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Eligibility for Treaty Benefits Under The Denmark-U.S. Income Tax Treaty

by Jason Connery, Ron Dabrowski, and Jennifer Blasdel-Marinescu

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SPECIAL REPORT

Eligibility for Treaty Benefits Under the Denmark-U.S. Income Tax Treaty

by Jason Connery, Ron Dabrowski, and Jennifer Blasdel-Marinescu

Jason Connery Ron Dabrowski Jennifer Blasdel-Marinescu

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This article represents the views of the authors only and does not necessarily represent the views or professional advice of KPMG LLP.

The authors provide flowcharts to assist practitioners in determining a company's eligibility for tax treaty benefits under the limitation on benefits provision in the Denmark-U.S. tax treaty.

To be entitled to benefits under income tax treaties, companies must satisfy eligibility requirements. This article includes flowcharts to help practitioners navigate the eligibility requirements of the Denmark-U.S. income tax treaty and its accompanying protocols applicable to Danish companies, in particular the eligibility requirements for a 0 percent withholding tax rate on dividends.[1]

Income tax treaties may exempt business income from source-country income taxes and eliminate or reduce domestic withholding taxes on payments between residents of countries that are parties to an income tax treaty. To be entitled to benefits under U.S. income tax treaties, a company must not only be a resident of the tax treaty partner's country but must also satisfy at least one of the tests in the treaty's limitation on benefits provision, if applicable.

The flowcharts in this article focus on the eligibility of Danish companies claiming treaty benefits under the treaty's limitation on benefits article (article 22) on income that would otherwise be subject to U.S. taxation. This article does not address eligibility for treaty benefits of entities that are partnerships or otherwise transparent for U.S. or Danish tax purposes. It also does not discuss the triangular rules in paragraph 6 of the LOB provision in the treaty. This article is based on the treaty, the protocols to the treaty, the diplomatic notes to the 2006 protocol to the treaty, and the U.S. Treasury Department's technical explanation.

This article is the 14th in a series[2] that provides flowcharts to assist practitioners in determining a company's eligibility for tax treaty benefits under the LOB

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[1]Convention Between the Government of the United States of America and the Government of the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income, signed Aug. 19, 1999, and accompanying protocols signed Aug. 19, 1999, and May 2, 2006.

[2]*See* Jason Connery and Jennifer Blasdel-Marinescu, ''Eligibility for Treaty Benefits Under the Belgium-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, Feb. 10, 2014, p. 563; Connery and Blasdel-Marinescu, ''Eligibility for Treaty Benefits Under the Ireland-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, June 17, 2013, p. 1223; Connery, Douglas Poms, and Blasdel-Marinescu, ''Eligibility for Treaty Benefits Under the Sweden-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, July 23, 2012, p. 359; Connery, Poms,

(Footnote continued on next page.)

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provisions of specific U.S. income tax treaties and, when applicable, in determining eligibility for a 0 percent withholding tax rate on cross-border intercompany dividend payments to the company.

This article contains 10 flowcharts that analyze the LOB provision of the treaty as applied to Danish resident companies. The 11th flowchart addresses the eligibility for a 0 percent withholding tax rate on cross-border intercompany dividends received by a Danish company. Although the flowcharts provide a comprehensive review of applicable provisions under the treaty, taxpayers and their tax advisers should carefully evaluate each case and determine whether the requirements of the treaty are met based on all facts and circumstances. ◆

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and Blasdel-Marinescu, ''Eligibility for Treaty Benefits Under the Australia-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, Dec. 12, 2011, p. 843; Connery, Poms, and Jennifer Blasdel, ''Eligibility for Treaty Benefits Under the Switzerland-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, May 9, 2011, p. 505; Connery, Poms, and Blasdel, ''Eligibility for Treaty Benefits Under the Japan-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, Sept. 6, 2010, p. 789; Connery, Poms, and Blasdel, ''Eligibility for Treaty Benefits Under the 2009 Protocol to the France-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, Apr. 12, 2010, p. 149; John Venuti, Connery, Poms, and Blasdel, ''Eligibility for Treaty Benefits Under the Netherlands-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, Nov. 23, 2009, p. 601; Venuti, Connery, Poms, and Alexey Manasuev, ''Eligibility for Treaty Benefits Under the Canada-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, June 15, 2009, p. 967; Venuti, Ron Dabrowski, Poms, and Manasuev, ''Eligibility for Treaty Benefits Under U.K.-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, Mar. 23, 2009, p. 1095; Venuti, Connery, Poms, and Manasuev, ''Eligibility for Treaty Benefits Under the Luxembourg-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, July 21, 2008, p. 285; Venuti, Dabrowski, Poms, and Manasuev, ''Eligibility for Treaty Benefits Under the France-U.S. Income Tax Treaty,'' *Tax Notes Int'l*, Feb. 11, 2008, p. 523; and Venuti and Manasuev, ''Eligibility for Zero Withholding on Dividends in the New Germany-U.S. Protocol,'' *Tax Notes Int'l*, Jan. 14, 2008, p. 181.

(Footnote continued in next column.)

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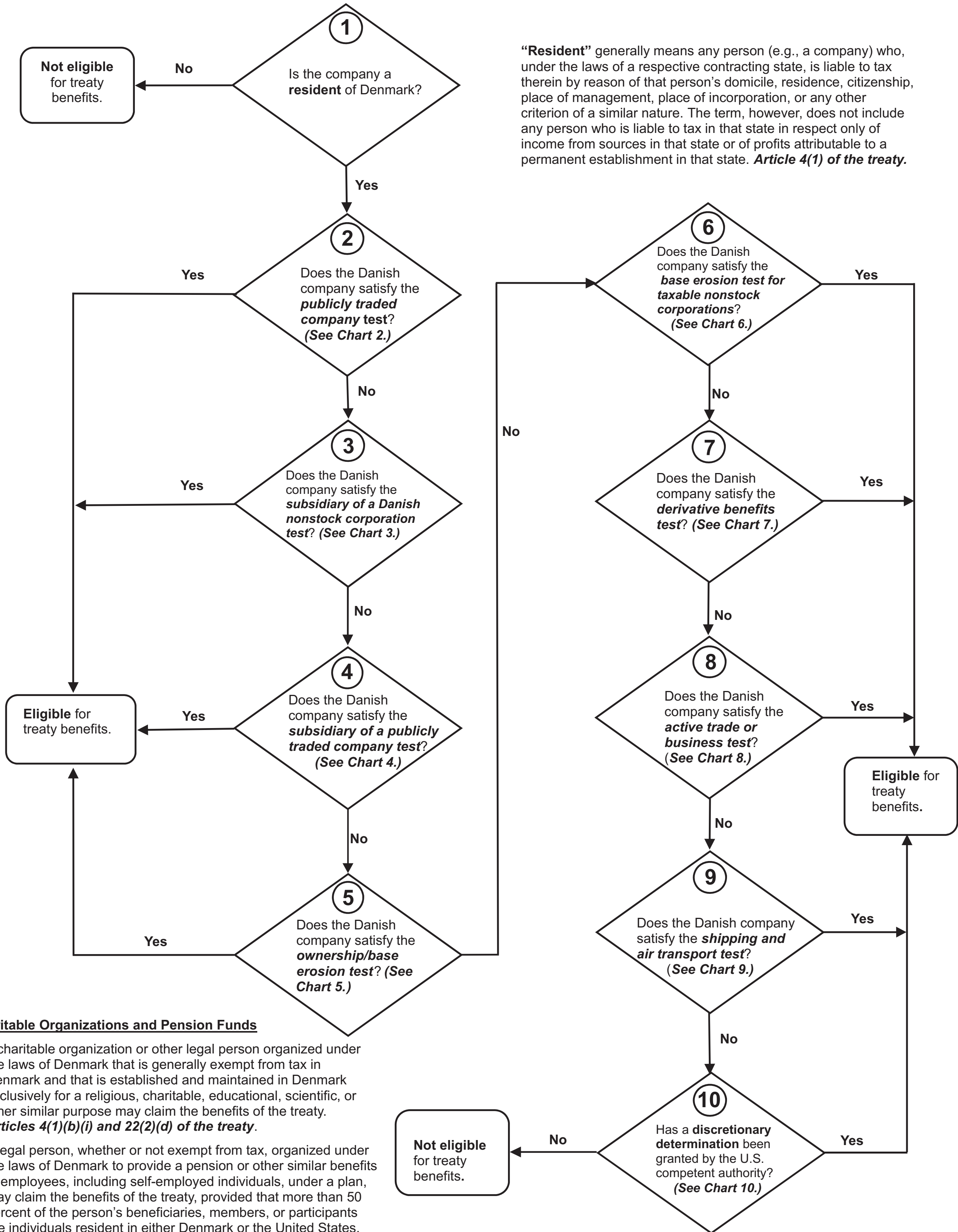

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Chart 2. Publicly Traded Company Test Under Article 22(2)(c)(i) (LOB) of the Denmark-U.S. Tax Treaty

"Principal class of shares" means the ordinary or common shares of the company, provided that such class of shares represents the majority of the voting power and value of the company. If no single class of ordinary or common shares represents the majority of the aggregate voting power and value of the company, the **principal class of shares** is that class or those classes that in the aggregate represent a majority of the aggregate voting power and value of the company. ***Article 22(8)(a) of the treaty.*** Although in a particular case involving a company with several classes of shares it is conceivable that more than one group of classes could be identified that account for more than 50 percent of the shares, it is only necessary for one such group to satisfy the requirements of the **publicly traded company test** in order for the company to be entitled to benefits. Benefits would not be denied to the company even if a second, non-qualifying group of shares with more than half of the company's voting power and value could be identified. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

"Disproportionate class of shares" means any class of shares of a company resident in one of the contracting states that entitles the shareholder to disproportionately higher participation, through dividends, redemption payments, or otherwise, in the earnings generated in the other state by particular assets or activities of the company. ***Article 22(8)(b) of the treaty.*** Thus, for example, a company resident in Denmark has a **disproportionate class of shares** if it has outstanding a class of "tracking stock" that pays dividends based upon a formula that approximates the company's return on its assets employed in the United States. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

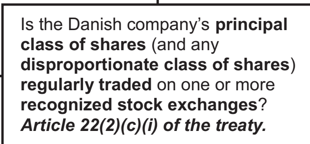
The shares in a class of shares are considered to be **regularly traded** on one or more **recognized stock exchanges** in a tax year if:

(i) trades in such class are effected on one or more of such stock exchanges other than in de minimis quantities during every quarter; and

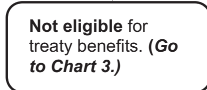
(ii) the aggregate number of shares or units of that class traded on such stock exchange or exchanges during the previous tax year is at least 6 percent of the average number of shares or units outstanding in that class (including shares held by **taxable nonstock corporations *(see Chart 3 for definition)***) during that tax year. ***Article 22(8)(f)(i) of the treaty.***

"Shares" include depository receipts thereof. ***Article 22(8)(c) of the treaty.***

For this purpose, if a class of shares was not listed on a **recognized stock exchange** during the entire prior tax year, the class of shares will be treated as **regularly traded** only if the class meets the aggregate trading requirements for the period in which the income arises. Trading on one or more **recognized stock exchanges** may be aggregated for purposes of meeting the **regularly traded** test. For example, a Danish company could satisfy the definition of **"regularly traded"** through trading, in whole or in part, on a **recognized stock exchange** located in the United States or certain third countries. Authorized but unissued shares are not considered for purposes of the **regularly traded** standard. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***



No

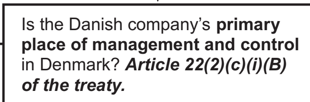


Yes

Yes

Stock of a Danish company is **"primarily traded"** if the number of shares in the company's **principal class of shares** that are traded during the tax year on all **recognized stock exchanges** in Denmark exceeds the number of shares in the company's **principal class of shares** that are traded during that year on established securities markets in any other single foreign country. ***U.S. Treasury technical explanation to the 2006 protocol treaty.***

No



No

A Danish company's **primary place of management and control** will be in Denmark only if executive officers and senior management employees exercise day-to-day responsibility for more of the strategic, financial, and operational policy decision making for the company (including its direct and indirect subsidiaries) in Denmark than in any other state, and the staffs conduct more of the day-to-day activities necessary for preparing and making those decisions in Denmark than in any other state. ***Article 22(8)(g) of the treaty***. Thus, the test looks to the overall activities of the relevant persons to see where those activities are conducted. In most cases, it will be a necessary, but not a sufficient, condition that the headquarters of the company (that is, the place at which the CEO and other top executives normally are based) be located in Denmark. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

For guidance regarding the persons who are considered "executive officers and senior management employees," see ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

"Recognized stock exchange" means:

(i) the NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under the U.S. Securities Exchange Act of 1934;

(ii) the Copenhagen Stock Exchange;

(iii) the stock exchanges of Amsterdam, Brussels, Frankfurt, Hamburg, Helsinki, London, Oslo, Paris, Stockholm, Sydney, Tokyo, and Toronto; and

(iv) any other stock exchanges agreed upon by the competent authorities of Denmark and the United States. ***Article 22(8)(d) of the treaty.***

Yes

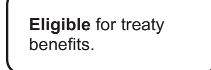


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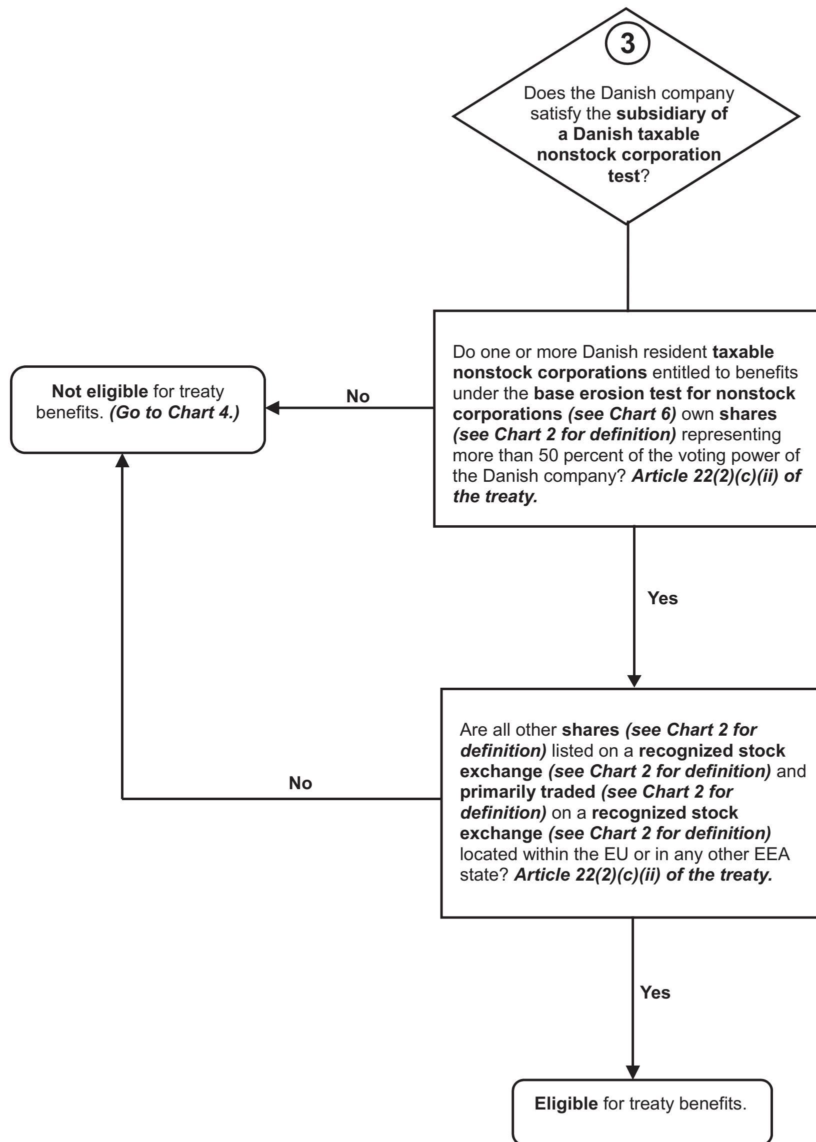
Chart 3. Subsidiary of a Danish Taxable Nonstock Corporation Test Under Article 22(2)(c)(ii) (LOB) of the Denmark-U.S. Tax Treaty



The term **"taxable nonstock corporation"** means a foundation that is taxable in accordance with paragraph 1 of article 1 of the Danish Act on Taxable Nonstock Corporations (fonde der beskattes efter fondsbeskatningsolven). ***Article 22(8)(e) of the treaty.***

For purposes of determining whether a Danish company satisfies this test, the **regularly traded** ***(see Chart 2 for definition)*** requirement will be applied as if all the **shares** ***(see Chart 2 for definition)*** issued by the Danish company were one class of **shares** ***(see Chart 2 for definition)*** and **shares** ***(see Chart 2 for definition)*** held by **taxable nonstock corporations** will be considered outstanding for purposes of determining whether 6 percent of the outstanding **shares** ***(see Chart 2 for definition)*** have been traded during a tax year. ***Article 22(8)(f)(ii) of the treaty.***

For purposes of the **primarily traded** ***(see Chart 2 for definition)*** requirement, all **shares** ***(see Chart 2 for definition)*** not owned by **taxable nonstock corporations** taken as a single class, must be traded more on a recognized stock exchange located in a state within the EU or in any other EEA state than on established securities markets in any other single foreign state. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

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Chart 4. Subsidiary of a Publicly Traded Company Test Under Article 22(2)(c)(iii) (LOB) of the Denmark-U.S. Tax Treaty

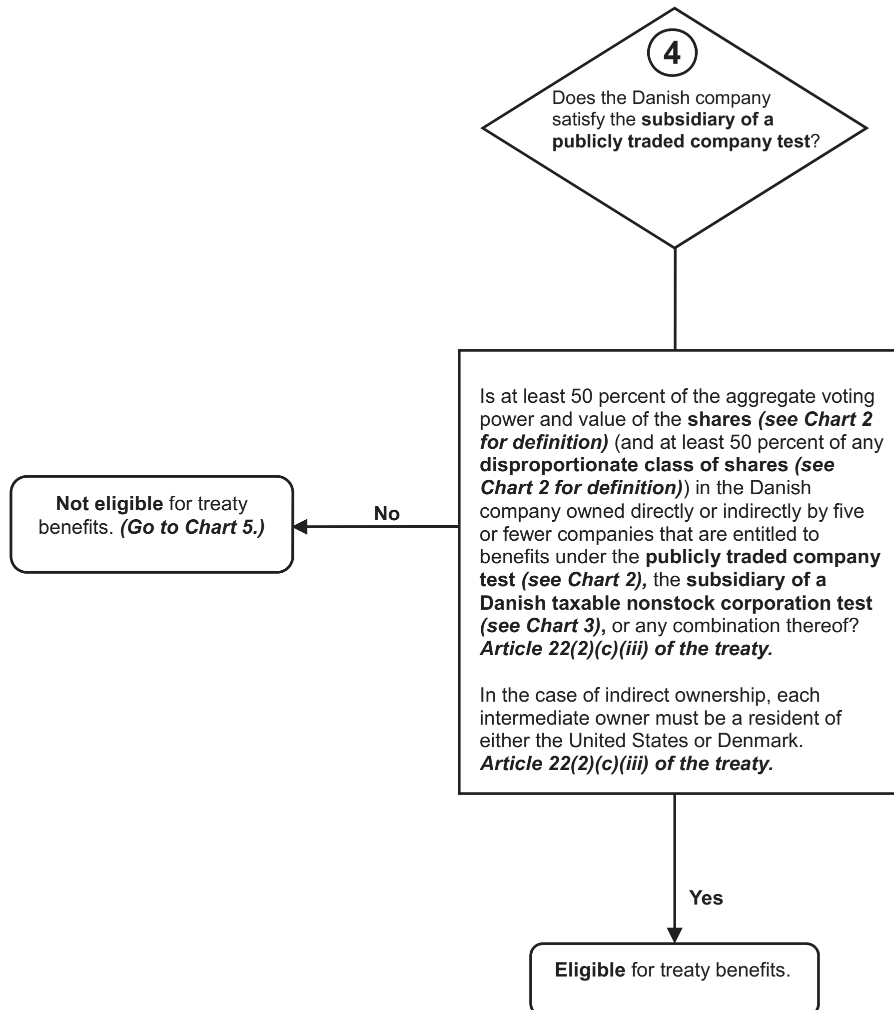

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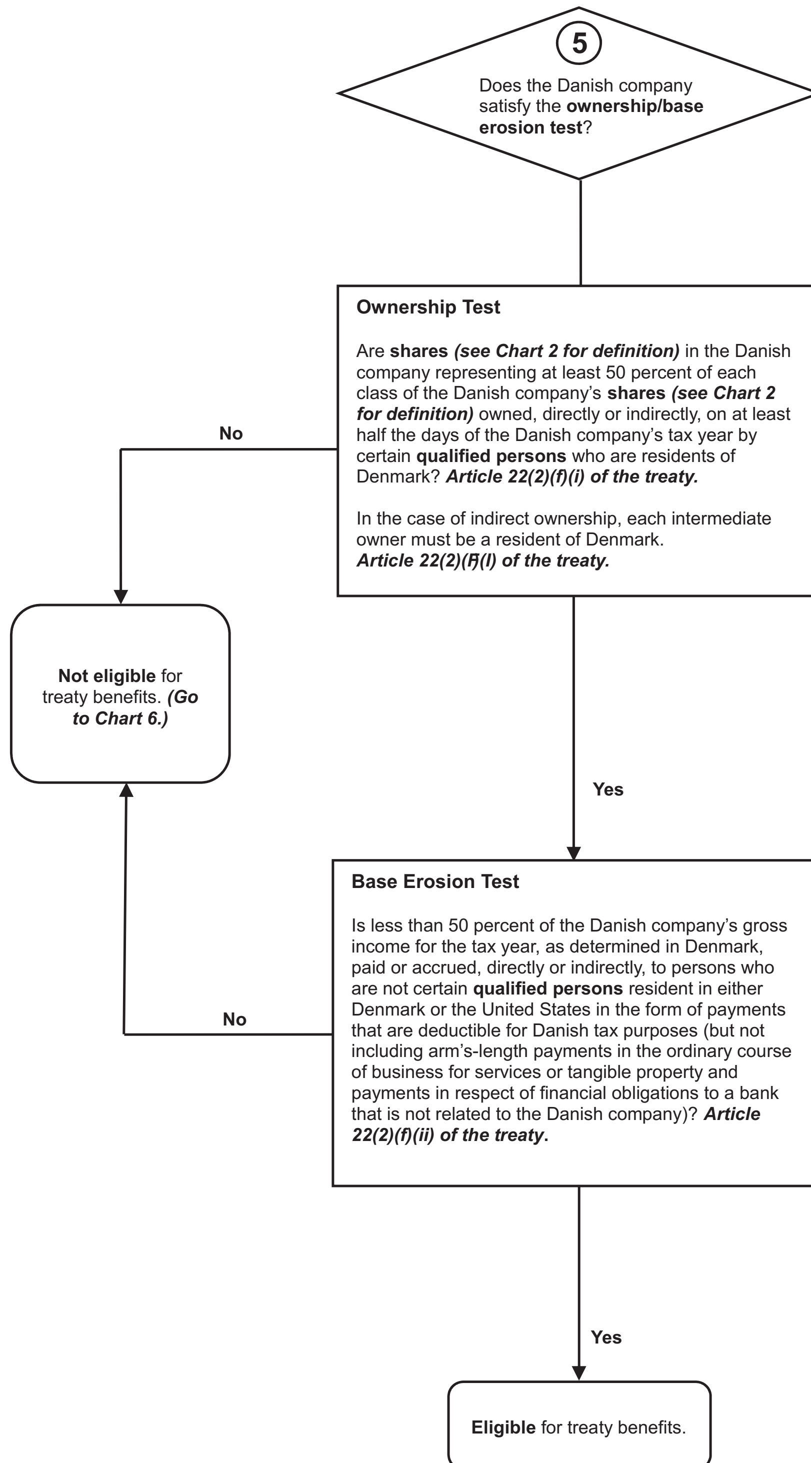
Chart 5. Ownership/Base Erosion Test Under Article 22(2)(f) (LOB) of the Denmark-U.S. Tax Treaty



Qualified persons for purposes of the **ownership test** are limited to:

A. individuals resident in Denmark ***(article 22(2)(a) of the treaty);***

B. Denmark, a political subdivision of Denmark, or a local authority of Denmark, or an agency or instrumentality of Denmark or any political subdivision or local authority thereof ***(article 22(2)(b) of the treaty);***

C. Danish resident companies that satisfy the **publicly traded company test** ***(see Chart 2) (article 22(2)(c)(i) of the treaty);***

D. certain Danish resident charitable organizations or other legal persons organized under the laws of Denmark that are established and maintained in Denmark exclusively for a religious, charitable, educational, scientific, or other similar purposes ***(see Chart 1) (article 22(2)(d) of the treaty)***; and

E. certain Danish resident pension funds ***(see Chart 1) (article 22(2)(e) of the treaty).***

Qualified persons for purposes of the **base erosion test** are those described in A, B, C, D, or E, above, and corresponding United States residents.

For purposes of the **base erosion test**, depreciation and amortization deductions, which do not represent payments or accruals to other persons, are disregarded. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

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Chart 6. Base Erosion Test for Taxable Nonstock Corporations Under Article 22(2)(g) (LOB) of the Denmark-U.S. Tax Treaty

