

# U.S. TAX TREATY UPDATE

## Authors

Kenneth Lobo  
and Nina Krauthamer

## Tags

Tax Treaties

At a business meeting on April 1, 2014, the Senate Foreign Relations committee approved two proposed treaties with Hungary and Chile, tax treaty amendments (“protocols”) with Switzerland and Luxembourg, and a protocol amending the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

As in recent years, improved information sharing and limitations on “treaty shopping” (the inappropriate use of a tax treaty by residents of a third country) continue to be important U.S. objectives.

Highlights of the approved measures include the following:

- The proposed treaty between Hungary and the U.S. encompasses a comprehensive “Limitation on Benefits” provision, unlike the current treaty with Hungary, of 1979, which contains no such limitation, and also provides for a full exchange of information. The new Limitation on Benefits provision includes a measure granting so-called “derivative benefits” similar to the provision included in all recent U.S. tax treaties with European Union members.
- The proposed treaty between Chile and the U.S. would be the first income tax treaty between the two countries and only the second treaty with a South American country. The treaty contains comprehensive limitations on benefits provisions and full exchange of information.
- The Swiss protocol would update tax information exchange provisions consistent with current U.S. tax treaty practice. The Swiss tax authorities would be allowed to exchange information otherwise subject to bank secrecy laws in Switzerland.
- The Luxembourg protocol has similar objectives. The U.S. would be allowed to obtain information from Luxembourg, whether or not Luxembourg requires the information for its own tax purposes. The request for information cannot be denied solely because the information is held by a bank or financial institution. Further, the proposed change also states that information can be exchanged without regard to whether the conduct being investigated would be a crime under the laws of the requested State.
- A third protocol amends the O.E.C.D.’s 1988 Multilateral Convention on Mutual Administrative Assistance in Tax Matters to update information exchange and confidentiality rules and opens the convention to countries outside the O.E.C.D. and Council of Europe.