



Govern d'Andorra

## THE PRINCIPALITY OF ANDORRA

### **Status of List of Reservations and Notifications at the Time of Signature**

This document contains a provisional list of expected reservations and notifications to be made by the Principality of Andorra pursuant to Articles 28(7) and 29(4) of the Convention.

## Article 2 – Interpretation of Terms

### **Notification - Agreements Covered by the Convention**

Pursuant to Article 2(1)(a)(ii) of the Convention, the Principality of Andorra wishes the following agreement(s) to be covered by the Convention:

No	Title	Other Contracting Jurisdiction	Original/ Amending Instrument	Date of Signature	Date of Entry into Force
1	Convention entre le Gouvernement de la Principauté d'Andorre et le Gouvernement de la République Française en vue d'éviter les doubles impositions et de prévenir l'évasion et la fraude fiscales en matière d'impôts sur le revenu	France	Original	02-04-2013	01-07-2015
2	Convention entre la Principauté d'Andorre et Le Grand-Duché de Luxembourg tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune	Luxembourg	Original	02-06-2014	07-03-2016
3	Conveni entre el Principat d'Andorra i el Regne d'Espanya per evitar la doble imposició en matèria d'impostos sobre la renda i prevenir l'evasió fiscal / Convention between the Principality of Andorra and the Kingdom of Spain for the avoidance of double taxation with respect to taxes on income and for the prevention of fiscal evasion	Spain	Original	08-01-2015	26-02-2016
4	Convention between the Government of the Pincipality of Andorra and the Government of the Republic of Malta for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Malta	Original	20-09-2016	N/A

5	Convention between the Principality of Andorra and the Portuguese Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Portugal	Original	27-09-2015	23-04-2017
6	Convention between the Principality of Andorra and the Principality of Liechtenstein for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Liechtenstein	Original	30-09-2015	21-11-2016

## **Article 4 – Dual Resident Entities**

### ***Reservation***

Pursuant to Article 4(3)(a) of the Convention, the Principality of Andorra reserves the right for the entirety of Article 4 not to apply to its Covered Tax Agreements.

## Article 6 – Purpose of a Covered Tax Agreement

### *Notification of Choice of Optional Provisions*

Pursuant to Article 6(6) of the Convention, the Principality of Andorra hereby chooses to apply Article 6(3).

### *Notification of Existing Preamble Language in Listed Agreements*

Pursuant to Article 6(5) of the Convention, the Principality of Andorra considers that the following agreements are not within the scope of a reservation under Article 6(4) and contain preamble language described in Article 6(2). The text of the relevant preambular paragraph is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Preamble Text
1	France	Désireux de conclure une Convention en vue d'éviter les doubles impositions et de prévenir l'évasion et la fraude fiscales en matière d'impôts sur le revenu
2	Luxembourg	désireux de conclure une Convention tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune,
3	Spain	<El Principat d'Andorra i el Regne d'Espanya, desitjant promoure el desenvolupament de les seves relacions econòmiques i millorar la cooperació en matèria fiscal>, amb la intenció de concloure un Conveni per evitar la doble imposició respecte a l'impost sobre la renda, sense generar oportunitats per a la no imposició o per a la imposició reduïda a través de l'evasió o l'elusió fiscals,  <El Reino de España y el Principado de Andorra, deseando promover el desarrollo de sus relaciones económicas y mejorar la cooperación en materia fiscal>, con la intención de concluir un Convenio para evitar la doble imposición con respecto al impuesto sobre la renta, sin generar oportunidades para la no imposición o la imposición reducida a través de la evasión o elusión fiscales
4	Malta	<desiring to further develop their economic relations and to enhance their cooperation in tax matters> by way of concluding a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance
5	Portugal	Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, Taking into account that the main purpose of this Convention is to eliminate international double taxation with regard to the different categories of income derived by residents of

		both States, as well as to prevent fiscal evasion, <Considering that its entry into force will create a more stable and transparent tax framework for investors and other taxpayers of both States and, by doing so, will have a positive impact on the development of the trade of goods and services, the capital flows, the technology transfers and the movement of persons between the two States,>
6	Liechtenstein	<desiring to further develop their economic relations and to enhance their cooperation in tax matters> by way of concluding an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance,

***Notification of Listed Agreements Not Containing Existing Preamble Language***

Pursuant to Article 6(6) of the Convention, the Principality of Andorra considers that the following agreements do not contain preamble language referring to a desire to develop an economic relationship or to enhance co-operation in tax matters.

