



## Memorandum of Understanding tussen de competente autoriteiten van Nederland en Australië betreffende de wederzijdse bijstand bij invordering van belastingschulden van 29 januari 2014

27 februari 2014  
nr. DGB2014/1336M

### De plaatsvervangend Directeur-generaal Belastingdienst geeft namens de staatssecretaris van Financiën kennis van het volgende.

Overeenkomstig het Verdrag inzake wederzijdse bijstand in belastingzaken, op 25 januari 1988 gesloten te Straatsburg, zoals aangevuld door het protocol van 27 mei 2007 (WABB-verdrag), hebben de competente autoriteiten van Australië en Nederland een Memorandum of Understanding getekend over de procedures die zij zullen hanteren met betrekking tot de wederzijdse bijstand bij de invordering van belastingschulden.

### MEMORANDUM OF UNDERSTANDING (MoU) BETWEEN THE COMPETENT AUTHORITIES OF THE NETHERLANDS AND AUSTRALIA CONCERNING ASSISTANCE IN THE RECOVERY OF TAX CLAIMS:

In accordance with the terms of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters of 25 January 1988 as amended by the Protocol of 27 May 2012 (the Convention), the undersigned competent authorities have reached an understanding that the following procedures will apply to mutual assistance concerning the recovery of tax claims, and requests for conservancy measures to be taken in respect of tax claims, arising within the respective States.

### BACKGROUND

This MoU serves only as a record of the competent authorities' intentions in relation to the Convention. This MoU:

1. does not constitute or create (and is not intended to create) additional obligations under domestic or international law to those in relation to which it describes the understanding reached by the competent authorities on procedural matters.
2. does not constitute, create or alter (and is not intended to constitute, create or alter) obligations that are not under the Convention; and
3. does not give rise to any legal process itself; and
4. does not itself constitute or create any legally binding or enforceable obligations (expressed or implied) and cannot be deemed to constitute, create, represent or state such obligations; and
5. may not be subject to legally binding adjudication or arbitration of its terms.

Consequently, any disputes between the competent authorities which arise over the interpretation or application of this MoU are not justiciable. However, the MoU reflects the administrative positions of the competent authorities and they will use their best endeavours in fulfilling their respective undertakings in respect of the MoU.

### COMPETENT AUTHORITIES

Requests for assistance and related correspondence will be sent to:

1. In Australia:  
The competent authority of the Government of Australia.
2. In the Netherlands:
3. The Signatories will inform each other by exchange of letters about the names and addresses of the authorized representatives concerned and about any subsequent changes in these representatives.

### TAX CLAIMS COVERED

This MoU relates to requests for recovery and to requests for conservancy measures to be taken, in respect of taxes covered by the Convention:

1. It applies to Australian assistance in recovery of tax claims in respect of each tax listed in Australia's Annex A to the Convention, provided that Australia does not reserve the right not to provide assistance in the recovery of



- i) the particular tax as one of the taxes listed according to Article 30-1-b of the Convention; or
- ii) the particular claim as among certain previously existing tax claims according to Article 30-1-c of the Convention.

It applies to Australian assistance in conservancy on the same basis.

2. It applies to assistance by the Netherlands in recovery of tax claims in respect of each tax listed in the Netherlands Annex A to the Convention, provided that the Netherlands does not reserve the right not to provide assistance in the recovery of

- i) the particular tax as one of the taxes listed according to Article 30-1-b of the Convention; or
- ii) the particular claim as among certain previously existing tax claims according to Article 30-1-c of the Convention.

It applies to assistance by the Netherlands in conservancy on the same basis.

Tax claims covered by this MoU include claims for the amount of any tax covered by the Convention, as well as interest thereon, related administrative fines (administrative penalties), and costs incidental to recovery, which are owed to the applicant State and which have not yet been paid.

## CONFIDENTIALITY

The confidentiality of the information exchanged for purposes of assistance in the recovery of tax claims is governed by Article 22 of the Convention.

## DOCUMENTATION THAT SHOULD ACCOMPANY A REQUEST

### *Deceased estates*

If the tax claim concerns a deceased person or their estate, the applicant State should inform the requested State about the limit of the recoverable amount and provide details of the value of the estate or, where the claim is against the beneficiaries of the estate, the property acquired by each beneficiary of the estate as Article 11 paragraph 3 of the Convention stipulates that the amount of tax recovered from each of the persons benefiting from the estate against whom a claim can be made shall not exceed the value of their portion of the estate.

### *Request for assistance in recovery of a tax claim*

The following documentation will accompany a request for assistance in recovery of a tax claim:

1. An official copy of the instrument permitting the enforcement of the tax claim. In the case of requests:
  1. by Australia, this will consist in most cases of a judgment or order of an Australian court, a notice of assessment issued by the Commissioner of Taxation, or an evidentiary certificate issued by the Commissioner of Taxation under section 255-45 of the *Taxation Administration Act 1953*.
  2. by the Netherlands, this will consist in most cases of a judgment or order of a Netherlands court or a writ of execution issued by the tax collector under article 12 and following articles of the *Tax Collection Act 1990*.
2. Written documentation in support of the recovery of the tax claims. In the case of requests:
  1. by the Netherlands, this will consist of the appropriate form outlined in **Attachment A1 or A2** (or such other form as is notified by the other competent authority from time to time); the declaration in **Attachment C1**; and as much information outlined in **Attachment D** as the Netherlands is reasonably able to provide.
  2. by Australia, this will consist of the appropriate form outlined in **Attachment B1 or B2** (or such other form as is notified by the other competent authority from time to time); the declaration in **Attachment C1**; and as much information outlined in **Attachment D** as Australia is reasonably able to provide.

The instrument permitting enforcement in the applicant State will, where appropriate and in accordance with the law in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument of the requested State permitting enforcement in the latter State.

### *Request for assistance in conservancy in relation to a tax claim*

The following documentation will accompany a request for assistance in conservancy in relation to a tax claim:

1. If available, an official copy of the instrument permitting enforcement of the tax claim in the applicant State. If enforcement is not yet available, a statement by the applicant State, together



- with supporting documentary evidence, showing the ascertainment and calculation of the amount of the tax claim.
2. A statement by the applicant State, together with an indication of the evidence available to support the assertion that there is a significant risk that the making of the tax claim against the taxpayer is likely to be frustrated unless measures of conservancy are taken.
  3. Further written documentation in support of the measures of conservancy. In the case of requests:
    1. By the Netherlands, this will consist of the appropriate form outlined in **Attachment A3** (or such other form as is notified by the other competent authority from time to time); the declaration in **Attachment C2** and as much information outlined in **Attachment D** as the Netherlands is reasonably able to provide.
    2. by Australia, this will consist of the appropriate form outlined in **Attachment B3** (or such other form as is notified by the other competent authority from time to time); the declaration in **Attachment C2** and as much information outlined in **Attachment D** as Australia is reasonably able to provide.

## MINIMUM AMOUNT

The Convention does not oblige a requested State to provide assistance in recovery or conservancy where the administrative burden for the requested State is clearly disproportionate to the benefit to be derived by the applicant State.

As a general rule, the requested State will not ordinarily provide assistance in recovery or conservancy in respect of a tax claim less than \$ 20,000 Australian dollars ('the minimum amount'). However, the applicant State may show that it will derive tax benefit from recovery or conservancy that is so significant that the requested State will provide assistance in recovery or conservancy though the amount of the claim is less than the minimum amount<sup>1</sup>. The requested State may also accept a claim of an amount less than the minimum amount if it appears through preliminary investigations that the cost of collection action would not exceed the amount of the claim, and that collection action can be made both quickly and effectively.

The minimum amount in this MoU will be reduced if there is a lower minimum amount prescribed in an equivalent MoU between Australia and another contracting State for the assistance in the recovery of tax claims under the Convention. Such a reduction will be made on the following terms:

1. the reduction will be effected upon the date of execution of the other MoU; and
2. the minimum amount in this MoU will be reduced to the minimum amount of the other MoU.

Thereafter, the 'minimum amount' in this clause will be read as referring to the new minimum amount as reduced under the terms of this clause.

## CURRENCY AND EXCHANGE RATES

The applicant State will express the amount of the tax claim in the currency of the applicant State and the currency of the requested State. The exchange rate to be used to express the amount in the currency of the requested State will be:

- a. In Australian currency: the rate quoted by the Reserve Bank of Australia for the business day preceding the day of the request.
- b. In Netherlands currency: the exchange rates published by the European Central Bank (ECB) for the business day preceding the day of the request.

## TIME LIMITS

The time limits beyond which a claim may no longer be recovered or conservancy measures taken in relation to the tax claim are governed by the law of the applicant State. The applicant State will inform the requested State about those limits.

Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of the requested State, would have the effect of suspending or interrupting (and so extending) the period within which a claim under the law of the requested State may be recovered, will also have this effect under the laws of the applicant State. The requested State will inform the applicant State about such acts and their effect.

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<sup>1</sup> Note that the amounts need not be equivalent, as the costs a State would incur in collecting a revenue claim of the other State are the costs of recovery in the requested State and those which would be incurred in the applicant State may be significantly different.



In any case, the requested State is not obliged to comply with a request for assistance in recovery which is submitted after a period of 15 years from the date of the original instrument permitting enforcement, as set out in Article 14-3 of the Convention.

However, the competent authorities may, by mutual arrangement, request assistance in respect of tax claims that do not fall within these time limits.

### **CALCULATION OF INTEREST IN THE COLLECTION PERIOD**

The applicant State may include any interest and administrative penalty under the law of the applicant State arising in respect of the debt in the tax claim, calculated up to the day that the request for assistance in recovery of the claim is made.

The requested State will calculate further interest and administrative penalty for the collection period after the request for assistance in recovery of the claim is made, applying its own interest rate and rate of administrative penalty, and add it to the amount to be collected by the requested State and remitted to the applicant State.

If the interest and administrative penalty accrued in respect of the debt in the applicant State after the request for assistance in recovery of the claim is made exceeds the interest and administrative penalty accrued in respect of the debt in the requested State, the applicant State may make a separate request for assistance in recovery of its claim for an amount equal to the excess.

### **DEFERRAL, PAYMENT BY INSTALMENTS AND WAIVER OF CLAIMS**

The requested State has responsibility for consideration and acceptance of deferral of recovery and payment by instalments.

The requested State may, where the laws, regulations or administrative provisions in force in this State so permit, allow the debtor time to pay or authorize payment by instalments and it may charge interest in that respect. It will first inform the applicant State before making such a decision. After the decision has been made the applicant State will be notified as soon as possible, but not later than seven days after the date of the decision.

The requested State will not accept a compromise or settlement of the claim or remit/waive the claim in part or in full without the approval of the applicant State. The requested State may have to cease collection of the foreign claim under the following conditions:

- a. the taxpayer has been granted a debt settlement arrangement under the law of the requested State;
- b. the taxpayer is a company that is undergoing liquidation or is in administration due to insolvency.

Notwithstanding paragraph (b) above, the requested State will, if possible, lodge the claim of the applicant State to the liquidator in case of liquidation or insolvency proceedings and notify the applicant State thereafter as soon as possible.

### **COSTS OF COLLECTION**

Ordinary costs incurred in providing assistance in recovery or conservancy will be borne by the requested State and extraordinary costs incurred in providing assistance will be borne by the applicant State, unless otherwise mutually determined between the two States.

Ordinary costs are those expected in normal domestic recovery or conservancy proceedings by the requested State to recover that State's tax claims in that State.

Extraordinary costs are defined as those of a materially different kind such as those incurred when a particular type of procedure, which is not ordinarily used in the requested State, is used at the request of the applicant State. Examples of extraordinary costs include, but are not limited to, the costs of extraordinary judicial and bankruptcy proceedings, and supplementary costs of experts, interpreters, or translators beyond those of normal domestic recovery or conservancy proceedings.

As soon as the competent authority of the requested State anticipates that extraordinary costs are likely to be incurred, it will inform the competent authority of the applicant State and indicate the estimated amount of such costs, if possible. The applicant State will inform the requested State as soon as possible if it accepts such extraordinary costs.



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All requests for payment must be supported by documentary evidence of the expenditure (eg. an invoice or receipt).

## **DAMAGES**

1. The applicant State will remain liable to the requested State for any costs and any losses incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument permitting enforcement and / or precautionary measures issued by the applicant State are concerned.
2. In the case that the requested State becomes liable for damages as result of (a subsequent amendment by the applicant State to the claim, this will be borne by the applicant State.

## **SITUATIONS WHERE MONEY IS REQUIRED TO BE REPAID**

Where the requested State is compelled by law to return to a taxpayer or a taxpayer's estate money already remitted to the applicant State under a claim (for example, where there has been a voidable transaction), the applicant State must return the amount remitted to the requested State.

The amount remitted to the requested State must be equivalent to the amount in the currency of the requested State that is the lesser of the amount originally sent by the requested State or the amount to be returned to the person or their estate. Any exchange rate gains or losses will be borne by the Applicant State.

## **TRANSFER OF PAYMENTS TO THE APPLICANT STATE**

Any sum recovered by the requested State, including where applicable the interest, will be transferred to the applicant State in the currency of the requested State.

The transfer will take place within 30 days of the date on which recovery was effected. Amounts collected by the requested State will be forwarded to:

1. In Australia:  
Bank name: Reserve Bank of Australia, 65 Martin Place, Sydney NSW 2000  
Bank Identifier: RSBKAU2S  
BSB: 093 003  
Account number: 316385  
Account name: ATO direct credit account  
EFT code: (this number is specific to each case and will be provided by the Australian Competent Authority in respect of the particular case)
2. In the Netherlands: as mentioned in the request.

When an amount is transferred, the competent authority of the requested State will advise the competent authority of the applicant State.

## **TIME LIMITS FOR RESPONDING TO A REQUEST**

The competent authority of the requested State will, as soon as possible or in any event within seven calendar days after receipt of the request for assistance, acknowledge the receipt of the request for assistance and shall notify the competent authority of any deficiencies in the request, if any, within 60 days of the receipt of the request.

The competent authority of the requested State will report back on any progress in recovery or conservancy actions every 6 months, or as reasonably requested by the applicant State.

## **COMMUNICATION BETWEEN THE COMPETENT AUTHORITIES**

The competent authorities will communicate by secure electronic means of communication when possible. They will also, in case of urgency, communicate by telephone, subject to confirmation in writing.

## **LANGUAGE**

All information and particulars communicated between the competent authorities in relation to a request for assistance will be conveyed in English.



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## POTENTIAL MODIFICATIONS TO THE REQUEST

Upon receipt by the requested State, in writing or in electronic form, of a notification by the applicant State of an amendment to the amount of the tax claim, where that amendment leads to a reduction in the amount of the claim, the requested State will continue recovery or conservancy action in respect of the claim but such action will be limited to the amount still outstanding.

If at the time the requested State is informed of the reduction in the amount of the claim, an amount exceeding the amount still outstanding has already been received, but the transfer procedure has not yet been initiated, the requested State will repay the amount overpaid to the person entitled thereto.

Upon receipt by the requested State, in writing or in electronic form, of a notification by the applicant State of an amendment to the amount of the tax claim, where that amendment leads to an increase in the amount of the claim, then:

1. the additional request will as far as possible be dealt with by the requested State at the same time as the original request;
2. where, in view of the requested State, consolidation of the additional request with the original request is not possible, the additional request will be treated as a separate request.

The applicant State cannot make a separate tax claim that consists only of an amount to address currency fluctuations; nor can a claim representing additional liabilities include amounts for currency fluctuations relating to a previous claim.

## REFUNDS TO PERSONS

Except as required in the circumstances outlined in the clause entitled 'Situations Where money is required to be repaid', refunds of any amounts collected by the requested State to a person will not be made without prior consultation between the competent authorities, in order to determine if there are other amounts owed by the person to the applicant State which may need to be the subject of a separate request. If other amounts are owed, the relevant competent authority will make a request within 28 days from the first date of the consultation or the amount may be refunded to the taxpayer.

## UNCOLLECTIBLE CLAIMS

When the requested State determines that a tax claim is uncollectible, the competent authority will return the request with a report, providing details on why the tax claim is uncollectible.

## WITHDRAWAL OF A REQUEST

If the request for assistance in collection becomes devoid of purpose, the competent authority of the applicant State will immediately notify, by telephone, secure email or fax, the competent authority of the requested State that the request is being withdrawn. This will be followed by a written notification from the competent authority of the applicant State (including details on why the request is withdrawn). The competent authority of the requested State will acknowledge, in writing, the withdrawal of the request.

## INVENTORY/FEEDBACK/MODIFICATIONS

Each State will annually, by 31 March of the year following the year it relates to, inform the other of the number of requests for recovery and for conservancy measures to be taken sent and received each year, the amount of the claims involved and the amounts collected.

The terms of this Memorandum will be evaluated by both States 5 years after its effective date, and every 5 years thereafter.

However, the competent authorities may consult with each other at any time with the aim of ensuring effective implementation of this Memorandum, and its terms may be modified at any time by agreement between the competent authorities.

## DISPUTE RESOLUTION MECHANISMS

The competent authorities may consult, in accordance with Article 24 of the Convention, to overcome any difficulty they may encounter. The competent authorities will consult, as necessary, in the event of any litigation resulting from the application of the assistance in collection program.

Proceedings with respect to the existence, or validity or the amount of a tax claim of an applicant State



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will only be brought before the courts or administrative bodies of that applicant State.

### **EFFECTIVE DATE**

This Memorandum becomes effective on 1 September 2013.

This Memorandum once effective will apply to administrative assistance related to the recovery and conservancy of tax claims arising from earlier taxable periods, consistently with Article 28-6, last sentence, of the Convention, but subject to the time limits as agreed under this Memorandum and Article 14-3 of the Convention.

This Memorandum is concluded for an indefinite period of time. It may be terminated by written notification by either competent authority.

### **SIGNATURES**

Signed in duplicate at Sydney this 29<sup>th</sup> day of January 2014 and at The Hague on February the 26<sup>th</sup> of 2014 in the English language.

David Allen  
Assistant Commissioner (Transparency Practice)  
Internationals and Customs Administration  
Australian Taxation Office  
Competent authority of the Government  
of Australia

Theo Poolen  
Deputy Director General of the  
Directorate-General for the Tax  
Public Groups and International  
Mandated competent authority  
for the Netherlands



**ATTACHMENT A1 FORM FOR A REQUEST FOR ASSISTANCE IN COLLECTION OR CONSERVANCY-THIS MUST BE COMPLETED IN ITS ENTIRETY**

**A Request for Assistance in Collection**

I, ^name of competent authority^ of The Netherlands, one of whose addresses is ^address^:

(1) declare that:

- (a) I am a duly appointed competent authority of The Netherlands, for the purposes of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol ("the Convention");
- (b) an amount totalling \$Aust^amount^ (€^amount^) ("the Revenue Claim") calculated as at the date of this request, is owed by ^name of debtor^ under the laws of The Netherlands, in respect of taxes and associated amounts, particulars of which are as follows:

Taxes	\$Aust^amount^
Interest	\$Aust^amount^
Administrative penalties	\$Aust^amount^
Costs	\$Aust^amount^
Total	\$Aust^amount^;

- (c) the Revenue Claim owed by ^name of debtor^ is enforceable under the laws of The Netherlands;
  - (d) ^name of debtor^ cannot under the laws of The Netherlands prevent the collection of the Revenue Claim; and
  - (e) the Revenue Claim is consistent with the provisions of the Convention and fulfils the requirements of the Convention; and
- (2) request that the Revenue Claim specified in the above declaration be accepted for collection by Australia.

Dated:

.....

^name of competent authority^  
Competent authority  
The Netherlands

**Please return this form to the Competent Authority of the Australian Taxation Office in paper form, by electronic transmission or by facsimile.**



**ATTACHMENT A2 FORM FOR A REQUEST FOR ASSISTANCE IN COLLECTION OR CONSERVANCY – THIS MUST BE COMPLETED IN ITS ENTIRETY**

**A Request for Assistance in Collection and Conservancy**

I, <sup>^</sup>name of competent authority<sup>^</sup> of The Netherlands, one of whose addresses is <sup>^</sup>address<sup>^</sup>:

(1) declare that:

- (a) I am a duly appointed competent authority of The Netherlands, for the purposes of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (“the Convention”);
- (b) an amount totalling \$Aust<sup>^</sup>amount<sup>^</sup> (€<sup>^</sup>amount<sup>^</sup>) (“the Revenue Claim”) calculated as at the date of this request, is owed by <sup>^</sup>name of debtor<sup>^</sup> under the laws of The Netherlands, in respect of taxes and associated amounts, particulars of which are as follows:

Taxes	\$Aust <sup>^</sup> amount <sup>^</sup>
Interest	\$Aust <sup>^</sup> amount <sup>^</sup>
Administrative penalties	\$Aust <sup>^</sup> amount <sup>^</sup>
Costs	\$Aust <sup>^</sup> amount <sup>^</sup>
Total	\$Aust <sup>^</sup> amount <sup>^</sup> ;

- (c) the Revenue Claim owed by <sup>^</sup>name of debtor<sup>^</sup> is enforceable under the laws of The Netherlands;
  - (d) <sup>^</sup>name of debtor<sup>^</sup> cannot under the laws of The Netherlands prevent the collection of the Revenue Claim; and
  - (e) the Revenue Claim is consistent with the provisions of the Convention and fulfils the requirements of the Convention; and
- (2) request that the Revenue Claim specified in the above declaration be accepted for:
- (a) collection by Australia; and
  - (b) the conserving of assets for the purposes of such collection

Dated:

.....

<sup>^</sup>name of competent authority<sup>^</sup>

Competent authority

The Netherlands

**Please return this form to the competent authority of the Australian Taxation Office in paper form, by electronic transmission or by facsimile.**



**ATTACHMENT A3 FORM FOR A REQUEST FOR ASSISTANCE IN COLLECTION OR CONSERVANCY – THIS MUST BE COMPLETED IN ITS ENTIRETY**

**A Request for Assistance in Conservancy**

I, <sup>^</sup>name of competent authority<sup>^</sup> of The Netherlands, one of whose addresses is <sup>^</sup>address<sup>^</sup>:

(1) declare that:

- (a) I am a duly appointed competent authority of The Netherlands, for the purposes of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (“the Convention”);
- (b) an amount totalling \$Aust<sup>^</sup>amount<sup>^</sup> (€<sup>^</sup>amount<sup>^</sup>) (“the Revenue Claim”) calculated as at the date of this request, is owed, or will be owed, by <sup>^</sup>name of debtor<sup>^</sup> under the laws of The Netherlands, in respect of taxes and associated amounts, particulars of which are as follows:

Taxes	\$Aust <sup>^</sup> amount <sup>^</sup>
Interest	\$Aust <sup>^</sup> amount <sup>^</sup>
Administrative penalties	\$Aust <sup>^</sup> amount <sup>^</sup>
Costs	\$Aust <sup>^</sup> amount <sup>^</sup>
Total	\$Aust <sup>^</sup> amount <sup>^</sup> ;

- (c) the Revenue Claim owed by <sup>^</sup>name of debtor<sup>^</sup> is enforceable, or will be enforceable, under the laws of The Netherlands;
  - (d) A Request for Assistance in Collection will be made by The Netherlands for the recovery of the tax claim pursuant to the Convention and under section 263-15 of the *Taxation Administration Act 1953* by (*date*).
  - (e) the Revenue Claim is consistent with the provisions of the Convention and fulfils the requirements of the Convention; and
- (2) request that the Revenue Claim specified in the above declaration be accepted for the conserving of assets for the purposes of such collection; and
- (3) advise that (*please advise of the stage in the process of assessment or recovery that the Revenue Claim has reached under the laws and administrative practices of the Netherlands*); and
- (4) advise that (*please advise how and in what respects conservancy relates to assets, including ‘claims and expectancies’, of ^name of debtor^ against whom the Revenue Claim applies or relates to a third party against whom process is available as a consequence of the tax claim, pursuant to which the third party may be obliged to disgorge property or otherwise contribute to the funds or property of ^name of debtor^*).

Dated:

.....

<sup>^</sup>name of competent authority<sup>^</sup>

Competent Authority

The Netherlands

**Please return this form to the Competent Authority of the Australian Taxation Office in paper form, by electronic transmission or by facsimile.**



**ATTACHMENT B1 FORM FOR A REQUEST FOR ASSISTANCE IN COLLECTION OR CONSERVANCY-THIS MUST BE COMPLETED IN ITS ENTIRETY**

**A Request for Assistance in Collection**

I, <sup>^</sup>name of competent authority<sup>^</sup> of Australia, one of whose addresses is <sup>^</sup>address<sup>^</sup>:

(1) declare that:

- (a) I am a duly appointed competent authority of Australia, for the purposes of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol ("the Convention");
- (b) an amount totalling €<sup>^</sup>amount<sup>^</sup> (<sup>^</sup>\$AUD amount<sup>^</sup>) ("the Revenue Claim") calculated as at the date of this request, is owed by <sup>^</sup>name of debtor<sup>^</sup> under the laws of Australia, in respect of taxes and associated amounts, particulars of which are as follows:

Taxes	€ <sup>^</sup> amount <sup>^</sup>
Interest	€ <sup>^</sup> amount <sup>^</sup>
Administrative penalties	€ <sup>^</sup> amount <sup>^</sup>
Costs	€ <sup>^</sup> amount <sup>^</sup>
Total	€ <sup>^</sup> amount <sup>^</sup> ;

- (c) the Revenue Claim owed by <sup>^</sup>name of debtor<sup>^</sup> is enforceable under the laws of Australia;
  - (d) <sup>^</sup>name of debtor<sup>^</sup> cannot under the laws of Australia prevent the collection of the Revenue Claim; and
  - (e) the Revenue Claim is consistent with the provisions of the Convention and fulfils the requirements of the Convention; and
- (2) request that the Revenue Claim specified in the above declaration be accepted for collection by The Netherlands.

Dated:

.....

<sup>^</sup>name of competent authority<sup>^</sup>

Competent authority

Australia

**Please return this form to the Competent Authority for the Netherlands in paper form, by electronic transmission or by facsimile.**



**ATTACHMENT B2 FORM FOR A REQUEST FOR ASSISTANCE IN COLLECTION OR CONSERVANCY – THIS MUST BE COMPLETED IN ITS ENTIRETY**

**A Request for Assistance in Collection and Conservancy**

I, ^name of competent authority^ of Australia, one of whose addresses is ^address^:

(1) declare that:

- (a) I am a duly appointed competent authority of Australia, for the purposes of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (“the Convention”);
- (b) an amount totalling €^amount^ (^\$AUD amount^) (“the Revenue Claim”) calculated as at the date of this request, is owed by ^name of debtor^ under the laws of Australia, in respect of taxes and associated amounts, particulars of which are as follows:

Taxes	€^amount^
Interest	€^amount^
Administrative penalties	€^amount^
Costs	€^amount^
Total	€^amount^;

- (c) the Revenue Claim owed by ^name of debtor^ is enforceable under the laws of Australia;
  - (d) ^name of debtor^ cannot under the laws of Australia prevent the collection of the Revenue Claim; and
  - (e) the Revenue Claim is consistent with the provisions of the Convention and fulfils the requirements of the Convention; and
- (2) request that the Revenue Claim specified in the above declaration be accepted for:
- (a) (a) collection by The Netherlands; and
  - (b) the conserving of assets for the purposes of such collection

Dated:

.....

^name of competent authority^

Competent authority

Australia

**Please return this form to the competent authority of The Netherlands in paper form, by electronic transmission or by facsimile.**



**ATTACHMENT B3 FORM FOR A REQUEST FOR ASSISTANCE IN COLLECTION OR CONSERVANCY – THIS MUST BE COMPLETED IN ITS ENTIRETY**

**A Request for Assistance in Conservancy**

I, <sup>^</sup>name of competent authority<sup>^</sup> of Australia, one of whose addresses is <sup>^</sup>address<sup>^</sup>:

(1) declare that:

- (a) I am a duly appointed competent authority of Australia for the purposes of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (“the Convention”);
- (b) an amount totalling €<sup>^</sup>amount<sup>^</sup> (\$AUD<sup>^</sup>amount<sup>^</sup>) (“the Revenue Claim”) calculated as at the date of this request, is owed, or will be owed, by <sup>^</sup>name of debtor<sup>^</sup> under the laws of Australia, in respect of taxes and associated amounts, particulars of which are as follows:

Taxes	€ <sup>^</sup> amount <sup>^</sup>
Interest	€ <sup>^</sup> amount <sup>^</sup>
Administrative penalties	€ <sup>^</sup> amount <sup>^</sup>
Costs	€ <sup>^</sup> amount <sup>^</sup>
Total	€ <sup>^</sup> amount <sup>^</sup> ;

- (c) the Revenue Claim owed by <sup>^</sup>name of debtor<sup>^</sup> is enforceable, or will be enforceable, under the laws of Australia;
  - (d) A Request for Assistance in Collection will be made by Australia for the recovery of the tax claim pursuant to the Convention by (*date*).
  - (e) the Revenue Claim is consistent with the provisions of the Convention and fulfils the requirements of the Convention; and
- (2) request that the Revenue Claim specified in the above declaration be accepted for the conserving of assets for the purposes of such collection; and
- (3) advise that (*please advise of the stage in the process of assessment or recovery that the Revenue Claim has reached under the laws and administrative practices of Australia*); and
- (4) advise that (*please advise how and in what respects conservancy relates to assets, including ‘claims and expectancies’, of ^name of debtor^ against whom the Revenue Claim applies or relates to a third party against whom process is available as a consequence of the tax claim, pursuant to which the third party may be obliged to disgorge property or otherwise contribute to the funds or property of ^name of debtor^*).

Dated:

.....

<sup>^</sup>name of competent authority<sup>^</sup>  
Competent Authority  
Australia

**Please return this form to the Competent Authority of The Netherlands in paper form, by electronic transmission or by facsimile.**



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## ATTACHMENT C1 DECLARATION

I hereby confirm that at the time of signing this request for collection:

- The debt is not the subject of dispute and is certified as finally determined;
- The writ of execution is not being contested;
- The writ of execution has been enforced but has not led to (full) payment of the debt;
- The tax claim concerns a tax covered by the Convention for which the requested State has not made a reservation to provide assistance in the recovery of tax claims;
- The tax claim is enforceable under the laws of the applicant State;
- The applicant state has pursued all measures available in its own territory to collect the claim, except where recourse to such measures would give rise to disproportionate difficulty;
- The request is in conformity with the laws and administrative practices of the applicant State;
- The information in the request and in the attached documents is correct.

