**SCENE ONE - LAW FIRM CONFERENCE ROOM – DAY**

JACK, a tax attorney, sits with a legal pad and pen at a conference room table in a modern law office. Jack is dressed conservatively in a business suit.

The door opens and two people enter: AGNETHA, a woman in her late twenties, and LARS, a man in his early thirties. AGNETHA is wearing a white, sequined jumpsuit, a red feathered boa, and tall pink platform boots. LARS is underdressed in comparison, wearing a black hooded sweatshirt, grey jeans, and black athletic shoes.

AGNETHA marches into the room as if she owns the place and seats herself forcefully at the table. Her curly, light blonde hair hangs loosely at her shoulders. LARS nervously follows behind and slides into the chair next to her. His dark hair looks greasy, like it hasn’t been washed in days.

JACK

Very good to meet the two of you. I’m John Daniels, tax attorney, but everyone calls me Jack.

AGNETHA

I am Agnetha Ikea, and this is my husband Lars.

JACK

(writing on legal pad)

I – K – E – A. Like the furniture store?

LARS

Yes. My great grandfather, Gustav, founded Ikea in the forties and my father runs the company today.

JACK

What brings the two of you in today?

AGNETHA

Last year, Lars won $300,000 in Las Vegas and the casino kept 30% of the money. They said he owed taxes to the IRS.

LARS

If you watch ESPN 2, you might have seen me. I made it to the fifth day of the World Series of Poker, but I lost when my pocket kings were outdrawn by a back door flush that got there on the river.

AGNETHA

Lars and I are Swedish. Sweden is joining NATO. And my friend Bjorn told me that, under the NATO treaty, Swedes don’t have to pay American taxes.

JACK

You are right that there is a treaty between Sweden and the United States that might be relevant. But it doesn’t have anything to do with NATO. There is a tax treaty between Sweden and the United States. The treaty doesn’t say that Swedes don’t have to pay any taxes to the United States, but it does reduce or eliminate certain U.S. taxes for people qualifying under the treaty.

For example, if the treaty applies to you and you earned dividends from a U.S. company, tax on those dividends would be capped at 15%. And, more important or you, gambling income earned in the U.S. qualifies as “other income” under Article 22 of the treaty, and the U.S. could not tax gambling income earned by a Swedish person qualifying under the treaty.

JACK (CONT’D)

I need to know more about the two of you to see if the treaty applies. Where in Sweden do you live?

AGNETHA

We spend a lot of time at the Ikea family compound in Goteborg, but we officially live on the Isle of Man.

LARS

Yes, the Isle of Man is where we do our work, and it’s where our servers are located.

JACK

What do you do for a living?

AGNETHA

We are Internet content providers. Lars is a video game streamer on Twitch, and I am the lead singer in an ABBA tribute band called “Dancing Queen.”

JACK

Are you citizens of Sweden?

LARS

There is nothing more Swedish than ABBA and Ikea. Of course we are Swedish citizens.

JACK

How many days did you spend in Sweden last year?

LARS

We never stay in Sweden more than 182 days a year. It’s a numerology thing. The number 183 is very unlucky.

AGNETHA

Yes. Very unlucky. If we were in Sweden for more than 182 days, then we would have to pay Swedish income taxes and, as Leona Helmsley once said, “only the little people pay taxes.”

JACK

That could be a problem for you here. Article 22 of the Treaty, which would exempt gambling income earned in the United States from tax, would apply only if you were a “resident of a contracting state.” As relevant to you, Article 4 of the Treaty defines a “resident of a contracting state” as a person who, under the laws of Sweden, “is liable to tax” in Sweden “by reason of [your] domicile [or] residence.” If you don’t pay Swedish income taxes because you are not a resident of Sweden, then you would not be treated as Swedish under the treaty.

AGNETHA

(reciting ABBA lyrics)

The winner takes it all. The loser has to fall.

LARS

Wait a sec. But we are Swedish citizens, doesn’t that count for something?

JACK

Sweden has a taxing system that is based on residency. An individual has to be a resident of Sweden

to be subject to comprehensive taxation by Sweden on the individual’s worldwide income. The rule is different in the United States, which imposes income tax on the worldwide income of its citizens, whether they live in the U.S. or not.

You didn’t pay income taxes in Sweden last year because you did not live in the country for 183 days or more and were not a resident of Sweden. For the same reason, you would probably not qualify as a resident of a Sweden under the treaty. . . Unless there is some other tax you pay to Sweden based on your Swedish citizenship.

AGNETHA

What about that horrible new tax that the Swedish parliament passed a few years ago?

LARS

The Swedish meatball tax?

JACK

What is this? I’ve never heard of a tax on meatballs.

LARS

Five years ago, Sweden began charging a tax of 10 Krona on each meatball eaten by a Swedish citizen while present in the country, but the tax applies only to Swedish citizens that are not residents of the country.

AGNETHA

The parliament said that the tax was necessary to help deal with recent shortages of lingonberries, but we think it was just unhappy that some wealthy Swedish citizens had moved out of the country to avoid income taxes and it was trying to punish them.

LARS

Yes. Everyone that has ever been to an Ikea knows that our family loves meatballs. The parliament was just trying to be mean.

JACK

That just might give us an argument to make, but it may be a long shot. We can argue that the meatball tax was imposed based on your Swedish citizenship and, for that reason, you should qualify as a “resident of a contracting state” under Article 4 of the treaty.

To do that, you would have to file a refund claim with the IRS, and enclose IRS Form 8833, titled “Treaty Based Return Position Disclosure,” which would argue that your gambling income is exempt from U.S. tax under the treaty.

LARS

I play poker for fun. I don’t mind risking my money on long shots.

AGNETHA

(reciting ABBA lyrics)

Money, money money. Must be funny. In the rich man’s world.

JACK

All I need from you to get the ball rolling, is a $10,000 check for my retainer payable to “Jack Daniels, Attorney at Law.”

If you think this is worth a shot, then please take a chance on me. That’s all I ask of you. Take a chance on me.

**SCENE TWO – LAW FIRM CONFERENCE ROOM – LATER THE SAME DAY**

JACK is in his conference room watching highlights of the World Series of Poker on ESPN2 on his phone, when the door opens and his next client walks in: PANDORA, a wealthy and prominent social media influencer who is known for her fashion blog, Pandora’s Closet. With PANDORA is her best friend and assistant, CHEETAH.

PANDORA and CHEETAH walk gracefully into the room and take a seat at the table.

JACK

Pleasure to meet you both. I’m John Daniels, tax attorney, but please call me Jack.

PANDORA

Hi, Jack. I’m Pandora. I’m sure you’ve seen my blog?

JACK

(quickly Googling P-A-N-D-O-R-A on his phone)

Ah, Pandora’s Closet?

PANDORA

That’s the one. I started it a few years ago on my flight to Paris for fashion week and now I have millions of followers.

JACK

What brings you in today?

PANDORA

Last year, I received $500,000 from my sponsor, Outrageous, . . . you know, the Swedish clothing designer and manufacturer, for a few promotional events and their use of my signature on their clothes. Now the Swedish tax authorities say I owe taxes, plus a 40% penalty!

CHEETAH

If you go to Pandora’s Closet, you’ll see a clip of Pandora at Outrageous’s big promotional event in Dubai. . . there were camels!

PANDORA

Right?! I never went to Sweden last year. We did all of our promotional events and photo shoots somewhere else so I didn’t have to pay Swedish taxes . . . they’re so high. We also had Outrageous make all payments to my very own company in the Netherlands. But don’t worry, I can use the money whenever I want with this credit card attached to my trust’s Swiss bank account.

CHEETAH

Also, doesn’t the U.S. have a treaty with Sweden, like NATO?

JACK

Funny how NATO keeps coming up today. I’m not sure where to begin… maybe with the treaty.

There is a tax treaty between Sweden and the United States. The treaty limits Sweden’s right to tax U.S. persons engaged in investment or business activities in their country and who qualify for treaty benefits. To the extent Sweden can tax, you should be allowed a foreign tax credit against your U.S. income tax. But of course your foreign tax credit can’t exceed your pre-credit U.S. income tax on your foreign-source income.

For example, if the treaty applies to you and you earned income from performing services in Sweden, then Sweden can’t tax your income unless you have a fixed place of business – a permanent establishment – in Sweden through which you performed those services. There is an exception, and Sweden can tax even if you don’t have a permanent establishment in Sweden, if you are considered an “entertainer” and you earned your income for performing services as an entertainer in Sweden.

And if you earned royalties from a Swedish payer, then under the treaty Sweden can’t withhold tax.

I need to know more about your agreement with Outrageous and how you received your payment from Outrageous. Do you have an office or other physical place you use to do business in Sweden?

PANDORA

An apartment, but I hardly go.

JACK

Did you receive your payment from Outrageous directly?

PANDORA

No, of course not. It went to my Dutch company, which owns my image rights.

JACK

Are you the direct shareholder?

PANDORA

No, my trust is! But my advisors assured me that I don’t have to pick up the income on my return, because it belongs to my trust.

JACK

So you haven’t filed any information returns for your foreign trust?

PANDORA

Why should I? It’s not mine!

JACK

Oh boy. This will be tough.

**SCENE THREE - VIRTUAL MEETING ON ZOOM – DAY**

We join a virtual video meeting already in progress between two government employees. MARTHA, an American, works for the office of the U.S. competent authority within the Internal Revenue Service. ANDREAS, a Swede, works for the Swedish competent authority within the Swedish Tax Agency. MARTHA and ANDREAS speak with a familiarity that makes clear that this is not the first time they have had one of these meetings.

MARTHA

Andreas, it is good to see you again.

ANDREAS

It is good to see you too. I preferred holding our annual in-person competent authority meetings in Stockholm and Washington. However, I must say that these Zoom meetings are convenient –- no sitting around in the airport due to weather delays.

MARTHA

We have several cases on our docket today. Transfer pricing cases handled by our Advance Pricing and Mutual Agreement Program (“APMA”) team, and other treaty issues handled by the Treaty Assistance and Interpretation Team (“TAIT”).

The US Competent Authority reviewed each case and developed a position on the Treaty’s application. Although we meet with the taxpayers prior to today’s meeting, taxpayers do not participate in these government-to-government discussions. Hopefully, they provided both countries the same facts, so that the two of us can start our negotiations with a common understanding of the background.

Let’ start with the case of Lars Ikea, who claims that he is exempt from US tax on his US gambling winnings under article 22 of the Treaty. We are surprised that learn that Sweden believes that Lars is a Swedishresident under article 4 of the Treaty, and therefore entitled to benefits under article 22, because he paid tax on meatballs?!

ANDREAS

Look, Lars is a Swedish citizen, and a member of the Ikea family, which has a long, storied history in Sweden. Although he is not subject to Swedish income tax based on his residence or domicile, he does pay the Meatball Tax due to his Swedish citizenship. Surely that is taxation based on an “other criterion of a similar nature” sufficient to make him a Swedish resident under Article 4.

MARTHA

That is not going to cut the mustard, Andreas. The U.S. imposes citizenship-based taxation; Sweden does not. Therefore, Lars Ikea is not a resident under article 4 and cannot claim the benefits of article 22 to avoid US tax on his gambling winnings. Meatballs, or no meatballs.

ANDREAS

I understand your position and will bring it back to my superiors in Stockholm. I am sure that they will be shocked to learn that the IRS does not consider a member of the Ikea family to be a Swedish resident. Let’s just put this file aside for now.

Let’s turn to the second case, involving Ms. Pandora. Surely you can see our perspective on this case – Outrageous is a Swedish company, and it paid Ms. Pandora $500,000. Moreover, she has a Swedish trust.

MARTHA

Pandora is a U.S. citizen subject to U.S. tax on her worldwide income. We understand that she resides in the U.S., although she travels frequently. So, she is a U.S. resident under Article 4 and entitled to treaty benefits.

ANDREAS

Yes, but Pandora earns money in Sweden, as an “entertainer,” and therefore we can tax her under article 18. Moreover, funneling the payments through her Netherlands company is not going to save her, unless she has no right to share in that company’s earnings – directly or indirectly.

MARTHA

Well, her promotion of Outrageous’ products on the Internet does not mean Sweden can tax her. An Internet influencer is hardly an entertainer. Even if she were, her Internet presence is not personal activity exercised in Sweden. The only services she provided to Outrageous were in Dubai, not Sweden.

Given that Pandora has no fixed base in Sweden, we also do not see how you could tax Pandora’s income from Outrageous as independent services under article 14.

In our view, the payments were primarily royalties for Pandora’s endorsement and signature. As you know, both countries ceded the right to tax royalties paid to the other treaty partners’ residents.

This seems like another “Meatballs argument” to me, Andreas.

ANDREAS

Martha, let’s avoid getting into it over our national dish. When we are back to meeting in person, I will bring you some of Stockholm’s best meatballs. You will love them.