FAQ: Luxembourg's efforts in the field of tax transparency

Is Luxembourg a tax haven? What kind of tax advantages does the country offer?

In line with international efforts to combat tax evasion, Luxembourg has resolutely embraced the tax transparency agenda. The national tax policies have been adapted accordingly.

As such, Luxembourg complies with all Organisation for Economic Co-operation and Development (OECD) and European Union (EU) standards and directives on tax transparency, specifically in the area of exchange of information and administrative cooperation. The Global Forum of the OECD and the EU all have recognised Luxembourg's efforts and commitments in this regard.

Luxembourg has also not put in place any tax incentives to attract multinationals and in particular BigTech companies. Multinational companies are all subject to the same European, international and national taxation standards and rules.

Luxembourg's nominal tax rate (around 25% in Luxembourg City) is well above the European average (19.12%) and above the EU average (20.94%).

Is the country committed to the fight against tax evasion and aggressive international tax planning?

Luxembourg is a constructive and reliable partner in administrative cooperation at European and international level. It has supported all major developments at European level in the field of information exchange and administrative cooperation.

Luxembourg has fully transposed the European Directive and its amendments on administrative cooperation in the field of taxation:

- The second amendment to this directive, commonly known as «DAC3», allows for the automatic exchange of rulings and transfer pricing agreements, and was adopted under the Luxembourg EU presidency in 2015.
- Its fifth update «DAC6», imposing mandatory disclosure of potentially aggressive tax planning, was adopted in March 2020.

With regard to the taxation of multinationals, Luxembourg has been an active participant in the OECD BEPS project since its inception. All European legislative responses that directly or indirectly address this issue have also been adopted.

Luxembourg was one of the first countries to sign the Multilateral Convention for the implementation of tax treaty measures to prevent BEPS (MLI), which already covers 95 jurisdictions.

Luxembourg transposed the two EU Anti-Tax Avoidance Directives (ATAD) before the transposition deadline and implemented the Common European General Anti-Abuse Rule (GAAR), and thus adapted its existing anti-abuse provisions.

Also the new tax regime in favour of intellectual property, introduced in 2018, takes fully into account the final OECD report on Action 5 of the BEPS Action Plan, which details the modified nexus approach for intellectual property regimes. Both EU and OECD competent bodies have endorsed the new regime. More details can be found here: Loi du 17 avril 2018 - Legilux (public.lu)

Furthermore, in March 2021, legislation will take effect that aims at limiting the tax deductibility of outbound payments to jurisdictions on the EU list of non-cooperative jurisdictions for tax purposes.The provision helps to combat aggressive tax planning structures, which result in outbound interest and royalty payments made by companies located in Luxembourg to tax-exempted or low tax jurisdictions - particularly to jurisdictions which do not operate a corporate tax regime or which apply nominal corporate tax rates of zero or close to zero. More details can be found here: Chambre des Députés du Grand-Duché de Luxembourg

So Luxembourg no longer grants rulings to multinational companies?

In Luxembourg, rulings are strictly regulated. Advance rulings issued by the Direct Tax Administration are issued through an Advance Rulings Commission and are valid for a maximum period of five years. The number of such rulings has decreased significantly and reached 44 in 2020, which corresponds to a decrease of more than -90% between 2015 and 2020.

Rulings are exchanged between European administrations as well as at the international level. Indeed, the exchange of rulings within the European Union, carried through a dedicated central directory, accessible to all Member States and managed by the European Commission, is completed byan exchange of rulings communicated directly to the jurisdictions concerned on a spontaneous and mandatory basis according to Action 5 (Harmful tax practices) of BEPS.

The practice of advance rulings on tax matters is well established in many countries. At both European Union and G20 level, the vast majority of tax administrations issue rulings in one form or another. The European Commission has confirmed the conformity of the practice of advance rulings in general with European law, provided that they are not used to grant advantages to companies which other companies in the same situation would not be able to enjoy.

Some say that Luxembourg's financial centre is the best place in Europe for holding companies or other companies with no real economic activity or substance?

Firms rely on setting up companies for their financing activities , to manage a group of companies, to segregate assets and manage risks, to finance new projects, raise funds, or in the context of mergers and acquisitions. It has to be noted that investment funds also rely on companies to channel their investments for legal, regulatory or risk spreading and managing reasons.

All these activities are genuine economic activities put in place for valid commercial reasons. It is not surprising that the creation of such companies is preferably done in jurisdictions with an international financial centre specialised in cross-border services and which are characterised by a high degree of financial stability and legal certainty.

The Luxembourg financial centre, ranked as the European Union's leading international financial centre, provides a wide range of financial services that meet the needs of financial institutions, investors and companies from all over the world. Luxembourg provides a well-established legal framework, which complies with EU and international rules and standards. Multinational companies from around the world are taking advantage of the country's expertise in the financial sector to centralise their cross-border financial activities, from corporate finance to treasury management and cash pooling.

Does Luxembourg favour the creation of holding companies through an advantageous tax regime?

Companies that are primarily set up for holding participations exist in many countries, including France and Germany. The Luxembourg tax regime for these companies is not more advantageous than that of other European countries and is in line with the European framework in this area, and notably the Parent-Subsidiary Directive. Luxembourg's comparative advantage in this area stems from the high degree of openness of its economy, the expertise of its professionals and the efficiency of its administrative system.

The establishment of such companies can be a natural step in a group's development and growth. They allow companies to be structured in an efficient way.

Companies and groups around the world choose one or more finance hubs to centralise their financing activities through companies holding equity interests. It is precisely this reality, which is governed by European directives, like the Parent-Subsidiary directive or the Interest and Royalties directive.

Is Luxembourg opposed to a digital tax?

No. Luxembourg is in favour of a global solution, which would include the United States, thus guaranteeing a level playing field. Nevertheless, Luxembourg was not opposed to a provisional European solution. The Grand Duchy supported the European proposal to establish a provisional tax on revenues from digital services in 2018.

The country actively participates in OECD working groups on modernising international corporate taxation and believes that the international tax framework needs to be adapted to 21st century business models to reflect the digitalization of the economy.

Why do international companies invest and settle in Luxembourg? What are Luxembourg's assets when it comes to attracting business?

Luxembourg is a stable, triple-A rated country with an open and diversified economy, focused on services and high value-added industry. Financial services, automotive industries, information technologies, biotechnology and clean technologies, as well as satellite and space technologies are privileged sectors.

Luxembourg is also home to one of Europe's leading international financial centres. In fact, many of the world largest financial institutions, asset managers and insurance companies have established their centres of excellence and European platforms in Luxembourg.

Multinational companies from all over the world take advantage of the country's expertise in the financial sector to centralise their cross-border financial activities, from corporate finance to centralised cash management.

In particular, companies that are active internationally find ideal conditions in Luxembourg, thanks to its social, economic and political stability:

- Social stability and multinational society: Luxembourg is one of the safest countries in the world, with a high quality of life. Nearly 50% of the resident population are foreigners and its international community makes Luxembourg a welcoming place for foreign talent. In the public sector, administrations and supervisory authorities allow companies to interact with them in the four languages spoken in the country, namely Luxembourgish, French, German and English.

- Economic stability: the country has experienced sustained growth and has been granted an AAA rating for its sustainable public finances. High public investments and an efficient and reliable administrative system are key aspects for companies choosing locations to set their business.

- Political stability: Luxembourg's high degree of political stability represents a key factor for businesses.

What are the strengths of the Luxembourg financial centre? Why do international financial players choose Luxembourg?

The Luxembourg financial centre has developed a high level of expertise over the past decades in pan-European and international financial services, connecting investors and markets around the world. Its stability and openness to innovation make it a leading European platform for international financial institutions, asset managers, insurers as well as Fintech firms. It is a European hub for sustainable finance.

As the world's second largest centre for investment funds, and home to a highly specialized asset-servicing ecosystem, leading international, including European, asset managers have established their centre of excellence for cross-border investment funds in Luxembourg. Pension funds, in particular, rely on UCITS to diversify their portfolios with a well-regulated product.

Luxembourg is home to more than 120 international banks who have set up their European competence centres in areas such as depositary banking and custody services, corporate banking as well as wealth management.

Many investors wishing to manage their wealth and assets over the very long term and across different jurisdictions choose Luxembourg as an EU hub. The country's political and economic stability is a real asset and a guarantee for people that want their wealth to be passed on to future generations. All these activities are carried out in total tax transparency vis-à-vis the tax authorities of the countries of residence of these clients.