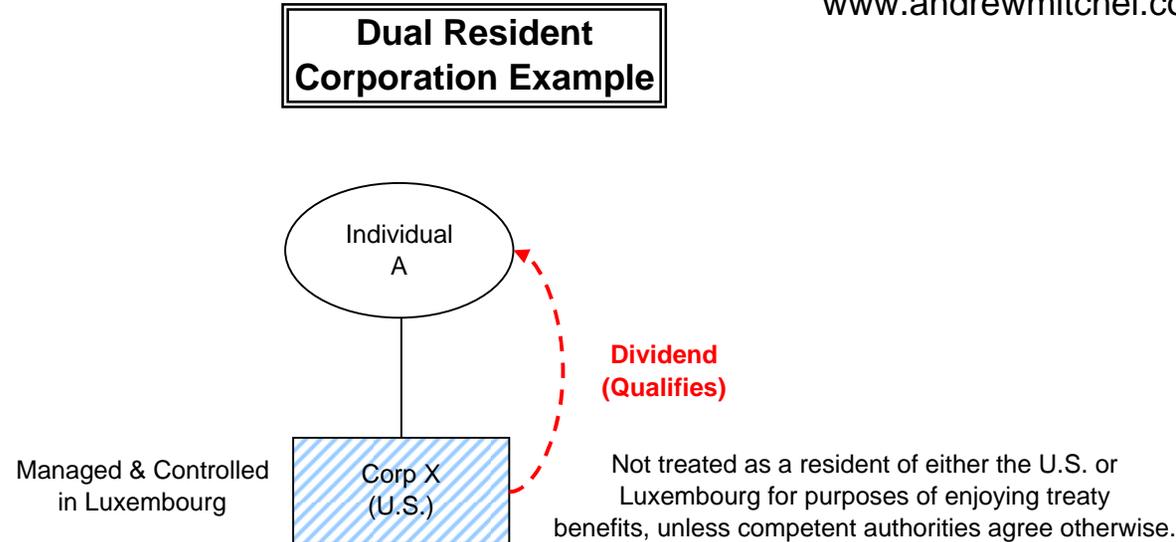


U.S. - Luxembourg Income Tax Treaty
U.S. Treasury Technical Explanation
Article 4, Paragraph 3

Copyright © 2008 Andrew Mitchel LLC
International Tax Services
www.andrewmitchel.com



Corp X is incorporated in the U.S., but it is managed and controlled in Luxembourg. Under U.S. law, a corporation is treated as a resident of the United States if it is created or organized under the laws of the United States or a political subdivision. Under Luxembourg law a corporation is treated as a resident of Luxembourg if either its statutory seat or its principle place of day-to-day management is located in Luxembourg. Both countries tax resident companies on their worldwide income. Dual residence, therefore, can arise if a corporation organized in the U.S. is managed in Luxembourg. In such a case, the competent authorities shall attempt to settle the question by mutual agreement, taking into account the persons' place of effective management, or the place where it is incorporated or constituted, and any other relevant factors. In the absence of such an agreement, the person shall not be considered a resident of either Contracting State for purposes of enjoying benefits under this Convention. Such dual residents may be treated as residents of a Contracting State for other purposes of the Convention. For example, if a dual resident corporation pays a dividend to a resident of Luxembourg, the U.S. paying agent would withhold on that dividend at the appropriate treaty rate, since withholding is a benefit enjoyed by the resident of Luxembourg, not by the dual resident corporation. The purpose of the rule is to encourage taxpayers to organize their affairs so as to minimize the possibility of dual residence.

[HUNDREDS of additional charts at www.andrewmitchel.com](http://www.andrewmitchel.com)