

HOW TO SET UP

A FAMILY WEALTH MANAGEMENT COMPANY (SPF)

DESCRIPTION

The Family Wealth Management Company (*Société de Gestion de Patrimoine Familial – SPF*) is an investment company which facilitates the administration and management of wealth on behalf of individuals in a tax neutral environment in Luxembourg. Its sole purpose is the acquisition, holding, management and disposal of financial assets, to the exclusion of any commercial activity. An SPF may only hold an investment portfolio and cannot, for instance, invest directly in real estate. The expression “family wealth” is to be interpreted in the sense of “private wealth belonging to natural persons” and does not imply a necessary family connection between the individual shareholders of an SPF.

AUTHORISATION REQUIREMENT

No prior authorisation is required when setting up an SPF.

SUPERVISORY AUTHORITY

The authority charged with supervising the SPF in tax matters is the Administration de l’Enregistrement et des Domaines “AED” (the public registrar).

LEGAL AND REGULATORY FRAMEWORK

The legal framework for an SPF is the law of 11 May 2007 on family wealth management companies.

LEGAL FORM

An SPF may be set up in one of four legal forms:

- Sàrl – *société à responsabilité limitée* (private limited company);
- SA – *société anonyme* (public limited company);
- SCA – *société en commandite par actions* (partnership limited by shares);
- SCoSA – *société coopérative organisée sous forme de société anonyme* (cooperative company organised as a public limited company). In the Articles of association, the indication of the form of the company must be

complemented with the words “*société de gestion de patrimoine familial*” or its abbreviation “SPF”.

CENTRAL ADMINISTRATION

The SPF is a Luxembourg company and must in consequence have its seat in Luxembourg. The SPF can select to domicile itself at a domiciliary agent in the sense of the law of 31 May 1999 on the domiciliation of companies, as amended.

SHAREHOLDERS

The following may be shareholders of an SPF:

- individuals acting within the framework of the management of their private wealth;
- wealth management entities, whether or not they have the status of legal persons (eg. trusts, private foundations, stichting administratiekantors, etc.) the exclusive purpose of which is to manage the private wealth of one or more private individuals;
- intermediaries acting for individuals or eligible wealth management entities; intermediaries holding shares in the SPF on a fiduciary basis or in a similar capacity, on behalf of investors who are themselves eligible. Each investor must declare his/her eligibility in writing addressed to the domiciliary agent or, failing this, to the directors of the SPF. The securities issued by an SPF may not be the object of a public issue nor may they be admitted to listing on a stock exchange.

CAPITAL BASE

The minimum capital depends on the choice of legal structure. An SA has a minimum capital of EUR 31,000 of which one quarter must be paid-up at the time of incorporation; an Sàrl has a minimum capital of EUR 12,500, which must be entirely paid-up at the time of incorporation.

TAX REGIME

The SPF is exempt from income tax, municipal business tax and net worth tax. Due to its specific tax regime, the

SPF is not entitled to benefit from double tax treaties concluded by Luxembourg nor the European Parent-Subsidiary Directive (2011/96/EU). The SPF is subject to an annual subscription tax (similar to a net wealth tax) at a rate of 0.25%. The subscription tax cannot be lower than EUR 100 and cannot be higher than EUR 125,000 per year.

Luxembourg resident shareholders

Dividends distributed by a Luxembourg SPF are fully taxable at the level of a Luxembourg resident shareholder. Payments of interest by an SPF to Luxembourg resident individuals are subject to a 10% final withholding tax only if the conditions of the law dated 23 December 2005 are met; otherwise they are fully taxable at the level of the Luxembourg resident individual.

Non-resident shareholders

Capital gains made by non-residents on holdings within the SPF or on the liquidation of the SPF are not subject to Luxembourg tax. Income paid distributed by the SPF to non-residents are likewise not subject to withholding tax.

EXTERNAL AUDITING

Compliance with legal requirements is generally the responsibility of the domiciliary agent of the SPF, which must meet the conditions foreseen in the Law of 31 May 1999 on the domiciliation of companies. If the SPF is not domiciled with a domiciliation agent, or if the latter is not in a position to fulfill its obligations, the control function must be carried out by an independent auditor or a chartered accountant authorised to exercise this profession.

SERVICE PROVIDERS

A number of financial sector professionals have specialist expertise in the creation of companies and can assist applicants during the process of setting up a Family Wealth Management Company.

Useful information sources

www.cssf.lu

Commission de Surveillance du Secteur Financier
(Luxembourg financial supervisory authority)

www.limsa.lu

Luxembourg International Management Services
Association