

STATES OF JERSEY



DRAFT TAXATION (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 9th August 2012
by the Chief Minister**

STATES GREFFE



Jersey

DRAFT TAXATION (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

REPORT

1. In October 2011 the Global Forum on Transparency and Exchange of Information for Tax Purposes adopted the combined Phase 1 and Phase 2 peer review report for Jersey. All 110 members of the Global Forum are subject to review against the international standards. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. The majority of jurisdictions have been assessed firstly for Phase 1 in the period 2010 – 2012 and will be assessed for Phase 2 in the period 2012 – 2014. Jersey was one of a limited number of jurisdictions that volunteered for a combined Phase 1 and Phase 2 assessment.
2. In the report it is stated that: “while Jersey’s infrastructure and practical experience is relatively new it has however been effective and expeditious to-date”. It is further stated: “Overall, this review of Jersey identifies a legal and regulatory framework for the exchange of information which generally functions effectively to ensure that the required information will be available and accessible. The review notes the short period of time that Jersey has been exchanging information for tax purposes. Nonetheless, Jersey’s practices to date have demonstrated a responsive and co-operative approach. Jersey has shown a willingness to develop its laws and procedures to reflect best practices appropriate to its circumstances and has accepted the need to review its domestic laws to ensure the removal of any provisions which may affect its ability to meet the requirements of the standard.”
3. Of the 9 elements subject to review, 6 were considered to be “in place” and 3 were considered to be “in place, but certain aspects of the legal implementation of the element need improvement”.
4. The assessors’ recommendations in respect of each of the 3 elements that were considered to be “in place, but” are being responded to with a view to the assessment being raised to ‘in place’. The assessors’ recommendation in respect of the element that relates to a competent authority’s ability to obtain and provide information was that, although the impediments in the existing domestic legislation had not restricted access to information, “Jersey should amend its domestic legislation to remove the identified impediments to effective access to relevant information”.

5. To respond to the assessors' recommendation the following Regulations need to be amended –
- Taxation (United States of America) (Jersey) Regulations 2006
 - Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008
 - Taxation (Double Taxation) (Jersey) Regulations 2010.
6. The assessors' concerns regarding the current Regulations, and how they have been responded to by the proposed amendments, are set out as follows –
- the reference to 'liability to tax' in Regulations 2 and 3, and the definition of 'taxpayer' in Regulation 1, might not encompass all the information within Article 1 of the OECD Model TIEA; that is information foreseeably relevant to the "assessment or collection" of tax, which shall include information foreseeably relevant to "the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters". In that case, the Jersey Competent Authority may not be empowered to obtain all information which Jersey has agreed to exchange pursuant to its EOI [exchange of information] agreements. The revised Regulations meet these concerns in the revised wording of Regulations 2 and 3, and the revised definition of 'taxpayer' in Regulation 1.
 - the inclusion of the words 'serious prejudice' in Regulation 3 create an additional requirement to those set out in the OECD Model TIEA, and Jersey's EOI agreements, which may have the result that requests which are valid under those agreements do not satisfy the domestic legislative requirements, and therefore the information cannot be obtained from the Jersey Competent Authority. The revised Regulations meet these concerns through the omission of any reference to 'serious prejudice' in Regulation 3.
 - the scope of the information that can be obtained from a third party. The notice power in Regulation 3 is restricted to requiring the production of a "document or record" which may contain "tax information". This appears to place a significant restriction on the Jersey Competent Authority's ability to obtain information from a third person which may be relevant to an EOI request, regardless of the form of that information. The revised Regulations meet these concerns by the insertion of a new definition of tax information and revisions to the wording of Regulations 2 and 3, and Regulations 7 and 8.
 - the definition of 'tax information' and the absence of a definition of 'possession' in the DTA Regulations. The revised Regulations meet these concerns through the revised definition of 'tax information'.
 - a notice issued to a third person must name the taxpayer to whom it relates. However, Jersey's Competent Authority may not always know the name of the taxpayer under a valid EOI request, as Jersey's EOI arrangements provide that a requesting jurisdiction must specify the "identity" of the person under investigation. Where the name of the person is not available, this requirement may be satisfied by supplying the

account number or similar identifying information. The revised Regulation 3 removes this limitation, but also introduces requirements to safeguard the rights of the individual.

7. The revised Regulations are believed to fully satisfy the recommendation that “Jersey should amend its domestic legislation to remove the identified impediments to effective access to relevant information.” Consequently, the expectation is that the present determination of ‘in place, but’ will be changed to ‘in place’.

8. **Financial and manpower implications**

There are no implications expected for the financial and manpower resources of the States arising from the adoption of these Draft Regulations.

Explanatory Note

These Regulations would amend the Taxation (United States of America) (Jersey) Regulations 2006, the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008 and the Taxation (Double Taxation) (Jersey) Regulations 2010.

Regulation 1 gives effect to Schedule 1, which amends the Taxation (United States of America) (Jersey) Regulations 2006 (the “2006 Regulations”).

Regulation 2 gives effect to Schedule 2, which amends the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008 (the “2008 Regulations”).

Regulation 3 gives effect to Schedule 3, which amends the Taxation (Double Taxation) (Jersey) Regulations 2010 (the “2010 Regulations”).

Regulation 4 gives effect to Schedule 4 which further amends the 2008 Regulations so as to implement tax information exchange agreements with Argentina, Canada, Czech Republic, India, Indonesia, Italy, Japan, Mexico, the People’s Republic of China, Poland, Portugal, South Africa and Turkey and to add the dates on which the agreements with France and New Zealand came into force.

Regulation 5 gives effect to Schedule 5 and further amends the 2010 Regulations so as to implement double taxation agreements with Estonia, the Hong Kong Special Administrative Region and Qatar.

Regulation 6 provides for the citation of these Regulations and their commencement 7 days after they are made by the States.

Schedule 1 amends the 2006 Regulations.

Paragraph 1 provides for references in Schedule 1 to a Regulation by number to be construed as references to the Regulation of that number in the 2006 Regulations.

Paragraph 2 amends Regulation 1 of the 2006 Regulations. The definitions “information” and “possession” are deleted, as they are superseded by the new definition of “tax information”. The definition “tax information” is itself substituted, to reflect the addition of Regulation 1A, in which the definition is now contained. A new definition, “request”, is added. A “request” is a request by the United States of America for tax information, made in accordance with the terms of the Tax Information Exchange Agreement between the United States of America and Jersey (the “USA Agreement”) and that complies with the requirements of the Agreement.

The definition “taxpayer” is amended so that any reference in the 2006 Regulations to a taxpayer is to a person who is the subject of a request.

Paragraphs (2) to (4) of Regulation 1 of the 2006 Regulations are deleted. Those paragraphs made provision as to when a person is considered to be resident in the United States of America and when a person is considered to be resident in Jersey. They are deleted because they served no purpose in the 2006 Regulations: none of the powers conferred by the 2006 Regulations differentiate between persons according to their place of residence. The powers conferred by the 2006 Regulations arise only where a request is accepted by Jersey, and may be used to obtain information about

the taxpayer to whom the request relates, irrespective of that person's place of residence.

Paragraph 3 inserts Regulation 1A, to redefine what constitutes "tax information". This definition replicates the definition contained in the USA Agreement. Tax information includes information within a person's knowledge, as well as documents.

Paragraph 4 amends Regulation 2. Regulation 2 describes the information which the Comptroller (as Jersey's competent authority under the USA Agreement) may obtain from a taxpayer and the procedure for obtaining the information. The amendments make it clearer that the information that the Comptroller may seek under Regulation 2 is the tax information sought by the request. The amendment further provides that the Comptroller's powers arise once the Comptroller has decided that it is reasonable to respond to the request for the information. The procedure is otherwise unchanged.

Paragraphs (6) to (8) of Regulation 2 are deleted. Paragraph (6) specified that a taxpayer was not obliged to provide information relating to the conduct of a pending appeal regarding tax. This limitation was not consistent with the terms of the USA Agreement. Paragraphs (7) and (8) allowed the taxpayer to provide copies of documents, rather than originals. This is now permitted, instead, by Regulation 10B(3), inserted by *paragraph 11*.

Paragraph 5 substitutes Regulation 3 of the 2006 Regulations. Regulation 3 empowers the Comptroller to require a third party to provide information about a taxpayer.

The substituted Regulation 3 simplifies the description of the circumstances in which the Comptroller may impose such a requirement and enables a requirement to be imposed notwithstanding that the taxpayer isn't named in the requirement.

The power to require a third party to provide information regarding a taxpayer arises where the Comptroller has reasonably decided to respond to a request from the United States of America for tax information.

The Comptroller must serve a written notice on the third party requiring the third party to provide the information about the taxpayer. If the notice does not name the taxpayer, it must provide an account number or similar identification. There is a general rule that a copy of the notice must be sent to the taxpayer together with an explanation why the notice has been given. There are also exceptions to this rule, described below.

The Comptroller need not give notice to the taxpayer if any of the circumstances described in paragraph (6) apply – that is, if giving notice might disclose the identity of another person who has provided information to the Comptroller, if a tax offence is suspected or if giving notice would prejudice the assessment or collection of tax.

The notice given to the third party may prohibit the third party notifying the taxpayer that he or she has received the notice, either in a case where the taxpayer has not been notified by the Comptroller, pursuant to paragraph (6) or in a case where the name of the taxpayer isn't known.

If, at the time the notice is given to the third party, the name of the taxpayer isn't known, the general rule is that a copy of the notice must be given to the taxpayer after the third party has provided the information. The Comptroller may apply to the Bailiff for the Bailiff to waive the requirement to give a copy of the notice to the taxpayer.

There are 2 grounds for waiver. The first is that, even though the third party has provided the information required, the name and address of the taxpayer remains unknown. The second is that one of the circumstances also described in paragraph (6) applies – that is, if giving notice might disclose the identity of another person who has provided information to the Comptroller, if a tax offence is suspected or if giving notice would prejudice the assessment or collection of tax. If the Comptroller applies to the Bailiff, the third party who provided the information has a right to make representations regarding the application. Before waiving the obligation to notify the taxpayer on the ground that the name and address of the taxpayer is unknown, the Bailiff may require the Comptroller to take further steps to identify the taxpayer.

Generally, the tax information obtained from the third party cannot be passed to the requesting country until the taxpayer has received a copy of the notice and the taxpayer's right of appeal against the notice, conferred by Regulation 14 of the 2006 Regulations, has expired. However, this restriction does not apply in a case where there is no requirement to give the taxpayer a copy of the notice, whether in the case described in paragraph (6) or where the Bailiff has waived the requirement. Furthermore, the taxpayer has no right of appeal against the notice in a case where there is no requirement to give him or her a copy of the notice.

Paragraph 6 deletes Regulations 5 and 6 of the 2006 Regulations. Regulation 5 specified that a notice under Regulation 3 must name the taxpayer. This is deleted consequentially upon the amendment of Regulation 3 by *paragraph 5* to establish procedures for serving a notice that does not name the taxpayer. Regulation 6 allowed the Comptroller to take a copy of a document produced in compliance with Regulation 2 or 3. Regulation 6 is deleted in reliance upon Regulation 10B(3), inserted by *paragraph 11*.

Paragraph 7 amends Regulation 7 of the 2006 Regulations. Regulation 7 describes circumstances in which the Royal Court may order a taxpayer to provide tax information. The circumstances in which an order may be made are unchanged. The amendment substitutes the description of information that the Court may order the taxpayer to provide. Again, the substitution makes it clearer that what the Court may order the taxpayer to provide is all or any of the tax information that is the subject of the request.

Paragraph 8 substitutes Regulation 8 of the 2006 Regulations. Regulation 8 enables the Royal Court to order a third party to provide tax information about a taxpayer. The substituted Regulation simplifies and reduces the circumstances in which an order may be made. The Court may make an order either if a third party has not complied with a requirement imposed under Regulation 3 or there are reasonable grounds for suspecting that the third party will not comply with such a requirement. The substituted Regulation also makes it clearer that what the Court may order the third party to provide is all or any of the tax information that is the subject of the request.

Paragraph 9 deletes Regulation 9 of the 2006 Regulations. Regulation 9 required documents or records kept in electronic or magnetic form to be produced in a visible, legible form. This requirement is re-enacted as Regulation 10B(2), inserted by *paragraph 11*.

Paragraph 10 amends Regulation 10 of the 2006 Regulations. Regulation 10 entitles a taxpayer or third party to be given at least 14 days' notice of an application by the Comptroller to the Royal Court under Regulation 7 or 8. Currently, Regulation 10 provides that the application can be made without such advance notice being given if

the Court is satisfied that giving notice will seriously prejudice the investigation of a tax offence in the United States of America. This amendment adds a further case in which an application can be made without advance notice being given, being where there is a serious risk that the tax information will be altered, concealed, destroyed or disposed of.

Paragraph 11 inserts Regulations 10A, 10B and 10C in the 2006 Regulations. Regulation 10A provides that –

- no-one is required to produce to the Comptroller information that is subject to legal professional privilege;
- where information is given in the form of a statement or deposition, it may not be used in evidence in criminal proceedings, unless the proceedings are for the offence in Regulation 15(2), as substituted by *paragraph 15*, being the offence of providing information that is false, misleading or deceptive; and
- a third party who complies with a requirement to provide information does not incur any civil or criminal liability by reason of complying with the requirement.

Regulation 10B is concerned with the form in which tax information is provided. Where a person provides evidence in the form of a deposition or statement, the deposition or statement must be in such a form that it will be receivable in evidence in the United States of America. Tax information that is recorded in electronic or magnetic form must be provided in a form in which the information is visible and legible. Tax information that is in a document or other record may be provided in the form of an authenticated copy of the document or record, or by the production of the original to the Comptroller so that the Comptroller may make an authenticated copy.

Regulation 10C requires a taxpayer, and a third party who provides financial services to a taxpayer, to keep records related to the taxpayer's liability to American tax for at least 6 years. Non-compliance is an offence punishable with a fine up to level 4 on the standard scale (£5,000).

Paragraph 12 amends Regulation 11 of the 2006 Regulations. Regulation 11 prohibits a taxpayer or third party who has received from the Comptroller a request for tax information, or who has been given advance notice of the Comptroller's application to the Royal Court for that Court to order the provision of the tax information, from altering, concealing, destroying or disposing of the information. The amendments make it clear that the documents and records to which the prohibition applies are "tax information" as defined in the inserted Regulation 1A. The amendments further clarify the circumstances in which the obligation, created by Regulation 11, to preserve tax information comes to an end.

Paragraph 13 amends Regulation 12 of the 2006 Regulations. Regulation 12 confers on the Bailiff a power to issue a warrant for the search of premises and seizure of items. The amendments specify that, if the warrant is sought because an offence is suspected, the application for it is made by a police officer; if the warrant is sought because it is believed that there is tax information on premises, and serving a notice for its production might seriously prejudice an investigation (that is, the information might be concealed or disposed of), the application for it is made by a tax officer. The amendments further limit the powers of entry conferred by a warrant, so that they may only be used to enter a dwelling where an offence is suspected, and clarify the powers

of seizure under a warrant. In addition, where a warrant is issued for the purpose of recovering tax information, the amendments make it clear that any thing seized may be passed to the Comptroller, as competent authority for Jersey under the agreement with the United States of America.

Paragraph 14 amends Regulation 14 of the 2006 Regulations. Regulation 14 confers rights of appeal against notices served by the Comptroller. In a case where, as described in Regulation 3 of the 2006 Regulations, as substituted by these Regulations, a taxpayer is only given a copy of a notice served on a third party after that party has provided the information, the amendment empowers the Royal Court to authorize the release of the information to the United States of America, or order the restitution or disposal of the information.

Paragraph 15 substitutes Regulation 15 of the 2006 Regulations, which creates offences. An offence is added of giving information that is false, misleading or deceptive in a material particular. The penalty for all offences under the Regulations becomes imprisonment for up to 12 months and/or an unlimited fine.

Paragraph 16 inserts Regulation 16A in the 2006 Regulations. Regulation 16A is concerned with information requested by the Comptroller and received from the United States of America. The information may only be used for the purposes described in the USA Agreement and may only be disclosed for such purposes. A contravention of this restriction is an offence for which the penalty is an unlimited fine.

Schedule 2 amends the 2008 Regulations. The amendments have the same effect as those described Schedule 1.

Schedule 3 amends the 2010 Regulations. The amendments have the same effect as those described in Schedule 1.

Schedule 4 amends the 2008 Regulations as described in Regulation 4.

Schedule 5 amends the 2010 Regulations as described in Regulation 5.



Jersey

DRAFT TAXATION (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

Arrangement

Regulation

1	Taxation (United States of America) (Jersey) Regulations 2006 amended	15
2	Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008 amended	15
3	Taxation (Double Taxation) (Jersey) Regulations 2010 amended	15
4	Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008 amended to implement further tax information exchange agreements.....	16
5	Taxation (Double Taxation) (Jersey) Regulations 2010 amended to implement further double taxation agreements	16
6	Citation and commencement	17

SCHEDULE 1 18

TAXATION (UNITED STATES OF AMERICA) (JERSEY) REGULATIONS 2006 AMENDED		18
1	Interpretation	18
2	Regulation 1 amended.....	18
3	Regulation 1A inserted.....	18
4	Regulation 2 amended.....	19
5	Regulation 3 substituted	19
6	Regulations 5 and 6 deleted	21
7	Regulation 7 amended.....	21
8	Regulation 8 substituted.....	22
9	Regulation 9 deleted.....	22
10	Regulation 10 amended.....	22
11	Regulations 10A, 10B and 10C inserted	22
12	Regulation 11 amended.....	24
13	Regulation 12 amended.....	24
14	Regulation 14 amended.....	25
15	Regulation 15 substituted.....	26
16	Regulation 16A inserted.....	26

SCHEDULE 2 **27**

TAXATION (EXCHANGE OF INFORMATION WITH THIRD COUNTRIES) (JERSEY) REGULATIONS 2008 AMENDED 27

1	Interpretation.....	27
2	Regulation 1 amended.....	27
3	Regulation 1A inserted	28
4	Regulation 2 amended.....	28
5	Regulation 3 substituted.....	28
6	Regulations 5 and 6 deleted	31
7	Regulation 7 amended.....	31
8	Regulation 8 substituted.....	31
9	Regulation 9 deleted	31
10	Regulation 10 amended.....	31
11	Regulations 10A, 10B and 10C inserted.....	32
12	Regulation 11 amended.....	33
13	Regulation 12 amended.....	34
14	Regulation 14 amended.....	35
15	Regulation 15 substituted.....	35
16	Regulation 16A amended.....	36
17	Regulation 16B inserted.....	36
18	Miscellaneous amendments	36

SCHEDULE 3 **37**

TAXATION (DOUBLE TAXATION) (JERSEY) REGULATIONS 2010 AMENDED 37

1	Interpretation.....	37
2	Regulation 1 amended.....	37
3	Regulation 1A inserted	37
4	Regulation 6 amended.....	38
5	Regulation 7 substituted.....	38
6	Regulations 9 and 10 deleted	40
7	Regulation 11 amended.....	40
8	Regulation 12 substituted.....	41
9	Regulation 13 deleted	41
10	Regulation 14 amended.....	41
11	Regulations 14A, 14B and 14C inserted.....	41
12	Regulation 15 amended.....	43
13	Regulation 16 amended.....	43
14	Regulation 18 amended.....	44
15	Regulation 19 substituted.....	45
16	Miscellaneous amendments	45

SCHEDULE 4 **46**

TAXATION (EXCHANGE OF INFORMATION WITH THIRD COUNTRIES) (JERSEY) REGULATIONS 2008 AMENDED TO IMPLEMENT FURTHER TAX INFORMATION EXCHANGE AGREEMENTS 46

SCHEDULE 5 **52**

SCHEDULES ADDED TO THE TAXATION (DOUBLE TAXATION) (JERSEY) REGULATIONS 2010 TO IMPLEMENT FURTHER DOUBLE TAXATION AGREEMENTS	52
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Jersey

DRAFT TAXATION (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Taxation (Implementation) (Jersey) Law 2004, and having regard to Projet 94 of 2009, adopted by the States on 16th July 2009, Projet 160 of 2009, adopted by the States on 18th November 2009, Projet 108 of 2010, adopted by the States on 29th September 2010, Projet 178 of 2010, adopted by the States on 20th January 2011, Projet 195 of 2010 and Projet 196 of 2010, both adopted by the States on 16th February 2011, Projet 7 of 2011, adopted by the States on 15th March 2011, Projet 8 of 2011, adopted by the States on 16th March 2011, Projet 101 of 2011, adopted by the States on 20th July 2011, Projet 137 of 2011, adopted by the States on 16th September 2011, Projet 138 of 2011 and Projet 139 of 2011, both adopted by the States on 2nd November 2011, Projet 13 of 2012, Projet 14 of 2012 and Projet 15 of 2012, all adopted by the States on 17th April 2012, and Projet 33 of 2012, Projet 34 of 2012 and Projet 35 of 2012, all adopted by the States on 16th May 2012, have made the following Regulations –

1 Taxation (United States of America) (Jersey) Regulations 2006 amended

Schedule 1 has effect to amend the Taxation (United States of America) (Jersey) Regulations 2006¹.

2 Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008 amended

Schedule 2 has effect to amend the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008².

3 Taxation (Double Taxation) (Jersey) Regulations 2010 amended

Schedule 3 has effect to amend the Taxation (Double Taxation) (Jersey) Regulations 2010³.

4 Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008 amended to implement further tax information exchange agreements

Schedule 4 has effect to amend the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008⁴.

5 Taxation (Double Taxation) (Jersey) Regulations 2010 amended to implement further double taxation agreements

In the Taxation (Double Taxation) (Jersey) Regulations 2010⁵ –

- (a) in Schedule 1, after the entry for Malta there shall be added the following entries –

“Estonia	The Republic of Estonia. When used in a geographical sense this means the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which, under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the sea bed and its sub-soil and their natural resources.	30th December 2011	3
The Hong Kong Special Administrative Region of the People’s Republic of China	The Hong Kong Special Administrative Region, being any territory where the tax laws of the Hong Kong Special Administrative region of the People’s Republic of China apply.		4
Qatar	The State of Qatar’s lands, internal waters, territorial sea including its bed and subsoil, the air space over them, the exclusive economic zone and the continental shelf, over which the State of Qatar exercises sovereign rights and jurisdiction in accordance with the provisions of international law and Qatar’s national laws and regulations.		5”;

- (b) after Schedule 2 there shall be added the Schedules set out in Schedule 5 to these Regulations.

6 Citation and commencement

These Regulations may be cited as the Taxation (Miscellaneous Provisions) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

SCHEDULE 1

(Regulation 1)

**TAXATION (UNITED STATES OF AMERICA) (JERSEY)
REGULATIONS 2006 AMENDED****1 Interpretation**

In this Schedule a reference to a Regulation is a reference to the Regulation of that number in the Taxation (United States of America) (Jersey) Regulations 2006⁶.

2 Regulation 1 amended

In Regulation 1(1) –

- (a) the definitions “information” and “possession” shall be deleted;
- (b) after the definition “relevant criminal offence” there shall be inserted the following definition –

“ ‘request’ means a request that is made by the competent authority for the United States of America under the Tax Information Exchange Agreement signed in Washington on 4th November 2002 for and on behalf of the governments of the States of Jersey and the United States of America, for tax information regarding a person and that complies with the requirements of that Agreement;”;

- (c) for the definitions “tax information” and “taxpayer” there shall be substituted the following definitions –

“ ‘tax information’ has the meaning given in Regulation 1A;

‘taxpayer’ means a person who is the subject of a request;

‘third party notice’ shall be construed in accordance with Regulation 3(1) and (2);”;

- (d) paragraphs (2), (3) and (4) shall be deleted.

3 Regulation 1A inserted

After Regulation 1 there shall be inserted the following Regulation –

“1A Tax information

- (1) For the purposes of these Regulations, ‘tax information’ means information that is foreseeably relevant to the administration and enforcement of the domestic laws of the United States of America

concerning any federal tax of the United States of America, including information that is foreseeably relevant to –

- (a) the determination, assessment, enforcement or collection of the tax with respect to a person subject to the tax; or
- (b) the investigation or prosecution of criminal matters in relation to such a person.

(2) Tax information may be –

- (a) information within an individual’s knowledge or belief; or
- (b) information recorded in a document or any other record in any format that a person has in his or her possession, custody or control.”.

4 Regulation 2 amended

- (1) In the heading to Regulation 2 for the word “information” there shall be substituted the words “tax information”.
- (2) In Regulation 2 –
 - (a) for paragraph (1) there shall be substituted the following paragraph –

“(1) Where the Comptroller decides that it is reasonable to respond to a request concerning a taxpayer, the Comptroller may require the taxpayer to provide tax information that the Comptroller reasonably requires for that purpose.”;
 - (b) in paragraph (3) for the words “the document, record, tax information or evidence concerned” there shall be substituted the words “the tax information”;
 - (c) paragraphs (6), (7) and (8) shall be deleted.

5 Regulation 3 substituted

For Regulation 3 there shall be substituted the following Regulation –

“3 Provision by other persons of tax information about taxpayer

- (1) Where the Comptroller decides that it is reasonable to respond to a request concerning a taxpayer, the Comptroller may require a third party, being a person other than the taxpayer, to provide tax information that the Comptroller reasonably requires for that purpose.
- (2) A requirement under paragraph (1) shall be made by notice in writing.
- (3) Where a third party notice does not name the taxpayer to whom it relates, it must provide an account number or other, similar, identification for the tax information required.

