

**AGREEMENT**  
**BETWEEN**  
**THE GOVERNMENT OF GUERNSEY**  
**AND**  
**THE GOVERNMENT OF THE MACAO SPECIAL ADMINISTRATIVE**  
**REGION OF THE PEOPLE'S REPUBLIC OF CHINA**  
**FOR**  
**THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS**

THE GOVERNMENT OF GUERNSEY AND THE GOVERNMENT OF THE  
MACAO SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC  
OF CHINA,

DESIRING to facilitate the exchange of information with respect to taxes, have agreed as follows:

WHEREAS the Parties wish to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes;

WHEREAS it is acknowledged that the Government 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 Macao Special Administrative Region of the People's Republic of China;

NOW, therefore, the Parties have agreed to conclude the following Agreement which contains obligations on the Parties only:

**Article 1**

**OBJECT AND SCOPE OF THE AGREEMENT**

The Parties, through their competent authorities, shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the internal 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. The requested Party shall use its best endeavours to ensure that the effective exchange of information is not unduly prevented or delayed.

**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 jurisdiction.

### **Article 3**

#### **TAXES COVERED**

1. The taxes which are the subject of this Agreement are:
  - a) in Macao, taxes of every kind and description imposed by the Executive or its political subdivisions or local authorities, irrespective of the manner in which they are levied;
  - b) in Guernsey, income tax and 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. The competent authorities of each Party shall notify the other of any substantial changes to the taxation and related information gathering measures which may affect the obligations of that Party pursuant to the Agreement.

### **Article 4**

#### **DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) “Macao”, means the Macao Special Administrative Region of the People’s Republic of China; used in a geographical sense, it means the peninsula of Macao and the islands of Taipa and Coloane;
  - b) “Guernsey” means the Government of Guernsey and, when used in a geographical sense, the islands of Guernsey, Alderney and Herm, and the territorial sea adjacent thereto, in accordance with international law, save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm;
  - 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) “competent authority” means:
  - (i) in the case of Macao, the Chief Executive or his authorised representative; and
  - (ii) in the case of Guernsey, the Director of Income Tax or his delegate;
- e) “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- f) “criminal laws” means all criminal laws designated as such under internal 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 or record in whatever form;
- i) “information gathering measures” means laws and administrative or judicial procedures that enable a Party to obtain and provide the requested information;
- j) “Party” means Macao or Guernsey as the context requires;
- k) “person” includes an individual, a company and any other body of persons;
- l) “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
- 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 to this Agreement which is requested to provide or has provided information in response to a request;
- p) “requesting Party” means the Party to this Agreement requesting information or having received information from the requested Party;
- q) “tax” means any tax to which the 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, 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 it had occurred in the jurisdiction of the requested Party.
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 internal 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:
  - 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, and other persons, including ownership information on all such persons in an ownership chain;
    - (ii) in the case of trusts, information on settlors, trustees and beneficiaries, provided that this Agreement does not create an obligation on 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. The competent authority of the requesting Party shall provide the following information to the competent authority of the requested Party when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:
  - a) the identity of the person under examination or investigation;
  - b) the period of time 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 the administration and enforcement of the tax law 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 held 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 information requested;
  - h) a statement that the request is in conformity with the law 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 jurisdiction to obtain the information, except those 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. In accordance with its internal laws, the competent authority of the requested Party may allow representatives of the competent authority of the requesting Party to enter its jurisdiction to interview individuals and examine records with the 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 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 its jurisdiction, to the extent permitted under its internal 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 of 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 jurisdiction 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 (ordre public) of the requested Party.

2. This Agreement shall not impose on a requested Party the obligation to provide items subject to legal privilege or which would disclose any trade, business, industrial, commercial or professional secret or trade process, provided that information of the type referred to in Article 5, paragraph 4 shall not by reason of that fact alone be treated as such a secret or trade process.
3. 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 competent authority of the requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.
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 citizen or a resident of the requested Party as compared with a citizen or a 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 under this Agreement 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 disclosed 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 LEGISLATION**

The Parties shall enact any legislation necessary to comply with, and give effect to, the terms of the Agreement.

## **Article 11**

### **LANGUAGE**

Requests for assistance and answers thereto shall be drawn up in English or any other language agreed bilaterally between the competent authorities of the Parties under Article 12.

## **Article 12**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where difficulties or doubts arise between the 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 Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9 of this Agreement.
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 13**

#### **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 14**

#### **ENTRY INTO FORCE**

1. Each of the Parties shall notify the other in writing of the completion of the procedures required by its laws for the entry into force of this Agreement.
2. The Agreement shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect:
  - a) for criminal tax matters, on that date; and
  - b) for all other matters covered in Article 1, for taxable periods beginning on or after the first day of January of the year next following the date on which the Agreement enters into force or, where there is no taxable period, for all charges to tax arising on or after the first day of January of the year next following the date on which the Agreement enters into force.

### **Article 15**

#### **TERMINATION**

1. This Agreement shall remain in force until terminated by a Party.
2. Either Party may terminate the Agreement by giving written notice of termination to the other Party. In such case, the Agreement shall cease to have effect on the first day of the month following the end of the period of six months after the date of receipt of notice of termination by the other Party.
3. In the event of termination, both 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 by their respective Governments, have signed this Agreement.

DONE in duplicate in London, on the third day of September 2014, in the English, Chinese and Portuguese languages, all texts being equally authentic. In case of divergence between the texts, the English version shall prevail.

FOR THE GOVERNMENT OF  
GUERNSEY:

FOR THE GOVERNMENT OF  
THE MACAO SPECIAL  
ADMINISTRATIVE  
REGION OF THE PEOPLE'S  
REPUBLIC OF CHINA:

---

GAVIN A ST PIER  
MINISTER,  
TREASURY AND RESOURCES

---

TAM PAK YUEN  
SECRETARY  
FOR ECONOMY AND FINANCE