

Joint Declaration
by the United States of America and the Federal Republic of Germany
on the Occasion
of the Signing on 1 June 2006
of the Protocol 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 29th August 1989

The United States of America and the Federal Republic of Germany on the occasion of the signing on 1 June 2006 of the Protocol 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 29th August 1989 (hereafter “Protocol of 1 June 2006”), and with regard to Article 18 (Pensions, Annuities, Alimony, Child Support, and Social Security) of the Convention as amended by the Protocol of 1 June 2006, in which it is agreed that pensions and other similar remuneration paid in consideration of past employment as well as benefits paid under the social security legislation of a Contracting State shall be taxable only in the Contracting State of which the recipient of that pension or benefits on the basis of the social security legislation is a resident,

Have reached the following understanding:

I.

1. The Federal Republic of Germany draws attention to the fact

- a) that, effective as of 1 January 2005, legislation introduced on 5 July 2004 (Federal Law Gazette part I page 1427) has fundamentally changed in the Federal Republic of Germany the taxation of retirement income,
 - b) that these changes combine full taxation of retirement income with extended tax exemption of contributions to pension plans.
2. The Federal Republic of Germany therefore expresses its conviction
- a) that, as a result of these legislative changes, Article 18 of the Convention as amended by the Protocol of 1 June 2006 should be further amended to such effect as to also provide for the taxation of retirement income in the Contracting State in which the income arises or in which the contributions to the pension plan were exempt from taxation;
 - b) that taking into account the successive implementation in the Federal Republic of Germany of the taxation of retirement income, as amended by legislation of 5 July 2004, any further amendment to Article 18 of the Convention of 29 August 1989 as amended by the Protocol of 1 June 2006 should not enter into force before 1 January 2015.

II.

The Federal Republic of Germany and the United States of America therefore reaffirm their intentions declared during negotiations on the Protocol of 1 June 2006 to enter into consultations at the appropriate time, but not before 1 January 2013, with a view to further amending Article 18 of the Convention as amended by the Protocol of 1 June 2006 to allow for the taxation of retirement income in the Contracting State in which the income arises based on the following principles:

1. Benefits paid under the social security legislation of a Contracting State may also be taxed by that Contracting State; the tax may not however exceed 15 percent of the gross amount of such payments;

2. Pensions and other similar remuneration paid in consideration of past employment may also be taxed in the Contracting State in which the employment had been exercised for a substantial period of time; the tax may not however exceed 15 percent of the gross amount of such payments.

This Joint Declaration is signed in duplicate, in the English and German languages.

Berlin, 1 June 2006

FOR THE
UNITED STATES OF AMERICA:

FOR THE
FEDERAL REPUBLIC OF GERMANY: