

AGREEMENT
BETWEEN
THE GOVERNMENT OF GUERNSEY
AND
THE GOVERNMENT OF THE REPUBLIC OF BULGARIA
ON
EXCHANGE OF INFORMATION ON TAX MATTERS

WHEREAS the Government of Guernsey and the Government of the Republic of Bulgaria, wish to facilitate the exchange of information with respect to taxes;

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

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

Article 1
Object and Scope of the Agreement

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment and collection of tax with respect to persons subject to such taxes, the recovery and enforcement of tax claims, or to the investigation of tax matters or the prosecution of criminal tax matters in relation to such persons. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided for in Article 8. 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

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

Article 3 Taxes Covered

1. The existing taxes to which this Agreement apply are in particular:

- a) in Bulgaria:
 - (i) the corporate income tax;
 - (ii) the personal income tax;
 - (iii) the patent tax;
 - (iv) the value added tax.

- b) in Guernsey:
 - (i) income tax;
 - (ii) dwellings profits tax.

2. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. The taxes covered by this Agreement, may be expanded or modified by mutual agreement of the Contracting Parties in the form of an exchange of letters. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to their taxation laws and related information gathering measures which may affect their obligations under the Agreement.

Article 4 Definitions

1. For the purposes of this Agreement:

- a) the term "Bulgaria" means the Republic of Bulgaria and when used in a geographical sense means the territory and the territorial sea over which it exercises its State sovereignty, as well as the continental shelf and the exclusive economic zone over which it exercises sovereign rights and jurisdiction in conformity with international law;

- b) the term "Guernsey" means the Government of Guernsey and, when used in a geographical sense, means the islands of Guernsey, Alderney and Herm, and the territorial sea adjacent to those islands, in accordance with international law, save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm;

- c) the term "Contracting Party" means Bulgaria or Guernsey as the context requires;

- d) the term “competent authority” means:
 - (i) in the case of Bulgaria, the Minister of Finance or an authorized representative;
 - (ii) in the case of Guernsey, the Director of Income Tax or his delegate;
- e) the term “person” means an individual, a company and any other body or group of persons;
- f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- g) the term “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;
- h) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
- i) the term “recognised stock exchange” means the Channel Islands Stock Exchange, the Bulgarian Stock Exchange - Sofia and any other stock exchange agreed upon by the competent authorities of the Contracting Parties by way of exchange of letters;
- j) the term “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;
- k) the term “tax” means any tax to which the Agreement applies;
- l) the term “requesting Party” means the Contracting Party submitting a request for or having received information or assistance from the requested Party;
- m) the term “requested Party” means the Contracting Party requested to provide or which has provided information or assistance in response to a request;
- n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- o) the term “information” means any fact, statement, document or record in any form whatever;

- p) the term “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;
- q) the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether such are contained in the tax laws, the criminal code or other statutes;
- r) the term “national” means:
 - (i) in the case of Bulgaria, any individual possessing the nationality of Bulgaria and any legal person, partnership or association deriving its status as such from the laws in force in Bulgaria; and
 - (ii) in the case of Guernsey, any individual who has a place of abode in Guernsey and possesses British citizenship and any legal person, partnership or association deriving its status as such under the laws of Guernsey.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law 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 information for the purposes referred to in Article 1. Such information shall be exchanged 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 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 within 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, that Contracting 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 Contracting Party shall ensure that its competent authorities have the authority, subject to the terms of Article 1, and within the constraints of Article 2, to obtain and provide 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 ownership of companies, partnerships, foundations, and other persons, including ownership information on all such persons in an ownership chain;
 - (ii) in the case of trusts, information on settlors, trustees, protectors, enforcers, beneficiaries and the trust property;
 - (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries.

This Agreement does not create an obligation on the Contracting Parties 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 sought and the form in which the requesting Party wishes 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 tax administration and enforcement 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 present 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 law 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 the request 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 where that would give rise to disproportionate difficulties.

6. The competent authority of the requested Party shall use its best endeavours to forward the requested information to the requesting Party with the least possible delay. To ensure a prompt response, the competent authority of the requested Party shall:

- a) confirm receipt of a request in writing to the competent authority of the requesting Party and shall notify the competent authority of the requesting Party of deficiencies in the request, if any, within 60 days of the receipt of the request; and
- b) if the competent authority of the requested Party has been unable to obtain and provide the information within 180 days of receipt of the complete request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the competent authority of the requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

Article 6

Tax Examinations Abroad

1. With reasonable notice, the requesting Party may request that the requested Party allow representatives of the competent authority of the requesting Party to enter the territory of the requested Party, to the extent permitted under its domestic laws, 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 intended meeting with the individuals concerned.

