No. 33610. Multilateral

CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS. STRASBOURG, 25 JANUARY 1988 [*United Nations, Treaty Series, vol. 1966, I-33610.*]

CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS, AS AMENDED BY THE 2010 PROTOCOL (WITH ANNEXES). STRASBOURG, 1 JUNE 2011, AND PARIS, 1 JUNE 2011*

Entry into force: 1 June 2011 in accordance with article IX of the Protocol of 27 May 2010 for the parties to the Convention of 25 January 1988 and to the Protocol

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Nº 33610. Multilatéral

CONVENTION CONCERNANT L'ASSISTANCE ADMINISTRATIVE MUTUELLE EN MATIÈRE FISCALE. STRASBOURG, 25 JANVIER 1988 [*Nations Unies, Recueil des Traités, vol. 1966, I-33610.*]

CONVENTION CONCERNANT L'ASSISTANCE ADMINISTRATIVE EN MATIÈRE FISCALE, TELLE QU'AMENDÉE PAR LE PROTOCOLE DE 2010 (AVEC ANNEXES). STRASBOURG, 1ER JUIN 2011, ET PARIS, 1ER JUIN 2011*

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[ENGLISH TEXT – TEXTE ANGLAIS]

Convention on Mutual Administrative Assistance in Tax Matters

Text amended by the provisions of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, which entered into force on 1st June 2011.

Preamble

The member States of the Council of Europe and the member countries of the Organisation for Economic Co-operation and Development (OECD), signatories of this Convention,

Considering that the development of international movement of persons, capital, goods and services – although highly beneficial in itself – has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

Recognising that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

Considering that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

Convinced therefore that States should carry out measures or supply information, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

Considering that a new co-operative environment has emerged and that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field;

Desiring to conclude a convention on mutual administrative assistance in tax matters,

Have agreed as follows:

Chapter I – Scope of the Convention

Article 1 – Object of the Convention and persons covered

1 The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.

2 Such administrative assistance shall comprise:

a exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;

b assistance in recovery, including measures of conservancy; and

c service of documents.

3 A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

Article 2 – Taxes covered

1 This Convention shall apply:

a to the following taxes:

i taxes on income or profits,

ii taxes on capital gains which are imposed separately from the tax on income or profits,

iii taxes on net wealth,

imposed on behalf of a Party; and

b to the following taxes:

i taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,

ii compulsory social security contributions payable to general government or to social security institutions established under public law, and

iii taxes in other categories, except customs duties, imposed on behalf of a Party, namely:

A. estate, inheritance or gift taxes,

B. taxes on immovable property,

C. general consumption taxes, such as value added or sales taxes,

D. specific taxes on goods and services such as excise taxes,

E. taxes on the use or ownership of motor vehicles,

F. taxes on the use or ownership of movable property other than motor vehicles,

G. any other taxes;

iv taxes in categories referred to in sub-paragraph iii. above which are imposed on behalf of political subdivisions or local authorities of a Party.

2 The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.

3 The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the "Depositaries") of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

4 The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

Chapter II – General definitions

Article 3 – Definitions

1 For the purposes of this Convention, unless the context otherwise requires:

a the terms "applicant State" and "requested State" mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;

b the term "tax" means any tax or social security contribution to which the Convention applies pursuant to Article 2;

c the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;

d the term "competent authority" means the persons and authorities listed in Annex B;

e the term "nationals" in relation to a Party means:

i all individuals possessing the nationality of that Party, and

ii all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.