

The Department of State refers the Embassy of the Federal Republic of Germany to the Protocol signed in Berlin on June 1, 2006, Amending the Convention Between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes, Signed on 29<sup>th</sup> August 1989 (hereinafter “Protocol”).

A few inaccuracies were discovered upon review of the Protocol. The following seven inaccuracies relate to both language versions.

1. Paragraph 4 of Article 10 (Article IV of the Protocol)
  - a) In the German version the words “ist Absatz 2 Buchstabe b nur anzuwenden” shall be replaced by the words “sind Absatz 2 Buchstabe b und Absatz 3 Buchstabe b nur anzuwenden” and
  - b) in the English version the words “and subparagraph b) of paragraph 3” shall be added after the words “In the case of dividends paid by a REIT subparagraph b) of paragraph 2”.

2. Subparagraph a) of paragraph 4 of Article 10 (Article IV of the Protocol)
  - a) In the German version the words “der Nutzungsberechtigte der Dividenden eine natürliche Person ist, die mit nicht mehr als 10 vom Hundert an dem REIT beteiligt ist” shall be replaced by the words “der Nutzungsberechtigte der Dividenden eine natürliche Person oder ein Pensionsfonds ist und die natürliche Person oder der Pensionsfonds mit nicht mehr als 10 vom Hundert an dem REIT beteiligt ist” and
  - b) in the English version the words “or a pension fund, in either case” shall be inserted after the word “individual”.
3. Subparagraph b) of paragraph 4 of Article 23 (Article XII of the Protocol)
  - a) In the German version, the words “Absatz 3 Buchstabe a gilt nicht” shall be replaced by the words “Absatz 3 Buchstabe b und nicht Buchstabe a gilt” and
  - b) in the English version, the words “The provisions of subparagraph a) of paragraph 3 shall not” shall be replaced by

the words “The provisions of subparagraph b) and not the provisions of subparagraph a) of paragraph 3 shall”.

4. Clause bb) of subparagraph e) of paragraph 2 of Article 28 (Article XIV of the Protocol)
  - a) In the German version the full stop shall be replaced by a semicolon and the word “oder” and
  - b) in the English version, the word “or” shall be added after the semicolon.
5. Chapeau of Article XIII of the Protocol
  - a) In the German version the word “den” shall be replaced by the word “die” and the word “Absatz” shall be replaced by the word “Absätze” and
  - b) in the English version the word “paragraph” shall be replaced by the word “paragraphs”.
6. Subparagraph a) of paragraph 8 of the Protocol to the Convention (Article XVI of the Protocol)
  - a) In the German version the words “auf Ausschüttungen einer solchen in der Bundesrepublik Deutschland ansässigen Gesellschaft” shall be inserted after the

words “Artikel 10 Absatz 3 Buchstabe b” and

- b) in the English version the words “to dividends paid by such a company that is a resident of the Federal Republic of Germany” shall be added at the end of the sentence.

7. Subparagraph h) of paragraph 22 of the Protocol to the Convention (Article XVI of the Protocol)

- a) In the German version the number “6” shall be replaced by the word “neun” and
- b) in the English version the word “six” shall be replaced by the word “nine”.

The following three inaccuracies relate to the German language version only:

- 1. In subparagraph a) of paragraph 11 of Article 10 (Article IV of the Protocol)
  - a) the word “nach” shall be inserted before the words “dem Recht” and
  - b) the word “wurde” shall be added after the word “errichtet”.

2. In subparagraph f) of paragraph 8 of Article 28 (Article XIV of the Protocol) the words “des Buchstabens f” shall be replaced by the words “des Buchstabens e”.
3. In paragraph 4 of the Protocol to the Convention (Article XVI of the Protocol) the word “Einzelunternehmens” shall be replaced by the word “Einheitsunternehmens”.

In order to correct the Protocol, the Department of State proposes that:

- I. The German language version and the English language version be corrected as set out above; and
- II. The corrected texts replace the defective texts as from the date on which the Protocol was signed.

If the Government of the Federal Republic of Germany concurs with the proposals contained in paragraphs I. and II. above, this note and the note in reply thereto expressing the approval of the Government of the Federal Republic of Germany shall constitute the correction of the German and English language versions of the Protocol, and shall become part of the original thereof.

Department of State,



Washington, August 17, 2006.



Botschaft der Bundesrepublik Deutschland  
Embassy of the Federal Republic of Germany  
Embassade de la République fédérale d'Allemagne

Gz.: Wi 551.20

### Verbal Note N°. 104/2006

The Embassy of the Federal Republic of Germany presents its compliments to the Department of State of the United States of America and has the honor to confirm receipt of its Note Verbale of August 17, 2006, which reads as follows:

“The Department of State refers the Embassy of the Federal Republic of Germany to the Protocol signed in Berlin on June 1, 2006, Amending the Convention Between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes, Signed on 29<sup>th</sup> August, 1989 (hereinafter “Protocol”).

A few inaccuracies were discovered upon review of the Protocol. The following seven inaccuracies relate to both language versions.

1. Paragraph 4 of Article 10 (Article IV of the Protocol)

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b) in the English version the words “and subparagraph b) of paragraph 3” shall be added after the words “In the case of dividends paid by a REIT subparagraph b) of paragraph 2”.

2. Subparagraph a) of paragraph 4 of Article 10 (Article IV of the Protocol)

a) In the German version the words “der Nutzungsberechtigte der Dividenden eine natürliche Person ist, die mit nicht mehr als 10 vom Hundert an dem REIT beteiligt ist” shall be replaced by the words “der Nutzungsberechtigte der Dividenden eine natürliche Person oder ein Pensionsfonds ist und die natürliche Person oder der Pensionsfonds mit nicht mehr als 10 vom Hundert an dem REIT beteiligt ist” and

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b) in the English version, the words “The provisions of subparagraph a) of paragraph 3 shall not” shall be replaced by the words “The provisions of subparagraph b) and not the provisions of subparagraph a) of paragraph 3 shall”.

4. Clause bb) of subparagraph e) of paragraph 2 of Article 28 (Article XIV of the Protocol)

a) In the German version the full stop shall be replaced by a semicolon and the word “oder” and

b) in the English version, the word “or” shall be added after the semicolon.

5. Chapeau of Article XIII of the Protocol

a) In the German version the word “den” shall be replaced by the word “die” and the word “Absatz” shall be replaced by the word “Absätze” and

b) in the English version the word “paragraph” shall be replaced by the word “paragraphs”.

6. Subparagraph a) of paragraph 8 of the Protocol to the Convention (Article XVI of the Protocol)

a) In the German version the words “auf Ausschüttungen einer solchen in der Bundesrepublik Deutschland ansässigen Gesellschaft” shall be inserted after the words “Artikel 10 Absatz 3 Buchstabe b” and

b) in the English version the words “to dividends paid by such a company that is a resident of the Federal Republic of Germany” shall be added at the end of the sentence.

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In order to correct the Protocol, the Department of State proposes that:

I. The German language version and the English language version be corrected as set out above; and

II. The corrected texts replace the defective texts as from the date on which the Protocol was signed.

If the Government of the Federal Republic of Germany concurs with the proposals contained in paragraphs I and II above, this note and the note in reply thereto expressing the approval of the Government of the Federal Republic of Germany shall constitute the correction of the German and English language versions of the Protocol, and shall become part of the original thereof."

The Embassy of the Federal Republic of Germany has the honor to inform the Department of State of the United States of America that the Government of the Federal Republic of Germany agrees to the proposals made by the Government of the United States of America. Accordingly, the Note Verbale of the Department of State of the United States of America of August 17, 2006, and this Note in reply thereto constitute an Arrangement between the Government of the Federal Republic of Germany and the Government of the United States of America concerning the

correction of the German and English language versions of the Protocol, the German and English versions of which shall be equally authentic.

The Embassy of the Federal Republic of Germany avails itself of this opportunity to renew to the Department of State of the United States of America the assurances of its highest consideration.

Washington, 17<sup>th</sup> August 2006

