

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2013 Nr. 106

A. TITEL

*Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Republiek Kroatië betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling; (met aanhangsel en bijlage)
's-Gravenhage, 25 juni 2013*

B. TEKST

Agreement in the form of an exchange of letters on the taxation of savings income and the provisional application thereof

A.

Letter from the Republic of Croatia

Sir,

I have the honour to refer to the texts of respectively the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of Aruba and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments" and the "Convention between the Kingdom of the Netherlands in respect of Aruba and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", that resulted from the negotiations with the Netherlands Antilles and Aruba on a Savings Tax Agreement, and that were annexed, respectively as Annex I, II, III and IV, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March 2004 (doc. 7660/1/04 REV 1 FISC 68 + COR 1).

trb-2013-106
's-Gravenhage 2013

In view of the above mentioned texts I have the honour to propose to you the "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments" 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 Convention 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 "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments", I have the honour to propose to you that the Republic of Croatia and the Kingdom of the Netherlands, in respect of Aruba, apply this Convention provisionally, within the framework of our respective domestic constitutional requirements, as from the date of accession of the Republic of Croatia to the European Union.

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 Republic of Croatia and the Kingdom of the Netherlands, in respect of Aruba.

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

For the Republic of Croatia,

S. LINIĆ
Minister of Finance

DONE at Zagreb, on 3.6.2013 in the English language in three copies.

B.

Letter from the Kingdom of the Netherlands, in respect of Aruba

Sir,

I have the honour to acknowledge receipt of your letter of 3.06.2013, which reads as follows:

(zoals in A)

I am able to confirm that Aruba is in agreement with the contents of your letter.

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

For the Kingdom of the Netherlands, in respect of Aruba,

E.B. ABATH

DONE at The Hague, on 25.06.2013, in the English language in three copies.

Appendix 1

Convention between the Kingdom of the Netherlands, in respect of Aruba, and the Republic of Croatia concerning the automatic exchange of information about savings income in the form of interest payments

The Government of the Kingdom of the Netherlands, in respect of Aruba, and the Republic of Croatia, desiring to conclude a Convention which enables savings income in the form of interest payments made in one of the Contracting States to beneficial owners who are individuals resident in the other Contracting State, to be made subject to effective taxation in accordance with the laws of the latter Contracting State, in conformity with Directive 2003/48/EC of the Council of the European Union of 3 June 2003 on taxation of savings income in the form of interest payments, have agreed as follows:

Article 1

General Scope

1. This Convention shall apply to interest paid by a paying agent established within the territory of one of the Contracting States with a view to enable savings income in the form of interest payments made in one Contracting State to beneficial owners who are individuals resident for tax purposes in the other Contracting State to be made subject to effective taxation in accordance with the laws of the latter Contracting State.

2. The scope of this Convention shall be limited to taxation of savings income in the form of interest payments on debt claims, to the exclusion, inter alia, of the issues relating to the taxation of pension and insurance benefits.

3. As regards the Kingdom of the Netherlands, this Agreement shall apply only to Aruba.

Article 2

Definitions

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

a) the term "a Contracting State" and "the other Contracting State" mean: the Kingdom of the Netherlands, in respect of Aruba, or the Republic of Croatia as the context requires;

b) the term "Aruba" means: the part of the Kingdom of the Netherlands, which is situated in the Caribbean area and consists of the territory of Aruba, 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, but excluding the part thereof relating to Curaçao;

c) the "contracting party" being a Member State of the European Union means: the Republic of Croatia;

d) the term "Directive" means Directive 2003/48/EC of the Council of the European Union of 3 June 2003 on taxation of savings income in the form of interest payments, as applicable at the date of signing this Convention;

e) the term "Beneficial Owner" means the Beneficial Owner according to Article 2 of the Directive;

f) the term "Paying Agent" means the Paying Agent according to Article 4 of the Directive;

g) the term "Competent Authority" means:

- i) in the case of Aruba: "The Minister in charge of Finance or his authorised representative";
- ii) in the case of the Republic of Croatia: the Competent Authority of that State according to Article 5 of the Directive;
- h) the term "Interest Payment(s)" means the Interest Payment according to article 6, due account being taken of Article 15, of the Directive;
- i) any term not otherwise defined herein shall have the meaning given to it in the Directive.

2. For the purposes of this Convention, in the provisions of the Directive to which this Convention refers, instead of "Member States" has to be read: Contracting States.

Article 3

Identity and residence of beneficial owners

Each Contracting State shall, within its territory, adopt and ensure the application of the procedures necessary to allow the Paying Agent to identify the Beneficial Owners and their residence for the purpose of Article 4. These procedures shall comply with the minimum standards established in Article 3, paragraph 2 and 3 of the Directive, with the provision that in relation to subparagraphs 2.a) and 3.a) of that Article the identity and residence of the Beneficial Owner shall be established on the basis of the information which is available to the Paying Agent by virtue of the application of the relevant provisions of the law and regulations of the Contracting State where the Paying Agent is established.

Article 4

Automatic exchange of information

1. The Competent Authority of the Contracting State where the Paying Agent is established, shall communicate the information referred to in Article 8 of the Directive to the Competent Authority of the other Contracting State of residence of the Beneficial Owner.

2. The communication of information shall be automatic and shall take place at least once a year, within six months following the end of the tax year of the Contracting State of the Paying Agent, for all Interest Payments made during that year.

3. Information exchange under this Convention shall be treated by the Contracting States in a manner consistent with the provisions as set out in Article 16 of Directive 2011/16/EU.

Article 5

Transposition

Before the date of accession of the Republic of Croatia to the European Union the Contracting States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Convention.

Article 6

Annex

The text of Article 16 of Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, as applicable at the date of entry into force of this Convention and to which this Convention refers, is appended as Annex to this Convention, of which it forms an integral part.

Article 7

Entry Into Force

This Convention shall enter into force on the last day of the first month following the later of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect from the date of accession of the Republic of Croatia to the European Union.

Article 8

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of three years from the date of its entry into force. In such event the Convention shall cease to have effect for periods beginning after the end of the calendar year in which the notice of termination has been given.

DONE in the English language.
For the Republic of Croatia,
S. LINIĆ

Annex

Article 16 of Directive 2011/16/EU

"Disclosure of information and documents"

1. Information communicated between Member States in any form pursuant to this Directive shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it. Such information may be used for the administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2.

Such information may also be used for the assessment and enforcement of other taxes and duties covered by Article 2 of Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures¹⁾, or for the assessment and enforcement of compulsory social security contributions.

In addition, it may be used in connection with judicial and administrative proceedings that may involve penalties, initiated as a result of infringements of tax law, without prejudice to the general rules and provisions governing the rights of defendants and witnesses in such proceedings.

2. With the permission of the competent authority of the Member State communicating information pursuant to this Directive, and only in so far as this is allowed under the legislation of the Member State of the competent authority receiving the information, information and documents received pursuant to this Directive may be used for other purposes than those referred to in paragraph 1. Such permission shall be granted if the information can be used for similar purposes in the Member State of the competent authority communicating the information.

3. Where a competent authority of a Member State considers that information which it has received from the competent authority of another Member State is likely to be useful for the purposes referred to in paragraph 1 to the competent authority of a third Member State, it may transmit that information to the latter competent authority, provided that transmission is in accordance with the rules and procedures laid down in this Directive. It shall inform the competent authority of the Member State from which the information originates about its intention to share that information with a third Member State. The Member State of origin of the information may oppose such a sharing of information within 10 working days of receipt of the communication from the Member State wishing to share the information.

4. Permission to use information pursuant to paragraph 2, which has been transmitted pursuant to paragraph 3, may be granted only by the competent authority of the Member State from which the information originates.

5. Information, reports, statements and any other documents, or certified true copies or extracts thereof, obtained by the requested authority and communicated to the requesting authority in accordance with this Directive may be invoked as evidence by the competent bodies of the requesting Member State on the same basis as similar information, reports, statements and any other documents provided by an authority of that Member State."

D. PARLEMENT

De in brieven vervatte overeenkomst, met aanhangsel en bijlage, behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan de in de brieven vervatte overeenkomst, met aanhangsel en bijlage, kan worden gebonden.

F. VOORLOPIGE TOEPASSING

De bepalingen van de in de brieven vervatte overeenkomst, met aanhangsel en bijlage, worden ingevolge de op één na laatste alinea van brief A vanaf 1 juli 2013, de datum van toetreding van Kroatië tot de Europese Unie, voorlopig toegepast.

Wat betreft het Koninkrijk der Nederlanden, geldt de voorlopige toepassing ingevolge artikel 1, derde lid, van de overeenkomst, alleen voor Aruba.

G. INWERKINGTREDING

De bepalingen van de in de brieven vervatte overeenkomst, met aanhangsel en bijlage, zullen ingevolge artikel 7 van de overeenkomst in werking treden op de laatste dag van de eerste maand volgend op de laatste van de data waarop de respectieve regeringen elkaar er schriftelijk van in kennis hebben gesteld dat de in hun respectieve staten vereiste grondwettelijke formaliteiten zijn vervuld.

J. VERWIJZINGEN

Titel : Verdrag betreffende de Europese Unie;

¹⁾ OJ L 84, 31.3.2010, p. 1.

