

SCHEDULE

PROTOCOL

Article I

The following new Article shall be inserted immediately after Article 17 of the Convention:

“Article 17A

Pension Scheme Contributions

(1) Subject to the conditions specified in paragraph (2) of this Article, where an employee (“the employee”), who is a member of a pension scheme which has been approved or is being considered for approval under the legislation of one of the Contracting States, exercises his employment in the other Contracting State:

- (a) contributions paid by the employee to that scheme during the period that he exercises his employment in that other State shall be deductible in computing his taxable income in that State within the limits that would apply if the contributions were paid to a pension scheme which has been approved under the legislation of that State; and
- (b) payments made to the scheme by or on behalf of his employer during that period:
 - (i) shall not be treated as part of the employee’s taxable income, and
 - (ii) shall be allowed as a deduction in computing the profits of his employer, in that other State.

(2) The conditions specified in this paragraph are that:

- (a) the employee is employed in the other Contracting State by the person who was his employer immediately before he began to exercise his employment in that State or by an associated employer of that employer;
- (b) the employee was not a resident of that State immediately before he began to exercise his employment there;
- (c) at the time that the contributions referred to in paragraph (1)(a) of this Article are paid, or the payments referred to in paragraph (1)(b) of this Article are made, to the scheme the employee has exercised his employment in that State for:
 - (i) less than ten years where he was a resident of the first-mentioned Contracting State immediately before he began to exercise his employment in the other Contracting State, or
 - (ii) less than five years in other cases.

(3) For the purposes of this Article:

- (a) the term “a pension scheme” means a scheme established in relation to an employment in which the employee participates in order to secure retirement benefits;
- (b) employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person; and the term “control”, in relation to a body corporate, means the power of a person to secure:
 - (i) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or
 - (ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate,

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that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income, of the partnership.”