

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE ESTONIAN TAX AND CUSTOMS BOARD AND
THE DIRECTORATE-GENERAL OF THE TAX AND CUSTOMS
ADMINISTRATION OF THE NETHERLANDS FOR THE STREAMLINING AND
INTENSIFICATION OF MUTUAL ASSISTANCE IN TAX MATTERS**

The Estonian Tax and Customs Board and the Directorate-General of the Tax and Customs Administration of the Netherlands

Further to the provisions of Council Directive No 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums (hereinafter referred to as "Directive 77/799/EEC"),

And 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 in respect of taxes on income and on capital of 14 March 1997 (hereinafter referred to as "the Convention") including paragraph XIII of the protocol being an integral part of the Convention,

And both States having the desire to improve and intensify mutual assistance between the Republic of Estonia and the Kingdom of the Netherlands,

Have come to the following understanding:

CHAPTER I. COMPETENT AUTHORITIES

Paragraph I.1

For the application of this Memorandum of Understanding the competent authorities are:

In the Republic of Estonia:

Estonian Tax and Customs Board
Narva mnt 9j
15176 Tallinn
Estonia

In the Netherlands:

The Fiscal Information and Investigation Service/Economic Investigation Service,
Belastingdienst/FIOD-ECD/Haarlem/Internationaal,
Postbus 1603,
2003 BR Haarlem
The Netherlands

CHAPTER II. TAXES COVERED

This Memorandum of Understanding shall apply to the taxes listed in Article 2, paragraph 3, of the Convention and in Article 1 of Directive 77/799/EEC, excluding insurance premiums.

CHAPTER III. THE PRESENCE OF TAX OFFICIALS OF ONE STATE IN THE TERRITORY OF THE OTHER STATE

GENERAL PROVISIONS

Paragraph III.1

This Chapter is based on Article 6 of Directive 77/799/EEC and Article 28 and 30 of the Convention.

Paragraph III.2

A request to allow tax officials of one State to be present during an examination on the territory of the other State would be submitted in special cases. This includes in particular:

- a. cases in which there are indications of cross-border irregularities or tax evasion;
- 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. examinations in the framework of an agreed bilateral or multilateral examination, including simultaneous tax examinations.

Paragraph III.3

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 described in Paragraph III.2.

Paragraph III.4

Where a request is granted, it is on the understanding that the requesting State would admit tax officials from the requested State in similar circumstances.

CONDITIONS FOR SUBMITTING A REQUEST

Paragraph III.5

A request for the presence of tax officials will be submitted in writing by the competent authority of the requesting State and will form part of a request for information. The competent authority of the requested State will make a decision with respect to the request as soon as possible and in any event within three months after receiving the request. The requested State may reject the request only after consultation with the requesting State and will indicate the reasons for such a decision.

Paragraph III.6

The request will explain why the presence of tax officials is necessary and will give a short description of the case.

THE EXAMINATION AND THE PROVISION OF INFORMATION

Paragraph III.7

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

Paragraph III.8

The examination will be carried out only by tax officials from the requested State. The visiting tax officials will be authorised to be present at an examination carried out according to the request for information. The visiting officials will comply with the legislation of the requested State.

Paragraph III.9

The visiting tax officials may be present only during those parts of the examination in the requested State, which are or may be relevant to the examination in the requesting State.

Paragraph III.10

The visiting tax officials may not make any decision on questions regarding the examination in the requested State, but they may put forward suggestions concerning such questions to the authority or officials designated to carry out the examination. Any decision regarding such a suggestion will be made by the authority or officials of the requested State.

Paragraph III.11

The information gathered during the examination has to be exchanged by the competent authorities in accordance with the exchange of information provisions of Articles 28 and 30 of the Convention.

CHAPTER IV. THE AUTOMATIC EXCHANGE OF INFORMATION AND THE INTENSIFICATION OF SPONTANEOUS EXCHANGE OF INFORMATION

GENERAL PROVISIONS

Paragraph IV.1

The competent authorities will automatically provide each other with the information available as listed in Paragraph IV.2 on the basis of Articles 3 and 9 of Directive 77/799/EEC and Articles 28 and 30 of the Convention.

The competent authorities will intensify the spontaneous exchange of information as mentioned in Paragraph IV.3 on the basis of Articles 4 and 9 of Directive 77/799/EEC, and Articles 28 and 30 of the Convention.

