

Luxembourg

1. Government requirements

Registration requirements

Employer's obligation

The company has to first register with the social security authorities by filing the dedicated form (in French - "déclaration d'exploitation"). Luxembourg's social security authorities will then provide the company with a social security number. The employer has to register with the social security authorities within eight days, starting from the date the first employee is employed.

In addition, for every newly hired employee to be covered under the Luxembourg social security scheme, the employer has to register the employee with the social security authorities by filing the dedicated form (in French - "déclaration d'entrée pour salarié du secteur privé"). The employee will then be attributed a social security number (if one does not already exist). This number is always built as follows: year of birth, month of birth, day of birth plus an additional three digits allotted by the authorities (e.g., for someone who is born on 10 Feb 1976, it would be 1976 0210 XXX). The registration of each new employee is to be done within eight days, starting from the joining date of the employee as mentioned in the employment contract.

Both of the above-mentioned forms are to be sent to "Centre Commun de la Sécurité Sociale, Département Affiliation, L-2975 Luxembourg". It generally takes up to four weeks to have the registration process completed (for both the company and the employee).

No specific formalities have to be followed to register the company with the Luxembourg tax authorities in charge of withholding tax (in French - "Service d'imposition - Section RTS, retenue d'impôt sur les traitements et salaires" in French). The first withholding tax return on salaries filed by the company will serve as a registration. The competent Retenue d'impôt sur les Traitements et Salaires (RTS) office at which the employee has to register will depend on the Luxembourg town where the company is located.

Employee's obligations

Tax card

At the beginning of the employment contract and toward the beginning of each calendar year, the Luxembourg tax authorities will deliver a tax card to the employee. This card consists of all the necessary information regarding the amount of withholding tax which is to be levied on his or her remuneration. Such tax cards need to be transmitted by the employee to the employer as soon as possible to avoid application of heavier taxation (see below).

The tax card is delivered automatically to employees after the employer completes the registration process with the social security authorities, regardless of whether the employee resides in Luxembourg or not. The tax card will no longer be applicable once the employee is deregistered by the employer. For new registration, a new tax card will be issued.

Until 30 April 2021, a new tax card was automatically issued based on the card issued in the previous year.

Introduction of electronic tax cards

As from 1 May 2021, the employers will have access to the new electronic platform which has been set up by the Tax Authorities via myGuichet.lu.

Previously, the tax cards were prepared by the competent RTS tax offices and they were sent to the employee. Hence, the employee had to provide his employer with his tax card, now it will be automatic on the platform.

2021 is expected to be a transitional year. The electronic process will be fully operational from 2022 where tax cards will exclusively be made available electronically to both employer and employee.

The new tax card will be pluriannual, i.e., it will not have any end date (except for employees under an employment contract with limited duration).

Pluriannuals cards

- Tax cards issued between January and April 2021: end dates are still mentioned (either 31 December 2021 or end of the employment contract for the ones concluded with limited duration)
- Tax cards issued after 1 May 2021: end dates will no longer be mentioned except for employees under an employment contract with a limited duration. Such tax cards will be valid till an event leads to the change of a data mentioned in the card (e.g., change of employer, change of marital status, etc.)

The employees who received the 2021 tax card before 1 May 2021 will receive the pluriannual tax card normally early 2022.

What it means for employers

From May 2021, the employers will receive a letter from the tax authorities, including credentials together with two tokens, to enable them to access the platform. The first token is deemed to be kept by the employer and the second token to be shared with the external payroll provider (if any).

It is a transitional phase between 1 May and 31 December 2021, and the employer will have the possibility to consult and download the tax cards of employees and/or pensioners. There is however no obligation to consult the platform. The employees will still have to remit their cards physically to the employer.

From 1 January 2022, it becomes mandatory that the employer will have to consult and download the tax cards of employees and/or pensioners on a recurring basis.

What it means for employees

From December 2020, the employees can have access to their individual tax documents via their private profile. The documents available are the tax card, the individual tax assessments, tax prepayments and tax statements.

To have access to such documentation, the employee must subscribe to this option in her or his private profile in myGuichet, and a LuxTrust card is then required.

Till 31 December 2021, the employees will still have to remit physically their tax cards to her or his employers.

From 1 January 2022, the employees will not have to remit their tax card, since it will be put automatically at the disposal of the employer by the tax authorities via myGuichet.

Any changes in the employee situation (change of marital status, change of employers, etc.) will lead to the issuing of a new tax card. In the case the date in the electronic tax card is not correct, a tax card adjustment request will have to be filed by the employee.

