

No. 49978

**Netherlands (in respect of Aruba)
and
United Kingdom of Great Britain and Northern Ireland
(in respect of the Cayman Islands)**

Agreement between the Kingdom of the Netherlands, in respect of Aruba, and the Government of the Cayman Islands as authorised under the letter of entrustment dated 1 September 2009 from the United Kingdom of Great Britain and Northern Ireland for the exchange of information with respect to taxes (with protocol). Oranjestad, Aruba, 9 April 2010, and Grand Cayman, 20 April 2010

Entry into force: *1 December 2011, in accordance with article 12*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 2 July 2012*

**Pays-Bas (à l'égard d'Aruba)
et
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
(à l'égard des Îles Caïmanes)**

Accord entre le Royaume des Pays-Bas à l'égard d'Aruba et le Gouvernement des Îles Caïmanes, autorisé en vertu de la lettre de mandatement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, en date du 1^{er} septembre 2009, pour l'échange de renseignements en matière fiscale (avec protocole). Oranjestad (Aruba), 9 avril 2010, et Grand Cayman, 20 avril 2010

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

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Pays-Bas, 2 juillet 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

Agreement between the Kingdom of the Netherlands, in respect of Aruba, and the Government of the Cayman Islands as authorised under the letter of entrustment dated 1 September 2009 from the United Kingdom of Great Britain and Northern Ireland for the exchange of information with respect to taxes

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

the Government of the Cayman Islands,

Desiring to strengthen the relationship between them through cooperation in taxation matters,

Have agreed as follows:

Article 1

Scope of the Agreement

1. The competent authorities of the Parties shall provide assistance through exchange of information that is foreseeably relevant to the

administration and enforcement of the domestic laws of the 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 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 taxes of every kind and description existing on the date of signature.

2. This Agreement shall also apply to any identical taxes imposed after the date of signature of the 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 the Agreement in addition to or in place of the existing taxes. The competent authorities of the Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:
a) the term "Party" means the Kingdom of the Netherlands, in respect of Aruba, or the Cayman Islands 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 term “Cayman Islands” means the territory of the Cayman Islands and includes the territorial sea and areas within the maritime boundaries of the Cayman Islands and any area within which in accordance with international law the rights of the Cayman Islands with respect to the seabed and sub-soil and their natural resources may be exercised;

d) the term “competent authority” means

(i) in the case of Aruba, the Minister of Finance and Economic Affairs or his authorized representative;

(ii) in the case of the Cayman Islands the Tax Information Authority;

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 the stock exchanges of the Netherlands, the Cayman Islands and any stock exchange agreed upon by the competent authorities of the 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 the Agreement applies;

l) the term “applicant Party” means the Party requesting information;

m) the term “requested Party” means the Party requested to provide information;

n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a 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 tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party;

q) 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.

2. As regards the application of this Agreement at any time by a 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 the applicant state prevailing over a meaning given to the term under other laws of that state.

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 authorities for the purposes specified in Article 1 of the Agreement, have the authority to obtain and provide upon request:

a) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;

b) information regarding the ownership of companies, partnerships, trusts, foundations, “Anstalten” and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees