

TAX AUTHORITIES PROVIDE CLARIFICATION OF US-UK TAX TREATY AFTER BREXIT AND USMCA

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On July 26, 2021, the competent authorities of the United States and the United Kingdom entered into an arrangement (Brexit Arrangement) interpreting the US-UK income tax treaty. The Brexit Arrangement provides that notwithstanding the UK's exit from the European Union (commonly known as Brexit), the UK will continue to be treated as an EU member state for purposes of the US-UK Treaty's "Limitation on Benefits" clause. The Brexit Arrangement is sensible, and avoids a perverse result wherein, following Brexit, it could in certain circumstances be easier for a UK company owned 100 percent by non-UK EU share holders to qualify for US-UK Treaty benefits than it would be for a UK company owned by a mix of UK and EU shareholders.

In addition to the Brexit Arrangement, the US and UK competent authorities entered into another arrangement on July 24, 2021—the USMCA Arrangement, which has replaced and superseded NAFTA. While taxpayers arguably could have interpreted the US-UK Treaty's reference to NAFTA to include the USMCA even without guidance from the tax authorities, the USMCA Arrangement removes any doubt.

In the *Practical Tax Lawyer*, New York Partner Daniel Pilarski examines the anti-abuse provisions of tax treaties, focussing on the US-UK Treaty's Limitation on Benefits clause. Additionally, explaining the operation of the Brexit Arrangement and the USMCA Arrangement, and how they affect the Limitation on Benefits clause.

To read the full article, please click [here](#).

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