

Part II – Treaties and Tax Legislation

Subpart A – Tax Conventions and Other Related Items

U.S.-Switzerland Competent Authority Arrangement

Announcement 2025-8

The following is a copy of the Competent Authority Arrangement entered into by the competent authorities of the United States of America and the Swiss Confederation under paragraph 3 of Article 25 (Mutual Agreement Procedure) of the Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income signed at Washington on October 2, 1996, as amended by the Protocol, signed on September 23, 2009, regarding certain U.S. and Swiss pension or other retirement arrangements, including individual retirement savings plans, that may be eligible for benefits under paragraph 3 of Article 10 (Dividends).

The text of the Competent Authority Arrangement is as follows:

COMPETENT AUTHORITY ARRANGEMENT

The competent authorities of the United States and Switzerland hereby enter into the following arrangement (Arrangement) regarding certain U.S. and Swiss pension or other retirement arrangements, including individual retirement savings plans, that may be eligible for benefits under paragraph 3 of Article 10 (Dividends) of the Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income signed at Washington on October 2, 1996, as amended by the Protocol, signed on September 23, 2009 (Treaty). This Arrangement is entered into under paragraph 3 of Article 25 (Mutual Agreement Procedure) of the Treaty and supersedes the competent authority arrangement entered into on May 6, 2021, I.R.B. 2021-23.

1. Paragraph 3 of Article 10 (Dividends) of the Treaty

Article 10(3) states:

Notwithstanding paragraph 2, dividends may not be taxed in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a pension or other retirement arrangement which is a resident of the other Contracting State, or an individual retirement savings plan set up in, and owned by a resident of, the other Contracting State, and the competent authorities of the Contracting States agree that the pension or retirement arrangement, or the individual retirement savings plan, in a Contracting State generally corresponds to a pension or other retirement arrangement, or to an individual retirement savings plan, recognized for tax purposes in the other Contracting State. This paragraph shall not apply if such pension or retirement arrangement, or such individual retirement savings plan, controls the company paying the dividends.

2. Qualified U.S. pension or other retirement arrangements

The following arrangements are U.S. pension or other retirement arrangements that should qualify for benefits under Article 10(3) provided that they do not control the Swiss company paying the dividend and that they satisfy all additional applicable requirements set forth in the Treaty, including Article 22 (Limitation on Benefits):

- a) A trust providing pension or retirement benefits under a Code section 401(a) qualified pension plan (which includes a Code section 401(k) plan) and a profit sharing or stock bonus plan;
- b) A trust described in Code section 457(g) providing pension or retirement benefits under a Code section 457(b) plan;
- c) A Code section 403(a) qualified annuity plan and a Code section 403(b) plan;
- d) A group trust described in IRS Revenue Ruling 81-100 (as amended by IRS Revenue Ruling 2014-24 and IRS Revenue Ruling 2011-1) (U.S. Group Trust), provided that it is operated exclusively or almost exclusively to earn income for the benefit of pension funds that are themselves entitled to benefits under the Treaty as a resident of the United States; and
- e) The Thrift Savings Fund (Code section 7701(j)).

3. Qualified U.S. individual retirement savings plans

The following arrangements are U.S. individual retirement savings plan that will qualify for benefits under Article 10(3) provided that they do not control the Swiss company paying the dividend and that they satisfy all additional applicable requirements set forth in the Treaty, including Article 22:

- a) A trust that is an individual retirement account under Code section 408(a) or an annuity or endowment contract that is an individual retirement annuity under Code section 408(b);
- b) A Roth individual retirement account under Code section 408A;
- c) A simple retirement account under Code section 408(p); and
- d) A trust providing pension or retirement benefits under a simplified employee pension plan under Code section 408(k).

4. Qualified Swiss pension or other retirement arrangements

The following arrangements are Swiss pension or other retirement arrangements that will qualify for benefits under Article 10(3) provided that they do not control the U.S. company paying the dividend and that they satisfy all additional applicable requirements set forth in the Treaty, including Article 22:

- a) A Swiss resident pension or other retirement arrangement that has been established in accordance with the Federal Act on old age, survivors' and disabled persons' insurance payable in respect of employment or self-employment of 25 June 1982, including a retirement arrangement covered by:
 - i. the Federal Act on Vested Benefits of 17 December 1993;
 - ii. paragraph 6 and paragraph 7 of Article 89a of the Swiss Civil Code of 10 December 1907; and
 - iii. any arrangement covered by paragraph 1 of Article 331 of the Federal Act on the Amendment of the Swiss Civil Code (Part Five: The Code of Obligations) of 30 March 1911.

5. Qualified Swiss individual retirement savings plans

The following arrangements are Swiss individual retirement savings plans that will qualify for benefits under Article 10(3) provided that they do not control the U.S. company paying the dividend and that they satisfy all additional applicable requirements set forth in the Treaty, including Article 22:

- a) Any arrangement covered by the Federal Act on old age, survivors' and disabled persons' insurance payable in respect of employment or self-employment of 25 June 1982, including individual recognized pension plans comparable with occupational pension plans.

6. Not an exclusive list; verification

The pension or other retirement arrangements and individual retirement savings plans described in paragraphs 2 through 5, above, are not intended to be exclusive. Any U.S. or Swiss pension or other retirement arrangement, or individual retirement savings plan, not mentioned above, including any such arrangement or plan established pursuant to legislation enacted after the date of signature of this Arrangement may present its case to the U.S. and Swiss Competent Authorities pursuant to paragraph 3 of Article 25 (Mutual Agreement Procedure) to determine whether it qualifies for benefits under paragraph 3 of Article 10, provided it has satisfied all additional applicable requirements set forth in the Treaty, including Article 22.

7. Procedure for U.S. Group Trusts Claiming Treaty Benefits from Switzerland

For purposes of claiming a refund from the Swiss Tax Authorities pursuant to Article 10(3) with respect to Swiss tax imposed on a dividend, a U.S. Group Trust should provide together with its claim for refund a list of its participating pension funds including their name, address, TIN, the applicable Code section and the percentage of U.S. Group Trust assets held for each participating pension fund, which will be used to confirm that at least 95 percent of the U.S. Group Trust's participating pension funds were themselves entitled to benefits under the Treaty as a resident of the United States as of January 1 of the year in which the dividend was paid.

Information requested by the Swiss Tax Authorities while examining a claim for refund should be limited only to the information specified above relating to participating pension funds of a U.S. Group Trust, if such information has not been previously provided by the U.S. Group Trust.

8. Operative date

Upon signature by the U.S. and Swiss competent authorities, this Arrangement

becomes operative for dividends paid on or after January 1, 2020, and supersedes the competent authority arrangement entered into on May 6, 2021, I.R.B. 2021-23.

Signed by the undersigned competent authorities:

/s/ Holly O. Paz
Holly O. Paz
United States Competent Authority

/s/ Pascal Duss
Pascal Duss
State Secretariat for International
Financial Matters SIF

Date: December 5, 2024

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