

PROTOCOL

BETWEEN

THE SWISS FEDERAL COUNCIL

AND

**THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND**

**AMENDING THE CONVENTION FOR THE
AVOIDANCE OF DOUBLE TAXATION WITH
RESPECT TO TAXES ON INCOME SIGNED AT
LONDON ON 8 DECEMBER 1977 AS AMENDED BY
THE PROTOCOLS SIGNED AT LONDON ON
5 MARCH 1981, AT BERNE ON 17 DECEMBER 1993,
AT LONDON ON 26 JUNE 2007 AND AT LONDON
ON 7 SEPTEMBER 2009**

The Swiss Federal Council;

and

the Government of the United Kingdom of Great Britain and Northern Ireland

Desiring to conclude a Protocol to amend the Convention between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation with Respect to Taxes on Income signed at London on 8 December 1977, as amended by the protocols signed at London on 5 March 1981, at Berne on 17 December 1993, at London on 26 June 2007 and at London on 7 September 2009 (hereinafter “the Convention”);

Have agreed as follows:

ARTICLE I

The following new paragraphs shall be added to the preamble of the Convention:

“Desiring to further develop their economic relationship and to enhance their cooperation in tax matters;

Intending to eliminate double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States);”.

The modified preamble shall read as follows:

“The Swiss Federal Council and the Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income;

Desiring to further develop their economic relationship and to enhance their cooperation in tax matters;

Intending to eliminate double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States);

Have agreed as follows:”

ARTICLE II

Subparagraph (1) of paragraph 1 of Article 3 (General definitions) of the Convention shall be deleted.

ARTICLE III

Paragraph 2 of Article 9 (Associated enterprises) of the Convention shall be deleted and replaced by the following:

“2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.”.

ARTICLE IV

Paragraph 6 of Article 10 (Dividends) of the Convention shall be deleted.

ARTICLE V

Paragraph 7 of Article 11 (Interest) of the Convention shall be deleted.

ARTICLE VI

Paragraph 5 of Article 12 (Royalties) of the Convention shall be deleted.

ARTICLE VII

Paragraph 4 of Article 21 (Other income) of the Convention shall be deleted.

ARTICLE VIII

The following new paragraph 7 shall be added to Article 22 (Elimination of double taxation) of the Convention:

“7. The provisions of paragraph 2 shall not apply to income derived by a resident of Switzerland where the United Kingdom applies the provisions of this Convention to exempt such income from tax or applies the provisions of paragraph 2 of Article 10 to such income.”.

ARTICLE IX

The first sentence of Paragraph 1 of Article 24 (Mutual agreement procedure) of the Convention shall be deleted and replaced by the following:

“Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of either Contracting State.”.

ARTICLE X

The following new article shall be inserted immediately following Article 27 (Miscellaneous rules) of the Convention:

“ARTICLE 27A Entitlement to benefits

Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital gains if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.”.

ARTICLE XI

1. Each of the Contracting States shall notify to the other via diplomatic channels the completion of the procedures required by its law for the bringing into force of this Protocol.

2. The Protocol shall enter into force on the date of the receipt of the later of these notifications and shall thereupon have effect:

(a) in the United Kingdom:

- (i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the calendar year next following the date on which the Protocol enters into force;
- (ii) in respect of income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April next following the date on which the Protocol enters into force;
- (iii) in respect of corporation tax, for any financial year beginning on or after the first day of April next following the date on which the Protocol enters into force; and

(b) in Switzerland:

- (i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the calendar year next following the date on which the Protocol enters into force;
- (ii) in respect of other taxes, for taxation years beginning on or after the first day of January of the calendar year next following the date on which the Protocol enters into force.

3. Notwithstanding the provisions of paragraphs 1 and 2, the amendments made by Article IX of this Protocol shall have effect from the date of entry into force of this Protocol, without regard to the taxable period to which the matter relates.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at this day of 20..... in the French and English languages, both being equally authentic.

For the Swiss Federal Council:

For the Government of the United Kingdom of Great Britain and Northern Ireland: