

COMPETENT AUTHORITY ARRANGEMENT REGARDING THE INTERPRETATION OF ARTICLE 3 OF THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND THE ENCOURAGEMENT OF INTERNATIONAL TRADE AND INVESTMENT

The competent authorities of the United States and Korea hereby enter into the following arrangement (the "Arrangement") regarding the application of certain provisions of Article 3 (Fiscal Domicile) of the Convention between the United States of America and the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Encouragement of International Trade and Investment, signed at Seoul on June 4, 1976 (the "Treaty"). The Arrangement is entered into under paragraph 2 of Article 27 (Mutual Agreement Procedure).

Paragraph 1 of Article 3 of the Treaty provides that the term "resident of the United States" includes a United States corporation and any other person resident in the United States for purposes of its tax.

Paragraph 1 of Article 3 of the Treaty further provides that the term "resident of Korea" includes a Korean corporation and any other person resident in Korea for purposes of its tax.

Paragraph 2 of Article 3 of the Treaty states that "where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States:

- (a) He shall be deemed to be a resident of that Contracting State in which he maintains his permanent home;
- (b) If he has a permanent home in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests);

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For the purpose of this paragraph, a permanent home is the place where an individual dwells with his family."

Paragraph 3 of Article 3 of the Treaty provides that an individual who is deemed to be a resident of one of the Contracting States, and not the other, by reason of the tie-breaker provisions of paragraph 2 shall be treated as a resident only of the first-mentioned Contracting State for all Treaty purposes.

There are five sequential tie-breaker provisions in paragraph 2, with subparagraph (a) having priority over subparagraph (b), subparagraph (b) having priority over

subparagraph (c), and so on. A tie-breaker provision is not applied if Treaty residence has been determined by a tie-breaker provision having higher priority.

It is understood that, in applying the tie-breaker provision set forth in subparagraph (a) of paragraph 2 (i.e., the "permanent home test"), if an individual dwells during a taxable year with one or more family members in what otherwise would be considered a permanent home in each Contracting State, the individual will have a permanent home in both Contracting States for that year.

It is further understood that if an individual has a permanent home in both Contracting States, or if the permanent home test does not otherwise resolve the individual's residency for the taxable year, the "center of vital interests" test will then apply, as described in subparagraph (b) of paragraph 2, above.

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Date: April 10, 2017

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Korean Competent Authority  
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Date: 7th day of March, 2017