

AGREEMENT BETWEEN
THE STATES OF GUERNSEY AND THE REPUBLIC OF SLOVENIA
FOR THE EXCHANGE OF INFORMATION
RELATING TO TAX MATTERS

WHEREAS the States of Guernsey and the Republic of Slovenia (“the Contracting Parties”) wish to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes;

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 Republic of Slovenia;

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;

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 Contracting Parties, through their competent authorities, 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 the taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, enforcement or collection of tax with respect to persons subject to such taxes, or to the investigation of tax matters or the prosecution of criminal tax matters in relation to such persons. A requested Party is not obliged 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. The rights and safeguards secured to persons by the laws or administrative practices of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

Article 2

TAXES COVERED

1. The taxes which are the subject of this Agreement are:

- a) in Slovenia:
 - (i) tax on income of legal persons;
 - (ii) tax on income of individuals;
 - (iii) derivative instruments gains tax;
 - (iv) tax on property;
 - (v) inheritance and gift tax;

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

2. This Agreement shall apply also 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 Contracting Parties, through their competent authorities, so agree. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Contracting Parties in the form of an exchange of letters. The competent authority of each Contracting Party shall notify the other of substantial changes in laws which may affect the obligations of that Contracting Party pursuant to this Agreement.

Article 3

DEFINITIONS

1. In this Agreement:

- a) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;
- b) the term "Guernsey" means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;
- c) 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;
- d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) the term "competent authority" means:
 - (i) in the case of Slovenia, the Ministry of Finance of the Republic of Slovenia or its authorised representative;
 - (ii) in the case of Guernsey, the Director of Income Tax or his delegate;
- f) 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;
- g) 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;
- h) the term "information" means any fact, statement, document or record in whatever form;
- i) the term "information gathering measures" means laws and administrative or judicial procedures enabling a requested Party to obtain and provide the information requested;
- j) the term "person" means an individual, a company or any other body of persons;
- k) 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;

- l) 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;
- m) the term "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- n) the term "requested Party" means the Contracting Party which is requested to provide or has provided information or assistance in response to a request;
- o) the term "requesting Party" means the Contracting Party submitting a request for or having received information or assistance from the requested Contracting Party;
- p) the term "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 laws 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 4

EXCHANGE OF INFORMATION UPON REQUEST

1. The competent authority of the requested Party shall provide upon request by the requesting Party 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 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 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 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 of the Agreement, have 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) (i) information regarding the legal and beneficial ownership of companies, partnerships, foundations and other persons, and within the constraints of Article 2 any other person in an ownership chain, including in the case of collective investment funds or schemes, information on shares, units and other interests;
- (ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries; and
- (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries.

5. 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.

6. 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 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) the 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 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 those that would give rise to disproportionate difficulties.

7. 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;
- 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.

Article 5

TAX EXAMINATIONS ABROAD

1. With reasonable notice, given in advance, 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 individuals or other 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 permit representatives of the competent authority of the requesting Party to attend a 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 official 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.

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 6

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 upon a requested Party any 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 4, paragraph 4, 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 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 citizen of the requested Party as compared with a citizen of the requesting Party in the same circumstances.

Article 7

CONFIDENTIALITY

1. All information provided and received by the competent authorities of the Contracting 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 8

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 9

LANGUAGE

Requests for assistance and responses thereto shall be drawn up in English, or in Slovenian and English.

Article 10

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 agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 4, 5 and 8.

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

Article 11

ENTRY INTO FORCE

1. The Contracting Parties shall notify each other in writing that the procedures required by their law for the entry into force of this Agreement have been completed. This Agreement shall enter into force on the date of receipt of the last notification.

2. Upon the date of entry into force, the provisions of this Agreement 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 12

TERMINATION

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

2. Notwithstanding any termination of this Agreement the Contracting Parties shall remain bound by the provisions of Article 7 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 St Peter Port this 26th day of September 2011, in the English and Slovenian languages, both texts being equally authentic.

For the States of Guernsey:

For the Republic of Slovenia:

**Protocol
to the Agreement between
the States of Guernsey and the Republic of Slovenia
for the exchange of information relating to tax matters**

At the signing of the Agreement between the States of Guernsey and the Republic of Slovenia for the exchange of information relating to tax matters, the undersigned have agreed on the following provisions which shall form an integral part of the Agreement:

1. It is understood that for the purposes of Article 8 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 charged by third parties for copying documents on behalf of the requested Party;
 - (ii) reasonable costs of engaging experts, interpreters, or translators when necessary;
 - (iii) reasonable costs of conveying an extraordinary amount of documents to the requesting Party;
 - (iv) 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
 - (v) reasonable costs of obtaining depositions or testimony.

2. 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.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed the Protocol.

DONE in duplicate at St Peter Port this 26th day of September 2011, in the English and Slovenian languages, both texts being equally authentic.

For the States of Guernsey:

For the Republic of Slovenia: