Are tax reliefs available on gifts (either during the donor's lifetime or on death) to a spouse, civil partner, or to any other relation, or of particular kinds of assets (eg business or agricultural assets), and how do any such reliefs apply?

For gift tax purposes, the fiscal residence of both the donor and the donee is irrelevant. Donations that are made before a notary public are subject to registration duty, the rate of which depends on the nature of the relationship between the donor and the donee. The rates vary between 1.8% for direct line donations and 14.4% for relationships which do not fall within the prior brackets.

Gifts such as 'hand-to-hand' gifts (dons manuels) or

disguised donations (donations déguisées) that are not made before a notary, because such formality is not required to be valid according to the case law, are not subject to any gift tax. However, if the donor deceases during the fiscal year the gift is realised, it becomes part of the inheritance and thus subject to inheritance tax.

9. Do the tax laws encourage gifts (either during the donor's lifetime or on death) to a charity, public foundation or similar entity, and how do the relevant tax rules apply?

Taxpayers who file a personal income tax return in Luxembourg may deduct certain expenses such as gifts or donations, provided that the cash gifts are paid to public-interest organisations (a list of which is published by the Luxembourg direct tax authorities) and that the cash gift is of at least EUR 120. The total deduction that the taxpayer may claim cannot exceed 20% of the total net income (up to EUR 1 million). Any exceeding amount can be carried forward to the next two fiscal years.

10. How is real property situated in the jurisdiction taxed, in particular where it is owned by an individual who has no connection with the jurisdiction other than ownership of property there?

Where non-resident individuals directly own Luxembourg real estate, earn rental income and realise capital gains upon disposal of the property, they will be subject to non-resident personal income tax in Luxembourg. Non-residents are subject to the same rules as those that are applicable to resident individuals.

Where a Luxembourg real estate asset is sold within five years following its acquisition, the capital gain (being the difference between the acquisition price and the selling price) is considered as a speculative gain and is subject to tax at the progressive rate of up to 42%. Where it is sold after a holding period of five years, the maximum rate applicable is 21%. In all cases, the taxpayer benefits from a rebate of EUR 50,000 (or EUR 100,000 for individuals taxed collectively) which is available every ten years.

Municipalities levy a property tax on built and unbuilt properties which are owned by any individuals, whether tax resident or not, as of 1 January of the tax year. A property tax reform is actually under review at the level of the Luxembourg parliament.

11. Does your jurisdiction have any specific rules in relation to the taxation of digital assets?

Currently, Luxembourg does not have any specific rules in relation to the taxation of digital assets so for the time being they are considered as traditional securities.

12. Are taxes other than those described above imposed on individuals and, if so, how do they apply?

Luxembourg levies a final withholding tax of 20% on certain interest income paid by Luxembourg paying agents and beneficially owned by Luxembourg resident individuals.

13. Does your jurisdiction provide advantageous special tax regimes for individuals from a wealth tax, inheritance/estate tax or gift tax perspective?

Luxembourg does not levy net wealth tax on individuals and as described under point 7, ascendants and descendants in the direct line as well as spouses shall not be subject to inheritance tax.

Donation involving immovable property may incur an extra transfer duty of 1%, referred to as droit de transcription. Inter vivos gifts made to direct-line heirs that qualify as an ancestor's partition (partage d'ascendants) are however exempt from this transfer duty.

14. What steps might an individual be advised to consider before establishing residence in (or becoming otherwise connected for tax purposes with) the jurisdiction?

It is relatively easy to establish tax residence in Luxembourg. Where an individual moves to Luxembourg and/or maintains close links with a foreign jurisdiction, this may result in situations of dual residence. To resolve dual residence situations, it is essential for an individual to ensure that they meet the applicable criteria of the tie-breaker rules of the relevant tax treaty (in particular with regard to the centre of vital interests) in order to be considered a Luxembourg tax resident for the purposes of applying the treaty.

15. Once an individual has left (and is no longer connected for tax purposes with) the jurisdiction, does the jurisdiction charge any form of exit tax or retain taxing rights over the individual's directly held assets or structures which they created or have an interest in?

Luxembourg does not have a general exit tax provision for individuals migrating out of Luxembourg. Nevertheless, capital gains from the sale of a participation of more than 10% or from a partial liquidation, and deriving from holdings in entities which have their registered office or central administration in the Grand Duchy, remain taxable in Luxembourg when their beneficiaries have been resident taxpayers for more than fifteen years and became non-resident taxpayers less than five years before the disposal of the shareholdings.

Luxembourg also retains taxing rights on Luxembourg real estate held by non-resident taxpayers.

However, these taxing rights will only be effective if they are compliant with the relevant double tax treaties.

