

TAX ALERT

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Main measures of the new French-Luxembourg tax treaty concerning companies of the real estate sector¹

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The French withholding tax on **dividends** distributed by a French resident company to a Luxembourg resident company is **limited**:

Type of distributing company	Beneficial owner resident in Luxembourg		
	<5% ²	≥ 5% and <10%	≥ 10%
Subject to CIT	15%	0%	
SIIC/Sppicav/OPCI	15%		No limitation: 30% ³

The **gains** from the sale of **shares/interest** realized by a Luxembourg resident are taxable as follows:

Type of company (trust/entity) sold	Seller resident in Luxembourg	
	Seller individual ⁴ holding ≥ 25% shares	Other cases
Real estate oriented company (whose shares derive <u>more than 50% of their value from real estate property⁵ in France during the 365 days preceding the sale</u>)	Taxation in France	
Non-real estate oriented company	Taxation in France	No taxation in France

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The treaty also provides for **anti-abuse measures⁶** according to which the **current and future holding structures** of French real estate assets shall be reviewed.

¹ Signed on March 20, 2018

² Held 365 days including the payment date

³ 30% is **current** WHT domestic rate applicable except specific cases (15% rate applicable notably to distributions received by non-profit organizations and to distributions received by OPCI and similar vehicles deriving from exempted results) ; Rate to be reduced progressively to **25% applicable as from 1st January 2022**

⁴ Being French tax resident at any time during the 5 preceding years

⁵ Not allocated to business enterprise of company concerned

⁶ Example (article 28 of the treaty) : at refusing treaty benefit where obtaining that benefit was one of the principal purposes of any arrangement or transaction