

SCHEDULE

ARTICLE 1

General scope

1. Except as specifically provided herein, this Convention is applicable only to persons who are residents of one or both of the Contracting States.
2. This Convention shall not restrict in any manner any benefit now or hereafter accorded:
 - (a) by the laws of either Contracting State; or
 - (b) by any other agreement between the Contracting States.
 - (a) (a) Notwithstanding the provisions of sub-paragraph (b) of paragraph 2 of this Article:
 - (i) any question arising as to the interpretation or application of this Convention and, in particular, whether a taxation measure is within the scope of this Convention, shall be determined exclusively in accordance with the provisions of Article 26 (Mutual Agreement Procedure) of this Convention; and
 - (ii) the provisions of Article II and Article XVII of the General Agreement on Trade in Services shall not apply to a taxation measure unless the competent authorities agree that the measure is not within the scope of Article 25 (Non-discrimination) of this Convention.
 - (b) For the purposes of this paragraph, a “measure” is a law, regulation, rule, procedure, decision, administrative action, or any similar provision or action.
4. Notwithstanding any provision of this Convention except paragraph 5 of this Article, a Contracting State may tax its residents (as determined under Article 4 (Residence)), and by reason of citizenship may tax its citizens, as if this Convention had not come into effect.
5. The provisions of paragraph 4 of this Article shall not affect:
 - (a) the benefits conferred by a Contracting State under paragraph 2 of Article 9 (Associated Enterprises), sub-paragraph (b) of paragraph 1 and paragraphs 3 and 5 of Article 17 (Pensions, Social Security, Annuities, Alimony, and Child Support), paragraph 1 of Article 18 (Pension Schemes) and Articles 24 (Relief From Double Taxation), 25 (Non-discrimination), and 26 (Mutual Agreement Procedure) of this Convention; and
 - (b) the benefits conferred by a Contracting State under paragraph 2 of Article 18 (Pension Schemes) and Articles 19 (Government Service), 20 (Students), and 28 (Diplomatic Agents and Consular Officers) of this Convention, upon individuals who are neither citizens of, nor have been admitted for permanent residence in, that State.
6. A former citizen or long-term resident whose loss of citizenship or long-term resident status had as one of its principal purposes the avoidance of tax (as defined under the laws of the Contracting State of which the person was a citizen or long-term resident) shall be treated for the purposes of paragraph 4 of this Article as a citizen of that Contracting State but only for a period of 10 years following the loss of such status. This paragraph shall apply only in respect of income from sources within that Contracting State (including income deemed under the domestic law of that State to arise from such sources). Paragraph 4 of this Article shall not apply in the case of any former citizen or long-term resident of a Contracting State who ceased to be a citizen or long-term resident of that State at any time before February 6th, 1995.
7. Where under any provision of this Convention income or gains arising in one of the Contracting States are relieved from tax in that Contracting State and, under the law in force in the other Contracting State, a person, in respect of the said income or gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument.

mentioned Contracting State shall apply only to so much of the income or gains as is taxed in the other Contracting State.

8. An item of income, profit or gain derived through a person that is fiscally transparent under the laws of either Contracting State shall be considered to be derived by a resident of a Contracting State to the extent that the item is treated for the purposes of the taxation law of such Contracting State as the income, profit or gain of a resident.