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Luxembourg Newsflash - 24 March 2020

Amendment to the double tax treaty between France and Luxembourg passed

On Saturday 21 March 2020, the Luxembourg Parliament passed a law implementing an amendment (the “Amendment”) to the new double tax treaty between France and Luxembourg (the “New Treaty”)¹.

Signed in October 2019 between the French and Luxembourg Finance Ministers, the Amendment clarifies an aspect of the French mechanism to rule out double taxation of French resident cross-border workers who perform an employment activity in Luxembourg. Under the New Treaty, it was previously unclear whether the tax credit to be applied in France should be equal to the amount of French tax or Luxembourg tax. It is now clear that this tax credit should be equal to the amount of French tax.

Under the prior tax treaty dated 1 April 1958, which has been replaced by the New Treaty with effect as from 1 January 2020, the method applied to rule out double taxation on the Luxembourg-source employment income realised by French resident cross-border workers performing an employment activity in Luxembourg was the exemption method with progression.

According to the Amendment, the applicable method under Article 22 paragraph 1 a) i) of the New Treaty to rule out double taxation on the Luxembourg-source employment income realised by French tax resident employees is the tax credit method, with a tax credit equal to the amount of the French tax calculated on said income. Moreover, in order to benefit from the tax credit, the Luxembourg-source employment income must have been subject to taxation in Luxembourg.

The switch from the exemption method with progression to the tax credit method with a tax credit equal to the amount of French tax should prove to be neutral in effect, except in very specific cases to be monitored on a case-by-case basis.

Entry into force

The Amendment will enter into force after the notifications regarding ratification by each Contracting State have been exchanged, and will have retroactive effect from 1 January 2020.

How can we help?

The partners and your usual contacts at Arendt & Medernach remain at your disposal to assist you with any cross-border tax related questions you may have.

¹ For more details on the New Treaty, please refer to our newsflash.

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