

No. 49099. Poland and Switzerland

CONVENTION BETWEEN THE REPUBLIC OF POLAND AND THE SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL. BERN, 2 SEPTEMBER 1991 [*United Nations, Treaty Series*, vol. 2791, I-49099.]

MUTUAL AGREEMENT REGARDING THE INTERPRETATION OF SUBPARAGRAPH C) OF PARAGRAPH 7 OF THE PROTOCOL TO THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL, SIGNED AT BERN ON 2 SEPTEMBER 1991, AS AMENDED BY ARTICLE XI PARAGRAPH 6 OF THE PROTOCOL SIGNED ON 20 APRIL 2010 BETWEEN THE SWISS CONFEDERATION AND THE REPUBLIC OF POLAND. BERN, 29 DECEMBER 2011, AND WARSAW, 29 DECEMBER 2011

Entry into force: 29 December 2011 by signature

Authentic text: English

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N° 49099. Pologne et Suisse

CONVENTION ENTRE LA RÉPUBLIQUE DE POLOGNE ET LA CONFÉDÉRATION SUISSE EN VUE D'ÉVITER LES DOUBLES IMPOSITIONS EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE (AVEC PROTOCOLE). BERNE, 2 SEPTEMBRE 1991 [*Nations Unies, Recueil des Traités*, vol. 2791, I-49099.]

ACCORD AMIABLE CONCERNANT L'INTERPRÉTATION DE L'ALINÉA C) DU PARAGRAPHE 7 DU PROTOCOLE À LA CONVENTION SIGNÉ À BERNE LE 2 SEPTEMBRE 1991 ENTRE LA CONFÉDÉRATION SUISSE ET LA RÉPUBLIQUE DE POLOGNE EN VUE D'ÉVITER LES DOUBLES IMPOSITIONS EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE, TEL QUE MODIFIÉ PAR LE PARAGRAPHE 6 DE L'ARTICLE XI DU PROTOCOLE DU 20 AVRIL 2010. BERNE, 29 DÉCEMBRE 2011, ET VARSOVIE, 29 DÉCEMBRE 2011

Entrée en vigueur : 29 décembre 2011 par signature

Texte authentique : anglais

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : Suisse, 9 janvier 2013

[ENGLISH TEXT – TEXTE ANGLAIS]

Mutual Agreement regarding the interpretation of subparagraph c) of paragraph 7 of the Protocol to the Convention for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital, signed at Berne on 2 September 1991, as amended by article XI paragraph 6 of the Protocol signed on 20 April 2010 between the Swiss Confederation and the Republic of Poland

The competent authorities of the Swiss Confederation and of the Republic of Poland have entered into the following Mutual Agreement regarding the interpretation of subparagraph c) of paragraph 7 of the Protocol (hereinafter "Protocol") to the Convention for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital (hereinafter "the Convention"), signed at Berne on 2 September 1991, as amended by article XI paragraph 6 of the amending Protocol signed on 20 April 2010 between the Swiss Confederation and the Republic of Poland:

Subparagraph c) of paragraph 7 of the Protocol sets forth the information that the competent authority of the requesting State shall provide to the competent authority of the requested State when making a request for information under Article 25a of the Convention. According to this provision it is required that the requesting State provides among other information:

(i) the name and address of the person(s) under examination or investigation and, if available, other particulars facilitating that persons identification, such as date of birth, marital status, tax identification number, as well as

(v) the name and, if available, address of any person believed to be in possession of the requested information.

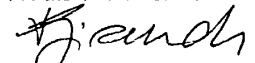
Subparagraph c) clarifies that whilst these are important procedural requirements that are intended to ensure that, fishing expeditions do not occur, these requirements nevertheless need to be interpreted with a view not to frustrate effective exchange of information.

Both Parties agree, that the lack in the request of the name and address of the person(s) under examination or investigation, as well as the name of any person believed to be in possession of the requested information, shall not always per se constitute a fishing expedition. The Contracting Parties will apply those conditions taking into account the necessity of ensuring the effective exchange of information. Therefore, the identification of the person under examination or investigation may be provided by the requesting State by other means than by indicating the name and address. As far as the identification of any person believed to be in possession of the requested information is concerned, the request should indicate the name and address, but only to the extent known by the requesting State. An inflexible interpretation of this provision would frustrate the effective exchange of information, according to subparagraph c) of paragraph 7 of the Protocol.

Upon signature by both competent authorities, this Agreement is effective from 1 January 2012.

Done at Berne on 29 December 2011

For the Swiss Confederation:



Judith Giraudi

Delegate for Tax Treaty Negotiations
Federal Department of Finance

Done at Warsaw on 29 December 2011

For the Republic of Poland:



Cezary Kryśiak
Director of Tax Policy Department
The Ministry of Finance