



Circulaire du directeur des contributions  
L.G. - Conv. D.I. n° 65 du 9 novembre 2020

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**Objet: Accord amiable entre les autorités compétentes du Luxembourg et de la République tchèque concernant les modifications apportées à la Convention fiscale conclue entre le Luxembourg et la République tchèque par la Convention multilatérale signée le 7 juin 2017**

Les autorités compétentes du Luxembourg et de la République tchèque ont conclu un accord amiable relatif aux modifications apportées à la Convention entre le Grand-Duché de Luxembourg et la République tchèque tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune par la Convention multilatérale pour la mise en œuvre des mesures relatives aux conventions fiscales pour prévenir l'érosion de la base d'imposition et le transfert des bénéficiaires.

Annexe: Accord amiable entre les autorités compétentes du Luxembourg et de la République tchèque

Luxembourg, le 9 novembre 2020

Le directeur des contributions,

## Competent Authority Agreement

relating to the amendments of the Convention between the Grand Duchy of Luxembourg and the Czech Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (hereafter referred to as “Convention”)

through the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (hereafter referred to as “MLI”)

The Competent Authorities of the Grand Duchy of Luxembourg and the Czech Republic, intending to secure a consistent implementation of provisions of the MLI in relation to the Convention,

have agreed as follows:

1) The text of the Preamble of the Convention is replaced by the following text:

“The Grand Duchy of Luxembourg and the Czech Republic,

intending to eliminate double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),

have agreed as follows:”.

2) The first sentence of paragraph 1 of Article 24 of the Convention is replaced by the following sentence:

“Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of the Contracting States, present the case to the competent authority of either Contracting State.”.

3) The text of Article 27 of the Convention is replaced by the following text:

### “Article 27

#### Entitlement to benefits

1) Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established

that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

2) Where a benefit under this Convention is denied to a person under paragraph 1, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement. The competent authority of the Contracting State to which a request has been made under this paragraph by a resident of the other Contracting State shall consult with the competent authority of that other Contracting State before rejecting the request.”.

4) The above-mentioned amendments of the Convention shall have effect in both Contracting States:

a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after January 1, 2021;

b) with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after March 1, 2021; and

c) notwithstanding the provisions of sub-paragraphs a) and b), amendments mentioned in paragraph 2 shall have effect for a case presented to the competent authority of a Contracting State on or after September 1, 2020, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

For the Competent Authority  
of the Grand Duchy of Luxembourg



For the Competent Authority  
of the Czech Republic

