



Overeenkomst tussen de bevoegde autoriteiten van het Verenigd Koninkrijk en Nederland met betrekking tot de fiscale kwalificatie van een fonds dat naar Nederlands belastingrecht kwalificeert als besloten fonds voor gemene rekening

25 augustus 2010

Nr. IFZ2010/534M

Directoraat-Generaal voor Fiscale Zaken, Directie Internationale Fiscale Zaken

De Minister van Financiën deelt de uitkomst van een overleg met de bevoegde autoriteiten van het Verenigd Koninkrijk mede.

*De Minister van Financiën,
namens deze:
de Directeur-Generaal Fiscale Zaken,
A. Berg.*



COMPETENT AUTHORITY AGREEMENT

The competent authorities of the United Kingdom of Great Britain and Northern Ireland (hereinafter: the United Kingdom) and the Netherlands have reached the following mutual agreement regarding the application of the 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 Taxes on Income and on Capital Gains and the related Protocol signed on 26 September 2008 to investors in closed funds for mutual account '*fonds voor gemene rekening*' (hereinafter: closed FGR).

This Agreement applies to closed FGRs formed in conformity with the Decree of 11 January 2007, CPP2006/1870M, Dutch. Gov. Gaz. No 15, 2007. A closed FGR can act as a pooled investment vehicle for the assets of pension funds and other investors. The closed FGR invests these assets on behalf of those investors.

The competent authorities of the Netherlands and the United Kingdom agree that a closed FGR¹ is fiscally transparent.

A closed FGR can also consist of several closed FGRs as described in par. 4 of the Decree of 11 January 2007, CPP2006/1870M, Dutch. Gov. Gaz. No 15, 2007. Such an umbrella fund is also fiscally transparent.

Since a closed FGR is fiscally transparent, all income and gains derived by the fund from the fund assets are allocated to the investors in the closed FGR in proportion to their participations in the fund.

Request for application of the benefits of a Convention on behalf of the participants

A closed FGR which is established in the Netherlands and which receives income arising in the United Kingdom may itself, represented by its fund manager or its depository, in lieu of and instead of the investors in the closed FGR, claim the benefits of an agreement for the avoidance of double taxation to which the United Kingdom is a party and which is applicable to those investors on behalf of those investors in the closed FGR.

Such claims may be subject to enquiry and, where requested, a fund manager or depository shall provide relevant information which may include a schedule of investors and allocated income relevant to a claim.

A closed FGR may not make a claim for benefits on behalf of any investor in the closed FGR if the investor has itself made a claim for benefits in respect of the same income. If a closed FGR intends to make a claim for benefits on behalf of an investor, the fund manager or its depository should clearly communicate this to the investor to avoid duplicate claims in respect of the same income.

This Agreement shall be subject to regular review.

Agreed by the undersigned competent authorities:

23 juli 2010

*A. Dawson,
UK Competent Authority.*

9 augustus 2010

*H. Roodbeen,
Netherlands Competent Authority.*

¹ Various translations of '*Fonds voor Gemene Rekening*' are possible, such as '*fund for mutual account*' or '*fund for joint account*'.