16. What are the main rules of succession, and what are the scope and effect of any rules of forced heirship? Do any forced heirship rules apply automatically, or is it necessary for heirs to bring claims to enforce their rights?

In the absence of any wills stating otherwise, the rules of succession are as follows:

- Descendants, being children and grandchildren;
- Surviving spouse;
- Privileged ascendants being the mother, father, brother and sister of the deceased;
- Ascendants other than the privileged ones;
- Other collateral relatives;
- The State.

Where the deceased has both a surviving spouse and descendants, the surviving spouse can either receive a usufruct right giving the right to live free of charge in the home where the spouses lived together or a child's share in the estate which may not be less than one quarter thereof.

Luxembourg operates a system of forced heirship whereby relatives will automatically be able to claim a proportion of the estate notwithstanding any provisions

stating otherwise in a will: 1/2 of the estate will be reserved to the child if there is one child, 2/3 if there are two children, and 3/4 if there are three or more children.

17. Is there a special regime for matrimonial property or the property of a civil partnership, and how does that regime affect succession?

The legal community regime is the statutory matrimonial regime which provides for common property regarding the acquisitions performed during the marriage (income from the spouses' work, fruits and revenues of their own properties, property acquired for valuable consideration) but for a separation of the property for any assets owned by each spouse prior to the marriage or those acquired during the marriage, by succession, gift or bequest.

Spouses can nevertheless decide not to be subject to the statutory regime by concluding a nuptial agreement which is nevertheless subject to certain restrictions that are based on the civil code, notably in regard to parental authority. Spouses can opt for a community of property where all current and future property is common, or for a separate property regime where the spouses have no common property or for a participation in acquisitions property.

Nuptial agreements must be redacted before a notary public and are made public.

Marriage is dissolved notably by death. This liquidation requires the division of assets and liabilities with a sharing thereof between the surviving spouse and the heirs in the case of death. Where a nuptial agreement was concluded providing for a separation of assets, there is, in principle, no property that is in common so the death of one spouse does not result in the division of the assets.

18. What factors cause the succession law of the jurisdiction to apply on the death of an individual?

The entire estate (both movable and immovable property) is governed by the law of the deceased's last habitual residence, except where, during their lifetime, the person made a *professio juris*—that is, an election of the law applicable to their succession that can be made under certain conditions. In such case, the applicable law shall be the law of the person's nationality at the time of the declaration or at the time of death, rather than the law of the place of habitual residence.

Inheritance tax is levied on the total net value of the

assets (being the fair value reduced by liabilities attached to these assets) that are inherited following the death of an inhabitant of Luxembourg, which is defined as a person who, at the time of death, had their domicile or centre of economic interests in Luxembourg. This inheritance tax is levied irrespective of where the heirs are Luxembourg resident.

As regards real estate not located within Luxembourg, no inheritance tax is payable thereon.

19. How does the jurisdiction deal with conflict between its succession laws and those of another jurisdiction with which the deceased was connected or in which the deceased owned property?

Given that there are no tax treaties with regards to inheritance tax or gift tax, Luxembourg grants unilateral relief under the form of exemptions to mitigate the risk of double taxation.

20. In what circumstances should an individual make a Will, what are the consequences of dying without having made a Will, and what are the formal requirements for making a Will?

Where an individual deceases intestate, the assets are distributed according to the order set forth by law starting with the descendants, followed by the surviving spouse.

A will enables anyone to decide on how the assets will be distributed taking into account the fact that there are forced heirs, i.e. heirs whose portion of the estate is considered as being reserved. It is only the portion of the estate that is not reserved which can be distributed according to the provisions of the will.

Wills must be (i) handwritten, (ii) notarised or (iii) sealed.

Wills that are handwritten must comply with the following conditions: they must be entirely handwritten, dated and signed by the testator. Where a handwritten will is registered with the central register of last wills and testaments with the Luxembourg Registration Authorities, a fee is payable.

A notarised will is received either by two notaries or by one notary alongside two witnesses. A notarised will is compulsorily registered with the central register of last wills and testaments.

Finally, a sealed will is one that is presented before two

witnesses by the testator in a closed and sealed format to a notary public.

21. How is the estate of a deceased individual administered and who is responsible for collecting in assets, paying debts, and distributing to beneficiaries?

For an individual who dies intestate or where the will does not name an executor, the president of the local district court where the deceased resided and died will appoint a notary public to administer the estate.

22. Do the laws of your jurisdiction allow individuals to create trusts, private foundations, family companies, family partnerships or similar structures to hold, administer and regulate succession to private family wealth and, if so, which structures are most commonly or advantageously used?

Luxembourg law allows individuals to create fiduciary agreements, private foundations, family companies and family partnerships to hold and administer private family wealth and regulate successions. There are no provisions under Luxembourg law to create trusts although Luxembourg law recognises foreign trusts.

