

In this issue:

Guidance Letter from the Russian Ministry of Finance on the application of the Luxembourg-Russia Double Tax Treaty to Luxembourg collective investment funds

Deloitte Luxembourg

Pascal Noel
Partner
pnoel@deloitte.lu
+ 352 451 452 571

Eric Centi
Director
ecenti@deloitte.lu
+ 352 451 452 162

Manuela Abreu
Senior Manager
mmabreu@deloitte.lu
+ 352 451 452 970

Deloitte Russia

Elena Solovyova
Partner
esolovyova@deloitte.ru
+7 495 787 06 00

Yulia Krylova
Director
ykrylova@deloitte.ru
+7 495 787 06 00

Galina Tretyakova
Manager
gtretyakova@deloitte.ru
+7 495 787 06 00

Please contact
Christelle Piovano
cpiovano@deloitte.lu
should you wish to be
removed from this mailing

Operational Tax News. Luxembourg-Russia DTT clarification



30 May 2014

Guidance Letter from the Russian Ministry of Finance on the application of the Luxembourg-Russia Double Tax Treaty to Luxembourg collective investment funds

Tax analysis

Article 10 §2 of the Double Tax Treaty (“DTT”) between Luxembourg and Russia states that Russia originated dividends may also be subject to taxation locally, but if the recipient is the beneficial owner of the dividends the tax shall not exceed:

- a) 5% of the gross amount of the dividends if the beneficial owner is a company which directly holds at least 10% of the capital of the Russian company and has invested at least EUR 80.000 or its equivalent in rubles;
- b) 15% of the gross amount in all other cases.

As per the publicly available information from the Luxembourg Tax Authorities, it is not clear whether the Russian Tax Authorities accept to apply the benefits of the reduced rates mentioned above to Luxembourg investment funds.

The guidance letter issued by the Russian Ministry of Finance on the 7th April 2014 intends to bring some clarification on this issue.

The guidance letter clearly mentions that the reduced rates under the DTT are only available when paid to the beneficial owners of the income. As a Luxembourg investment fund is characterised for Russian purposes as a foreign nominee holder, the identity of the final beneficial owners is not disclosed. Therefore any securities income paid by a Russian depository will be subject to withholding tax, at the rate of 30%.

This 30% WHT rate will not apply if the fund can provide evidence of the residence of its individual investors. It should be noted that the 30% rate is the maximum personal income tax rate in Russia for non-residents.

The Russian assets in scope are (i) state securities with mandatory centralised custody of the Russian government; (ii) corporate securities with mandatory

list or if you would like to have any of your colleagues added to the mailing list.

[Link to previous Operational Tax News](#)

[Link to Operational Tax webpage](#)

centralised custody issued after 1 January 2012; (iii) other issuable securities such as Russian joint stock companies.

Impact for Luxembourg resident collective investment funds

This guidance letter brings some clarity to how the Russian Ministry of Finance views Luxembourg investment funds, in the particular situation of Russian securities held under a mandatory centralised custody and that are held in the depository account of a foreign nominee holder.

The guidance letter reflects the position of the Russian Ministry of Finance in relation to a concrete and specific question – it cannot be relied upon as a general position in relation to Luxembourg investment funds.

What is clear from the letter is that if the investment fund fails to disclose the details of its investors, a 30% WHT will apply on dividends distributed by the Russian company.

How can Deloitte assist?

By providing guidance to the type of information to be provided to the Russian Tax Authorities in relation to the investors into the fund and also by providing assistance in filling the tax reclaims on behalf of those investors for the excess withholding tax suffered.

The situation should be analysed on a case by case basis, each fund separately, type of fund, type of investments and investors.

[Home](#) | [Security](#) | [Legal](#) | [Privacy](#)

Deloitte General Services
Société à responsabilité limitée
560, rue de Neudorf
L-2220 Luxembourg

© 2014 Deloitte General Services

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/luxembourg/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

 [Deloitte RSS feeds](#)
[Subscribe / Unsubscribe](#)

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message and are hereby notified that any disclosure, copying, or distribution of this message, or the taking of any action based on it, is strictly prohibited. Recipients should be aware that replies to e-mail messages may go through the servers of the Luxembourg member firm of Deloitte Touche Tohmatsu Limited and its affiliates and may be subject to monitoring and inspection in accordance with the firm's internal policies.