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New double tax treaty with Luxembourg

A revised double tax treaty has been signed with Luxembourg reflecting the current version of the OECD model.

The representatives of Germany and Luxembourg put their signatures to a new double tax treaty on April 23, 2012. The new treaty follows the OECD model in its current state and thus includes the more sophisticated exchange of information, mutual agreement and anti-abuse provisions of recent years. Specific details are:

- A building or assembly site becomes a permanent establishment after twelve months.
- The dividend withholding tax is 5% on payments to a company holding at least 10% of the shares and 15% in all other cases.
- Interest is free of withholding taxes.
- Royalties (but not asset rentals) may be taxed at source at up to 5%.
- Pensions are taxable in the state of residence, unless paid by the social security authorities. However, the pension may be taxed in Germany if the contributions were deductible or otherwise privileged there for longer than twelve years, unless Germany does not exercise her taxing right, or the twelve-year contribution limit was met in both states. There is also no German tax, if the contributions were taxed as income in Luxembourg.
- Double taxation is basically avoided in Germany by exemption, provided Luxembourg exercises her right to tax. Exempt income is taken into account when setting the rate to be applied to the remainder. Conflicts of law are resolved by switch-over to the credit method if “white” income would otherwise ensue. Avoidance in Luxembourg is also by exemption, though without the condition of actual taxation in the other country.
- The treaty enters into force on the day of ratification. It takes effect on the following January 1.

Keywords

Luxembourg, OECD model, double tax treaty