

No. 48701

**Netherlands (in respect of the Caribbean part of the Netherlands,
Curaçao and Sint Maarten)
and
Denmark**

**Agreement between the Kingdom of the Netherlands, in respect of the Netherlands Antilles,
and the Kingdom of Denmark for the exchange of information with respect to taxes.
Paris, 10 September 2009**

Entry into force: *1 June 2011 by notification, in accordance with article 12*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 6 July 2011*

**Pays-Bas (à l'égard de la partie caribéenne des Pays-Bas,
Curaçao et Saint-Martin)
et
Danemark**

**Accord entre le Royaume des Pays-Bas, à l'égard des Antilles néerlandaises, et le Royaume
du Danemark relatif à l'échange de renseignements en matière fiscale. Paris,
10 septembre 2009**

Entrée en vigueur : *1^{er} juin 2011 par notification, conformément à l'article 12*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 6 juillet 2011*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement between the Kingdom of the Netherlands, in respect of
the Netherlands Antilles, and the Kingdom of Denmark for the
exchange of information with respect to taxes**

The Kingdom of the Netherlands, in respect of the Netherlands
Antilles,

and

the Kingdom of Denmark,

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

Have agreed as follows:

Article 1

Object and scope of this 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 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. 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.

2. As regards the Kingdom of the Netherlands, this Agreement shall apply only to the Netherlands Antilles.

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:

a) in the Netherlands Antilles:

- the income tax (inkomstenbelasting);
- the wages tax (loonbelasting);
- the profit tax (winstbelasting);
- the surtaxes on the income and profit tax (opcenten op de inkomsten- en winstbelasting);

b) in Denmark:

- the income tax to the State (indkomstskatten til staten);
- the income tax to the municipalities (den kommunale indkomstskat).

2. This Agreement shall also apply to any identical taxes imposed after the date of signature of this 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 this 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 this Agreement.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:

a) the term “Contracting Party” means the Kingdom of the Netherlands, in respect of the Netherlands Antilles, or the Kingdom of Denmark as the context requires;

b) the term “the Netherlands Antilles” means that part of the Kingdom of the Netherlands that is situated in the Caribbean Sea and consisting of the Island Territories of Bonaire, Curaçao, Saba, St. Eustatius and St. Maarten (Dutch part) including the territorial waters thereof and the part of theseabed and its subsoil under the Caribbean Sea over which the Kingdom of the Netherlands has sovereign rights in accordance with international law but excluding the part thereof relating to Aruba;

c) the term “Denmark” means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;

d) the term “competent authority” means

(i) in the case of the Netherlands Antilles, the Minister of Finance or his authorized representative;

(ii) in the case of Denmark, the Minister for Taxation or his authorized representative;

e) the term “person” includes an individual, a company 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 or 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 this 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;

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

p) 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;

q) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Applicant Party.

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 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, that 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