

MEMO# 35977

January 8, 2025

US-Switzerland Competent Authority Agreement: US CIT Tax Treaty Entitlement

[35977]January 08, 2025TO:ICI Members

ICI Global Members

CIT Advisory Committee

Global Tax Committee

Tax CommitteeSUBJECTS:International/Global

TaxRE:US-Switzerland Competent Authority Agreement: US CIT Tax Treaty Entitlement

On December 5, 2024, the Competent Authorities of the United States and Switzerland entered into an agreement (a Competent Authority Agreement or CAA) confirming that certain US pensions and other retirement arrangements, including individual retirement savings plans, may be eligible for benefits under paragraph 3 of Article 10 (Dividends) of the US-Swiss tax treaty. Specifically, the CAA confirms that a group trust described in IRS Revenue Ruling 81-100 (as amended by IRS Revenue Rulings 2014-24 and 2011-1, a collective investment trust or CIT) is treaty eligible, provided that it is operated exclusively or almost exclusively to earn income for the benefit of pension funds that are themselves entitled to benefits under the US-Swiss Treaty. Treaty-eligible pension plans investing in Switzerland are entitled to a full exemption from withholding on Swiss dividends instead of the statutory rate of 15%.

The CAA also establishes the procedure that CITs must follow to claim a refund under the treaty. Specifically, US CITs should provide with any reclaim a list of its participating pension funds, including their:

- name;
- address;
- Tax Identification Number;
- applicable Code section; and
- percentage of assets held for each participating pension fund.

The percentage of assets held for each participating pension fund will be used to confirm that at least 95 percent of the CIT's participating pension funds were themselves entitled to benefits under the treaty as a resident of the US as of January 1 in which the dividend was paid.

The CAA applies to dividends paid on or after January 1, 2020, and supersedes the CAA

entered into on May 6, 2021. This CAA should remove a significant barrier for CITs claiming treaty entitlement in Switzerland. We expect the agreement to be posted to the IRS website (IRS.gov) soon. CITs should consult with their tax advisors on whether to refile previously rejected treaty reclaims.

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