

STATES OF JERSEY



RATIFICATION OF THE AGREEMENT FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS BETWEEN THE GOVERNMENT OF JERSEY AND THE GOVERNMENT OF THE REPUBLIC OF POLAND

Lodged au Greffe on 9th February 2012
by the Chief Minister

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to ratify the Agreement for the exchange of information relating to tax matters, and associated agreements, between the States of Jersey and the Republic of Poland as set out in the Appendices to the Report of the Chief Minister dated 2nd December 2011.

CHIEF MINISTER

REPORT

Background

1. In February 2002, Jersey entered into a political commitment to support the OECD's tax initiative on transparency and information exchange through the negotiation of Tax Information Exchange Agreements to an agreed international standard.
2. In September 2009, the Global Forum on Transparency and Information Exchange for Tax Purposes, a body of which more than 100 jurisdictions are members, agreed a peer review process to assess compliance with the international standard. To oversee this process, a Peer Review Group was set up chaired by France, with 4 vice-chairs from India, Japan, Singapore and Jersey.
3. Successive G20 Summits have encouraged jurisdictions to make progress in agreeing, implementing and abiding by the necessary international Agreements for information exchange. In response, Jersey has maintained an active programme of negotiating Agreements with EU, OECD and G20 member jurisdictions. This has served to enhance the Island's international personality, and generally has helped to engender a more favourable view of the Island amongst the international community.
4. The latest position in respect of the programme of negotiating Tax Information Exchange Agreements is attached as an Appendix to this Report. A total of 27 Tax Information Exchange Agreements (TIEAs) and 2 Double Taxation Agreements (DTAs) have now been signed, of which 19 TIEAs and 2 DTAs are in force. The delay in bringing Agreements into force is due to the length of time taken by the other parties to the Agreements to complete their domestic procedures for the ratification of the Agreements.
5. As a Vice-Chair of the Global Forum Peer Review Group, Jersey has been determined to lead by example, and has attached particular importance to entering into Agreements on tax information exchange with EU and G20 members. Jersey has signed, initialled or is in the process of negotiation agreements with 23 EU Member States. The remaining 4 jurisdictions have been invited to commence negotiations. Jersey has also now signed, initialled or completed negotiations with 17 of the 19 G20 countries (the other member of the G20 is the European Union).
6. Jersey has been party to the peer review process to assess compliance with international standards, and a report on the assessment of Jersey was published at the end of October 2011. The review concluded that Jersey's domestic laws provide a satisfactory framework for the exchange of relevant information. The Island fully met the Peer Review Group's standard in 6 of the 9 areas under review. Three areas related to legal implementation were assessed as being in place, but with room for improvement. However, the assessors noted that the apparent gaps they identified had not prevented Jersey from engaging in effective information exchange. Nevertheless, changes are being made to the legislation to ensure that Jersey is fully compliant. The assessors said "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. Jersey's practices to-date have demonstrated a responsive and cooperative approach.”.

7. The policy of negotiating TIEAs or DTAs is supported by the finance industry. The preference of government and the industry is for a DTA, but the majority of jurisdictions with whom negotiations have been undertaken have not been prepared to consider a DTA on the grounds that they believe they would derive little, if any, benefit from such an Agreement.

The Agreement with the Republic of Poland

8. The Tax Information Exchange Agreement entered into with the Government of the Republic of Poland is a continuation of the ongoing programme of signing TIEAs or DTAs with EU Member countries.
9. Attached as an Appendix to this report is –
 - (a) the Tax Information Exchange Agreement, which is consistent with Agreements signed previously with other countries and which the States have ratified. The Agreement provides for the exchange of information on tax matters on request. The Agreement will come into force once both parties to the Agreement have ratified it, and any necessary legislative steps have been taken;
 - (b) an associated agreement for the avoidance of double taxation on individuals in respect of income from employment, directors' fees, the income of artists and sportsmen, pensions and similar remunerations, government service and students, which is consistent with some other jurisdictions (e.g. the Nordic countries);
 - (c) an associated agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic, which is consistent with similar agreements signed previously with some other jurisdictions (e.g. the Nordic countries).

Procedure for signing and ratifying the TIEA and associated Agreements

10. The TIEA and associated Agreements with the Government of the Republic of Poland were signed by the Chief Minister on 2nd December 2011, in accordance with the provisions of Article 18(2) of the States of Jersey Law 2005 and paragraph 1.8.5 of the Strategic Plan 2006 – 2011 adopted by the States on 28th June 2006.
11. The Agreements are now being presented to the States for ratification, following which they will be published and entered into the official record. The Agreements will enter into force when the domestic procedures of both parties have been completed.

