



Treaty Series No. 9 (2017)

Agreement

between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on the termination of the Agreement of 6 October 2011 between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on Cooperation in the area of Taxation, as amended by the Protocol of 20 March 2012 (hereinafter “Termination Agreement”)

London, 14 November 2016

[The Agreement entered into force on 1 January 2017]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 2017*



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Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on the termination of the Agreement of 6 October 2011 between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on Cooperation in the area of Taxation, as amended by the Protocol of 20 March 2012 (hereinafter “Termination Agreement”)

The United Kingdom of Great Britain and Northern Ireland (“the United Kingdom”) and the Swiss Confederation (“Switzerland”),

in recognition of the significant contribution made by the Agreement of 6 October 2011¹ as amended by the Protocol of 20 March 2012² between the United Kingdom and Switzerland on Cooperation in the area of Taxation (hereinafter referred to as the "Withholding Tax Agreement") to the strengthening of fiscal policy relations between the two countries;

in recognition of the fact that the Withholding Tax Agreement allowed for the regularisation of assets deposited in Switzerland by relevant persons and the taxation of income generated by these assets;

in view of the introduction of the automatic exchange of financial account information between the two countries, in application of the protocol of amendment between Switzerland and the European Union concluded on 27 May 2015 to the Agreement between the Swiss Confederation and the European Community providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (hereinafter referred to as the "Agreement between Switzerland and the EU");

have agreed as follows:

ARTICLE 1

Purpose

The purpose of the Termination Agreement is to ensure a smooth transition from the Withholding Tax Agreement to the automatic exchange of financial account information between the Contracting States, in application of the Agreement between Switzerland and the EU.

¹ Treaty Series No. 09 (2013) Cm 8579

² Treaty Series No. 09 (2013) Cm 8579

ARTICLE 2

Definitions

Unless otherwise provided for in the Termination Agreement:

- a) The definitions in Article 2 of the Withholding Tax Agreement shall apply for the terms used herein;
- b) References herein to taxes levied up to the termination of the Withholding Tax Agreement include tax finality payments in accordance with the joint declaration in annex I of the Protocol of 20 March 2012.

ARTICLE 3

Termination of the Withholding Tax Agreement

1. The Withholding Tax Agreement will be terminated upon entry into force of the Agreement between Switzerland and the EU, subject to the provisions of this article.
2. The provisions of the Withholding Tax Agreement will continue to apply for all facts and legal rights and obligations that materialised during its period of validity.
3. The Contracting States shall not make public any of the information collected and reported by Switzerland in accordance with Article 18 of the Withholding Tax Agreement, even after it has been terminated.
4. Any information that a Contracting State receives under the Withholding Tax Agreement is subject to the restrictions of use laid down in Article 37 of the Withholding Tax Agreement even after it has been terminated.

ARTICLE 4

Transfers and communication

1. Swiss paying agents shall transfer the taxes levied up to the termination of the Withholding Tax Agreement in accordance with Articles 19 to 34 of the Withholding Tax Agreement to the competent authority of Switzerland not later than three months after the Withholding Tax Agreement has been terminated. The declaration is to be made with a separate list of tax amounts as described in Article 19 paragraph 1 of the Withholding Tax Agreement. Swiss paying agents shall issue the certificates described in Article 30 paragraph 1 of the Withholding Tax Agreement to the relevant persons within the same period.

2. With respect to voluntary disclosures in accordance with Article 22 of the Withholding Tax Agreement, Swiss paying agents shall transfer the information collected up to the termination of the Withholding Tax Agreement as specified in Article 22 paragraph 3 of the Withholding Tax Agreement to the competent authority of Switzerland not later than three months after it has been terminated.

3. The competent authority of Switzerland shall transfer the payments in paragraph 1, after deducting the expense allowance of 0.1%, and the information in paragraph 2 to the competent authority of the United Kingdom not later than six months after the Withholding Tax Agreement has been terminated.

4. The United Kingdom shall accept the certificates issued by Swiss paying agents in accordance with paragraph 1 as certificates for tax purposes.

5. The tax amounts specified in paragraph 1 shall be calculated, levied and transferred to the competent authority of Switzerland by Swiss paying agents in sterling. Where sterling is not the reference currency of the account or deposit, the Swiss paying agent shall convert the amount into sterling using the fixed exchange rate published by SIX Telekurs AG on the corresponding date. The competent authority of Switzerland shall also transfer the taxes in sterling to the competent authority of the United Kingdom.

ARTICLE 5

Subsequent transfers and communication

Swiss paying agents shall transfer taxes or disclosures received regarding Part 3 of the Withholding Tax Agreement subsequently to the competent authority of Switzerland quarterly after the Withholding Tax Agreement has been terminated. The competent authority of Switzerland shall thereupon transfer these taxes and disclosures to the competent authority of the United Kingdom on a quarterly basis. Article 4 of the Termination Agreement applies by analogy with regard to the declaration, currency, certificate and expense allowance.

ARTICLE 6

Certifications for non-UK domiciled individuals

For the purpose of Art. 4 of the Withholding Tax Agreement, certifications issued in accordance with said article of the Withholding Tax Agreement for the UK fiscal year ending on 5 April of the last year of application of the Withholding Tax Agreement shall, notwithstanding the provisions of Art. 4 of the Withholding Tax Agreement, also be valid and applicable to the portion of the fiscal year running from 6 April to 31 December of the last year of application of the Withholding Tax Agreement.

ARTICLE 7

Audits

The competent authority of Switzerland shall continue to conduct audits as described in Article 39 paragraphs 3 and 4 of the Withholding Tax Agreement on Swiss paying agents in the calendar year following the termination of the Withholding Tax Agreement.

ARTICLE 8

Execution of the Termination Agreement

The Contracting States shall take all measures required to implement the Termination Agreement.

ARTICLE 9

Entry into force

The Termination Agreement shall enter into force on the same date as the Agreement between Switzerland and the EU.

Done in duplicate at London, on fourteenth November 2016, in the English and German languages, each language text being equally authoritative.

**For the United Kingdom of Great
Britain and Northern Ireland:**

EDWARD TROUP

For the Swiss Confederation:

DOMINIK FURGLER

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