

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2012 Nr. 216

A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de
Tsjechooslowaakse Socialistische Republiek 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)
Praag, 4 maart 1974*

B. TEKST

De Engelse en de Nederlandse tekst van de Overeenkomst, met Protocol, zijn geplaatst in *Trb.* 1974, 98.

De Engelse en de Nederlandse tekst van het wijzigingsprotocol van 16 februari 1996 zijn geplaatst in *Trb.* 1996, 90.

De Engelse en de Nederlandse tekst van het Protocol van 26 juni 1996 tot nadere wijziging van de Overeenkomst zijn geplaatst in *Trb.* 1996, 209.

De Engelse en de Nederlandse tekst van het Protocol van 7 juni 2010 tot nadere wijziging van de Overeenkomst zijn geplaatst in *Trb.* 2010, 202.

Op 15 oktober 2012 is te Praag een Protocol tot nadere wijziging van de Overeenkomst, met Protocol, tot stand gekomen. De Engelse tekst van het Protocol luidt als volgt:

Protocol amending the Convention between the Kingdom of the Netherlands and the Czechoslovak Socialist Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital

The Kingdom of the Netherlands
and
the Czech Republic,

Desiring to conclude a Protocol to amend the Convention between the Kingdom of the Netherlands and the Czechoslovak Socialist Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed at Prague on March 4, 1974, of which the Protocol signed at Prague on March 4, 1974 and the Protocol signed at Prague on June 26, 1996, form integral parts (in this Protocol referred to as “the Convention”),

Have agreed as follows:

Article 1

The provisions of Article 19 of the Convention shall be modified by replacing the phrase “paragraph 1 of Article 20” by the phrase “paragraph 2 of Article 20”.

Article 2

Article 20 of the Convention shall be replaced by the following Article:

“Article 20

Government service

1. a) Salaries, wages and other similar remuneration paid by one of the States or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority may be taxed in that State.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, one of

the States or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority may be taxed in that State.

b) However, such pensions and other similar remuneration shall be taxable only in the other State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 16, 17 and 19 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a State or a political subdivision or a local authority thereof.”

Article 3

1. The provisions of paragraph 2 of section A of Article 25 of the Convention shall be amended by replacing the phrase “Article 20” by the phrase “subparagraphs a) of paragraphs 1 and 2 of Article 20”.

2. The provisions of paragraphs 1, 2 and 3 of section B of Article 25 of the Convention shall be replaced by the following two paragraphs:

“1. Subject to the provisions of the domestic laws regarding the elimination of double taxation, the items of income or of capital which according to the provisions of this Convention may also be taxed in the Netherlands may be included, when imposing taxes on residents, in the tax base upon which such taxes are imposed, but it is allowed to deduct from the amount of tax computed on such a base an amount equal to the tax paid in the Netherlands. Such deduction shall not, however, exceed that part of the domestic tax, as computed before the deduction is given, which is appropriate to the income or capital which, in accordance with the provisions of this Convention, may be taxed in the Netherlands.

2. Where in accordance with any provision of the Convention income derived or capital owned by a resident is exempt from tax here, the exempted income or capital may nevertheless be taken into account here in calculating the amount of tax on the remaining income or capital of such resident.”

Article 4

Clause IV of the Protocol signed at Prague on March 4, 1974 shall be annulled and Article 28 of the Convention shall be replaced by the following Article:

“Article 28

Exchange of information

1. The competent authorities of the States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of the previous paragraphs be construed so as to impose on a State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a State in accordance with this Article, the other State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

Article 5

This Protocol, which shall form an integral part of the Convention, shall enter into force on the last day of the month after the later 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, in relations between the Czech Republic and the Kingdom of the Netherlands, for taxable years and periods beginning on or after the first day of January in the calendar year next following that in which the Protocol has entered into force.

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

DONE in duplicate at Prague this 15th day of October 2012, in the English language.

For the Kingdom of the Netherlands,

HOEKS

For the Czech Republic,

M. KALOUSEK

D. PARLEMENT

Zie *Trb.* 1974, 207 en *Trb.* 2011, 12.

Het Protocol van 15 oktober 2012 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.* 1974, 207, *Trb.* 1995, 34 en *Trb.* 2011, 12.

De bepalingen van het Protocol van 15 oktober 2012 zullen ingevolge artikel 5 in werking treden op de laatste dag van de maand na de laatste

van de data waarop de Nederlandse en de Tsjechische regering elkaar schriftelijk hebben medegedeeld dat de in hun onderscheiden staten grondwettelijk vereiste formaliteiten zijn vervuld.

J. VERWIJZINGEN

Zie voor verwijzingen en overige verdragsgegevens *Trb.* 1995, 34 en *Trb.* 1996, 357.

- Titel : Protocol tot wijziging van de Overeenkomst tussen het Koninkrijk der Nederlanden en de Tsjechoslowaakse Socialistische Republiek tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belastingen met betrekking tot belastingen naar het inkomen en naar het vermogen, met protocol;
Praag, 26 juni 1996
- Tekst : *Trb.* 1996, 209 (Engels en Nederlands)
- Laatst *Trb.* : *Trb.* 1997, 81

Uitgegeven de tweeëntwintigste november 2012.

De Minister van Buitenlandse Zaken,

F. C. G. M. TIMMERMANS