

PROTOCOL

TO AMEND THE CONVENTION

BETWEEN

THE GRAND DUCHY OF LUXEMBOURG

AND

THE UNITED ARAB EMIRATES

FOR THE AVOIDANCE OF DOUBLE TAXATION AND

THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

AND ON CAPITAL, AND THE PROTOCOL,

SIGNED AT DUBAI ON 20 NOVEMBER 2005

The Government of the Grand Duchy of Luxembourg and the Government of the United Arab Emirates

Desiring to conclude a Protocol to amend the Convention between the Grand Duchy of Luxembourg and the United Arab Emirates for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, and the Protocol, signed at Dubai on 20 November 2005, (hereinafter referred to as "the Convention"), have agreed as follows:

ARTICLE 1

Paragraph 4 of Article 13 (CAPITAL GAINS) of the Convention shall be deleted and replaced by the following:

"4. Gains derived from the alienation of shares, bonds and any other securities or similar instruments, listed on a recognized securities market of a Contracting State shall be taxable only in the other Contracting State."

A new paragraph 5 shall be added to Article 13 (CAPITAL GAINS) of the Convention:

"5. Gains derived from the alienation of shares in a company other than those referred to in paragraphs 1 to 4 such as securities, bonds, debentures and the like, shall be taxable only in the State of which the alienator is a resident."

ARTICLE 2

Paragraph 1 of Article 23 (ELIMINATION OF DOUBLE TAXATION) of the Convention shall be deleted and replaced by the following:

"1. Subject to the provisions of the law of Luxembourg regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

- a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the United Arab Emirates, Luxembourg shall, subject to the provisions of sub-paragraphs b), c) and d), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted.

- b) Where a resident of Luxembourg derives income which, in accordance with the provisions of Articles 7, 10, 13(2) and 16 may be taxed in the United Arab Emirates, Luxembourg shall allow as a deduction from the income tax on individuals or from the corporation tax of that resident an amount equal to the tax paid in the United Arab Emirates, but only, with respect to Articles 7 and 13(2), if the business profits and the capital gains are not derived from activities of a permanent establishment in the United Arab Emirates in agriculture, industry, infrastructure and tourism. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from the United Arab Emirates. That means if income is derived from a permanent establishment in the United Arab Emirates being active in agriculture, industry, infrastructure and tourism, this income will be exempted in Luxembourg even if no tax has been paid in the United Arab Emirates.
- c) Where a company which is a resident of Luxembourg derives dividends from United Arab Emirates sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 10 per cent of the capital of the company paying the dividends since the beginning of the accounting year and if this company is subject in the United Arab Emirates to an income tax corresponding to the Luxembourg corporation tax. The above-mentioned shares in the United Arab Emirates company are, under the same conditions, exempt from the Luxembourg capital tax. The exemption under this sub-paragraph shall also apply notwithstanding that the United Arab Emirates company is exempted from tax or taxed at a reduced rate in the United Arab Emirates and if these dividends are derived out of profits from activities in agriculture, industry, infrastructure or tourism in the United Arab Emirates.
- d) The provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where the United Arab Emirates, applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 to such income."

ARTICLE 3

Article 26 (EXCHANGE OF INFORMATION) of the Convention shall be deleted and replaced by the following:

"Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of its local Governments or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information upon request solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

ARTICLE 4

Paragraph 2 of the Protocol of the Convention shall be deleted. Paragraphs 3, 4 and 5 of the Protocol of the Convention shall be renumbered in 2, 3 and 4.

The renumbered paragraph 2 of the Protocol shall be deleted and replaced by the following:

“2. With reference to paragraph 3 of Article 10

In the case of the United Arab Emirates the term “financial institution” means:

- a) Abu Dhabi Investment Authority (ADIA),
- b) UAE Central Bank,
- c) International Petroleum Investment Company,
- d) Abu Dhabi investment Council,
- e) Mubadala,
- f) TAQA,
- g) Investment Corporation of Dubai, and
- h) any other governmental institution as may be specified according to the competent authorities of the Contracting States through exchange of letters.

In the case of Luxembourg the term “financial institution” means:

- a) the “Société Nationale de Crédit et d'Investissement”,
- b) the “Banque Centrale du Luxembourg”, and
- c) any other governmental institution as may be specified according to the competent authorities of the Contracting States through exchange of letters.”

ARTICLE 5

A new paragraph 5 shall be added to the Protocol which reads as follows:

“5. With reference to Article 26:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 26.
2. The competent authority of the requesting State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:
 - a) the identity of the person under examination or investigation;
 - b) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;
 - c) the tax purpose for which the information is sought;
 - d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;

e) to the extent known, the name and address of any person believed to be in possession of the requested information;

f) a statement that the requesting State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.”

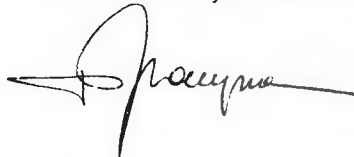
ARTICLE 6

1. This Protocol shall be subjected to ratification in accordance with the applicable procedures in Luxembourg and the United Arab Emirates. The Contracting States shall notify each other in writing, through diplomatic channels, when their respective applicable procedures have been satisfied.
2. The Protocol shall enter into force on the date of the latter of the notifications referred to in paragraph 1. The provisions of this Protocol shall have effect with regard to tax years beginning on or after 1 January of the calendar year next following the year of the entry into force of this Protocol.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at *Abu Dhabi*, this *26 October 2014*, in the French, Arabic and English languages, all texts being equally authentic.

For the Government of
the Grand Duchy of Luxembourg



For the Government of
the United Arab Emirates

