

**Protocol between the Kingdom of Norway and the Swiss Confederation amending the Convention for the avoidance of double taxation with respect to taxes on income and on capital and the protocol, signed at Bern on 7 September 1987, as amended by the Protocol signed at Oslo on 12 April 2005**

The Government of the Kingdom of Norway and the Swiss Federal Council, desiring to amend the Convention for the avoidance of double taxation with respect to taxes on income and on capital and the Protocol signed at Bern on 7 September 1987, as amended by the Protocol signed at Oslo on 12 April 2005 (hereinafter referred to as "the Convention" and "the Protocol", respectively),

Have agreed as follows:

**Article I**

Paragraph 2 of Article 10 (Dividends) of the Convention shall be deleted and replaced by the following:

- "2. However, such dividends 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. Such dividends shall, however, be exempt from tax in the first-mentioned State if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends."

**Article II**

Article 18 (Pensions and Annuities) of the Convention shall be deleted and replaced by the following Article:

*"Article 18 Pensions*

Pensions (including public pensions) in consideration of past employment arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned State. The tax so charged shall not exceed 15 per cent of the gross amount of the pension payments."

**Article III**

The following sub-paragraph d) shall be added to paragraph 2 of Article 23 (Elimination of Double Taxation):

- "d) Where a resident of Switzerland derives income covered by Article 18, Switzerland shall allow, upon request, a deduction from the Swiss tax on this income of an amount equal to the tax levied in Norway in accordance with Article 18; such deduction shall not, however, exceed that part of the Swiss income tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Norway."

#### **Article IV**

With respect to Article 25, if at any time after the date of signature of this Protocol, Norway includes a provision on arbitration in any of its double taxation conventions, the Government of Norway shall inform the Government of the Swiss Confederation in writing and shall enter into negotiations with the Government of the Swiss Confederation with a view to include a provision on arbitration in the present Convention for the avoidance of double taxation with respect to taxes on income and on capital.

#### **Article V**

Article 26 (Exchange of Information) of the Convention shall be deleted and replaced by the following Article:

##### *"Article 26 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 covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1.
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, or 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:

1. to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
2. 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;
3. 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 therefore 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 VI**

Paragraph 5 of the Protocol shall be deleted.

## **Article VII**

1. Each of the Contracting States shall notify to the other the completion of the constitutional formalities required in each of the Contracting States for bringing this Protocol into force.
2. This Protocol shall enter into force on the date of the later of these notifications and shall have effect:
  1. with respect to paragraph 2 of Article 10 of the Convention, to dividends due on or after the first day of January of the year next following the entry into force of this Protocol;
  2. with respect to Article 18 of the Convention, to pension payments made on or after the first day of January of the year next following the entry into force of this Protocol;

3. with respect to Article 26 of the Convention, for taxable years beginning on or after the first day of January of the year next following the entry into force of this Protocol. Article 26 of the Convention and paragraph 5 of the Protocol as amended by the Protocol of 12 April 2005 shall continue to be applicable for the taxable years beginning on or after the first day of January 2006 and ending on the last day of December of the year this Protocol enters into force.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Oslo this 31st day of August 2009 in the Norwegian, German and English languages. In case of any divergence of interpretation, the English text shall prevail.

For the Government of the Kingdom of Norway For the Government of the Swiss Federal Council

Thorbjørn Gjølstad

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