SALMON-LEGAGNEUR & ASSOCIÉS
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TAX ALERT
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The 4th amendment to the tax treaty between France and Luxembourg was executed on September 5, 2014[1]:

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It provides for an exclusive taxation in France of the gains upon sales of shares/interests of a company/entity whose assets are composed for more than 50% in value, or deriving more than 50% of their value - directly or indirectly through interposed companies/entities – from immovable property situated in France[2].

The immovable property in which a business is carried on is not taken into consideration.

The amendment will be applicable to the civil year or financial year following its enforcement depending on the approval by both States and on the reciprocal notification of such approval.

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When the amendment is applicable, the exit from French real estate investments from Luxembourg will be subject to French CIT notwithstanding the type of exit (sale of shares of a company holding directly or indirectly a real estate as well as sale of a real estate).

If the time necessary for approval corresponds to usual practice, the amendment would be applicable as from 2016.

[1] http://www.gouvernement.lu/3998959/Signature-du-4e-avenant-a-la-convention-fiscale-entre-la-France-et-le-Grand-Duche-de-Luxembourg-_05_09_2014_.pdf

[2] Pursuant to a wording corresponding to the principles included into the OECD Model Tax Convention and its comments