



## The SARL (Société à Responsabilité Limitée) in Luxembourg

By *LEXTRUST*

Establishing a company in a foreign country can be challenging in terms of designing the legal structure and organising a streamlined and efficient incorporation process. Alliuris member firms provide corporate legal services, in particular for the formation of companies in their home country.

This article provides a brief overview of the legal form of a private limited liability company in Luxembourg.

### **The Société à Responsabilité Limitée**

The *Société à Responsabilité Limitée* (SARL), which is a private limited liability company, is the most common form of company in Luxembourg. The SARL is a hybrid commercial company that combines features of both capital companies (limited liability protections) and partnerships (limited transferability of shares).

### **Choice of seat and place of incorporation**

The registered office of the SARL must be located within the Grand Duchy of Luxembourg. This address serves as the company's official domicile for legal purposes. Luxembourg is strategically positioned at the heart of Europe, and its stable economic and political environment makes it a prime location for businesses.

Unlike federal systems, Luxembourg's legal framework is consistent across the country.

However, the choice of location may depend on specific business incentives offered by the municipalities (e.g. municipal business tax rates depend on the relevant municipalities).

### **Shareholder**

An SARL can be formed between 2 and 100 shareholders. However, an SARL may have only one shareholder in case the latter owns all the shares in the company. Shareholders can be individuals or legal entities. Foreigners can also be shareholders of an SARL. As a rule, the shareholders' liability is limited to the extent of their contribution to the share capital. SARLs are closely held, with limited transferability of shares (i.e. subject to the consent of shareholders).

### **Management**

An SARL is managed by one or several managers ("*gérants*") who need not be shareholders. The managers are appointed by the general meeting of shareholders, which determines their powers, remuneration and the term of their mandates. The managers may be appointed for a limited or unlimited term. Foreigners can also be managers. The managers may reside in Luxembourg or abroad.

The managers are responsible for the management of the company and represent the company with respect to third parties and in legal proceedings.

All powers not expressly reserved by the Luxembourg legislation or the articles of association of the SARL to the general meeting of shareholders (which holds supreme authority) shall be within the competence of the managers:

### **Formation**

The formation of an SARL typically requires :

1. Deed of incorporation (including the articles of association)

The deed of incorporation (including the articles of association) must be passed before a civil law notary residing in the Grand Duchy of Luxembourg. The deed of incorporation must include certain information required by law, such as the shareholders' identity, company's name, registered office, corporate purpose, share capital, duration of the company (which may be constituted for a limited or an unlimited duration). The deed of incorporation may be drawn up in French or German. The deed of incorporation may also be drawn up in English if the English text is followed by a translation in French or in German or if the English translation follows the French text or German text.

2. Bank account

A bank account must be opened in the name of the future company (in formation) in case of incorporation of the SARL by way of a contribution in cash (which is the most

common way of incorporation process). The share capital is deposited into the bank account. The bank issues a blocking certificate confirming the deposit. After incorporation, the notary issues an unblocking certificate to make the capital available to the company.

A bank account is not required in case of an incorporation of the SARL by way of a contribution in kind. Hence, the manager(s) of the company may also open a bank account after its constitution.

### 3. Registration

The company must be registered with the Luxembourg Trade and Companies Register (*Registre de Commerce et des Sociétés*). Upon registration, the company receives its unique registration number.

Once the required documentation and the blocking certificate issued by the bank are obtained, the constitution of an SARL may be done within 3 or 4 business days.

### Share Capital

An SARL requires a minimum share capital of EUR 12,000.- which must be fully subscribed and paid up at the time of incorporation. Contributions to the share capital can be made in cash or in kind. Shares in the capital of an SARL are issued as registered shares, with or without a nominal value.

### Registration with Other Authorities

Specific business activities may require relevant business permits from the Ministry of Economy (*autorisation d'établissement*), licenses from sectoral regulators, or professional certifications. If the company employs staff, it must also register with the social security authority (*Centre Commun de la Sécurité Sociale*).

### Tax Registration

After its registration with the Luxembourg Trade and Companies Register, the company shall be notified from the Luxembourg tax administration (*Administration des contributions directes*) regarding its registration with the Luxembourg Inland Revenue, its tax number and the competent tax offices (taxation office and revenue office).

The company can also apply for a VAT identification number with the *Administration de l'Enregistrement, des Domaines et de la TVA* (Indirect Tax Authority).

### Anti-money laundering measures

Luxembourg has stringent AML regulations. Companies, including SARLs, are obliged to declare their beneficial owners with the Luxembourg Register of Beneficial Owners (*Registre des Bénéficiaires Effectifs*) and to keep such Register updated.

**Foreign Investment Control**

Luxembourg offers a welcoming environment for foreign investments. Most sectors are open to foreign ownership or investment in Luxembourg. However, foreign direct investments in Luxembourg companies carrying out an activity in a sector considered to be critical with respect to security or public order (such as dual-use goods, finance, communications, energy, defense, aerospace, health, agri-food, data processing and data storage, transport, media) may be subject to screening and authorisation procedures.

**Customs (Export / Import)**

SARLs engaged in import and export activities (customs operations) must have an Economic Operators Registration and Identification (EORI) number. To obtain such EORI number, the company must send a request for EORI registration to the Customs and Excise Authority (*Administration des douanes et accises*).

**Bank Account**

A corporate bank account is necessary to conduct business operations. Luxembourg banks adhere to strict compliance and anti-money-laundering standards. To open an account, the company must provide detailed documentation such as the articles of incorporation, the identity of the company's beneficial owners/shareholders and directors.

**Accounting**

All SARLs are required to maintain proper accounting records and prepare annual financial statements.

At the end of each financial year, an SARL must prepare annual financial statements, including the balance sheet, the profit and loss account, appendix and, if necessary, a management report. The accounts must be approved by the general meeting of shareholders within 6 months of the end of the financial year. Once approved, the accounts must be filed with the Luxembourg Trade and Companies Register within one month of approval. The publication of the annual accounts by small companies can be made under an abbreviated form.

SARLs having more than 60 shareholders are subject to compulsory oversight by one or more statutory (internal) auditors.

Companies exceeding a certain threshold with respect to balance sheet total, net turnover and/or average number of full-time employees during 2 consecutive financial years are required to have their accounts audited by one or more independent (external) auditors.

## Corporate Tax

Key tax considerations include :

- Corporate Income Tax (CIT): the CIT rate in Luxembourg is currently 14% for taxable income up to EUR 175,000.- and 16% for taxable income exceeding EUR 200,000.-. A smoothing mechanism is provided for taxable income amounting to between EUR 175,000.- and EUR 200,000.-.
- Solidarity surtax of 7% on the CIT amount.
- Municipal Business Tax (MBT): the MBT rates vary depending on the municipality (for Luxembourg City, it is 6.75% on corporate income).
- Net Wealth Tax (NWT): SARLs are subject to NWT. A minimum NWT charge is applicable to Luxembourg companies. The amounts and related applicable conditions and thresholds are determined by the law.

Luxembourg has developed an extensive network of double tax treaties (in force with over 85 countries) to avoid or mitigate the risk of double taxation, offering an attractive overall tax environment and supporting international investment and trade.

## Trade and Turnover Tax

The standard VAT rate in Luxembourg is 17%, with reduced rates of 14%, 8% or 3% for specific goods and services.

## Formation Expenses

The costs of forming an SARL in Luxembourg depends on the complexity of the business structure. Typically, the costs include notary fees, legal advice, and registration costs. Additional expenses may apply to specialized legal services with respect to obtaining specific business permits or licenses.

## Staff

An SARL can employ both local and foreign staff, benefiting from Luxembourg's multilingual and international workforce. Employment contracts must comply with Luxembourg labor laws, including minimum wage regulations, working hours, and social security contributions

**The Société à Responsabilité Limitée Simplifiée (SARL-S)**

The *Société à Responsabilité Limitée Simplifiée* (SARL-S), which is a simplified form of the SARL, has been introduced in 2016 to make company creation easier and more affordable for small entrepreneurs and start-ups.

The legal provisions applicable to SARLs applies to SARL-Ss, except for some specific rules, such as the SARL-S can be formed by a private deed, without the involvement of a notary, and the minimum share capital required for the incorporation of an SARL-S is EUR 1.-.

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