Key Facts
IP Tax Regime

On 22 March 2018, the law introducing Luxembourg's new Intellectual Property (IP) regime was released with effect 1 January 2018. The former IP regime was repealed as of 30 June 2016 and will expire at its grand-fathering period of 30 June 2021. The new IP regime is now compliant with Action 5 of the Base Erosion and Profit Shifting (BEPS) Action Plan.

Overview
Luxembourg's new IP regime offers benefits to businesses seeking to invest in Research & Development and innovation, by structuring these activities through Luxembourg. In addition to the new IP regime, new measures providing financial and logistic support to R&D activities were introduced in Luxembourg in May 2017. Notably the new IP regime extends the amount of eligible expenditures by 30 per cent.

The Nexus approach
The new IP tax regime applies the "Nexus approach". This approach means that there is a direct connection between expenditures, such as Research and Development (R&D), the IP assets and the income that can benefit from a beneficial regime.

Beneficiaries
- All Luxembourg taxpayers (individual and companies)
- Luxembourg permanent establishments of foreign companies located in a European Economic Area country (i.e. European Union, Iceland, Liechtenstein and Norway)

Benefits
- 80% (corporate) income tax exemption applicable to income related to qualifying assets.
- IP assets which qualify for the 80% (corporate) income tax exemption will be fully exempt from net wealth tax.

Qualifying assets
- Patents and other IP assets that are functionally equivalent to patents
- Copyrighted software

For qualification, the IP assets should have been created, developed or improved after 31 December 2007.

Qualifying expenditures
- Expenditures and outsourcing expenditures (under certain conditions) in relation to R&D activities which aim the creation, the development and the improvement of the qualifying IP assets
- Acquisition costs for the eligible IP assets

Qualifying R&D can be carried out outside of Luxembourg (except by related party).

Qualifying income
- Income received for the use or the right to use the qualifying IP assets
- Capital gains realised on the sale of the qualifying IP assets

Key Facts
IP Tax Regime

- Income directly linked to the qualifying IP assets and incorporated in the sale price of a product or service
- Judicial indemnities related to the qualifying IP assets

The Nexus ratio

The Nexus ratio calculates the income amount eligible to tax the tax benefits:

$$\frac{\textit{Qualifying R\&D expenditures}}{\textit{Overall R\&D expenditure}} \times \textit{Qualifying net IP income}$$

$$= \textit{Net income benefiting of tax exemption}$$

A 30% "up-lift" may be applied by the taxpayers to expenditures that are qualifying expenditures.

Each year a new ratio must be calculated. The ratio cumulates each year the expenses from previous years.

Others requirements

- Taxpayers should keep proper documentation of expenditures, IP assets and income.
- Expenditures and income should be determined in accordance with the arm's length principle.

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