

No. 50407

**Switzerland
and
Malta**

Convention between the Swiss Confederation and Malta for the avoidance of double taxation with respect to taxes on income (with protocol). Rome, 25 February 2011

Entry into force: *6 July 2012 by notification, in accordance with article 28*

Authentic texts: *English and French*

Registration with the Secretariat of the United Nations: *Switzerland, 9 January 2013*

**Suisse
et
Malte**

Convention entre la Confédération suisse et Malte en vue d'éviter les doubles impositions en matière d'impôts sur le revenu (avec protocole). Rome, 25 février 2011

Entrée en vigueur : *6 juillet 2012 par notification, conformément à l'article 28*

Textes authentiques : *anglais et français*

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

C O N V E N T I O N
B E T W E E N
T H E S W I S S C O N F E D E R A T I O N
A N D
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F O R T H E A V O I D A N C E O F D O U B L E T A X A T I O N
W I T H R E S P E C T T O T A X E S O N I N C O M E

THE SWISS FEDERAL COUNCIL

AND

THE GOVERNMENT OF MALTA

DESIRING to conclude a Convention for the avoidance of double taxation with respect to taxes on income

HAVE AGREED as follows:

Article 1

Persons covered

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Convention shall apply are:
 - a) in Malta:
the income tax;
(hereinafter referred to as „Malta tax”);
 - b) in Switzerland:
the federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income);
(hereinafter referred to as „Swiss tax”).
4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.
5. The Convention shall not apply to taxes withheld at the source on prizes in a lottery.

Article 3

General definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a)
 - (i) the term „Malta“ means the Republic of Malta and, when used in a geographical sense, means the Island of Malta, the Island of Gozo and the other islands of the Maltese archipelago including the territorial waters thereof, as well as any area of the sea-bed, its sub-soil and the superjacent water column adjacent to the territorial waters, wherein Malta exercises sovereign rights, jurisdiction, or control in accordance with international law and its national law, including its legislation relating to the exploration of the continental shelf and exploitation of its natural resources;
 - (ii) the term „Switzerland“ means the Swiss Confederation;
 - b) the terms „a Contracting State“ and „the other Contracting State“ mean Malta or Switzerland, as the context requires;
 - c) the term „person“ includes an individual, a company and any other body of persons;
 - d) the term „company“ means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - e) the terms „enterprise of a Contracting State“ and „enterprise of the other Contracting State“ mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - f) the term „international traffic“ means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - g) the term „competent authority“ means:
 - (i) in the case of Malta, the Minister responsible for finance or his authorised representative;
 - (ii) in the case of Switzerland, the Director of the Federal Tax Administration or his authorised representative;
 - h) the term „national“ means:
 - (i) any individual possessing the nationality of a Contracting State;

- (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Convention, the term „resident of a Contracting State“ means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.