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**Luxembourg  
and  
Hungary**

**Convention between the Grand Duchy of Luxembourg and Hungary for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Brussels, 10 March 2015**

**Entry into force:** *26 January 2017, in accordance with article 28*

**Authentic texts:** *English, French and Hungarian*

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**Luxembourg  
et  
Hongrie**

**Convention entre le Grand-Duché de Luxembourg et la Hongrie 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, 10 mars 2015**

**Entrée en vigueur :** *26 janvier 2017, conformément à l'article 28*

**Textes authentiques :** *anglais, français et hongrois*

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**C O N V E N T I O N**

**BETWEEN**

**THE GRAND DUCHY OF LUXEMBOURG**

**AND**

**HUNGARY**

**FOR THE AVOIDANCE OF DOUBLE TAXATION**

**AND THE PREVENTION**

**OF FISCAL EVASION WITH RESPECT TO TAXES**

**ON INCOME AND ON CAPITAL**

The Grand Duchy of Luxembourg and Hungary, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, and to further develop and facilitate their relationship,

Have agreed as follows:

Article 1  
PERSONS COVERED

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

Article 2  
TAXES COVERED

1. This Convention 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 amount of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

(a) in Hungary:

- (i) the personal income tax (személyi jövedelemadó);
  - (ii) the corporate tax (társasági adó);
  - (iii) the land parcel tax (telekadó); and
  - (iv) the building tax (épitményadó);
- (hereinafter referred to as "Hungarian tax");

(b) in 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").

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention 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 Convention, unless the context otherwise requires:

(a) the term "Hungary" means the territory of Hungary as defined by its laws in accordance with international law;

- (b) the term "Luxembourg" means the Grand Duchy of Luxembourg and, when used in a geographical sense, it means the territory of the Grand Duchy of Luxembourg;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Hungary or Luxembourg, 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 term "enterprise" applies to the carrying on of any business;
- (g) 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;
- (h) the term "international traffic" means any transport by a ship, aircraft or road vehicle operated by an enterprise that has its place of effective management in a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;
- (i) the term "competent authority" means:
  - (i) in the case of Hungary, the minister responsible for tax policy or his authorised representative;
  - (ii) in the case of Luxembourg, the Minister of Finance or his authorised representative;
- (j) the term "national", in relation to a Contracting State, means:
  - (i) any individual possessing the nationality of that Contracting State; and
  - (ii) any legal person, partnership, association or other entity deriving its status as such from the laws in force in that Contracting State;
- (k) the term "business" includes the performance of professional services and of other activities of an independent character;
- (l) the "place of effective management" is the place where the key management and commercial decisions that are necessary for the conduct of the entity's business are in substance made. The place of effective management will ordinarily be the place where the most senior person or group of persons makes its decisions, and the day-to-day management is conducted, the place where the actions to be taken by the entity as a whole are determined.

2. As regards the application of the Convention 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 State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### Article 4 RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any local authority thereof, as well as a collective investment vehicle established in that State. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that 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 State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the 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 State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- (d) if he is a national of both 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 State in which its place of effective management is situated.

#### Article 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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 factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site, a construction, assembly, installation or dredging project constitutes a permanent establishment only if it lasts more than twelve months.

4. 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, display or delivery 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, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.