

Luxembourg Signs Protocol Amending Double Tax Treaty with the U.S.

dated May 20, 2009

Provisions for the exchange of information revised

On May 20, Luxembourg Minister for the Treasury and Budget, Luc Frieden, and US Ambassador to Luxembourg, Anne Wagner, signed a protocol amending the April 3, 1996 double tax convention between both countries by introducing a revised article 28 for information sharing in compliance with OECD (Organization for Economic Co-operation and Development) standards. This agreement represents the second in its kind - next to the recently signed tax treaty with the Kingdom of Bahrain - which abides by the OECD standards on international tax cooperation, and the first one concluded with an OECD and G-20 member further to the announcement made by Mr. Frieden on March 13, 2009 regarding the commitment by the Luxembourg government in this respect while maintaining compatibility with its bank secrecy rules.

Protocol contents overview

The protocol signed at the US embassy in Luxembourg modifies article 28 of the US - Luxembourg tax treaty for the avoidance of double taxation and the prevention of fiscal evasion providing for information exchange **upon request and in specific cases** in line with the standard provision of the OECD Model Tax Convention.

According to the official press release by the Luxembourg Ministry for the Treasury and Budget, the agreement does not endow, however, for any automatic sharing of bank information and disallows general ("fishing expeditions") information requests.

Moreover, official sources also mentioned that the new information sharing provisions will be applicable to fiscal years 2009 onwards only, thus excluding any retroactive effect.

The Luxembourg Finance Minister said that in the absence of this convention, Luxembourg would have risked to be included again on the tax havens listings that the United States foresees to soon publish.

Future conventions

Luc Frieden also declared to the press to have reached an agreement on May 19 with French Minister of the Economy, Christine Lagarde to update the information exchange provision of the double tax treaty between France and Luxembourg.

With a view to a final withdrawal of Luxembourg from the OECD "gray list" of jurisdictions that have committed to the internationally agreed tax standard, but have

not yet substantially implemented - published last April in the framework of the G-20 London Summit - Luxembourg government requires to conclude at least a dozen of similar exchange of information agreements with other OECD members. In this sense, Mr. Frieden has mentioned that the government hopes to conclude about 20 additional conventions before the end of 2009.

On a press release published through the OECD website, Angel Gurría (OECD Secretary-General) celebrated the execution of the protocol "A fundamental transformation is underway in international tax cooperation practices... I am particularly pleased that having recently withdrawn its reservation to the OECD standard on exchange of information, Luxembourg has within a matter of weeks renegotiated its agreement with the United States to allow for the exchange of bank information on request in all tax matters".

This new convention reinforces the solid and close relationship between the governments of Luxembourg and the United States and proves the continued commitment of the country to comply with international tax cooperation standards, consequently encouraging and promoting confidence to foreign and domestic investors.

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