

Berne, May 15, 2012

Excellency,

I have the honour to refer to the Convention between Switzerland and Japan for the Avoidance of Double Taxation with respect to Taxes on Income which was signed at Tokyo on 19 January 1971 as amended by the Protocol signed at Berne on 21 May 2010 (hereinafter referred to as “the Convention”) as well as the Protocol which forms an integral part of the Convention signed at Berne on 21 May 2010 (hereinafter referred to as “the Protocol”) and to confirm, on behalf of the Swiss Federal Council, the following understanding reached between the Swiss Federal Council and the Government of Japan:

In respect of requests for information under Article 25A of the Convention, it is understood that:

- (1) the reference to “foreseeably relevant” in paragraph 1 of that Article is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that the Contracting States are not at liberty to request information that is unlikely to be relevant to the tax affairs of a given taxpayer.
- (2) while subparagraph (c) of paragraph 5 of the Protocol contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, that subparagraph nevertheless is to be interpreted in order not to frustrate effective exchange of information.

I have further the honour to request you to be good enough to confirm the foregoing understanding on behalf of your Government.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Eveline Widmer-Schlumpf
President of the Swiss Confederation
Head of the Federal Department of Finance
of the Swiss Confederation

His Excellency
Mr. Kazuyoshi Umemoto
Ambassador of Japan
to the Swiss Confederation

Berne, May 15, 2012

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Letter of May 15, 2012 which reads as follows:

"I have the honour to refer to the Convention between Switzerland and Japan for the Avoidance of Double Taxation with respect to Taxes on Income which was signed at Tokyo on 19 January 1971 as amended by the Protocol signed at Berne on 21 May 2010 (hereinafter referred to as "the Convention") as well as the Protocol which forms an integral part of the Convention signed at Berne on 21 May 2010 (hereinafter referred to as "the Protocol") and to confirm, on behalf of the Swiss Federal Council, the following understanding reached between the Swiss Federal Council and the Government of Japan:

In respect of requests for information under Article 25A of the Convention, it is understood that:

- (1) the reference to "foreseeably relevant" in paragraph 1 of that Article is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that the Contracting States are not at liberty to request information that is unlikely to be relevant to the tax affairs of a given taxpayer.
- (2) while subparagraph (c) of paragraph 5 of the Protocol contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, that subparagraph nevertheless is to be interpreted in order not to frustrate effective exchange of information.

I have further the honour to request you to be good enough to confirm the foregoing understanding on behalf of your Government."

I have further the honour to confirm the understanding contained in Your Excellency's Letter, on behalf of the Government of Japan.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Kazuyoshi Umemoto
Ambassador of Japan
to the Swiss Confederation

Her Excellency
Ms. Eveline Widmer-Schlumpf
President of the Swiss Federal Confederation
Head of the Federal Department of Finance
of the Swiss Confederation