

Agreement
between
the States of Guernsey
and
the Slovak Republic
for the Exchange of Information Relating to Tax Matters

WHEREAS the States of Guernsey and the Slovak Republic (“the Parties”) recognise the need 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 Slovak 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 or the 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 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 Slovak Republic, taxes of every kind and description imposed under the Slovak law as of the date of entry into force of this Agreement, and
 - (b) in the case of Guernsey:
 - (i) the income tax;
 - (ii) the dwellings profits tax.
2. This Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes.
3. The taxes covered by this Agreement may be expanded or modified by mutual agreement of the Parties.
4. The competent authorities of the Parties shall notify each other of any relevant changes to the tax laws and related information gathering measures covered by this Agreement.

Article 4
Definitions

1. In this Agreement:
- (a) “the Slovak Republic” means the Slovak Republic and, used in a geographical sense, means its territory, within which the Slovak Republic exercises its sovereign rights and jurisdiction, in accordance with the rules of international law;
 - (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;
 - (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 Slovak Republic, the Ministry of Finance or its authorized 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 whatever form;
 - (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) “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;

- (m) “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;
 - (n) “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Parties;
 - (o) “requested Party” means the Party which is requested to provide or has provided information or assistance in response to a request;
 - (p) “requesting Party” means the Party submitting a request for or having received information or assistance from the requested Party;
 - (q) “tax” means any tax covered by this Agreement.
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 laws of that Party, 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 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 such conduct 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, 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 Party shall ensure that it has the authority subject to the terms of this Agreement to obtain and provide through its competent authority 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 companies, partnerships, trusts, foundations and other persons, including:
 - (i) 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, protectors and beneficiaries; and
 - (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:
- (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 territory of 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 information requested;
 - (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 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 complete request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the competent authority of the requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

Article 6

Tax Examinations Abroad

1. With reasonable notice in writing, the requested Party may 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 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 allow representatives of the competent authority of the requesting Party to be present at the appropriate part of a tax examination in the requested 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 requested Party conducting the examination shall, as soon as possible, notify the competent authority of the requesting 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 requested Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested 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, if the requested information was within the jurisdiction of the requesting Party, the requesting Party would not be able to obtain under its own laws for purposes of the administration or enforcement of its own tax laws or in the normal course of administrative practice.
 3. 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 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, citizen or resident of the requested Party as compared with a national, citizen or resident 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) in the jurisdiction of the Party 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 administrative costs incurred in providing assistance under this Agreement shall be borne by the requested Party at its territory. The competent authorities of the Parties may agree the extent to which the extraordinary costs may be reimbursed.

Article 10

Language

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

Article 11

Mutual Agreement Procedures

1. Where difficulties or doubts arise between the Parties regarding the implementation or interpretation of this Agreement, the 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 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 may also agree on other forms of dispute resolution.

Article 12

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 13

Entry into Force

This Agreement shall enter into force 60 days after receipt of written notification by the latter Party of completion of all legal formalities required for entry into force. Upon the date of entry into force, it shall have effect:

- (a) for criminal tax matters on that date; and

