

SCHEDULE

Article 2

PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL SIGNED AT LONDON ON 30 MARCH 2010

The United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany

Desiring to encourage the application and interpretation of the new version of Article 7 of the Model Tax Convention on Income and on Capital as adopted on 22 July 2010 by the Council of the Organisation for Economic Co-operation and Development (OECD), together with its Commentary,

Intending to harmonize the taxation rights under paragraph 1 of Article 18 of the Convention of 30 March 2010 with sub-paragraph (c) of paragraph (1) of Article 14 of the Consular Convention of 30 July 1956 between the Federal Republic of Germany and the United Kingdom of Great Britain and Northern Ireland,

Have agreed as follows:

ARTICLE I

1. Paragraphs 1 to 6 of Article 7 shall be deleted and replaced by the following paragraphs:

- “(1) Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.
- (2) For the purposes of this Article and Article 23, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.
- (3) Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other Contracting State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment if it agrees with the adjustment made by the first-mentioned State; if the other Contracting State does not so agree, the Contracting States shall endeavour to eliminate any double taxation resulting therefrom by mutual agreement.”.

2. Paragraph 7 of Article 7 shall be renumbered as paragraph 4.

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ARTICLE II

Paragraph 1 of Article 18 shall be deleted and replaced by the following paragraph:

- “(1) Salaries, wages and other similar remuneration, paid by a Contracting State, a “Land”, a political subdivision or a local authority of a “Land” or a Contracting State or some other legal entity under public law of that State to an individual in respect of services rendered to that State, “Land”, political subdivision or local authority or some other legal entity under public law shall be taxable only in that State. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who is a national of that State without also being a national of the first-mentioned state.”.

ARTICLE III

Article 30 shall be deleted and replaced by the following:

“ARTICLE 30

Members of diplomatic missions and consular posts

- (1) Subject to the provisions of paragraph 2, nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.
- (2) Notwithstanding sub-paragraph (c) of paragraph (1) of Article 14 of the Consular Convention between the Federal Republic of Germany and the United Kingdom of Great Britain and Northern Ireland signed at Bonn on 30 July 1956, paragraph 1 of Article 18 and sub-paragraph d) of paragraph 1 of Article 23 of this Convention shall apply to the official emoluments, salary, wages and allowances received by a consular employee.”.

ARTICLE IV

1. This Protocol shall be ratified; the instruments of ratification shall be exchanged as soon as possible in Berlin.
2. This Protocol shall enter into force on the day of the exchange of the instruments of ratification. The Convention as amended by this Protocol shall thereupon have effect:
 - a) in Germany:
 - aa) in respect of taxes levied for periods beginning on or after 1 January in the calendar year next following that in which this Protocol enters into force;
 - b) in the United Kingdom:

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- aa) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which this Protocol enters into force;
- bb) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which this Protocol enters into force.

DONE in duplicate at London on seventeenth March 2014 in the English and German languages, both texts being equally authoritative.

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

David Gauke

For the Federal Republic of Germany:

Jörg Ranau