

No. 51359

**Netherlands (in respect of Aruba)
and
United Kingdom of Great Britain and Northern Ireland (in
respect of the British Virgin Islands)**

Agreement between the Kingdom of the Netherlands, in respect of Aruba, and the British Virgin Islands for the exchange of information with respect to taxes (with protocol). The Hague, 11 September 2009

Entry into force: *1 July 2013, in accordance with article 14*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 13 September 2013*

**Pays-Bas (à l'égard d'Aruba)
et
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord (à
l'égard des Îles Vierges britanniques)**

Accord entre le Royaume des Pays-Bas, à l'égard d'Aruba, et les Îles Vierges britanniques relatif à l'échange de renseignements en matière fiscale (avec protocole). La Haye, 11 septembre 2009

Entrée en vigueur : *1^{er} juillet 2013, conformément à l'article 14*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Pays-Bas, 13 septembre 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement between the Kingdom of the Netherlands, in respect of
Aruba, and the British Virgin Islands 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 British Virgin Islands,

Whereas the Government of the Kingdom of the Netherlands, in
respect of Aruba, and the Government of the British Virgin Islands
(hereinafter referred to as “the Contracting Parties”) recognise that
present legislation already provides for cooperation and the exchange of
information in tax matters;

Whereas the Contracting Parties have long been active in international
efforts in the fight against financial and other crimes, including the tar-
geting of terrorist financing;

Whereas it is acknowledged that the Contracting Parties are compe-
tent to negotiate and conclude a tax information exchange agreement;

Whereas the British Virgin Islands on the 2nd April 2002 entered into a formal written commitment to the Organisation for Economic Co-operation and Development's (OECD) principles of transparency and exchange of information and subsequently have participated actively in the OECD Global Forum on Taxation;

Whereas the Contracting Parties wish to enhance and facilitate the implementation of the terms and conditions governing the exchange of information relating 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

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 of the Contracting Parties concerning the taxes and the tax matters covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment, verification, enforcement, recovery or collection 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. As regards the Kingdom of the Netherlands, this Agreement shall apply only to Aruba.

Article 2

Jurisdiction

To enable the appropriate implementation of this Agreement, information shall be provided in accordance with this Agreement by the competent authority of the Requested Party:

a) 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; and

b) provided that the information is present within the territory, or in the possession or control of a person present in the jurisdiction of the Requested Party.

Article 3

Taxes Covered

1. The taxes which are the subject of this Agreement are:
 - a) in Aruba, taxes of every kind and description imposed on behalf of Aruba;
 - b) in the British Virgin Islands,
 - (i) the income tax;
 - (ii) the payroll tax; and
 - (iii) the property tax.

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

Article 4

Definitions

1. In this Agreement –
 - a) the term “British Virgin Islands” means the territory of the British Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
 - b) 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;
 - c) the term “collective investment fund or 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
 - i) in the case of Aruba the Minister of Finance and Economic Affairs or his authorized representative;
 - ii) and in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
 - f) the term “Contracting Party” means the Kingdom of the Netherlands, in respect of Aruba, or the British Virgin Islands as the context requires;
 - g) the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether 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 Party with the inclusion of administrative fines;

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

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

k) the term “national” means

(i) In relation to Aruba, an individual who has the Dutch nationality and who is registered as a resident in Aruba, provided that, if an individual is not present in Aruba, he must have been born in Aruba, and any legal person, partnership or association deriving its status as such from the laws in force in Aruba;

(ii) in relation to the British Virgin Islands, any person who belongs to the British Virgin Islands by virtue of the Virgin Islands Constitution Order 2007 (Statutory Instrument 2007 No.1678) or has a certificate of residence of the British Virgin Islands by virtue of the Immigration and Passport Ordinance (Cap.130); and any legal person, partnership, association or other entity deriving its status as such from the laws in force in the British Virgin Islands;

l) the term “person” includes an individual (“natural person”), a company and any other body or group of persons;

m) 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;

n) 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 and for the purposes of this definition the term:

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

(ii) “shares can be purchased or sold by the public” means the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;

(iii) “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

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

p) the term “Requesting Party” means the Contracting Party submitting a request for or having received information from the Requested Party;

q) the term “tax” means any tax which is subject of this Agreement.