

GUERNSEY STATUTORY INSTRUMENT

2015 No. 24

The Income Tax
(Approved International Agreements) (Implementation)
(United Kingdom and United States of America)
(Amendment) Regulations, 2015

<i>Made</i>	<i>31st March, 2015</i>
<i>Coming into operation</i>	<i>31st March, 2015</i>
<i>Laid before the States</i>	<i>24th June, 2015</i>

THE TREASURY AND RESOURCES DEPARTMENT, in exercise of the powers conferred upon it by sections 75CC and 203A of the Income Tax (Guernsey) Law, 1975, as amended^a, and all other powers enabling it in that behalf, hereby makes the following regulations:-

Amendment of 2014 regulations.

1. The Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014^b are amended as follows.

2. After regulation 3(1) insert the following paragraph -

"(1A) The due diligence procedures are set out in the following table -

Case	Type of account	Procedure in Annex I to be	Accounts to which due
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^a Ordres en Conseil Vol. XXV, p. 124; section 75CC was inserted by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013 and section 203A was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005 (No. XVII of 2005).

^b G.S.I 2014 No. 55.

		applied	diligence procedures do not apply
Case 1A	Preexisting Individual Accounts meeting any of the descriptions of account at Paragraph A of Section II of Annex I of the U.S. or (as the case may be) the U.K. Agreement not required (if the institution so elects under regulation 4(1A)) to be reviewed, identified or reported as Reportable Accounts	Paragraphs B, C and F (in the case of the U.S. Agreement) and B and C (in the case of the U.K. Agreement) of the said Section II	Accounts in respect of which the institution has made an election under regulation 4(1A)
Case 1B	Preexisting Individual Accounts which are Lower Value Accounts within the said Section II	Paragraphs B, C and F (in the case of the U.S. Agreement) and B and C (in the case of the U.K. Agreement) of the said Section II	None
Case 1C	Preexisting Individual Accounts which are High Value Accounts within the said Section II	Paragraphs D, E and F (in the case of the U.S. Agreement) and D and E (in the case of the U.K. Agreement) of the said Section II	None
Case 2A	New Individual Accounts meeting any of the descriptions of account at paragraph A of section III of Annex I of the U.S. or (as the case may be) the U.K. Agreement not required (if the institution so elects under regulation 4(1A)) to be reviewed, identified or reported as Reportable Accounts	Paragraphs B (in the case of the U.S. Agreement) and B, C and D (in the case of the U.K. Agreement) of the said Section III	Accounts in respect of which the institution has made an election under regulation 4(1A)
Case 2B	New Individual Accounts of any other description within the said Section III	Paragraphs B (in the case of the U.S. Agreement) and B, C and D (in the case of the U.K. Agreement) of the said Section III	None
Case 3A	Preexisting Entity Accounts meeting any of the descriptions of account at paragraph A of Section IV of Annex I of the U.S. or (as the case may be) the U.K. Agreement not required (if the institution	Paragraphs B, C, D and E (in the case of the U.S. Agreement) and B, C, D and E (in the case of the U.K. Agreement) of the said Section IV	Accounts in respect of which the institution has made an election under regulation 4(1A)

	so elects under regulation 4(1A)) to be reviewed, identified or reported as Reportable Accounts		
Case 3B	Preexisting Entity Accounts of any other description within the said Section IV	Paragraphs B, C, D and E (in the case of the U.S. Agreement) and B, C, D and E (in the case of the U.K. Agreement) of the said Section IV	None
Case 4A	New Entity Accounts meeting any of the descriptions of account or facility at paragraph A of Section V of Annex I of the U.S. or (as the case may be) the U.K. Agreement not required (if the institution so elects under regulation 4(1A)) to be reviewed, identified or reported	Paragraphs B (in the case of the U.S. Agreement) and B, C and D (in the case of the U.K. Agreement) of the said Section V	Accounts in respect of which the institution has made an election under regulation 4(1A)
Case 4B	New Entity Accounts meeting of any other description within the said Section V	Paragraphs B (in the case of the U.S. Agreement) and B, C and D (in the case of the U.K. Agreement) of the said Section V	None

3. After regulation 4(1) insert the following paragraph -

"(1A) Notwithstanding the obligations under paragraph (1), the following accounts are not to be regarded as U.S. or (as the case may be) United Kingdom Reportable Accounts for a calendar year if the Reporting Guernsey Financial Institution concerned makes (and subsequently retains a copy of) a written election, in such form if any as the Director of Income Tax may require, to treat them as not being such Accounts -

- (a) Preexisting Individual Accounts meeting any of the descriptions of account not required (if the institution so elects) to be reviewed, identified or reported as Reportable Accounts at Paragraph A of Section II of Annex I of the

U.S. or (as the case may be) the U.K. Agreement,

- (b) New Individual Accounts meeting any of the descriptions of account not required (if the institution so elects) to be reviewed, identified or reported as Reportable Accounts at paragraph A of Section III of Annex I of the U.S. or (as the case may be) the U.K. Agreement,
- (c) Preexisting Entity Accounts meeting any of the descriptions of account not required (if the institution so elects) to be reviewed, identified or reported as Reportable Accounts at paragraph A of Section IV of Annex I of the U.S. or (as the case may be) the U.K. Agreement, and
- (d) New Entity Accounts meeting any of the descriptions of account or facility not required (if the institution so elects) to be reviewed, identified or reported at paragraph A of Section V of Annex I of the U.S. or (as the case may be) the U.K. Agreement,

subject in each case to the terms, conditions and provisos set out respectively in those paragraphs."

4. In item (1) of the Schedule (Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey to improve international tax compliance), in column 3, under the heading "Annex I (due diligence obligations for identifying and reporting on reportable accounts)", for subparagraphs (d), (e), (f) and (g) substitute the following -

"(d) in Section II of that Annex (Preexisting Individual Accounts),

in paragraph A (Accounts not Required to Be Reviewed, Identified or Reported) -

- (i) for the words "Unless" there is substituted "If",
 - (ii) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election to that effect, in such form if any as the Director of Income Tax may require",
 - (iii) the words "where the implementing rules in the jurisdiction provide for such an election," are omitted,
- (e) in Section III of that Annex (New Individual Accounts), in paragraph A (Accounts not Required to Be Reviewed, Identified, or Reported) -
- (i) for the word "Unless" there is substituted "If",
 - (ii) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election to that effect, in such form if any as the Director of Income Tax may require",
 - (iii) the words ", where the implementing rules in both jurisdictions provide for such an election" are omitted,
- (f) in Section IV of that Annex (Preexisting Entity Accounts), in paragraph A (Entity Accounts not Required to Be Reviewed, Identified, or Reported) -
- (i) for the word "Unless" there is substituted "If",
 - (ii) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election to that effect, in such form if any as the

Director of Income Tax may require",

- (iii) the words "where the implementing rules in the jurisdiction provide for such an election," are omitted,
- (g) in Section V of that Annex (New Entity Accounts), in paragraph A (Entity Accounts not Required to Be Reviewed, Identified or Reported) -
- (i) for the word "Unless" there is substituted "If",
 - (ii) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election to that effect, in such form if any as the Director of Income Tax may require",
 - (iii) the words "where the implementing rules in both jurisdictions provide for such election," are omitted,".

5. In item (2) of the Schedule (Agreement between the Government of the States of Guernsey and the Government of the United States of America to improve international tax compliance and to implement FATCA), in column 3, under the heading "Annex I (due diligence obligations for identifying and reporting on U.S. reportable accounts and on payments to certain nonparticipating financial institutions)", for subparagraphs (c), (d), (e) and (f) substitute the following -

- "(c) in Section II of that Annex (Preexisting Individual Accounts), in paragraph A (Accounts not Required to Be Reviewed, Identified, or Reported) -
- (i) for the word "Unless" there is substituted "If",
 - (ii) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election to that effect, in such form if any as the Director of Income Tax may require",

- (iii) the words "where the implementing rules in Guernsey provide for such an election," are omitted,
- (d) in Section III of that Annex (New Individual Accounts), in paragraph A (Accounts not Required to Be Reviewed, Identified, or Reported) -
 - (i) for the word "Unless" there is substituted "If",
 - (ii) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election to that effect, in such form if any as the Director of Income Tax may require",
 - (iii) the words "where the implementing rules in Guernsey provide for such an election," are omitted,
- (e) in Section IV of that Annex (Preexisting Entity Accounts), in paragraph A (Entity Accounts not Required to Be Reviewed, Identified or Reported) -
 - (i) for the word "Unless" there is substituted "If",
 - (ii) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election to that effect, in such form if any as the Director of Income Tax may require",
 - (iii) the words "where the implementing rules in Guernsey provide for such an election," are omitted,
- (f) in Section V of that Annex (New Entity Accounts), in paragraph A (Entity Accounts not Required to Be Reviewed, Identified or Reported) -

- (i) for the word "Unless" there is substituted "If",
- (ii) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election to that effect, in such form if any as the Director of Income Tax may require",
- (iii) the words "where the implementing rules in Guernsey provide for such election," are omitted,".

6. In item (2) of the Schedule (Agreement between the Government of the States of Guernsey and the Government of the United States of America to improve international tax compliance and to implement FATCA), in column 3, under the heading "Annex II (Exempt Beneficial Owners and Deemed-Compliant FFIs)", after subparagraph (a) insert the following subparagraph -

- "(b) in Section IV of that Annex (Investment Entities that Qualify as Deemed-Compliant FFIs and Other Special Rules) -
 - (i) in paragraph B (Sponsored Investment Entity and Controlled Foreign Corporation), in subparagraph 3.d), following the words "agrees to perform," add "and actually performs,"
 - (ii) in paragraph C (Sponsored, Closely Held Investment Vehicle), in subparagraph 5.b), following the words "agrees to perform," add "and actually performs,".

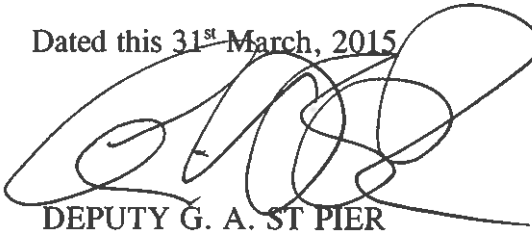
Citation.

7. These Regulations may be cited as the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) (Amendment) Regulations, 2015.

Commencement.

8. These Regulations shall come into force on the 31st March, 2015.

Dated this 31st March, 2015



DEPUTY G. A. ST PIER

Minister of the Treasury and Resources Department
For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations amend the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, which implemented and enabled the administration and enforcement in domestic law of the approved international agreements providing for the obtaining, furnishing and exchanging of information in relation to tax made between the States of Guernsey and the Governments of the United Kingdom and the United States of America, by modifying certain technical provisions as to the carrying out of due diligence and reporting of specified low value accounts.