

No. 17892

SWITZERLAND
and
ITALY

Convention for the avoidance of double taxation and for resolving some other questions with respect to taxes on income and on capital (with additional protocol). Signed at Rome on 9 March 1976

Protocol modifying the above-mentioned Convention (with exchange of letters). Signed at Rome on 28 April 1978

Authentic texts: Italian.

Registered by Switzerland on 13 July 1979.

SUISSE
et
ITALIE

Convention en vue d'éviter les doubles impositions et de régler certaines autres questions en matière d'impôts sur le revenu et sur la fortune (avec protocole additionnel). Signée à Rome le 9 mars 1976

Protocole modifiant la Convention susmentionnée (avec échange de lettres). Signé à Rome le 28 avril 1978

Textes authentiques : italien.

Enregistrés par la Suisse le 13 juillet 1979.

CONVENTION¹ FOR THE
AVOIDANCE OF DOUBLE
TAXATION AND FOR RE-
SOLVING SOME OTHER
QUESTIONS WITH RESPECT
TO TAXES ON INCOME AND
ON CAPITAL

CONVENTION¹ EN VUE D'ÉVI-
TER LES DOUBLES IMPO-
SITIONS ET DE RÉGLER
CERTAINES AUTRES QUES-
TIONS EN MATIÈRE D'IM-
PÔTS SUR LE REVENU ET
SUR LA FORTUNE

Publication effected in accordance with article 12 (2) of the General Assembly resolution to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.²

Publication effectuée conformément à l'article 12, paragraphe 2, du règlement de l'Assemblée générale destiné à mettre en application l'Article 102 de la Charte des Nations Unies tel qu'amendé en dernier lieu par la résolution 33/141 A de l'Assemblée générale en date du 19 décembre 1978².

¹ Came into force on 27 March 1979 by the exchange of the instruments of ratification, which took place at Berne, in accordance with article 30 (2).

² For the text of the Convention, see *International Tax Agreements*, vol. IX, Supplement No. 33, No. 401 (United Nations publication, sales No. E.79.XVI.2).

¹ Entrée en vigueur le 27 mars 1979 par l'échange des instruments de ratification, qui a eu lieu à Berne, conformément au paragraphe 2 de l'article 30.

² Pour le texte de la Convention, voir *Recueil des Conventions fiscales internationales*, vol. IX, Supplément n° 33, n° 401 (publication des Nations Unies, numéro de vente F.79.XVI.2).

[TRANSLATION — TRADUCTION]

PROTOCOL¹ AMENDING THE CONVENTION BETWEEN THE SWISS CONFEDERATION AND THE ITALIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND FOR RESOLVING SOME OTHER QUESTIONS WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND THE ADDITIONAL PROTOCOL THERETO, SIGNED AT ROME ON 9 MARCH 1976²

The Swiss Federal Council and the Government of the Italian Republic,

Desiring to amend the Convention between the Contracting Parties for the avoidance of double taxation and for resolving some other questions with respect to taxes on income and on capital and the additional protocol thereto, signed at Rome on 9 March 1976² (hereafter called the "Convention" and the "Protocol"),

Have decided to conclude an amending Protocol and for that purpose have appointed as their Plenipotentiaries:

The Swiss Federal Council: Ambassador Antonino Janner,

The Government of the Italian Republic: Ambassador Mario Mondello,

who, having communicated to one another their full powers, found in good and due form, have agreed upon the following provisions, which shall form an integral part of the Convention and of the Protocol:

Article 1. Paragraphs 2 and 3 of article 30 of the Convention shall be deleted and replaced by the following:

2. This Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall apply:

- (a) To taxes withheld at source on income attributed or paid on or after 1 January 1979;
- (b) To other taxes levied for the taxable periods terminating on or after 1 January 1979.

3. The claims for refund which the Convention entitles, relating to all taxes owed by residents of one of the Contracting States for periods beginning on or after 1 January 1979 and until the Convention enters into force, may be filed within a period of two years after the entry into force of the Convention.

¹ Came into force on 27 March 1979 by the exchange of the instruments of ratification, which took place at Berne, in accordance with article 4.

² See p. 70 of this volume.

Article 2. Article 31 of the Convention shall be deleted and replaced by the following:

This Convention, of which the agreement mentioned in paragraph 4 of article 15 forms an integral part, shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention through diplomatic channel by giving notice of termination at least six months before the end of any calendar year after 1984. In such event, the Convention shall apply for the last time:

- (a) To taxes withheld at the source on income payable on or before 31 December of the year of termination;
- (b) To other taxes levied for the taxable periods terminating on or before 31 December of the same year.

Article 3. 1. The following provision shall be inserted at the end of subparagraph (b) of the Protocol:

- (c) The provisions of article 19 shall apply, notwithstanding what has been stipulated in article 30 of the Convention, to taxes for the taxable periods beginning on or after 1 January 1974; claims for refund may be filed within a period of two years after the entry into force of the Convention. The above provisions shall apply equally to the remuneration received by Italian citizens exercising their professional activities in Switzerland and to salaried personnel of the following organizations:

- ACLI (Associazione Cristiana Lavoratori Italiani)
- INCA (Istituto Nazionale Confederale di Assistenza)
- ITAL (Istituto Tutela ed Assistenza ai Lavoratori)
- INAS (Istituto Nazionale di Assistenza Sociale)
- ENCAL (Ente Nazionale Confederale Assistenza Lavoratori)
- ENAS (Ente Nazionale di Assistenza Sociale)
- ENASCO (Ente Nazionale di Assistenza Sociale per gli Esercenti Attività Commerciali)
- ENPAC (Ente Nazionale per l'Assistenza ai Coltivatori).

2. Subparagraphs (c), (d) and (e) of the Protocol shall become subparagraphs (d), (e) and (f); their wording shall remain unchanged.

Article 4. This Protocol shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible; it shall enter into force upon the exchange of instruments of ratification.

IN WITNESS WHEREOF, the Plenipotentiaries of both States have signed this Protocol and have thereto affixed their seals.

DONE in duplicate at Rome on 28 April 1978 in the Italian language.

For the Swiss Federal Council:

JANNER

For the Government
of the Italian Republic:

MONDELLO

EXCHANGE OF LETTERS

I

EMBASSY OF SWITZERLAND IN ITALY

Rome, 28 April 1978

Sir,

With reference to the signature of today's date of the Protocol amending the Convention between the Swiss Confederation and the Italian Republic for the avoidance of double taxation and for resolving some other questions with respect to taxes on income and on capital, signed at Rome on 9 March 1976, I have the honour to inform you of the following:

1. The exchange of the instruments of ratification and, as a result, the entry into force of the above-mentioned Convention, as amended by the Protocol signed today, and of the Agreement on the taxation of frontier workers and financial compensation for Italian frontier communes, signed at Rome on 3 October 1974, shall take place simultaneously;

2. When it enters into force, the Agreement on the taxation of frontier workers shall have retroactive effect to 1 January 1974, as stipulated in its article 6, paragraph 2;

3. The General Convention on double taxation of 1976 shall not have retroactive effect to 1 January 1974; it shall take effect from 1 January 1979;

4. In order to avoid onerous double taxation for public officials of one State carrying out their activities in the other State, article 19 of the General Convention on double taxation concerning public officials shall, however, have retroactive effect to 1 January 1974.

The above-mentioned Convention and Agreement, and the amending Protocol signed today, shall be submitted as soon as possible for approval to the Parliaments of the two countries.

I would be grateful if you could indicate your agreement.

Accept, Sir, etc.

[Signed]

JANNER
Ambassador of Switzerland

His Excellency Ambassador Mario Mondello
Director General of Economic Affairs
Ministry of Foreign Affairs
Rome

II

MINISTRY OF FOREIGN AFFAIRS
ROME

28 April 1978

Sir,

I have the honour to acknowledge receipt of your letter of today which reads as follows:

[See letter I]

I have the honour to confirm my agreement with the above.

Accept, Sir, etc.

[Signed]

Ambassador MARIO MONDELLO
Director General of Economic Affairs

His Excellency Ambassador Antonino Janner
Embassy of Switzerland
Rome
