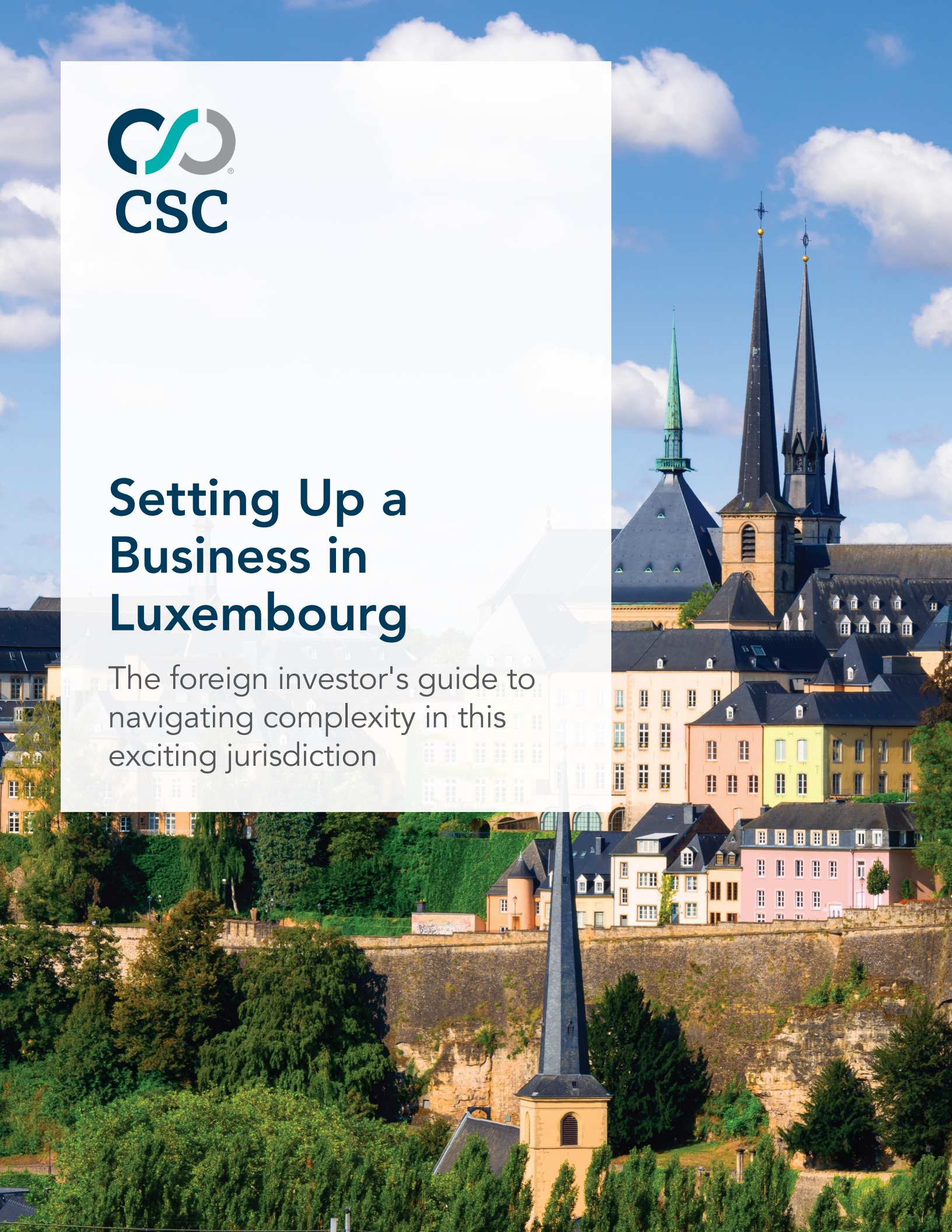




# Setting Up a Business in Luxembourg

The foreign investor's guide to navigating complexity in this exciting jurisdiction



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## Country profile

Roughly the size of Rhode Island in the U.S., landlocked Luxembourg is the smallest country in the European Union (EU), and yet, it boasts the highest income per person in the world.<sup>1</sup> And as the home of 12 European institutions, Luxembourg City enjoys equal prominence with Brussels and Strasbourg as one of the EU's three official capitals.

The last Grand Duchy in existence, Luxembourg's stable and wealthy economy—one of just 10 with an AAA rating—has become renowned for the strength of its financial sector, which accounts for 26.5% of annual gross domestic product (GDP).<sup>2</sup>

With 126 banks operating in the country,<sup>3</sup> Luxembourg specializes in private banking, life insurance, and investment fund administration. Almost 4,000 investment funds manage net assets totaling more than EUR 5 trillion<sup>4</sup>—about one-third of the EU's annual GDP.

