

No. 49252

**Netherlands (in respect of Aruba)
and
Denmark (in respect of the Faroe Islands)**

Agreement between the Kingdom of the Netherlands, in respect of Aruba, and the Government of the Faroes for the exchange of information with respect to taxes. Paris, 10 September 2009

Entry into force: *1 October 2011 by notification, in accordance with article 13*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 18 January 2012*

**Pays-Bas (à l'égard d'Aruba)
et
Danemark (à l'égard des îles Féroé)**

Accord entre le Royaume des Pays-Bas, à l'égard d'Aruba, et le Gouvernement des îles Féroé relatif à l'échange de renseignements en matière fiscale. Paris, 10 septembre 2009

Entrée en vigueur : *1^{er} octobre 2011 par notification, conformément à l'article 13*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 18 janvier 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement between the Kingdom of the Netherlands, in respect of
Aruba, and the Government of the Faroes for the exchange of
information with respect to taxes**

The Kingdom of the Netherlands, in respect of Aruba,
and

the Government of the Faroes,

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

Considering that the Government of the Faroes concludes this agree-
ment on behalf of the Kingdom of Denmark pursuant to the Act on the
Conclusion of Agreements under International Law by the Government
of the Faroes,

Have agreed as follows:

Article I

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 9. 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 Aruba.

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 Aruba:

- (i) the income tax (inkomstenbelasting);
- (ii) the wage tax (loonbelasting);
- (iii) the profit tax (winstbelasting);
- (iv) the dividend withholding tax (dividendbelasting);

b) in the Faroes, taxes on income or profit.

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 Aruba, or the Government of the Faroes 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 of Aruba;
 - c) the term “the Faroes” means the landmass of the Faroes and their territorial waters and any area outside the territorial waters where the Faroes according to Faroese legislation and in accordance with international law, may exercise rights with respect to the seabed and subsoil and their natural resources;
 - d) the term “competent authority” means
 - (i) in the case of Aruba, the Minister of Finance and Economic Affairs or an authorised representative of the Minister;
 - (ii) in the case of the Faroes, the Minister of Finance or his authorised representative or the authority which is designated as a competent authority for the purpose of this Agreement;
 - 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 Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that 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 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 information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authority for the purposes specified in Article 1 of this Agreement, has the authority to obtain and provide upon request: