

Agreement
between
the Government of the Hellenic Republic
and
the States of Guernsey
for the Exchange of Information
relating to Tax Matters

WHEREAS the Government of the Hellenic Republic and the States of Guernsey (“the Parties”) recognise that legislation of both countries already provides for cooperation and the exchange of information in tax matters;

WHEREAS it is acknowledged that the States of Guernsey has the right, under the terms of the Entrustment from the United Kingdom, to negotiate, conclude, perform and subject to the terms of this Agreement terminate a tax information exchange agreement with the Government of the Hellenic Republic

WHEREAS both Parties wish to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes;

NOW, therefore, the Parties have agreed to conclude the following Agreement which contains obligations on the part of the Parties only:

Article 1
Object and Scope of the Agreement

The competent authorities of the Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Parties concerning taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, verification or collection of such taxes, the recovery and enforcement of tax claims, or the investigation of tax matters or the prosecution of criminal tax matters. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable. The requested Party shall use its best endeavours to ensure that the effective exchange of information is not unduly prevented or delayed.

Article 2
Jurisdiction

(1) To enable the provisions of this Agreement to be implemented, information shall be provided in accordance with this Agreement by the competent authority of the requested Party without regard to whether the person to whom the information relates is, or whether the information is held by, a resident, national or citizen of a Party.

(2) A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession of nor obtainable by persons who are within its territorial jurisdiction.

Article 3
Taxes Covered

(1) The taxes which are the subject of this Agreement are:

a) in the case of the Hellenic Republic:

- (i) the income tax,
- (ii) the capital tax,
- (iii) the inheritance tax,
- (iv) the transfer tax,
- (v) the value added tax, and
- (vi) excise duties.

b) in the case of Guernsey:

- (i) income tax, and
- (ii) dwellings profits tax.

(2) This Agreement shall apply also to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes or any substantially similar taxes if the Parties so agree. The competent authority of each Party shall notify the other of any substantial changes to the taxation and related information gathering measures which may affect matters covered by this Agreement.

Article 4

Definitions

(1) For the purposes of this Agreement:

- a) "Hellenic Republic" comprises the territory of the Hellenic Republic and the part of the seabed and its subsoil under the Mediterranean Sea, over which the Hellenic Republic has sovereign rights in accordance with international law for the purpose of exploration, extraction or exploitation of the natural resources of such areas;

- b) "Guernsey" means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;
- c) "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. The term "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed "by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;
- d) "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) "competent authority" means:
 - (i) in the case of the Hellenic Republic the Minister of Finance or his authorised representative,
 - (ii) in the case of Guernsey, the Director of Income Tax or his authorised representative;
- f) "criminal laws" means all criminal laws designated as such under the domestic law of the Parties irrespective of whether such are contained in the tax laws, the criminal code or other statutes;
- g) "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this Agreement which is liable to prosecution under the criminal laws of the requesting Party;

- h) "information" means any fact, statement, document or record in any form whatever;
- i) "information gathering measures" means laws and administrative or judicial procedures that enable a requested Party to obtain and provide the requested information;
- j) "person" includes an individual, a company and any other body or group of persons;
- k) "principal class of shares" means the class or classes of shares representing a majority of the voting power or contribution to the capital and value of the company;
- l) "publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
- m) "recognized stock exchange" means any stock exchange agreed by the competent authorities of the Parties;
- n) "requested Party" means the Party to this Agreement which is requested to provide or has provided information in response to a request;
- o) "requesting Party" means the Party to this Agreement submitting a request for or having received information from the requested Party;
- p) "tax" means any tax to which this Agreement applies;

q) "tax matters" means all tax matters including criminal tax matters.

(2) As regards the application of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 5

Exchange of Information Upon Request

(1) The competent authority of the requested Party shall provide upon request by the requesting Party information for the purposes referred to in Article 1. Such information shall be provided without regard to whether the requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the requested Party if it had occurred in the territory of the requested Party. The competent authority of the requesting Party shall only make a request for information pursuant to this Article when it is unable to obtain the requested information by other means in its own territory, except where recourse to such means would give rise to disproportionate difficulty.

(2) If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, the requested Party shall use all relevant information gathering measures necessary to provide the requesting Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

(3) If specifically requested by the competent authority of the requesting Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

(4) Each Party shall ensure that it has the authority, subject to the terms of Article 1, and within the constraints of Article 2, to obtain and provide, through its competent authority and upon request:

- a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;
- b)
 - (i) information regarding the beneficial ownership of companies, partnerships and other persons, including in the case of collective investment funds and schemes, information on shares, units and other interests,
 - (ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries,
 - (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries,

provided that this Agreement does not create an obligation for a Party to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

(5) Any request for information shall be formulated with the greatest detail possible and shall specify in writing:

- a) the identity of the person under examination or investigation;
- b) the period for which the information is requested;
- c) the nature of the information requested and the form in which the requesting Party would prefer to receive it;

- d) the tax purpose for which the information is sought;
 - e) the reasons for believing that the information requested is foreseeably relevant to the administration and enforcement of the tax laws of the requesting Party, with respect to the person identified in subparagraph a) of this paragraph;
 - f) grounds for believing that the information requested is held in the requested Party or is in the possession of or obtainable by a person within the jurisdiction of the requested Party;
 - g) to the extent known, the name and address of any person believed to be in possession of or able to obtain the requested information;
 - h) a statement that the request is in conformity with the laws and administrative practices of the requesting Party, that if the requested information was within the jurisdiction of the requesting Party then the competent authority of the requesting Party would be able to obtain the information under the laws of the requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
 - i) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
- (6) The competent authority of the requested Party shall:
- a) acknowledge receipt of the request in writing to the competent authority of the requesting Party and should notify them of any deficiencies in the request within 60 days of the receipt of the request;

- b) if the competent authority of the requested Party has been unable to obtain and provide the information within 90 days of the receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall inform the requesting Party, explaining the reason(s) for its inability, the nature of the obstacles or the reasons for its refusal;
- c) provide the information no later than 6 months following the date of confirmation of receipt of the request, provided that where circumstances require, both competent authorities may agree on a longer deadline.

(7) The time conditions mentioned in this Article do not in any way impact on the validity and legality of information exchanged under this Agreement.

Article 6

Tax Examinations or Investigations Abroad

(1) The requested Party may, to the extent permitted under its domestic laws, following reasonable notice from the requesting Party, allow representatives of the competent authority of the requesting Party to enter the territory of the requested Party to interview individuals and examine records with the prior written consent of the persons concerned. The competent authority of the requesting Party shall notify the competent authority of the requested Party of the time and place of the meeting with the persons concerned.

(2) At the request of the competent authority of the requesting Party, the competent authority of the requested Party may allow representatives of the competent authority of the requesting Party to be present at the appropriate part of a tax examination in the territory of the requested Party, to the extent permitted under its domestic laws.

(3) For the purposes of this Article, the term “domestic laws” refers to laws or instruments governing entry into, or exit from, the territories of the Parties.

(4) If the request referred to in paragraph 2 is granted, the competent authority of the requested Party conducting the examination shall, as soon as possible, notify the competent authority of the requesting Party of the time and place of the examination, the authority or official authorised to carry out the examination and the procedures and conditions required by the requested Party for the conduct of the examination. All decisions regarding the conduct of the tax examination shall be made by the requested Party conducting the examination.