Luxembourg's strong financial market has created an ideal environment for fintech start-ups. Around 190 such companies operate in the country,<sup>5</sup> the majority of which specialize in the investment and fund sectors, as well as payment solutions. Global fintech giant PayPal® has had their European business based in Luxembourg since 2017.

But other sectors are also seeing rapid growth as the government seeks to diversify the country's economy towards innovative industries. Thanks to close links with its three border countries—Belgium, France, and Germany—Luxembourg's automotive component sector offers “just-in-time” access to the major European car manufacturers and assembly plants. Within this industry, research and development staff make up 25% of the workforce.

In addition, Luxembourg has fostered a thriving space industry and is home to 50 companies and research laboratories, including a growing number of firms that build solutions for commercial space exploration. Geostationary satellite company SES has become the leading satellite operator in Europe and the second-largest player worldwide, with a 22% market share.<sup>6</sup>

Although the COVID-19 health crisis pushed the country into recession in 2020, GDP declined just 1.3%—a far less steep slide compared with the 7% contraction across the EU. The impact of the pandemic was mitigated by the government's robust stimulus programs as well as the resilience of the financial sector. GDP grew by 6.9% in 2021, although the real GDP growth rate is expected to slow to 2.6% in 2022, according to the European Commission.



<sup>1</sup> Statista

<sup>2</sup> Luxinnovation

<sup>3</sup> Central Bank of Luxembourg

<sup>4</sup> Association of the Luxembourg Fund Industry

<sup>5</sup> Luxinnovation

<sup>6</sup> Luxembourg Trade & Invest

# Why invest in Luxembourg?

## Highly developed transport infrastructure

Europe's key economic centers are just two hours away by train or plane, thanks to Luxembourg's central position and its well-integrated transport network. On March 1, 2020, the government made all public transport—trains, trams, and buses—free of charge in a bid to alleviate traffic congestion and reduce emissions, becoming the first country in the world to do so.

The country's air cargo center is the sixth largest in Europe, with an annual handling capacity of 1.2 million tonnes of air freight.<sup>7</sup> Its facilities allow the simultaneous storage and handling of the cargo of 12 aircraft. Truck loading terminals are located close to the runways, significantly cutting cargo handling times for sensitive and high-value products.

## Skilled multilingual workforce

Almost half of the population speaks at least two foreign languages and approximately 45% speak three or more. Around 70% of the workforce consists of cross-border employees from Belgium, Germany, and France. According to the World Economic Forum, Luxembourg has the world's largest share of people in high-skilled employment.

## Investor-friendly market

Luxembourg offers a wide range of measures to ensure a thriving business environment. These include financial support in the form of government grants, or medium- or long-term loans from the National Credit and Investment Company, as well as an advantageous tax environment, favorable land rates in industrial areas, and good access to innovation centers.

## A global finance hub

Luxembourg is the eurozone's leading financial center and currently ranks number 12 in the world. It is the second-largest for investment funds globally, thanks to its role in Europe and as a service provider to markets in Asia, the Middle East, and South America.<sup>8</sup>

## Top-notch digital infrastructure

The country has developed an excellent infrastructure for data storage and handling. It hosts 23 data centers, including nine with best-in-class certification—the highest concentration in Europe. Luxembourg also offers an extensive ultra-high-speed broadband network that ranks third in the EU for connectivity.<sup>9</sup>

<sup>7</sup> Luxembourg Trade & Invest

<sup>8</sup> Luxembourg Trade & Invest

<sup>9</sup> 2020 Digital Economy and Society Index

<sup>10</sup> Luxembourg Trade & Invest

<sup>11</sup> World Bank

<sup>12</sup> World Bank

## Luxembourg at a glance



### Capital

Luxembourg City



### Official languages

Luxembourgish, French, and German; English is widely spoken



### Population

626,200 (2020)<sup>10</sup>



### Currency

Euro (EUR)



### Area

2,586 km<sup>2</sup>



### GDP

USD 86.71bn (2021)<sup>11</sup>



### GDP per capita

USD 135,682 (2021)<sup>12</sup>



### Luxembourg Standard Time

GMT +1



### Telephone country code

+352



### Key municipalities

Esch-sur-Alzette, Differdange, Dudelange

# How to do business in Luxembourg

## Entry options for foreign investors

There are no restrictions on foreign investments in Luxembourg. However, all entrepreneurs are required to go through a number of formalities:

