

COMPETENT AUTHORITY AGREEMENT

The competent authorities of the United States and the United Kingdom hereby enter into the following agreement (“the Agreement”) regarding the definition of “first notification” under paragraph 1 of Article 26 (Mutual Agreement Procedure) of the Convention between the United States of America and the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation with respect to taxes on income signed at London on July 24, 2001 (“the Treaty”). The Agreement is entered into under paragraph 3 of Article 26 (Mutual Agreement Procedure).

It is understood that for the purposes of the Agreement the term “Article” refers to an Article of the Treaty.

Definition of “First Notification” under Article 26(1)

Paragraph 1 of Article 26 provides that

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 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 this Convention or, if later, within six years from the end of the taxable year or chargeable period in respect of which that taxation is imposed or proposed. [Emphasis added].

The competent authorities of the United States and the United Kingdom have agreed that paragraph 1 of Article 26 of the Convention shall be interpreted in the way most favourable to the taxpayer, consistent with the approach set out in the OECD commentary on the Model Tax Convention on Income and on Capital. In order to provide certainty for taxpayers and to ensure consistent application of the provision, the date of “first notification of the action resulting in taxation not in accordance with the Convention” shall be treated as the date when all domestic remedies have been exhausted.

In the United Kingdom, this will be either the date of issue of a statutory notice required to conclude an assessment and/or any related appeal procedures for the period of assessment in question, or a letter of acceptance by an officer of the Board of HM Revenue & Customs to settlement terms for the period in question.

In the United States, this will be the date of the later of: (1) an assessment pursuant to a notice of proposed adjustment or a statutory notice of deficiency; (2) when a closing agreement is accepted by the Secretary of the Treasury or his delegate; or (3) if the taxpayer is a party in an action in a US court regarding a redetermination of tax liability or requesting a refund of tax, when such action is finally resolved, including any appeal.

Upon signature by both Competent Authorities, this agreement shall have effect from the date of entry into force of the Convention, without regard to the taxable or chargeable period to which the matter relates.

Agreed to by the Undersigned competent authorities:

Date

Date

Frank Y. Ng
U.S. Competent Authority

Diane Hay
U.K. Competent Authority