Article 7

Possibility of Declining a Request

- (1) The competent authority of the requested Party may decline to assist:
- a) where the request is not made in conformity with this Agreement;
 - b) where the requesting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or
 - c) where the disclosure of the information would be contrary to public policy (*ordre public*).
- (2) This Agreement shall not impose upon a requested Party any obligation:
- a) to provide items subject to legal privilege, or any trade, business, industrial, commercial or professional secret or trade process, provided that information described in paragraph 4 of Article 5 shall not by reason of that fact alone be treated as such a secret or trade process; or

b) to carry out administrative measures at variance with its laws and administrative practices, provided that nothing in this subparagraph shall affect the obligations of a Party under paragraph 4 of Article 5

(3) A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

(4) The requested Party shall not be required to obtain and provide information which, if the requested information was within the jurisdiction of the requesting Party, the competent authority of the requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.

(5) The requested Party may decline a request for information if the information is requested by the requesting Party to administer or enforce a provision of the tax law of the requesting Party, or any requirement connected therewith, which discriminates against a national or a citizen of the requested Party as compared with a national or a citizen of the requesting Party in the same circumstances.

Article 8

Confidentiality

(1) All information provided and received by the competent authorities of the Parties under this Agreement shall be treated as confidential.

(2) Such information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes, including the determination of any appeal. For these purposes information may be disclosed in public court proceedings or in judicial decisions.

(3) Such information may not be used for any purpose other than for the purposes stated in Article 1 without the express written consent of the competent authority of the requested Party.

(4) Information provided to a requesting Party under this Agreement may not be disclosed to any other jurisdiction.

(5) Personal data may be transmitted to the extent necessary for carrying out the provisions of this Agreement and subject to the provisions of the law of the supplying Party.

Article 9

Costs

Unless the competent authorities of the Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested Party, and extraordinary costs in providing assistance (including costs of engaging external advisors in connection with litigation or otherwise) shall be borne by the requesting Party. the respective competent authorities shall consult from time to time with regard to this Article, and in particular the competent authority of the requested Party shall consult with the competent authority of the requesting Party in advance if the costs of providing information with respect to a specific request are expected to be significant.

Article 10

Implementing Legislation

The Parties shall enact any legislation necessary to comply with, and give effect to, the terms of this Agreement. This includes legislation relating to the availability of information, access to information and exchange of information.

Article 11
Mutual Agreement Procedure

(1) Where difficulties or doubts arise between the Parties regarding the implementation or interpretation of the Agreement, the competent authorities shall endeavour to resolve the matter by mutual agreement.

(2) In addition to the agreements referred to in paragraph 1, the competent authorities of the Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9.

(3) The Parties shall agree in writing on other forms of dispute resolution should this become necessary.

(4) Formal communications, including requests for information, made in connection with or pursuant to the provisions of this Agreement will be in writing directly to the competent authority of the other Party at such address as may be notified by one Party to the other from time to time. Any subsequent communications regarding requests for information will be either in writing or verbally, whichever is more practical, between the earlier mentioned competent authorities or their authorised representatives.

Article 12
Language

Requests for assistance and responses thereto shall be drawn up in the English language.

Article 13
Mutual Technical Assistance Procedure

If both competent authorities of the Parties consider it appropriate to do so they may agree to exchange technical know-how, develop new audit techniques, identify new areas of non-compliance, and jointly study non-compliance areas.

Article 14
Entry into Force

(1) This Agreement shall enter into force on the date of receipt of written notification by the latter Party of the completion of its necessary internal procedures for entry into force.

(2) Upon the date of entry into force, this Agreement shall have effect:

- a) for criminal tax matters, on that date; and
- b) for all other matters covered in Article 1, on that date, but only in respect of taxable periods beginning on or after that date or, where there is no taxable period, all charges to tax arising on or after that date.

Article 15
Termination

(1) This Agreement shall remain in force until terminated by a Party. Either Party may terminate this Agreement, through appropriate channels, by giving notice of termination at least six months before the end of any calendar year beginning on or after the expiration of a period of two years from the date of its entry into force.

(2) In such event, the Agreement shall cease to have effect on the first day of January in the calendar year next following that in which the notice is given.

(3) Notwithstanding any termination of this Agreement the Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate this day of 2010, in the English language.

For the Hellenic Republic

For the States of Guernsey