STATUTORY INSTRUMENTS

2015 No. 335

BANK LEVY

The Double Taxation Relief (Bank Levy) (Netherlands) Order 2015

Made - - - -	*23rd February 2015*
Laid before the House of Commons - - - -	*24th February 2015*
Coming into force - -	*17th March 2015*

The Treasury make the following Order in exercise of the powers conferred by paragraphs 66(1) and 67A of Schedule 19 to the Finance Act 2011(**1**).

Citation, commencement and effect

1. This Order may be cited as the Double Taxation Relief (Bank Levy) (Netherlands) Order 2015 and comes into force on 17th March 2015.

Double taxation arrangements to have effect

2. It is declared that—

(a) the arrangements specified in the Convention set out in Part 1 of the Schedule to this Order and the Protocol set out in Part 2 of that Schedule have been made with the Kingdom of the Netherlands;

(b) the arrangements have been made with a view to affording relief from double taxation in relation to the bank levy and an equivalent foreign levy imposed by the laws of the Netherlands;

(c) the international tax enforcement arrangements specified in Article 7 of the Convention have been made in association with those arrangements; and

(d) it is expedient that those arrangements and the international tax enforcement arrangements should have effect.

(**1**) 2011 c. 11, paragraph 67A was inserted by paragraph 11(2) of Schedule 34 to the Finance Act 2012 (c. 14).

Alun Cairns
Gavin Barwell
Two of the Lords Commissioners of Her Majesty's Treasury

23rd February 2015

SCHEDULE Article 2

PART 1

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO BANK TAXES

The Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the Kingdom of the Netherlands,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to bank taxes,

Have agreed as follows:

ARTICLE 1

Entities covered

This Convention shall apply to entities which are residents of one or both of the Contracting States.

ARTICLE 2

Taxes Covered

1. This Convention shall apply to bank taxes imposed on behalf of a Contracting State, irrespective of the manner in which they are levied.

2. The existing bank taxes to which the Convention shall apply are in particular:

a) in the Netherlands:

the bank tax set out in the Law on bank tax (Wet bankenbelasting)

(hereinafter referred to as "Netherlands bank tax");

b) in the United Kingdom:

the bank levy set out in Schedule 19 of the Finance Act 2011

(hereinafter referred to as "United Kingdom bank tax").

3. This Convention shall also apply to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing bank taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their laws relating to bank taxes.

ARTICLE 3

General Definitions

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

a) the terms "a Contracting State" and "the other Contracting State" mean the Kingdom of the Netherlands (Netherlands) or the United Kingdom of Great Britain and Northern Ireland (United Kingdom), as the context requires;

b) the term "Netherlands" means the European part of the Netherlands, including its territorial sea and any area beyond and adjacent to its territorial sea within which the Kingdom of the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights;

c) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom designated under its laws concerning the Continental Shelf and in accordance with international law as an area within which the rights of the United Kingdom with respect to the sea-bed and subsoil and their natural resources may be exercised;

d) the term "entity" means:

i. in the case of the Netherlands, a company as mentioned in Articles 3, 4 and 5 of the Law on bank tax;

ii. in the case of the United Kingdom, an entity as defined in paragraph 70 of Schedule 19 of the Finance Act 2011 which is a member of a "relevant group" under paragraph 4 or is a "relevant entity" under paragraph 5 of Schedule 19 of the Finance Act 2011;

e) the term "permanent establishment" means:

i) in the case of the Netherlands, a branch within the meaning of the Law on bank tax through which the business of an entity of a Contracting State is wholly or partly carried on and a banking license has been granted for that purpose;

ii) in the case of the United Kingdom, a permanent establishment in accordance with Chapter 2 of Part 24 of the Corporation Tax Act 2010 through which the business of an entity of a Contracting State is wholly or partly carried on;

f) the term "competent authority" means:

i) in the case of the Netherlands, the Minister of Finance or his authorised representative;

ii) in the case of the United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorised representative.

2. As regards the application of the Convention at any time by a Contracting State 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 State for the purposes of the bank taxes to which the Convention applies, any meaning under the applicable laws of that State relating to bank taxes prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4

Residence

The residence of an entity will be determined by the domestic laws of the Contracting States. Where an entity is a resident of both Contracting States, then the entity shall for the purposes of this Convention be deemed to be a resident only of the State in which its place of effective management is situated.