

The Luxembourg-U.A.E. income tax treaty and related protocol, signed on November 20, 2005, in Dubai, entered into force on June 19, 2009, in both countries. The treaty provisions mainly follow the OECD model income tax treaty of 2005, with a few exceptions.

In Luxembourg, the treaty applies as follows:

- for withholding taxes, to revenue received on or after January 1, 2010;
- for corporate and wealth taxes, to taxes due for whole tax years starting on or after January 1, 2010; and
- for provisions relating to international transport, retroactively from January 1, 2000.

#### **Dividends**

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

- 5 percent of the gross amount of the dividend if the beneficial owner is a company (other than a partnership) that directly holds at least 10 percent of the company paying the dividends (with no minimum holding period); or
- 10 percent of the gross amount of the dividends in other situations.

However, an exemption from Luxembourg withholding tax on dividends paid to corporate shareholders in a treaty country may apply based on domestic law. The U.A.E. does not levy withholding tax on dividends.

#### **Interest & Royalties**

Interest arising in one contracting state that is paid to a resident of the other contracting state may be taxed in the other state. Luxembourg does not levy withholding tax on interest except in very specific situations. The UAE does not levy any withholding tax on interest.

Royalties arising in one contracting state that are beneficially owned by a resident of the other contracting state are taxable only in the other state. Neither Luxembourg nor the U.A.E. levies withholding tax on royalties.

#### **Capital Gains**

If the general rule is that capital gains are subject to tax in the state of residence of the seller, the treaty provides for the following exceptions:

- gains derived by a resident of one contracting state from the alienation of immovable property located in the other contracting state may be taxed in the other state;
- gains from the alienation of movable property allocated to a permanent establishment that an enterprise of one contracting state has in the other contracting state may be taxed in the other state; and
- gains from the alienation of ships or aircraft operated in international traffic or of moveable property relating to 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.

### **Methods for Elimination of Double Taxation**

The U.A.E. uses the credit method for all income. Luxembourg uses the exemption with progression method for most types of income and the credit method for business profits, dividends, gains from the alienation of movable property allocated to a PE that an enterprise of one contracting state has in the other contracting state, and income earned by artists and athletes.

### **Exchange of Information**

The treaty contains an exchange of information clause similar to the one in the OECD model, with the proviso that the exchange of information is limited to taxes mentioned in the treaty. Consequently, it does not extend to private wealth management companies (sociétés de gestion de patrimoine familial, or SPFs).



Jean-Luc qualified as a Belgian lawyer in 1995 and he is a member of the Luxembourg, Paris and Brussels Bars. In June 2006 he decided to join Wildgen in order to reinforce and further develop its tax practice and became a partner in January 2008.

He heads the tax department advising a worldwide clients database on both corporate and individual tax planning opportunities involving Luxembourg. Jean-Luc has specific expertise in corporate financing – including innovative hybrid instruments, M&A transactions, funds structuring, venture capital and private equity vehicles through dedicated SICARs and SPFs, securitization, tax due diligence and real estate investment.