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**1977 UK/Switzerland Double Taxation Convention as amended by the 2009 Protocol**

**CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM  
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE SWISS  
CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH  
RESPECT TO TAXES ON INCOME**

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

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

Have agreed as follows:

ARTICLE 1  
Personal scope

This Convention shall apply to persons who are residents of one or both of the  
Contracting States.

ARTICLE 2  
Taxes covered

- (1) The taxes which are the subject of this Convention are:
  - (a) in the United Kingdom of Great Britain and Northern Ireland:  
the income tax, the corporation tax, the capital gains tax, the development land  
tax and the petroleum revenue tax  
  
(hereinafter referred to as “United Kingdom tax”);
  - (b) in Switzerland:  
the federal, cantonal and communal taxes on income (total income, earned  
income, income from capital, industrial and commercial profits, capital gains  
and other items of income)  
  
(hereinafter referred to as “Swiss tax”).

(2) The Convention shall also apply to any identical or substantially similar taxes which are imposed by a Contracting State or a political subdivision or a local authority thereof after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

(3) The Convention shall not apply to the federal anticipatory tax withheld in Switzerland at source on prizes in a lottery.

### ARTICLE 3 General definitions

- (1) In this Convention, unless the context otherwise requires:
- (a) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea-bed and sub-soil and their natural resources may be exercised;
  - (b) the term “Switzerland” means the Swiss Confederation;
  - (c) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Switzerland, as the context requires;
  - (d) the term “tax” means United Kingdom tax or Swiss tax, as the context requires;
  - (e) the term “person” includes any individual, company, unincorporated body of persons, and any other entity with or without juridical personality;
  - (f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - (g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of

a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- (h) the term “national” means:
  - (i) in relation to the United Kingdom, any citizen of the United Kingdom and Colonies, or any British subject not possessing that citizenship or the citizenship of any other Commonwealth country or territory, provided in either case he has the right of abode in the United Kingdom, and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
  - (ii) in relation to Switzerland, any Swiss citizen and any legal person, partnership, association or other entity deriving its status as such from the law in force in Switzerland;
- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term “competent authority” means in the United Kingdom, the Commissioners of Inland Revenue or their authorised representative and in Switzerland, the Director of the Federal Tax Administration or his authorised representative;
- (k) the term “political subdivision”, in relation to the United Kingdom, includes Northern Ireland.
- (l) the term ‘conduit arrangement’ means a transaction or series of transactions which is structured in such a way that a resident of a Contracting State entitled to the benefits of this Convention receives an item of income arising in the other Contracting State but that resident pays, directly or indirectly, all or substantially all of that income (at any time or in any form) to another person who is not a resident of either Contracting State and who, if it received that item of income directly from the other Contracting State, would not be entitled under a convention for the avoidance of double taxation between the State in which that other person is resident and the Contracting State in which the

income arises, or otherwise, to benefits with respect to that item of income which are equivalent to, or more favourable than, those available under this Convention to a resident of a Contracting State and the main purpose of such structuring is obtaining benefits under this Convention.

(2) As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes which are the subject of the Convention.

#### ARTICLE 4

##### Residence

(1) For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State. In the case of Switzerland, the term includes a partnership created or organised under Swiss law.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated. In cases of doubt, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the State in which the person's place of effective management is exercised, and in doing so shall take into account all relevant factors. In the absence of such agreement, that person shall not be entitled to claim any benefits provided by this Convention except those provided by paragraph 1 of Article 22 (Elimination of double taxation), Article 23 (Non-discrimination) and Article 24 (Mutual agreement procedure).

## Article 5 Permanent establishment

(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(2) The term "permanent establishment" includes especially:

(a) a place of management,

(b) a branch,

(c) an office,

(d) a factory,

(e) a workshop and

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

(4) Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) Notwithstanding the provisions of paragraphs (1) and (2), where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such a person are limited to those mentioned in paragraph (4) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

(6) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

(7) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State or which carries



on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## Article 6

### Income from immovable property

(1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

(2) The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of paragraphs (1) and (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

## Article 7

### Business profits

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph (3), where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributable to that permanent establishment the profits which it might be expected to make if it were a distinct

and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(5) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

#### Article 8

#### Shipping, inland waterways transport and air transport

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(3) If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

(4) The provisions of paragraph (1) shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9  
Associated enterprises

- (1) Where
  - (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any income, deductions, receipts or outgoings which would, but for those conditions, have been attributed to one of the enterprises, but, by reason of those conditions, have not been so attributed, may be included in the profits or losses of that enterprise and taxed accordingly.