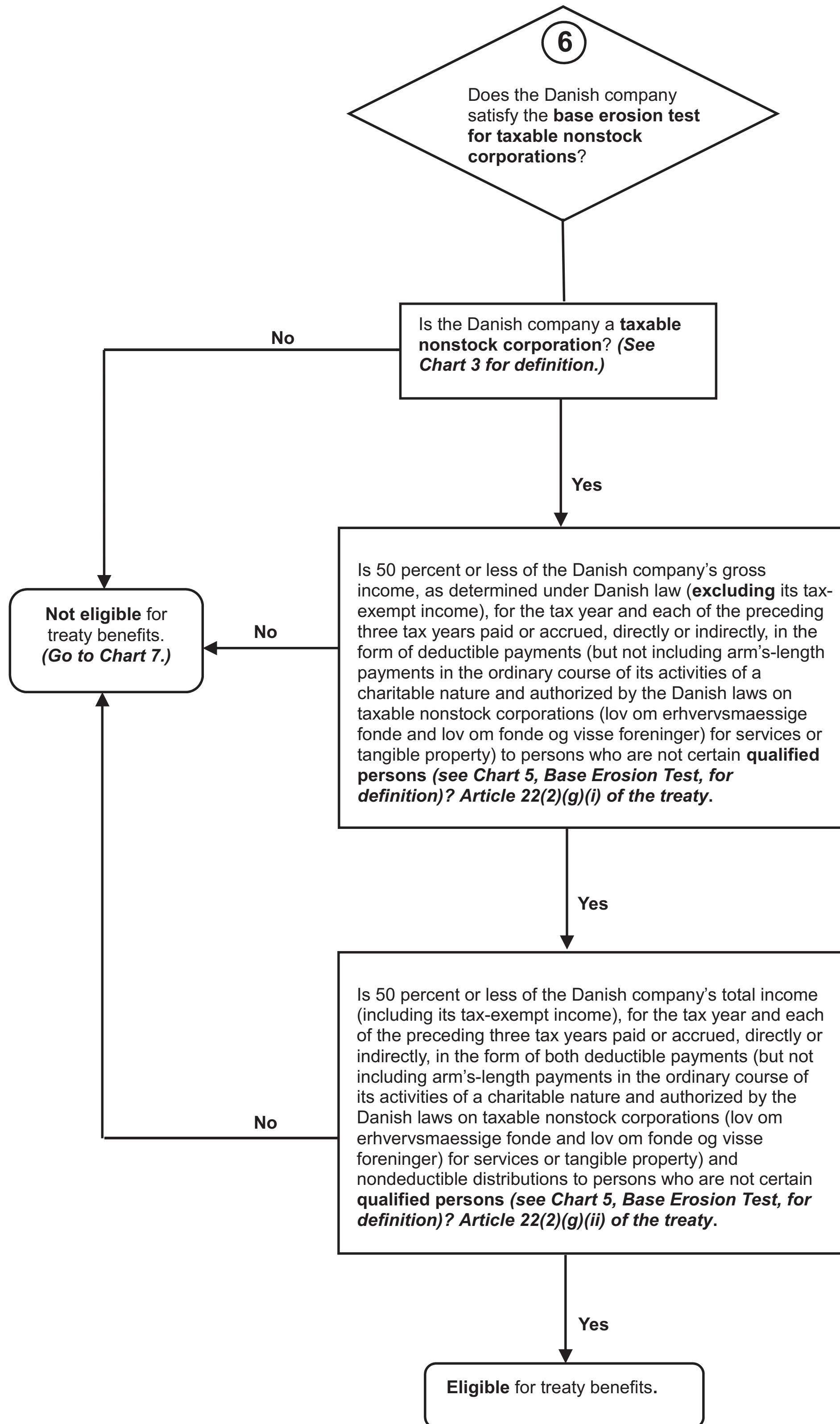

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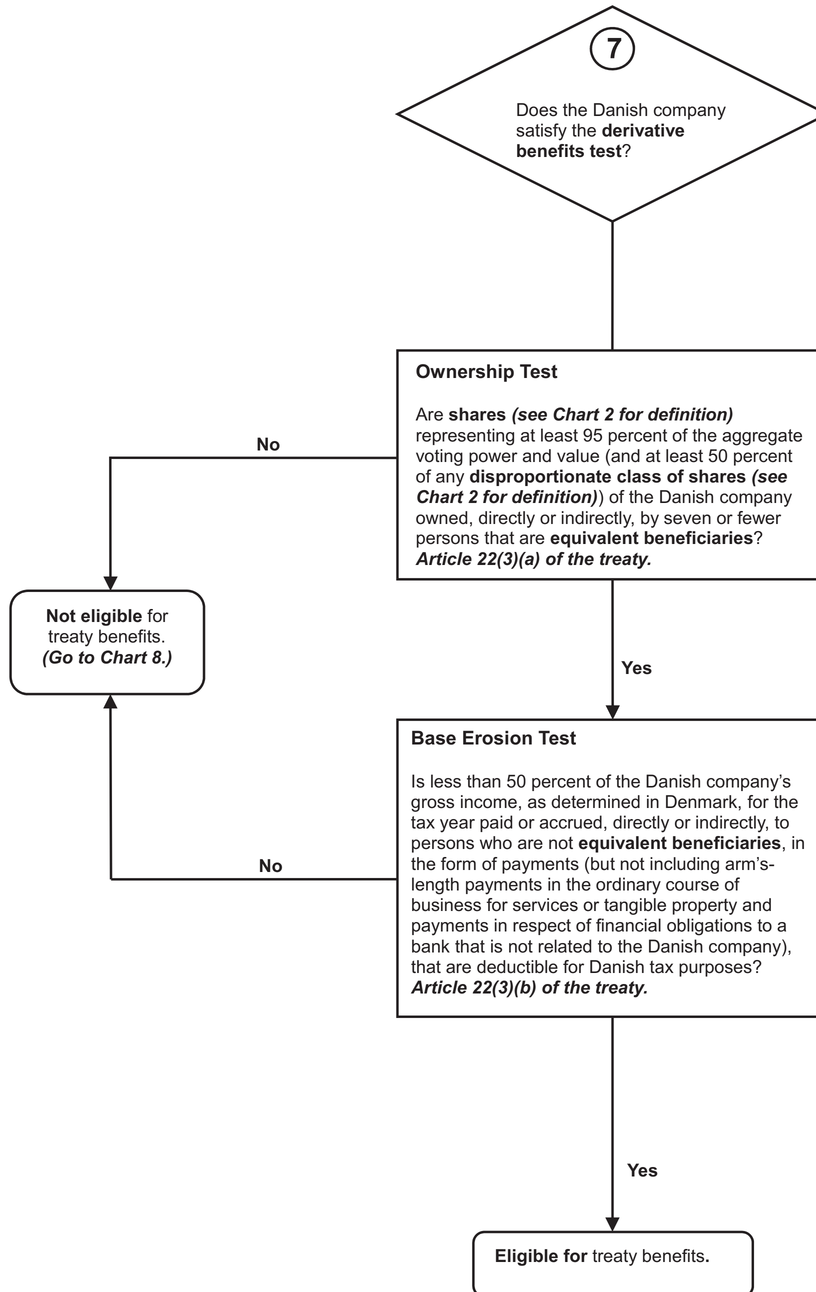
Chart 7. Derivative Benefits Test Under Article 22(3) (LOB) of the Denmark-U.S. Tax Treaty



Note: The **derivative benefits test** is potentially applicable to all benefits under the treaty, although the test is applied to individual items of gross income. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

"Equivalent Beneficiary" means**:**

A resident of a member state of the EU or of any other EEA state or of a party to the North American Free Trade Agreement, or of Switzerland, but only if that resident:

(i)(A) would be entitled to ***all*** the benefits of a comprehensive tax treaty between any EU member state or any other EEA state or any party to NAFTA, or Switzerland, and the United States under provisions analogous to the rules for certain **qualified persons** ***(see Chart 5, Base Erosion Test, for definition)***, provided that if such convention does not contain a comprehensive LOB provision, the person would be entitled to the benefits of the treaty by reason of status as a certain **qualified person** ***(see Chart 5, Base Erosion Test, for definition)*** if such person were a resident of the United States or Denmark under article 4 (resident) of the treaty; **and**

(B) with respect to income referred to in article 10 (dividends), 11 (interest), or 12 (royalties) of the treaty, would be entitled under such convention to a rate of tax with respect to the particular class of income for which benefits are being claimed under the treaty that is at least as low as the rate applicable under the treaty; **or**

(ii) is a **resident (*see Chart 1 for definition*)** of either the United States or Denmark that is a certain **qualified person (*see Chart 5, Base Erosion Test, for definition*)** entitled to the benefits of the treaty by reason of such status. ***Article 22(8)(h) of the treaty***.

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Chart 8. Active Trade or Business Test Under Article 22(4) (LOB) of the Denmark-U.S. Tax Treaty

(Applies only if an item of income is derived in connection with or incidental to an active trade or business in Denmark)

The term **"trade or business"** is not defined in the treaty. The U.S. competent authority will refer to the regulations issued under section 367(a) for the definition of the term "trade or business." In general, therefore, a trade or business will be considered to be a specific unified group of activities that constitute or could constitute an independent economic enterprise carried on for profit. Furthermore, a corporation generally will be considered to carry on a trade or business only if the officers and employees of the corporation conduct substantial managerial and operational activities. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

