

**AGREEMENT BETWEEN THE GOVERNMENT OF JERSEY AND THE  
GOVERNMENT OF THE REPUBLIC OF AUSTRIA FOR THE EXCHANGE OF  
INFORMATION RELATING TO TAX MATTERS**

Whereas the Government of Jersey and the Government of Austria (the Contracting Parties) wish to enhance and facilitate the exchange of information relating to taxes;

Whereas it is acknowledged that the Government of Jersey has the right under the terms of its Entrustment from the UK to negotiate, conclude, perform and subject to the terms of this Agreement terminate a tax information exchange agreement with the Government of Austria;

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. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

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 the control of or 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 Austria,
  - i. the income tax (die Einkommensteuer);
  - ii. the corporation tax (die Körperschaftsteuer);
- b) in Jersey,
  - i. the income tax.

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

Article 4  
Definitions

(1) For the purposes of this Agreement, unless otherwise defined:

- a) the term "Austria" means the Republic of Austria;
- b) the term "Jersey" means the Bailiwick of Jersey, including the territorial sea;
- c) the term "Contracting Party" means Austria or Jersey as the context requires;
- d) the term "competent authority" means
  - i. in the case of Austria: the Federal Minister of Finance or his authorised representative;
  - ii. in the case of Jersey: the Treasury and Resources Minister or his authorised representative;
- e) the term "person" includes an individual, a company or 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 any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- 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 requesting information;

m) the term "requested Party" means the Contracting Party requested to provide information;

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.

(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 Contracting Party, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting 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 such conduct 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, 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 Contracting Party shall ensure that its competent authorities for the purposes specified in Article 1, and in accordance with Article 2 of the Agreement, have the authority to obtain and provide upon request:

a) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;

b) i. information regarding the legal and beneficial ownership of companies, partnerships, "Anstalten" 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 and beneficiaries;

iii. in the case of foundations, information on founders, members of the foundation council and beneficiaries; and



iv. in the case of collective investment schemes, information on shares, units and other interests;

it being understood that this Agreement does not create an obligation on either Contracting 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) The competent authority of the requesting Party shall provide the following information to the competent authority of the requested Party when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

- 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) grounds for believing that the information requested is held by the requested Party or is in the possession or control of or obtainable by a person within the jurisdiction of the requested Party;
- f) to the extent known, the name and address of any person believed to be in possession of or in the control of or able to obtain requested information;
- g) 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;
- h) 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 acknowledge receipt of the request to the competent authority of the requesting Party and forward the requested information as promptly as possible to the requesting Party.

(7) For the interpretation of the Agreement the principles established in the OECD Model Agreement Commentaries shall be considered by the Contracting Parties.

## **Article 6**

### **Tax Examinations Abroad**

(1) With reasonable notice a Contracting Party may allow representatives of the competent authority of the other Contracting Party to enter the territory of the first-mentioned Contracting Party for the purposes mentioned in paragraph 2.

(2) At the request of the competent authority of one Contracting Party, the competent authority of the other Contracting Party may allow representatives of the competent authority of the first-mentioned Contracting Party to be present at the appropriate part of a tax examination in the territory of the second-mentioned Contracting Party.

(3) If the request referred to in paragraph 2 is acceded to, the competent authority of the Contracting Party conducting the examination shall, as soon as possible, notify the competent authority of the other Contracting Party about 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 first-mentioned Contracting Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the Contracting 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 requested would be contrary to the public policy of the requested Party.



(2) This Agreement shall not impose upon a Contracting Party the obligation 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.

(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 the requesting Party would be unable to obtain under its own laws for the purpose of the administration or enforcement of its own tax laws.

(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) All information provided and received by the competent authorities of the Contracting Parties shall be kept confidential.

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

(3) 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.

(4) The 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 requested Party.



## **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 in providing assistance 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 if the costs of providing information with respect to a specific request are expected to be significant.

## **Article 10**

### **Mutual Agreement Procedure**

(1) Where difficulties or doubts arise between the Contracting 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 Contracting Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9.

(3) The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching agreement under this Article.

(4) The Contracting Parties may also agree on other forms of dispute resolution should this become necessary.

## **Article 11**

### **Entry into Force**

(1) This Agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

(2) This Agreement shall enter into force on the first day of the third month next following that in which the exchange of instruments of ratification takes place and its provisions shall have effect in respect of taxes for any fiscal year beginning after December 31 in the calendar year in which the exchange of instruments of ratification takes place.

Article 12  
Termination

(1) This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement, through appropriate channels, by giving written notice of termination on or before the thirtieth day of June in a calendar year after the third year from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect in respect of the taxes for any fiscal year beginning after December 31 in the calendar year in which the notice of termination has been given.

(2) If this Agreement is terminated the Contracting 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 authorised in that behalf by their respective Governments, have signed the Agreement.

DONE in duplicate at ~~London~~ <sup>Sept. 2012</sup> ~~7th~~, in the English and German languages, each text being equally authentic.

For the Government of the Jersey

B. Im L. Noyan  
ACTING CHIEF MINISTER

For the Government of the Republic of  
Austria

