

# What's new ?

JANUARY 2009

## IP BOX – Luxembourg

To favor R&D activities and positioning the Grand Duchy as the major place for intellectual property management in Europe, the Luxembourg government has enacted in 2007 a statute that came into force on 1<sup>st</sup> January 2008 providing among others an exemption of 80% on income derived from certain qualifying intellectual property rights. This exemption applies in connection to the income tax of Luxembourg commercial taxpayers.

In December 2008, an amendment to the statute was voted to expressly include domain names which were only referred to in the parliamentary debates until now.

### The main aspects of the statute

- Exemption equal to 80% of the net positive income or capital gain respectively deriving from (i) the use or the license of author's right on software, of patent, trademark, design or domain name or (ii) the disposal of such IP rights;
- Patents registered and used by the tax payer in the framework of its own activity entitles the latter to benefit from an exemption of 80% on the net positive income which would have been generated by the license of such IP right to a third party.

### Conditions

- The intellectual property rights must have been acquired (or created, as the case may be) after 31 December 2007;
- Expenses in direct economic connection with the IP right and depreciation must be recorded in the balance-sheet assets of the company and as a profit pertaining to the first year for which the tax regime is applicable, to the extent costs have exceeded income relating to such right for a given taxation year;
- The IP rights must not have been acquired from an "associated company"\*.

#### Contacts

**Gary Cywie**

Partner

T: +352 26 48 42 35 31

cywie@mnks.com

#### Noble & Scheidecker

398, route d'Esch

L-1471 Luxembourg

T: +352 26 48 42 1

F: +352 26 48 42 35 00

www.mnks.com

\* For the purpose of the statute, a company will be deemed to be an associated company if:

- It holds directly at least 10% of the share capital of the beneficiary company;
- At least 10% of its share capital is directly held by the beneficiary company; or
- At least 10% of its share capital is held by a third company which holds at least 10% of the share capital of the beneficiary company.