

Curaçao

(submitted by the Kingdom of the Netherlands on behalf of Curaçao)

Status of List of Reservations and Notifications

This document contains a provisional list of expected reservations and notifications to be made by the Kingdom of the Netherlands on behalf of Curaçao pursuant to Articles 28(4), and 29(2) of the Convention.

Article 2 – Interpretation of Terms

Notification - Agreements Covered by the Convention

Pursuant to Article 2(1)(a)(ii) of the Convention, Curaçao¹ wishes the following agreements to be covered by the Convention:

No	Title	Other Contracting Jurisdiction	Original/ Amending Instrument	Date of Signature	Date of Entry into Force
1	CONVENTION BETWEEN THE KINGDOM OF THE NETHERLANDS, IN RESPECT OF CURAÇAO, AND THE REPUBLIC OF MALTA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME	Malta	Original	18-11-2015	N/A
2	CONVENTION BETWEEN THE KINGDOM OF THE NETHERLANDS IN RESPECT OF THE NETHERLANDS ANTILLES ² AND THE KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL	Norway	Original	13-11-1989	17-12-1990
			Amending Instrument	10-9-2009	1-9-2011

¹ The references hereunder to "Curaçao" should be read as "the Kingdom of the Netherlands on behalf of Curaçao".

² The Netherlands Antilles (comprised of Curaçao, St Maarten, Bonaire, St Eustatius, and Saba) ceased to exist as a country within the Kingdom of the Netherlands on 10 October 2010. Since that date, the Kingdom of the Netherlands consists of four autonomous countries: Curaçao, St Maarten, Aruba and the Netherlands. Bonaire, St Eustatius, and Saba (collectively known as the Caribbean part of the Netherlands), are now public bodies of the Netherlands.

Article 3 – Transparent Entities

Reservation

Pursuant to Article 3(5)(a) of the Convention, Curaçao reserves the right for the entirety of Article 3 not to apply to its Covered Tax Agreements.

Article 4 – Dual Resident Entities

Reservation

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

Article 5 – Application of Methods for Elimination of Double Taxation

Notification of Choice of Optional Provisions

Pursuant to Article 5(10) of the Convention, Curaçao hereby chooses under Article 5(1) to apply Option A of that Article.

Notification of Existing Provisions in Listed Agreements

For jurisdictions choosing Option A:

Pursuant to Article 5(10) of the Convention, Curaçao considers that the following agreement contains a provision described in Article 5(3). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Malta	Article 22 (2)(b)

Article 6 – Purpose of a Covered Tax Agreement

Notification of Choice of Optional Provisions

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

Notification of Existing Preamble Language in Listed Agreements

Pursuant to Article 6(5) of the Convention, Curaçao 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	Malta	Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
2	Norway	<The Government of the Kingdom of the Netherlands in respect of the Netherlands Antilles and the Government of the Kingdom of Norway> desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Notification of Listed Agreements Not Containing Existing Preamble Language

Pursuant to Article 6(6) of the Convention, Curaçao 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	Malta
2	Norway

Article 7 – Prevention of Treaty Abuse

Notification of Choice of Optional Provisions

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

Article 8 – Dividend Transfer Transactions

Reservation

Pursuant to Article 8(3)(a) of the Convention, Curaçao 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

Reservation

Pursuant to Article 9(6)(a) of the Convention, Curaçao reserves the right for Article 9(1) not to apply to its Covered Tax Agreements.

Article 10 – Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions

Reservation

Pursuant to Article 10(5)(a) of the Convention, Curaçao reserves the right for the entirety of Article 10 not to apply to its Covered Tax Agreements.

Article 11 – Application of Tax Agreements to Restrict a Party’s Right to Tax its Own Residents

Reservation

Pursuant to Article 11(3)(a) of the Convention, Curaçao reserves the right for the entirety of Article 11 not to apply to its Covered Tax Agreements.

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

Reservation

Pursuant to Article 12(4) of the Convention, Curaçao 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

Notification of Choice of Optional Provisions

Pursuant to Article 13(7) of the Convention, Curaçao hereby chooses to apply Option A under Article 13(1).

Notification of Existing Provisions in Listed Agreements

Pursuant to Article 13(7) of the Convention, Curaçao considers that the following agreements contain a provision described in Article 13(5)(a). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Malta	Article 5(4)
2	Norway	Article 5(4)

Article 14 – Splitting-up of Contracts

Reservation

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

Article 16 – Mutual Agreement Procedure

Reservation

Pursuant to Article 16(5)(a) of the Convention, Curaçao reserves the right for the first sentence of Article 16(1) not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer's objection to be justified.

Notification of Existing Provisions in Listed Agreements

Pursuant to Article 16(6)(b)(ii) of the Convention, Curaçao 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	Malta	Article 24(1), second sentence
2	Norway	Article 26(1), second sentence

Article 17 – Corresponding Adjustments

Reservation

Pursuant to Article 17(3)(b) of the Convention, Curaçao reserves the right for the entirety of Article 17 not to apply to its Covered Tax Agreements

on the basis that in the absence of a provision referred to in Article 17(2) in its Covered Tax Agreement:

- i) it shall make the appropriate adjustment referred to in Article 17(1); or
- ii) its competent authority shall endeavour to resolve the case under the provisions of a Covered Tax Agreement relating to mutual agreement procedure.

Article 18 – Choice to Apply Part VI

Notification of Choice of Optional Provisions

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

Article 26 – Compatibility

Reservation

Pursuant to Article 26(4) of the Convention, Curaçao reserves the right for Part VI not to apply with respect all of its Covered Tax Agreements that already provides for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Malta	Article 24(5)