

**ARRANGEMENT BETWEEN HER MAJESTY'S GOVERNMENT AND THE STATES OF GUERNSEY AMENDING THE 1952 ARRANGEMENT BETWEEN THE TWO GOVERNMENTS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AS AMENDED BY THE 1994 ARRANGEMENT BETWEEN THE TWO GOVERNMENTS**

Her Majesty's Government and the States of Guernsey;

Desiring to strengthen their economic relationship and to improve the operation of the existing arrangements between the two governments for the avoidance of double taxation;

Have agreed as follows:

1. In this Arrangement the term "1952 Arrangement" means that Arrangement as amended by the 1994 Arrangement.

2. After paragraph 2(1)(k) of the 1952 Arrangement there shall be inserted the following:

“(l) the term “taxation authority” means:

(i) in the United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorised representative;

(ii) in Guernsey, the Administrator of Income Tax or his delegate.”

3. Paragraph 4 of the 1952 Arrangement shall be deleted and replaced with the following:

“4. -(1) Where:

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory;

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued

to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

(2) Where one of the territories includes in the profits of an enterprise of that territory - and taxes accordingly - profits on which an enterprise of the other territory has been charged to tax in that other territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other territory shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Arrangement and the taxation authorities of the territories shall if necessary consult each other.”

4. After paragraph 5 of the 1952 Arrangement there shall be inserted the following new paragraph:

“5A. Subject to the provisions of paragraph 6, pensions and other similar remuneration paid to an individual who is a resident of one of the territories shall be taxable only in that territory.”

5. After paragraph 9A of the 1952 Arrangement there shall be inserted the following new paragraph:

“9B. –(1) Where a resident of one of the territories considers that the actions of one or both of the territories result or will result for him in taxation not in accordance with the provisions of this Arrangement, he may, irrespective of the remedies provided by the domestic law of those territories, present his case to the taxation authority of the territory of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Arrangement or, if later, within six years from the end of the taxable year or chargeable period in respect of which that taxation is imposed or proposed.

(2) The taxation authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the taxation authority of the other territory, with a view to the avoidance of taxation which is not in accordance with this Arrangement. Any agreement reached shall be implemented notwithstanding any time limits or other procedural limitations in the domestic law of the territories, except such limitations as apply for the purposes of giving effect to such an agreement.

(3) The taxation authorities of the territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Arrangement. They may also consult together for the elimination of double taxation in cases not provided for in the Arrangement.

(4) The taxation authorities of the territories may communicate with each other directly for the purpose of reaching an agreement in the sense of this paragraph.”

6. Paragraph 10(2) of the 1952 Arrangement shall be deleted.

7. Each of the territories shall notify to the other the completion of the procedures required by its law for the bringing into force of this Arrangement. This Arrangement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) in the United Kingdom:

(i) in respect of income tax, for any year of assessment beginning on or after 6th April next following the date on which this Arrangement enters into force;

(ii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which this Arrangement enters into force;

(b) in Guernsey, in respect of Guernsey tax, for any year of charge beginning on or after 1st January next following the date on which this Arrangement enters into force.

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