

No. 50407. Switzerland and Malta

CONVENTION BETWEEN THE SWISS CONFEDERATION AND MALTA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME. ROME, 25 FEBRUARY 2011 [*United Nations, Treaty Series, vol. 2889, I-50407.*]

MUTUAL AGREEMENT REGARDING THE INTERPRETATION OF PARAGRAPH B) OF CIPHER 5 OF THE PROTOCOL TO THE CONVENTION BETWEEN THE SWISS CONFEDERATION AND MALTA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME, SIGNED AT ROME ON 25 FEBRUARY 2011. BERN, 28 JUNE 2012, AND VALLETTA, 30 JUNE 2012

Entry into force: 6 July 2012

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N° 50407. Suisse et Malte

CONVENTION ENTRE LA CONFÉDÉRATION SUISSE ET MALTE EN VUE D'ÉVITER LES DOUBLES IMPOSITIONS EN MATIÈRE D'IMPÔTS SUR LE REVENU. ROME, 25 FÉVRIER 2011 [*Nations Unies, Recueil des Traités, vol. 2889, I-50407.*]

ACCORD AMIABLE CONCERNANT L'INTERPRÉTATION DU CH. 5, LET. B, DU PROTOCOLE À LA CONVENTION DU 25 FÉVRIER 2011 ENTRE LA CONFÉDÉRATION SUISSE ET MALTE EN VUE D'ÉVITER LES DOUBLES IMPOSITIONS EN MATIÈRE D'IMPÔTS SUR LE REVENU. BERNE, 28 JUIN 2012, ET LA VALETTE, 30 JUIN 2012

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Mutual Agreement regarding the interpretation of paragraph b) of cipher 5 of the Protocol to the Convention between the Swiss Confederation and Malta for the avoidance of double taxation with respect to taxes on income, signed at Rome on 25 February 2011

The competent authorities of the Swiss Confederation and of Malta have entered into the following Mutual Agreement regarding the interpretation of paragraph b) of cipher 5 of the Protocol (hereinafter “Protocol”) to the Convention between the Swiss Confederation and Malta for the avoidance of double taxation with respect to taxes on income (hereinafter “Convention”), signed at Rome on 25 February 2011:

Paragraph b) of cipher 5 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 26 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 address of any person believed to be in possession of the requested information. Paragraph c) further clarifies that whilst these are important procedural requirements that are intended to ensure that fishing expeditions do not occur, these requirements nevertheless are not to be interpreted in order to frustrate effective exchange of information.

Therefore, such requirements are to be interpreted in a manner that an administrative assistance request is to be complied with if the requesting State, further to the information as required by subparagraphs (ii) to (iv) of paragraph b) of cipher 5 of the Protocol,

- a) identifies the person under examination or investigation; such identification may be provided by other means than by indicating the name and address of the person concerned; and
- b) indicates to the extent known, the name and address of any person believed to be in possession of the requested information,

provided the request is not a fishing expedition.

Upon signature by both competent authorities, this Mutual Agreement is effective as from the date of the entry into force of the Convention.