(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 items so included comprise income, deductions, receipts or outgoings which would have been attributed 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 the competent authorities of the Contracting States may consult together with a view to reaching an agreement on the adjustment of profits or losses in both Contracting States.

Article 10  
Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

- (2) However, such dividends:

- (a) shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is:
  - (i) a company which is a resident of the other Contracting State and controls, directly or indirectly, at least 10 per cent of the capital in the company paying the dividends; or
  - (ii) a pension scheme;
- (b) except as provided in sub-paragraph (a), may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

(3) The term “dividends” as used in this Article means income from shares, jouissance shares or jouissance rights, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation laws of the State of which the company making the distribution is a resident and, in the case of the United Kingdom, includes any item which under the laws of the United Kingdom is treated as a distribution of a company.

(4) The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the

dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

(6) The provisions of this Article shall not apply in respect of any dividend paid under, or as part of, a conduit arrangement.

## Article 11

### Interest

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if that resident is the beneficial owner of the interest.

(2) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

(3) The provisions of paragraph (1) shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claims in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, by reason of a special relationship between the payer and the beneficial owner, or between both of them and some other person, the amount of the interest paid exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments, if treated as a dividend or distribution of a company, shall be taxed in accordance with Article 10.

(5) Interest exempted from tax under the provisions of this Article shall not be treated as a distribution of a company paying such interest by reason of any provisions in the law of either Contracting State which relate only to interest paid to a non- resident, with or without any further requirement, or which relate only to interest payments between interconnected companies, with or without any further requirements.

(6) The provisions of paragraph (5) of this Article shall not apply to interest paid to a company which is a resident of a Contracting State where:

- (a) the same persons participate directly or indirectly in the management or control of the company paying the interest and the company receiving the interest; and
- (b) more than 50% of the voting power in the company receiving the interest is controlled, directly or indirectly, by a person or persons resident in the other Contracting State.

(7) The provisions of this Article shall not apply in respect of any interest paid under, or as part of, a conduit arrangement.

## Article 12 Royalties

(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if that resident is the beneficial owner of the royalties.

(2) The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph (1) shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected

with such permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, by reason of a special relationship between the payer and the beneficial owner, or between both of them and some other person, the amount of royalties paid exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(5) The provisions of this Article shall not apply in respect of any royalty paid under, or as part of, a conduit arrangement.

### Article 13 Capital gains

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

(3) Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) Gains from the alienation of shares of a company, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State.

(5) Gains from the alienation of any property other than that referred to in paragraphs (1), (2), (3) and (4) shall be taxable only in the Contracting State of which the alienator is a resident.

(6) The provisions of paragraph 5 shall not affect the right of the United Kingdom to levy according to its law a tax chargeable in respect of gains from the alienation of any property on a person who is, and has been at any time during the previous six fiscal years, a resident of the United Kingdom or on a person who is a resident of the United Kingdom at any time during the fiscal year in which the property is alienated.

#### Article 14

##### Independent personal services

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

(2) The term “professional services” includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

#### Article 15

##### Dependent personal services

(1) Subject to the provisions of Article 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned of that State, and



- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

#### Article 16 Directors' fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

#### Article 17 Artistes and athletes

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

(3) The provisions of paragraphs (1) and (2) shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by entertainers if the visit to that State is substantially supported by public funds of the other Contracting State or a political subdivision or a local authority thereof.

## Article 18

### Pensions

(1) Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to an individual who is a resident of a Contracting State, shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph 1, a lump sum payment derived from a pension scheme established in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in the first-mentioned State.

(3) Contributions made by or on behalf of an individual who exercises employment or self-employment in a Contracting State ('the host state') to a pension scheme that is recognised for tax purposes in the other Contracting State ('the home state') shall, for the purposes of:

- (a) determining the individual's tax payable in the host state; and
- (b) determining the profits of his employer which may be taxed in the host state;

be treated in that State in the same way and subject to the same conditions and limitations as contributions made to a pension scheme that is recognised for tax purposes in the host state, to the extent that they are not so treated by the home state.

- (4) Paragraph 3 applies only if the following conditions are met:
- (a) the individual is subject to the legislation of the home state in accordance with the Agreement on the Free Movement of Persons signed on 21 June 1999, between the Swiss Confederation on one side and the European Community and its Member States on the other side; and
  - (b) the individual was not a resident of the host state, and was participating in the pension scheme (or in another similar pension scheme for which the first-mentioned pension scheme was substituted), immediately before he began to exercise employment or self-employment in the host state; and

- (c) the pension scheme is accepted by the competent authority of the host state as generally corresponding to a pension scheme recognised as such for tax purposes by that State.
- (5) For the purposes of paragraphs 2, 3 and 4:
  - (a) the term ‘a pension scheme’ means an arrangement in which the individual participates in order to secure retirement benefits payable in respect of the employment or self-employment referred to in paragraph 3;
  - (b) a pension scheme is recognised for tax purposes in a Contracting State if the contributions to the scheme would qualify for tax relief in that State and if payments made to the scheme by the individual’s employer are not deemed in that State to be taxable income of the individual.

#### Article 19

#### Government service

- (1) (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
  - (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
    - (i) is a national of that State; or
    - (ii) did not become a resident of that State solely for the purpose of rendering services.
- (2) (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

(3) The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## Article 20

### Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

## Article 21

### Other income

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention, other than income paid out of trusts, shall be taxable only in that State.

(2) The provisions of paragraph (1) shall not apply to income other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In that case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(3) Where, by reason of a special relationship between the resident referred to in paragraph 1 and some other person, or between both of them and some third person, the amount of the income referred to in that paragraph exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of

the income shall remain taxable according to the laws of each Contracting State, due regard being had to the other applicable provisions of this Convention.

(4) The provisions of this Article shall not apply in respect of any items of income referred to in paragraph 1 if paid under, or as part of, a conduit arrangement.

## Article 22

### Elimination of double taxation

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

- (a) Swiss tax payable under the laws of Switzerland and in accordance with the provisions of this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Switzerland (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Swiss tax is computed;
- (b) in the case of a dividend paid by a company which is a resident of Switzerland to a company which is resident in the United Kingdom and which controls directly or indirectly at least 10 per cent of the capital or voting power in the Swiss company, the credit shall take into account (in addition to any Swiss tax creditable under sub-paragraph (a)) the Swiss tax payable by the company in respect of the profits out of which such dividend is paid.

(2) Where a resident of Switzerland derives income which, under the laws of the United Kingdom and in accordance with the provisions of the Convention may be taxed in the United Kingdom, Switzerland shall, subject to the provisions of paragraphs (3), (4) and (6), exempt such income from Swiss tax, provided, however, that such exemption shall apply to gains referred to in paragraph (4) of Article 13 only if taxation of such gains in the United Kingdom is demonstrated.

(3) Where a resident of Switzerland derives dividends which, in accordance with the provisions of paragraph 2 of Article 10, may be taxed in the United Kingdom, Switzerland shall allow, upon request, a relief to that person. The relief may consist of:

- (a) a deduction from the Swiss tax on the income of that resident of an amount equal to the tax levied in the United Kingdom in accordance with the provisions of paragraph 2 of Article 10; such deduction shall not, however, exceed that part of the Swiss tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in the United Kingdom; or
- (b) a lump sum reduction of the Swiss tax; or
- (c) a partial exemption of such dividends from Swiss tax, in any case consisting at least of the deduction of the tax levied in the United Kingdom on the gross amount of the dividends.

Switzerland shall determine the relief applicable and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions of the Swiss Confederation for the avoidance of double taxation.

(4) A company which is a resident of Switzerland and which derives dividends from a company which is a resident of the United Kingdom shall be entitled, for the purposes of Swiss tax with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.

(5) For the purposes of the preceding paragraphs, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with the provisions of the Convention shall be deemed to arise from sources in that other State.

(6) Where any income is exempted from tax by any provision of the Convention, it may nevertheless be taken into account in computing the tax on other income or in determining the rate of such tax.

## Article 23 Non-discrimination

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more

burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(3) Nothing contained in this Article shall be construed as obliging a Contracting State to grant to individuals not resident in that State any of the personal allowances and reliefs which are granted to individuals so resident.

(4) Except where the provisions of paragraph 1 of Article 9, paragraphs 4 or 7 of Article 11, paragraphs 4 or 5 of Article 12, or paragraphs 3 or 4 of Article 21 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

(5) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(6) The provisions of this Article shall apply to taxes of every kind and description.

