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**IP – COPYRIGHTS – ROYALTIES**

**The Luxembourg Grandfather’s Solution**

***Preliminary comments***

Since January 1st, 2008 Luxembourg has had a very attractive measure for companies which grant or use intellectual rights.

Indeed, this law modified Art. 50 of the Luxembourg income tax law:

***“Income deriving from the use or the concession of copyrights on EDP software, of patents, trademarks (including service marks) design, website domain names, patterns or models is tax exempt up to 80% of the net profit. Net profit should be considered as the gross income decreased of any expenditure in direct economic relationship to this income, including annual depreciation or a depreciation for a decrease in value. »***

The tax exemption is also available for the capital gain generated by these rights (a recapture rule will be applied).

The applicable effective tax rate on generated income which may fall under the partial exemption will thus be equivalent to 5,84%.

Without losing the partial exemption, the owner of the IP can decide to commercialize himself the rights or to market them either by selling the IP, or by transferring the rights.

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***Changes to be expected***

In accordance with the OECD task force concerning the “Base Erosion and Profit Shifting” (BEPS), the Luxembourg Intellectual Property regime will be repealed as from July 1st, 2016.

***Luxembourg and the Grandfather’s Solution***

Luxembourg has decided to apply its IP tax system up to June 2021 and thus to completely use the 5-years transit period granted by the OECD, that is to say that companies that have acquired (or will acquire) the IP before July 2016 will fall under the favorable tax regime up to June 2021.

***Conclusion***

Groups that are interested in the IP business should set up such a structure before July 2016. The SG Group will help through professional advice if needed and will provide assistance in all legal and fiscal formalities.

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