

**AGREEMENT BETWEEN THE STATES OF GUERNSEY
AND THE GOVERNMENT OF THE CZECH REPUBLIC
FOR THE EXCHANGE OF INFORMATION RELATING TO
TAX MATTERS**

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

WHEREAS the Parties have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

WHEREAS it is acknowledged that the States 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 Czech Republic;

WHEREAS the States of Guernsey on the 21st February 2002 entered into a political commitment to the OECD’s principles of effective exchange of information;

WHEREAS the 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 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 the taxes covered by this Agreement including information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation of tax matters or the prosecution of criminal 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.

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 taxes which are the subject of this Agreement are:
 - (a) in the case of the Czech Republic:
 - (i) the tax on income of individuals;
 - (ii) the tax on income of legal persons;
 - (iii) the tax on immovable property;
 - (iv) the value added tax.
 - (b) in the case of Guernsey:
 - (i) the income tax;
 - (ii) the dwellings profits 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, or any substantially similar taxes if the Parties so agree. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Parties in the form of an exchange of letters. The competent authorities of each Party shall notify the other of any substantial changes to laws and related information gathering measures which may affect the obligations of that Party pursuant to this Agreement.

Article 4

Definitions

1. In this Agreement:
 - (a) “the Czech Republic” means the territory of the Czech Republic over which, under Czech legislation and in accordance with international law, the sovereign rights of the Czech Republic are exercised;
 - (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 Czech Republic, the Minister of Finance or his authorised representative;
 - (ii) in the case of Guernsey, the Director of Income Tax or his delegate;
 - (f) “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.
 - (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 information requested;
 - (j) “person” includes an individual, a company and any other body of persons;
 - (k) “principal class of shares” means the class or classes of shares representing a majority of the voting power 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) “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Parties;
 - (n) “requested Party” means the Party which is requested to provide or has provided information in response to a request;
 - (o) “requesting Party” means the Party submitting a request for or having received information from the requested Party;
 - (p) “tax” means any tax to which this Agreement applies.
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 law of that Party, for the purposes of taxes to which the Agreement applies, 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 such conduct 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, the requested Party shall use at its own discretion 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 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, and other persons, including ownership information on all such persons in an ownership chain;
 - (ii) in the case of collective investment funds or schemes, information on shares, units and other interests;
 - (iii) in the case of trusts, information on settlors, trustees and beneficiaries;
 - (iv) 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 as a minimum:

- (a) the identity of the person under examination or investigation;
 - (b) the period for which the information is sought;
 - (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 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 is 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 where 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 shall use its best endeavours to forward the requested information to the requesting Party with the least possible delay.

Article 6

Tax Examinations Abroad

1. With reasonable notice in writing, a Party may allow representatives of the competent authority of the other Party to enter the territory of the first-mentioned 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 second-mentioned Party shall notify the competent authority of the first-mentioned Party of the time and place of the intended meeting with the individuals concerned.
2. At the request of the competent authority of one Party, the competent authority of the other Party may allow representatives of the competent authority of the first-mentioned Party to be present at the appropriate part of a tax examination in the second-mentioned Party, to the extent permitted under its domestic laws.

3. If the request referred to in paragraph 2 is acceded to, the competent authority of the Party conducting the examination shall, as soon as possible, notify the competent authority of the other 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 Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the 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 public policy.
2. The requested Party shall not be required to obtain or provide information which the requesting Party would not be able to obtain in its own territory under its own tax laws.
3. This Agreement shall not impose on a 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 Article 5, paragraph 4 shall not by reason of that fact alone be treated as such a secret or trade process.
4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.
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 citizen of the requested Party as compared with a national or 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 shall be kept 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.

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 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 significant.

Article 10

Implementation Measures

The Parties shall enact, adopt and publish the laws, regulations and administrative provisions necessary to comply with, and give effect to, the terms of this Agreement.

Article 11

Language

Requests for assistance and responses thereto shall be drawn up in English or any other language agreed bilaterally between the competent authorities of the Parties under Article 13.

Article 12

Other International Agreements or Arrangements

The possibilities of assistance provided by this Agreement do not limit, nor are they limited by, those contained in existing international agreements or other arrangements between the Parties which relate to co-operation in tax matters.

Article 13

Mutual Agreement Procedure

1. Where difficulties or doubts arise between the 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 Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9.
3. The competent authorities of the Parties may communicate with each other directly for the purposes of reaching agreement under this Article.
4. The Parties shall agree on other forms of dispute resolution should this become necessary.

Article 14

Mutual 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 15

Protocol

The attached Protocol shall be an integral part of this Agreement.

Article 16

Entry into Force

This Agreement shall enter into force 60 days after receipt of notice in writing through appropriate channels by the latter Party of completion of all legal formalities required for its entry into force. Upon the date of 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 17

Termination

1. Either Party may terminate this Agreement by serving a notice of termination in writing through appropriate channels.
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 Party.
3. If this Agreement is terminated 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 authorised thereto, have signed the Agreement.

Done in duplicate at London this 15th day of September 2011, in the English and Czech languages, each text being equally authentic.

For the States of Guernsey
Lyndon Sean Trott

For the Government of the Czech Republic
Michael Žantovský

PROTOCOL
TO THE AGREEMENT BETWEEN THE STATES OF GUERNSEY AND THE
GOVERNMENT OF THE CZECH REPUBLIC FOR EXCHANGE OF INFORMATION
RELATING TO TAX MATTERS

The States of Guernsey and the Government of the Czech Republic have agreed at the moment of signing of the Agreement between the two Parties for the Exchange of Information relating to Tax Matters (the “Agreement”) on the following provisions which shall form an integral part of the Agreement:

Liability for costs

1. With regard to Article 9 (*Costs*) of the Agreement, 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. 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.
2. Direct extraordinary costs incurred in providing assistance shall be borne by the requesting Party. Examples of such costs include, but are not limited to, the following:
 - (a) reasonable costs charged by third parties for copying documents on behalf of the requested Party;
 - (b) reasonable costs of engaging experts, interpreters, or translators when necessary;
 - (c) reasonable costs of reproducing and conveying an extraordinary amount of documents to the requesting Party;
 - (d) 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
 - (e) reasonable costs of obtaining depositions or testimony.
3. If the extraordinary costs pertaining to a particular request are expected to exceed 500 EUR or the sterling equivalent, the competent authority of the requested Party shall contact the competent authority of the requesting Party to determine whether the requesting Party wants to pursue the request and bear the costs.

Time limits for providing information

4. With regard to paragraph 6 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 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 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.