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Luxembourg and Cyprus Sign Double Tax Treaty

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The Republic of Cyprus and the Grand Duchy of Luxembourg signed the Convention for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Tax Evasion and Avoidance on 8 May 2017.

Neither country has yet ratified the Treaty, which will take effect as from 1 January of the year following that in which all legal formalities to bring the treaty into force are completed.

The ceremony took place in Nicosia, and is aimed at strengthening the economic and commercial relations between the two EU member states. The signatories were; on behalf of the Republic of Cyprus Mr. Harris Georgiades, Minister of Finance of the Republic of Cyprus, and on behalf of the Grand Duchy of Luxembourg Mr. Pierre Gramegna, Minister of Finance.

"Based on the OECD Model Convention for the Avoidance of Double Taxation on Income and on Capital"

The Convention is based on the OECD Model Convention for the Avoidance of Double Taxation on Income and on Capital and incorporates all the minimum standards of the Base Erosion Profit Shifting (BEPS) project, as issued by the OECD /G20 in October 2015, those of BEPS Action 6 (Treaty Abuse) and BEPS Action 14 (Making Dispute Resolution Mechanisms More Effective). It also includes the exchange of financial and other information in accordance with the relevant Article of the Model Convention.

Under the BEPS project Action 6 report "Principle Purpose Test", a Treaty benefit shall not be granted, under conditions, if obtaining that benefit was one of the principal purposes of an arrangement or transaction. This measure is designed to tackle "treaty shopping" and puts a strong emphasis on ensuring that operations are supported by appropriate substance and reflect a principal commercial rationale.

"0% withholding tax on dividends for qualifying beneficial owners"

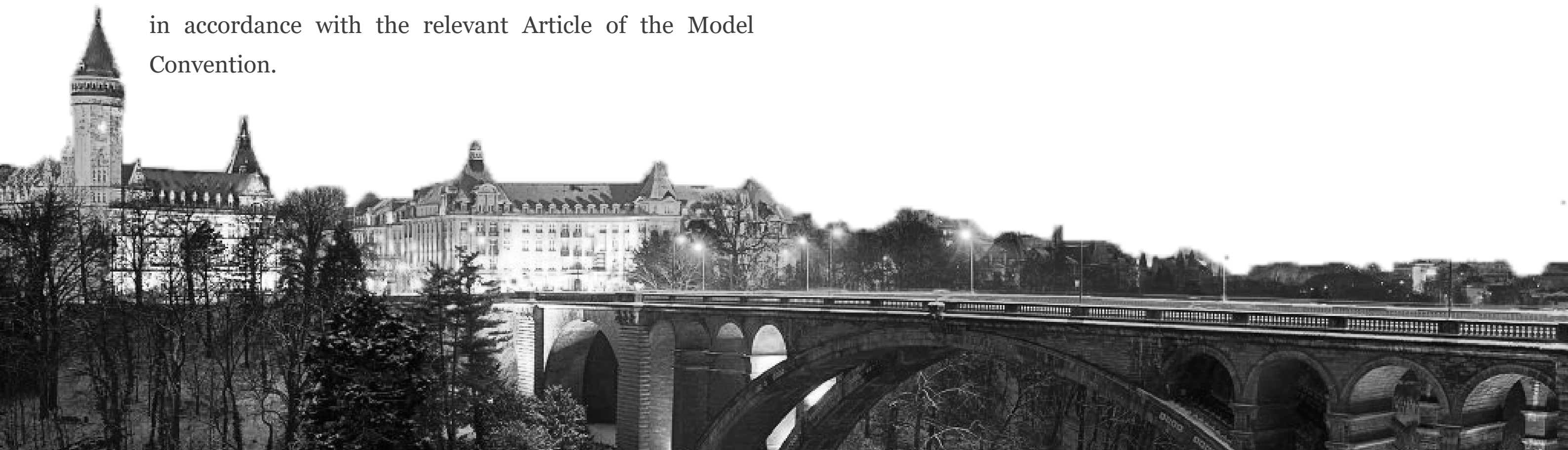
The new Treaty provides for 0% withholding tax on dividends, paid by a company which is a resident of a Contracting State to a resident of the other Contracting State, if the beneficial owner of the dividends is a company (other than a partnership) which directly holds at least 10% of the capital of the company distributing the dividends. In all other cases a 5% withholding tax applies on the gross amount of the dividends paid.

"0% withholding tax for interest & royalties"

Under the provisions of the Treaty, interest and royalties are not subject to withholding tax.

"Capital gains tax subject to real estate rich clause"

The Treaty provides for a "real estate-rich" clause according to which the capital gains derived from the alienation of shares in a company deriving more than 50% of their value directly from immovable property shall be taxed in the State where the immovable property is situated. However, for cases where less than 50% of the value of the shares is derived directly from immovable property situated in Luxembourg, Cyprus retains the exclusive taxing rights on disposals of shares in Luxembourg companies.



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