- Business permit application
- Business location
- Opening a business bank account
- Company formation
- Affiliation of the company with various government agencies (trade register, social security, tax authority)

Although Luxembourg offers several options for setting up a business, the most common legal entities for international investors are:

- Private limited company (S.à.r.l.)
- Public limited company (SA)
- Special limited partnership (SCSp)
- Branch office

## Private limited company (Société à responsabilité limitée—S.à.r.l.)

This entity has a separate and distinct legal personality. At least one shareholder and a minimum capital of EUR 12,000—paid in full upon incorporation—are required to form a S.à.r.l. Shareholders are not liable for the debts of the company, except for their financial contribution to its capital. A manager or board of managers—who may or may not be shareholders—are responsible for running the company and making major strategic decisions. Managers are elected by the shareholders for either a limited or unlimited term. Unlike an SA (see below), a S.à.r.l. cannot raise funds by issuing shares, although it can issue bonds.

## Public limited company (Société anonyme—SA)

This entity has a separate and distinct legal personality. At least one shareholder and a minimum capital of EUR 30,000—fully subscribed (and at least one-quarter of each share must be paid)—are required to form an SA. Shareholders are generally not liable for the debts of the company, except for their financial contribution to its capital. An SA can be managed by a sole director or a board of at least three directors. It can also be set up as a two-tier company with an executive board and a supervisory board. Directors are elected by the shareholders.

## Special limited partnership (Société en commandite spéciale—SCSp)

Similar to a limited partnership in Anglo-Saxon countries, the SCSp has been introduced to lure alternative investment funds to Luxembourg. This structure, which has no legal personality, is widely used in the private equity and private funds sector. There is no minimum capital requirement. An SCSp is usually formed through a written agreement between one or more general partners, who are jointly and individually liable, and one or more limited partners, whose liability is limited to their financial commitment. At least one general partner and one limited partner are required for the partnership, which can either have a limited or unlimited duration.

## Branch office

Compared with other entities, a branch office offers lower setting-up costs and faster incorporation time, as well as lighter reporting and auditing requirements. However, the accounts of the parent company, which is liable for the debts and obligations of its branch, may be audited by Luxembourg tax authorities. The branch office must operate within the country and have its own clients. There is no minimum capital requirement.

## Taxation

A company is considered as a tax resident in Luxembourg if its headquarters or place of central administration are located there. Non-resident companies are subject to Luxembourg tax only on their Luxembourg-sourced income.

Resident companies are subject to the following taxes:

- Corporate tax
- Solidarity tax
- Municipal business tax
- Net wealth tax

The corporate tax applies to the global taxable income, while the municipal business tax depends on the municipality in which the company is established.

The fiscal year begins on January 1 and ends on December 31. Corporate tax returns (including corporate tax, municipal business tax, and net wealth tax) are due by May 31.

### Corporate tax

The corporate tax rate is based on the amount of taxable income:

- Under EUR 175,000: 15%
- EUR 175,000-EUR 200,001: EUR 26,250 plus 31% of the tax base above EUR 175,000
- Above EUR 200,001: 17%

Corporate tax does not apply to general or limited partnerships.

Capital gains and losses are treated as ordinary income and are liable for corporate tax. Capital gains from the sale of shares may be exempt from tax if the participation is kept for an uninterrupted period of at least 12 months and does not fall below 10% during this time.

### Solidarity tax

A 7% solidarity tax surcharge is calculated on the corporate tax rate as a contribution to the unemployment fund.

### Municipal business tax

Municipal business tax depends on the rate applied by the municipality in which the company is incorporated and ranges between 6.75% and 10.5%. For companies incorporated in Luxembourg City, the rate is 6.75%, giving a combined corporate, solidarity, and municipal tax of 24.94% (as of 2021).

### Net wealth tax

Resident companies and branches of non-resident companies are subject to net wealth tax according to a scale of rates based on the market value of their net assets:

- Taxable base up to EUR 500 million: 0.5%
- Taxable base above eur 500 million: EUR 2.5m plus 0.05% On the portion above eur 500 million, without limits

A minimum net wealth tax of EUR 4,815 applies if the company's financial assets—cash in the bank, for example—exceed 90% of its total assets and if the balance sheet total exceeds EUR 350,000. If either of these requirements are not met, the company would be liable for a minimum amount of net wealth tax varying between EUR 535 (for a balance sheet total up to EUR 350,000) and EUR 32,100 (for a balance sheet total above EUR 20 million).