It is recommended that the employee carefully verify the data mentioned in the tax card since it will be used by the employer to run his or her payroll. In case a change is to be made, Form 164 has to be completed and filed to the competent withholding tax office (for a Luxembourg resident, it

depends on the town where the employee is living and for a Luxembourg non-resident, the competent tax office is the office RTS non-residents in French).

Tax classes

The Tax card notably includes the tax class under which the employee is classified and will influence the way the withholding tax is computed.

Tax class 1: It is applicable to individuals under 64 years of age as on 1 January of the tax year and who are single, separated or divorced without children.

Tax class 1a: It is applicable to widows with or without children; individuals who are at least 64 years of age as on

1. January of the tax year and who are single, separated or divorced with children.

Tax class 2: It is applicable to married couples who are jointly taxable, or widowed, separated or divorced individuals who have been single for less than three years.

When several employment activities are performed in the same tax household, a fixed rate is granted on the second and subsequent employment activity (note that the first employment activity leads to the application of the above tax classes).

From the tax year 2018, married couples residing in Luxembourg have the opportunity to opt to be taxed separately. They can either opt for a single tax payment (with tax class 1 applicable) or separately with reallocation of income (with an average tax rate determined based on household income and tax class 2 applicable – the average rate determined is then indicated on the tax card).

For married couples who are not residing in Luxembourg, tax class 1 is automatically applied, unless assimilation as a Luxembourg resident is jointly asked for (average tax rate is determined based on household income by applying tax class 2, the average tax rate determined is indicated on the tax card). There are some conditions that have to be fulfilled by the nonresident married couples to be able to request for joint taxation (e.g., at least 90% of the worldwide income of one spouse is taxable in Luxembourg).

In both cases, Forms 164, 165 and 166 have to be completed and filed to the competent individual withholding tax office (for a Luxembourg resident, it depends on the town where the employee is living and for a Luxembourg nonresident, the competent tax office is the office RTS nonresidents in French).

Ongoing compliance requirements

a. Tax formalities

i. General comments

Salaries paid by Luxembourg employers are generally subject to monthly salary withholding tax (e.g., employee working in Luxembourg on a full-time basis).

The employer is responsible for withholding and paying taxes in a correct and timely manner. The salary subject to withholding tax includes all benefits granted by the employer in cash or in kind, and is computed during the month the compensation or benefits are paid or granted.

Non-recurrent payments (e.g., bonus, 13th month, etc.) are subject to a specific withholding tax scale (nonperiodical withholding tax scale). Those payments are normally taxed at the employee's marginal tax rate (i.e., the one already reached with the base salary). Non recurrent payments are reported on separate payslips.

The withholding tax is computed based on the withholding tax card provided by the employee to the employer (see section related to employee requirements for tax purposes). If the tax card is not available to the employer, he has to apply a flat withholding rate of 33% (or apply the tax scale for a single taxpayer if less favourable than the flat rate).

The employer should declare and pay the withholding tax to the Luxembourg tax authorities (in French - "bureau de recette") latest by 10th of the month following the month of payment (e.g., the withholding tax corresponding to the salary paid in January must be declared and paid on 10 February) using Form 950 (in French - "déclaration de la retenue d'impôt sur les rémunérations et crédits d'impôt").

i. Specificities for nonresident employees

The Organisation for Economic Cooperation and Development (OECD) model convention and most of the double tax treaties signed between Luxembourg and foreign countries foresee that nonresident individual who are employed by a local company and who perform their professional activities in Luxembourg are taxable on the remuneration related to workdays carried out in Luxembourg only. And, the remuneration related to any workdays on which a nonresident employee is not performing on the Luxembourg territory should not be subject to withholding tax in Luxembourg, and it is the employer's responsibility to withhold taxes accurately.

From a more practical point of view, the remuneration related to foreign workdays has to be exempted (only tax) from the payroll so that withholding tax is not computed on such amount. In such cases related to foreign workdays, specific withholding tax scale (daily salary withholding tax scale) is to be applied. Exempted remuneration has to appear on a separate line in the payslip (under the caption "other exemptions").

Also, under such specific circumstances, the payroll is to be run based on a travel calendar.

Double tax treaties concluded between Luxembourg and respectively Germany, Belgium and France, provide a maximum number of working days which can be spent outside Luxembourg by a nonresident while remuneration stays fully taxable in Luxembourg (19 working days for a German resident, 24 days for a Belgian resident and 29 days for a French resident).

It will be then be employee's responsibility to file a tax return in his or her home country (or countries where his or her activities have been performed), so that all remuneration is duly subject to tax.

a. Social security formalities

Every month, the social security authorities issue a "monthly salary report" in which the employer needs to report the remuneration (benefits-in-kind (BIK) included) paid out to each employee and the related number of hours of work.

