

MUTUAL AGREEMENT

The competent authorities of Switzerland and Turkey (hereinafter: "the competent authorities") have reached the following mutual agreement ("Mutual Agreement") regarding the application of the Agreement of 18 June 2010 between the Swiss Confederation and the Republic of Turkey for the avoidance of double taxation with respect to taxes on income ("the Convention") regarding to the procedure for tax residence certification of Swiss official forms ("Swiss forms") generally used for the application and the claim of benefits under the Convention. This Mutual Agreement is entered into under Article 24 paragraph 3 of the Convention and has also to be read, *inter alia*, in the context of Article 10 paragraph 2 *in fine* and Article 11 paragraph 2 *in fine* of the Convention.

Purpose of the Mutual Agreement

1. The competent authorities consider that difficulties or doubts may arise as to the procedure for tax residence certification of Swiss forms generally used for the application and the claim of benefits under the Convention.

In this respect reference is also made to the mutual agreement entered into under Article 24 paragraph 3 of the Convention in relation to Swiss forms 823B and 60, applicable as of 17 July 2014, which drew the same solution as the present Mutual Agreement but with a more limited scope.

Scope of the Mutual Agreement

2. Turkish tax residence shall be certified for the purpose of Swiss forms generally used for the application and the claim of benefits under the Convention, based on the following six-step procedure:

- i. A Turkish resident taxpayer claiming the benefits under the Convention shall comprehensively fill in the relevant Swiss form. In particular, it is intended that the Turkish resident taxpayer will have to fill in all the required copies of the relevant Swiss form (for e.g. 4 copies for form 60) and provide details to all compulsory fields and answer all questions posed.
- ii. A Turkish resident taxpayer claiming the benefits under the Convention shall then submit to the Turkish competent authority for tax residence certification the relevant Swiss form.
- iii. The Turkish competent authority for tax residence certification shall issue a separate Turkish tax residence certificate based on Turkish domestic rules for tax residence certification. The Turkish tax residence certificate shall mention the date as of when, respectively as of what period, the taxpayer is considered to be resident of Turkey for tax purposes.
- iv. The Turkish competent authority for tax residence certification shall then staple the Turkish tax residence certificate to the relevant Swiss form.
- v. The Turkish resident taxpayer claiming the benefits under the Convention finally submits the relevant Swiss form, with the stapled Turkish tax residence certificate, to the Swiss tax authority in charge for the granting of the benefits under the Convention.
- vi. The Swiss tax authority in charge for the granting of the benefits under the Convention, as usual, will thoroughly verify the information provided in the relevant Swiss form, together with the authenticity of the Turkish tax residence certificate which has to be stapled to the Swiss form and which cannot be a photocopied version.

3. With reference to the last sentence of subparagraph iii. of paragraph 2, it is to be understood that the Turkish competent authority for tax residence certification, when issuing a tax residence certificate for a current period, shall put a date of issue on the

document, which means that the taxpayer is resident in Turkey as of that date. When issuing a certificate for previous year(s) then the Turkish competent authority for tax residence certification shall in addition explicitly mention the year(s) for which that tax residence certificate is granted.

4. The Turkish competent authority has provided to the Swiss competent authority samples of official tax residence certificates, in particular, a tax residence certificate for a current period and another certifying tax residence for a previous year (Annex 1).

5. The Turkish competent authority shall notify to the Swiss competent authority any significant change that will be made in the future in their official tax residence certificate model.

6. The Swiss competent authority shall notify the Turkish competent authority about any future relevant changes in the current Swiss form 823B (Annex 2), form 60 (Annex 3) and the non-binding model form used for claiming the application of the Convention in relation to the Swiss withholding tax on settlements in cash by pension funds with registered office in Switzerland (Annex 4).

7. The Swiss competent authority shall notify the Turkish competent authority on any new Swiss forms that will be used in the future for the application of the Convention and also provide the samples of such new forms. As long as the new Swiss forms are agreed upon by the competent authorities the present mutual agreement shall also be implemented for the new forms.

8. The proposed procedure has no direct consequences on other Turkish internal law requirements in relation to tax residence certification (for e.g. internal Turkish compulsory forms) which still need to be filled out by Turkish resident taxpayers.

9. This Mutual Agreement shall apply, as of the date of the latter of the signature, to all pending and future claims. In case a claim for the granting of the benefits under the Convention has been refused in the past due to a lack of tax residence certification directly on the Swiss form, the Turkish taxpayer will have to present a new request using the Swiss official form and this Mutual Agreement shall apply. In this instance, for the purpose of Swiss statute of limitations rules, the claim will be treated as if it was duly presented at the date of the first submission of the Swiss form.

Agreed by the undersigned competent authorities:

Berne, 30 March 2017

Ankara, 27 March 2017

For the Swiss Competent Authority

For the Turkish Competent Authority

Pascal Duss

Veysel Tekin

State Secretariat for International
Financial Matters

The Presidency of
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