### Income tax

Individuals' income tax depends on their income and their personal situation. This means that the marital status of the employee and the existence of dependent children determine the applicable tax rates and conditions. As a result, taxpayers are divided into classes based on their status:

- Class 1: Married taxpayers who have opted for separate taxation; single people; certain married non-resident taxpayers
- Class 1a: People aged at least 65; single parents with a dependent child
- Class 2: Married taxpayers; widowed taxpayers (for the first three years after the death of the spouse); divorced or separated people (for the first three years); civil partners; certain married non-resident taxpayers

Income tax rates range between 0% and 42%, to which is added a 7% to 9% solidarity tax contribution.

Cross-border workers pay tax on the income they earn in Luxembourg, but are not liable for tax on their worldwide income because they are not resident in the country. Like Luxembourg-resident employees, cross-border workers are taxed at the source.

### Dividend tax

Dividends paid to a non-resident company attract a 15% rate, which may be reduced under any applicable tax treaties. No tax is levied on dividends paid to a qualifying company under the EU parent-subsidiary directive.

### Withholding tax

No withholding tax is levied on interest and royalties.

### Value added tax (VAT)

Luxembourg levies a standard VAT rate of 17%, the lowest in the EU. An intermediate rate of 14% applies to: advertising brochures and other printed material; steam, heating, and cooling systems; wines with alcohol level up to 13%; the custody and management of securities.

An 8% reduced rate is levied on the supply of gas and electricity, bicycles, hairdressing, and house cleaning. Food, books, pharmaceuticals, medical transport, newspapers, admission to cultural venues and events, sporting and entertainment events, hotels and restaurants are subject to a super-reduced rate of 3%.

Exports and certain categories are exempt from VAT, including real estate transactions, supplies of postage and fiscal stamps, the services of doctors and dentists, finance, insurance, cultural and sporting services, and welfare services.

Certain products such as wine and spirits, tobacco, electricity, and mineral oils are subject to excise duties.

### Real estate tax

The sale or transfer of real estate is subject to a 7% rate. A 3% surcharge applies to transactions within Luxembourg City. Municipalities impose an annual land tax that ranges between 0.7% and 1% of the unit value of the property. This is multiplied by a coefficient set by each municipality and varies depending on the type of property. In Luxembourg City, the coefficient is 750%.

### Tax treaties

Luxembourg has entered into 88 bilateral tax treaties based on the Organisation for Economic Co-operation and Development (OECD) model tax convention on income and capital to mitigate the risks of double taxation for businesses. In June 2021, the country amended its agreements with France and Belgium to suspend the limit on teleworking days for cross-border workers.

### Tax incentives

Tax credits are available for risk capital, audiovisual activities, environmental protection, R&D, intellectual property, professional training, and recruitment of unemployed persons. Certain entities—such as investment funds, private wealth management companies, securitization and venture capital companies—are eligible for tax exemptions, including gains and net wealth tax. Shipping companies are not liable for municipal business tax and can benefit from investment tax credits as well as accelerated depreciation.

### Customs policy

The import of goods into the customs territory of the EU is subject to customs duties, which average around 4.2% for non-EU member countries. However, certain categories such as clothing, fabrics, and agrifoods are subject to special higher tariffs. Within the EU, goods are subject to VAT rules. The export of goods outside the EU is not subject to customs duties.

### Free trade zones

One free trade zone operates near Luxembourg airport's cargo center.

## Employment and labor regulation

Even though the country's labor law recognizes oral contracts, most employment contracts are written and must include the following information:

- Identity of the parties
- Start date of employment
- Place of work
- Nature of the job
- Working time
- Base salary, any benefits or bonuses, and the frequency of payment
- Duration of paid annual leave
- Notice period
- Duration of the trial period, if applicable
- Collective bargaining agreement, if applicable
- Employer's pension scheme, if applicable
- Additional clauses

Fixed-term contracts must include the following additional information:

- Scope of the contract
- End date or the minimum duration of the contract
- Name of the employee being replaced, if applicable
- Renewal clause, if applicable

### Social security system

Luxembourg's social security system provides cover for illness, maternity, disability, death, and old age. Contributions are deducted by the employer from the employee's gross salary. However, temporarily resident foreign employees may be exempt if bilateral social security treaties apply.

The employee's share of social security contributions ranges between 12.20% and 12.45%, while the employer's contribution varies between 12.04% and 14.99% and is capped at EUR 10,709.97 per month.

