

No. 50047

**United Kingdom of Great Britain and Northern Ireland
(in respect of the Isle of Man)**

and

Netherlands (for the European part of the Netherlands)

Agreement in the form of an exchange of letters concerning the taxation of savings income and the provisional application thereof (with appendix and annex). Brussels, 19 November 2004, and Douglas, 19 November 2004

Entry into force: *provisionally on 1 January 2005 and definitively on 23 July 2005 by notification, in accordance with the provisions of the said letters*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 1 August 2012*

**Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
(à l'égard de l'île de Man)**

et

Pays-Bas (pour la partie européenne des Pays-Bas)

Accord sous forme d'échange de lettres relatif à la fiscalité des revenus de l'épargne et à son application provisoire (avec appendice et annexe). Bruxelles, 19 novembre 2004, et Douglas, 19 novembre 2004

Entrée en vigueur : *provisoirement le 1^{er} janvier 2005 et définitivement le 23 juillet 2005 par notification, conformément aux dispositions desdites lettres*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 1^{er} août 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

I

Sir,

I have the honour to refer to the texts of respectively the “Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply automatic exchange of information” and the “Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply the withholding tax in the transitional period”, that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (Doc. 7408/04 FISC 58).

In view of the above mentioned texts I have the honour to propose to you the “Agreement on the taxation of savings income” as contained in Appendix 1 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 Agreement 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 “Agreement on the taxation of savings income”, I have the honour to propose to you that the Kingdom of the Netherlands and the Isle of Man apply this Agreement 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 Kingdom of the Netherlands and the Isle of Man.

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

For the Kingdom of the Netherlands

T. J. A. M. DE BRUIJN

Permanent Representative of the Kingdom of the Netherlands to the European Union at Brussels

DONE at Brussels, on 19 November 2004, in the English language in three copies.

Appendix

Agreement on the taxation of savings income between the Isle of Man, and the Kingdom of the Netherlands

Whereas:

1. Article 17 of Directive 2003/48/EEC (“the Directive”) of the Council of the European Union (“the Council”) on taxation of savings income provides that before 1 January 2004 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive which provisions shall be applied from 1 January 2005 provided that:

- “ (i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;
- (ii) all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that same date automatic exchange of information in the same manner as is provided for in Chapter II of this Directive, (or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12)”.

2. The relationship of the Isle of Man with the EU is determined by Protocol 3 of the Treaty of Accession of the United Kingdom to the European Community. Under the terms of the Protocol the Isle of Man is not within the EU fiscal territory.

3. The Isle of Man notes that, while it is the ultimate aim of the EU Member States to bring about effective taxation of interest payments in the beneficial owner's Member State of residence for tax purposes through the exchange of information concerning interest payments between themselves, three Member States, namely Austria, Belgium and Luxembourg, during a transitional period, shall not be required to exchange information but shall apply a withholding tax to the savings income covered by the Directive.

4. The "withholding tax" referred to in the Directive will be referred to as the "retention tax" in the Isle of Man's domestic legislation. For the purposes of this Agreement the two terms therefore are to be read coterminously as "withholding/retention tax" and shall have the same meaning.

5. The Isle of Man has agreed to apply a retention tax with effect from 1 January 2005 provided the Member States have adopted the laws, regulations, and administrative provisions necessary to comply with the Directive, and the requirements of Article 17 of the Directive and Article 17(2) of this Agreement have generally been met.

6. The Isle of Man has agreed to apply automatic exchange of information in the same manner as is provided for in Chapter II of the Directive from the end of the transitional period as defined in Article 10(2) of the Directive.

7. The Isle of Man has legislation relating to undertakings for collective investment that is deemed to be equivalent in its effect to the EC legislation referred to in Articles 2 and 6 of the Directive.

The Isle of Man and the Kingdom of the Netherlands hereinafter referred to as a "contracting party" or the "contracting parties" unless the context otherwise requires,

Have agreed to conclude the following agreement which contains obligations on the part of the contracting parties only and provides for:

a) the automatic exchange of information by the competent authority of the Kingdom of the Netherlands to the competent authority of the Isle of Man in the same manner as to the competent authority of a Member State;