

Mutual Agreement regarding the interpretation of subparagraph c) of paragraph 7 of the Protocol to the Convention for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital, signed at Berne on 2 September 1991, as amended by article XI paragraph 6 of the Protocol signed on 20 April 2010 between the Swiss Confederation and the Republic of Poland

The competent authorities of the Swiss Confederation and of the Republic of Poland have entered into the following Mutual Agreement regarding the interpretation of subparagraph c) of paragraph 7 of the Protocol (hereinafter "Protocol") to the Convention for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital (hereinafter "the Convention"), signed at Berne on 2 September 1991, as amended by article XI paragraph 6 of the amending Protocol signed on 20 April 2010 between the Swiss Confederation and the Republic of Poland:

Subparagraph c) of paragraph 7 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 25a 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, if available, address of any person believed to be in possession of the requested information.

Subparagraph c) clarifies that whilst these are important procedural requirements that are intended to ensure that, fishing expeditions do not occur, these requirements nevertheless need to be interpreted with a view not to frustrate effective exchange of information.

Both Parties agree, that the lack in the request of the name and address of the person(s) under examination or investigation, as well as the name of any person believed to be in possession of the requested information, shall not always per se constitute a fishing expedition. The Contracting Parties will apply those conditions taking into account the necessity of ensuring the effective exchange of information. Therefore, the identification of the person under examination or investigation may be provided by the requesting State by other means than by indicating the name and address. As far as the identification of any person believed to be in possession of the requested information is concerned, the request should indicate the name and address, but only to the extent known by the requesting State. An inflexible interpretation of this provision would frustrate the effective exchange of information, according to subparagraph c) of paragraph 7 of the Protocol.

Upon signature by both competent authorities, this Agreement is effective from 1 January 2012.

Done at Berne on 29 December 2011

Done at Warsaw on 29 December 2011

For the Swiss Confederation:



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