

No. 46740

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**Netherlands
and
Czech Republic**

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 Czech Republic concerning the automatic exchange of information about savings income in the form of interest payments (with appendix). Prague, 8 June 2004 and The Hague, 9 November 2004

Entry into force: *provisionally on 1 July 2005 and definitively on 28 September 2006 by notification, in accordance with article 7*

Authentic text: *English*

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

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**Pays-Bas
et
République tchèque**

Échange de lettres constituant un accord relatif à la fiscalité des revenus de l'épargne et à l'application provisoire de la Convention entre le Royaume des Pays-Bas pour ce qui est d'Aruba et la République tchèque relative à l'échange automatique d'informations concernant les revenus de l'épargne sous forme de paiements d'intérêts (avec appendice). Prague, 8 juin 2004 et La Haye, 9 novembre 2004

Entrée en vigueur : *provisoirement le 1^{er} juillet 2005 et définitivement le 28 septembre 2006 par notification, conformément à l'article 7*

Texte authentique : *anglais*

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

[ENGLISH TEXT – TEXTE ANGLAIS]

I

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 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 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 and 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 Czech Republic 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 Czech Republic and the Kingdom of the Netherlands in respect of Aruba.

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

For the Czech Republic

DONE at Prague, on 8 June 2004, in the English language in three copies.

Appendix

Convention between the Kingdom of the Netherlands in respect of Aruba and the Czech Republic 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 Czech Republic, desiring to conclude a Convention which enables savings income in the form of interest payments made in one of

the Contracting States to beneficial owners who are individuals resident in the other Contracting State, to be made subject to effective taxation in accordance with the laws of the latter Contracting State, in conformity with 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, 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 Czech Republic 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 Czech Republic;

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 Czech Republic: 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 Article 4. 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.

Article 4

Automatic exchange of information

1. The competent authority of the Contracting State where the paying agent is established, shall communicate the information referred to in Article 8 of the Directive to the competent authority of the other Contracting State of residence of the beneficial owner.

2. The communication of information shall be automatic and shall take place at least once a year, within six months following the end of the tax year of the Contracting State of the paying agent, for all interest payments made during that year.

3. Information exchange under this Convention shall be treated by the Contracting States in a manner consistent with the provisions as set out in Article 7 of Directive 77/799/EEC.