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## Termination

The procedure for terminations depends on the type of contract. A fixed-term contract can be terminated before its end date in case of gross misconduct by one of the parties, except during the trial period. Open-ended employment contracts can be terminated in certain circumstances.

During the trial period, the employer or the employee can terminate the contract without compensation or reason for the termination. However, the trial notice period must be respected. After the trial period, dismissing an employee for reasons other than serious misconduct requires a notice period, which varies between two and six months depending on the length of service. Severance pay must be paid if the employee has served for at least five years.

If the business employs at least 150 people, it must conduct an interview with the employee before the dismissal. Businesses with at least 15 employees must also notify the Economic Committee of the Ministry of Economy of each dismissal that is due to financial reasons, recovery measures, or company reorganization. The dismissal letter must be sent to the employee by registered post or hand delivered with an acknowledgement of receipt.

A dismissal can have immediate effect if the employee has engaged in misconduct. In this case, the employer is not required to pay a severance package.

Certain employees are protected against termination:

- Pregnant women and new mothers up to 12 weeks following the birth of the child
- Employees on parental leave
- Sick or injured employees
- Employee representatives

Collective redundancy procedures only apply when at least four employees face dismissal.

In this case, the employer must:

- Inform the employee representatives or the relevant trade union
- Inform the national employment office
- Negotiate a redundancy plan with the employee representatives
- Contact the economic committee to obtain the tax exemption for voluntary departures and severance pay

## Foreign employees

EU nationals and people from the European Economic Area (EEA) and Switzerland are allowed to work in Luxembourg without a permit for up to three months. For stays of more than three months, they must either:

- Be economically active
- Be registered as students
- Prove they have sufficient means to support themselves and their families

Citizens from non-EU countries who plan to stay longer than three months must apply for a residence permit before entering the country. Afterwards, the applicant needs to apply for a long-term visa. The type of documentation required will depend on the purpose of the individual's entry into Luxembourg.

Highly skilled employees from non-EU countries can apply for the EU Blue Card, a specific residence permit that allows the holder and their family freedom of movement within the EU.

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## Public holidays

The official public holidays are New Year's Day, Easter Monday, May 1 (Labor Day), Ascension Day, Whit Monday, May 9 (Europe Day), June 23 (Luxembourg National Day), August 15 (Assumption Day), November 1 (All Saints' Day), Christmas Day, and Boxing Day.

## Annual leave

Annual paid leave is a right granted to all employees. New employees must work for a continuous period of three months before being able to take annual leave, unless allowed by their employer. This rule does not apply to temporary agency workers.

The legal duration of annual leave is set at 26 working days per year. It is calculated at 2.167 days per month during the first year of employment or if the contract ends during the year. Additional days may be granted through a collective agreement or an individual agreement between employer and employee.

Certain categories are entitled to additional leave:

- Disabled employees and war veterans: 6 days
- Mining industry workers: 3 days
- Employees unable to benefit from a continuous rest period of 44 hours per week: 1 day every eight weeks

Employees are required to take their annual leave in full during the current year. However, any remaining annual leave may be deferred until March 31 of the following year.

## Maternity and paternity leave

Female employees are entitled to maternity leave if they have paid social security contributions for at least six months in the 12 months before the start of their period of maternity leave. Maternity leave is split between pre-natal leave—eight weeks before the expected date of delivery—and post-natal leave, i.e., 12 weeks after the actual delivery date. If delivery takes place before the expected date, the part of the pre-natal leave which has not been taken will be added to the post-natal leave, up to a total of 20 weeks. If delivery takes place after the expected date, the date of leave from work is prolonged accordingly.

The monthly allowance is paid by social security and is equivalent to the employee's gross monthly salary, but is capped at five times the minimum wage. Fathers are entitled to 10 days' leave after the birth.

Each parent is entitled to a career break to take parental leave for each of their children after the birth and up until the child reaches the age of six (or 12 in case of adoptions). Employees are guaranteed to return to their previous jobs at the end of the leave. During parental leave, the parent receives an allowance that replaces the salary and is granted by the Children's Future Fund, a government agency.

### Business hours

Most businesses are open from 8:30 a.m. until 12:00 p.m. and from 2:00 p.m. until 6:00 p.m., Monday-Friday. Banks are open from 9:30 a.m. until 4:30 p.m., Monday-Friday. Some branches open on Saturday between 9:00 a.m. and 1:00 p.m.

### Minimum wage and overtime

The minimum monthly wage is EUR 2,201.93 for unqualified employees and EUR 2,642.32 for employees with a higher education diploma.

