

Tax Newsflash

January 31, 2014

Luxembourg's New Double Tax Treaties

As of 1 January 2014, Luxembourg further enlarged its double tax treaty network with the entry into force of the new double tax treaties concluded, amongst others, with:

- Seychelles

The number of double tax treaties (DTTs) concluded by Luxembourg thus increased to 68¹ as of 1 January 2014:

Armenia	France	Latvia	Panama	Sweden
Austria	Georgian Republic	Liechtenstein	Poland	Switzerland
Azerbaijan	Germany	Lithuania	Portugal	Tajikistan
Bahrain	Greece	Macedonia	Qatar	Thailand
Barbados	Hong Kong	Malaysia	Romania	Trinidad and Tobago
Belgium	Hungary	Malta	Russia	Tunisia
Brazil	Iceland	Mauritius	San Marino	Turkey
Bulgaria	India	Mexico	Seychelles	United Arab Emirates
Canada	Indonesia	Moldova	Singapore	United Kingdom
China	Ireland	Monaco	Slovakia	United States of America
Czech Republic	Israel	(Mongolia)	Slovenia	Uzbekistan
Denmark	Italy	Morocco	South Africa	Vietnam
Estonia	Japan	Netherlands	South Korea	
Finland	Kazakhstan	Norway	Spain	

Summary of most important tax treaty provisions for corporations in DTT with Seychelles

- The DTT between Luxembourg and **Seychelles** provides for:
 - 0% withholding tax (WHT) on dividends if the beneficial owner is a company holding directly at least 10% of the capital of the company paying the dividends (10% WHT in all other cases);
 - 5% WHT on interest (but 0% on interest payments to financial institutions); and
 - 5% WHT on royalties.

¹ The number of DTTs concluded by Luxembourg is 67 excluding the DTT with Mongolia which was denounced by the latter.

- Capital gains on shares of a company resident in the other contracting state (including shares of a company the assets of which consist principally of immovable property) shall be taxable only in the state of residence of the alienator.
- Business profits derived through and attributable to a permanent establishment (PE) situated in one of the contracting states may be taxed in that state. If such profits are derived through a PE situated in Seychelles, Luxembourg exempts such profits pursuant to Article 22 (1) a) of the DTT.
- Other items of income, wherever arising, that are not expressly mentioned in the DTT derived by a resident of one contracting state, are only taxable in this contracting state.

Benefits of structuring business involving Seychelles

Considering the beneficial tax regime of Seychelles, the new DTT supplements the list of Luxembourg's DTTs with jurisdictions which can be efficiently used to structure the business of multinational companies. In addition, Seychelles' DTTs with certain African countries may serve as a good path to route foreign investments via Luxembourg and Seychelles into Africa (e.g. Botswana, Zambia, Zimbabwe). Compared to Mauritius (which also has DTTs with Luxembourg and with these African countries), Seychelles' DTTs with these African countries may in certain cases provide for better WHT rates on dividends, interest or royalties.

Contacts at AMMC Law:

Xavier Hubaux
Senior Tax Principal/Head of Tax
Tel: +352 26 27 22 50
xhubaux@ammclaw.com

Xavier is leading the Tax Practice of AMMC Law. After one year at the bar in Belgium, he acquired more than 18 years of experience as a tax advisor in Luxembourg, initially at PWC and thereafter for 11 years at EY Luxembourg, out of which more than 7 years were as Tax Partner. Over his career Xavier focused on international tax structuring for Multinationals, Funds (i.e. Private Equity and Real Estate Funds, Sovereign Wealth Funds and Hedge Funds), and Financial Institutions based in the USA,

Canada, the UK, China and the Middle East amongst others. Xavier acquired over those years an in depth expertise in mergers and acquisition transactions, and holding, financing and intellectual property structures, as well as in tax efficiently structuring investments for Funds located across continents.

James O'Neal

Tax Principal

Tel: +352 26 27 22 40

joneal@ammclaw.com

James is an American tax lawyer with over 11 years of international tax experience in Luxembourg and 14 years total. James has advised Fortune 500 companies, start-ups, and institutional investors on a broad range of Luxembourg tax planning solutions including IP management, cross-border financing, M&A, and many restructuring projects. Prior to joining AMMC, James was a Director of International Tax at KPMG in Luxembourg. He has multiple published articles on Luxembourg tax aspects.