Listed Agreement Number	Other Contracting Jurisdiction
1	France
2	Luxembourg
5	Portugal

## Article 7 – Prevention of Treaty Abuse

### **Reservation**

Pursuant to Article 7(15)(b) of the Convention, the Principality of Andorra reserves the right for Article 7(1) and (4) not to apply to its Covered Tax Agreements that already contain provisions that deny all of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits. The following agreements contain provisions that are within the scope of this reservation.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
3	Spain	Subparagraph (l) (c) of the Protocol
5	Portugal	Article 28 (4)

### **Notification of Choice of Optional Provisions**

Pursuant to Article 7(17)(b) of the Convention, the Principality of Andorra hereby chooses to apply Article 7(4).

### **Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 7(17)(a) of the Convention, the Principality of Andorra considers that the following agreements are not subject to a reservation under Article 7(15)(b) and contain a provision described in Article 7(2). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	France	Articles 10(8), 11(8), 12(6), 20(4) and 25 (1)(a)
4	Malta	Article 26 (1)
6	Liechtenstein	Article 27

## **Article 8 – Dividend Transfer Transactions**

### ***Reservation***

Pursuant to Article 8(3)(a) of the Convention, the Principality of Andorra reserves the right for the entirety of Article 8 not to apply to its Covered Tax Agreements.



**Article 9 – Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property**

***Notification of Existing Provisions in Listed Agreements***

Pursuant to Article 9(7) of the Convention, the Principality of Andorra considers that the following agreements contain a provision described in Article 9(1). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	France	Article 13(1)(b)
2	Luxembourg	Article 13(4)
3	Spain	Article 13(4)
4	Malta	Article 13(4)
5	Portugal	Article 13(4)
6	Liechtenstein	Article 13(4)

**Article 12 – Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies**

***Reservation***

Pursuant to Article 12(4) of the Convention, the Principality of Andorra reserves the right for the entirety of Article 12 not to apply to its Covered Tax Agreements.

**Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions**

***Reservation***

Pursuant to Article 13(6)(a) of the Convention, the Principality of Andorra reserves the right for the entirety of Article 13 not to apply to its Covered Tax Agreements.

## **Article 14 – Splitting-up of Contracts**

### ***Reservation***

Pursuant to Article 14(3)(a) of the Convention, the Principality of Andorra reserves the right for the entirety of Article 14 not to apply to its Covered Tax Agreements.

## **Article 15 – Definition of a Person Closely Related to an Enterprise**

### ***Reservation***

Pursuant to Article 15(2) of the Convention, the Principality of Andorra reserves the right for the entirety of Article 15 not to apply to the Covered Tax Agreement to which the reservations described in Article 12(4), Article 13(6)(a) or (c), and Article 14(3)(a) apply.

## Article 16 – Mutual Agreement Procedure

### *Notification of Existing Provisions in Listed Agreements*

Pursuant to Article 16(6)(a) of the Convention, the Principality of Andorra considers that the following agreements contain a provision described in Article 16(4)(a)(i). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	France	Article 23(1) first sentence
2	Luxembourg	Article 24(1) first sentence
3	Spain	Article 23(1) first sentence
4	Malta	Article 23(1) first sentence
5	Portugal	Article 24(1) first sentence
6	Liechtenstein	Article 24(1) first sentence

Pursuant to Article 16(6)(b)(ii) of the Convention, the Principality of Andorra considers that the following agreements contain a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	France	Article 23(1) second sentence
2	Luxembourg	Article 24(1) second sentence
3	Spain	Article 23(1) second sentence
4	Malta	Article 23(1) second sentence
5	Portugal	Article 24(1) second sentence
6	Liechtenstein	Article 24(1) second sentence

## Article 17 – Corresponding Adjustments

### *Notification of Existing Provisions in Listed Agreements*

Pursuant to Article 17(4) of the Convention, the Principality of Andorra considers that the following agreements contain a provision described in Article 17(2). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	France	Article 9(2)
2	Luxembourg	Article 9(2)
3	Spain	Article 9(2)
4	Malta	Article 9(2)
5	Portugal	Article 9(2)
6	Liechtenstein	Article 9(2)

**Article 18 – Choice to Apply Part VI**

***Notification of Choice of Optional Provisions***

Pursuant to Article 18 of the Convention, the Principality of Andorra hereby chooses to apply Part VI.



## **Article 19 – Mandatory Binding Arbitration**

### ***Reservation***

Pursuant to Article 19(12) of the Convention, the Principality of Andorra reserves the right for the following rules to apply with respect to its Covered Tax Agreements notwithstanding the other provisions of Article 19:

- a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by the Convention shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either Contracting Jurisdiction;
- b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting Jurisdictions, a decision concerning the issue is rendered by a court or administrative tribunal of one of the Contracting Jurisdictions, the arbitration process shall terminate.

## **Article 23 – Type of Arbitration Process**

### ***Reservation***

Pursuant to Article 23(2) of the Convention, for the purpose of applying Article 23 to its Covered Tax Agreements, the Principality of Andorra reserves the right for Article 23(1) not to apply to its Covered Tax Agreements.

Pursuant to Article 23(7) of the Convention, the Principality of Andorra reserves the right for Part VI not to apply with respect to all Covered Tax Agreements for which the other Contracting Jurisdiction makes a reservation pursuant to Article 23(6).

### ***Notification of Choice of Optional Provisions***

Pursuant to Article 23(4) of the Convention, the Principality of Andorra hereby chooses to apply Article 23(5).

## **Article 24 – Agreement on a Different Resolution**

### ***Notification of Choice of Optional Provisions***

Pursuant to Article 24(1) of the Convention, the Principality of Andorra hereby chooses to apply Article 24(2).

## Article 28 – Reservations

### ***Notification of Observation to the Reservation Made by the Other Contracting Jurisdiction***

*[Pursuant to Article 28(2)(b) of the Convention, [Jurisdiction A] hereby raises an objection to the reservation made under Article 28(2)(a) with respect to the following agreement(s).]*

<i>Listed Agreement Number</i>	<i>Other Contracting Jurisdiction</i>
<i>[X]</i>	<i>Jurisdiction [Y]</i>

## **Article 35 – Entry into Effect**

### ***Notification of Choice of Optional Provisions***

Pursuant to Article 35(3) of the Convention, solely for the purpose of its own application of Article 35(1)(b) and 5(b), the Principality of Andorra hereby chooses to replace the reference to “taxable periods beginning on or after the expiration of a period” with a reference to “taxable periods beginning on or after 1 January of the next year beginning on or after the expiration of a period”.

### ***Reservation***

Pursuant to Article 35(7)(a) of the Convention, the Principality of Andorra reserves the right to replace:

- i) the references in Article 35(1) and (4) to “the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement”; and
- ii) the references in Article 35(5) to “the date of the communication by the Depository of the notification of the extension of the list of agreements”;

with references to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of this Convention with respect to that specific Covered Tax Agreement”;

- iii) the references in Article 28(9)(a) to “on the date of the communication by the Depository of the notification of withdrawal or replacement of the reservation”; and
- iv) the reference in Article 28(9)(b) to “on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions”;

with references to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the withdrawal or replacement of the reservation with respect to that specific Covered Tax Agreement”;

- v) the references in Article 29(6)(a) to “on the date of the communication by the Depository of the additional notification”; and
- vi) the reference in Article 29(6)(b) to “on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions”;

with references to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the additional notification with respect to that specific Covered Tax Agreement”;

- vii) the references in Article 36(1) and (2) (Entry into Effect of Part VI) to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement”;

with references to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of this Convention with respect to that specific Covered Tax Agreement”; and

- viii) the reference in Article 36(3) (Entry into Effect of Part VI) to “the date of the communication by the Depository of the notification of the extension of the list of agreements”;
- ix) the references in Article 36(4) (Entry into Effect of Part VI) to “the date of the communication by the Depository of the notification of withdrawal of the reservation”, “the date of the communication by the Depository of the notification of replacement of the reservation” and “the date of the communication by the Depository of the notification of withdrawal of the objection to the reservation”;
- x) the reference in Article 36(5) (Entry into Effect of Part VI) to “the date of the communication by the Depository of the additional notification”;

with references to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of Part VI (Arbitration) with respect to that specific Covered Tax Agreement”.

**Notification of Completion of Internal Procedures**

*[Pursuant to Article 35(7)(b) of the Convention, [Jurisdiction A] hereby notifies that it has completed its internal procedures for the entry into effect of the provisions of the Convention with respect to the following agreement(s).]*

<i>Listed Agreement Number</i>	<i>Other Contracting Jurisdiction</i>
<i>[X]</i>	<i>Jurisdiction [Y]</i>

## Article 36 – Entry into Effect of Part VI

### **Reservation**

Pursuant to Article 36(2) of the Convention, the Principality of Andorra reserves the right for Part VI to apply to a case presented to the competent authority of a Contracting Jurisdiction prior to the later of the dates on which the Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement only to the extent that the competent authorities of both Contracting Jurisdictions agree that it will apply to that specific case.

### **Notification of Mutual Agreement on Entry into Effect with respect to Cases Prior to Entry into Force of the Convention**

*[Pursuant to Article 36(1)(b) of the Convention, [Jurisdiction A] hereby notifies that the competent authority of [Jurisdiction A] has reached mutual agreement pursuant to Article 19(10) with the competent authority of the other Contracting Jurisdiction to the following agreements. The date on which cases shall be considered to have been presented to the competent authority of a Contracting Jurisdiction is identified below.]*

<i>Listed Agreement Number</i>	<i>Other Contracting Jurisdiction</i>	<i>Date</i>
<i>[X]</i>	<i>Jurisdiction [Y]</i>	<i>[dd-mm-yyyy] for all cases</i>