The standard number of working hours is eight hours per day and 40 hours per week. Any working time over this threshold is considered overtime. If overtime is included, the maximum working time cannot exceed 10 hours per day or 48 hours per week. Some professions are allowed to work a maximum of 12 hours per day, as long as the weekly working time does not exceed 40 hours. Certain employees, including those in senior or management roles, as well as family businesses are exempt from working hour regulations. Pregnant and breastfeeding women cannot be obliged to work overtime.

Overtime can be paid or taken as time off. In the case of paid overtime, the employer must pay at least 140% of the hourly salary, which is exempt from taxes and partially exempt from social security contributions for both the employee and the employer. If taken as compensatory time off, overtime should be remunerated with 1.5 hours per hour of overtime worked.

### HR legislation

The Luxembourg Labour Code oversees both individual and collective employment relationships. Employers can deviate from these provisions only in the employee's favor. Any restrictions to employees' rights are considered void.

Companies with at least 15 employees during a minimum of 12 consecutive months must have employee representatives, who have a duty to protect employees' interests, and must be kept up-to-date about business activities, employment conditions, and work organization.

The Labour Code also requires that employers take measures to prevent workplace harassment, even though the law doesn't prescribe a set list. While it is up to the employers to introduce measures that are best suited to their business, they may be legally accountable if the measures are deemed insufficient.

The standard number of working hours is eight hours per day and 40 hours per week. Any working time over this threshold is considered overtime. If overtime is included, the maximum working time cannot exceed 10 hours per day or 48 hours per week.

## How CSC can help you invest in Luxembourg

Before entering the Luxembourg market, foreign investors should rely on professional advice to navigate these complex matters. Therefore, working with a trusted partner is essential.

### Who we are

CSC provides knowledge-based solutions for every phase of the business life cycle, helping businesses form entities, maintain compliance, execute transaction work, and support real estate, M&A, and other corporate transactions in hundreds of U.S. and international jurisdictions.

We work with some of the world's largest banks and commercial lenders to reduce risk in their lien portfolios, improve their transaction speeds, and create a secure environment for their financial processing needs. We also provide solutions for secure real estate document preparation and recording.

We are the trusted partner for 90% of the Fortune 500®, nearly 10,000 law firms, and more than 3,000 financial organizations. Headquartered in Wilmington, Delaware, USA, since 1899, we are a global company capable of doing business wherever our clients are—and we accomplish that by employing experts in every business we serve.

### What we can do

CSC provides a wide range of financial and administrative services to clients operating and investing in the international business environment. We help companies expand globally, offering support with restructuring, outsourcing, and further developments.

We are experts in management and administration services to operational companies and holding structures across the globe. In Luxembourg, we provide a wide range of services. Our skillset starts with corporate secretary services, supporting clients with basic legal documents, and extends to director services, where we act as managers for client-owned companies. We also provide funds, real estate, and special purpose vehicle services, as well as depositary services.

### Radar Workspace

Radar Workspace, our bespoke office solution, offers multinationals and asset managers, as well as smaller fund managers, flexible office infrastructure in Luxembourg that can be adapted to their changing needs.

Our office solutions, designed with sustainability and environmental thinking in mind, can range from a dedicated desk to a high-end, private office suite, and even tailor-made offices designed to clients' specific needs. Our experienced teams provide back-office support, as well as remote working support and health and safety compliance.

### Entity formation and liquidation

- Incorporation of legal entities
- Bank account set up
- Implementation of structures and agreements
- Liquidator services
- Legal and audit support

### Accounting services

- Accounting, financial reporting, and consolidation
- Year end audit coordination
- Annual financial statements preparation and filing
- Payroll services

### Corporate Secretary and other legal services

- Domiciliation services
- Risk assessment and transaction monitoring
- Investment transactions; legal support
- Coordination of annual general meetings, board meetings, and minutes preparation
- Provision of directors and managers to client entities
- Liquidator services

### Compliance services and regulatory reporting

- Initial anti-money laundering (AML) and know your customer (KYC) due diligence
- Periodic review
- CSSF and BCL reporting
- CRS and FATCA initial due diligence, plus annual reporting
- Provision of FATCA responsible officer
- DAC6 reporting

### Bank account management

- Opening of bank accounts and initial KYC
- Banking payment services and cash monitoring

### Tax Compliance services

- VAT registration and de-registration
- VAT returns
- Tax provision calculations
- Corporate income tax return and filing



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