- (4) Subject to paragraphs (6) and (8), the Comptroller shall, within the time required by paragraph (5), give to the taxpayer to whom a third party notice relates the following information –
- (a) a copy of the third party notice; and
 - (b) a written summary of the reasons of the Comptroller for the giving of the notice.
- (5) The information must be given –
- (a) in a case where, at the time the third party notice is given, the Comptroller does not know the taxpayer's name and address – as soon as is practicable after the third party has provided to the Comptroller the tax information required by the third party notice; or
 - (b) in any other case – as soon as is practicable after the third party notice is given.
- (6) The Comptroller is not required to give to the taxpayer the information described in paragraph (4) if –
- (a) its disclosure would or might identify a person who has provided information that the Comptroller takes into account in deciding whether to give the third party notice;
 - (b) the Comptroller is satisfied that there are reasonable grounds for suspecting that the taxpayer has committed a relevant criminal offence; or
 - (c) the Comptroller is satisfied that disclosure of information of that description would prejudice the assessment or collection of tax.
- (7) Where –
- (a) the Comptroller, pursuant to paragraph (6), does not give the taxpayer the information described in paragraph (4); or
 - (b) at the time the third party notice is given, the Comptroller does not know the taxpayer's name and address,
- the third party notice may impose a requirement that the third party shall not inform the taxpayer of the third party notice.
- (8) In a case where the third party notice does not name the taxpayer to whom it relates the Comptroller may, after the third party has provided the tax information required by the third party notice, apply to the Bailiff for the Bailiff to waive the requirement to give the taxpayer the information described in paragraph (4) –
- (a) on the ground that the Comptroller –
 - (i) does not know the taxpayer's name and address, and
 - (ii) has taken all reasonable steps to ascertain the information described in clause (i); or
 - (b) on the ground that –
 - (i) its disclosure would or might identify a person who has provided information that the Comptroller took

- into account in deciding whether to give the third party notice,
- (ii) there are reasonable grounds for suspecting that the taxpayer has committed a relevant criminal offence, or
 - (iii) disclosure of information of that description would prejudice the assessment or collection of tax.
- (9) The third party who provided the tax information shall be notified of, and have a right to make representations to the Bailiff regarding, an application made under paragraph (8).
- (10) The Bailiff may, before deciding whether to grant an application made on the ground in paragraph (8)(a), direct the Comptroller to take such further reasonable steps as the Bailiff specifies in order to ascertain the taxpayer's name and address.
- (11) Subject to paragraph (12), the Comptroller shall not provide to the competent authority for the United States of America the tax information provided by the third party unless the taxpayer has been given the information required by paragraph (4) and either –
- (a) the taxpayer's right of appeal against the third party notice has expired; or
 - (b) the taxpayer's appeal has been withdrawn or dismissed.
- (12) In a case where the requirement to give the taxpayer the information described in paragraph (4) does not apply by virtue of paragraph (6) or is waived under paragraph (8) –
- (a) paragraph (11) shall not apply; and
 - (b) the taxpayer shall not have a right of appeal under Regulation 14(1)(c).
- (13) In this Regulation, a reference to the taxpayer's address is a reference to any address at which the taxpayer may be given information.”.

6 Regulations 5 and 6 deleted

Regulations 5 and 6 shall be deleted.

7 Regulation 7 amended

- (1) In the heading to Regulation 7 for the word “information” there shall be substituted the words “tax information”.
- (2) For paragraph (2) of Regulation 7 there shall be substituted the following paragraph –
 - “(2) If this Regulation applies, the Royal Court may make an order that the taxpayer must provide to the Comptroller, within such time as the order specifies, the tax information required under Regulation 2 or so much of that information as is specified in the court order.”.

8 Regulation 8 substituted

For Regulation 8 there shall be substituted the following Regulation –

“8 Court order for provision of tax information by third party

- (1) This Regulation applies if the Royal Court is satisfied, on the application of the Comptroller –
 - (a) that a person to whom a third party notice has been given has failed to comply with the notice; or
 - (b) that there are reasonable grounds for suspecting that the person will not comply with a third party notice.
- (2) If this Regulation applies, the Royal Court may make an order that the person must provide to the Comptroller, within such time as the order specifies, the tax information required under Regulation 3 or so much of that information as is specified in the court order.”.

9 Regulation 9 deleted

Regulation 9 shall be deleted.

10 Regulation 10 amended

In Regulation 10 for the words “unless the Royal Court is satisfied that” to the end of the Regulation there shall be substituted the following words –

“unless the Royal Court is satisfied –

- (i) that compliance with this Regulation would seriously prejudice the investigation of a relevant criminal offence, or
- (ii) that there is a serious risk that the tax information sought will be altered, concealed, destroyed or otherwise disposed of if this Regulation is complied with.”.

11 Regulations 10A, 10B and 10C inserted

After Regulation 10 there shall be inserted the following Regulations –

“10A Restrictions regarding requirement to provide tax information

- (1) Nothing in these Regulations requires a person to provide to the Comptroller information that is subject to legal professional privilege.
- (2) The answers given or a statement or deposition made by an individual in compliance with a notice given under Regulation 2 or 3 or an order of the Royal Court under Regulation 7 or 8 may not be used in evidence against the individual in any criminal proceedings, except proceedings under Regulation 15(2).

- (3) Notwithstanding any other enactment (whenever passed or made) or the terms of any contract (whenever made), a person required to provide information under Regulation 3 or by a court order under Regulation 8 shall not incur any civil or criminal liability by reason of disclosing the information in compliance with the requirement.

10B Manner of provision of tax information

- (1) Where tax information is information within an individual's knowledge or belief, an individual required by notice under Regulation 2 or 3 or by order of the Royal Court under Regulation 7 or 8 to provide that information shall do so by answering questions, or by making a statement or deposition in a form that would be receivable in evidence according to the law of the United States of America.
- (2) Where tax information is information recorded in electronic or magnetic form, the person required by notice under Regulation 2 or 3 or by order of the Royal Court under Regulation 7 or 8 to provide that information shall provide the information in a form in which it is visible and legible.
- (3) Where tax information is information recorded in a document or any other record, the person required by notice under Regulation 2 or 3 or by order of the Royal Court under Regulation 7 or 8 to provide that information shall, as further required –
 - (a) provide a copy of the document, authenticated in such manner that the copy would be receivable in evidence according to the law of the United States of America; or
 - (b) produce the original, for the purpose of the Comptroller making a copy authenticated as described in subparagraph (a).

10C Keeping of records

- (1) A person who is liable to pay tax in the United States of America shall keep any document that contains tax information relevant to the person's liability.
- (2) A person who provides financial services to a person described in paragraph (1), shall keep any document created in the provision of those services that contains tax information relevant to the liability of the person described in paragraph (1).
- (3) A person required by paragraph (1) or (2) to keep a document shall do so for a period of 6 years beginning at the end of the year in which the tax information was recorded in the document.
- (4) A person who, without reasonable excuse, fails to comply with this Regulation shall be guilty of an offence and liable to a fine of level 4 on the standard scale.

- (5) In paragraph (2), ‘financial services’ has the same meaning as in Article 1(1) of the Financial Services Commission (Jersey) Law 1998⁷.”.

12 Regulation 11 amended

In Regulation 11 –

- (a) in paragraph (1)(a), for the words “document, record, tax information or evidence” there shall be substituted the words “tax information”;
- (b) in paragraph (1)(b) for the words “document or record” there shall be substituted the words “tax information”;
- (c) in paragraph (2) for the words “document, record, information or evidence” there shall be substituted the words “tax information”;
- (d) for paragraphs (3), (4) and (5) there shall be substituted the following paragraphs –

“(3) Despite paragraph (2), but subject to Regulation 10C, the person may alter, destroy or otherwise dispose of tax information to which the notice or application relates –

- (a) with the leave of the Royal Court; or
- (b) with the written permission of the Comptroller.

(4) Without prejudice to Regulation 10C, paragraph (2) shall cease to apply –

- (a) where the person was given notice of the requirement under Regulation 2 or 3, upon –
- (i) the person complying with the requirement, or
- (ii) the person’s appeal against the requirement being granted;
- (b) where the person was given notice of the Comptroller’s intention to apply for an order under Regulation 7 or 8, upon –
- (i) the application being abandoned or dismissed, or
- (ii) following the grant of the application, the person complying with the order under Regulation 7 or 8.”.

13 Regulation 12 amended

In Regulation 12 –

- (a) in paragraph (1), the words “On an application made by the Comptroller,” shall be deleted;
- (b) for paragraphs (3), (4) and (5) there shall be substituted the following paragraphs –

“(2A) A warrant issued on the ground described in paragraph (1)(b) cannot authorize the entry of any part of premises that are occupied as a dwelling.

- (3) An application for the issue of a warrant under paragraph (1) may be made by –
 - (a) where the application is on the ground in paragraph (1)(a), a police officer;
 - (b) where the application is on the ground in paragraph (1)(b), a designated tax officer.
- (4) A warrant issued under this Regulation shall –
 - (a) remain in force for 14 days and shall then cease to have effect; and
 - (b) authorize the person executing it to enter and search the premises specified in it and, for that purpose, take with him or her such other persons as are reasonably necessary.
- (5) On entering the premises under the authority of the warrant, the person executing it may seize and remove anything found there if –
 - (a) in the case of a warrant issued on the ground in paragraph (1)(a), the person has reasonable grounds to believe that it may be required as evidence for the purposes of criminal proceedings under these Regulations;
 - (b) in the case of a warrant issued on the ground in paragraph (1)(b), the person has reasonable grounds to believe that it is a thing specified in the warrant.”;
- (c) after paragraph (6) there shall be inserted the following paragraphs –
 - “(6A) Where any thing is seized and removed in exercise of a warrant issued on the ground described in paragraph (1)(b), the person executing it shall pass it to the Comptroller.
 - (6B) Notwithstanding any other enactment (whenever passed or made) a person required by paragraph (6A) to pass any thing to the Comptroller shall not incur any civil or criminal liability by reason of complying with the requirement.”.

14 Regulation 14 amended

In Regulation 14 –

- (a) in paragraph (1) for sub-paragraphs (b) and (c) there shall be substituted the following sub-paragraphs –
 - “(b) a person, against a third party notice given to the person;
 - (c) a taxpayer, against a third party notice which relates to the taxpayer.”;
- (b) after paragraph (3) there shall be inserted the following paragraph –
 - “(3A) On hearing an appeal by a taxpayer under paragraph (1)(c) against a third party notice in a case where the appeal is heard after the information has been provided by the third party, the Royal Court may authorize the provision by the Comptroller to the competent authority for the United States of America of all or any of the

information or order its restitution or disposal, and may make such order as to the costs of the appeal as it thinks fit.”;

- (c) in paragraph (4) for the words “the appeal” there shall be substituted the words “any other appeal”.

15 Regulation 15 substituted

For Regulation 15 there shall be substituted the following Regulation –

“15 Offences

- (1) A person who, knowingly and without reasonable excuse, contravenes Regulation 11(2) is guilty of an offence.
- (2) An individual who, being required by notice under Regulation 2 or 3 or by order of the Royal Court under Regulation 7 or 8 to provide information by answering questions or by making a statement or deposition –
 - (a) knowingly or recklessly gives an answer or makes a statement or deposition which is false, misleading or deceptive in a material particular; or
 - (b) knowingly or recklessly withholds any information the omission of which makes the information provided misleading or deceptive in a material particular,is guilty of an offence.
- (3) A person who, knowingly and without reasonable excuse, fails to comply with a requirement imposed under any of Regulation 2, 3, 7 or 8 is guilty of an offence.
- (4) A person who, knowingly and without reasonable excuse, obstructs a person who is executing a warrant under Regulation 12 is guilty of an offence.
- (5) A person guilty of an offence against this Article is liable to imprisonment for a term of 12 months and a fine.”.

16 Regulation 16A inserted

After Regulation 16 there shall be inserted the following Regulation –

“16A Confidentiality of information received under tax information exchange agreement

- (1) Information received by the Comptroller from the Secretary of the Treasury of the United States of America, or his or her delegate, pursuant to the agreement referred to in the definition ‘request’ in Regulation 1(1) shall be disclosed only to persons, and used only for the purposes, described in that agreement.
- (2) A person who knowingly contravenes paragraph (1) commits an offence and is liable to a fine.”.

SCHEDULE 2

(Regulation 2)

**TAXATION (EXCHANGE OF INFORMATION WITH THIRD COUNTRIES)
(JERSEY) REGULATIONS 2008 AMENDED**

1 Interpretation

In this Schedule a reference to a Regulation is a reference to the Regulation of that number in the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008⁸.

2 Regulation 1 amended

(1) In Regulation 1(1) –

- (a) the definitions “information” and “possession” shall be deleted;
- (b) before the definition “relevant criminal offence” there shall be inserted the following definition –

“ ‘competent authority’ means, in relation to Jersey, the Minister for Treasury and Resources or his or her authorized representative and, in relation to a third country, the person named as the competent authority for that country in the tax information exchange agreement between it and Jersey;”;

- (c) after the definition “relevant criminal offence” there shall be inserted the following definition –

“ ‘request’ means a request that is made by the competent authority for a third country under a tax information exchange agreement for tax information regarding a person and that complies with the requirements of that agreement;”;

- (d) for the definitions “tax” and “tax information” there shall be substituted the following definitions –

“ ‘tax’, in relation to a request, means any tax listed in the third column in the Schedule opposite the entry for the third country making the request;

‘tax information’ has the meaning given in Regulation 1A;”;

- (e) for the definition “taxpayer” there shall be substituted the following definition –

“ ‘taxpayer’ means the person who is the subject of a request;”;

- (f) after the definition “third country” there shall be added the following definition –

“ ‘third party notice’ shall be construed in accordance with Regulation 3(1) and (2).”.

- (2) Paragraphs (2) to (4) of Regulation 1 shall be deleted.

3 Regulation 1A inserted

After Regulation 1 there shall be inserted the following Regulation –

“1A Tax information

- (1) For the purposes of these Regulations ‘tax information’ means information that is foreseeably relevant to the administration and enforcement, in the case of the person who is the subject of a request, of the domestic laws of the third country whose competent authority is making the request concerning any tax listed in the third column in the Schedule opposite the entry for that third country, including information that is foreseeably relevant to –
- (a) the determination, assessment and collection of such taxes;
 - (b) the recovery and enforcement of such taxes;
 - (c) the recovery and enforcement of tax claims; or
 - (d) the investigation or prosecution of tax matters.
- (2) Tax information may be –
- (a) information within an individual’s knowledge or belief; or
 - (b) information recorded in a document or any other record in any format, that a person has in his or her possession, custody or control.”.

4 Regulation 2 amended

- (1) In the heading to Regulation 2 for the word “information” there shall be substituted the words “tax information”.
- (2) In Regulation 2 –
- (a) for paragraph (1) there shall be substituted the following paragraph –
“(1) Where the competent authority for Jersey decides that it is reasonable to respond to a request concerning a taxpayer, the competent authority for Jersey may require the taxpayer to provide tax information that the competent authority for Jersey reasonably requires for that purpose.”;
 - (b) in paragraph (3) for the words “the document, record, tax information or evidence concerned” there shall be substituted the words “the tax information”;
 - (c) paragraphs (6), (7) and (8) shall be deleted.

5 Regulation 3 substituted

For Regulation 3 there shall be substituted the following Regulation –

“3 Provision by other persons of tax information about taxpayer

- (1) Where the competent authority for Jersey decides that it is reasonable to respond to a request concerning a taxpayer, the competent authority for Jersey may require a third party, being a person other than the taxpayer, to provide tax information that the competent authority for Jersey reasonably requires for that purpose.
- (2) A requirement under paragraph (1) shall be made by notice in writing.
- (3) Where a third party notice does not name the taxpayer to whom it relates, it must provide an account number or other, similar, identification for the tax information required.
- (4) Subject to paragraphs (6) and (8), the competent authority for Jersey shall, within the time required by paragraph (5), give to the taxpayer to whom a third party notice relates the following information –
 - (a) a copy of the third party notice; and
 - (b) a written summary of the reasons of the competent authority for Jersey for the giving of the notice.
- (5) The information must be given –
 - (a) in a case where, at the time the third party notice is given, the competent authority for Jersey does not know the taxpayer’s name and address – as soon as is practicable after the third party has provided to the competent authority for Jersey the tax information required by the third party notice; or
 - (b) in any other case – as soon as is practicable after the third party notice is given.
- (6) The competent authority for Jersey is not required to give to the taxpayer the information described in paragraph (4) if –
 - (a) its disclosure would or might identify a person who has provided information that the competent authority for Jersey takes into account in deciding whether to give the third party notice;
 - (b) the competent authority for Jersey is satisfied that there are reasonable grounds for suspecting that the taxpayer has committed a relevant criminal offence; or
 - (c) the competent authority for Jersey is satisfied that disclosure of information of that description would prejudice the assessment or collection of tax.
- (7) Where –
 - (a) the competent authority for Jersey, pursuant to paragraph (6), does not give the taxpayer the information described in paragraph (4); or
 - (b) at the time the third party notice is given, the competent authority does not know the taxpayer’s name and address,

the third party notice may impose a requirement that the third party shall not inform the taxpayer of the third party notice.

- (8) In a case where the third party notice does not name the taxpayer to whom it relates the competent authority for Jersey may, after the third party has provided the tax information required by the third party notice, apply to the Bailiff for the Bailiff to waive the requirement to give the taxpayer the information described in paragraph (4) –
- (a) on the ground that the competent authority for Jersey –
 - (i) does not know the taxpayer’s name and address, and
 - (ii) has taken all reasonable steps to ascertain the information described in clause (i); or
 - (b) on the ground that –
 - (i) its disclosure would or might identify a person who has provided information that the competent authority for Jersey took into account in deciding whether to give the third party notice,
 - (ii) there are reasonable grounds for suspecting that the taxpayer has committed a relevant criminal offence, or
 - (iii) disclosure of information of that description would prejudice the assessment or collection of tax.
- (9) The third party who provided the tax information shall be notified of, and have a right to make representations to the Bailiff regarding, an application made under paragraph (8).
- (10) The Bailiff may, before deciding whether to grant an application made on the ground in paragraph (8)(a), direct the competent authority for Jersey to take such further reasonable steps as the Bailiff specifies in order to ascertain the taxpayer’s name and address.
- (11) Subject to paragraph (12), the competent authority for Jersey shall not provide to the competent authority for the third country the tax information provided by the third party unless the taxpayer has been given the information required by paragraph (4) and either –
- (a) the taxpayer’s right of appeal against the third party notice has expired; or
 - (b) the taxpayer’s appeal has been withdrawn or dismissed.
- (12) In a case where the requirement to give the taxpayer the information described in paragraph (4) does not apply by virtue of paragraph (6) or is waived under paragraph (8) –
- (a) paragraph (11) shall not apply; and
 - (b) the taxpayer shall not have a right of appeal under Regulation 14(1)(c).
- (13) In this Regulation, a reference to the taxpayer’s address is a reference to any address at which the taxpayer may be given information.”.

6 Regulations 5 and 6 deleted

Regulations 5 and 6 shall be deleted.

7 Regulation 7 amended

(1) In the heading to Regulation 7 for the word “information” there shall be substituted the words “tax information”.

(2) For paragraph (2) of Regulation 7 there shall be substituted the following paragraph –

“(2) If this Regulation applies, the Royal Court may make an order that the taxpayer must provide to the competent authority for Jersey, within such time as the order specifies, the tax information required under Regulation 2 or so much of that information as is specified in the court order.”.

8 Regulation 8 substituted

For Regulation 8 there shall be substituted the following Regulation –

“8 Court order for provision of tax information by third party

(1) This Regulation applies if the Royal Court is satisfied, on the application of the competent authority for Jersey –

- (a) that a person to whom a third party notice has been given has failed to comply with the notice; or
- (b) that there are reasonable grounds for suspecting that the person will not comply with a third party notice.

(2) If this Regulation applies, the Royal Court may make an order that the person must provide to the competent authority for Jersey, within such time as the order specifies, the tax information required under Regulation 3 or so much of that information as is specified in the court order.”.

9 Regulation 9 deleted

Regulation 9 shall be deleted.

10 Regulation 10 amended

In Regulation 10 for the words “unless the Royal Court is satisfied that” to the end of the Regulation there shall be substituted the following words –

“unless the Royal Court is satisfied –

- (i) that compliance with this Regulation would seriously prejudice the investigation of a relevant criminal offence, or

- (ii) that there is a serious risk that the tax information sought will be altered, concealed, destroyed or otherwise disposed of if this Regulation is complied with.”.

11 Regulations 10A, 10B and 10C inserted

After Regulation 10 there shall be inserted the following Regulations –

“10A Restrictions regarding requirement to provide information

- (1) Nothing in these Regulations requires a person to provide to the competent authority for Jersey information that is subject to legal professional privilege.
- (2) The answers given or a statement or deposition made by an individual in compliance with a notice given under Regulation 2 or 3 or an order of the Royal Court under Regulation 7 or 8 may not be used in evidence against the individual in any criminal proceedings, except proceedings under Regulation 15(2).
- (3) Notwithstanding any other enactment (whenever passed or made) or the terms of any contract (whenever made), a person required to provide information under Regulation 3 or by a court order under Regulation 8 shall not incur any civil or criminal liability by reason of disclosing the information in compliance with the requirement.

10B Manner of provision of tax information

- (1) Where tax information is information within an individual’s knowledge or belief, an individual required by notice under Regulation 2 or 3 or by order of the Royal Court under Regulation 7 or 8 to provide that information shall do so by answering questions, or by making a statement or deposition in a form that would be receivable in evidence according to the law of the third country making the request.
- (2) Where tax information is information recorded in electronic or magnetic form, the person required by notice under Regulation 2 or 3 or by order of the Royal Court under Regulation 7 or 8 to provide that information shall provide the information in a form in which it is visible and legible.
- (3) Where tax information is information recorded in a document or any other record, the person required by notice under Regulation 2 or 3 or by order of the Royal Court under Regulation 7 or 8 to provide that information shall, as further required –
 - (a) provide a copy of the document, authenticated in such manner that the copy would be receivable in evidence according to the law of the third country making the request; or
 - (b) produce the original, for the purpose of the competent authority for Jersey making a copy authenticated as described in sub-paragraph (a).

10C Keeping of records

- (1) A person who is liable to pay tax in a third country shall keep any document that contains tax information relevant to the person's liability.
- (2) A person who provides financial services to a person described in paragraph (1), shall keep any document created in the provision of those services that contains tax information relevant to the liability of the person described in paragraph (1).
- (3) A person required by paragraph (1) or (2) to keep a document shall do so for a period of 6 years beginning at the end of the year in which the tax information was recorded in the document.
- (4) A person who, without reasonable excuse, fails to comply with this Regulation shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (5) In paragraph (2), 'financial services' has the same meaning as in Article 1(1) of the Financial Services Commission (Jersey) Law 1998⁹."

12 Regulation 11 amended

In Regulation 11 –

- (a) in paragraph (1)(a), for the words "document, record, tax information or evidence" there shall be substituted the words "tax information";
- (b) in paragraph (1)(b) for the words "document or record" there shall be substituted the words "tax information";
- (c) in paragraph (2) for the words "document, record, information or evidence" there shall be substituted the words "tax information";
- (d) for paragraphs (3), (4) and (5) there shall be substituted the following paragraphs –
 - “(3) Despite paragraph (2), but subject to Regulation 10C, the person may alter, destroy or otherwise dispose of tax information to which the notice or application relates –
 - (a) with the leave of the Royal Court; or
 - (b) with the written permission of the competent authority for Jersey.
 - (4) Without prejudice to Regulation 10C, paragraph (2) shall cease to apply –
 - (a) where the person was given notice of the requirement under Regulation 2 or 3, upon –
 - (i) the person complying with the requirement, or
 - (ii) the person's appeal against the requirement being granted;

- (b) where the person was given notice of the competent authority for Jersey's intention to apply for an order under Regulation 7 or 8, upon –
 - (i) the application being abandoned or dismissed, or
 - (ii) following the grant of the application, the person complying with the order under Regulation 7 or 8.”.

13 Regulation 12 amended

In Regulation 12 –

- (a) in paragraph (1), the words “On an application made by the Comptroller,” shall be deleted;
- (b) for paragraphs (3), (4) and (5) there shall be substituted the following paragraphs –
 - “(2A) A warrant issued on the ground described in paragraph (1)(b) cannot authorize the entry of any part of premises that are occupied as a dwelling.
 - (3) An application for the issue of a warrant under paragraph (1) may be made by –
 - (a) where the application is on the ground in paragraph (1)(a), a police officer;
 - (b) where the application is on the ground in paragraph (1)(b), a designated tax officer.
 - (4) A warrant issued under this Regulation shall –
 - (a) remain in force for 14 days and shall then cease to have effect; and
 - (b) authorize the person executing it to enter and search the premises specified in it and, for that purpose, take with him or her such other persons as are reasonably necessary.
 - (5) On entering the premises under the authority of the warrant, the person executing it may seize and remove anything found there if –
 - (a) in the case of a warrant issued on the ground in paragraph (1)(a), the person has reasonable grounds to believe that it may be required as evidence for the purposes of criminal proceedings under these Regulations;
 - (b) in the case of a warrant issued on the ground in paragraph (1)(b), the person has reasonable grounds to believe that it is a thing specified in the warrant.”;
- (c) after paragraph (6) there shall be inserted the following paragraphs –
 - “(6A) Where any thing is seized and removed in exercise of a warrant issued on the ground described in paragraph (1)(b), the person executing it shall pass it to the competent authority for Jersey.
 - (6B) Notwithstanding any other enactment (whenever passed or made) a person required by paragraph (6A) to pass any thing to the

competent authority for Jersey shall not incur any civil or criminal liability by reason of complying with the requirement.”.

14 Regulation 14 amended

In Regulation 14 –

(a) in paragraph (1) for sub-paragraphs (b) and (c) there shall be substituted the following sub-paragraphs –

“(b) a person, against a third party notice given to the person;

(c) a taxpayer, against a third party notice which relates to the taxpayer.”;

(b) after paragraph (3) there shall be inserted the following paragraph –

“(3A) On hearing an appeal by a taxpayer under paragraph (1)(c) against a third party notice in a case where the appeal is heard after the information has been provided by the third party, the Royal Court may authorize the provision by the competent authority for Jersey to the competent authority for the third country of all or any of the information or order its restitution or disposal, and may make such order as to the costs of the appeal as it thinks fit.”;

(c) in paragraph (4) for the words “the appeal” in the first place that they appear there shall be substituted the words “any other appeal”.

15 Regulation 15 substituted

For Regulation 15 there shall be substituted the following Regulation –

“15 Offences

(1) A person who, knowingly and without reasonable excuse, contravenes Regulation 11(2) is guilty of an offence.

(2) An individual who, being required by notice under Regulation 2 or 3 or by order of the Royal Court under Regulation 7 or 8 to provide information by answering questions or by making a statement or deposition –

(a) knowingly or recklessly gives an answer or makes a statement or deposition which is false, misleading or deceptive in a material particular; or

(b) knowingly or recklessly withholds any information the omission of which makes the information provided misleading or deceptive in a material particular,

is guilty of an offence.

