

No. 50234

**Netherlands (in respect of Aruba)
and
Bahamas**

Agreement between the Kingdom of the Netherlands, in respect of Aruba, and the Commonwealth of the Bahamas for the exchange of information with respect to taxes. Oranjestad, Aruba, 1 January 2011, and Nassau, 8 August 2011

Entry into force: *1 October 2012, in accordance with article 13*

Authentic text: *English*

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**Pays-Bas (à l'égard d'Aruba)
et
Bahamas**

Accord entre le Royaume des Pays-Bas, à l'égard d'Aruba, et le Commonwealth des Bahamas relatif à l'échange de renseignements en matière fiscale. Oranjestad (Aruba), 1^{er} janvier 2011, et Nassau, 8 août 2011

Entrée en vigueur : *1^{er} octobre 2012, conformément à l'article 13*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 26 novembre 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement between the Kingdom of the Netherlands, in respect of
Aruba, and the Commonwealth of the Bahamas for the exchange
of information with respect to taxes**

The Government of the Kingdom of the Netherlands, in respect of
Aruba,

and

the Government of the Commonwealth of The Bahamas

Desiring to facilitate the exchange of information with respect to
taxes;

Have agreed as follows:

Article 1

Object and Scope of the Agreement

1. 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 in the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and

enforcement of tax claims, or the investigation or prosecution of tax matters. 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.

2. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

3. As regards the Kingdom of the Netherlands, this Agreement shall apply only to Aruba.

Article 2

Jurisdiction

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

Article 3

Taxes Covered

1. The taxes which are the subject of this Agreement are existing taxes of every kind and description.

2. This Agreement shall also apply to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the competent authorities of the Contracting Parties so agree. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Contracting Parties in the form of an exchange of letters. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement within a reasonable time.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:
a) the term "Contracting Party" means The Bahamas or the Kingdom of the Netherlands, in respect of Aruba, as the context requires;

- b) the term “competent authority” means:
 - (i) in the case of The Bahamas, the Minister of Finance or the Minister’s duly authorised delegate;
 - (ii) in the case of Aruba, the Minister in charge of Finance or an authorised representative of the Minister;
- c) the term “The Bahamas” means the Commonwealth of The Bahamas, encompassing the land, the territorial waters, and in accordance with international law and the laws of The Bahamas any area outside the territorial waters inclusive of the exclusive economic zone and the seabed and subsoil over which The Bahamas exercises jurisdiction and sovereign rights for the purpose of exploration, exploitation and conservation of natural resources;
- d) the term “Aruba” means that part of the Kingdom of the Netherlands that is situated in the Caribbean area and consisting of the Island of Aruba;
- e) the term “person” includes an individual, a company, a trust, a partnership and any other body of persons;
- f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- g) 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 and 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;
- h) 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;
- i) the term “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- j) the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form. The term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;
- k) the term “tax” means any tax to which the Agreement applies;
- l) the term “applicant Party” means the Contracting Party requesting information;
- m) the term “requested Party” means the Contracting Party requested to provide information;
- n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information; and

o) the term “information” means any fact, statement or record in any form whatever.

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 Contracting Party, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 5

Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide upon request information for the purposes referred to in Article 1. 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 such conduct occurred in the territory of the requested Party.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, the requested Party shall use all relevant information gathering measures to provide the applicant Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of an applicant Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authority for the purposes specified in Article 1 of the Agreement, has the authority to obtain and provide upon request:

a) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;

b) information regarding the ownership of companies, partnerships, trusts, foundations, “Anstalten” and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries. This Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded com-