



Luxembourg,
an alternative location for shipping business.



MINISTRY OF THE ECONOMY
AND FOREIGN TRADE
Maritime Administration

THE SHIPPING INDUSTRY IS GOING THROUGH MAJOR CHANGES

New corporate strategies and processes are required to deal with an industry which is being reshaped through market consolidation and shifts in the balance of world trade. As a result shipping companies are looking for effective ways to align their corporate, operational and tax structures.

Shipping companies have also been branching out. Major household names have been investing in related lines of business, both upstream and downstream from the actual shipping activity itself.

While certain countries have opted for a preferential tax system which applies to qualifying shipping activities (commonly



The Luxembourg regulatory, tax and legal environment seeks to address the complexity and the evolving needs of the shipping industry.

Even though the industry still includes private or family-owned companies, some players have increasingly been turning to capital markets for funding. New investment funds geared towards the shipping industry have emerged on the Luxembourg marketplace. Their novelty lies in the fact that they enable investors to realise their assets at any time (open-ended funds) instead of them having to wait until the transaction is completed (closed-ended funds).

The tax and legal issues related to shareholding arrangements vary according to whether the shareholders are national or international, whether they consist of one or several families, of stock exchange investors or investment funds. Relevant structures need to be implemented to ensure that the assets can be managed in the most flexible and tax neutral manner. In this context, the family wealth management company (société de gestion de patrimoine familial) may be used to replace the 1929 holding companies.

referred to as the “tonnage tax” system), others apply the general provisions of their tax legislation. This is the case of Luxembourg, which offers an advantageous tax regime including the possibility of accelerated depreciation and tax credits for investment.

Finally, with particular relevance for the part of the shipping group's operations that cannot benefit from preferential tax regimes, such as tonnage tax regimes, financial or intellectual property structures can contribute to managing the group's taxation and make it more efficient. Luxembourg has a proven track record in this area and its expertise is known the world over.

This brochure aims to provide a general overview of the Luxembourg regulatory, tax and legal environment. It contains information based on laws and regulations in force on July 23, 2008.

It is emphasized that the information is presented in a summarised form and is intended to provide general guidance only. Specific professional advice should be obtained before any action is taken.

Index

1. Investing in Luxembourg
2. Maritime Luxembourg
3. The Luxembourg Maritime Company
4. Company Taxation
5. Company Taxation - Investment credit
6. Taxation of Investors
7. Luxembourg Ship Registry
8. The Crew
9. Investment vehicles
10. SPF - Private Asset Management
11. SOPARFI
12. SICAR
13. SIF - Specialized Investment Fund
14. UCI - Collective Investment of Funds
15. Securitization vehicle
16. Open Ended Ship Fund
17. Appendices

Investing in Luxembourg

The history of Luxembourg started in 963 AD when a certain Count Siegfried acquired a rock called Lucilinburhuc (currently part of Luxembourg-city). Luxembourg became a Duchy in 1354 before being invaded by the Burgundians in 1443. The country has been successively occupied by Burgundy, Spain, France, Austria and France. The country became an independent Grand-Duchy in 1815 further to the Vienna Congress and was given to the King of Netherlands as a personal possession. The rule of the King of Netherlands came to an end in 1890 when another branch of the Nassau family came to the throne. Luxembourg formed a monetary union with Belgium in 1921, founded the Benelux free trade zone together with Belgium and the Netherlands in 1944 and, in 1957 was a founding member of what is now the European Union.

The Grand Duchy of Luxembourg has a surface area of 2.586 km² and a population of about 460.000 inhabitants. It is thus one of the smallest member states of the European Union and is surrounded by three important economic partners, namely Germany, France and Belgium.

Political climate

The Luxembourg State is a representative democracy, in the form of a constitutional monarchy. The Grand Duke is the head of state and enjoys complete political immunity. The Parliament is made up of 60 Members elected in national elections for a 5 year term. The result of the election is generally a coalition government between two of the three main political parties. This contributes to the political stability of the country and avoids sudden policy shifts.

Luxembourg is also a historic member of the European Union and is the host country of several EU institutions, such as the European Court of Justice, the European Investment Bank, the European Investment Fund, Euratom, the European Communities Publication office and the European Court of Auditors.

Social climate

Luxembourg is known for its national cohesion and social consensus. This solidarity enables Luxembourg society to arrive at economic, social or political agreements more easily and more rapidly than larger nations. In the same way, administrative decisions are made rapidly thanks to shorter reporting lines.

Whereas in most countries, the availability of a workforce is mainly based on national demographic trends, Luxembourg is an exception, as immigration has been the driving force since the early phases of industrialisation. Immigrant and cross-border workers have given Luxembourg an international, multi-lingual and multi-cultural dimension that is now one of its main assets.

Tax aspects

Luxembourg has a statutory corporate income tax rate close to the European average (29,63 % for Luxembourg-city). The tax system is nevertheless very attractive and contributes to the overall favourable investment climate. The reason for this is that the taxable base for a typical Luxembourg company tends to be narrower than those prevailing in most comparable jurisdictions.

In order to increase legal security it is even possible for the taxpayer to discuss in advance with the tax authorities the business foreseen activity and to confirm the tax treatment applicable to such an activity.

Even though the Luxembourg Authorities collect a significant amount of VAT, Luxembourg traditionally applies the lowest standard VAT rate within the EU. The current standard rate is 15%. Reduced rates of 3%, 6% or 12% also apply to certain supplies of goods and services.

Incentives

In order to promote foreign investment, Luxembourg provides for a wide range of grants and incentives. In this respect, besides a general tax credit averaging 14% of most capital expenditures, Luxembourg also offers direct grants and incentives in particular to research activities based in Luxembourg. Especially basic research may be subsidized up to 75% of the eligible investments.

Maritime Luxembourg

During the eighties the tiny Luxembourg inland navigation sector expanded its activities towards the seas and the need arose for a maritime legislation. This was achieved through the 1990 Maritime Act. For a landlocked country like Luxembourg, the main purpose of introducing the legislation was to develop a jurisdiction of choice for maritime business and to encourage the development of spin-off activities related to the maritime sector.

Memorandum of understanding with the industry

In order to reconfirm their commitment to pursue common goals of excellence, the Luxembourg Government, represented by the Minister of the Economy and Foreign Trade, has signed a Memorandum of Understanding with representatives of the Luxembourg Shipping Sector in 2005.

The common goals of excellence aim at ensuring full compliance with all relevant and applicable rules and regulations issued by the competent international organisations (European Union, International Maritime Organisation, International Labour Organisation). In particular the following goals were mentioned:

- To increase maritime safety
 - To continue to protect the environment
 - To ensure good working and living conditions of the crew, as this is linked to operational safety and efficiency
 - To develop Luxembourg as a shipping jurisdiction of choice, through a full and sustained cooperation between the local parties
 - To maintain the current social standards and to continue the social dialogue
- To provide easy and quality-oriented access to the Luxembourg Maritime Register, based on a careful and objective risk assessment and the screening of the application files submitted, in accordance with EU rules (This process takes into account all key factors such as the ownership of the vessel, its maintenance record, its Port State Control record, etc.)

While quite a number of the measures proposed by “Round table of the Maritime Sector” have been implemented speedily in 2005 and 2006, this is obviously an on-going process.

Flag State Performance

The objective of the Luxembourg authorities is to maintain a quality fleet and to offer a quality service for the users of the maritime administration’s services: the administration has decided years ago to publish its policy statement on the web. <http://www.cam.etat.lu/fr/pdf/commerce/MQ042007.pdf>.

