

Luxembourg deposits instrument of approval for MLI

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Following the adoption of the law of 7 March 2019 approving the *Multilateral Convention To Implement Tax Treaty Related Measures To Prevent Base Erosion and Profit Shifting* (MLI), Luxembourg deposited its instrument of approval with the Organisation for Economic Co-Operation and Development (OECD) on 9 April 2019. It also submitted its MLI positions and a list of 81 tax treaties which Luxembourg entered into with other jurisdictions that it wishes to designate as a Covered Tax Agreement (CTA).¹

The MLI will enter into force for Luxembourg on the first day of the month following the expiration of a period of three months beginning on the date of the deposit by Luxembourg of its instrument of approval, i.e., 1 August 2019.

The provisions of the MLI with respect to a CTA will have effect after Luxembourg and the other party to the relevant CTA have deposited their instrument of ratification, acceptance or approval of the MLI and a specified time has passed, with a further distinction between different provisions:

- ▶ With respect to taxes withheld at source on amounts paid or credited to nonresidents, the provisions will have effect where the event giving rise to such taxes occurs on or after the first day of the calendar year that begins on or after the latest of the dates on which the MLI enters into force for each of

the Contracting Jurisdictions to the CTA. Towards those Contracting Jurisdictions to a CTA that have already deposited their instrument of ratification, acceptance or approval or that deposit it before the end of September 2019, the provisions of the MLI will have effect where the event giving rise to taxes withheld at source occurs on or after 1 January 2020.

- ▶ With respect to all other taxes levied by a Contracting Jurisdiction, the first taxes for which the provisions will enter into effect are those which are levied with respect to taxable periods beginning on or after the expiration of a period of six calendar months from the latest of the dates on which the MLI enters into force for each of the Contracting Jurisdictions to the CTA. Towards those Contracting Jurisdictions to a CTA that have already deposited their instrument of ratification, acceptance or approval or that deposit it before the end of April 2019, the provisions of the MLI will have effect for taxes levied with respect to taxable periods beginning on or after 1 February 2020.

The provisions of Part VI (Arbitration) will have effect with respect to:

- ▶ Cases presented to the competent authority of Luxembourg (as described in subparagraph a) of paragraph 1 of Article 19 (Mandatory Binding Arbitration), on or after the later of the dates on which the MLI enters into force for each of the Contracting Jurisdictions to a CTA. Towards those Contracting Jurisdictions to a CTA that have already deposited their instrument of ratification, acceptance or approval or that deposit it before the end of April 2019, the date of effect would be 1 August 2019.
- ▶ Cases presented to the competent authority of Luxembourg prior to the later of the dates on which the MLI entered into force for each of the Contracting Jurisdictions to a CTA (1 August 2019 for Luxembourg), the provisions will have effect on the date when both Contracting Jurisdictions have notified the Depositary that they have reached mutual agreement.

As of the date of publication of this Tax Alert and based on the OECD's MLI status list,² the provisions of the MLI would have effect as from 1 February 2020 with respect to the following CTAs: Austria, Finland, France, Georgia, Guernsey, Ireland, Isle of Man, Israel, Japan, Jersey, Lithuania, Malta, Monaco, the Netherlands, Poland, Serbia, Singapore, Slovak Republic, Slovenia, Sweden and the United Kingdom.

Endnotes

1. See EY Global Tax Alert, [Luxembourg publishes draft law ratifying Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS](#), 4 September 2018.
2. See <http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>.

For additional information with respect to this Alert, please contact the following:

Ernst & Young Tax Advisory Services Sarl, Luxembourg City

- | | |
|--|---------------------------------|
| ▶ Bart Van Droogenbroek, <i>Tax Leader</i> | bart.van.droogenbroek@lu.ey.com |
| ▶ Marc Schmitz, <i>Tax Policy Leader</i> | marc.schmitz@lu.ey.com |
| ▶ Olivier Bertrand, <i>Private Equity Tax Leader</i> | olivier.bertrand@lu.ey.com |
| ▶ Dietmar Klos, <i>Real Estate Tax Leader</i> | dietmar.klos@lu.ey.com |
| ▶ Fernando Longares, <i>TMT & Life Science Tax Leader</i> | fernando.longares@lu.ey.com |
| ▶ Christian Schlessler, <i>Commercial & Public Sector Tax Leader</i> | christian.schlessler@lu.ey.com |
| ▶ Jacques Linon, <i>Banking & Insurance Tax Leader</i> | jacques.linon@lu.ey.com |
| ▶ Vincent Rémy, <i>Asset Management Tax Leader</i> | vincent.remy@lu.ey.com |
| ▶ Nicolas Gillet, <i>Transfer Pricing Leader</i> | nicolas.gillet@lu.ey.com |
| ▶ Elmar Schwickerath, <i>Global Compliance and Reporting Leader</i> | elmar.schwickerath@lu.ey.com |

Ernst & Young LLP (United States), Financial Services International Tax Desks - Luxembourg, New York

- | | |
|-------------------------|----------------------------|
| ▶ Jurjan Wouda Kuipers | jurjan.woudakuipers@ey.com |
| ▶ Michel Alves de Matos | michel.alvesdematos@ey.com |

Ernst & Young LLP (United States), Luxembourg Tax Desk, New York

- | | |
|------------------|-----------------------|
| ▶ Serge Huysmans | serge.huysmans@ey.com |
| ▶ Xavier Picha | xavier.picha@ey.com |

Ernst & Young LLP (United States), Luxembourg Tax Desk, Chicago

- | | |
|-------------------------|---------------------------|
| ▶ Alexandre J. Pouchard | alexandre.pouchard@ey.com |
|-------------------------|---------------------------|

Ernst & Young LLP (United States), Luxembourg Tax Desk, San Jose

- | | |
|-------------------------|-----------------------------|
| ▶ Andres Ramirez-Gaston | andres.ramirezgaston@ey.com |
|-------------------------|-----------------------------|

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EYG no. 001747-19Gbl

1508-1600216 NY
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