

No. 54721*

**Luxembourg
and
Brunei Darussalam**

Agreement between the Government of the Grand Duchy of Luxembourg and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Brussels, 14 July 2015

Entry into force: *26 January 2017, in accordance with article 30*

Authentic texts: *English, French and Malay*

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**Luxembourg
et
Brunéi Darussalam**

Convention entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de Sa Majesté le Sultan et Yang Di-Pertuan de Brunéi Darussalam tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Bruxelles, 14 juillet 2015

Entrée en vigueur : *26 janvier 2017, conformément à l'article 30*

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AGREEMENT

BETWEEN

THE GOVERNMENT OF THE GRAND DUCHY OF

LUXEMBOURG

AND

THE GOVERNMENT OF HIS MAJESTY THE SULTAN

AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM

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 Grand Duchy of Luxembourg and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

Article 1
PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are in particular:

a) in the case of Luxembourg:

- (i) the income tax on individuals (*l'impôt sur le revenu des personnes physiques*);
 - (ii) the corporation tax (*l'impôt sur le revenu des collectivités*);
 - (iii) the capital tax (*l'impôt sur la fortune*); and
 - (iv) the communal trade tax (*l'impôt commercial communal*);
- (hereinafter referred to as "Luxembourg tax");

b) in the case of Brunei Darussalam:

- (i) income tax imposed under Income Tax Act (Cap. 35); and
 - (ii) petroleum profits tax imposed under Income Tax (Petroleum) Act (Cap. 119);
- (hereinafter referred to as "Brunei Darussalam tax").

4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

- a) the term "Luxembourg" means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;
- b) the term "Brunei Darussalam" means the territory of Brunei Darussalam including its territorial sea, extending to the airspace above such territory, over which it exercises sovereignty, and the maritime area beyond its territorial sea, including sea-bed and subsoil, which has been or may hereafter be designated under the laws of Brunei Darussalam, as an area over which it exercises sovereign rights and jurisdiction in accordance with international law;
- c) the terms "a Contracting State" and the "other Contracting State" mean Luxembourg or Brunei Darussalam as the context requires;
- d) the term "person" includes an individual, a company and any other body of persons;
- e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- h) the term "competent authority" means:
 - (i) in the case of Luxembourg, the Minister of Finance or his authorised representative;
 - (ii) in the case of Brunei Darussalam, the Minister of Finance or his authorised representative;
- i) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State under the applicable laws of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- j) the term "tax" means Luxembourg tax or Brunei Darussalam tax, as the context requires.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting State for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.

Article 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that Contracting State and any local authority thereof. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a national;
- d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the Contracting State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a store, warehouse or premises used as a sales outlet unless the activities fall within paragraphs 3 a) or b);
- e) a factory;
- f) a workshop;
- g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- h) a drilling rig or working ship used for the exploration of natural resources; and
- i) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, provided such site, project or activities last for a period of more than 183 days.

3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;