

4 (1997) Nr. 4

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2005 Nr. 268

A. TITEL

*Protocol tot wijziging van het Verdrag tussen het Koninkrijk der Nederlanden en de Republiek Estland tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belasting met betrekking tot belastingen naar het inkomen en naar het vermogen, met Protocol, gesloten te Tallin op 14 maart 1997;
Tallin, 14 juli 2005*

B. TEKST

De tekst van het Verdrag, met Protocol, is geplaatst in *Trb.* 1997, 98.
Zie voor een correctie ook *Trb.* 1997, 262.

Op 14 juli 2005 is een wijzigingsprotocol tot stand gekomen. De tekst van het Protocol luidt als volgt:

Protocol

Amending the Convention between the Kingdom of the Netherlands and the Republic of Estonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, with Protocol, signed at Tallinn on March 14, 1997

The Government of the Kingdom of the Netherlands and the Government of the Republic of Estonia, desiring to amend the Convention between the Kingdom of the Netherlands and the Republic of Estonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, with Protocol, signed at Tallinn on March 14, 1997 (hereinafter referred to as "the Convention"),

have agreed as follows:

Article 1

Paragraph 2 of Article 3 of the Convention, shall be replaced by the following:

“2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.”

Article 2

The period at the end of subparagraph d of paragraph 3 of Article 11 of the Convention shall be replaced by a semicolon, and a new subparagraph is added:

“e) interest arising in a Contracting State on a loan of whatever kind granted to an enterprise of that State by a bank of the other Contracting State shall be taxable only in that other State.”

Article 3

Paragraph 4 of Article 24 of the Convention shall be replaced by the following:

“4. In Estonia double taxation shall be avoided as follows:

a) Where a resident of Estonia derives income which, in accordance with the provisions of this Convention, may be taxed in the Netherlands, Estonia shall, subject to the provisions of sub-paragraphs b) and c) exempt such income from tax.

b) Where a resident of Estonia derives income or owns capital which in accordance with the provisions of:

- (i) subparagraph b) of paragraph 2 of Article 10; or
- (ii) paragraph 2 of Articles 11 or 12; or
- (iii) paragraphs 1 or 2 of Article 23

may be taxed in the Netherlands, Estonia shall allow as a deduction from the tax on the income or capital of that resident an amount equal to the tax paid in the Netherlands. Such deduction in either case shall not, however, exceed the part of the income or capital tax in Estonia as computed before the deduction is given, which is attributable to the income or the capital which may be taxed in the Netherlands.

c) Where in accordance with any provision of the Convention income derived by a resident of Estonia is exempt from tax in Estonia, Estonia may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

For the purposes of this paragraph, the taxes referred to in paragraphs 3(a) and 4 of Article 2, other than the capital tax, shall be considered taxes on income.”

Article 4

In paragraph 5 of Article 27 of the Convention, the words “the competent authority of the other Contracting State agrees and” in the first sentence shall be deleted.

Article 5

Article IX of the Protocol to the Convention shall be deleted.

Article 6

This Protocol shall enter into force on the thirtieth day after the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect for taxable years and periods beginning on or after 1 January 2005.

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

DONE at Tallinn this 14th day of July 2005, in duplicate, in the English language.

For the Government of the Kingdom of the Netherlands

MRS. J. M. P. F. VAN VLIET

For the Government of the Republic of Estonia

MR. AIVAR SÖERD

C. VERTALING

Zie *Trb.* 1997, 262.

D. PARLEMENT

Zie *Trb.* 1998, 245.

Het Protocol behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Protocol kan worden gebonden.

G. INWERKINGTREDING

Zie *Trb.* 1998, 245.

De bepalingen van het Protocol zullen ingevolge artikel 6 in werking treden op de dertigste dag na de laatste van de data waarop de beide Regeringen elkaar schriftelijk hebben medegedeeld dat de constitutieel vereiste formaliteiten in hun staten zijn vervuld.

J. VERWIJZING

Op 25 november 1998 is het Verdrag geregistreerd bij het Secretariaat van de Verenigde Naties onder nr. 3537.

Uitgegeven de *zesentwintigste september 2005*.

De Minister van Buitenlandse Zaken,

B. R. BOT