On the basis of this information, the social security authorities will compute the amount of contributions due (by both the employer and the employee) and address a bill to the employer. Within 10 days of receiving such a bill, the employer has to pay both the employer's and employees' contributions to the social security authorities. It is the employer's responsibility to withhold the accurate amount of social security contributions due by the employee, on his remuneration.

It is worth mentioning that in Luxembourg, social security contributions (on both the employee and employer) are capped. Over an annual salary of EUR128,519.64 (ceiling applicable from 1 January 2020, i.e., EUR10,709.97 per month), there will not be any social security contributions due anymore (only Care Insurance of 1.4% remains payable by the employee and not the employer).

b. Overview of wage taxes (withholding tax and social security contributions)

Employee taxes					
Name of tax	Type of tax	Wage ceiling or exemption	Rate of tax	Agency receiving payment	Additional comments
Withholding tax	Wage tax	There are no ceilings.	The Luxembourg marginal rate is 44.94% (or 45.78%)	Administration des Contributions Directes (RTS)	The marginal rate can vary depending on unemployment fund contributions (7% or 9%).
Unemployment fund contribution	Income tax	There are no ceilings	7% or 9%	Administration des Contributions Directes	For income not exceeding EUR200,004 for taxpayer in tax class 1 (or EUR400,008 for taxpayer in tax class 2) at 7% rate is applicable, then for the part above, at 9% rate is applicable
Dependence insurance	Social security	There are no ceilings.	1.4%	Centre Commun de la Sécurité Sociale	It is payable by the employee on total gross income after a monthly deduction of EUR550.48.
Pension	Social security	For 2021, the monthly ceiling is capped at EUR11,009.65 (the annual ceiling is capped at EUR132,115.80).	8%	Centre Commun de la Sécurité Sociale	Social security contributions apply to wages and salaries, and must be withheld by the employer.
Illness	Social security	For 2021, the monthly ceiling is capped at EUR11,009.65 (the annual ceiling is capped at EUR132,115.80).	3.05%	Centre Commun de la Sécurité Sociale	Social security contributions apply to wages and salaries, and must be withheld by the employer.
Pension	Social security	For 2021, the monthly ceiling is capped at EUR11,009.65 (the annual ceiling is capped at EUR132,115.80).	8%	Centre Commun de la Sécurité Sociale	None

Illness	Social security	For 2021, the monthly ceiling is capped at EUR11,009.65 (the annual ceiling is capped at EUR132,115.80).	3.05%	Centre Commun de la Sécurité Sociale	None
Accident	Social security	For 2021, the monthly ceiling is capped at EUR11,009.65 (the annual ceiling is capped at EUR132,115.80).	0.675% to 1.125%	Centre Commun de la Sécurité Sociale	The rate varies depending on the cost of work accident incurred for each employer
Health at Work	Social security	For 2021, the monthly ceiling is capped at EUR11,009.65 (the annual ceiling is capped at EUR132,115.80).	0.14%	Centre Commun de la Sécurité Sociale	The Health at Work tax is payable only by employers that are members of the National Service for Health at Work.
Mutual insurance	Social security	For 2021, the monthly ceiling is capped at EUR11,009.65 (the annual ceiling is capped at EUR132,115.80).	0.53% to 2.88%	Centre Commun de la Sécurité Sociale	The rate varies depending on the risk class of the employer based on the rate of absenteeism of the employees.

Year-end formalities

Closing of the payroll

At the end of the year, once all salaries are booked, all the salary accounts and the payrolls have to be closed. The employer has to fulfil the following year-end payroll formalities:

- Filling in the employee's annual certificate of remuneration (Form 160, in French - "certificate de salaire, de retenue d'impôt et de crédits d'impôts bonifiés"); and
- Fulfilling all the information mentioned in the certificate of remuneration in the tax authorities' online tool before 1 March of the following year in which the annual salary payment was made. For nonresidents, the employer will have to mention whether the employee has worked fully, partially or not at all on the Luxembourg territory. In case the employee worked partially on the Luxembourg territory, the number of days effectively worked in Luxembourg is to be reported. This part is really important since the Luxembourg tax authorities will automatically exchange the information with the tax authorities of the employee's country of residence.

Audit payroll

On an average, the tax authorities (bureau RTS) verify the regularity of the withholding tax made on salaries every three years. The purpose of such audit is to check whether the remuneration (whatever be their kind) of all employees have been duly subjected to withholding tax. They control if the amounts of withholding tax calculated, declared and paid are correct. To do so, tax authorities will re-do the payroll calculations and compare their results with the withholding tax payments made by the employer.