Under Luxembourg law, there are solutions for managing private wealth that can take the form of (i) a contractual arrangement (such as a fiduciary agreement or a life insurance product) or (ii) a corporate arrangement (such as a partnership structure established as either a special limited partnership or a simple limited partnership, a société de gestion de patrimoine familial or wealth management company or a traditional corporate entity). Depending on the amounts managed, it may also be possible to structure the wealth of individuals via supervised products such as the undertaking for investment in risk capital (SICAR), the specialised investment fund (SIF) or the reserved alternative investment fund (RAIF).

The choice of the most optimal structure will depend on many factors, including, but not limited to, the amounts that the individual wishes to dedicate to a given product, the assets that are at stake, the expected cash flow, the distribution strategy during the life of the individual and how this interacts with the estate planning.

23. How are these structures constituted and what are the main rules that govern them?

Corporate products available for private wealth management will be constituted according to Luxembourg corporate law, and according to regulatory law where they are supervised or regulated products. For example, a traditional corporate structure will have to comply with Luxembourg company law of 10 August 1915 as amended whereas a Luxembourg reserved alternative fund will also have to comply with the provisions of the law of 23 July 2016.

Contractual products will have to comply with the legal provisions applicable thereto so fiduciary or trust contracts will need to satisfy the requirements of the law of 27 July 2003 ratifying the Hague Convention relating to the law applicable to the trust and its recognition.

A fiduciary contract is a contract by which a person, the fiduciant or settlor, agrees with another person, the fiduciary or trustee, that, subject to the obligations determined by the parties, the fiduciary becomes the owner of assets which shall form a fiduciary property. The fiduciary will have to transfer the property to a designated person at the end of the contract. It is worth noting that the fiduciary law provides that the title of fiduciary contract only applies where the fiduciary is a credit institution, an investment firm, an investment company with variable or fixed share capital, a securitisation company, a fiduciary representative acting in the context of a securitisation transaction, a management company of common funds or of securitisation funds, a pension fund, an insurance or reinsurance undertaking or a national or international public body operating in the financial sector.

24. What are the registration requirements for these structures and what information needs to be made available to the relevant authorities? To what extent is that information publicly available?

Corporate products which involve the set-up of a vehicle structure will need to be registered before a notary public. The level of information and the content thereof to be made available will vary depending on the structure.

For example, where a private limited liability company is used, the names of the shareholder(s) and the manager(s) will be publicly available, and the company will need to publish annual accounts that are publicly available. The public limited liability company's

shareholders may not be public information, but its annual accounts are. On the other side of the spectrum, the fact that a special limited partnership has been established will be public information, but the content of the limited partnership agreement will not be. A special limited partnership does not need to produce annual accounts.

Since 2019, a law on the register of beneficial owners imposes an obligation on Luxembourg entities that are registered with the Luxembourg trade and commerce register (RCS) to identify, obtain and maintain up-to-date information regarding their beneficial owners, which is defined as being a natural person that owns or controls the entity with a percentage that exceeds 25% of the share capital. This information is to be filed with the RCS.

Unless they concern immovable property located in Luxembourg, aeroplanes, ships or boats for circulation on internal waterways registered in Luxembourg or rights on such asset which must be transcribed, recorded or registered, contractual products, on the other hand, do not need to be registered with any governmental authorities (even if the use thereof is made by public deeds, before the courts or before any other Luxembourg authorities) and the information pertaining to these products is not publicly available (save that in any public register in which the capacity of owner is inscribed, irrespective of the reason or circumstance, the fiduciary and the trustee must require that the capacity in which they act be mentioned after the indication as owner).

25. How are such structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

As regards corporate products, the structure may be either fully taxable (S.à r.l., SCA or SA) or tax transparent (SCS or SCSp). In addition, irrespective of the legal form that is chosen, the vehicle may opt for a special regulatory regime (SPF, SICAR, SIF) that may provide for a particular tax regime. The tax treatment of the shareholders or unitholders will depend on where the beneficiaries are resident and how they analyse the Luxembourg vehicle.

There is no specific tax regime applicable to a fiduciary agreement so general tax principles should apply and notably the substance over form principle. Therefore, prior to the asset becoming a fiduciary property, the beneficial ownership is normally with the fiduciant or settlor and is transferred to the beneficiary when it becomes a fiduciary property.

26. Are foreign trusts, private foundations, etc recognised?

Foreign constructs such as trusts that are governed by the law of another jurisdiction are recognised in Luxembourg under the Hague Convention ratified by the law of 27 July 2003 relating to the law applicable to the trust and its recognition.

27. How are such foreign structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

Luxembourg generally adopts a substance over form approach in tax matters so any foreign form that is not specifically recognised as such for tax purposes will be assessed based on the substance over form principle which is laid down in the Luxembourg Adaptation Law.

