

Double taxation convention between Switzerland and Great Britain

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DOUBLE TAXATION CONVENTION BETWEEN SWITZERLAND AND GREAT BRITAIN.

A convention for the avoidance of double taxation with respect to taxes on income was concluded in London on the 30th September, 1954, between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland. The agreement, signed on the Swiss side by Mr. E. Bernath, Swiss Chargé d'Affaires a.i. in London, and on the British side by Mr. A. D. Dodds-Parker, Parliamentary Under-Secretary of State, Foreign Office, still requires ratification by the Parliaments of both contracting countries. Upon exchange of the ratification instruments the convention will come into force retroactively, for the Swiss taxes as from the 1st January, 1953, for the British taxes as from the 6th April, 1953.

The convention concerns the British income tax (including surtax), the profits tax and the excess profits levy. The Swiss taxes concerned are those levied on income, but not on capital, by the Confederation, the Cantons and the Communes.

To Swiss taxpayers who have business relations with Great Britain or derive income from British sources, the agreement will bring the following reliefs:

1. A Swiss enterprise engaged in business in Great Britain, without having a permanent establishment there (branch, office, etc.), is liable for taxes only in Switzerland, and the profits accruing from its industrial or commercial activity in Great Britain are not subject to British taxes. Doing business through commission agents with no general authority to conclude contracts, or through an independent agent acting in the ordinary course of his business, or the maintaining of a purchasing office set up exclusively as such, do not, for instance, constitute a "permanent establishment in Great Britain". In cases where a Swiss enterprise has a permanent establishment in Great Britain, only those profits directly attributable to that establishment are subject to British taxes, but not, however, other profits that may derive from British sources. A portion of the executive and general administrative expenses of the enterprise may be deducted from the profits of such a "permanent establishment" in addition to the latter's own expenses.
2. The profits of Swiss shipping and air transport enterprises are only taxable in Switzerland.

3. Individuals resident in Switzerland are exempt from the British surtax on dividends. They are further entitled to a partial refund of the British income tax deducted at source. The amount of this refund is adjusted according to the personal circumstances and the total income of the Swiss shareholder. Swiss companies are not entitled to repayment of British taxes on dividends. However, when a Swiss company controls at least 50% of the voting power in a British dividend-paying concern the British profits tax payable by the latter will be substantially reduced.
4. Interests and royalties derived from sources within Great Britain by persons or companies domiciled in Switzerland are entirely exempted from the British income tax (at present 45%) deducted at source.
5. Remuneration paid by the Swiss Confederation or a Canton for services to the State (except payments to British nationals) and government pensions are tax-free in Great Britain.
6. Individuals who are residents of Switzerland can stay in Great Britain up to 183 days during any fiscal year without becoming liable for taxes on the remuneration for personal (including professional) services rendered there, as long as their services are performed for or on behalf of a Swiss resident, or they do not maintain an office or fixed place of business in Great Britain. This exemption does not, however, apply to stage, film, radio or television artistes, musicians, athletes etc.

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- 7. British pensions (other than State pensions) and annuities paid to beneficiaries resident in Switzerland are exempt from the British income tax (at present 45%) deducted at source.
- 8. Swiss professors and teachers can stay in Great Britain up to two years as guest professors without becoming liable for British taxes on the remuneration received for teaching there. Swiss students and apprentices will not pay taxes on money received from abroad to meet maintenance or training expenses in Great Britain.
- 9. Individuals resident in Switzerland will be entitled to the same tax allowances and reliefs as British nationals resident abroad, with regard to income from British sources which according to the convention is subject to British income tax (such as income from business establishments or real property).

Persons living in Great Britain are entitled to exemption from Swiss taxes on their Swiss income which correspond to the above-mentioned exemption from British taxes granted to the Swiss taxpayer. The anticipatory tax (Verrechnungssteuer) on interest is fully remitted, that on dividends, under certain conditions, fully or partly. Great Britain is not obliged to exempt from British taxes income from Swiss sources which is subject to Swiss taxes under the convention; she will, however, allow as a credit against her own taxes the Swiss federal and cantonal taxes paid on such income.

According to the convention relief from taxes in one country as a rule takes effect only if the income recipient residing in the other country is subject to taxation there. This qualification affects particular foreigners living in Great Britain, these persons usually pay taxes on foreign income only if it is transferred to Great Britain; hence exemption from Swiss taxes applies only from the moment a transfer to Great Britain has taken place.

Double taxation cases contravening the convention and doubtful points will be settled by a special procedure to be agreed between the higher fiscal authorities of Switzerland and the United Kingdom. The convention also contains a broadly-conceived clause ensuring equal treatment. It is further laid down that each country will give the other all such information as may be necessary for the implementation of the tax reliefs provided in the agreement.

The convention is valid on the British side only for the territories of Great Britain and Northern Ireland; it can be extended to British territories other than the United Kingdom.

In the course of the negotiations leading to the conclusion of the double taxation convention, agreement was also reached on how exemption from taxes deducted at the source is to be applied for. The details of this procedure will be set out in an Order of the Federal Council to be made after the entry into force of the convention, and will be brought to the attention of those interested through special notices.

65

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