

No. 49983

**Netherlands (for the European part of the Netherlands)
and
United Kingdom of Great Britain and Northern Ireland
(in respect of Montserrat)**

Agreement between the Kingdom of the Netherlands and Montserrat (as authorised by the Government of the United Kingdom of Great Britain and Northern Ireland) for the exchange of information relating to taxes (with protocol). London, 10 December 2009

Entry into force: *1 December 2011, in accordance with article 14*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 2 July 2012*

**Pays-Bas (pour la partie européenne des Pays-Bas)
et
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
(à l'égard de Montserrat)**

Accord entre le Royaume des Pays-Bas et Montserrat (autorisé par le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord) pour l'échange de renseignements en matière fiscale (avec protocole). Londres, 10 décembre 2009

Entrée en vigueur : *1^{er} décembre 2011, conformément à l'article 14*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Pays-Bas,
2 juillet 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement between the Kingdom of the Netherlands and
Montserrat (as authorised by the Government of the United
Kingdom of Great Britain and Northern Ireland) for the exchange
of information relating to taxes**

Whereas Montserrat and the Kingdom of the Netherlands (hereinafter referred to as “the Contracting Parties”) recognise that present legislation already provides for cooperation and the exchange of information in criminal tax matters;

Whereas it is acknowledged that Montserrat under the terms of its Entrustment from the United Kingdom has the right to negotiate, conclude and perform a tax information exchange agreement with the Netherlands;

Whereas the Government of the Kingdom of the Netherlands welcomes the conclusion of this Agreement with the Government of Montserrat, which represents an important step in delivering the commitment the Government of Montserrat made to the OECD on the 27th February 2002 to respect the principles of transparency and exchange of information;

Whereas the Government of the Kingdom of the Netherlands considers that this Agreement demonstrates Montserrat's commitment to high standards for effective exchange of information with respect to both criminal and civil taxation matters, consistent with the aims and objectives of the Global Forum on Transparency and Exchange of Information;

Whereas the Government of the Kingdom of the Netherlands also recognizes that Montserrat is committed to combating tax abuse by putting in place mechanisms which enhance transparency, including by amending the domestic legislation of Montserrat for the purpose of fulfilling this Agreement, and therefore the Netherlands considers Montserrat is not engaging in any harmful tax practices and is not a tax haven;

Whereas the Contracting Parties wish to enhance and facilitate the terms and conditions governing the exchange of information with respect to taxes;

Now, therefore, the Contracting Parties have agreed to conclude the following Agreement which contains obligations on the part of the Contracting Parties only:

Article 1

Object and scope of the Agreement

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning the taxes and the tax matters covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, verification, enforcement, recovery or collection of tax claims with respect to persons subject to such taxes, or the investigation or prosecution of tax matters in relation to such persons. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8.

Article 2

Jurisdiction

Information shall be exchanged in accordance with this Agreement without regard to whether the person to whom the information relates is a resident, national or citizen of a Contracting Party, or whether the person by whom the information is held is a resident, national or citizen of a Contracting Party. However, a requested Party is not obliged to pro-

vide information that is neither held by its authorities nor in the possession or control of a person who is within its territorial jurisdiction.

Article 3

Taxes covered

1. The existing taxes which are the subject of this Agreement are:
 - a) in the Netherlands, taxes of every kind and description; and
 - b) in Montserrat, direct taxes of every kind and description.

2. This Agreement shall also apply to any identical or substantially similar taxes imposed by either territory after the date of signature of this Agreement in addition to, or in place of, any of the taxes referred to in sub-paragraph 1. The competent authorities of the Contracting Parties shall notify each other of any relevant changes to the taxation and related information gathering measures covered by this Agreement.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:
 - a) “Montserrat” means the United Kingdom Overseas Territory of Montserrat;
 - b) “the Netherlands” means the part of the Kingdom of the Netherlands that is situated in Europe, including its territorial seas, and any area beyond the territorial sea within which the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights with respect to the sea bed, its subsoil and its superjacent waters, and their natural resources;
 - c) the term “collective investment scheme” means any pooled investment vehicle irrespective of legal form;
 - d) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - e) the term “competent authority” means in the case of the Netherlands, the Minister of Finance or his authorised representative, and, in the case of Montserrat, the Comptroller of Inland Revenue.
 - f) the term “Contracting Party” means the Kingdom of the Netherlands or Montserrat as the context requires;
 - g) the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether they are contained in the tax laws, the criminal code or other statutes;
 - h) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the requesting Contracting Party;

i) the term “information” means any fact, statement, document or record in whatever form;

j) the term “information gathering measures” means judicial, regulatory or administrative laws and procedures enabling a Contracting Party to obtain and provide the information requested;

k) the term “person” means a natural person, a company or any entity that is treated as a body corporate for tax purposes, or any other body or group of persons;

l) the term “public collective investment scheme” means any collective scheme or fund, in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors,

m) the term “requested Party” means the Contracting Party to this Agreement which is requested to provide or has provided information in response to a request;

n) the term “requesting Party” means the Contracting Party to this Agreement submitting a request for or having received information from the requested Party;

o) the term “tax” means any tax covered by this Agreement.

p) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;

q) the term “publicly traded company” means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold “by the public” if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;

r) the term “recognized stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 5

Exchange of information upon request

1. The competent authority of a requested Party shall provide upon request in writing by the requesting Party information for the purposes specified in Article 1 of this Agreement. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested Party if it occurred in the territory of the requested Party. If the information