

No. 49985

**Netherlands (for the European part of the Netherlands)
and
United Kingdom of Great Britain and Northern Ireland
(in respect of Bermuda)**

Agreement between the Kingdom of the Netherlands and Bermuda (as authorised by the Government of the United Kingdom of Great Britain and Northern Ireland) for the avoidance of double taxation on individuals. London, 8 June 2009

Entry into force: *1 February 2010, in accordance with article 14*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 12 July 2012*

**Pays-Bas (pour la partie européenne des Pays-Bas)
et
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
(à l'égard des Bermudes)**

Accord entre le Royaume des Pays-Bas et les Bermudes (autorisées par le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord) en vue d'éviter la double imposition des personnes physiques. Londres, 8 juin 2009

Entrée en vigueur : *1^{er} février 2010, conformément à l'article 14*

Texte authentique : *anglais*

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

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement between the Kingdom of the Netherlands and Bermuda
(as authorised by the Government of the United Kingdom of Great
Britain and Northern Ireland) for the avoidance of double taxation
on individuals**

The Government of the Kingdom of the Netherlands
and

the Government of Bermuda (as authorised by the Government of the
United Kingdom of Great Britain and Northern Ireland),

Desiring to supplement the Agreement on the exchange of information with regard to taxes concluded at London today on the 8th day of June 2009, by concluding an Agreement for the avoidance of double taxation on individuals with respect to taxes on income,

Have agreed as follows:

CHAPTER I

SCOPE OF THE AGREEMENT

Article I

Individuals covered

This Agreement shall apply to individuals who are residents of one or both of the Contracting Parties.

Article 2

Taxes covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Party or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. The existing taxes to which the Agreement shall apply are in particular:

a) in the Netherlands:

- de inkomstenbelasting (income tax);
- de loonbelasting (wages tax);

b) in Bermuda

- any tax imposed by Bermuda which is substantially similar to the existing taxes of the Netherlands to which this Agreement applies, but does not include payroll tax;

3. The Agreement shall apply also to any identical or substantially similar taxes that are 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 significant changes that have been made in their taxation laws.

CHAPTER II

DEFINITIONS

Article 3

General definitions

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

a) the term “a Contracting Party” means the Netherlands or Bermuda, as the context requires; the term “Contracting Parties” means Bermuda and the Netherlands;

b) the term “Bermuda” means the Islands of Bermuda including the territorial sea adjacent to those islands, in accordance with international law;

c) the term “the Netherlands” means the part of the Kingdom of the Netherlands that is situated in Europe, including its territorial sea, and any area beyond the territorial sea within which the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights;

d) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;

e) the term “enterprise” applies to the carrying on of any business;

f) the term “competent authority” means:

(i) in the Netherlands the Minister of Finance or his authorised representative;

(ii) in the case of Bermuda, the Minister of Finance or an authorised representative of the Minister.

2. As regards the application of the 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 for the purposes of the taxes to which the Agreement applies, 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 4

Resident

1. For the purposes of this Agreement, the term “resident of a Party” means:

a) in the Netherlands in respect of an individual any individual who, under the laws of the Netherlands, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual who is liable to tax in the Netherlands in respect only of income from sources in Netherlands;

b) in Bermuda in respect of an individual who, under the laws of Bermuda is ordinarily resident in Bermuda.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Parties, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home

available to him in both Parties, he shall be deemed to be a resident only of the Contracting Party with which his individual and economic relations are closer (centre of vital interests);

b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Contracting Party of which he is a national;

d) if he is a national of both Parties or of neither of them, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.

Article 5

Income from employment

1. Subject to the provisions of Articles 6, 7, 8 and 9, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived there may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:

a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and

c) the remuneration is not borne by a fixed place of business which the employer has in the other Party through which the business is wholly or partly carried out.

3. Paragraph 2 of this Article shall not apply to remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party and paid by, or on behalf of, an employer who is not a resident of that other Party if:

a) the recipient renders services in the course of that employment to a person other than the employer and that person, directly or indirectly, supervises, directs or controls the manner in which those services are performed, and;