The issues and standards that a Flag State has to deal with are mainly a result of international conventions. Luxembourg nevertheless applies a comprehensive approach when adopting its working procedures and tries to limit the burden of national requirements wherever possible.

The maritime administration is one of the few administrations that maintain a quality management system leading to ISO 9001: 2000 certification.

Luxembourg has participated to the IMO Flag State audit scheme (self assessment form) in July 2000 and is a volunteer for the new audit scheme.

In 2002 the Luxembourg fleet ranked between the first ten countries to benefit from the American Qualship 21 label. Luxembourg is also on the White List of the Paris MOU.

In 2004 and 2005 the maritime administration was the only public administration to participate in a national quality management competition and to obtain a distinction each time. (<http://www.cam.etat.lu/fr/PLQ.htm>)

The administration continues its efforts of benchmarking with best practice and actively participates in the national e-government program promoting the use of online procedures.

The Luxembourg Maritime Company

Setting up a shipping company

The Maritime Act of 1994 applicable to Luxembourg Shipping companies defines the latter as any person or legal entity whether of Luxembourg or foreign nationality, which undertakes the following activities: “the buying and selling, the chartering in and chartering out as well as the management of seagoing ships, and the financial and commercial operations that relate directly or indirectly to such activities”.

The regime does not limit in any way the choice of the legal form of the company, which can be set up within the framework of the Company Act of 1915 as amended (even if in practice most shipping companies incorporated are joint-stock companies).

Incorporation

The incorporation is undertaken before a Luxembourg public notary. It comprises a single document: the company's articles of association. Notaries will require a proof that the subscribed and paid-up capital is freely at the disposal of the new company. In practice, he will require a certificate of deposit from the company's bank. The company capital may be expressed in any currency, including the EURO. The minimum capital amounts to EUR 12.500 for a S.à r.l. (equivalent to a UK Ltd company) and EUR 31.000 for a S.A. (equivalent to the UK PLC)

Accreditation of the Shipping company

A Shipping license will be granted by the Minister in charge of the Maritime Affairs, currently the Minister of Economy and Foreign Trade.

Any shipping company seeking a shipping licence must comply with the following requirements:

- The shipping company must secure the services of a person or legal entity capable of fulfilling the duties of the company's shipping manager (hereafter “dirigeant maritime”) or representative,
- The shipping company must issue a clear power of attorney stating the powers of the dirigeant maritime,
- The shipping company must supply to the Ministry all the required documents and information (articles of association, details on the shipping manager, name of the company's external auditor, place where the company accounting is kept). For further details, please refer to the following website <http://www.eco.public.lu/ministere/index.html>

Accreditation of the “Dirigeant Maritime”

In order to fulfil the role of a dirigeant maritime, the person or legal entity must be accredited by the Minister in charge of the Maritime Affairs. His exact functions within the shipping company must be defined by contract.

Any shipping manager must fulfil the following conditions:

- he must provide satisfactory evidence of personal probity and professional experience,
- he must elect his professional residency in Luxembourg,
- he must possess a clear power of attorney stating his duties and responsibilities.

A shipping manager may be appointed to manage several shipping companies. (Application forms are available at http://www.cam.etat.lu/fr/c_registre_formulaires.htm).

Company Taxation

Income tax

A Luxembourg shipping company is subject to tax on its worldwide income. Corporate income tax rate ranges from 20% to 22% depending on the income level. In addition, a surcharge of 4% is payable to the unemployment fund. The effective tax rate thus amounts to 22,88%. This is the final tax rate as Luxembourg shipping companies are not subject to municipal business tax on qualifying income.

Taxable income is based on the annual financial statements prepared in accordance with generally accepted accounting principles, as adjusted for Luxembourg tax purposes. All expenses incurred by the company for the purposes of its business are deductible, unless the expenses relate to exempt income. Typical non-deductible items of expenditure include taxes, fees paid to directors or other persons for supervisory services, certain gifts and fines. Losses can be carried forward without limitation.

Depreciation of vessels

Depreciation is based on the useful life of the vessel; Luxembourg income tax law provides for two types of depreciation:

- Linear depreciation: for a vessel whose useful life is 12 years, the depreciation will amount to 8,33% of the purchase price per year.
- Accelerated depreciation: the depreciation could be accelerated to three times the linear depreciation rate without exceeding 30%. Therefore, for a ship with a useful life of 12 years, the initial depreciation could be increased to 25%.

Roll over of capital gains on the sale of vessels

Capital gains realized on the disposal of a qualifying vessel will be subject to tax at standard rate (i.e. 22,88%). However, Luxembourg tax law allows for a Luxembourg shipping company to neutralize a capital gain realized on ships operated in international traffic by transferring it to the assets acquired with the proceeds of the sale. The neutralization of the gain is subject to the condition that the company has held the vessel for at least five years before selling her.

The gain will reduce the tax value of the newly acquired assets. As a result the capital gain will be increased by the present gain rolled over. In addition, tax depreciation of the annual asset will be reduced. For sale proceeds not reinvested immediately, the gain may be kept on the books and taxation deferred for two years at the level of the Luxembourg shipping company.

Reinvestments do not necessarily need to be realized in similar assets as those sold. Indeed, the new investment could be realized in any kind of fixed assets such as ships, shareholdings, real estate, etc.

Large-repair and maintenance work on ships

In principle, provisions for losses or debts recorded by a Luxembourg company are only deductible, if they are determined precisely and relate to the expenses occurred in the year in which they are constituted. In the case of a Luxembourg shipping company however, Luxembourg tax authorities usually accept that reasonable provisions concerning large scale repair and maintenance work on ships are deductible in the year they are booked.

Net worth tax

Luxembourg Net worth tax is levied annually at a rate of 0,5% on the adjusted net asset value of Luxembourg resident companies. This tax is not deductible from the corporate income tax.

The tax base of the company (unitary value) could be defined as the difference between the assets of the company and its third party debt. The third-party debt includes the provisions recorded by the Luxembourg shipping company and in particular the provision for large-scale repairs and maintenance work on ships.

However, the Net worth tax due may be reduced by a tax credit through the creation of a special five-year reserve, provided certain conditions are met.

Indirect tax (VAT)

In principle, supplies of goods and services in relation to seagoing vessels effectively used for transport, industrial or commercial activities are exempt from VAT.

Even in the event that the conditions for the application of an exemption are not met, Luxembourg remains a friendly place to do business as it offers the lowest VAT rates in the EU. (15%)

Capital duty

At incorporation and during each subsequent increase in capital, capital duty computed at the rate of 0,5% of the value of the assets contributed is due. The tax is due on the subscribed capital, share premium (if any) and on any subsequent capital increase, except in the case of capital increases realized by transferring free reserves to the capital account.

Based on a EU Directive proposal, capital duty should be completely abolished by 2012 at the latest. Certain intra-EU transactions already benefit from capital duty relief. In particular two types of operations – asset mergers and share mergers – are exempt from capital duty under certain conditions.

Company taxation continued

Investment credit

Luxembourg income tax law provides for two specific incentives for investments in tangible assets put to use in Luxembourg. They are referred to as global investment tax credit (“Bonification d’impôt pour investissement global”) and complementary investment tax credit (“bonification d’impôt pour investissement complémentaire”).

Both incentives take the form of a tax credit to be offset against Luxembourg corporate income tax. The investment tax credit not used during a given year can be carried forward for 10 years. Investment tax credit cannot be offset against Luxembourg municipal business tax. This however is irrelevant for Luxembourg shipping companies as they are not subject to the municipal business tax on their qualifying income.

Eligible persons

In principle, the investment tax credit is granted to Luxembourg companies that invest in tangible assets. However for leasing transactions, Luxembourg tax authorities have issued guidance determining under which conditions a lessee or a lessor may be authorized to benefit of the investment tax credit in lieu of the legal owner.

Eligible goods

In order to be eligible for the incentives, the investment must meet the following conditions:

- Investment should be in tangible assets which are depreciated over at least three years;

- The asset must be new; however, this condition must not be fulfilled in the case of shipping vessels used in international traffic, as long as the taxpayer can demonstrate that the vessel has not benefited from the investment tax credit in the past.
- The investment must be physically operated in Luxembourg. Here again, the condition does not apply in case of an investment in shipping vessels operated in international traffic.

Computation of the grant

The base for the computation of the complementary investment tax credit for a given year is the difference between the book value of eligible assets at the end of the year and the average of the book value of eligible assets over the five preceding years. This difference is increased by the amounts of the depreciation on eligible assets acquired during the same year. The tax credit amounts to 12% of this figure.

The global investment tax credit is based on the acquisition price of the eligible assets acquired during the year for which the tax credit is applied for. The tax credit amounts to 6% of the first EUR 150.000 and to 2% on the exceeding balance.

As a result, a Luxembourg company that acquires a ship will be entitled to benefit from a tax credit amounting to more or less 14% of the acquisition price of the ship.

Example

We assume that Luxco is a Luxembourg shipping company formed in 2008 that has acquired a vessel in early 2008 for an acquisition price of

EUR 120.000.000. The depreciation for the first year (December 31st, 2008) is EUR 9.600.000 (i.e. 8% per year of the acquisition price).

The investment tax credit as at December 31st, 2008 will be determined as follows:

Complementary tax credit

Net book value of the vessel	110.400.000
Average book value of the 5 preceding years (min. EUR 1850)	(1.850)
Depreciation on acquisition in 2007	9.600.000
Base for complementary tax credit	119.998.150
Tax credit	14.399.778

Global tax credit

Acquisition price of the vessel	120.000.000
Tax credit (EUR 9.000 + EUR 2.397.000)	2.406.000
Total Investment tax credit	16.805.778

The amount of EUR 16.805.778 can be credited against the Luxembourg corporate income tax due by Luxco for 2008. If the corporate income tax of Luxco is less than EUR 16.805.778, the non-used tax credit may be carried forward for 10 years.

Taxation of investors

Dividend withholding tax

Under Luxembourg law, dividends distributed by a Luxembourg company are subject to dividend withholding tax at a rate of 15% of the gross amount of the dividend. The withholding tax could be reduced by the tax treaties signed by Luxembourg.

In addition, no withholding tax on dividends is imposed under the following conditions:

- the distributing company must be a fully taxable company resident in Luxembourg;
- the recipient is one of the following:
 - a resident capital company fully subject to tax;
 - an undertaking which is resident in another EU state and is mentioned in the Article 2 of the EC Parent-Subsidiary directive; or
 - a Luxembourg permanent establishment of a company resident in a state with which Luxembourg has entered into a double tax treaty;
- the recipient must, at the date of payment of the dividends, directly hold the participation during a continuous period of 12 months. The 12-month period does not need to be completed at the time of the distribution of the dividends if the recipient commits itself to hold the participation for the required period;
- the recipient must hold, during all the holding period, a participation of at least 10% of the share capital of the distributing company. The condition will be also fulfilled if the purchase price of the participation has amounted to at least EUR 1.200.000.

Interest withholding tax

Interest paid by a Luxembourg company to a corporation is not subject to withholding tax except for certain profit participating instruments. The same applies for individuals that are not resident in an EU or EU affiliated country.

Interest paid by a Luxembourg company to an individual resident in a EU or EU affiliated country may be subject to withholding tax in Luxembourg in case the conditions of the EU Savings Directive are fulfilled. In such a case, the withholding tax would be 15% until 2008 and will then be raised to respectively to 20% in 2011 and to 35% in 2014.

No withholding tax will be levied if the beneficiary provides the Luxembourg paying agent with a statement from the tax authorities of its country of residence with the details of the beneficiary, the paying agent and the bank account of the beneficiary.

Royalty withholding tax

Since 2005, Luxembourg does not levy any withholding tax on royalties paid by a Luxembourg company except in the case of payments to artists and sportsmen for performances exercised in Luxembourg.

Capital gains on the sale of shares

Capital gains realized by a non-resident on the sale of an important participation in a Luxembourg company (i.e. representing at least 10% of its share capital) are in most cases not subject to tax in Luxembourg.

Luxembourg Ship Registry

At the end of 2006, 143 ships were registered in Luxembourg. It is a diversified fleet with an emphasis on Commercial Cruising Vessels (Commercial Mega Yachts). As a matter of fact Luxembourg was a pioneer in that sector when it developed its technical code for that category of vessels in 1993. Today a number of Luxembourg based companies offer full management services for those types of vessels. Although the maritime sector is quite young in Luxembourg, a number of banks, accounting firms and lawyers with long standing traditions and an international background are prepared today to offer dedicated services to the maritime industry.

Eligibility

All ships of at least 25 tons and less than 15 years old which are carrying out commercial shipping activities can be registered in Luxembourg.

The Minister may grant an exception to the age limit, provided that the ship has undergone significant design changes and on condition that it conforms to the standards applicable to new ships, as laid down in the international conventions to which Luxembourg is a party.

Ownership

The law requires that these ships are more than 50% owned by EU nationals or by commercial companies that have their registered seat within the EU.

In practice certain non resident ship-owners chose to register their vessels directly in the name of a foreign EU company. In which case, they chose an authorized representative to carry out a number of commercial, technical or administrative functions.

Most commonly however, the ship-owner sets up a Luxembourg corporate entity (Maritime Company) which is then granted a license from the Minister of the Economy and Foreign Trade.

Types of registration

In order to fulfil the complex and ever changing needs of the shipping industry, Luxembourg has introduced a flexible legal regime.

For example, it is very possible for a Luxembourg shipping company to own vessels that are neither registered nor flagged in Luxembourg. At the same time a Luxembourg registered or flagged ship not necessarily needs to be owned by a Luxembourg company.

Furthermore, a Luxembourg registered ship can well be flagged in a foreign jurisdiction under certain circumstances.

A provisional certificate of registration valid for a maximum of one year may be issued for a ship that is still under construction, or in cases where it has not been possible to supply all the information required by the application of registration. Nevertheless it is to be understood that the ownership structure of the vessel has to be clearly documented.

The Luxembourg Register allows full registration as well as bareboat in or bareboat out registration. The applicable forms indicate the information and documents that need to be provided. (http://www.cam.etat.lu/fr/c_registre_formulaires.htm).

An operator may also apply for full registration in his own name, of a vessel owned by a third party, provided that he has been expressly authorized to do so by the owner of the vessel and provided that he is willing to accept responsibility for the ship and for her crew in accordance with the provisions of Luxembourg Law and on the same terms and in the same manner as the owner of the ship would have, if the vessel had been registered in the owner's name.

Certification of Ships

Although Luxembourg has its own network of Flag State inspectors, certification of Ships has been delegated to the following Classification Societies: ABS, BV, DNV, GL, LR, NKK, RINA.

The following certificates and documents are issued by the Maritime Administration itself:

- Registration certificate
- Registration cancellation certificate
- CLC certificate
- CSR certificate
- Document of Safe Manning
- Exemptions

Mortgages

The law applicable to mortgages and maritime liens, was introduced in 1990 and is largely inspired by the Belgian framework. The Belgian system was praised at

the time as best meeting the needs of a modern shipping industry.

For instance all acts of conveyance or transfer inter vivos of a ship, or a ship under construction, whether in return for a consideration or otherwise, are exempt from all pro rata transfer and registration fees.

Furthermore the recording of maritime mortgages are also exempt, save for a nominal amount which goes towards the salary of the registrar of mortgages.

The legal regime of mortgages and liens is described in detail in Title 1 Chapter 2 of the Maritime Act. (http://www.cam.etat.lu/fr/pdf/commerce/01_02_loi091190_registre_conventions.pdf)

The Maritime Administration issues a Safe Manning Document. The procedure leading to the issuance of such a certificate is part of the registration procedure. The application has to take into account the guidance set out in IMO Resolution A.890 (21) as amended by IMO Resolution A.955 (23) as well as the requirements laid down in the STCW Convention and the European directive 1999/95/CE on hours of work or rest.

Registration costs

Certain registration fees are due upon registration for commercial purposes. For further information please consult the web page <http://www.aed.public.lu/>

The Crew

Social aspects

Seamen's Employment Rights are defined in the Maritime Act of 1990. Furthermore Luxembourg has ratified all major ILO Conventions (see annex: conventions)

The Law lays down the seamen's rights and obligations, their repatriation if necessary, and compensation for sickness and injuries. Special provisions apply to the Master.

While no conditions as to the nationality of the crew members need to be fulfilled, the Master must be a national of an EU Member State. The Minister may grant derogations. Most Luxembourg flagged ships benefit from a collective bargaining agreement.

A social security cover must be provided to all crew members. According to bilateral and multilateral agreements concluded by Luxembourg as well as according to EC Regulation 1408/71, three regimes exist: affiliation of the seafarer to the Luxembourg national regime, affiliation to the seafarer's home country regime or a private cover.

Officers and ratings who serve on board a Luxembourg flagged ship are not required to hold a certificate of competency issued by the Luxembourg authorities, however they must hold valid foreign certificates of competency. The Luxembourg authorities will issue a Luxembourg endorsement of the certificates of competency in accordance with the STCW convention for the officers.

All seafarers must undergo a medical check before boarding. Evidence of the medical check must be documented prior to the issue of a seaman's book that each seafarer has to bear. Sea service of the seafarer is documented in the seaman's book. Entries are made by the Master.

Crew taxation

Luxembourg resident seamen are subject to the common Luxembourg taxation regime for individuals. The Luxembourg shipping company has to withhold payroll tax and social security contributions on each salary payment.

Luxembourg income tax rates for individuals are progressive. They vary from 0% up to 38%. A 2,5% surcharge for the unemployment fund applies so that the maximum marginal income tax rate amounts to 38,95%. Luxembourg income tax liability is based on the individual's personal circumstances. In this respect, individuals are divided into tax classes.

The payroll on which Luxembourg social security contributions are computed, is capped at EUR 90.205,44 for 2006.

Luxembourg law provides for a lump sum taxation of non-resident seafarers that are employed by a Luxembourg shipping company in international traffic.

The Luxembourg shipping company is obliged to withhold payroll tax on each salary payment. The taxation takes the form of a final withholding tax of 10% computed on the basis of 90% of the underlying wage less a lump sum allowance of EUR 1.800 per month (EUR 72 per day). No further deduction is allowed.

The withholding tax is definitive. This implies that no further tax return can or should be filed by the non-resident seaman.

Non-resident seamen residing in a country with which Luxembourg has concluded a social security agreement must be affiliated with the Luxembourg social security system. Otherwise, the Luxembourg shipping company has to evidence that the seaman is covered either by a private insurance scheme or by an equivalent social security system in his country of residence.

Investment vehicles

The pace of change in the present economy is ever increasing. This also concerns the shipping industry, where different types of investors are now active.

In the past, the sector was dominated by closely held, family businesses. Now you will also find institutional investors, as well as quoted companies or even investment funds present in the market.

Different types of investors imply different needs in terms of legal, financial and fiscal framework.

Luxembourg has recognized this and seeks to provide the appropriate investment vehicle or structure to each type of investor.

For instance the **SOPARFI** is a fully taxable entity which benefits from the Luxembourg participation exemption, double tax treaties concluded by Luxembourg and the parent-subsidiary directive. This implies that most dividends and capital gains are exempt from tax in Luxembourg and withholding tax rates on foreign dividends paid to the Soparfi tend also to be low. The Soparfi is often used for holding and financing activities.

The **SICAR** (société d'investissement en capital à risque) is aimed at the private equity type investor who may wish to acquire and develop a shipping venture or company and was created in 2004. The Sicar may also benefit from the double tax treaties signed by Luxembourg as well as the parent-subsidiary directive. The SICAR is subject to prior approval by the Luxembourg Commission for the Supervision of the Financial Sector (Commission de Surveillance du Secteur Financier - CSSF).

The **SPF** is a Holding company with a privileged tax regime whose sole purpose is the passive holding of shares or other investments. The SPF may not take advantage of most of the double tax treaties signed by Luxembourg. This type of

vehicle may be of interest to a family owned business either as a holding vehicle or a vehicle which is used to diversify the proceeds of the shipping business into other industries or financial instruments.

The **SIF** is designed to be a classical investment fund that collects monies from a closed circle of experienced investors. The tax regime is the same as any other Luxembourg investment fund, (the subscription tax rate is however reduced to 0,01%) however the regulation by the CSSF is much lighter and thus less onerous. This fund may be used to hold interests in the shipping industry on behalf of a family or a limited number of joint-venture partners.

The Investment Fund (Undertaking for collective investments) is a generic name for an **FCP** "Fonds commun de placement" (common fund), a **SICAV** or a SICAF (investment company with variable or fixed capital). These entities must be authorized by the CSSF, but are subject to a very favourable tax regime in Luxembourg. Whereas FCPs generally may not take advantage of the double tax treaties signed by Luxembourg since they are considered as tax transparent, the question of treaty application towards SICAVs and SICAFs is in most cases solved via mutual agreements between the authorities of the contracting States. This vehicle may be used to attract funds from smaller investors who wish to diversify their savings. This vehicle has most recently been used by Bank Sal. Oppenheim jr. & Cie (Luxembourg) S.A. and Lloyd Fonds AG in Hamburg, in order to set up a SICAV that will dispose of a diversified portfolio of merchant ships of different classes.

Last but not least the **Securitization Vehicle** may be used to acquire or assume either directly or indirectly risks attached to claims, other assets or commitments that were assumed by third parties. The law is a well-balanced compromise between a maximum of flexibility on behalf of the securitization vehicle and a high degree of investor protection, whilst at the same time providing for a neutral tax environment.

SPF (Private Asset Management)

Luxembourg has introduced a new investment vehicle for private wealth investment aiming at replacing the former 1929 holding.

The SPF may perform private wealth management activities only. Any commercial activity is prohibited. The SPFs may hold any kind of financial instruments; e.g. shares in companies, other securities equivalent to shares/units in companies, undertakings for collective investment, bonds and other forms of debt instruments as well as cash and assets of any kind held in a bank account. The SPF may hold shares and voting rights in other companies, but only to the extent the SPF does not involve itself in the management of these companies. The SPF is not allowed to grant interest bearing loans to companies in which the SPF holds a participation.

Main legal and regulatory requirements

Eligible investors

Eligible investors are the following:

- a. individuals managing their private wealth, or
- b. private wealth management entities acting for one or several individuals, or
- c. intermediaries acting on behalf of a. or b.

Due to its “private” nature, the number of investors into one SPF should be rather limited and could be composed of a family or an investors club or any other group willing to manage all or part of their private wealth in common. Finally the shares of the SPF cannot be used for public placement and cannot be quoted on a stock exchange.

