

COMPETENT AUTHORITY MUTUAL AGREEMENT

The Competent Authorities of the United States and Mexico hereby enter into the following mutual agreement (“the Agreement”), which supersedes and clarifies the Competent Authority Mutual Agreement entered into on Aug. 26, 2005, Announcement 2005-72, I.R.B. 2005-41. The Agreement specifies the cases where fiscally transparent entities are entitled to treaty benefits and clarifies the procedure for claiming benefits from Mexico. The Agreement is entered into under paragraph 3 of Article 26 (Mutual Agreement Procedure) of the Convention Between the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, along with a Protocol, signed on September 18, 1992, and as amended by the Additional Protocol signed on September 8, 1994, and the Second Additional Protocol signed on November 26, 2002 (the “Treaty”).

1) *Eligibility of fiscally transparent entities for treaty benefits*

Paragraph 2(b) of the Protocol provides:

For purposes of paragraph 1 of Article 4 it is understood that:

* * * * *

b) a partnership, estate, or trust is a resident of a Contracting State only to the extent that the income it derives is subject to tax in that State as the income of a resident, either in the hands of the partnership, estate or trust, or in the hands of its partners or beneficiaries;

The Competent Authorities agree that in applying paragraph 2(b) of the Protocol, it is understood that income from sources within one of the Contracting States received by an entity that is organized in either of the Contracting States, or a third state with which Mexico has in force a comprehensive exchange of information agreement, and that is treated as fiscally transparent under the laws of either Contracting State will be treated as income derived by a resident of the other Contracting State to the extent that such income is subject to tax as the income of a resident of the other Contracting State.

For Mexican tax purposes, a fiscally transparent entity organized in the United States, such as a U.S. limited liability company (LLC) that has elected to be treated as a partnership for federal tax purposes, will be treated as a U.S. resident for purposes of paragraph 2(b) of the Protocol, and entitled to claim treaty benefits, to the extent that the income it derives is subject to tax as the income of a U.S. resident in the hands of its members, owners, partners or beneficiaries. Similar rules will apply to a U.S. subchapter S Corporation, an LLC that is disregarded as an entity separate from its owner, or a U.S. grantor trust.

For example, if a U.S. LLC that is treated as a partnership for U.S. federal tax purposes receives a royalty payment from Mexico, and the U.S. LLC has two members with equal interests in the LLC, one Mexican and one U.S., the LLC may claim treaty benefits as a U.S. resident with respect to 50% of the royalty payment because 50% of the payment is subject to tax in the United States in the hands of a U.S. resident member.

Consistent with this agreement, if a U.S. LLC that is treated as a partnership for U.S. federal tax purposes owns 99 percent of the stock of a Mexican corporation, and the U.S. LLC has five members with equal interests in the LLC, under paragraph 4 of Article 13 (Capital Gains), the gains derived by the LLC from the alienation of such shares may be taxed in Mexico because the LLC had, at any time during the 12-month period preceding such alienation, a participation, directly or indirectly, of at least 25 percent in the capital of the company.

Mexico agrees to apply this Agreement with respect to amounts paid to an entity created and subject to the laws of a third state or jurisdiction only where such third state or jurisdiction has in force a comprehensive exchange of information agreement as provided in Mexican tax provisions and such information is effectively exchanged. The following is the current list of countries that Mexico has a comprehensive exchange of information in force. Such a list is published under Mexican administrative regulations and may be amended from time to time.

- Belgium
- Canada
- Korea
- Israel
- Spain
- France
- Italy
- Norway
- Netherlands
- Singapore
- Sweden
- Finland
- Chile
- Ecuador
- Romania
- Czech Republic

Accordingly, if an LLC organized in one of the states listed above receives an interest payment from Mexico, and the LLC has two member owners with equal interests in the LLC, one third jurisdiction resident and one U.S. resident, the LLC may claim treaty benefits as a U.S. resident with respect to 50% of the interest

payment because 50% of the payment is subject to tax in the United States in the hands of a U.S. resident member.

2) U.S. Residency Certification for LLCs and other fiscally transparent entities

A LLC or other entity organized within or without the United States that is treated as a partnership for U.S. tax purposes may certify U.S. residence for treaty purposes-by obtaining a certificate of residence on Form 6166 in the same manner as a partnership. A Form 6166 confirms the filing of Form 1065, U.S. Return of Partnership Income, by the LLC and includes a list of members of the LLC that are residents of the United States for U.S federal tax purposes. The Form 6166 will inform the withholding agent to contact the LLC directly to provide information regarding the allocation of a particular payment to a specific member.

A LLC or other entity organized within or without the United States that is disregarded as an entity separate from its owner for U.S. federal tax purposes may certify U.S. residence for treaty purposes by obtaining a Form 6166 that provides that the LLC is a branch, division, or business unit of its single member owner and that such single member owner is a resident of the United States.

A U.S. corporation that has made an election to be treated as an S Corporation for U.S. federal tax purposes may certify U.S. residence for treaty purposes by obtaining a Form 6166 certificate of residence in a manner similar to that of a partnership. A Form 6166 confirms the filing of an information return, Form 1120S, U.S. Income Tax Return for an S Corporation, as required for a domestic S Corporation, and includes a list of shareholders that are residents of United States for purposes of U.S. taxation.

3) Effective dates

Upon signature by both competent authorities, this Agreement is effective with respect to Mexican source payments made to Mexican or U.S. entities to the extent the Mexican statute of limitations is open for such payments. This Agreement is effective with respect to Mexican source payments made to entities organized in third countries or jurisdictions identified in the Agreement as of January 1, 2006.

Agreed to by the undersigned Competent Authorities:

Robert H. Green
U.S. Competent Authority

Ana Bertha Thierry
Mexican Competent Authority

December 22, 2005

December 22, 2005