2. At the request of the competent authority of the requesting Party, the competent authority of the requested Party may allow, subject, when necessary, to the written consent of the persons concerned, 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. 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 designated 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.

4. 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 Contracting Parties.

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 requested would be contrary to public policy.

2. This Agreement shall not impose on a Contracting Party the obligation to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Such information includes information relating to communications between advocates, attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the laws of each Contracting Party. Notwithstanding the foregoing, information of the type referred to in paragraph 4 of Article 5 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.

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 of the requested Party as compared with a national of the requesting Party in the same circumstances.

Article 8 Confidentiality

1. Any information provided and received by the competent authorities of the Contracting Parties under this Agreement shall be treated as confidential in the same manner as information obtained under the domestic laws of the Parties.

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. For these purposes information may be disclosed in public court proceedings or in judicial decisions.

3. Such information may not be disclosed 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.

Article 9

Costs

Unless the competent authorities of the Contracting Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested Party, and extraordinary costs incurred 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 extraordinary.

Article 10

Language

Requests for assistance and responses thereto shall be drawn up in English. The information exchanged as a consequence of the request shall, however, be in the original language, unless the competent authorities agree otherwise.

Article 11

Mutual Agreement Procedure

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this 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 Contracting Parties may mutually agree on the procedures to be used under Articles 5, 6, and 9. This may also include agreements on methods of communication to be used between the competent authorities, which may incorporate electronic means.
3. The competent authorities of the Contracting Parties may communicate with each other directly for purposes of reaching agreement under this Article.
4. The Contracting Parties may also agree on other forms of dispute resolution.

Article 12

Mutual Assistance Procedure

1. If both competent authorities of the Contracting 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.
2. If both competent authorities of the Contracting Parties consider it appropriate to do so, they may agree procedures for the notification of administrative decisions made by the tax

authorities of one Party, to persons within the territorial jurisdiction of the other Party, by the tax authorities of the second-mentioned Party.

Article 13 Entry into Force

The Contracting Parties shall notify each other, in writing, when their necessary internal procedures for entry into force of this Agreement have been completed. The Agreement shall enter into force on the date of the later of such notifications. Upon entry into force, it 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 14 Termination

1. Either Contracting Party may terminate this Agreement by serving a notice of termination through appropriate channels or by letter to the competent authority of the other Contracting Party.

2. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notice of termination by the other Contracting Party.

3. If this Agreement is terminated the Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under the Agreement.

In witness whereof, the undersigned, being duly authorised thereto, have signed the Agreement.

DONE at _____ on _____, 2015 and at _____
on _____, 2015, in two originals, each in the English and Bulgarian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
GUERNSEY:

FOR THE GOVERNMENT OF THE
REPUBLIC OF BULGARIA:

**Protocol
to the Agreement between
the Government of Guernsey and the Government of the Republic of Bulgaria
on exchange of information on tax matters**

At the signing of the Agreement between the Government of Guernsey and the Government of the Republic of Bulgaria on exchange of information on tax matters, the undersigned have agreed on the following provisions which shall form an integral part of the Agreement:

It is understood that for the purposes of Article 9 of the Agreement:

- a) ordinary costs include internal administration costs, any minor external costs and overhead expenses incurred by the requested Party in reviewing and responding to information requests submitted by the requesting Party;
- b) extraordinary costs include, but are not limited to, the following:
 - (i) reasonable costs of engaging experts, interpreters, or translators when necessary;
 - (ii) reasonable costs of conveying an extraordinary amount of documents to the requesting Party;
 - (iii) reasonable litigation costs of the requested Party in direct relation to a specific request for information, including costs of engaging external counsel and advisers; and
 - (iv) reasonable costs of obtaining depositions or testimony.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

DONE at _____ on _____, 2015 and at _____ on _____, 2015, in two originals, each in the English and Bulgarian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
GUERNSEY:

FOR THE GOVERNMENT OF
THE REPUBLIC OF BULGARIA: