

**AGREEMENT
BETWEEN
THE GOVERNMENT OF JERSEY
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
FOR
THE EXCHANGE OF INFORMATION RELATING TO TAXES**

Whereas the Government of Jersey and the Government of the People's Republic of China ("the Contracting Parties"), desire to enhance and facilitate the exchange of information relating to taxes;

Whereas it is acknowledged that the Government of the People's Republic of China is competent to negotiate, conclude and subject to the terms of this Agreement terminate a tax information exchange agreement with the Government of Jersey and, it is acknowledged that the Government of Jersey has the right under the terms of its 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 People's Republic of China;

Now, the Contracting Parties have agreed to conclude the following Agreement which contains obligations on the Contracting Parties only:

**ARTICLE 1
SCOPE OF AGREEMENT**

1. 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, verification and collection of such taxes, the recovery and enforcement of tax claims, and the investigation or prosecution of tax matters.

2. 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.

**ARTICLE 2
JURISDICTION**

The Requested Party is not obliged to provide information which is neither held by its authorities nor in the possession or control of or obtainable by persons who are within its territorial jurisdiction.

**ARTICLE 3
TAXES COVERED**

1. The taxes covered by this Agreement are:
 - (a) in the case of the People's Republic of China, all taxes except customs tariffs;
 - (b) in the case of Jersey, taxes of every kind and description imposed by the Government.
2. This Agreement shall also apply to any identical or substantially similar taxes imposed by either Contracting Party after the date of signature of this Agreement in addition to, or in place of, any of the taxes listed in paragraph 1.
3. The competent authorities of the Contracting Parties shall notify each other of any relevant changes to the taxation and related information gathering measures covered by this Agreement.
4. The taxes covered by this Agreement may be expanded or modified by mutual agreement of the Contracting Parties in the form agreed upon by both Contracting Parties.

**ARTICLE 4
DEFINITIONS**

1. In this Agreement:
 - (a) "the People's Republic of China", when used in a geographical sense, means all the territory of the People's Republic of China, including its territorial sea, in which the Chinese laws relating to taxation apply, and any area beyond its territorial sea, within which the People's Republic of China has sovereign rights of exploration for and exploitation of resources of the seabed and its sub-soil and superjacent water resources in accordance with international law and its domestic law;
 - (b) "Jersey", when used in a geographical sense, means the Bailiwick of Jersey, including the territorial seas;
 - (c) "collective investment fund or scheme" means any pooled investment vehicle irrespective of legal form;
 - (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 People's Republic of China, the State Administration of Taxation or its authorized representative; and
 - (ii) in the case of Jersey, the Treasury and Resources Minister or his authorised representative;
 - (f) "information" means any fact, statement, document or record in whatever form;

- (g) “information gathering measures” means judicial, regulatory or administrative laws and procedures enabling a Contracting Party to obtain and provide the information requested;
- (h) “person” means a natural person, a company or any entity that is treated as a body corporate for tax purposes, or any other body or group of persons;
- (i) “public collective investment fund or scheme” means any collective investment fund or scheme, in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
- (j) “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; and for this purpose, 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. For the purposes of this paragraph the term “recognised stock exchange” means:
 - (i) in the People’s Republic of China, the Shanghai Stock Exchange or the Shenzhen Stock Exchange;
 - (ii) in Jersey, the Channel Islands Stock Exchange; and
 - (iii) any other stock exchange which the competent authorities agree to recognize for the purposes of this Agreement;
- (k) “requested party” means the party to this Agreement which is requested to provide or has provided information in response to a request;
- (l) “requesting party” means the party to this Agreement submitting a request for or having received information from the requested party;
- (m) “tax” means any tax covered by this Agreement.

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 a requested party shall provide upon request in writing information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a tax offence under the laws of the requested party if it 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 received by the competent authority of the requested party is not sufficient to enable it to comply with the request for information, it shall advise the competent authority of the requesting party of that fact and request such additional information as may be required to enable the effective processing of the request.

3. 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 the information, the requested party shall use its appropriate 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.

4. 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.

5. Each Contracting Party shall ensure that its competent authority, for the purposes of this Agreement, has the authority 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) information regarding the legal and beneficial ownership of companies, partnerships, trusts, foundations and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees, beneficiaries and protectors; and in the case of foundations, information on founders, members, beneficiaries and directors or other senior officers of the foundation.

6. Notwithstanding the preceding paragraphs, this Agreement does not create an obligation on the 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.

7. Any request for information shall be formulated with reasonable detail 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 and type of the information requested, including a description of the information and/or specific evidence sought, and the form in which the requesting party would prefer to receive the information;
- (d) the tax purposes 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 subject to the jurisdiction of the requested party;

- (f) to the extent known, the name and address of any person believed to be in possession or control of or able to obtain the information requested;
 - (g) a statement that the request is in conformity with this Agreement and the laws and administrative practices of the requesting party, and that if the requested information were 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;
 - (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.
8. The competent authority of the requested party shall acknowledge receipt of the request to the competent authority of the requesting party and shall use its best endeavours to forward the requested information as promptly as possible to the competent authority of the requesting party.

ARTICLE 6

TAX EXAMINATIONS OR INVESTIGATIONS ABROAD

1. The requested party may, in accordance with its domestic laws, following receipt of notice of a reasonable time from the requesting party, allow representatives of the competent authority of the requesting party to enter the territory of the requested party in connection with a request to interview persons and examine records with the prior written consent of the persons concerned. The competent authorities of the Contracting Parties shall agree on the time and place of the intended meeting with the persons concerned.
2. At the request of the competent authority of the requesting party, and in accordance with its domestic laws, the competent authority of the requested party may permit representatives of the competent authority of the requesting party to be present at the tax examination in the territory of the requested party.
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 person 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 examination shall be made by the requested party conducting the examination in accordance with its domestic laws.

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;
- (c) where the disclosure of the information requested would be contrary to the public policy (ordre public) of the requested party; or
- (d) where the competent authority of the requesting party would not be able to obtain the information under its laws or in the normal course of administrative practice if the requested information were within the jurisdiction of the requesting party.

2. This Agreement shall not impose upon a Contracting Party any obligation:

- (a) to provide information subject to legal privilege as provided for under the domestic law of the relevant party or which would disclose any trade, business, industrial, commercial or professional secret or trade process. Information described in paragraph 5 of Article 5 shall not by reason of that fact alone constitute such a secret or process;
- (b) to carry out administrative measures at variance with its laws and administrative practices, provided nothing in this subparagraph shall affect the obligations of a Contracting Party under paragraph 5 of Article 5.

3. A request for information shall not be refused on the ground that the tax liability giving rise to the request is disputed by the taxpayer.

4. 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 and shall be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the Contracting Parties officially 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 proceedings.

2. The information may not be used for any purpose other than for the purposes stated in Article 1 and may not be disclosed to any other person or entity or authority without the express written consent of the competent authority of the requested party.

3. The information provided to a requesting Party under this Agreement may not be disclosed to any other jurisdiction.

**ARTICLE 9
SAFEGUARDS**

The rights and safeguards secured to persons by the laws or administrative practices of the requested party remain applicable. The rights and safeguards shall not be applied by the requested party in a manner that unduly prevents or delays effective exchange of information.

**ARTICLE 10
ADMINISTRATIVE COSTS**

1. Costs that would be incurred in the ordinary course of administering the domestic tax laws of the requested party will be borne by the requested party when such costs are incurred for the purpose of responding to a request for information.
2. All other costs that are not ordinary costs are considered extraordinary costs and will be borne by the requesting party.

**ARTICLE 11
LANGUAGE**

Requests for assistance and responses thereto shall be in English.

**ARTICLE 12
MUTUAL AGREEMENT PROCEDURE**

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement.
2. In addition to the endeavours referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually determine the procedures to be used under Articles 5 and 6.
3. The competent authorities of the Contracting Parties may communicate with each other directly for the purposes of this Agreement.
4. The Contracting Parties may also agree in writing on other forms of dispute resolution.

**ARTICLE 13
ENTRY INTO FORCE**

The Contracting Parties shall notify each other in writing that they have completed the internal legal procedures necessary for the entry into force of this Agreement. This Agreement shall enter into force on the thirtieth day upon the receipt of the latter notification. This Agreement shall have effect in respect of taxable years beginning on or after the date of entry into force.

**ARTICLE 14
TERMINATION**

1. This Agreement shall remain in force until terminated by either Contracting Party.
2. Either Contracting Party may terminate this Agreement by giving notice of termination in writing. 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 this Agreement. All requests received up to the effective date of termination shall be dealt with in accordance with the terms of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised by the respective Contracting Parties, have signed this Agreement.

DONE at *St. Helier* in duplicate this *29th* day of *OCTOBER* 2010, in the English and Chinese languages, both texts being equally authentic.



**For the Government of
Jersey**



**For the Government of the
People's Republic of China**

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COMPETENT AUTHORITIES
OF
THE GOVERNMENT OF JERSEY
AND
THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA
CONCERNING
THE INTERPRETATION OR APPLICATION
OF
THE AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE’S
REPUBLIC OF CHINA AND THE GOVERNMENT OF JERSEY FOR THE
EXCHANGE OF INFORMATION RELATING TO TAXES**

The Treasury and Resources Minister of Jersey and the State Administration of Taxation of the People’s Republic of China (hereinafter referred to as “the competent authorities”), desiring to facilitate proper application of the Agreement between the Government of Jersey and the Government of the People’s Republic of China for the Exchange of Information Relating to Taxes (hereinafter referred to as “the Agreement”), have reached the following understandings:

1. With respect to paragraph 8 of Article 5 (*Exchange of Information Upon Request*) of the Agreement, it is understood that the competent authority of the requested Party shall forward the requested information as promptly as possible to the requesting Party. 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 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 receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

2. With respect to Article 10 (Costs) it is understood that:

- (a) The term “extraordinary costs” includes, but is not limited to:
 - (i) reasonable costs of reproducing and transporting documents or records to the competent authority of the requesting Party;
 - (ii) reasonable fees charged by a financial institution or other third party record keeper for copying records and research related to a specific request for information;
 - (iii) reasonable costs for stenographic reports and interviews, depositions or testimony;
 - (iv) reasonable fees and expenses, determined in accordance with amounts allowed under applicable law, of a person who voluntarily appears in

- China or in Jersey for an interview, deposition or testimony relating to a particular information request;
- (v) reasonable legal fees for non-government counsel appointed or retained, with the approval of the competent authority of the requesting Party, for litigation in the courts of the requested Party related to a specific request for information;
 - (b) The term “ordinary costs” includes, but is not limited to, ordinary administrative, postal and overhead expenses incurred by the requested Party in reviewing and responding to information requests submitted by the requesting Party.
 - (c) If the extraordinary costs pertaining to a specific request are expected to exceed £500 (five hundred sterling pounds), the competent authority of the requested Party will contact the competent authority of the requesting Party to determine whether the requesting Party wants to continue to pursue the request.
 - (d) The competent authorities will consult not later than 12 months after the date the Agreement enters into force, and upon request of either competent authority thereafter, with respect to costs incurred or potentially to be incurred under the Agreement and with a view to minimizing such costs.
3. Formal communications, including requests for information, made in connection with or pursuant to the provisions of the Agreement entered into will be in writing directly to the competent authority of the other party at the addresses given below, or such other 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 most practical, between the earlier mentioned competent authorities or their authorized representatives.

In the case of the People’s Republic of China, the address is No. 5, Yangfangdian West Road, Haidian District, Beijing, 10038, the People’s Republic of China

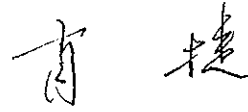
In the case of Jersey, the address is PO Box 56, Cyril Le Marquand House, The Parade, St Helier, Jersey JE4 8PF

4. This Memorandum of Understanding will come into effect on the entry into force of the Agreement.
5. The competent authorities may jointly decide, in writing, to amend this Memorandum of Understanding at any time. Amendments to this Memorandum of Understanding will come into effect on the date of the final letter confirming the amendment.
6. This Memorandum of Understanding will remain in effect until terminated at any time in writing, by either competent authority.

DONE at *St. Helier* in duplicate this *29th* day of *October* 2010, in the English and Chinese languages, both texts being equally authentic.



**FOR THE TREASURY AND RESOURCES
MINISTER OF JERSEY**



**FOR THE STATE ADMINISTRATION
OF TAXATION OF THE PEOPLE'S
REPUBLIC OF CHINA**