## Article 24

### Mutual agreement procedure

1. 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 the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first

notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Where,

- a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within three years from the presentation of the case to the competent authority of the other Contracting State,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.



## Article 25

### Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its

own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. In order to obtain such information, the tax authorities of the requested Contracting State shall have the power to enforce the disclosure of information covered by this paragraph, notwithstanding paragraph 3 or any contrary provisions in its domestic laws.

## Article 26

### Diplomatic agents and consular officers

(1) Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

(2) Notwithstanding the provisions of Article 4 an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State may be deemed for the purpose of the Convention to be a resident of the sending State if:

- (a) in accordance with international law he is not liable to tax in the receiving State in respect of income from sources outside that State; and
- (b) he is liable in the sending State to the same obligations in relation to tax on his total income as are residents of that State.

(3) The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income.

Article 27  
Miscellaneous rules

(1) Where under any provision of this Convention income from a source within Switzerland is relieved from Swiss tax and, under the laws in force in the United Kingdom, an individual, in respect of such income, is subject to tax by reference to the amount thereof which is remitted to or received in the United Kingdom and not by reference to the full amount thereof, then the relief to be allowed under the Convention in Switzerland shall apply only to so much of the income as is remitted to or received in the United Kingdom.

(2) Where under any provision of the Convention a partnership is entitled, as a resident of Switzerland, to exemption from the United Kingdom tax on any income, such provision shall not be construed as restricting the right of the United Kingdom to charge any member of the partnership which is a resident of the United Kingdom to tax on its share of the income of the partnership; but any such income shall be deemed for the purposes of Article 22 to be income from sources within Switzerland.

(3) Where under any provision of the Convention an estate of a deceased person is entitled, as a resident of Switzerland, to exemption from United Kingdom tax on any income, such provision shall not be construed as requiring the United Kingdom to grant exemption from United Kingdom tax in respect of such part of such income as passes to any heir of such estate who is not a resident of Switzerland and whose share of such income is not subject to Swiss tax either in his hands or in the hands of the estate.

(4) Subject to the provisions of paragraph (6), individuals who are residents of Switzerland shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom taxation as British subjects not resident in the United Kingdom.

(5) Subject to the provisions of paragraph (6), individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Swiss tax as Swiss nationals resident in the United Kingdom.

(6) Nothing in the Convention shall entitle an individual who is a resident of a Contracting State and whose income from the other Contracting State consists solely of dividends, interest or royalties (or solely of any combination thereof) to the personal allowances, reliefs and reductions of the kind referred to in paragraphs (4) and (5) for the purposes of taxation in that other State.

(7) Where it is provided in the Convention that relief from tax in respect of any kind of income shall be allowed in the Contracting State from which such income is derived, that provision shall not be construed as requiring that income to be paid without deduction of tax at source at the full rate. Where tax has been deducted at source from such income the taxation authorities of the State in which relief from tax is required to be given shall, when the beneficial owner of the income shows to their satisfaction and within the time limits prescribed in that State that he is entitled to the relief, arrange for the appropriate repayment of tax.

(8) For the purpose of determining what reliefs may be due under Article 10, or paragraphs (4) and (5) of this Article, the income of a partnership shall be regarded as that of its individual members.

## Article 28 Entry into force

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

(2) The Convention shall enter into force immediately after the expiration of thirty days following the date on which the instruments of ratification are exchanged and shall thereupon have effect:

(a) in the United Kingdom:

- (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April 1978;
- (ii) in respect of corporation tax, for any financial year beginning on or after 1 April 1978;
- (iii) in respect of development land tax, for any realised development value accruing on or after 1 April 1978; and
- (iv) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January 1978;

(b) in Switzerland:

for any taxable year beginning on or after 1 January 1978.

(3) Notwithstanding the provisions of paragraph (2), the Convention shall have effect in respect of any dividend paid on or after 6 April 1975 to which paragraph (3) of Article 10 applies.

(4) Subject to the provisions of paragraph (5) the Convention between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income signed at London on 30 September 1954, as amended by the Protocol signed at London on 14 June 1966 and by the Supplementary Protocol signed at London on 2 August 1974, (hereinafter referred to as “the 1954 Convention”), shall terminate upon the entry into force of this Convention and thereupon cease to have effect in respect of taxes to which this Convention, in accordance with the provisions of paragraph (2), applies.

(5) Where any provision of the 1954 Convention would have afforded any greater relief from tax any such provision as aforesaid shall continue to have effect:

- (a) in the United Kingdom, for any year of assessment or financial year; and
- (b) in Switzerland, for any taxable year

beginning, in either case, before 1 January 1979.

(6) This Convention shall not affect any Agreement in force extending the 1954 Convention in accordance with Article XXI thereof.

(7) The Agreement of 17 October 1931 between the Government of the United Kingdom and the Swiss Federal Council for reciprocal exemption from taxation on profits or gains arising through an agency shall terminate upon the entry into force of this Convention.

## Article 29 Termination

(1) This Convention shall remain in force until denounced by a Contracting State. Either Contracting State may denounce the Convention, through diplomatic channels, by

giving notice of termination at least six months before the end of any calendar year after the year 1983. In such event, the Convention shall cease to have effect:

- (a) in the United Kingdom:
  - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given;
  - (ii) in respect of corporation tax and development land tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;
  - (iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January in the calendar year next following that in which the notice is given;

- (b) in Switzerland:

for any taxable year beginning on or after 1 January of the calendar year next following that in which such notice is given.

(2) The termination of this Convention shall not have the effect of reviving any treaty or arrangement abrogated by this Convention or any treaties previously concluded between the Contracting States.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at London this 8th day of December 1977 in the English and French languages, both texts being equally authoritative.

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

For the Swiss Federal Council:

FRANK JUDD

ERNESTO THALMANN

## Protocol

# **ADDITIONAL PROTOCOL BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE SWISS CONFEDERATION 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 BERN ON 17 DECEMBER 1993 AND AT LONDON ON 26 JUNE 2007**

At the signing of the Protocol 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 Bern on 17 December 1993 and at London on 26 June 2007, the authorised signatories hereto have agreed the following provisions which shall form an integral part of the Convention:

1. In relation to paragraph 1 of Article 4 (Residence)

It is understood and confirmed that the term “resident of a Contracting State” includes:

- (a) a pension scheme established in that State; and
- (b) an organisation that is established and is operated exclusively for religious, charitable, scientific, cultural, or educational purposes (or for more than one of those purposes) and that is a resident of that State according to its laws, notwithstanding that all or part of its income or gains may be exempt from tax under the domestic law of that State.

2. In relation to sub-paragraph (a) (ii) of paragraph 2 of Article 10 (Dividends)

It is understood and confirmed that the term “pension scheme” means any plan, scheme, fund, trust or other arrangement established in a Contracting State which is:

- (a) generally exempt from income taxation in that State; and
- (b) operated principally to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements.

3. In relation to Article 15 (Dependent personal services)

It is understood that Article 15 applies to the employment benefit derived from stock-options regardless of when that benefit is taxed.

4. In relation to Article 25 (Exchange of information)

- a) It is understood that an exchange of information will only be requested once the requesting State has exhausted its normal procedures under domestic law to obtain the information.
- b) It is understood that the standard of “foreseeable relevance” is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that the Contracting States are not at liberty to engage in “fishing expeditions” or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer.
- c) It is understood that the tax authorities of the requesting State shall provide the following information to the tax authorities of the requested State when making a request for information under Article 25 of the Convention:
  - (i) the name and address of the person(s) under examination or investigation and, if available, other particulars facilitating that person’s identification, such as date of birth, marital status, tax identification number;
  - (ii) the period of time for which the information is requested;
  - (iii) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;
  - (iv) the tax purpose for which the information is sought;
  - (v) the name and address of any person believed to be in possession of the requested information.



- d) It is understood that Article 25 of the Convention does not require the Contracting States to exchange information on an automatic or a spontaneous basis.
- e) It is understood that in case of an exchange of information, the administrative procedural rules regarding taxpayers' rights provided for in the requested Contracting State remain applicable before the information is transmitted to the requesting Contracting State. It is further understood that this provision aims at guaranteeing the taxpayer a fair procedure and not at preventing or unduly delaying the exchange of information process.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Additional Protocol.

Done in duplicate at London this 7th day of September 2009 in the English and French languages, each text being equally authoritative.

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

**For the Swiss Federal Council:**

**STEPHEN TIMMS**

**ALEXIS P LAUTENBURG**