

No. 46328

**Netherlands
and
Luxembourg**

Exchange of letters constituting an agreement on the taxation of savings income and the provisional application of the Convention between the Kingdom of the Netherlands in respect of Aruba and the Grand Duchy of Luxembourg concerning the automatic exchange of information about savings income in the form of interest payments (with appendix). Luxembourg, 13 May 2004, and The Hague, 9 November 2004

Entry into force: *provisionally on 1 July 2005 and definitively on 23 July 2005 by notification, in accordance with article 12*

Authentic text: *English*

Authentic texts of the appendix: *Dutch, English and French*

Registration with the Secretariat of the United Nations: *Netherlands, 13 July 2009*

**Pays-Bas
et
Luxembourg**

Échange de lettres constituant un accord relatif à la fiscalité des revenus de l'épargne et à l'application à titre provisoire de l'Accord entre le Royaume des Pays-Bas pour ce qui est d'Aruba et le Grand-Duché de Luxembourg relatif à l'échange automatique d'informations concernant les revenus de l'épargne sous forme de paiements d'intérêts (avec appendice). Luxembourg, 13 mai 2004, et La Haye, 9 novembre 2004

Entrée en vigueur : *provisoirement le 1^{er} juillet 2005 et définitivement le 23 juillet 2005 par notification, conformément à l'article 12*

Texte authentique : *anglais*

Textes authentiques de l'appendice : *néerlandais, anglais et français*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 13 juillet 2009*

[ENGLISH TEXT – TEXTE ANGLAIS]

I

A. Letter from the Grand Duchy of Luxembourg

Sir,

I have the honour to refer to the texts of respectively the “Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (Belgium, Austria or Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments”, the “Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments”, the “Convention between the Kingdom of the Netherlands in respect of Aruba and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments” and the “Convention between the Kingdom of the Netherlands in respect of Aruba and (Belgium, Austria or Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments”, that resulted from the negotiations with the Netherlands Antilles and Aruba on a Savings Tax Agreement, and that were annexed, respectively as Annex I, II, III and IV, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (doc. 7660/04 FISC 68).

In view of the above mentioned texts I have the honour to propose to you the “Convention concerning the automatic exchange of information regarding savings income in the form of interest payments” as contained in Appendix I to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Convention and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this “Convention concerning the automatic exchange of information regarding savings income in the form of interest payments”, I have the honour to propose to you that the Grand Duchy of Luxembourg and the Kingdom of the Netherlands in respect of Aruba apply this Convention provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Grand Duchy of Luxembourg and the Kingdom of the Netherlands in respect of Aruba.

Please accept, Sir, the assurance of our highest consideration,

For the Grand Duchy of Luxembourg

Minister of Finance

DONE at Luxembourg, on 13 May 2004, in the English language in three copies.

Appendix

Convention between the Kingdom of the Netherlands in respect of aruba and the Grand Duchy of Luxembourg concerning the automatic exchange of information about savings income in the form of interest payments

The Government of the Kingdom of the Netherlands in respect of Aruba and the Grand Duchy of Luxembourg, desiring to conclude a Convention which enables savings income in the form of interest payments, the form of interest payments, have agreed as follows:

Article 1

General Scope

1. This Convention shall apply to interest paid by a paying agent established within the territory of one of the Contracting States with a view to enable savings income in the form of interest payments made in one Contracting State to beneficial owners who are individuals resident for tax purposes in the other Contracting State to be made subject to effective taxation in accordance with the laws of the latter Contracting State.

2. The scope of this Convention shall be limited to taxation of savings income in the form of interest payments on debt claims, to the exclusion, inter alia, of the issues relating to the taxation of pension and insurance benefits.

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

Article 2

Definitions

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

a) the term “a Contracting State” and “the other Contracting State” mean the Kingdom of the Netherlands in respect of Aruba or the Grand Duchy of Luxembourg as the context requires;

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 Aruba;

c) The “contracting party” being a Member State of the European Union means: the Grand Duchy of Luxembourg;

d) the term “Directive” means Directive 2003/48/EC of the Council of the European Union of 3 June 2003 on taxation of savings income in the form of interest payments, as applicable at the date of signing this Convention;

e) the term “beneficial owner” means the beneficial owner according to Article 2 of the Directive;

f) the term “paying agent” means the paying agent according to Article 4 of the Directive;

g) the term “competent authority” means:

(i) In the case of Aruba: “the Minister of Finance or his authorised representative”.

(ii) In the case of the Grand Duchy of Luxembourg: the competent authority of that State according to Article 5 of the Directive.

h) the term “interest payment” means the interest payment according to Article 6, due account being taken of Article 15, of the Directive;

i) any term not otherwise defined herein shall have the meaning given to it in the Directive.

2. For the purposes of this Convention, in the provisions of the Directive to which this Convention refers, instead of “Member States” has to be read: Contracting States.

Article 3

Identity and residence of beneficial owners

Each Contracting State shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purpose of the Articles 4 to 6. These procedures shall comply with the minimum standards established in Article 3, paragraph 2 and 3 of the Directive, with the provision that, in regard to Aruba, in relation to subparagraphs 2.a) and 3.a) of that Article, the identity and residence of the Beneficial Owner shall be established on the basis of the information which is available to the Paying Agent by virtue of the application of the relevant provisions of Aruban law and regulations.