

**AGREEMENT BETWEEN THE COMPETENT AUTHORITIES OF ESTONIA AND
BELGIUM CONCERNING MUTUAL ADMINISTRATIVE ASSISTANCE
WITH RESPECT TO TAXES ON INCOME**

On the basis of

- the Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums as amended (hereinafter referred to as "the Directive"), and
- article 25 of the Convention between the Republic of Estonia and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed on 5 November 1999, (hereinafter referred to as "the Convention"),

and having regard to the desire of both authorities to increase mutual assistance, the competent authorities of Estonia and Belgium agree on the following provisions concerning:

- exchange of information,
- simultaneous tax examinations,
- the presence of tax officials of one State in the territory of the other State.

I. AUTOMATIC EXCHANGE OF INFORMATION

The competent authorities shall regularly exchange the information available to them under domestic laws and practices without prior request in respect of:

1. income from immovable property as referred to in Article 6 of the Convention;
2. business profits as referred to in Article 7 of the Convention;
3. capital gains as referred to in Article 13 of the Convention;
4. salaries, wages and other similar remuneration in respect of an employment as referred to in Article 15 of the Convention;
5. directors' fees and other similar payments as referred to in Article 16 of the Convention;
6. income of artistes and sportsmen referred to in Article 17 of the Convention;
7. pensions and other similar remuneration as referred to in Article 18 of the Convention;
8. salaries, wages and other similar remuneration paid by a State or a political subdivision or a local authority thereof as referred to in Article 19 of the Convention;
9. other income as referred to in Article 21 of the Convention.

The information referred to in this section shall, as possible, be delivered according to the OECD *Standard Magnetic Format* for automatic exchange, or any further updated format recommended by the bodies of the Organisation for Economic Co-operation and Development (OECD) or the European Communities. This information includes, if possible, the Taxpayer Identification Number (TIN) of non-resident taxpayers that is attributed to them by their State of residence.

Information with respect to a certain calendar year or period shall be transmitted as soon as possible after the end of that year or period.

II. SPONTANEOUS EXCHANGE OF INFORMATION

The competent authority of one State shall, without prior request, forward the information referred to in Article 1, § 1 of the Directive and Article 25 of the Convention that its tax administration has identified to the competent authority of the other State. This spontaneous exchange concerns in particular, but is not limited to:

1. transfers of the residence of a person from one State to the other State;
2. the assessment notices or calculation notes with respect to income tax levied by one State on individuals who are residents of that State and who derive in the other State income which is taxable in that other State;
3. situations referred to in article 4, § 1 of the Directive;
4. commissions and other similar payments paid to individuals or legal persons.

III. EXCHANGE OF INFORMATION ON REQUEST

The competent authorities commit themselves to apply their powers and authorities in the most liberal fashion possible in implementing the Directive and Article 25 of the Convention. In order to effect this commitment in connection with requests for information, the competent authorities intend to apply the following principles:

1. Regular domestic sources of information should be exhausted before requesting assistance.
2. Requests should prima facie meet the requirements of the Directive and Article 25 of the Convention.
3. The competent authority of the requested State should seek to provide the information within:
 - 2 months of receipt of the request if the information is available in the tax files; or
 - 6 months of receipt of the request if an investigation and/or contact with third parties is necessary; or
 - any other time limit agreed by the competent authorities with respect to a particular case.
4. The competent authority of the requested State should regularly follow up with the functional office in an effort to remove any obstacles that might inhibit a timely gathering and return of the requested information within the time frames of paragraph 3 above.
5. The objective of the competent authorities is to respond to the requests for information within 6 months of receipt.

6. If the requested competent authority will be unable to provide the information within a period of 6 months it should inform the competent authority of the other State and explain the reasons for not being able to provide the information within the agreed period, no later than 5 months after receipt of the request.
7. Both competent authorities agree that there could be special cases when it is necessary to receive information earlier than in a six months' period as otherwise the investigation would be inefficient. The factors considered in determining whether a case is to be selected shall primarily be, but shall not be limited to:
 - indication of tax evasion,
 - indication of tax fraud,
 - indication of substantial non-compliance with the tax laws,
 - cases where the information provided by taxpayers is doubtful.

The requesting authority should provide a more detailed explanation of the special case and all arguments that such request is urgent. The competent authority shall make the reference at the request as "URGENT" if the special categories of cases exist.

IV. THE PRESENCE OF TAX OFFICIALS OF ONE STATE IN THE TERRITORY OF THE OTHER STATE

Subject to the following provisions tax administration officials of one State may be present in the territory of the other State in order to obtain any information, which is useful for determining the tax on income of one or both States.