(3) A person who, knowingly and without reasonable excuse, fails to comply with a requirement imposed under any of Regulation 2, 3, 7 or 8 is guilty of an offence.

- (4) A person who, knowingly and without reasonable excuse, obstructs a person who is executing a warrant under Regulation 12 is guilty of an offence.
- (5) A person guilty of an offence against this Article is liable to imprisonment for a term of 12 months and a fine.”.

16 Regulation 16A amended

For Regulation 16A(1) there shall be substituted the following paragraph –

- “(1) These Regulations, apart from Regulation 16B, apply to tax information in respect of a tax that is specified in the Schedule from the date on which a tax information exchange agreement in respect of that tax comes into force.”.

17 Regulation 16B inserted

After Regulation 16A there shall be inserted the following Regulation –

“16B Confidentiality of information received under tax information exchange agreement

- (1) Information received by the competent authority for Jersey from the competent authority for a third country pursuant to a tax information exchange agreement shall be disclosed only to persons, and used only for the purposes, described in that agreement.
- (2) A person who knowingly contravenes paragraph (1) commits an offence and is liable to a fine.”.

18 Miscellaneous amendments

In the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008¹⁰, apart from Regulation 12(7)(a) and (b), for a reference to the Comptroller there shall be substituted a reference to the competent authority for Jersey.

SCHEDULE 3

(Regulation 3)

**TAXATION (DOUBLE TAXATION) (JERSEY) REGULATIONS 2010
AMENDED**

1 Interpretation

In this Schedule a reference to a Regulation is a reference to the Regulation of that number in the Taxation (Double Taxation) (Jersey) Regulations 2010¹.

2 Regulation 1 amended

(1) In Regulation 1(1) –

(a) the definition “information” shall be deleted;

(b) after the definition “relevant criminal offence” there shall be inserted the following definitions –

“ ‘request’ means a request that is made by the competent authority for a third country under a DTA for tax information regarding a person and that complies with the requirements of the DTA;”;

‘tax’, in relation to a request, means the tax in respect of which the request is made;”;

(c) for the definitions “tax information” and “taxpayer” there shall be substituted the following definitions –

“ ‘tax information’ has the meaning given in Regulation 1A;

‘taxpayer’ means the person who is the subject of a request;”;

(d) after the definition “third country” there shall be added the following definition –

“ ‘third party notice’ shall be construed in accordance with Regulation 7(1) and (2).”.

(2) Paragraphs (2) and (3) of Regulation 1 shall be deleted.

3 Regulation 1A inserted

After Regulation 1 there shall be inserted the following Regulation –

“1A Tax information

(1) For the purposes of these Regulations, ‘tax information’ means information that is foreseeably relevant to the administration or enforcement of the domestic laws of the third country whose competent authority is making the request under a DTA concerning

taxes of the third country that may be the subject of the exchange of information under the DTA.

- (2) Tax information may be –
 - (a) information within an individual’s knowledge or belief; or
 - (b) information recorded in a document or any other record in any format, that a person has in his or her possession, custody or control.”.

4 Regulation 6 amended

- (1) In the heading to Regulation 6 for the word “information” there shall be substituted the words “tax information”.
- (2) In Regulation 6 –
 - (a) for paragraph (1) there shall be substituted the following paragraph –

“(1) Where the competent authority for Jersey decides that it is reasonable to respond to a request concerning a taxpayer, the competent authority for Jersey may require the taxpayer to provide tax information that the competent authority for Jersey reasonably requires for that purpose.”;
 - (b) in paragraph (3) for the words “the information concerned” there shall be substituted the words “the tax information”;
 - (c) paragraphs (6), (7) and (8) shall be deleted.

5 Regulation 7 substituted

For Regulation 7 there shall be substituted the following Regulation –

“7 Provision by other persons of tax information about taxpayer

- (1) Where the competent authority for Jersey decides that it is reasonable to respond to a request concerning a taxpayer, the competent authority for Jersey may require a third party, being a person other than the taxpayer, to provide tax information that the competent authority for Jersey reasonably requires for that purpose.
- (2) A requirement under paragraph (1) shall be made by notice in writing.
- (3) Where a third party notice does not name the taxpayer to whom it relates, it must provide an account number or other, similar, identification for the tax information required.
- (4) Subject to paragraphs (6) and (8), the competent authority for Jersey shall, within the time required by paragraph (5), give to the taxpayer to whom a third party notice relates the following information –
 - (a) a copy of the third party notice; and

- (b) a written summary of the reasons of the competent authority for Jersey for the giving of the notice.
- (5) The information must be given –
 - (a) in a case where, at the time the third party notice is given, the competent authority for Jersey does not know the taxpayer's name and address – as soon as is practicable after the third party has provided to the competent authority for Jersey the tax information required by the third party notice; or
 - (b) in any other case – as soon as is practicable after the third party notice is given.
- (6) The competent authority for Jersey is not required to give to the taxpayer the information described in paragraph (4) if –
 - (a) its disclosure would or might identify a person who has provided information that the competent authority for Jersey takes into account in deciding whether to give the third party notice;
 - (b) the competent authority for Jersey is satisfied that there are reasonable grounds for suspecting that the taxpayer has committed a relevant criminal offence; or
 - (c) the competent authority for Jersey is satisfied that disclosure of information of that description would prejudice the assessment or collection of tax.
- (7) Where –
 - (a) the competent authority for Jersey, pursuant to paragraph (6), does not give the taxpayer the information described in paragraph (4); or
 - (b) at the time the third party notice is given, the competent authority does not know the taxpayer's name and address,

the third party notice may impose a requirement that the third party shall not inform the taxpayer of the third party notice.
- (8) In a case where the third party notice does not name the taxpayer to whom it relates the competent authority for Jersey may, after the third party has provided the tax information required by the third party notice, apply to the Bailiff for the Bailiff to waive the requirement to give the taxpayer the information described in paragraph (4) –
 - (a) on the ground that the competent authority for Jersey –
 - (i) does not know the taxpayer's name and address, and
 - (ii) has taken all reasonable steps to ascertain the information described in clause (i); or
 - (b) on the ground that –
 - (i) its disclosure would or might identify a person who has provided information that the competent authority for Jersey took into account in deciding whether to give the third party notice,

- (ii) there are reasonable grounds for suspecting that the taxpayer has committed a relevant criminal offence, or
 - (iii) disclosure of information of that description would prejudice the assessment or collection of tax.
- (9) The third party who provided the tax information shall be notified of, and have a right to make representations to the Bailiff regarding, an application made under paragraph (8).
- (10) The Bailiff may, before deciding whether to grant an application made on the ground in paragraph (8)(a), direct the competent authority for Jersey to take such further reasonable steps as the Bailiff specifies in order to ascertain the taxpayer's name and address.
- (11) Subject to paragraph (12), the competent authority for Jersey shall not provide to the competent authority for the third country the tax information provided by the third party unless the taxpayer has been given the information required by paragraph (4) and either –
 - (a) the taxpayer's right of appeal against the third party notice has expired; or
 - (b) the taxpayer's appeal has been withdrawn or dismissed.
- (12) In a case where the requirement to give the taxpayer the information described in paragraph (4) does not apply by virtue of paragraph (6) or is waived under paragraph (8) –
 - (a) paragraph (11) shall not apply; and
 - (b) the taxpayer shall not have a right of appeal under Regulation 18(1)(c).
- (13) In this Regulation, a reference to the taxpayer's address is a reference to any address at which the taxpayer may be given information.”.

6 Regulations 9 and 10 deleted

Regulations 9 and 10 shall be deleted.

7 Regulation 11 amended

- (1) In the heading to Regulation 11 for the word “information” there shall be substituted the words “tax information”.
- (2) For paragraph (2) of Regulation 11 there shall be substituted the following paragraph –
 - “(2) If this Regulation applies, the Royal Court may make an order that the taxpayer must provide to the competent authority for Jersey, within such time as the order specifies, the tax information required under Regulation 6 or so much of that information as is specified in the court order.”.

8 Regulation 12 substituted

For Regulation 12 there shall be substituted the following Regulation –

“12 Court order for provision of tax information by third party

- (1) This Regulation applies if the Royal Court is satisfied, on the application of the competent authority for Jersey –
 - (a) that a person to whom a third party notice has been given has failed to comply with the notice; or
 - (b) that there are reasonable grounds for suspecting that the person will not comply with a third party notice.
- (2) If this Regulation applies, the Royal Court may make an order that the person must provide to the competent authority for Jersey, within such time as the order specifies, the tax information required under Regulation 7 or so much of that information as is specified in the court order.”.

9 Regulation 13 deleted

Regulation 13 shall be deleted.

10 Regulation 14 amended

In Regulation 14 for the words “unless the Royal Court is satisfied that” to the end of the Regulation there shall be substituted the following words –

“unless the Royal Court is satisfied –

- (i) that compliance with this Regulation would seriously prejudice the investigation of a relevant criminal offence, or
- (ii) that there is a serious risk that the tax information sought will be altered, concealed, destroyed or otherwise disposed of if this Regulation is complied with.”.

11 Regulations 14A, 14B and 14C inserted

After Regulation 14 there shall be inserted the following Regulations –

“14A Restrictions regarding requirement to provide tax information

- (1) Nothing in these Regulations requires a person to provide to the competent authority for Jersey information that is subject to legal professional privilege.
- (2) The answers given or a statement or deposition made by an individual in compliance with a notice given under Regulation 6 or 7 or an order of the Royal Court under Regulation 11 or 12 may not be used in evidence against the individual in any criminal proceedings, except proceedings under Regulation 19(2).

- (3) Notwithstanding any other enactment (whenever passed or made) or the terms of any contract (whenever made), a person required to provide information under Regulation 7 or by a court order under Regulation 12 shall not incur any civil or criminal liability by reason of disclosing the information in compliance with the requirement.

14B Manner of provision of tax information

- (1) Where tax information is information within an individual's knowledge or belief, an individual required by notice under Regulation 6 or 7 or by order of the Royal Court under Regulation 11 or 12 to provide that information shall do so by answering questions, or by making a statement or deposition in a form that would be receivable in evidence according to the law of the third country making the request.
- (2) Where tax information is information recorded in electronic or magnetic form, the person required by notice under Regulation 6 or 7 or by order of the Royal Court under Regulation 11 or 12 to provide that information shall provide the information in a form in which it is visible and legible.
- (3) Where tax information is information recorded in a document or any other record, the person required by notice under Regulation 6 or 7 or by order of the Royal Court under Regulation 11 or 12 to provide that information shall, as further required –
 - (a) provide a copy of the document, authenticated in such manner that the copy would be receivable in evidence according to the law of the third country making the request; or
 - (b) produce the original, for the purpose of the competent authority for Jersey making a copy authenticated as described in sub-paragraph (a).

14C Keeping of records

- (1) A person who is liable to pay tax in a third country shall keep any document that contains tax information relevant to the person's liability.
- (2) A person who provides financial services to a person described in paragraph (1), shall keep any document created in the provision of those services that contains tax information relevant to the liability of the person described in paragraph (1).
- (3) A person required by paragraph (1) or (2) to keep a document shall do so for a period of 6 years beginning at the end of the year in which the tax information was recorded in the document.
- (4) A person who, without reasonable excuse, fails to comply with this Regulation shall be guilty of an offence and liable to a fine of level 4 on the standard scale.

- (5) In paragraph (2), ‘financial services’ has the same meaning as in Article 1(1) of the Financial Services Commission (Jersey) Law 1998¹².”.

12 Regulation 15 amended

In Regulation 15 –

- (a) in paragraph (1)(a), for the words “any information” there shall be substituted the words “any tax information”;
- (b) in paragraph (1)(b), for the words “any document or record” there shall be substituted the words “any tax information”;
- (c) in paragraph (2) for the words “any document, record, information or evidence” there shall be substituted the words “any tax information”;
- (d) for paragraphs (3), (4) and (5) there shall be substituted the following paragraphs –

- “
 - (3) Despite paragraph (2), but subject to Regulation 14C, the person may alter, destroy or otherwise dispose of tax information to which the notice or application relates –

- (a) with the leave of the Royal Court; or
 - (b) with the written permission of the competent authority for Jersey.

- (4) Without prejudice to Regulation 14C, paragraph (2) shall cease to apply –

- (a) where the person was given notice of the requirement under Regulation 6 or 7, upon –
 - (i) the person complying with the requirement, or
 - (ii) the person’s appeal against the requirement being granted;
 - (b) where the person was given notice of the competent authority for Jersey’s intention to apply for an order under Regulation 11 or 12 upon –
 - (i) the application being abandoned or dismissed, or
 - (ii) following the grant of the application, the person complying with the order under Regulation 11 or 12.”.

13 Regulation 16 amended

In Regulation 16 –

- (a) in paragraph (1), the words “On an application made by the Comptroller,” shall be deleted;
- (b) for paragraphs (3), (4) and (5) there shall be substituted the following paragraphs –

- “(2A) A warrant issued on the ground described in paragraph (1)(b) cannot authorize the entry of any part of premises that are occupied as a dwelling.
- (3) An application for the issue of a warrant under paragraph (1) may be made by –
- (a) where the application is on the ground in paragraph (1)(a), a police officer;
 - (b) where the application is on the ground in paragraph (1)(b), a designated tax officer.
- (4) A warrant issued under this Regulation shall –
- (a) remain in force for 14 days and shall then cease to have effect; and
 - (b) authorize the person executing it to enter and search the premises specified in it and, for that purpose, take with him or her such other persons as are reasonably necessary.
- (5) On entering the premises under the authority of the warrant, the person executing it may seize and remove anything found there if –
- (a) in the case of a warrant issued on the ground in paragraph (1)(a), the person has reasonable grounds to believe that it may be required as evidence for the purposes of criminal proceedings under these Regulations;
 - (b) in the case of a warrant issued on the ground in paragraph (1)(b), the person has reasonable grounds to believe that it is a thing specified in the warrant.”;
- (c) after paragraph (6) there shall be inserted the following paragraphs –
- “(6A) Where any thing is seized and removed in exercise of a warrant issued on the ground described in paragraph (1)(b), the person executing it shall pass it to the competent authority for Jersey.
- (6B) Notwithstanding any other enactment (whenever passed or made) a person required by paragraph (6A) to pass any thing to the competent authority for Jersey shall not incur any civil or criminal liability by reason of complying with the requirement.”.

14 Regulation 18 amended

In Regulation 18 –

- (a) in paragraph (1), for sub-paragraphs (b) and (c) there shall be substituted the following sub-paragraphs –
- “(b) a person, against a third party notice given to the person;
 - (c) a taxpayer, against a third party notice which relates to the taxpayer.”;
- (b) after paragraph (3) there shall be inserted the following paragraph –
- “(3A) On hearing an appeal by a taxpayer under paragraph (1)(c) against a third party notice in a case where the appeal is made after the information has been provided by the third party, the Royal Court

may authorize the provision by the competent authority for Jersey to the competent authority for the third country of all or any of the information received in compliance with the requirement, or order its restitution or disposal, and may make such order as to the costs of the appeal as it thinks fit.”;

- (c) in paragraph (4) for the words “the appeal” there shall be substituted the words “any other appeal”.

15 Regulation 19 substituted

For Regulation 19 there shall be substituted the following Regulation –

“19 Offences

- (1) A person who, knowingly and without reasonable excuse, contravenes Regulation 15(2) is guilty of an offence.
- (2) An individual who, being required by notice under Regulation 6 or 7 or by order of the Royal Court under Regulation 11 or 12 to provide information by answering questions or by making a statement or deposition –
 - (a) knowingly or recklessly gives an answer or makes a statement or deposition which is false, misleading or deceptive in a material particular; or
 - (b) knowingly or recklessly withholds any information the omission of which makes the information provided misleading or deceptive in a material particular,is guilty of an offence.
- (3) A person who, knowingly and without reasonable excuse, fails to comply with a requirement imposed under any of Regulation 6, 7, 11 or 12 is guilty of an offence.
- (4) A person who, knowingly and without reasonable excuse, obstructs a person who is executing a warrant under Regulation 16 is guilty of an offence.
- (5) A person guilty of an offence against this Article is liable to imprisonment for a term of 12 months and a fine.”.

16 Miscellaneous amendments

In the Taxation (Double Taxation) (Jersey) Regulations 2010¹³, apart from Regulation 16(7)(a) and (b), for a reference to the Comptroller there shall be substituted a reference to the competent authority for Jersey.

SCHEDULE 4

(Regulation 4)

**TAXATION (EXCHANGE OF INFORMATION WITH THIRD COUNTRIES)
(JERSEY) REGULATIONS 2008 AMENDED TO IMPLEMENT FURTHER
TAX INFORMATION EXCHANGE AGREEMENTS**

In the Schedule to the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008¹⁴ –

- (a) before the matter relating to Australia there shall be inserted the following matter –

“Argentina	The Argentine Republic	(a) income tax (b) value added tax (c) personal assets tax (d) tax on presumptive minimum income	9th December 2011”;
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- (b) after the matter relating to Australia there shall be inserted the following matter –

“Canada	(i) The land territory, air space, internal waters and territorial sea of Canada; (ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the United Nations Convention on the Law of the Sea, 1982; and (iii) the continental shelf of Canada, as determined by its domestic law,	Taxes on income or capital imposed or administered by the Government of Canada	19th December 2011
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	consistent with Part VI of the United Nations Convention on the Law of the Sea, 1982;		
Czech Republic	the Czech Republic	Taxes of every kind and description imposed by the laws of the Czech Republic	14th March 2012”;

- (c) in the fourth column of the matter relating to France there shall be inserted the words “11th November 2010”;
- (d) after the matter relating to Iceland there shall be inserted the following matter –

“India	The territory of India, including the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the United Nations Convention on the Law of the Sea, 1982	Taxes of every kind and description imposed by the Central Government or the Governments of the political subdivisions or local authorities, irrespective of the manner in which they are levied	7th May 2012
Indonesia	The territory of the Republic of Indonesia as defined in its laws, and parts of the continental shelf, exclusive economic zone and adjacent seas over which the Republic of Indonesia has sovereignty, sovereign rights or jurisdiction in accordance with the United Nations Convention on the Law of the Sea, 1982	(a) income tax (b) value added tax”;	

(e) after the matter relating to Ireland there shall be inserted the following matter –

<p>“Italy</p>	<p>The Italian Republic, including any area beyond the territorial waters which is designated as an area within which Italy, in compliance with its legislation and in conformity with the International Law, may exercise sovereign rights in respect of the exploration and exploitation of the natural resources of the seabed, the subsoil and the superjacent waters</p>	<p>(a) personal income tax (b) corporate income tax (c) regional tax on productive activities (d) value added tax (e) inheritance tax (f) gift tax (g) substitute taxes</p>	
<p>Japan</p>	<p>All of the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the seabed and subsoil thereof, over which Japan has sovereign rights in accordance with international law and in which the laws relating to Japanese tax are in force</p>	<p>Taxes of every kind and description imposed on behalf of Japan or of its political subdivisions or local authorities</p>	
<p>Mexico</p>	<p>The United Mexican States, being the territory of the United Mexican States, as well as the integrated parts of the Federation, the islands, including the reefs and cays in the adjacent waters, the</p>	<p>(a) federal income tax (b) business flat rate tax (c) value added tax</p>	<p>22nd March 2012”;</p>

	islands of Guadalupe and Revillagigedo, the continental shelf and the seabed and sub-soil of the islands, cays and reefs, the waters of the territorial seas and the inland waters and beyond them the areas over which, in accordance with the international law, Mexico may exercise its sovereign rights of exploration and the exploitation of the natural resources of the seabed, sub-soil and the superjacent waters, and the air space of the national territory to the extent and under conditions established by international law		
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- (f) in the fourth column of the matter relating to New Zealand there shall be inserted the words “27th October 2010”;
- (g) after the matter relating to Norway there shall be inserted the following matter –

“People’s Republic of China	All the territory of the People’s Republic of China, including its territorial sea, in which the Chinese laws relating to taxation apply, and any area beyond its territorial sea, within which the People’s Republic of China has sovereign rights of exploration for and exploitation of resources of the seabed and its sub-soil and superjacent water resources in	All taxes except customs tariffs	10th November 2011
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	accordance with international law and its domestic law		
Poland	The Republic of Poland, being the territory of the Republic of Poland, and any area adjacent to the territorial waters of the Republic of Poland within which, under the laws of Poland and in accordance with the international law, the rights of Poland with respect to the exploration and exploitation of the natural resources of the seabed and its sub-soil may be exercised	(a) personal income tax (b) corporate income tax (c) tax on goods and services	
Portugal	The territory of the Portuguese Republic in accordance with the International Law and the Portuguese Legislation, including its territorial sea, as well as those maritime areas adjacent to the outer limit of the territorial sea, comprising the seabed and the subsoil thereof, over which the Portuguese Republic exercises sovereign rights or jurisdiction	(a) personal income tax (imposto sobre o rendimento das pessoas singulares – IRS) (b) corporate income tax (imposto sobre o rendimento das pessoas colectivas – IRC) (c) local surtax on corporate income tax (Derrama) (d) stamp duty on gratuitous transfers (Imposto do Selo sobre as transmissões gratuitas)	9th November 2011

		(e) Value added tax (Imposto sobre o valor acrescentado)	
South Africa	The Republic of South Africa, including the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights of jurisdiction	(a) normal tax (b) secondary tax on companies (c) withholding tax on royalties (d) tax on foreign entertainers and sportspersons (e) value added tax	29th February 2012”;

(h) after the matter relating to Sweden there shall be inserted the following matter –

“Turkey	The Turkish territory, including territorial sea and air space above it, as well as maritime areas over which Turkey has jurisdiction or sovereign rights for the purpose of exploration, exploitation and conservation of natural resources, pursuant to international law	Taxes of every kind and description imposed by the law of Turkey”.	
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SCHEDULE 5

(Regulation 5(b))

**SCHEDULES ADDED TO THE TAXATION (DOUBLE TAXATION)
(JERSEY) REGULATIONS 2010 TO IMPLEMENT FURTHER DOUBLE
TAXATION AGREEMENTS**

“SCHEDULE 3

(Regulation 2(3))

ESTONIA

PART 1

DTA WITH ESTONIA

AGREEMENT BETWEEN JERSEY AND THE REPUBLIC OF
ESTONIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME

Article 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of
the Parties.

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf
of a Party or its local authorities, irrespective of the manner in
which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on
total income or on elements of income, including taxes on gains
from the alienation of movable or immovable property.
3. The existing taxes to which the Agreement shall apply are in
particular:
 - (a) in the case of Jersey, the income tax;

(b) in the case of Estonia, the income tax.

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
- (a) the term 'Jersey' means the Bailiwick of Jersey, including its territorial sea;
 - (b) the term 'Estonia' means the Republic of Estonia; and, when used in the geographical sense, means the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which, under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the sea bed and its sub-soil and their natural resources;
 - (c) the terms 'a Party' and 'the other Party' mean Jersey or Estonia as the context requires; the term 'Parties' means Jersey and Estonia;
 - (d) the term 'person' includes an individual, a company and any other body of persons;
 - (e) the term 'company' means any legal person or any entity that is treated as a legal person for tax purposes;
 - (f) the term 'enterprise' applies to the carrying on of any business;
 - (g) the terms 'enterprise of a Party' and 'enterprise of the other Party' mean respectively an enterprise carried on by a resident of a Party and an enterprise carried on by a resident of the other Party;
 - (h) the term 'international traffic' means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party;
 - (i) the term 'business' includes the performance of professional services and of other activities of an independent character;
 - (j) the term 'competent authority' means:
 - (i) in the case of Jersey, the Treasury and Resources Minister or his authorised representative, and;
 - (ii) in the case of Estonia, the Minister of Finance or his authorised representative;

- (k) the term 'national', in relation to a Party, means:
 - (i) any individual possessing the nationality or citizenship of a Party, and;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Party.
- 2. As regards the application of the 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 the 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 4

RESIDENT

- 1. For the purposes of this Agreement, the term 'resident of a Party' means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that Party, any local authority thereof and any pension fund or pension scheme recognised by that Party. This term, however, does not include any person who is liable to tax in that Party in respect only of income from sources in that Party.
- 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Parties, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
 - (c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party of which he is a national;
 - (d) if he is a national of both Parties or of neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.
- 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Parties, the competent authorities of the Parties shall settle the question by mutual

agreement having regard to such factors as the place of effective management and the place of incorporation.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term 'permanent establishment' means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term 'permanent establishment' includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop, and
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.
4. Notwithstanding the preceding provisions of this Article, the term 'permanent establishment' shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 6 applies, is acting on behalf of an enterprise and has,

and habitually exercises, in a Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise of a Party shall not be deemed to have a permanent establishment in the other Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.
7. The fact that a company which is a resident of a Party controls or is controlled by a company which is a resident of the other Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Party from immovable property (including income from agriculture or forestry) situated in the other Party may be taxed in that other Party.
2. The term 'immovable property' shall have the meaning which it has under the law of the Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, any rights of claim in respect of immovable property, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Party shall be taxable only in that Party unless the enterprise carries on business in the other Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Party but only so much of them as are attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Party carries on business in the other Party through a permanent establishment situated therein, there shall in each Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Party in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Party from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. The profits of an enterprise of a Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where
 - (a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,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 a Party includes in the profits of an enterprise of that Party, and taxes accordingly, profits on which an enterprise of the other Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 Agreement and the competent authorities of the Parties shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Party to a resident of the other Party and beneficially owned by that resident of the other Party shall be taxable only in that other Party.

2. The term 'dividends' as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Party, carries on business in the other Party of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Where a company which is a resident of a Party derives profits or income from the other Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

Article 11

INTEREST

1. Interest arising in a Party and beneficially owned by a resident of the other Party shall be taxable only in that other Party.
2. The term 'interest' as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Party, carries on business in the other Party in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Interest shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Party or not, has in a Party a permanent establishment in connection with which the

indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Party in which the permanent establishment is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Party and beneficially owned by a resident of the other Party shall be taxable only in that other Party.
2. The term 'royalties' as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Party, carries on business in the other Party in which the royalties arise through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Royalties shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Party or not, has in a Party a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Party in which the permanent establishment is situated.
5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to

the laws of each Party, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Party from the alienation of immovable property referred to in Article 6 and situated in the other Party may be taxed in that other Party.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Party has in the other Party, including such gains from the alienation of such a permanent establishment, may be taxed in that other Party.
3. Gains derived by an enterprise of a Party operating ships or aircraft in international traffic from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Party.
4. Gains derived by a resident of a Party from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Party may be taxed in that other Party.
5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Party of which the alienator is a resident.

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:
 - (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and
 - (c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Party, may be taxed in that Party.

Article 15

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Party may be taxed in that other Party.

Article 16

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Party in which the activities of the entertainer or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Party by an entertainer or a sportsman if the visit to that Party is wholly or mainly supported by public funds of one or both of the Parties or local authorities thereof. In such case, the income shall be taxable only in the Party of which the entertainer or a sportsman is a resident.

Article 17

PENSIONS

Pensions paid to a resident of a Party shall be taxable only in that Party.

Article 18

GOVERNMENT SERVICE

1. Salaries, wages and other similar remuneration, paid by a Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party. However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who:
 - (a) is a national of that Party; or
 - (b) did not become a resident of that Party solely for the purpose of rendering the services.
2. The provisions of Articles 14, 15 and 16 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a local authority thereof.

Article 19

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

Article 20

OTHER INCOME

1. Items of income of a resident of a Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Party, carries on business in the other Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

Article 21

METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In the case of Jersey, double taxation shall be avoided as follows:
 - (a) when imposing tax on its residents Jersey may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Agreement, may be taxed in Estonia;
 - (b) where a resident of Jersey derives income which, in accordance with the provisions of this Agreement, may be taxed in Estonia, Jersey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Estonia. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Estonia, and
 - (c) notwithstanding the provisions of subparagraph b), where a company which is a resident of Jersey holds at least 10 percent of the capital of a company which is a resident of Estonia, Jersey shall exempt from tax the dividends paid to the company which is a resident of Jersey by the company which is a resident of Estonia.
2. In the case of a resident of Estonia, double taxation shall be avoided as follows:
 - (a) where a resident of Estonia derives income which, in accordance with the provisions of this Agreement, has been taxed in Jersey, Estonia shall, subject to the provisions of subparagraph b), exempt such income from tax, and
 - (b) where in accordance with any provision of the Agreement income derived by a resident of Estonia is exempt from tax in Estonia, Estonia may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 22

NON-DISCRIMINATION

1. Nationals of a Party shall not be subjected in the other Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other Party in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Party has in the other Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 5 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Party to a resident of the other Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party.
4. Enterprises of a Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.
5. The provisions of this Article shall not be construed as obliging a Party to grant to residents of the other Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 23

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident, or if his case comes under paragraph 1 of Article 22, to that of the Party of which he is a national. 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 the Agreement.
2. The competent 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 competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. An agreement shall be reached within a period of two years after the question was formally raised by the competent authority and the agreement shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also

consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 24

EXCHANGE OF INFORMATION

1. The competent authorities of the Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.
2. Any information received under paragraph 1 by a Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Party the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Party;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Party;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Party in accordance with this Article, the other Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Party to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 25

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 26

ENTRY INTO FORCE

1. Each Party shall notify the other Party of the completion of the procedures required by its laws for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.
2. The provisions of the Agreement shall have effect:
 - (a) in respect of taxes withheld at source, on income derived on or after the first day of January next following the year in which the Agreement enters into force;
 - (b) in respect of other taxes on income, for taxes chargeable for any fiscal year beginning on or after the first day of January next following the year in which the Agreement enters into force.

Article 27

TERMINATION

This Agreement shall remain in force until terminated by a Party but either Party may terminate the Agreement by giving to the other Party written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

- (a) in respect of taxes withheld at source, on income derived on or after the first day of January next following the year in which the notice is given;
- (b) in respect of other taxes on income, for taxes chargeable for any taxation year beginning on or after the first day of January next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at London, 21st of December 2010, in the English and Estonian languages, both texts being equally authentic. In case of divergence between the texts the English text shall prevail.


FOR THE GOVERNMENT OF
JERSEY


FOR THE GOVERNMENT OF
THE REPUBLIC OF ESTONIA

PART 2

TAXATION MODIFICATIONS FOR THE PURPOSES OF DTA WITH ESTONIA

1 1961 Law modified

Part 14 of the 1961 Law shall apply as if the DTA reproduced in Part 1 of this Schedule were an arrangement having effect under Article 111 of that Law.

SCHEDULE 4

(Regulation 2(3))

HONG KONG SPECIAL ADMINISTRATIVE REGION

PART 1

DTA WITH HONG KONG SPECIAL ADMINISTRATIVE REGION

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON
INCOME

The Government of Jersey and the Government of the Hong Kong Special Administrative Region of the People's Republic of China, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1

Persons Covered

This Agreement shall apply to persons who are residents of one or both of the Contracting Parties.

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are:
 - (a) in the case of the Hong Kong Special Administrative Region,
 - (i) profits tax;
 - (ii) salaries tax; and
 - (iii) property tax;whether or not charged under personal assessment;
 - (b) in the case of Jersey, the income tax.

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes, as well as any other taxes falling within paragraphs 1 and 2 of this Article which a Contracting Party may impose in future. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their respective taxation laws.
5. The existing taxes, together with the taxes imposed after the signature of the Agreement, are hereinafter referred to as "Hong Kong Special Administrative Region tax" or "Jersey tax", as the context requires.

Article 3

General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) (i) the term "Hong Kong Special Administrative Region" means any territory where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply;
 - (ii) the term "Jersey" means the Bailiwick of Jersey, including its territorial sea;
 - (b) the term "business" includes the performance of professional services and of other activities of an independent character;
 - (c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (d) the term "competent authority" means:
 - (i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorised representative; and

- (ii) in the case of Jersey, the Treasury and Resources Minister or his authorised representative;
 - (e) the term "Contracting Party" or "Party" means the Hong Kong Special Administrative Region or Jersey, as the context requires;
 - (f) the term "enterprise" applies to the carrying on of any business;
 - (g) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;
 - (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;
 - (i) the term "person" includes an individual, a company, a trust, a partnership and any other body of persons;
 - (j) the term "tax" means the Hong Kong Special Administrative Region tax or Jersey tax, as the context requires.
2. In the Agreement, the terms "Hong Kong Special Administrative Region tax" and "Jersey tax" do not include any penalty or interest (including, in the case of the Hong Kong Special Administrative Region, any sum added to the Hong Kong Special Administrative Region tax by reason of default and recovered therewith and "additional tax" under Section 82A of the Inland Revenue Ordinance) imposed under the laws of either Contracting Party relating to the taxes to which the Agreement applies by virtue of Article 2.
3. As regards the application of the 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 law of that Party for the purposes of the 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 4**Resident**

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means:
 - (a) in the case of the Hong Kong Special Administrative Region,
 - (i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;
 - (ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;
 - (iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;
 - (iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;
 - (b) in the case of Jersey, any person who, under the laws of Jersey, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in Jersey in respect only of income from sources in Jersey;
 - (c) in the case of either Contracting Party, the Government of that Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
 - (c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party in which he has the right of abode;
 - (d) if he has the right of abode in both Parties or in neither of them, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting Parties, the competent authorities of the Parties shall settle the question by mutual agreement having regard to such factors as the place of effective management and the place of incorporation.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop; and
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term "permanent establishment" also encompasses:
 - (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months;
 - (b) the furnishing of services, including consultancy services, by an enterprise directly or through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within a Contracting Party for a period or periods aggregating more than 183 days within any twelve-month period.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6**Income from Immovable Property**

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, quarries, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7**Business Profits**

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Party but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Party in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting Party from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8**Shipping and Air Transport**

1. Profits of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9**Associated Enterprises**

1. Where
 - (a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

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 a Contracting Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 Agreement and the competent authorities of the Contracting Parties shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party and beneficially owned by that resident of the other Party shall be taxable only in that other Party. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
2. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other party.

Article 11

Interest

1. Interest arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.
2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest exceeds, for whatever reasons, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

1. Royalties arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.
2. However, such royalties may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed four per cent of the gross amount of the royalties. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of this limitation.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Party in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties exceeds, for whatever reasons, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Party.

3. Gains derived by an enterprise of a Contracting Party from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Party.
4. Gains derived by a resident of a Contracting Party from the alienation of shares of a company deriving more than 50 per cent of its asset value directly or indirectly from immovable property situated in the other Contracting Party may be taxed in that other Party. However, this paragraph does not apply to gains derived from the alienation of shares:
 - (a) quoted on such stock exchange as may be agreed between the Parties; or
 - (b) alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation; or
 - (c) in a company deriving more than 50 per cent of its asset value from immovable property in which it carries on its business.
5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting Party of which the alienator is a resident.

Article 14

Income from Employment

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:
 - (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable period concerned, and

- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and
 - (c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party may be taxed in that Party.

Article 15
Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Party.

Article 16
Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting Party in which the activities of the entertainer or sportsman are exercised.

Article 17

Pensions

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration (including a lump sum payment) paid to a resident of a Contracting Party in consideration of past employment or self-employment shall be taxable only in that Party.
2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including a lump sum payment) made under a pension or retirement scheme which is:
 - (a) a public scheme which is part of the social security system of a Contracting Party; or
 - (b) a scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in a Contracting Party,

shall be taxable only in that Contracting Party.

Article 18

Government Service

1.
 - (a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.
 - (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:
 - (i) has the right of abode in that Party; or
 - (ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. (a) Any pension (including a lump sum payment) paid by, or paid out of funds created or contributed by, the Government of a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.

(b) However, if the individual who rendered the services is a resident of the other Contracting Party and the case falls within subparagraph (b) of paragraph 1 of this Article, any corresponding pension (whether a payment in lump sum or by instalments) shall be taxable only in that other Contracting Party.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions (including a lump sum payment), and other similar remuneration in respect of services rendered in connection with a business carried on by the Government of a Contracting Party.

Article 19

Students

Payments which a student who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Party solely for the purpose of his education receives for the purpose of his maintenance or education shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

Article 20

Other Income

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
3. Alimony or other maintenance payment paid by a resident of a Contracting Party to a resident of the other Contracting Party shall, to the extent it is not allowable as a deduction to the payer in the first-mentioned Party, be taxable only in that Party.

Article 21

Methods for Elimination of Double Taxation

1. Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article), Jersey tax paid under the laws of Jersey and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in Jersey, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

2. In the case of Jersey, double taxation shall be avoided as follows:
 - (a) when imposing tax on its residents Jersey may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Agreement, may be taxed in the Hong Kong Special Administrative Region; and
 - (b) where a resident of Jersey derives income which, in accordance with the provisions of this Agreement, may be taxed in the Hong Kong Special Administrative Region, Jersey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Hong Kong Special Administrative Region. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in the Hong Kong Special Administrative Region.

Article 22
Non-Discrimination

1. Persons who have the right of abode in a Contracting Party or are incorporated or otherwise constituted therein shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Party in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting Parties.

2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reduction for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party.
4. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.
5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 23**Mutual Agreement Procedure**

1. Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 22, to that of the Contracting Party in which he has the right of abode or is incorporated or otherwise constituted. 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 the Agreement.
2. The competent 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 competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.
3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Where,
- (a) under paragraph 1, a person has presented a case to the competent authority of a Contracting Party on the basis that the actions of one or both of the Contracting Parties have resulted for that person in taxation not in accordance with the provisions of the Agreement, and
 - (b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting Party,

any unresolved issues arising from the case may be submitted to arbitration if both competent authorities and the person agree in writing to be bound by the decision of the arbitration board. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Party. The decision of the arbitration board in a particular case shall be binding on both Parties with respect to that case. The procedure shall be established in an exchange of notes between the Parties.

Article 24

Exchange of Information

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws of the Contracting Parties concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Information shall not be disclosed to any third jurisdiction for any purpose.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting Party the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).
4. If information is requested by a Contracting Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting Party to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 25

Members of Government Missions

Nothing in this Agreement shall affect the fiscal privileges of members of government missions, including consular posts, under the general rules of international law or under the provisions of special agreements.

Article 26

Miscellaneous Rules

Nothing in this Agreement shall prejudice the right of each Contracting Party to apply its domestic laws and measures concerning tax avoidance, whether or not described as such.

Article 27

Entry into Force

1. Each of the Contracting Parties shall notify the other in writing of the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.
2. The provisions of the Agreement shall thereupon have effect:
 - (a) in the Hong Kong Special Administrative Region:

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after 1 April in the calendar year next following that in which the Agreement enters into force;
 - (b) in Jersey:

in respect of Jersey tax, for any year of assessment beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force.

Article 28
Termination

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving the other Contracting Party written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

(a) in the Hong Kong Special Administrative Region:

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after 1 April in the calendar year next following that in which the notice is given;

(b) in Jersey:

in respect of Jersey tax, for any year of assessment beginning on or after 1 January in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed
this Agreement.

DONE in duplicate in Jersey and Hong Kong on the *Fifteenth* day
of *February* 2012 and the *twenty-second* day of *February* 2012,
respectively, in the English language.

For the Government of Jersey



For the Government of
The Hong Kong Special
Administrative Region
of the People's Republic of China



PROTOCOL

At the time of signing of the Agreement between the Government of Jersey and the Government of the Hong Kong Special Administrative Region of the People's Republic of China for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income ("the Agreement"), the two Governments have agreed on the following provisions which shall form an integral part of the Agreement.

With respect to Article 24

It is understood that:

- (a) the Article does not require the Contracting Parties to exchange information on an automatic or a spontaneous basis; and
- (b) a Contracting Party may only request information relating to taxable periods for which the provisions of the Agreement have effect for that Party.

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

DONE in duplicate in Jersey and Hong Kong on the *Fifteenth* day of *February* 2012 and the *twenty-second* day of *February* 2012, respectively, in the English language.

For the Government of Jersey



For the Government of
The Hong Kong Special
Administrative Region
of the People's Republic of China



PART 2

**TAXATION MODIFICATIONS FOR PURPOSES OF DTA WITH
HONG KONG SPECIAL ADMINISTRATIVE REGION**

1 1961 Law modified

Part 14 of the 1961 Law shall apply as if the DTA reproduced in Part 1 of this Schedule were an arrangement having effect under Article 111 of that Law.

SCHEDULE 5

(Regulation 2(3))

QATAR

PART 1

DTA WITH QATAR

**FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON
INCOME**

The Government of Jersey and the Government of the State of Qatar, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1**PERSONS COVERED**

This Agreement shall apply to persons who are residents of one or both of the Parties.

Article 2**TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Party or its local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income.
3. The existing taxes to which the Agreement shall apply are in particular:
 - a) in the case of Jersey:
 - the income tax(hereinafter referred to as "Jersey tax"); and
 - b) in the case of the State of Qatar:
 - taxes on income(hereinafter referred to as "Qatari tax").
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their respective taxation laws.

Article 3**GENERAL DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the term "Jersey" means the Bailiwick of Jersey, including its territorial sea, in accordance with the provisions of international law and Jersey's domestic law and regulations;

- b) the term "Qatar" means the State of Qatar's lands, internal waters, territorial sea including its bed and subsoil, the air space over them, the exclusive economic zone and the continental shelf, over which the State of Qatar exercises sovereign rights and jurisdiction in accordance with the provisions of international law and Qatar's national laws and regulations;
 - c) the terms "a Party" and "the other Party" mean Jersey or Qatar as the context requires; the term "Parties" means Jersey and Qatar;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of a Party" and "enterprise of the other Party" mean respectively an enterprise carried on by a resident of a Party and an enterprise carried on by a resident of the other Party;
 - g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Party, except when the ship or aircraft is operated solely between places in the other Party;
 - h) the term "competent authority" means:
 - (i) in the case of Jersey, the Treasury and Resources Minister or his authorised representative, and;
 - (ii) in the case of Qatar, the Minister of Economy and Finance, or his authorised representative;
 - i) the term "national", in relation to a Party, means:
 - (i) any individual possessing the nationality or citizenship of a Party, and;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Party.
2. As regards the application of the 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 the 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 4**RESIDENT**

1. For the purposes of this Agreement, the term "resident of a Party" means:
 - (a) in the case of Jersey, any person who, under the law of Jersey, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes Jersey and any local authority thereof. This term, however, does not include any person who is liable to tax in Jersey in respect only of income from sources in Jersey;
 - (b) in the case of Qatar, any individual who has a permanent home, his centre of vital interest, or habitual abode in Qatar, and a company incorporated or having its place of effective management in Qatar. The term also includes the State of Qatar and any local authority or statutory body thereof.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Parties, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
 - b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
 - c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party of which he is a national;
 - d) if he is a national of both Parties or of neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) premises used as a sales outlet;
 - g) a farm or plantation; and
 - h) a mine, an oil or gas well, a quarry or any other place of exploration, extraction or exploitation of natural resources.
3. The term "permanent establishment" also encompasses:
 - (a) a building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project, but only where such site, project or activity continues for a period or periods aggregating more than six months within any twelve month period; and
 - (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if the activities of that nature continue (for the same or a connected project) within a Party for period or periods aggregating more than six months within any twelve month period.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; or
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 7 applies, is acting on behalf of an enterprise and has, and habitually exercises, in a Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
 6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Party shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Party if it collects premiums on the territory of that other Party or insures risks situated therein through a person, other than an agent of an independent status to whom paragraph 7 applies.
 7. An enterprise of a Party shall not be deemed to have a permanent establishment in the other Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.
 8. The fact that a company which is a resident of a Party controls or is controlled by a company which is a resident of the other Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Party from immovable property (including income from agriculture or forestry) situated in the other Party may be taxed in that other Party.
2. The term "immovable property" shall have the meaning which it has under the law of the Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Party shall be taxable only in that Party unless the enterprise carries on business in the other Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Party but only so much of them as are attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Party carries on business in the other Party through a permanent establishment situated therein, there shall in each Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Party in which the permanent establishment is situated or elsewhere, which are allowed under the provisions of the domestic law of the Party in which the permanent establishment is situated.

4. Insofar as it has been customary in a Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Party from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircrafts in international traffic shall be taxable only in the Party in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Party in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Party of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where
 - a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party, or
 - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

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 a Party includes in the profits of an enterprise of that Party, and taxes accordingly, profits on which an enterprise of the other Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party may 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 Agreement and the competent authorities of the Parties shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Party to a resident of the other Party and beneficially owned by that resident of the other Party shall be taxable only in that other Party.
2. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Party, carries on business in the other Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in the other Party independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
4. Where a company which is a resident of a Party derives profits or income from the other Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

Article 11**INTEREST**

1. Interest arising in a Party and beneficially owned by a resident of the other Party shall be taxable only in that other Party.
2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Party, carries on business in the other Party in which the interest arises, through a permanent establishment situated therein, or performs in the other Party independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

Article 12**ROYALTIES**

1. Royalties arising in a Party and paid to a resident of the other Party may be taxed in that other Party.
2. However, such royalties may also be taxed in the Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Party, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films, tapes or discs for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula

or process, or for the use of, or the right to use, industrial commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Party, carries on business in the other Party in which the royalties arise, through a permanent establishment situated therein, or performs in the other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Party or not, has in a Party a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Party in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Party from the alienation of immovable property referred to in Article 6 and situated in the other Party may be taxed in that other Party.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Party has in the other Party or of movable property pertaining to a fixed base available to a resident of a Party in the other Party for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other Party.
3. Gains from the alienation of ships or aircrafts operated in international traffic or movable property pertaining to the operation of such ships or aircrafts, shall be taxable only in the Party in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, and 3, shall be taxable only in the Party of which the alienator is a resident.

Article 14**INDEPENDENT PERSONAL SERVICES**

1. Income derived by a resident of a Party in respect of professional services or other activities of an independent character shall be taxable only in that Party except in the following circumstances, when such income may also be taxed in the other Party:
 - (a) if he has a fixed base regularly available to him in the other Party for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Party; or
 - (b) if his stay in the other Party is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable year concerned; in that case, only so much of the income as is derived from his activities performed in that other Party may be taxed in that other Party.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15**DEPENDENT PERSONAL SERVICES**

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived there from may be taxed in that other Party.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:
 - a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable year concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and
 - c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived from an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Party in which the place of effective management of the enterprise is situated.
4. Notwithstanding the preceding provisions of this Article, salaries, wages, allowances and other remuneration received by an area manager of the national airline or shipping carrier of a Party, who is stationed in the other Party for a period of up to two years for the purposes of establishing the activities of the enterprise in that Party, shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Party may be taxed in that other Party.

Article 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Party in which the activities of the entertainer or sportsperson are exercised.
3. Income derived by a resident of a Party from activities exercised in the other Party as envisaged in paragraphs 1 and 2 of this Article, shall be exempted from tax in that other Party if the visit to that other Party is supported wholly or substantially by funds of either Party or a local authority thereof, or takes place under a cultural agreement or arrangement between the Governments of the Parties.

Article 18**PENSIONS AND ANNUITIES**

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration and annuities paid to a resident of a Party shall be taxable only in that Party.
2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19**GOVERNMENT SERVICE**

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that other Party and the individual is a resident of that other Party who:
 - (i) is a national of that other Party; or
 - (ii) did not become a resident of that other Party solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

(b) However, such pension shall be taxable only in the other Party if the individual is a resident of, and a national of, that Party.
3. The provisions of Articles 15, 16, 17, and 18 of this Agreement shall apply to salaries, wages and similar remuneration, and to pensions in respect of services rendered in connection with a business carried on by a Party or a local authority thereof.

Article 20

STUDENTS AND TRAINEES

1. Payments which a student or business apprentice or trainee who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.
2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student, business apprentice or trainee described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, relief or reductions in respect of taxes available to residents of the Party which he is visiting.
3. Nothing contained in this Article shall be construed as obliging either Party to grant to individuals not resident in that Party any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident or to its own nationals.

Article 21

OTHER INCOME

1. Items of income of a resident of a Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income carries on business in the Party through a permanent establishment situated therein, or performs in the other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. In the case of Jersey, double taxation shall be avoided as follows:
 - a) when imposing tax on its residents Jersey may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Agreement, may be taxed in Qatar;

- b) where a resident of Jersey derives income which, in accordance with the provisions of this Agreement, may be taxed in Qatar, Jersey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Qatar. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Qatar.

2. In the case of Qatar, double taxation shall be avoided as follows:

Where a resident of Qatar derives income which, in accordance with the provisions of this Agreement, is taxable in Jersey, then Qatar shall allow as a deduction from the tax on income of that resident an amount equal to the tax paid in Jersey provided that such deduction shall not exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from Jersey.

Article 23

NON-DISCRIMINATION

1. Nationals of a Party shall not be subjected in the other Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other Party in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Parties.
2. The taxation on a permanent establishment which an enterprise of a Party has in the other Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Party to a resident of the other Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party.
4. Enterprises of a Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.
5. The non taxation of Qatari nationals under Qatari tax law shall not be regarded as a discrimination under the provision of this Article.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident, or if his case comes under paragraph 1 of Article 23, to that of the Party of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent 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 competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws of the Parties concerning taxes of every kind and description imposed on behalf of the Parties or their local authorities, insofar as the taxation thereunder is not contrary to the Agreement, in particular, to prevent fraud and to facilitate the administration of laws against tax avoidance. The exchange of information is not restricted by Articles 1 and 2 of this Agreement.
2. Any information received under paragraph 1 by a Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Party the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Party;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Party;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).
4. If information is requested by a Party in accordance with this Article, the other Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Party to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 27

ENTRY INTO FORCE

1. The Parties shall notify each other in writing, through appropriate channels, of the completion of the procedures required by their laws for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.
2. The provisions of this Agreement shall have effect:

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year immediately following the year in which the Agreement enters into force; and

(b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the calendar year immediately following the year in which the Agreement enters into force.

Article 28

TERMINATION

1. This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement, through appropriate channels, by giving written notice of termination at least six months before the end of any calendar year following the expiration of a period of five years from the date of its entry into force.

2. This Agreement shall cease to have effect:

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year immediately following the year in which the notice is given; and

(b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the calendar year immediately following the year in which the notice is given.

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

DONE in duplicate at Qatar on 20/12/2012, in the English and the Arabic languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
JERSEY



FOR THE GOVERNMENT OF
THE STATE OF QATAR



PROTOCOL

At the moment of signing the Agreement between the Government of Jersey and the Government of the State of Qatar for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

1. With reference to Article 25

(I) The competent authority of the applicant 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) a statement of the information sought including its nature and the form in which the applicant Party wishes to receive the information from the requested Party;
- c) the tax purpose for which the information is sought;
- d) grounds for believing that the information requested is held in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;
- e) to the extent known the name and address of any person believed to be in possession of the requested information;
- f) a statement that the request is in conformity with the law and administrative practices of the applicant Party, that if the requested information was within the jurisdiction of the applicant Party then the competent authority of the applicant Party would be able to obtain the information under the laws of the applicant Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
- g) a statement that the applicant Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

(II) It is understood that the exchange of information provided in Article 25 does not include measures aimed only at the random collection of pieces of evidence ("fishing expeditions").

(III) It is understood that Article 25 does not oblige the Contracting Parties to exchange information on a spontaneous or automatic basis.

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

DONE in duplicate at Qatar on 20/3/2012, in the English and the Arabic languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
JERSEY

Philip Baillet

FOR THE GOVERNMENT OF
THE STATE OF QATAR

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PART 2

**TAXATION MODIFICATIONS FOR THE PURPOSES OF DTA WITH
QATAR**

1 1961 Law modified

Part 14 of the 1961 Law shall apply as if the DTA reproduced in Part 1 of this Schedule were an arrangement having effect under Article 111 of that Law.”.

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- ¹ *chapter 17.850.90*
 - ² *chapter 17.850.30*
 - ³ *chapter 17.850.20*
 - ⁴ *chapter 17.850.30*
 - ⁵ *chapter 17.850.20*
 - ⁶ *chapter 17.850.90*
 - ⁷ *chapter 13.250*
 - ⁸ *chapter 17.850.30*
 - ⁹ *chapter 13.250*
 - ¹⁰ *chapter 17.850.30*
 - ¹¹ *chapter 17.850.20*
 - ¹² *chapter 13.250*
 - ¹³ *chapter 17.850.20*
 - ¹⁴ *chapter 17.850.30*