Dated:

.....

^name of competent authority^

Competent authority

XXXX



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## ATTACHMENT C2 DECLARATION

I hereby declare that at the time of signing this request for conservancy:

- the amount of the tax claim to which the request for conservancy relates is xxxx.
- the tax claim to which the request for conservancy action relates concerns a tax covered by the Convention for which the requested State has not reserved the right not to provide assistance in the recovery of tax claims.
- the stage in the process of assessment or recovery that the tax claim has reached under the laws and administrative practices of the applicant State.
- the applicant State is able to take conservancy measures in relation to the tax claim in conformity with the laws and administrative practices of the applicant State.
- the applicant State will make a request for the recovery of the tax claim to which the conservancy action relates (within xx days of this request).
- (please provide details as to how and in what respects conservancy relates to assets, including 'claims and expectancies', of the taxpayer against whom the tax claim applies or relates to a third party against whom process is available as a consequence of the tax claim, pursuant to which the third party may be obliged to surrender property or otherwise contribute to the funds or property of the taxpayer)
- The information in the request and in the attached documents is correct.

Dated:

.....

^name of competent authority^

Competent authority

XXXX



## ATTACHMENT D REVENUE CLAIM

### Documentation and/or evidence requirements

A request for assistance in tax collection or conservancy requires sufficient information to be provided to the requested State to enable collection or conservancy action to be taken. We require as much of the following information as you are able to provide:

Personal identification of the debtor

- **Name of entity (including natural persons).**
- **Known aliases.**
- **Date of birth.**
- **Last known address in country of origin and current address (may be more than one-detail evidence supporting knowledge of address, if available)**
- If an entity other than a natural person list, the names of partners, directors, etc.
- Gender.
- Name of spouse or de-facto spouse.
- If a trading entity, the address of the business operation/s and the date and place of incorporation, if applicable.
- Email addresses of the entity.
- Telephone numbers of the entity (including mobile phones and faxes).
- Names of dependants, if known.
- Tax identification numbers.
- Name and address of employer, if relevant.

Revenue claim

- **Debt amount including component debt amounts of the revenue claim** (Conversion date of balance outstanding to currency of the applicant State should share the same date as the date of the claim).
- **Type of debt** (tax, interest, administrative penalties, costs of collection or conservancy, etc).
- **Tax period.**
- **Date of assessment.**
- **Date when the claim became enforceable or executable.**
- Any time limitations specified in law for collecting this debt.
- Whether there are any restrictions on collection of this type of debt e.g. what assets can not be pursued.
- A certified or notarised copy of the instrument permitting enforcement in the applicant State accompanied by an official translation (if a translation is necessary).
- Extent to which the applicant State considers the revenue claim is contested.
- Whether conservancy or collection action is being undertaken in respect of this debt in any other jurisdiction.

Debt context

- Progress on collection.
- Known assets (show locations and other identifying details where possible).
- Known sources of income (including any known details of the entities business activities and if relevant occupation).
- Any other matters that are considered relevant to collection or conservancy, eg, illegal activities.

Note that if a prior revenue claim has been made with respect to the same entity and collection action is still in progress in the requested State then less information is required.

If requesting conservancy, in particular:

- **A declaration that the applicant State can take conservancy measures in respect of that debt.**
- **Provide evidence that all possible reasonable measures of conservancy have been taken in the requesting State.**
- **Provide evidence reflecting on the likelihood that the debtor's assets without conservancy action will be dissipated.**
- **The stage in the assessment or collection process that the relevant debt has reached.**
- **How and in what respects conservancy relates to assets, including 'claims and expectancies', of the taxpayer against whom the tax claim applies or relates to a third party against whom process is available as a consequence of the tax claim, pursuant to which the third party may be obliged to surrender property or otherwise contribute to the funds or property of the taxpayer.**

Administrative matters



- 
- Name, phone number, fax number and e-mail address of the tax officials who may be contacted, if needed.
  - Reference/copy of instrument which can serve as authorisation for the actions of enforcement by the requested State.
  - If a previous request for assistance in collection has been made with respect to the debtor, sufficient details of date or earlier request/s and taxes covered that would enable the requested State to identify any earlier requests.
  - International payment code (IBAN code).