International Tax

United States Tax Alert

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U.S. and Luxembourg Announce Agreement to Adopt Exempt Branch Provision from 2016 U.S. Model Treaty

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The Department of the Treasury announced on June 22, 2016 that the United States and Luxembourg are negotiating a protocol to make a number of amendments to the existing U.S.-Luxembourg income tax treaty (the "Treaty"). Treasury announced that the negotiators have agreed to adopt a provision that is consistent with Article 1(8) of the 2016 U.S. Model Treaty (the "U.S. Model").[1] The contemplated treaty amendment would allow the United States to impose its domestic withholding tax (i.e., 30 percent) on U.S. source income received by a U.S. branch of a Luxembourg company. The treaty amendment would have effect for income received on or after a date fixed by reference to Luxembourg's legislative process, rather than by reference to the date as of which both countries have ratified the protocol.

This announcement came in conjunction with the introduction in Luxembourg of a bill that would authorize Luxembourg to enter into the protocol amending the Treaty with effect for amounts paid or credited on or after the third day following publication of the law reflecting the bill in the Official Gazette in Luxembourg (i.e., with retroactive effect).

The Luxembourg legislation is still in the draft stage, and there are multiple steps that must occur before the draft legislation can become the law in Luxembourg.

[1] The announcement did not indicate what other provisions of the Treaty the parties are renegotiating or have agreed to (if any).