

No. 52761*

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

Convention between the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to bank taxes (with protocol). London, 12 June 2013

Entry into force: *30 April 2015 and with retroactive effect from 1 January 2011, in accordance with article 8*

Authentic text: *English*

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

Convention entre le Gouvernement du Royaume des Pays-Bas et le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts bancaires (avec protocole). Londres, 12 juin 2013

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[ENGLISH TEXT – TEXTE ANGLAIS]

Convention between the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to bank taxes

The Government of the Kingdom of the Netherlands
and

the Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to bank taxes,

Have agreed as follows:

Article 1

Entities covered

This Convention shall apply to entities which are residents of one or both of the Contracting States.

Article 2

Taxes Covered

1. This Convention shall apply to bank taxes imposed on behalf of a Contracting State, irrespective of the manner in which they are levied.

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

- a) in the Netherlands:
the bank tax set out in the Law on bank tax (Wet bankenbelasting) (hereinafter referred to as "Netherlands bank tax");
- b) in the United Kingdom:
the bank levy set out in Schedule 19 of the Finance Act 2011 (hereinafter referred to as "United Kingdom bank tax").

3. This Convention shall also apply to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing bank taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their laws relating to bank taxes.

Article 3

General Definitions

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

a) the terms "a Contracting State" and "the other Contracting State" mean the Kingdom of the Netherlands (Netherlands) or the United Kingdom of Great Britain and Northern Ireland (United Kingdom), as the context requires;

b) the term "Netherlands" means the European part of the Netherlands, including its territorial sea and any area beyond and adjacent to its territorial sea within which the Kingdom of the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights;

c) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom designated under its laws concerning the Continental Shelf and in accordance with international law as an area within which the rights of the United Kingdom with respect to the sea-bed and subsoil and their natural resources may be exercised;

d) the term "entity" means:

- (i) in the case of the Netherlands, a company as mentioned in Articles 3, 4 and 5 of the Law on bank tax;

- (ii) in the case of the United Kingdom, an entity as defined in paragraph 70 of Schedule 19 of the Finance Act 2011 which is a member of a “relevant group” under paragraph 4 or is a “relevant entity” under paragraph 5 of Schedule 19 of the Finance Act 2011;
- e) the term “permanent establishment” means:
 - (i) in the case of the Netherlands, a branch within the meaning of the Law on bank tax through which the business of an entity of a Contracting State is wholly or partly carried on and a banking license has been granted for that purpose;
 - (ii) in the case of the United Kingdom, a permanent establishment in accordance with Chapter 2 of Part 24 of the Corporation Tax Act 2010 through which the business of an entity of a Contracting State is wholly or partly carried on;
- f) the term “competent authority” means:
 - (i) in the case of the Netherlands, the Minister of Finance or his authorised representative;
 - (ii) in the case of the United Kingdom, the Commissioners for Her Majesty’s Revenue and Customs or their authorised representative.

2. As regards the application of the Convention at any time by a Contracting State 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 State for the purposes of the bank taxes to which the Convention applies, any meaning under the applicable laws of that State relating to bank taxes prevailing over a meaning given to the term under other laws of that State.

Article 4

Residence

The residence of an entity will be determined by the domestic laws of the Contracting States. Where an entity is a resident of both Contracting States, then the entity shall for the purposes of this Convention be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Elimination of Double Taxation

1. In the case of the Netherlands, double charging of bank tax shall be dealt with as follows:

- a) the United Kingdom bank tax on an entity resident in the Netherlands that is a subsidiary of a United Kingdom resident member of a

group shall, unless the head of the group is an entity resident in the Netherlands, be allowed as a credit against the Netherlands bank tax;

b) where the United Kingdom bank tax has applied to an entity resident in the United Kingdom, with respect to a permanent establishment situated in the Netherlands, either directly or through consolidation, the United Kingdom bank tax attributable to the permanent establishment shall, unless that entity is a member of a group of which the head is an entity resident in the Netherlands, be allowed as a credit against the Netherlands bank tax;

c) the credit in sub-paragraphs a) and b) will be based on the equity and liabilities that have been taken into account in determining the United Kingdom bank tax and shall not exceed the Netherlands bank tax which is due on the taxable base of an entity or permanent establishment as referred to in sub-paragraphs a) and b);

d) for the determination of the United Kingdom bank tax to be allowed as a credit, any exemption or rebate from the United Kingdom bank tax shall be attributed to a subsidiary or permanent establishment in the same proportion as the attribution of the equity and liabilities to such subsidiary or permanent establishment for the purposes of bank taxes.

2. In the case of the United Kingdom, double charging of bank tax shall, subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against the United Kingdom bank tax of a bank tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof), be dealt with as follows:

a) the Netherlands bank tax on an entity resident in the United Kingdom that is a subsidiary of a Netherlands resident member of a group shall, unless the parent of the group is resident in the United Kingdom, be allowed as a credit against the United Kingdom bank tax;

b) where the Netherlands bank tax has applied, either directly or through consolidation, to a permanent establishment situated in the United Kingdom, the credit shall, unless the parent of the group is resident in the United Kingdom, take into account the Netherlands bank tax attributable to the permanent establishment.

Article 6

Mutual Agreement Procedure

1. Where an entity considers that the actions of one or both of the Contracting States result or will result for it in taxation not in accordance with the provisions of this Convention, it may, irrespective of the remedies provided by the domestic law of those States, present its case to either competent authority. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention, or, if later, within six