1. A request to allow tax officials of one State to be present during an examination on the territory of the other State should be submitted in special cases. This includes in particular:
 - A. cases in which there are indications of significant cross-border irregularities or fraud in one or both States;
 - B. complex cases which make the presence of the tax officials desirable;
 - C. cases where there is a risk of the time limit being exceeded, and where the presence of the tax officials can accelerate the examination;
 - D. common examinations in the framework of bilateral or multilateral examinations.
2. The competent authorities may allow the presence of tax officials of one State in the territory of the other State in cases other than those referred to in point 1 above.
3. On the basis of reciprocity a State shall allow in similar cases the presence of tax officials of the other State in its territory.

4. The request for the presence of tax officials of a State in the territory of the other State shall be well-reasoned, shall be submitted in writing and shall relate to a particular examination. It shall indicate the steps that the requesting State has taken to obtain the required information.

The competent authority of the requested State shall make a decision at the latest within three months as from the date the request is received. In urgent cases which have to be well reasoned, a decision shall be made within one month.

If the request is granted, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the requesting State of the time and place of the examination and of the identity of the authority or tax official designated to carry out the examination.

5. The examination shall be carried out by tax officials from the requested State. The visiting officials shall be authorised to be present during those parts of the examination which may be interesting for the examination of the requesting State. The visiting officials shall comply with the legislation of the requested State.
6. The visiting officials may inspect, upon request, accounts, documents and other data and information carriers which may be interesting in the framework of the examination. Subject to the provisions of the legislation of the State in the territory of which the examination takes place, the visiting officials shall obtain, upon request, a copy and/or photocopy of the above-mentioned data and information.

The requesting State may not use the data and information obtained on the occasion of the examination which is carried out in the other State before it has been provided through the competent authorities.

7. Tax officials of a State who are to be present in the territory of the other State shall be explicitly designated for that purpose in writing and shall carry an official authorisation showing that they are acting on behalf of their State. In any case the officials have to be able to prove that they are State officials by means of a commission or any other attest delivered by the office to which they belong.

V. SIMULTANEOUS TAX EXAMINATIONS

1. Definition

For the purpose of this Agreement the term “simultaneous tax examination” means an examination carried out according to an agreement of both participating States to examine simultaneously and independently, each on its own territory, the tax affairs of one or more taxpayer(s) in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

Any exchange of information resulting from such simultaneous examination, either on request or spontaneous, shall be made through the competent authorities.

2. Objectives

The purposes of simultaneous tax examination are inter alia:

A. *to determine a taxpayer's correct liability in cases where:*

- a) costs are shared or charged and profits are allocated between taxpayers in different taxing jurisdictions or more generally in cases where transfer pricing issues are involved ;
- b) apparent tax avoidance or tax evasion techniques or patterns involving substance versus form transactions, controlled financing schemes, price manipulations, cost allocations or tax shelters are identified ;
- c) unreported income, money laundering and corruption practices, kickbacks, bribes, or other illegal payments, etc. are identified ;
- d) transactions with tax havens or tax avoidance or evasion schemes involving tax havens are identified ;

B. *to facilitate the exchange of information on:*

- a) multinational business practices, complex transactions, tax examination issues and non-compliance trends that may be particular to an industry or a group of industries ;
- b) cost sharing arrangements ;
- c) profit allocation methods in special fields such as global trading and new financial instruments.

In no case shall a simultaneous tax examination be a substitute for the mutual agreement procedure provided for in Article 24 of the Convention.

3. Criteria for case selection and examination procedure

The competent authorities of both States shall determine the criteria and the procedures for the selection of cases which could be simultaneously examined as well as the procedure to be followed for such examination.

4. Personnel

The examinations shall be conducted separately within the framework of national law and practice by tax administration officials of each State applying the available exchange of information provisions. There shall be no interchange of personnel but the presence in one State of tax officials who are representatives of the competent authorities of the other State may be justified for the efficiency of the examination.

VI. MISCELLANEOUS PROVISIONS

1. The competent authorities agree that reciprocity is a fundamental aspect of mutual assistance and commit themselves to keep a spirit of collaboration in the exchange of information which is the object of the Directive and of Article 25 of the Convention, in order to ensure an application which is in accordance with the principle of reciprocity.
2. The provisions of the Convention and of the Directive concerning secrecy and the limits to the exchange of information shall apply.
3. If information provided by a State is found to be incorrect or incomplete by the competent authorities of the sending State, these competent authorities have to contact the competent authorities of the other State on this subject as soon as possible.
4. Feedback should be given by the competent authorities of the State that received the information:
 - each time this seems relevant for the State that sent the information , and
 - each time the information is found to be incorrect by the competent authorities of the receiving State.
5. Unless otherwise agreed by the competent authorities, ordinary costs incurred in providing assistance shall be borne by the requested State. Extraordinary costs shall be borne by the applicant State, according to prior agreement by the competent authorities of both States.
6. Requests of information, answers thereto as well as cover letters to information exchanged spontaneously shall be drawn up in English or in any other language agreed bilaterally between the competent authorities of the States.
7. The competent authorities of both States authorize, in accordance with Article 7, § 3 of the Directive, the information provided by the competent authorities of one State to be used by the competent authorities of the other State in accordance with the legislation of that other State for purposes other than those mentioned in Article 7, § 1 of the Directive, if, under the legislation of the informing State, the information could, in similar circumstances, be used in this State for similar purposes. The competent authorities shall inform each other of their respective legislation in this matter.
8. The competent authorities shall consult each other whenever necessary to facilitate the carrying out of the obligations under this Agreement and to discuss possible developments.
9. This Agreement shall enter into force on the date of its signature by the competent authorities of both States. It may be modified at any time by written agreement between such competent authorities.

10. This Agreement is concluded for an indefinite period of time. It may be terminated by written notification by the competent authorities of either State and shall cease to be operative six months after such notice has been given.
11. For the application of this Agreement the competent authorities are:

In Belgium:

a) Exchange of information - automatic, spontaneous and on request - and simultaneous tax examinations

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| Administration de la fiscalité des Entreprises et des revenus (AFER) Direction III/1 North Galaxy - Tour A Bd. du Roi Albert II, 33 bte 25 1030 BRUXELLES | Administratie van de ondernemings- en inkomensfiscaliteit (AOIF) Directie III/1 North Galaxy - Toren A Koning Albert II-laan 33 bus 25 1030 BRUSSEL |
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For urgent matters and acknowledgement of receipt, please contact:
directtaxeca@minfin.fed.be

b) The presence of Estonian tax officials in the Belgian territory

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| Administration des Affaires fiscales (AAF) Deputy Administrator general North Galaxy - Tour A Bd. du Roi Albert II, 33 bte 22 1030 BRUXELLES | Administratie van fiscale zaken (AFZ) Deputy Administrator general North Galaxy - Toren A Koning Albert II-laan 33, bus 22 1030 BRUSSEL |
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c) Cases concerning tax evasion

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| Administration de l'Inspection spéciale des impôts (ISI) Service I North Galaxy - Tour A Bd. du Roi Albert II, 33 bte 48 1030 BRUXELLES | Administratie van de bijzondere belastinginspectie (BBI) Dienst I North Galaxy - Toren A Koning Albert II-laan 33, bus 48 1030 BRUSSEL |
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ISI/BBI is entitled to address requests for information to the Estonian competent authority, to receive the answers relating to such requests and to spontaneously supply information.

However, requests for information and spontaneous or automatic supply of information from the Estonian competent authority have to be addressed to the AFER/AOIF which will send them, if the case may be, to the Administration of special Inspection of Taxes (ISI/BBI).

In the Republic of Estonia:

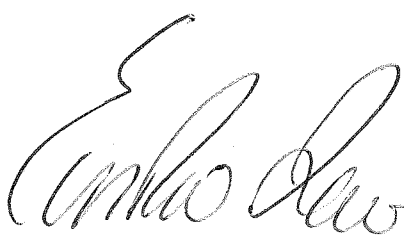
Estonian Tax and Customs Board
Narva Road 9J
15176 TALLINN

The competent authorities shall inform each other on a regular basis of the contact persons to which the information shall be provided.

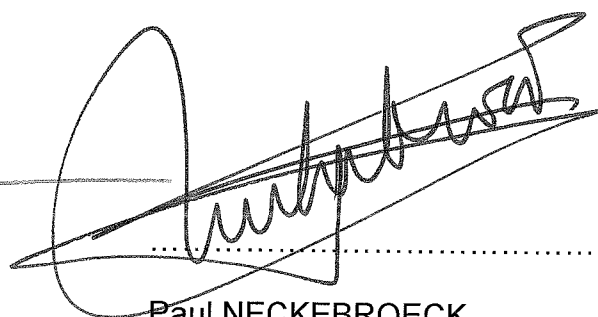
Done in duplicate in the English language. Signed by written procedure.

For the Minister of Finance of the
Republic of Estonia,
Estonian Tax and Customs Board

For the Administration of Fiscal Affairs
of the Belgian Federal Public Service Finance



Enriko Aav
Director General



Paul NECKEBROECK
Deputy Administrator general

In Tallinn, on 22.04.08

In Brussels, on 21.03.08