



Treaty Series No. 48 (2024)

# Protocol

amending the Convention between the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital signed at London on 30 March 2010, as amended by the Protocol signed at London on 17 March 2014

London, 21 January 2021

[The Protocol entered into force 17 December 2021]

*Presented to Parliament  
by the Secretary of State for Foreign, Commonwealth and Development Affairs  
by Command of His Majesty  
July 2024*



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ISBN 978-1-52865058-8  
E03158465 07/24

Printed on paper containing 40% recycled fibre content minimum

Printed in the UK by HH Global on behalf of the Controller of His Majesty's Stationery Office

**PROTOCOL  
AMENDING THE CONVENTION BETWEEN  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN  
IRELAND AND THE FEDERAL REPUBLIC OF GERMANY FOR THE  
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON  
CAPITAL SIGNED AT LONDON ON 30 MARCH 2010, AS AMENDED BY  
THE PROTOCOL SIGNED AT LONDON ON 17 MARCH 2014**

The United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany;

Desiring to conclude a Protocol amending the Convention between the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital signed at London on 30 March 2010, as amended by the Protocol signed at London on 17 March 2014 (hereinafter referred to as “the Convention”);

Have agreed as follows:

ARTICLE 1

The Title shall be deleted and replaced by the following new Title:

“Convention between the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Tax Evasion and Avoidance”.

ARTICLE 2

The Preamble shall be deleted and replaced by the following new Preamble:

“The United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany;

Intending to eliminate double taxation with respect to taxes on income and on capital 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 3

1. Paragraph 4A shall be inserted after paragraph 4 of Article 5 as follows:

“(4A) Paragraph 4 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.”.

2. Paragraph 8 shall be inserted after paragraph 7 of Article 5 as follows:

“(8) For the purposes of this Article, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company’s shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company’s shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.”.

### ARTICLE 4

Paragraph 6 of Article 10, paragraph 5 of Article 11, paragraph 5 of Article 12 and paragraph 5 of Article 21 shall be deleted.

### ARTICLE 5

Paragraph 4 of Article 25 shall be deleted and replaced by the following paragraph:

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

#### ARTICLE 6

In paragraph 2 of Article 26, the second sentence shall be deleted and replaced by the following sentence:

“Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.”.

#### ARTICLE 7

ARTICLE 30A shall be inserted after ARTICLE 30 as follows:

#### “ARTICLE 30A

##### **Prevention of Treaty Abuse**

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 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 8

1. This Protocol shall be ratified; the instruments of ratification shall be exchanged as soon as possible.

2. This Protocol shall enter into force on the day of the exchange of the instruments of ratification. The Convention as amended by this Protocol shall thereupon have effect:

a) in Germany:

- aa) in the case of taxes withheld at source, in respect of amounts paid on or after 1 January of the calendar year next following that in which this Protocol enters into force;
  - bb) in the case of other taxes, in respect of taxes levied for periods beginning on or after 1 January of the calendar year next following that in which this Protocol enters into force;
- b) in the United Kingdom:
- aa) 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 this Protocol enters into force;
  - bb) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which this Protocol enters into force;
  - cc) in respect of taxes withheld at source, to income derived on or after 1 January in the calendar year next following that in which this Protocol enters into force.

Done in duplicate at London on Twelfth January 2021 in the English and German languages, both texts being equally authoritative.

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

**JESSE NORMAN**

**For the Federal Republic of  
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978-1-5286-5058-8