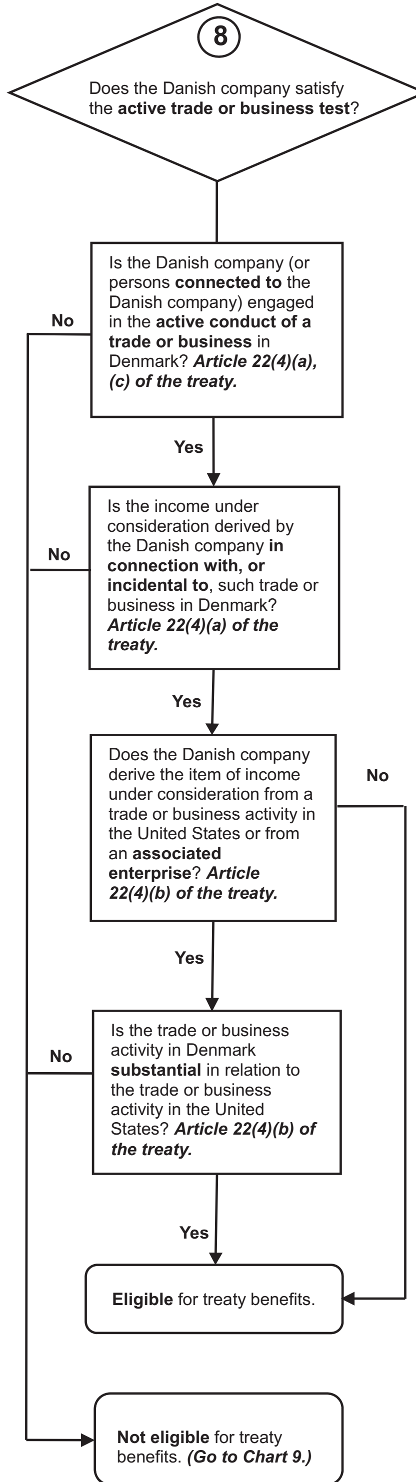
An **active conduct of a trade or business** does not include the business of making or managing investments for one's own account, unless these activities are banking, insurance, or securities activities carried on by a bank, insurance company, or registered securities dealer. ***Article 22(4)(a) of the treaty.*** Because a headquarters operation is in the business of managing investments, a company that functions solely as a headquarters company will not be considered to be engaged in an active trade or business for purposes of the **active trade or business test.** ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

An item of income is derived **"in connection with"** a trade or business if the income-producing activity in the source state (in this case, the United States) is a line of business that "forms a part of" or is "complementary" to the trade or business conducted in Denmark by the income recipient. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

A business activity generally will be considered to form a part of a business activity conducted in the source state (in this case, the United States) if the two activities involve the design, manufacture, or sale of the same products or type of products, or the provision of similar services. The line of business in the state of residence may be upstream, downstream, or parallel to the activity conducted in the source state. Thus, the line of business may provide inputs for a manufacturing process that occurs in the source state, may sell the output of that manufacturing process, or simply may sell the same sorts of products that are being sold by the trade or business carried on in the source state. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

For two activities to be considered to be "complementary," the activities need not relate to the same types of products or services, but they should be part of the same overall industry and be related in the sense that the success or failure of one activity will tend to result in the success or failure of the other. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

When more than one **trade or business** is conducted in the source state (in this case, the United States) and only one of the **trades or businesses** forms a part of or is complimentary to a **trade or business** conducted in the state of residence (in this case, Denmark), it is necessary to identify the **trade or business** to which an item of income is attributable. Royalties generally will be considered to be derived **in connection with** the **trade or business** to which the underlying intangible property is attributable. Dividends will be deemed to be derived first out of earnings and profits of the treaty-benefited **trade or business**, and then out of other earnings and profits. Interest income may be allocated under any reasonable method consistently applied. A method that conforms to U.S. principles for expense allocation will be considered a reasonable method. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***



An item of income derived from the source state (in this case, the United States) is **"incidental to"** the trade or business carried on in the state of residence (in this case, Denmark) if production of the item facilitates the conduct of the trade or business in the state of residence. An example of incidental income is the temporary investment of working capital of a person in the state of residence in securities issued by persons in the source state. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

A Danish company is **associated** with an **enterprise** of the United States if it participates directly or indirectly in the management, control, or capital of the U.S. enterprise or if any of the same persons participate directly or indirectly in the management, control, or capital of the Danish company and the U.S. enterprise. ***Article 9(1) of the treaty.***

A person is **"connected to"** another if one possesses at least 50 percent of the beneficial interest in the other (or, in the case of a company, at least 50 percent of the aggregate vote and at least 50 percent of the aggregate value of the **shares** ***(see Chart 2 for definition)*** in the company or of the beneficial equity interest in the company) or another person possesses, directly or indirectly, at least 50 percent of the beneficial interest (or, in the case of a company, at least 50 percent of the aggregate vote and at least 50 percent of the aggregate value of the **shares** ***(see Chart 2 for definition)*** in the company or of the beneficial equity interest in the company) in each person. In any case, a person is considered to be **connected to** another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons. ***Article 22(4)(c) of the treaty.***

The determination of **substantiality** is based upon all the facts and circumstances and takes into account: (i) the comparative sizes of the trades or businesses in each state; (ii) the nature of the activities performed in each state; and (iii) the relative contributions made to that trade or business in each state. In any case, in making each determination or comparison, due regard will be given to the relative sizes of the U.S. and Danish economies. The determination of substantiality is made separately for each item of income derived from the source state. It therefore is possible that a person would be entitled to the benefits of the treaty with respect to one item of income but not with respect to another. If a resident of a state is entitled to treaty benefits with respect to a particular item of income under the **active trade or business test**, the resident is entitled to all benefits of the treaty insofar as they affect the taxation of that item of income in the source state. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

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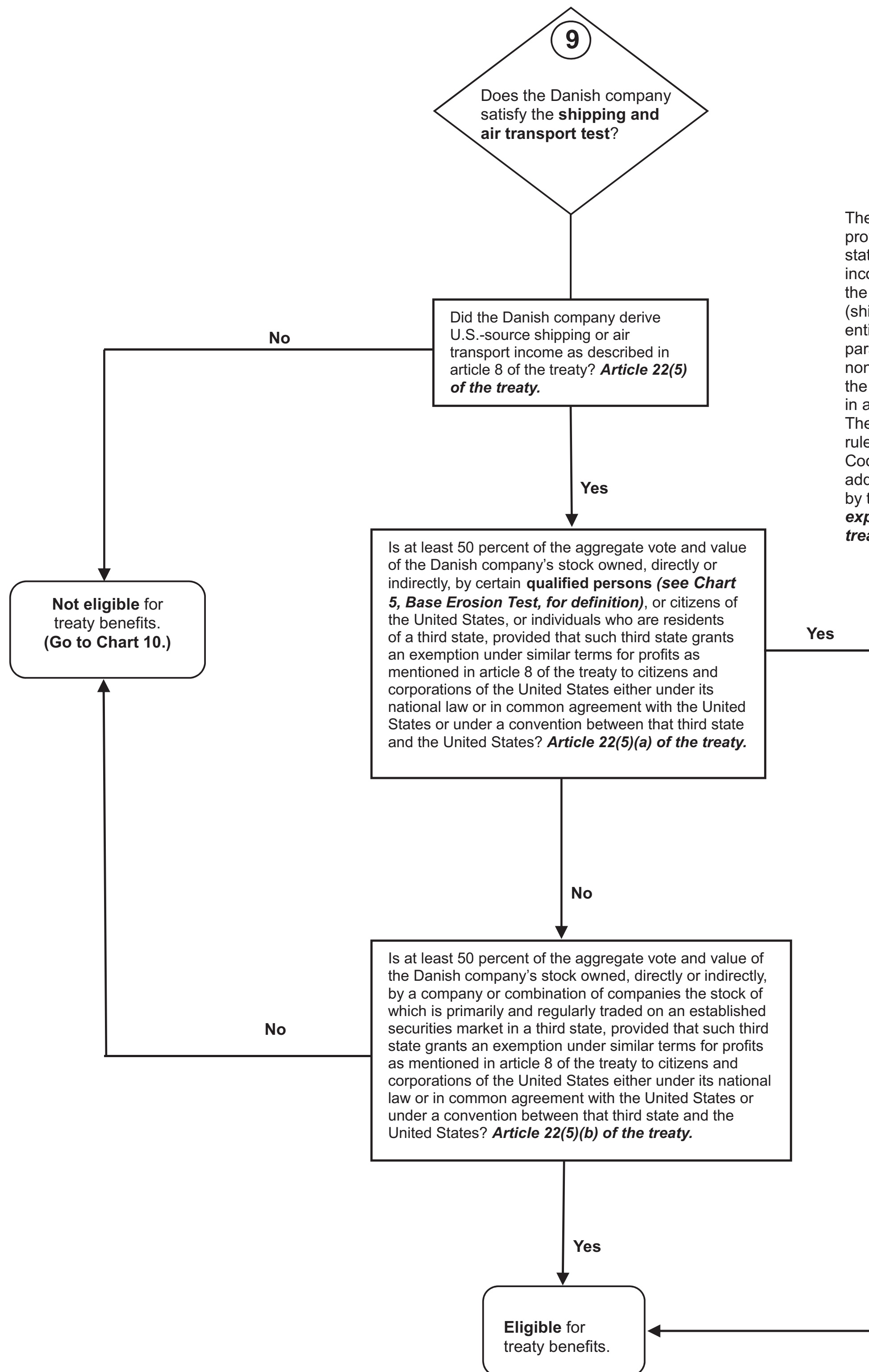
Chart 9. Shipping and Air Transport Test Under Article 22(5) (LOB) of the Denmark-U.S. Tax Treaty

(Only applies to shipping or air transport income)



The **shipping and air transport test** provides that a resident of one of the states (in this case, Denmark) that derives income from the other state (in this case, the United States) described in article 8 (shipping and air transport) and that is not entitled to the benefits of the treaty under paragraphs 1 through 4 of article 22, will nonetheless be entitled to the benefits of the treaty with respect to income described in article 8 if it meets one of two tests. These tests in substance duplicate the rules set forth under Internal Revenue Code section 883 and therefore afford little additional benefits beyond those provided by the IRC. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

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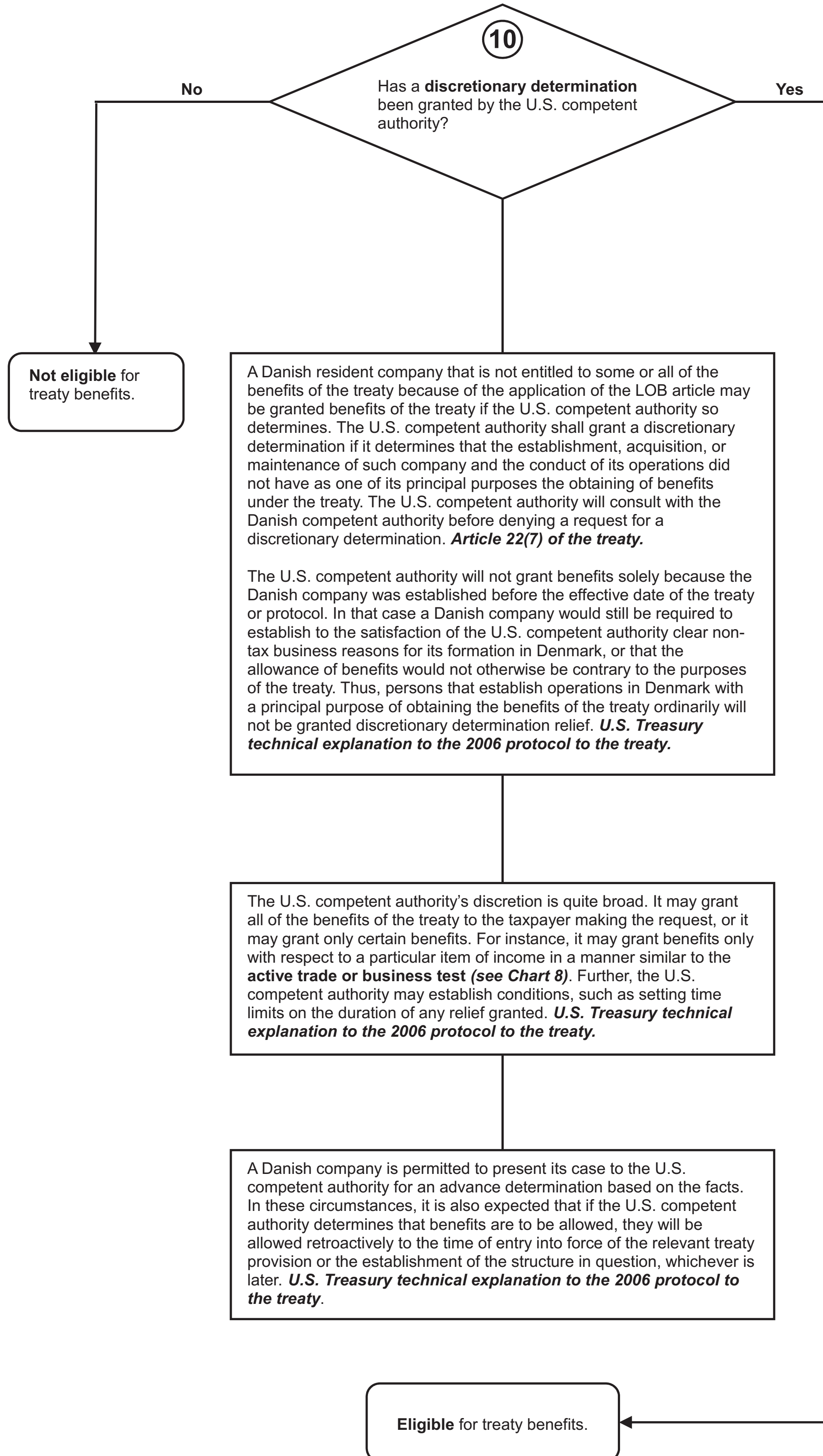
Chart 10. Discretionary Determination by U.S. Competent Authority Under Article 22(7) (LOB) of the Denmark-U.S. Tax Treaty



Requesting competent authority assistance – A taxpayer may request the assistance of the U.S. competent authority under Rev. Proc. 2006-54.

There is a US $27,500 user fee for requesting a **discretionary determination** under the LOB article. If a request is submitted for more than one entity, a separate user fee is charged for each entity. **Rev. Proc. 2006-54, section 14.2, as amended by IR-2012-38.**

The **U.S. competent authority** is the secretary of the Treasury or his delegate. ***Article 3(1)(e)(i) of the treaty.***

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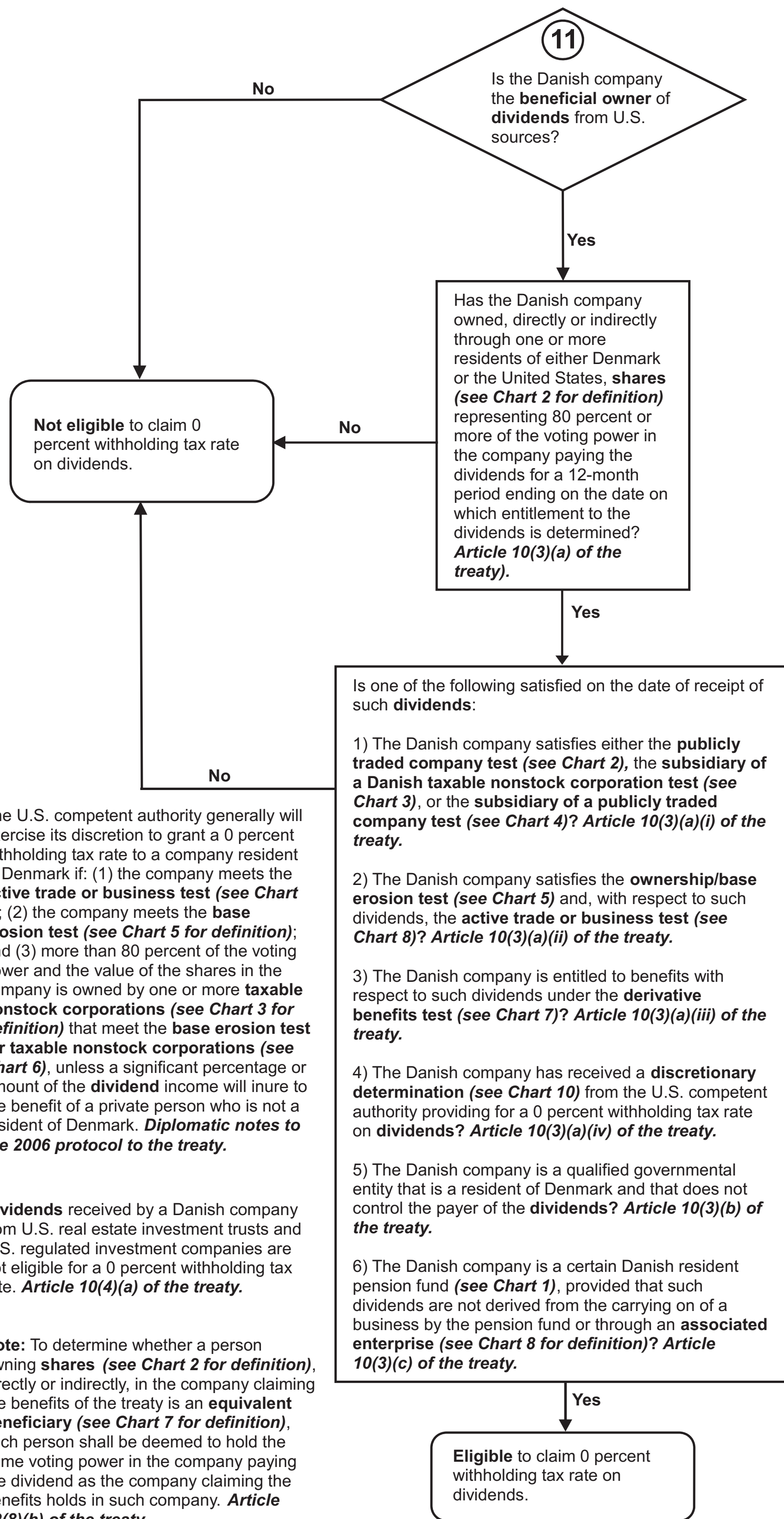
Chart 11. Eligibility for 0 Percent Withholding Tax Rate on Dividends Under Article 10(3) of the Denmark-U.S. Tax Treaty



The U.S. competent authority generally will exercise its discretion to grant a 0 percent withholding tax rate to a company resident of Denmark if: (1) the company meets the **active trade or business test** ***(see Chart 8)***; (2) the company meets the **base erosion test** ***(see Chart 5 for definition)***; and (3) more than 80 percent of the voting power and the value of the shares in the company is owned by one or more **taxable nonstock corporations** ***(see Chart 3 for definition)*** that meet the **base erosion test for taxable nonstock corporations** ***(see Chart 6)***, unless a significant percentage or amount of the **dividend** income will inure to the benefit of a private person who is not a resident of Denmark. ***Diplomatic notes to the 2006 protocol to the treaty.***

Dividends received by a Danish company from U.S. real estate investment trusts and U.S. regulated investment companies are not eligible for a 0 percent withholding tax rate. ***Article 10(4)(a) of the treaty.***

Note: To determine whether a person owning **shares** ***(see Chart 2 for definition)***, directly or indirectly, in the company claiming the benefits of the treaty is an **equivalent beneficiary** ***(see Chart 7 for definition)***, such person shall be deemed to hold the same voting power in the company paying the dividend as the company claiming the benefits holds in such company. ***Article 22(8)(h) of the treaty.***

The term **"beneficial owner"** is not defined in the treaty, and is, therefore, defined as under the internal law of the country imposing tax (here, the United States) unless the context otherwise requires or the competent authorities agree to a common meaning under the provisions of article 25 (mutual agreement procedure). ***Article 3(2) of the treaty and U.S. Treasury technical explanation to the 2006 protocol to the treaty.*** The **beneficial owner** of the **dividend** for purposes of article 10 is the person to which the dividend income is attributable for tax purposes under the laws of the United States. Thus, if a **dividend** paid by a U.S. corporation is received by a nominee or agent that is a resident of Denmark on behalf of a person that is not a resident of Denmark, the dividend is not entitled to the benefits of article 10. However, a dividend received by a nominee on behalf of a resident of Denmark would be entitled to benefits. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty***.

The term **"dividends"** means income from **shares** ***(see Chart 2 for definition)*** or other rights, not being debt-claims, participating in profits, as well as income that is subject to the same tax treatment as income from **shares** ***(see Chart 2 for definition)*** by the laws of the state of which the payer is a resident (in this case, the United States). ***Article 10(5) of the treaty.***

Dividends are defined "broadly and flexibly." The definition is intended to cover all arrangements that yield a return on an equity investment in a corporation as determined under the tax law of the state of source (in this case, the United States), including types of arrangements that might be developed in the future. The term **"dividends"** includes income from **shares** ***(see Chart 2 for definition)***, or other corporate rights that are not treated as debt under the law of the source state, that participate in the profits of the company. The term also includes income that is subject to the same tax treatment as income from **shares** ***(see Chart 2 for definition)*** by the law of the state of source. Thus, a constructive **dividend** that results from a non-arm's-length transaction between a corporation and a related party is a **dividend**. In the case of the United States, the term **dividend** includes amounts treated as a **dividend** under U.S. law upon the sale or redemption of shares or upon a transfer of shares in a reorganization. *See, e.g.,* Rev. Rul. 92-85, 1992-2 C.B. 69 (sale of foreign subsidiary's stock to U.S. sister company is a deemed **dividend** to extent of the subsidiary's and sister company's earnings and profits). Further, a distribution from a U.S. publicly traded limited partnership, which is taxed as a corporation under U.S. law, is a **dividend** for purposes of article 10. However, a distribution by a limited liability company is not taxable by the United States under article 10, provided the LLC is not characterized as an association taxable as a corporation under U.S. law. Finally, a payment denominated as interest that is made by a thinly capitalized corporation may be treated as a **dividend** to the extent that the debt is recharacterized as equity under the laws of the source state. ***U.S. Treasury technical explanation to the 2006 protocol to the treaty.***

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