Tax regime of SPF

The SPF is exempt from corporate income tax, municipal business tax and net worth tax. It is also exempt from Luxembourg withholding tax on distributions. The SPF nevertheless is subject to a subscription tax of 0,25% on its net asset value. This tax cannot exceed EUR 125.000 per year.

Income from financial assets is therefore exempt at the level of the SPF but may be taxed once the income is distributed to the private investor in the country of residence of the investor. The SPF is furthermore subject to capital duty at a rate of 0,5% upon incorporation and any subsequent capital increase.

Gains realized by non-residents upon the sale of a participation in a SPF, either upon sale or upon liquidation of the company will not be subject to tax in Luxembourg. Given its tax regime, the SPF will not be able to benefit from the double tax treaties concluded by Luxembourg.

The SPF may not derive more than 5% of the total dividend income it receives during a given year from participations in non-resident non listed companies that are not subject to an income tax similar to Luxembourg corporate income tax (i.e. subject to an effective rate of less than half the rate of the Luxembourg corporate income tax of currently 22%, i.e. 11%).

SOPARFI

The term Soparfi is generally used as a term of art rather than a precise legal concept to describe a fully taxable company whose primary activity is holding and/or financing. Based on practice, the Soparfi can be defined as a fully taxable Luxembourg resident company that takes advantage of the participation exemption and that may benefit from Double tax treaties signed by Luxembourg as well as the provisions of the European Parent-Subsidiary Directive.

In order to be considered as a fully taxable Luxembourg company, the SOPARFI has either to have its registered seat or its place of effective management in Luxembourg.

Regulatory requirements

The Soparfi is not subject to any prudential control. It may be incorporated under one of the legal forms available in Luxembourg Company law and to be considered as non-transparent (“opaque”) for Luxembourg tax purposes, that is “société anonyme” (Public limited company), “société à responsabilité limitée” (Private limited company), “société en commandite par actions” (Partnership limited by shares – “SCA”) or “société coopérative” (“SC”).

Income taxes

The Soparfi is liable to Luxembourg income tax at a standard rate of 23,63% (corporate income tax of 22,88% and municipal business tax of 6,75% for Luxembourg city). Dividends, liquidation proceeds and capital gains can however be exempt under certain conditions.

Participation exemption

Dividends and liquidation proceeds received by a Luxembourg company are exempt from corporate taxes if the following conditions are met:

- The parent company is a fully taxable Luxembourg resident company. It can also be a Luxembourg permanent establishment of a foreign entity if this entity is either an EU undertaking within the scope of Article 2 of the EU Parent-Subsidiary Directive or a company resident in a treaty country.

The beneficiary may hold its participation through a transparent entity. The underlying shareholding will be then valued according to the proportion held by the recipient in the net assets invested in the transparent entity.

- The subsidiary is one of the following:
 - a resident capital company fully subject to tax;
 - an undertaking, which is resident in another EU state and is mentioned in the Article 2 of the EC Parent-Subsidiary directive; or
 - a non resident company limited by shares, which is subject to a tax similar to Luxembourg income tax in its country of residence. This condition is deemed to be met if the foreign subsidiary is subject to an income tax of at least 11% and if the subsidiary's taxable base is computed in a manner that is similar to the methods used in Luxembourg.
- The parent company owns at least 10% of the share capital of the distributing company or the shares were acquired for at least EUR 1.2 million.
- The parent company holds its participation in the distributing company for at least 12 months. The 12-month period needs not to be completed at the time of the distribution if the recipient commits itself to hold the participation for the required period.

Expenses in direct economic connection with the dividend in that year (for example, interest expenses that relate to the financing of the shareholding) will not be deductible, up to the amount of dividends received. There are also special rules relating to write-downs linked to exempt dividends.

Capital gains exemption

Capital gains realized upon the disposal of shareholdings are exempt from corporate income taxes, provided that:

- the subsidiary whose shares are disposed of and the seller meet the same conditions as for the dividend exemption; and
- at the date of the disposal, the seller has held, or commits itself to hold, for an uninterrupted period of 12 months, a shareholding that amounts to either 10% of the shares issued by the company or an acquisition cost of at least EUR 6 million.

Notwithstanding what is mentioned above, capital gains realized upon disposal of a participation are subject to a recapture rule according to which capital gains will remain subject to tax up to the sum of all related expenses that were deducted for tax purposes in the year of disposal or in previous financial years (for example, interest expenses on loans contracted to purchase the shares and write-downs of the shareholding).

Net Worth Tax

Net worth tax is levied annually at 0,5% of the adjusted net asset value of a corporation as at January 1st of each year. Broadly, the net asset value is calculated as assets less third party liabilities and corresponds to net equity. The net worth tax due may be reduced by a tax credit through the creation of a special five-year reserve, provided certain conditions are met.

Important participations held by a Luxembourg company are exempt from net worth tax if the following conditions are met:

- The parent company is a fully taxable Luxembourg resident company. It can also be a Luxembourg permanent establishment of a foreign entity if this entity is either an EU resident company within the scope of Article 2 of the EU Parent-Subsidiary Directive or a company resident in a treaty country.

The parent company may hold its participation through a transparent entity. The underlying shareholding will be then valued according to the proportion held by the recipient in the net assets invested in the transparent entity.

- The subsidiary is one of the following:
 - a resident capital company fully subject to tax;
 - an undertaking, which is resident in another EU state and is mentioned in the Article 2 of the EC Parent-Subsidiary directive; or
 - a non resident company limited by shares, which is subject to a tax similar to Luxembourg income tax in its country of residence. This condition is deemed to be met if the foreign subsidiary is subject to an income tax of at least 11% and if the subsidiary's taxable base is computed in a manner that is similar to the methods used in Luxembourg.
- The parent company owns at least 10% of the share capital of the distributing company or the shares were acquired for at least EUR 1.2 million.

Capital Duty

The Soparfi is subject to capital duty at a rate of 0,5% upon incorporation and any subsequent capital increase.

SICAR

The Luxembourg SICAR may be defined as a vehicle, whose object is to invest in securities representing risk capital with the potential of a high yield for the investors.

Legal and regulatory requirements

In order to be considered a SICAR within the meaning of the Luxembourg law, the entity should fulfill the four following conditions:

- it is set up with a share capital of at least EUR 1 million under the form of a limited partnership (*société en commandite simple*), a partnership limited by shares (*société en commandite par actions*), a cooperative in the form of a public limited company (*société coopérative organisée sous forme de société anonyme*), a limited company (*société à responsabilité limitée*) or a public limited company (*société anonyme*);
- its purpose is to invest in securities representing risk capital in order to provide its investors with the benefit of the result of the management of its assets in consideration for the risk borne; Luxembourg law defines risk capital as the “direct or indirect contribution of funds to entities in view of their launch, development or listing on a stock exchange”. According to the Luxembourg regulatory authority (CSSF), the SICAR should demonstrate the existence of a risk and the intention to develop the target companies in which the SICAR will invest.
- securities issued by the SICAR should be reserved to well-informed investors, i.e. broadly speaking institutional investors, professional investors and

any other investor who has confirmed in writing that he adheres to the status of well-informed investor, and invests a minimum of 125.000 EUR in the company. The latter minimum investment condition may be waived if the investor can evidence his expertise, experience and knowledge in adequately appraising an investment in risk capital.

- its articles of incorporation explicitly provide that it is subject to the provisions of the Luxembourg law on the SICAR.

The SICAR is supervised by the CSSF and thus subject to prior authorization by the CSSF. Its directors/managers must comply with certain requirements. The SICAR must appoint an independent auditor and a depositary bank.

Income taxes

The income tax treatment of the SICAR depends on the legal form under which it has been incorporated. The SICAR will be considered as a transparent entity for tax purposes if it is incorporated under the form of limited partnership (*société en commandite simple*). In such a case, the income of the SICAR is taxed at the level of its investors.

It will be treated as non-transparent (i.e. liable to corporate income tax) if it takes the legal form of a partnership limited by shares, a cooperative in the form of a public limited company, a limited company or a public limited company. In such a case, its income is in principle subject to tax in Luxembourg at the standard rate (i.e. 29,63% for Luxembourg city).

Income from transferable securities

The SICAR benefits from an exemption from corporate income tax on income arising from transferable securities (valeurs mobilières) as well as on income arising from the sale, contribution or liquidation of these assets. This mainly includes dividends, interest and capital gains.

In addition, the exemption is extended to income arising from funds held for a period of twelve months pending their investment in risk capital. For this purpose, it must be proven that the funds have been subsequently invested in risk capital.

Treaty access

Corporate SICARs are in principle entitled to benefit from double tax treaties concluded by Luxembourg. Therefore, withholding tax, if any, on income generated by the target company could be reduced in accordance with the double tax treaty between Luxembourg and the country of residence of the target company from which the income is derived.

In principle, based on the EU Parent-Subsidiary Directive, no withholding tax should be levied on dividend distributed by EU target companies to the SICAR.

Net worth tax

The corporate SICAR is exempt from net worth tax. The limited partnership SICAR is considered as a transparent entity whose net assets are deemed to be directly owned by its shareholders. As a result, it is not subject to net worth tax.

In addition, SICARs are not subject to any subscription tax.

VAT

Based on the VAT Law, the management of undertakings for collective investment ("UCI"), including SICAR, subject to the supervision of the CSSF is exempt.

Capital duty

Contributions made to a SICAR at the time of its incorporation or further to any capital increase are subject to capital duty (droit d'apport) at a fixed maximum amount of EUR 1.250.

SIF (Specialized Investment Fund)

The Specialized Investment Fund was introduced on February 13th 2007. This new fund replaces the previous institutional investor funds so as to introduce more flexibility and to extend the concept of eligible investors to professional investors and well-informed investors.

The SIFs can be implemented in contractual form (as a Fonds Commun de Placement, “FCP”) or in corporate form (as a Société d’Investissement à Capital variable, “SICAV” or as a Société d’Investissement à Capital Fixe, “SICAF”).

A SIF may be an umbrella fund and must have its depositary and central administration located in Luxembourg.

Furthermore, a SIF must have its accounts audited by an independent auditor and is subject to the supervision of the CSSF.

A SIFs is however reserved to sophisticated investors, less investor protection is necessary and SIFs will enjoy as a result more flexibility compared to other regulated funds in respect of the rules applicable to investment restrictions, company law, reporting rules, etc.

Main legal and regulatory requirements

Eligible investors

The following investors qualify:

- professional investors within the meaning of Directive 2004/39 on markets in financial instruments (mainly banks, Investment Companies with the European Passport, Management Companies of UCITS) and;
- other well-informed investors who either:
 - invest a minimum of 125.000 EUR or
 - have an assessment of a credit institution or another professional of the financial sector certifying their capability to appraise the

contemplated investment and the risk thereof. This means that sophisticated retail or private investors will also be allowed to invest into these funds and therefore benefit from their attractive tax regime. This concept of well-informed investors is to a large extent inspired by the SICAR legislation.

No restrictions regarding eligible assets

SIFs may invest in any type of assets and may therefore be used for any type of funds, such as transferable securities funds, real estate funds, private equity funds, hedge funds, funds investing in claims, money market funds, funds of funds, etc...

Risk spreading rules

As with any other UCIs (Undertakings of Collective Investment), SIFs will be required to diversify their investments. However no quantitative limits are set by law, thus it will be up to the founders of the SIF to set appropriate diversification rules, which will then be approved by the CSSF.

Flexible equity structure

The EUR 1.25 Mio minimum share capital will need to be reached within 12 months. For determining this amount, reference will be made to the subscribed share capital and also to the share premium (except for FCPs, where reference will be made to the net assets).

Legal form

SIFs incorporated as SICAV will not be required to have the legal form of a public limited liability company (“société anonyme”) but could also be incorporated as a partnership limited by shares (“société en commandite par actions”) or a private limited liability company (“société à responsabilité

limitée”) or a cooperative organized under the form of a public limited liability company (“société coopérative organisée sous la forme d’une société anonyme”).

Flexibility in terms of share acquisition/redemption

Rules governing the issue and redemption of shares are more relaxed compared to the ones usually applicable to investment funds. In this respect, the management regulations/bylaws of the SIFs determine which rules will apply. In particular, the issue and repurchase at value other than NAV (Net Asset Value) is allowed.

No need to appoint a promoter

SIFs do not need to be set up by an institutional promoter.

Flexible valuation rules

SIFs have to value their assets at fair market value. The management regulations or bylaws will determine how this value will be computed. The SIFs documents can for example also make reference to the recommendations made by professional associations (EVCA, RICS, etc).

Light reporting requirements

The rules governing publication will be lighter: there will be no requirement to publish a semi-annual financial report. Audited annual reports will need to be prepared within 6 months following the end of the respective financial period (4 months for other funds). There will be no requirement to prepare consolidated accounts. Finally, SIFs will not automatically be required to produce a long form report.

Flexible approval process

A SIF will be able to start its activity without CSSF approval, provided the request for authorization is filed in the month following the set up of the fund. This will make Luxembourg

very attractive compared to other jurisdictions, as the long approval process is often an obstacle for investors wishing to invest via a regulated fund. Launching a fund, prior to approval being obtained, needs to be done in the knowledge that the CSSF could require changes to the constitutional documents or could even refuse to approve the fund. Thus the launch process needs to be carefully handled.

Tax

SIFs will be subject to the following tax regime:

- a SIF will be subject to a 0,01% subscription tax on its Net Asset Value except for:
 - investments in other Luxembourg UCIs which have already been subject to subscription tax;
 - institutional cash UCIs;
- they are exempt from income taxes on income and gains;
- they are subject to a fixed amount of capital duty limited to 1.250 EUR on contributions;
- they are exempt from withholding taxes on distributions.

The scope of a specific VAT exemption, which applies to the management of investment funds subject to the supervision of the CSSF, will be extended to the management of SIFs. Under the current practice, management services rendered directly to investment funds are VAT exempt. Under certain conditions, services outsourced by management companies are also VAT exempt.

SIFs have access to 26 out of 51 double tax treaties in force in Luxembourg and only to the extent they are set up as SICAVs or SICAFs. SIFs set up as FCPs are considered as tax transparent and do generally not benefit from the double tax treaties.

UCI

A UCI is a collective investment of funds raised from the public for the purpose of investing these funds according to the principle of diversification of risks.

Luxembourg UCITS are the sub-category of funds that fulfill the requirements of European Union regulations and that thus are allowed to be offered freely throughout the EU on the basis of a single authorization from one member state.

Legal aspects

A Luxembourg UCI may be established under three different basic legal structures. In addition, such legal structures may take the form of a single fund or an umbrella fund.

- “Fonds commun de placement” – FCP: It is a co-propriatorship whose joint owners are only liable up to the amount they have contributed. It has no legal personality and must be managed by a Luxembourg management company.
- “Société d’investissement à capital variable” – SICAV: A SICAV is a limited company whose capital is always equal to the value of its net assets. No formalities are required for increases and decreases in capital. Although it is a legal entity, a UCITS investment company subject to the 2002 Law, must either appoint an approved management company or designate itself as a self-managed investment company (except for UCITS).
- Other investment vehicles: UCIs may also be established in other forms, such as SICAF (Fixed capital investment companies)

Regulatory aspects

All UCIs setting up in Luxembourg must obtain prior authorization from the supervisor, the Luxembourg regulatory authority (CSSF).

The approval is made on the basis of draft documents and information issued by the company and in particular the prospectus.

Tax aspects

Luxembourg SICAVs are exempt from corporate income tax, municipal business tax and net worth tax. There is no stamp duty in Luxembourg on share issues or transfers.

Luxembourg FCP are considered as transparent for Luxembourg tax purposes so that their income is taxed at the level of their investors.

However, both type of funds are subject to an annual subscription tax of 0.05%, that is payable and calculated quarterly, based on the total net asset value of the UCI on the last day of every calendar quarter.

A fixed capital duty of EUR 1.250 is payable by UCIs on incorporation. The capital duty is fixed and does not vary with the number of sub-funds. No further capital duty is payable on subsequent capital increases or on the issuance of new units.

There are no withholding taxes on dividends paid by Luxembourg UCIs except for a possible application of the EU Savings Directive.

Luxembourg funds may however be subject to withholding tax on dividends and interest and to tax on capital gains in the country of origin of their investments.

In principle FCPs will not benefit from reduced withholding tax rates (with, in practice, certain exceptions) unless the unitholders themselves are able to claim the reduced rate under the double

taxation treaty, which, in practice, may be very difficult. A UCI may invest through a subsidiary in order to benefit from a double taxation treaty. Only 26 out of 51 taxation treaties in force in Luxembourg are applicable to Luxembourg funds, but only to the extent they are set up as SICAVs or SICAFs. FCPs do in principle not benefit from the double tax treaties as they are considered as tax transparent.

Securitization vehicle

Securitization can be defined as any financing process by which an entity (originator) transfers one or more assets or risks to a dedicated vehicle (Securitization vehicle) in exchange for cash, the securitization vehicle being financed by the issuance of securities backed by the assets (collateral) transferred and the income generated by those assets.

A securitization transaction commonly involves the following main parties:

- An entity called originator, that transfers risks to a securitization vehicle (as a sale or through any other legal construction);
- In order to finance the transaction, the securitization vehicle issues equity and/or debt securities, which are subscribed by investors (as a private placement or a public offering);
- The cash flows generated by the assets/risks transferred to the securitization vehicle, are redirected to support payments to the investors in the securitization vehicle. In practice, the collection of the income streams is entrusted to a servicing entity (often the originator);

Legal and regulatory requirements

The law in Luxembourg distinguishes between securitization vehicles that have either been set up under the form of a corporation (“securitization company”) or under the form of a fund (“securitization fund”) run by a management company:

- The securitization company must be set up under the legal form of a public limited company (“société anonyme”), a partnership limited by shares (“société en commandite par action”) a

private limited company (“société à responsabilité limitée”) or a cooperative company organised as a public limited company (“société coopérative organisée comme société anonyme”).

- A securitization fund can choose to be governed by the legal regime of fiduciary contract (“fiducie”) or co-ownership (“copropriété”). In both case, the securitization fund would have no legal personality. This entails that it must be managed by a management company.

Only securitization vehicles engaged in the continuous issuance of securities to the public are subject to prior authorization and regulation of the CSSF.

The law provides a high-level of protection against the bankruptcy of all parties involved in a securitization transaction. In particular, rules in relation with the transfer of legal ownership of the underlying assets make it difficult for the liquidators to recover assets that were previously sold to a securitization vehicle.

In the same vein, the law provides for a segregation between the assets of the securitization vehicle and those of the investors. As a result, the obligations of the investors due to the bankruptcy of the securitization vehicle cannot exceed the amount of their investment in the securitization vehicle.

Income taxes

The securitization fund will be considered as a transparent entity for tax purposes. Therefore, its income is taxed at the level of its investors.

Corporate securitization vehicles are subject to tax in Luxembourg at the standard corporate tax rate. In

such a case, its income is in principle subject to tax in Luxembourg at the standard rate (i.e. 29,63% for Luxembourg city).

Commitment to the shareholders

Any commitment to investors, even in the form of dividends, is always considered to be interest expense from a tax point of view. This has the following consequences:

- Distributions of income to investors are fully deductible from the tax base of the securitization company;
- Distributions of income to investors are not subject to Luxembourg withholding tax.

Notwithstanding the recast, a dividend payment should not be subject to withholding tax in accordance with the application of the provisions of the EU tax savings Directive as this income is not covered by the definition of interest as provided by article 4 of the said Directive.

A securitization company is not subject to any debt-to-equity ratio. It is therefore able to issue securities in any form it wishes.

Treaty access

Due to the fact that the company is fully subject to tax, it should be entitled to benefit from the double tax

treaties concluded by Luxembourg. To this effect, Luxembourg tax authorities will issue Luxembourg residence certificates.

Net worth tax

The securitization fund is considered as a transparent entity whose net assets are deemed to be directly owned by its shareholders. As a result, it is not subject to net worth tax. In addition, it is not subject to any subscription tax ("taxe d'abonnement").

The corporate securitization vehicle is exempt from net worth tax ("impôt sur la fortune").

VAT

The securitization law provides that the management of securitization vehicles located in Luxembourg is exempt from VAT.

Capital duty

Contributions made to a securitization vehicle at the time of its incorporation or further to any capital increase are subject to capital duty ("droit d'apport") at a fixed maximum amount of EUR 1.250.

Open Ended Ship fund

Set-up and domiciled in Luxembourg -

The Grand-Duchy of Luxembourg is well known for its very favorable legal and supervisory framework for the launching of investment funds, which enables promoters to permanently develop innovative and new products in a short period of time.

In December 2006, one more very innovative investment fund has been approved by the Luxembourg supervisory authority "Commission de Surveillance du Secteur Financier" (CSSF): LF Open Waters OP SICAV is the first open-ended ship fund worldwide!

The Fund has been set-up as an investment company with variable capital (SICAV) under Part II of the Law of December 20, 2002 on Undertakings for Collective Investment.

The Fund is a cooperation between Bank Sal. Oppenheim jr. & Cie (Luxembourg) S.A. as the Custodian, Oppenheim Pramerica Asset Management S.à.r.l. as the Central Administrator and Lloyd Fonds AG in Hamburg as the Investment Advisor.

The brand new innovation regarding this Fund is the possibility for investors to redeem their shares and to realize capital gains at any time, without long holding periods as this is the case for closed-ended ship funds ("KG-model"). In times of increasing transport demands worldwide (in particular in China and India), the very attractive asset class "ship" is therefore open for short-term investments. In the past, investors which were willing to invest in this asset class had to participate in closed corporate structures, which acquired one ship and which structure was then closed for several years (often more than ten years) during which redemptions were not allowed. The investor's capital was therefore "blocked" during the whole lifetime of such closed-ended ship funds. Furthermore, such investors only

participated in the performance of the given ship held by the closed-ended fund they invested in.

LF Open Waters OP SICAV will dispose of a diversified portfolio of merchant ships of different classes (Handy-size, Panamax etc.) and types (container, tanker etc.). The ships to be acquired shall be used ships (two to three years old), not more than 15 years old. Thus, the Fund reproduces the original business of ship-owning companies. Furthermore, the risk diversification for the Fund will be ensured by investments in ships only through Singapore based shipping companies. Each Singapore company will entirely be held by the Fund and each company will hold only one ship. Not more than 20% of the Fund's net assets will be invested in one Singapore company. Ships will actively be acquired for the Fund and be sold after two or three years. Up to 80 % of the portfolio shall be composed of ships.

Up to 20% of the portfolio shall be held in liquidity. Liquidity accrues from long-term charter agreements for the ships in the portfolio. Ships are true "cash machines" and sufficient liquidity for the Fund in order to serve redemption requests shall be assured. Should such liquidity not be sufficient to encounter very huge redemption requests, one or more ships will be sold through internationally recognized ship brokers like Maersk, Platou and Clarkson. The selling process for a ship takes between seven and ten days, which constitutes the main difference of this type of investment fund compared to open-ended real estate funds. The sale of real estate is not such a transparent and smooth process.

The Fund is open for institutional clients and "well-informed" retail clients. Furthermore, the fee structure for this type of fund is regularly more transparent and lower than for closed-ended ship funds.

STCW

List of countries that are currently recognized for the issue of Luxembourg endorsements.

Austria	Denmark	India	Malta	Slovakia
Australia	Estonia	Indonesia	Netherlands	Slovenia
Belgium	Finland	Ireland	Philippines	Spain
Bulgaria	France	Italy	Poland	Sri Lanka
Canada	Germany	Ivory Coast	Portugal	Sweden
Croatia	Greece	Latvia	Romania	Turkey
Cyprus	Hong Kong	Lithuania	Russia	Ukraine
Czech Republic	Hungary	Madagascar	Singapore	United Kingdom

For countries not mentioned on the list, an endorsement request can be applied if the country is on the IMO white list.

International maritime conventions to which Luxembourg is a party

1) Convention on the International Maritime Organization, 6 March 1948, as amended.

- LDC 1972 and LDC Protocol 1996
- LLMC 76 and LLMC Protocol 96
- Bunker Convention 2001
- AFS 2001

2) International Maritime Organization Conventions (IMO)

- SOLAS 1974, as amended and SOLAS Protocols 1978 and 1988
- COLREG 1972
- MARPOL 73/78, and MARPOL Protocol 1978
- MARPOL Protocol 1997 (Annex VI)
- FAL 1965
- LL 1966 as amended and LL Protocol 1988
- TONNAGE 1969
- CLC Protocol 92
- FIPOL Protocol 92
- PAL 1974 (Athens Convention) and PAL Protocols 1976 and 1990
- STCW 1978 as amended
- SAR 1979

3) United Nations Conventions (UN)

- United Nations Convention on the Law of the Sea, UNCLOS, 1982;
- Agreement relating to the implementation of part XI of the United Nations Convention on the Law of the Sea.

4) Comité Maritime International conventions (CMI)

- International convention for the unification of certain rules of law relating to Collision between vessels and protocol of signature, Brussels, 23 September 1910.

- International convention for the unification of certain rules of law relating to Assistance and salvage at sea and protocol of signature, Brussels, 23 September 1910.
- International convention for the unification of certain rules of law relating to Bills of lading and protocol of signature "Hague Rules 1924", Brussels, 25 August 1924.
- Protocol to amend the International Convention for the unification of certain rules of law relating to bills of lading, signed at Brussels on 25 August 1924 Visby Rules
- Protocol to amend the International Convention for the unification of certain rules relating to bills of lading as modified by the Amending Protocol of 23 February 1968. SDR Protocol
- International convention for the unification of certain rules relating to Maritime liens and mortgages and protocol of signature
- International convention for the unification of certain rules concerning the Immunity of State-owned ships Brussels, 10 April 1926 and additional protocols
- International convention for the unification of certain rules relating to Civil jurisdiction in matters of collision, Brussels, 10 May 1952.
- International convention for the unification of certain rules relating to Penal jurisdiction in matters of collision and other incidents of navigation, Brussels, 10 May 1952.
- International convention for the unification of certain rules relating to Arrest of sea-going ships, Brussels, 10 May 1952.
- International convention relating to Stowaways, Brussels, 10 October 1957.
- C9 Placing of the Seamen Convention, 1920
- C16 Medical Examination of Young Persons (Sea) Convention, 1921
- C22 Seamen's Articles of Agreement Convention, 1926
- C23 Repatriation of Seamen Convention, 1926
- C53 Officers' Competency Certificates Convention, 1936;
- C55 Shipowners' Liability (Sick and Injured Seamen) Convention, 1936;
- C56 Sickness Insurance (Sea) Convention, 1936;
- C58 Minimum Age (Sea) Convention (Revised), 1936;
- C68 Food and Catering (Ships' Crews) Convention, 1946;
- C69 Certification of Ships' Cooks Convention 1946;
- C73 Medical Examination (Seafarers) Convention, 1946;
- C74 Certification of Able Seamen Convention, 1946;
- C92 Accommodation of Crews Convention (Revised), 1949;
- C108 Seafarers' Identity Documents Convention, 1958;
- C133 Accommodation of Crews (Supplementary Provisions) Convention, 1970;
- C146 Seafarers' Annual Leave with Pay Convention, 1976;
- C147 Merchant Shipping (Minimum Standards) Convention, 1976;
- P147 Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976;
- C166 Repatriation of Seafarers Convention (Revised), 1987;
- C178 Labour Inspection (Seafarers) Convention, 1996;
- C180 Seafarers' Hours of Work and the Manning of Ships Convention, 1996.

5) International Labor Organisation conventions (ILO)

- C8 Unemployment Indemnity (Shipwreck) Convention, 1920

Social security agreements

Bilateral agreements

Austria	Norway
Belgium	Poland
Brazil	Quebec
Bulgaria	Romania
Cabo Verde	Serbia + Montenegro
Canada	Slovakia
Chilli	Slovenia
Croatia	Sweden
Czech Republic	Switzerland
Finland	Tunisia
France	Turkey
Iceland	USA
Montenegro	Yugoslavia
Morocco	

Multilateral agreements

Available here:

<http://www.secu.lu/legis/EURO-INT/insmulti/sommaireinsmulti.htm>

Double tax treaties

Austria	Mongolia
Belgium	Morocco
Brazil	Netherlands
Bulgaria	Norway
Canada	Poland
China	Portugal
Czech Republic	Romania
Denmark	Russia
Estonia	San Marino
Finland	Singapore
France	Slovakia
Germany	Slovenia
Greece	South Africa
Hungary	South Korea
Iceland	Spain
Indonesia	Sweden
Ireland	Switzerland
Israel	Thailand
Italy	Trinidad & Tobago
Japan	Tunisia
Latvia	Turkey
Lithuania	United Kingdom
Malaysia	USA
Malta	Uzbekistan
Mauritius	Vietnam
Mexico	



THE MINISTRY OF THE ECONOMY AND FOREIGN TRADE
AND THE MARITIME ADMINISTRATION (COMMISSARIAT AUX AFFAIRES MARITIMES)
WOULD LIKE TO EXPRESS THEIR SPECIAL THANKS TO

ATOZ AND **PRICEWATERHOUSECOOPERS** 
TAX ADVISERS
LUXEMBOURG

FOR THEIR CONTRIBUTION



MINISTRY OF THE ECONOMY
AND FOREIGN TRADE
Maritime Administration

COMMISSARIAT AUX AFFAIRES MARITIMES
19-21 BOULEVARD ROYAL | L-2449 LUXEMBOURG
TEL.: (+352) 247-84453 | FAX: (+352) 29 91 40
CAM@CAM.ETAT.LU | WWW.ETAT.LU/CAM



CHAMBRE DE COMMERCE DU GRAND DUCHÉ DE LUXEMBOURG
7, RUE ALCIDE DE GASPERI | L-2981 LUXEMBOURG
TEL.: (+352) 42 39 39 316 | FAX: (+352) 42 39 39 822
INTERNATIONAL@CC.LU