



Treaty Series No. 10 (2014)

Protocol

amending the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains

London, 12 June 2013

[The Protocol entered into force on 31 January 2014]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
January 2014*

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**PROTOCOL AMENDING THE CONVENTION BETWEEN THE
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM
OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS**

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

Desiring to conclude a Protocol to amend the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains, with Protocol, signed at London on 26 September 2008¹ (hereinafter referred to as “the Convention”),

Have agreed as follows:

ARTICLE I

Article 7 of the Convention shall be deleted and replaced by the following Article:

“Article 7

Business Profits

(1) Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.

(2) For the purposes of this Article and Article 21, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

(3) Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to

¹ Treaty Series No. 2 (2012) Cm 8261

eliminate double taxation on these profits, make an appropriate adjustment if it agrees with the adjustment made by the first-mentioned State; if the other Contracting State does not so agree, the Contracting States shall eliminate any double taxation resulting therefrom by mutual agreement.

(4) Where profits include items of income or capital gains which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.”

ARTICLE II

Sub-paragraph (b) of paragraph (1) of Article 18 of the Convention shall be deleted and replaced by the following sub-paragraph:

“(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services;

and is subject to tax in that State on such salaries, wages and other similar remuneration.”

ARTICLE III

Each of the Contracting States shall notify to the other, through diplomatic channels, the completion of the procedures required by its law for bringing into force this Protocol. This Protocol shall enter into force on the last day of the month following the month in which the later of these notifications has been received and shall thereupon have effect:

- (a) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date on which this Protocol enters into force;
 - (ii) in respect of the corporation tax, for any financial year beginning on or after 1st April next following the date on which this Protocol enters into force;

- (b) in the Netherlands: for taxable years and periods beginning on or after the first day of January next following the date on which this Protocol enters into force.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE at London this twelfth day of June 2013, in duplicate, in the English and Netherlands languages, both texts being equally authoritative.

**For the Government of the United
Kingdom of Great Britain and
Northern Ireland:**

**For the Government of the
Kingdom of the Netherlands:**

DAVID GAUKE

FRAN WEEKER



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