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pension provisions of the Treaty to avoid income tax on the earnings of, and distributions from, personal retirement schemes established in Malta.

Isaac M. O'Bannon • Dec. 22, 2021



The tax authorities of the United States and Malta signed a competent authority arrangement (CAA) confirming their understanding of the meaning of pension fund for purposes of the United States–Malta income tax treaty (Treaty). The competent authorities have entered into this agreement after becoming aware that U.S. taxpayers with no connection to Malta were misconstruing the pension provisions of the Treaty to avoid income tax on the earnings of, and distributions from, personal retirement schemes established in Malta.

The CAA confirms the U.S. and Malta competent authorities' understanding that

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The IRS put taxpayers on notice earlier this year that it was reviewing [the use of Maltese personal retirement schemes](#). The IRS is actively examining taxpayers who have set up these arrangements and recognizes that other taxpayers may have filed tax returns claiming Treaty benefits as a result of their participation in these arrangements. These taxpayers should consult an independent tax advisor prior to filing their 2021 tax returns and take appropriate corrective actions on prior filings.

The IRS also cautions taxpayers against entering into any substantially similar arrangements that would seek to misconstrue the provisions of a bilateral income tax treaty of the United States to avoid income tax. IRS enforcement, both the civil and criminal divisions, is committed to pursuing abuse and those who market and participate in abusive transactions.

The [CAA](#) is available on irs.gov and will be published in the Internal Revenue Bulletin.

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