Pursuant to this principle, an entity or instrument will be qualified according to its fundamental economic nature rather than according to its name or civil law qualification. As regards foreign entities, their opacity or transparency will be assessed based on a comparability test which will compare the legal characteristics of the foreign entity with Luxembourg entities and in light thereof will qualify them either as transparent or opaque for Luxembourg tax purposes.

28. To what extent can trusts, private foundations, etc be used to shelter assets from the creditors of a settlor or beneficiary of the structure?

In a fiduciary contract, the assets that make up the fiduciary property are segregated from the personal property of the fiduciary as well as from any other fiduciary property. The assets which make up such fiduciary property can only be attached by the creditors whose rights have arisen in connection with the fiduciary property. They do not form part of the personal property of the fiduciary in case of the fiduciary's liquidation or bankruptcy or in any other situation of the fiduciary generally affecting the rights of its creditors. Equally, they no longer form part of the settlor's property therefore resulting in a shelter of the fiduciary property from the creditors of the settlor (fiduciant) and beneficiary.

29. What provision can be made to hold and manage assets for minor children and

grandchildren?

The provision to make in order to hold and manage assets for minor children and grandchildren is generally realised by way of any of the structures to manage private family wealth described in question 22.

30. Are individuals advised to create documents or take other steps in view of their possible mental incapacity and, if so, what are the main features of the advisable arrangements?

Luxembourg law has three protection regimes for adults which are put in place and controlled by the guardianship judge (juge des tutelles):

- safeguard of justice: it is aimed to be limited in time and often constitutes the transition regime until the set-up of curatorship or guardianship;
- curatorship: it applies to people whose alteration of mental faculties is such that they need to be assisted by a curator in the acts of civil life (but does not require the individual to be placed under guardianship);
- guardianship: it applies to people who can no longer express themselves and who therefore need to be represented by a guardian.

Requests for these three protective regimes must be addressed to the guardianship judge (juge des tutelles) and must be supported by medical evidence.

31. What forms of charitable trust, charitable company, or philanthropic foundation are commonly established by individuals, and how is this done?

It is possible to establish a private foundation in Luxembourg which must be approved by a Grand-Ducal decree. The foundation must serve a general interest supporting causes such as philanthropic, educational and artistic ones, to name a few.

In terms of formalities, this requires a notarial deed and an application which must be submitted to the Ministry of Justice that will approve the application having consulted the Ministry of Finance. The application should notably include a note outlining the project thesis of the foundation for its first three years of existence alongside a financing plan.

32. What is the jurisdiction's approach to information sharing with other jurisdictions?

Luxembourg has now become a champion when it comes to the exchange of information. It has notably implemented the intergovernmental agreement with the United States in relation to the implementation of the Foreign Account Tax Compliance Act (FATCA) in Luxembourg.

On a European level, it implemented the Directive on Administrative Cooperation (DAC) by a law dated 29 March 2013 which introduced an exchange of information upon request. It is worth noting that while the DAC initially provided for an exchange of information upon request, its subsequent amendments have been transposed into Luxembourg domestic law and it now includes spontaneous and automatic exchanges of information. The latest initiatives focus on automatic exchange of information.

Luxembourg implemented the Common Reporting Standards (CRS) by transposing the first amendment to the DAC which became effective as from 1 January 2016, at the same time as the multilateral competent authority agreement providing for an automatic exchange of information under the CRS.

As regards individuals, the subsequent amendments to the DAC had limited impact except the more recent automatic exchange of information initiatives encompass the sixth and seventh amendments to the DAC on

respectively digital platforms and cryptocurrency which, broadly speaking, require digital businesses to report information about their users (including individuals) to local tax authorities.

33. What important legislative changes do you anticipate so far as they affect your advice to private clients?

The coalition agreement of the current government did not announce any significant legislative changes concerning private wealth management.

Although the impact on private clients is expected to be limited, it is worth noting that the adoption of Draft Law No. 8082A is anticipated in the near future. This draft law introduces a comprehensive reform of the property tax regime (impôt foncier, "IFON") and establishes a new land mobilisation tax (impôt à la mobilisation de terrains, "IMOB"). The legislative initiative aims to modernise and update the property tax framework while promoting housing development by discouraging speculative land retention.

The IFON reform seeks to eliminate existing disparities and implement a valuation model that is objective, transparent, and equitable. In parallel, the IMOB is designed to encourage the timely construction of residential housing on land designated for that purpose, thereby addressing Luxembourg's persistent housing shortage.

Contributors

Romain Tiffon

Partner, International & Corporate Tax

romain.tiffon@atoz.lu



Marie Bentley

Chief Knowledge Officer

marie.bentley@atoz.lu

