

SWISS - AMERICAN TREATIES

Commerce

Convention of friendship, commerce and extradition

Signed at Berne November 25, 1850; entered into force November 8, 1855.
(11 Bevans 894; 11 Stat. 587; TS 353; BS 11 773; SR 0.142.113.361)

Articles 8-12 terminated March 23, 1900, as a result of notice given by the United States on March 23, 1899; articles 13-17 relating to extradition were superseded and expressly repealed by the extradition treaty signed May 14, 1900 (31 Stat. 1928; TS 354; 11 Bevans 904; not published in Switzerland).

This convention stipulates the principle that the citizens of the two Contracting States shall be admitted and treated upon a footing of reciprocal equality in the two countries, where such admissions and treatment shall not conflict with the constitutional and legal provisions of the Contracting Parties. Citizens of the United States or Switzerland, as well as their families, shall be free to sojourn temporarily or establish themselves permanently in the United States or Switzerland, to possess therein property, to exercise their professions or to manage their affairs. They shall have free access to courts, and shall be free to defend their rights in the same manner as native citizens. The citizens of one of the two States who shall desire or be required to return to their country shall be received at all times and under all circumstances in the country to which they belong and in which they shall have preserved their rights.

The citizens of each of the two States shall have power to dispose of their personal property within the jurisdiction of the other, by sale, testament, donation, etc. The Convention regulates the succession to property, particularly by inheritance, the preservation of the property of absent heirs domiciled in the other State and in the conveyance of real estate.

The Convention contains provisions relating to the installation of Consuls and Vice-Consuls in the large cities and important commercial places of the two States.

Agreement on customs, with the lists of the stipulated tariff concessions.

Signed at Geneva November 20, 1961; entered into force January 1, 1963.
(not published in the U.S.; AS 1962 1640ff; SR 0.632.293.361)

Nationality and Military Obligations

Convention relative to military obligations of certain persons having dual nationality

Signed at Berne November 11, 1937; entered into force December 7, 1938
(11 Bevans 936; 53 Stat. 1791; TS 943; 193 LNTS 181; BS 11 588; SR 0.141.133.6)

This convention provides that a person born in the territory of one of the Contracting Parties, of parents who are nationals of the other, who possesses the nationality of the United States and Switzerland, and has his habitual residence in the State of his birth, shall not be held liable by the other State for military service or for payment of taxes in lieu thereof, even in the case of a temporary stay in the latter State. If this stay is protracted beyond the period of two years a special regulation applies.

Permanent Resident Status

Memorandum of understanding on the status of nationals of one country in the other country

Signed at Berne July 6, 1995; entered into force July 6, 1995. (BBI 1995 vol. III, p. 669)

Within the limits of the law, the U.S. makes its best efforts to grant immigrant visas and permanent residence status to Swiss citizens as well as similar treatment to that which U.S. citizens receive in Switzerland to Swiss citizens residing in the U.S. in legal non-immigrant status and applying for permanent residence.

Social Security

Agreement on social security, with final protocol

Signed at Washington July 18, 1979; entered into force November 1, 1980.
(32 UST 2165; TIAS 9830 1252 UNTS 127; AS 1980 1671; SR 0.831.109.336.1)

Supplementary agreement on social security

Signed at Berne June 1, 1988; entered into force October 1, 1989.
(TIAS 12126; AS 1989 2252; SR 0.831.109.336.1)

The provisions of this agreement, as far as they concern subjection to compulsory social security law, apply now to third country citizens as well. Further, it has been clarified that the spouse and the children of a transferee are subject to social security of the host country only if they enter employment in that country. Finally, the method to assess U.S. social security benefits has been conformed to new U.S. legislation.

Administrative agreement for the implementation of the agreement on social security of July 18, 1979

Signed at Berne December 20, 1979; entered into force November 1, 1980.
(32 UST 2165; TIAS 9830; 1252 UNTS 137 AS 1980 1684; SR 0.831.109.336.11)

This agreement applies to Swiss and U.S. Federal Old-Age, Survivors and Disability Insurance for nationals of the two countries, refugees and stateless persons residing in either country, other persons with respect to rights from persons of above groups.

The agreement provides for equality of treatment of the nationals of the two countries under the social security law of both countries. Benefits to which a U.S. or Swiss national is entitled under a country's national law or this agreement will not be withheld merely because the person is outside of that country.

An employed person is subject to compulsory social security coverage of the country in the territory of which he is employed. However, employed persons who are sent by their employer with a place of business in one country to the other country, shall be subject to compulsory social security coverage in the first country only, provided that the employment in the other country is not expected to last longer than 5 years. A person who is self-employed and a resident of the territory of either contracting state is subject to compulsory social security coverage only of the country in whose territory he resides.

The agreement provides that for U.S. nationals a contribution period of at least one year shall be required for entitlement to Swiss ordinary Old-Age, Survivors and Disability Insurance Pensions. Where a person has completed at least 6 quarters under U.S. laws, but does not have sufficient quarters to satisfy U.S. requirements for benefits, periods of coverage completed under Swiss laws shall be taken into account for purposes of determining benefit eligibility.

Supplementary administrative agreement amending the administrative agreement for the implementation of the agreement on social security.

Signed at Berne June 1, 1988; entered into force October 1, 1989.
(not published in the U.S.; AS 1989 2255; SR 0.831.109.336.11)

Taxation

Convention for the avoidance of double taxation with respect to taxes on income.

Signed at Washington October 2, 1996; entered into force December 19, 1997.
(Not yet published in the U.S.; AS 1999 1459, RO 1999 1460; SR/RS 0.672.933.61; BBI 1997 II 1104 ff., FF 1997 II 997 ss.)

The new Convention follows closely the pattern of recent U.S. income tax treaties with other OECD member countries. Its provisions have taken effect, in respect of tax withheld at the source, to amounts paid or credited on or after February 1, 1998, and, in respect of other taxes, to taxable periods beginning on or after January 1, 1998.

The Convention refers, in the case of the United States, to the Federal income taxes, including excise taxes imposed on insurance premiums paid to foreign insurers and with respect to private foundations. In the case of Switzerland, it refers to the Federal, Cantonal and Communal taxes on income (total income, earned income, income from property, business profits, etc.).

Swiss enterprises are not subject to income taxation by the United States, and vice versa, unless they carry on business through a permanent establishment in the other country or derive income from real property situated in the other country. Individual residents of one of the two States, working in the other for not more than 183 days in any twelve-month period commencing or ending in the taxable year concerned, shall be exempt from income taxes if they receive compensation for labor or personal services performed as an employee of a person or an enterprise of their home country.

The Convention sets up rules to avoid double taxation of dividend, interest and royalties income derived from sources within one of the Contracting States by a resident or an enterprise of the other State.

Residents of a Contracting State qualify for the treaty benefits if they meet any one of the requirements contained in the limitation on benefits provision of the new Convention.

Convention for the avoidance of double taxation with respect to taxes on estates and inheritances

Signed at Washington July 9, 1951; entered into force September 17, 1952.
(3 UST 3972; TIAS 2533; 165 UNTS 51; AS 1952 645; SR 0.672.933.62)

This convention refers to taxes asserted upon death, in the case of the United States to the Federal estate tax, and in the case of Switzerland to estate and inheritance taxes imposed by the cantons and any political subdivision thereof. In imposing the tax in the case of a decedent who was at the time of his death a citizen of or domiciled in Switzerland, the United States shall allow a specific exemption which would be allowable if the decedent had been domiciled in the United States. A similar exemption shall be allowed by Switzerland in the case of an estate of a decedent who at the time of his death was a citizen of or domiciled in the United States.

If both of the Contracting States determine that the decedent was a citizen of or domiciled in its territory, each shall allow against its tax a credit for the tax imposed in the other State with respect to certain property included for tax by both States.

Any claim for a credit or refund of tax based upon this Convention must be made within five years from the date of death of the decedent.