12. The States, on 29th January 2008, adopted the [Taxation \(Exchange of Information with Third Countries\) \(Jersey\) Regulations 2008](#). The Schedule to these Regulations lists the Third Countries, and includes the taxes covered by the Agreements being entered into. As further Agreements are entered into, the Regulations are amended to include in the Schedule the jurisdiction and the taxes concerned. The necessary Regulations to provide for the inclusion in the Schedule of the Republic of Poland and the relevant taxes will be presented to the States for adoption in due course.

Financial and manpower implications

13. There are no implications for the financial or manpower resources of the States arising from the ratification and implementation of the Agreements with the Republic of Poland.

2nd December 2011

**AGREEMENT
BETWEEN JERSEY AND THE REPUBLIC OF POLAND
FOR
THE EXCHANGE OF INFORMATION RELATING TO TAX
MATTERS**

Whereas it is acknowledged that Jersey under the terms of its Entrustment from the United Kingdom has the right to negotiate, conclude, perform and subject to the terms of this Agreement terminate a tax information exchange agreement with the Republic of Poland;

Whereas Jersey and The Republic of Poland ("the Parties") wish to facilitate the exchange of information with respect to taxes;

Now, therefore, the Parties have agreed to conclude the following Agreement which contains obligation on the part of Jersey and the Republic of Poland only:

Article 1
Object and Scope of the Agreement

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment and collection of tax with respect to persons subject to such taxes, the recovery and enforcement of tax claims, or the investigation of tax matters or prosecution of criminal tax matters in relation to such persons. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

**Article 2
Jurisdiction**

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of or obtainable by persons who are within its territorial jurisdiction.

Article 3
Taxes Covered

1. This Agreement shall apply to the following taxes imposed by the Contracting Parties:

- a) in the case of Poland:
 - i) the personal income tax;
 - ii) the corporate income tax;
 - iii) tax on goods and services;

- b) in the case of Jersey:
 - i) the income tax;
 - ii) the goods and services tax.

2. This Agreement shall apply also to any identical or substantially similar taxes imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any substantial changes in their laws which may effect the obligations of that Contracting Party pursuant to this Agreement.

Article 4 Definitions

1. In this Agreement:

- a) the term "Poland" means the Republic of Poland and, when used in a geographical sense, means 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 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;
- b) the term "Jersey" means the Bailiwick of Jersey, including its territorial sea;
- c) the term "Contracting Party" means Poland or Jersey, as the context requires;
- d) the term "competent authority" means:
 - i) in the case of Poland, the Minister of Finance or his authorized representative;
 - ii) in the case of Jersey, the Treasury and Resources Minister or his authorised representative;
- e) the term "person" includes an individual, a company and any other body of persons;
- f) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- g) the term "publicly traded company" means any company whose principal class of shares is listed on a recognized stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
- h) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
- i) the term "recognized stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- j) the term "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests is not implicitly or explicitly restricted to a limited group of investors;

- k) the term "tax" means any tax to which the Agreement applies;
- l) the term "requesting Party" means the Contracting Party requesting information;
- m) the term "requested Party" means the Contracting Party requested to provide information;
- n) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- o) the term "information" means any fact, statement or record in any form whatever;
- p) the term "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the requesting Party and includes all cases where a person has been notified that proceedings concerning those matters have been initiated against that person;
- q) the term "criminal laws" means all criminal laws designated as such under domestic law irrespective of whether such are contained in the tax laws, the criminal code or other statutes.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 5
Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide upon request by the competent authority of the requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the requested Party if it had occurred in the territory of the requested Party. The competent authority of the requesting Party should only make a request for information pursuant to this Article when it is unable to obtain the requested information by other means, except where recourse to such means would give rise to disproportionate difficulty.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, that Party shall use appropriate information gathering measures necessary to provide the competent authority of the requesting Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of the requesting Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities for the purposes specified in Article 1 of the Agreement, have the authority to obtain and provide upon request:

- a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;
- b) information regarding the legal and beneficial ownership of companies, partnerships, public collective investment schemes, trusts, foundations and other persons, including information on all such persons in an ownership chain, in particular:
 - i) in the case of public collective investment funds or schemes, information on shares, units and other interests;
 - ii) in the case of foundations, information on founders, members of the foundation council and beneficiaries;
 - iii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries;

- iv) in the case of persons that are neither collective investment schemes, trusts or foundations, equivalent information to the information in subparagraphs i) to iii).

Provided that this Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

5. Any request for information shall be formulated with the greatest possible detail and shall specify in writing:

- a) the identity of the person under examination or investigation;
- b) the period for which the information is requested;
- c) the nature of the information requested;
- d) the tax purpose for which the information is sought;
- e) the reasons for believing that the information requested is foreseeably relevant to tax administration and enforcement of the requesting Party, with respect to the person identified in sub-paragraph (a) of this paragraph;
- f) grounds for believing that the information requested is held in the requested Party or is in the possession of or obtainable by a person within the jurisdiction of the requested Party;
- g) to the extent known, the name and address of any person believed to be in possession of or able to obtain the requested information;
- h) a statement that the request is in conformity with the law and administrative practices of the requesting Party, that if the requested information was within the jurisdiction of the requesting Party then the competent authority of the requesting Party would be able to obtain the information under the laws of the requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
- i) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

6. The competent authority of the requested Party shall acknowledge receipt of the request to the competent authority of the requesting Party and shall use its best endeavors to forward the requested information to the requesting Party as soon as possible.

