

# Entry into force of amended Belgium-UK double tax treaty

On 24 December 2012 a protocol entered into force amending the Belgium-UK double tax treaty. The amended treaty includes a provision for the elimination of withholding tax on interest payments between UK and Belgian companies and introduces zero withholding on interest and dividends received by pension funds.

## **New withholding tax exemption for interest payments between UK and Belgian companies.**

The amended treaty introduces a new withholding tax exemption for interest payments made in respect of a loan concluded between a UK and a Belgian enterprise.

As a result of the new withholding tax exemption, Belgian borrowers may now pay interest free of withholding to most UK non-bank lenders (for UK bank lenders, an exemption already exists).

The amended treaty also lowers the treaty withholding tax rate, in respect of interest payments not otherwise exempt, from 15% to 10%.

## **Zero withholding on interest and dividends received by pension funds**

The amended treaty introduces an exemption from withholding tax on interest and dividend income paid to qualifying UK or Belgian pension schemes. A Belgian qualifying pension scheme is an entity organised under Belgian law which is regulated by the Belgian Financial Services and Markets Authority

(FSMA). A qualifying UK pension scheme needs to be registered under Part 4 of the Finance Act 2004 (an exemption also applies to non-qualifying pension funds whose units are exclusively held by qualifying pension schemes).

## **Clarification of rules applicable to hybrid entities**

The amended treaty contains a specific provision in respect of hybrid entities. Under this provision, Belgium will grant an exemption for income derived from an interest in a UK fiscally transparent entity (e.g. a UK LLP), which qualifies as dividend income under Belgian domestic tax law.

## **Other important changes**

The amended treaty also clarifies the circumstances in which royalties and employment income will be deemed to arise in a contracting state and provides for taxation of pension allowances in the contracting state of source (rather than in the beneficiary's state of residence).

The amended treaty also contains increased cooperation and mutual agreement procedures as well as enlarged exchange of information

## Key issues

- **New withholding tax exemption for interest payments**
- **Zero withholding tax on interest and dividends received by pension funds**
- **Specific rules for hybrid entities**

provisions, in particular for financial institutions. Lastly, a new binding arbitration procedure has been introduced to be used in cases where the competent authorities of each contracting state have endeavoured but are unable to reach an agreement under the mutual agreement procedure.

## **Effective date**

The new treaty provisions will be effective as from 1 January 2013 (for Belgian withholding tax) and as from assessment year 2014 (financial years ending on or after 31 December 2013) for all other Belgian taxes.

From a UK perspective, the amended treaty will have effect as from assessment years starting on or after 6 April 2013 (for income and capital

gains tax) and financial years beginning on or after 1 April 2013 (for corporation tax).

## Contacts

### Thierry Blockerye

Partner

T: +32 2 533 5061  
E: [thierry.blockerye@cliffordchance.com](mailto:thierry.blockerye@cliffordchance.com)

### Alexandre Ooms

Senior Associate

T: +32 2 533 5073  
E: [alexandre.ooms@cliffordchance.com](mailto:alexandre.ooms@cliffordchance.com)

### Dan Neidle

Partner

T: +44 207006 8811  
E: [dan.neidle@cliffordchance.com](mailto:dan.neidle@cliffordchance.com)

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

[www.cliffordchance.com](http://www.cliffordchance.com)

Clifford Chance, Avenue Louise 65, Box 2, 1050 Brussels, Belgium

© Clifford Chance 2013

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh\* ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

\*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.