In such a situation, the employer will have to provide the tax inspector with all relevant payroll documentation e.g., tax cards delivered by the employees and salary ledgers in order to enable the tax inspector's review, for all years not audited so far. The salary ledgers must mention all items paid to the employees (i.e., gross remunerations as well as taxable BIKs).

For delay, a late payment interest of 0.6% can be applied per month. A late filing fine amounting to maximum 10% of the withholding tax due can be accrued in case withholding tax return is not filed on time. Additional fine of maximum EUR25,000 can also be charged.

Obligation to retain payroll documents

Based on Luxembourg legislation, companies have the obligation to save or archive its documentation for at least 10 years.

2. Pension requirements

Registration requirements

There is no obligation for a Luxembourg employer to implement a second pillar pension plan. The only requirement here is to contribute to the state pension (see table above). Although a second pension plan is not mandatory by law, most employers offer a second pillar pension plan (depending on the size of the employer). The occupational pension scheme in line with Luxembourg legislation is subject to a specific tax treatment.

Ongoing compliance requirements

In case the provisions of the law are complied with, specific tax treatment applied on employer contributions include:

Employer's contributions subject to a flat 20% withholding tax plus a surcharge of 0.9% for financing of the supervisory authorities.

- a. The flat tax and the surcharge are payable by the employer.
- b. Benefits paid out are tax exempt in the hands of resident taxpayers

In case the pension scheme is not approved by "IGSS" (Luxembourg social security bodies in charge of control)

- taxation as salary, and other tax implications have to be considered.

Employee contributions to a recognized occupational pension scheme can be deducted directly in the Luxembourg payroll. The maximum amount that can be deducted annually is EUR1,200.

3. Employment obligations

Employment contract

In Luxembourg, an indefinite-term employment contract is generally used. The employee must be provided with essential information, such as identity of the employer, title and duties, place of work, working time and remuneration.

Fixed-term employment contracts are also possible, but they are strictly regulated by the Luxembourg Labor Code and are limited to specific cases (such as replacement of an absent employee and exceptional increase of business). A fixed-term employment contract must be written and delivered to the employee within the first two days of work.

Paid holidays

According to the Luxembourg Labor Code, full-time employee benefits start with a minimum 26 working days per year in 2021.

Additional paid vacation days may be granted by the collective bargaining agreements or the employers. For example, the collective bargaining of the banking sector grants 8.5 additional paid vacation days.

Vacation rights are expressed in working days for full-time workers and are expressed on a pro rata basis in hours for part-time workers.

Working time

The normal working time is 40 hours per week with a maximum overtime of 2 hours per day and 8 hours per week.

Overtime is subject to a prior notification to the labor authorities and also with a specific compensation in rest or payment with increased rates.

Work on Sunday is prohibited, unless under certain circumstances or for specific sectors; for which specific compensation should be paid.

Minimum wages

In 2021, the minimum monthly gross salary for unqualified employees amounts to EUR2,201.93 and for qualified workers, it amounts to EUR2,642.32.

Indexation of the wages

An automatic increase of salaries called Index is provided by the Luxembourg Labor Code

This automatic increase occurs only when the average cost of goods increases by 2.5% over a certain period. If such an "inflation rate" is observed by the Luxembourg Statistics Agency, then the Government triggers the index mechanism and all the wages for any employee must be increased by 2.5% by the employers.

This general increase of salaries is mandatory and cannot be avoided by the employers, even if the employee would accept to do so. The last general increase occurred on 1 January 2020.

4. Payroll requirements

According to the Luxembourg Income Tax Law, the implementation of a payroll is mandatory for local employers and foreign employers under certain conditions (notably if the foreign employer has a Permanent Establishment (PE) in Luxembourg and to a lesser extent when an economic

employer exists in Luxembourg). At the end of each month, a monthly salary payslip has to be delivered to each employee. Such a salary payslip has to show each taxable compensation item (i.e., gross remuneration and BIK), the amount of employee's social security contributions paid and the amount of tax withheld. The employer is the only point of contact toward the Luxembourg tax and social security authorities in the sense that it is responsible for declaring and remitting withholdings (tax and social security) made on the employee's remuneration.

5. Banking requirements related to payroll

XML file for processing salary payments can be generated by a payroll software. Companies can then upload the XML file in their banking tool. There is no obligation to have the net salaries paid to a Luxembourg bank account. Foreign bank accounts for the employer and employees are accepted, and only valid International Bank Account Number (IBAN) number and swift code are needed in order to prepare payroll bank files. The net salaries have to be on the employees' bank accounts before the end of the month for which the salary is paid (e.g., salary for the month of January should reach the employee bank account before 31 January).

The Luxembourg law does not impose any currency. The parties may agree on the currency and in practice wages are very frequently paid in Euros.