ELVINGER HOSS
LUXEMBOURG LAW

Tax treaty news

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Russia

Within the mutual agreement procedure provided for under Article 25(3) of the Luxembourg-Russia Double Tax Treaty, the tax authorities of both countries agreed on a uniform interpretation of Article 10 (2) of the treaty, which pertains to dividends.

The treaty provides for a standard withholding tax rate of 15% which can be reduced to 5%. Luxembourg and Russia clarified that the reduced 5% rate applies provided that the two following conditions are met simultaneously:

(i) an investment of at least EUR 80,000 (or its equivalent in roubles) in the capital of the company paying the dividends; and
(ii) a direct holding of at least 10% of the capital of the company paying the dividends.

In this respect, the Russian authorities indicated that (i) "**holding**” shall mean that the holder is the legal and economic owner of the shares, (ii) "**investment**" includes, *inter alia*, acquiring the shares at the time of the initial placement, purchasing the shares from the previous owners, directly or on an organised market or stock exchange, or through a corporate reorganisation, and that (iii) the amount of the investment is determined on the initial arm's length acquisition cost of the shares.

Kosovo

On 8 December 2017, Luxembourg and Kosovo signed a double tax treaty on income and capital. Kosovo ratified the treaty on 16 January 2018. Further details on the treaty will be made available in a later edition.

Negotiations with Peru

Based on recent public information, Luxembourg and Peru have expressed their intention to negotiate and sign a double tax treaty.

For any further information please contact us or visit our website at **www.elvingerhoss.lu**.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter

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