A: AUTOMATIC EXCHANGE OF INFORMATION

Paragraph IV.2

The competent authorities will automatically provide each other with information on the following income and/or data:

- a. the income from and possession of immovable property as referred to in Article 6, paragraph 2, of the Convention;
- b. royalties as referred to in Article 12 of the Convention;

- c. income from independent personal services or other activities of an independent character as defined in Article 14 of the Convention;
- d. income consisting of salaries, wages and other similar remuneration as referred to in Articles 15, 19 and 25, paragraph 6, of the Convention;
- e. directors' fees and other payments as referred to in Article 16 of the Convention;
- f. income of artistes and sportsmen as referred to in Article 17 of the Convention; and
- g. pensions, other similar remuneration, annuities and social security payments as referred to in Articles 18 and 19 of the Convention..

B: INTENSIFICATION OF SPONTANEOUS EXCHANGE OF INFORMATION

Paragraph IV.3

In the framework of this chapter it is also agreed that the spontaneous exchange of information for direct taxes will be intensified. This applies especially in the case of

- a. a change of identification data, such as address – including seat or head office of companies – when a person moves from one of the States to the other;
- b. commissions, fees, brokers' fees and other remunerations paid to individuals or companies of the other State.

CONDITIONS FOR THE EXCHANGE OF INFORMATION

Paragraph IV.4

If the information provided is found to be incorrect or incomplete, the competent authority shall make this known to the other State as soon as possible. The same will apply to technical problems or difficulties in converting the data provided.

Paragraph IV. 5

The information referred to in Paragraph IV.2 will be provided periodically as soon as possible and preferably by the end of each calendar year following the year when the income came up.

Paragraph IV.6

The information referred to in Paragraph IV.2 will be provided electronically in the OECD Standard Magnetic Format (latest version), where possible, or in paper format. The information to be exchanged will also include Tax Identification Numbers in case of the Netherlands and personal identification codes or registration numbers in case of Estonia and dates of birth, if available.

Paragraph IV.7

The competent authorities of the contracting states shall for the purposes of processing data and identification of taxpayers provide each other with name, personal ID code (or date of birth, in case ID code is not available) and also address (if available) of natural persons in question.

CHAPTER V. TERMS AND CONDITIONS

Paragraph V.1

The provisions of Directive 77/799/EEC and the Convention shall apply with respect to secrecy and the limits to the exchange of information.

Paragraph V.2

Requests for assistance and the information to be exchanged will be forwarded from the competent authorities of the requesting State to the competent authorities of the requested State.

Paragraph V.3

Requests for assistance will be answered by the requested State, where possible, within three months. If a request cannot be answered or complied with within the said time limit, the requesting State will be informed thereof before the time limit expires.

Paragraph V.4

Requests for assistance will be drawn up in English or in the language of the requested State, followed by a version in English. In urgent cases any part or the whole text of a request may be drafted in the language of the requesting State following consultation between the competent authorities.

CHAPTER VI. APPLICATION AND TITLE

Paragraph VI.1

This Memorandum of Understanding will come into effect on the date of its signature by the signatories of the Estonian Tax and Customs Board and the Directorate-General of the Tax and Customs Administration of the Netherlands, whichever is later. Chapter IV will apply to information from the 2004 calendar year onwards.
The States will make any required announcement of this Memorandum of Understanding.

Paragraph VI.2

The signatories decide to meet in order to review this Memorandum of Understanding at the end of three years from the date of its coming into effect, unless they notify one another in writing that no review is necessary. However, at any time questions concerning revision may be taken up at the request of one of the signatories.

Paragraph VI.3

This Memorandum of Understanding may be terminated at any time by written notification by either signatory and will cease to be operative six months after such notice has been received. In no case this Memorandum of Understanding will remain in force any longer than the Convention.

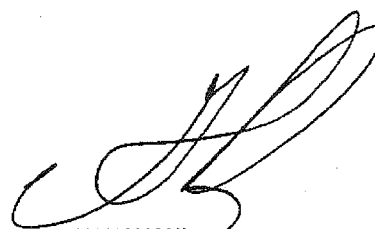
Paragraph VI.4

This Memorandum of Understanding may be cited as the "Memorandum of Understanding between Estonia and the Netherlands for the streamlining and intensification of mutual assistance in tax matters".

Signed in duplicate in the English language:

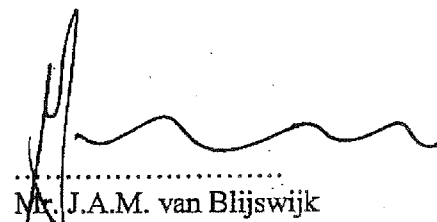
The Hague, 13 October 2004,

For the Estonian Tax and Customs Board:



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Mr. M. Helm

For the Directorate-General of the
Tax and Customs Administration of the Netherlands:



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Mr. J.A.M. van Blijswijk