

News Analysis: A Closer Look at the Luxembourg-Qatar Tax Treaty

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The Luxembourg-Qatar tax treaty, which was signed on July 3, 2009, and is generally based on the OECD model tax convention, came into force on April 9. This article will discuss the main features of the treaty. (For prior coverage, see *Doc 2010-9902* or *2010 WTD 86-9*; for the French text of the treaty, see *Doc 2009-21556*.)

Permanent Establishment: The treaty diverges from the OECD model in that a building site or construction or installation project constitutes a PE only if it lasts for more than six months. Twelve months is the norm in the OECD model. An insurance company resident in a contracting state constitutes a PE in the other contracting state if it levies premiums or covers risks on the territory of the other contracting state through a person, other than an independent agent, as a broker or general commission agent.

Dividends: The withholding tax on dividends, if any, paid by a company that is a resident in a contracting state to a resident of the other contracting state may not exceed:

- 0 percent of the gross amount of the dividend if the beneficial owner is a company that holds directly at least 10 percent of the company paying the dividends;
- 5 percent of the gross amount of the dividend if the beneficial owner is an individual who holds at least 10 percent of the company paying the dividends and was a resident of the other contracting state for the 48-month period immediately preceding the year the dividends are paid; and
- 10 percent of the gross amount of the dividends in other situations.

Exemption from Luxembourg withholding tax on dividends paid to treaty country corporate shareholders may apply based on domestic law.

Interest: Interest arising in a contracting state and paid to a resident of the other contracting state may be taxed in that other state. Luxembourg does not levy withholding tax on interest except in very special cases.

Royalties: Royalties are taxable at source at a rate not exceeding 5 percent. Luxembourg does not levy withholding tax on royalties.

Capital Gains: Generally, capital gains are subject to tax in the state of residence of the seller. However, the treaty provides that

- gains derived by a resident of a contracting state from the alienation of immovable property located in the other contracting state may be taxed in that other state;

- gains from the alienation of movable property allocated to a PE that an enterprise of a contracting state has in the other contracting state may be taxed in that other state; and
- gains from the alienation of ships or aircraft operated in international traffic, or movable property for the operation of such ships or aircraft, may be taxed in the jurisdiction in which the place of effective management of the enterprise is located.

Elimination of Double Taxation: To avoid double taxation, Qatar provides for the credit method, while Luxembourg provides for the exemption with progression method for most types of income and the credit method for dividends, royalties, and income earned by artists and athletes.

Exchange of Information: The treaty's exchange of information clause is similar to the one in the OECD model convention. A contracting state cannot refuse a request for information solely because it has no domestic tax interest in the information or solely because the information is held by a bank or other financial institution.

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