- Maastricht, 7 februari 1992
- Tekst : *Trb.* 2008, 53 (Nederlands, geconsolideerd)
Laatste *Trb.* : *Trb.* 2012, 182
- Titel : Richtlijn 2003/48/EG van de Raad betreffende belastingheffing op inkomsten uit spaargelden in de vorm van rentebetaling;
Luxemburg, 3 juni 2003
Tekst : *PbEU L* 157 van 26 juni 2003, blz. 38-48
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en het Koninkrijk België betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 100 (Nederlands en Engels)
Laatste *Trb.* : *Trb.* 2005, 228
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Republiek Cyprus betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 138 (Engels en vertaling)
Laatste *Trb.* : *Trb.* 2005, 200
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en Denemarken betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 136 (Engels en vertaling)
Laatste *Trb.* : *Trb.* 2005, 202
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Bondsrepubliek Duitsland betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 102 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2011, 233
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Republiek Estland betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 106 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2006, 61
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Republiek Finland betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 120 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2005, 210
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Regering van de Franse Republiek betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;

- 's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 110 (Nederlands en Frans)
Laatste *Trb.* : *Trb.* 2007, 170
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Helleense Republiek betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 116 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2005, 204
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Republiek Hongarije betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 112 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2005, 206
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en Ierland betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 146 (Engels en vertaling)
Laatste *Trb.* : *Trb.* 2005, 208
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Italiaanse Republiek betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 104 (Nederlands en Engels)
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Republiek Letland betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 144 (Engels en vertaling)
Laatste *Trb.* : *Trb.* 2005, 212
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Republiek Litouwen betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 118 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2005, 214
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en het Groothertogdom Luxemburg betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 9 november 2004
Tekst : *Trb.* 2005, 114 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2005, 224
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en Malta betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de

- Aruba, en het Koninkrijk Spanje betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 11 april 2005
- Tekst : *Trb.* 2005, 126 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2006, 230
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 11 april 2005
- Tekst : *Trb.* 2005, 142 (Engels en vertaling)
Laatste *Trb.* : *Trb.* 2005, 218
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en de Republiek Bulgarije betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 1 november 2006
- Tekst : *Trb.* 2006, 251 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2007, 184
- Titel : Briefwisseling houdende een overeenkomst tussen het Koninkrijk der Nederlanden, ten behoeve van Aruba, en Roemenië betreffende automatische gegevensuitwisseling inzake inkomsten uit spaargelden in de vorm van rentebetaling;
's-Gravenhage, 1 november 2006
- Tekst : *Trb.* 2006, 252 (Engels en Nederlands)
Laatste *Trb.* : *Trb.* 2007, 159
- Titel : Richtlijn 2010/24/EU van de Raad betreffende de wederzijdse bijstand inzake de invordering van schuldvorderingen die voortvloeien uit belastingen, rechten en andere maatregelen;
Brussel, 16 maart 2010
- Tekst : *PbEUL* 84 van 31 maart 2010, blz. 1-12
- Titel : Richtlijn 2011/16/EU van de Raad betreffende de administratieve samenwerking op het gebied van de belastingen en tot intrekking van Richtlijn 77/799/EEG;
Brussel, 15 februari 2011
- Tekst : *PbEUL* 64 van 11 maart 2011, blz. 1-12
- Titel : Verdrag tussen het Koninkrijk België, de Republiek Bulgarije, de Tsjechische Republiek, het Koninkrijk Denemarken, de Bondsrepubliek Duitsland, de Republiek Estland, de Helleense Republiek, het Koninkrijk Spanje, de Franse Republiek, Ierland, de Italiaanse Republiek, de Republiek Cyprus, de Republiek Letland, de Republiek Litouwen, het Groothertogdom Luxemburg, de Republiek Hongarije, de Republiek Malta, het Koninkrijk der Nederlanden, de Republiek Oostenrijk, de Republiek Polen, de Portugese Republiek, Roemenië, de Republiek Slovenië, de Slovaakse Republiek, de Republiek Finland, het Koninkrijk Zweden, het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland (lidstaten van de Europese Unie) en de Republiek Kroatië betreffende de toetreding van de Republiek Kroatië tot de Europese Unie;
Brussel, 9 december 2011
- Tekst : *Trb.* 2012, 24 (Nederlands)
Laatste *Trb.* : *Trb.* 2012, 55

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat de in de brieven vervatte overeenkomst, met aanhangsel en bijlage, zal zijn bekendgemaakt in Aruba op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de vierde juli 2013.

De Minister van Buitenlandse Zaken,

F.C.G.M. TIMMERMANS