

MUTUAL AGREEMENT

The competent authorities of Switzerland and the Philippines (hereinafter: “the competent authorities”) have reached the following mutual agreement (“Mutual Agreement”) regarding the application of the Agreement of 24 June 1998 between the Swiss Confederation and the Republic of the Philippines for the avoidance of double taxation with respect to taxes on income ("the Convention") regarding to the procedure for tax residence certification of Swiss official forms (“Swiss forms”) generally used for the application and the claim of benefits under the Convention. This Mutual Agreement is entered into under Article 23 paragraph 4 of the Convention and has also to be read, *inter alia*, in the context of Article 10 paragraph 2 *in fine* of the Convention.

Purpose of the Mutual Agreement

1. The competent authorities consider that difficulties or doubts may arise as to the procedure for tax residence certification of Swiss forms generally used for the application and the claim of benefits under the Convention.

Scope of the Mutual Agreement

2. Philippine tax residence shall be certified for the purpose of Swiss forms generally used for the application and the claim of benefits under the Convention, based on the following six-step procedure:
 - i. A Philippine resident taxpayer claiming the benefits under the Convention shall comprehensively fill in the relevant Swiss form. In particular, it is intended that the Philippine resident taxpayer will have to fill in all the required copies of the relevant Swiss form (for e.g. 4 copies for form 60) and provide details to all compulsory fields and answer all questions posed.
 - ii. A Philippine resident taxpayer claiming the benefits under the Convention shall then submit to the Philippine competent authority for tax residence certification the relevant Swiss form.
 - iii. The Philippine competent authority for tax residence certification shall issue a separate Philippine tax residence certificate based on Philippine domestic rules for tax residence certification. The Philippine tax residence certificate shall mention the date as of when, respectively as of what period, the taxpayer is considered to be resident of the Philippines for tax purposes.
 - iv. The Philippine competent authority for tax residence certification shall then staple the Philippine tax residence certificate to the relevant Swiss form.
 - v. The Philippine resident taxpayer claiming the benefits under the Convention finally submits the relevant Swiss form, with the stapled Philippine tax residence certificate, to the Swiss tax authority in charge for the granting of the benefits under the Convention.
 - vi. The Swiss tax authority in charge for the granting of the benefits under the Convention will, as usual, thoroughly verify the information provided in the relevant Swiss form, together with the authenticity of the Philippine tax residence certificate which has to be stapled to the Swiss form and which cannot be a photocopied version.
3. With reference to the last sentence of subparagraph iii. of paragraph 2, it is to be understood that the Philippine competent authority for tax residence certification, when issuing a tax residence certificate for a current period, shall put a date of issue on the document, which means that the taxpayer is resident in the Philippines as of that date. When issuing a certificate for previous year(s) or period(s) then the Philippine competent authority for tax residence certification shall

in addition explicitly mention the year(s) or periods(s) for which that tax residence certificate is granted.

4. The Philippine competent authority shall provide to the Swiss competent authority samples of official tax residence certificates, in particular, a tax residence certificate for a current period and another certifying tax residence for a previous year.
5. The Philippine competent authority shall notify to the Swiss competent authority any significant change that will be made in the future in their official tax residence certificate model.
6. The proposed procedure has no direct consequences on other Philippine internal law requirements in relation to tax residence certification (for e.g. internal Philippine compulsory forms) which still need to be filled out by Philippine resident taxpayers.
7. This Mutual Agreement shall apply, as of the date of the later signature, to all pending and future claims. In case a claim for the granting of the benefits under the Convention has been refused in the past due to a lack of tax residence certification directly on the Swiss form, the Philippine taxpayer will have to present a new request using the Swiss official form and this Mutual Agreement shall apply. In this instance, for the purpose of Swiss statute of limitations rules, the claim will be treated as if it was duly presented at the date of the first submission of the Swiss form.

Agreed by the undersigned competent authorities:

Bern, 7 August 2020

Manila, 10 December 2020

For the Swiss Competent Authority
Pascal Duss
State Secretariat for International
Finance

For the Philippine Competent Authority
Caesar R. Dulay
Commissioner of Internal Revenue