

No. 44075. Mexico and Luxembourg

CONVENTION BETWEEN THE UNITED MEXICAN STATES AND THE GRAND DUCHY OF LUXEMBOURG FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL. LUXEMBOURG, 7 FEBRUARY 2001 [*United Nations, Treaty Series, vol. 2450, I-44075.*]

PROTOCOL TO AMEND THE CONVENTION BETWEEN THE UNITED MEXICAN STATES AND THE GRAND DUCHY OF LUXEMBOURG FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL. LUXEMBOURG, 7 OCTOBER 2009

Entry into force: 20 November 2011 by notification, in accordance with article III

Authentic texts: English, French and Spanish

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N° 44075. Mexique et Luxembourg

CONVENTION ENTRE LES ÉTATS-UNIS MEXICAINS ET LE GRAND-DUCHÉ DE LUXEMBOURG TENDANT À ÉVITER LES DOUBLES IMPOSITIONS ET À PRÉVENIR LA FRAUDE FISCALE EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE. LUXEMBOURG, 7 FÉVRIER 2001 [*Nations Unies, Recueil des Traités, vol. 2450, I-44075.*]

PROTOCOLE MODIFIANT LA CONVENTION ENTRE LES ÉTATS-UNIS MEXICAINS ET LE GRAND-DUCHÉ DE LUXEMBOURG TENDANT À ÉVITER LES DOUBLES IMPOSITIONS ET À PRÉVENIR LA FRAUDE FISCALE EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE. LUXEMBOURG, 7 OCTOBRE 2009

Entrée en vigueur : 20 novembre 2011 par notification, conformément à l'article III

Textes authentiques : anglais, français et espagnol

Enregistrement auprès du Secrétariat des Nations Unies : Mexique, 30 décembre 2011

PROTOCOL TO AMEND THE CONVENTION BETWEEN THE UNITED MEXICAN STATES AND THE GRAND DUCHY OF LUXEMBOURG FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the United Mexican States and the Government of the Grand Duchy of Luxembourg, desiring to conclude a Protocol to amend the Convention between the United Mexican States and the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, signed at Luxembourg on 7th February 2001, (hereinafter referred to as “the Convention”),

Have agreed as follows:

ARTICLE I

Article 26 (Exchange of Information) of the Convention shall be deleted and replaced by the following:

ARTICLE 26
Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information upon request solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE II

The following provisions shall be added after the provisions with reference to paragraph 1 of Article 14 of the Protocol of the Convention:

With reference to Article 26:

1. It is understood that the competent authority of the requested Contracting State shall provide upon request by the competent authority of the requesting Contracting State information for the purposes referred to in Article 26.

2. The competent authority of the requesting Contracting State shall provide the following information to the competent authority of the requested Contracting State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:

- a) the identity of the person under examination or investigation;
- b) a statement of the information sought including its nature and the form in which the requesting Contracting State wishes to receive the information from the requested Contracting State;
- c) the tax purpose for which the information is sought;
- d) grounds for believing that the information requested is held in the requested Contracting State or is in the possession or control of a person within the jurisdiction of the requested Contracting State;
- e) to the extent known, the name and address of any person believed to be in possession of the requested information;
- f) a statement that the requesting Contracting State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

ARTICLE III

1. The Contracting States shall notify each other in writing, through the diplomatic channels, when all legal procedures required by its laws for the entry into force of this Protocol have been satisfied.

2. This Protocol shall enter into force on the thirtieth day following the date of receipt of the latter of the notifications referred to in paragraph 1. The provisions of this Protocol shall have effect with regard to tax years beginning on or after 1st January of the calendar year next following the year of the entry into force of this Protocol.

3. In case of any divergence in the interpretation or application of the Convention the English text shall prevail.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

DONE at Luxembourg on the seventh day of October, two thousand and nine, in two originals, in the Spanish, French and English languages, all texts being equally authentic.

**FOR THE GOVERNMENT OF THE
UNITED MEXICAN STATES**

**FOR THE GOVERNMENT OF THE
GRAND DUCHY OF LUXEMBOURG**



**Sandra Fuentes-Berain Villenave
Ambassador of the United Mexican
States in Luxembourg**



**Luc Frieden
Minister of Finance**