Article 6
Tax Examinations Abroad

1. With reasonable notice the requesting Party may request that the requested Party allow representatives of the competent authority of the requesting Party to enter the territory of the requested Party, to the extent permitted under its domestic laws, to interview individuals and examine records. The competent authority of the requesting Party shall notify the competent authority of the requested Party of the time and place of the meeting with the individuals concerned.

2. At the request of the competent authority of the requesting Party, the competent authority of the requested Party may allow representatives of the competent authority of the requesting Party to be present at a tax examination in the territory of the requested Party.

3. If the request referred to in paragraph 2 is granted, the competent authority of the requested Party conducting the examination shall, as soon as possible, notify the competent authority of the requesting Party of the time and place of the examination, the authority or person authorized to carry out the examination and the procedures and conditions required by the requested Party for the conduct of the examination. All decisions regarding the conduct of the tax examination shall be made by the requested Party conducting the examination.

Article 7
Possibility of Declining a Request

1. The competent authority of the requested Party may decline to assist, where:

- a) the request is not made in conformity with this Agreement;
- b) the requesting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty;
- c) the disclosure of the information requested would be contrary to public policy (ordre public).

2. This Agreement shall not impose on a requested Party any obligation to provide items subject to legal privilege, or information which would disclose any trade, business, industrial, commercial or professional secret or trade process, provided that information described in paragraph 4 of Article 5 shall not by reason of that fact alone be treated as such a secret or trade process.

3. In no case shall the provisions of this Agreement be construed so as to impose on a Contracting Party the obligation to supply information which is not obtainable under the laws or in the normal course of the administration of that or the other Contracting Party.

4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

5. The requested Party may decline a request for information if the information is requested by the requesting Party to administer or enforce a provision of the tax law of the requesting Party, or any requirement connected therewith, which discriminates against a citizen of the requested Party as compared with a citizen of the requesting Party in the same circumstances.

6. In no case shall the provisions of this Article 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 8
Confidentiality

1. Any information provided and received by the competent authorities of the Contracting Parties shall be kept confidential.
2. Information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in the Article 1, and used by such persons or authorities only for such purposes, the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial decisions.
3. Information may not be used for any purpose other than for the purposes stated in Article 1 without the express written consent of the competent authority of the requested Party.
4. The information provided to the requesting Party under this Agreement may not be disclosed to any other jurisdiction.

Article 9
Costs

Unless the competent authorities of the Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested Party. Extraordinary costs in providing assistance, including costs and engaging external advisers (in connection with litigation or otherwise) shall be borne by the requesting Party. The respective competent authorities shall consult periodically with regard to this Article, and in particular the competent authority of the requested Party shall consult with the competent authority of the requesting Party if the costs of providing information with respect to a specific request are expected to be significant.

**Article 10
Language**

Requests for assistance, the responses thereto and any other written communication between the competent authorities shall be drawn up in English. As regards other documents or files to be provided, the competent authorities shall consult whether and to what extent translation into the English language is indeed required.

Article 11
Mutual Agreement Procedure

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of the Agreement, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement.

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 5, 6, 9 and 10.

3. The Contracting Parties shall endeavour to agree on other forms of dispute resolution should this become necessary.

4. Formal communications, including requests for information, made in connection with or pursuant to the provision of this Agreement will be in writing directly to the competent authority of the other Contracting Party at such address as may be notified by one Contracting Party to the other. Any subsequent communications regarding requests for information will be either in writing or verbally, whichever is most practical, between the aforementioned competent authorities or their authorized representatives.

Article 12
Entry into Force

1. This Agreement submits to acceptance in accordance with the law of each of the Contracting Parties, which shall be notified in writing between contracting Parties. This Agreement shall enter into force on the first day of the third month following the receipt of the later of these notifications.
2. Upon the date of entry into force, this Agreement shall have effect:
 - a) for criminal tax matters on that date; and
 - b) for all other matters covered in Article 1 on that date, but only in respect of taxable periods beginning on or after that date or, where there is no taxable period, to charges to tax arising on or after that date.

**Article 13
Termination**

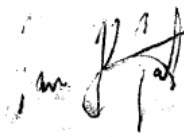
1. This Agreement is concluded for unspecified time. It may be terminated by the notification by either Contracting Party; in such a case it shall cease to be in force after three months from after the date of receipt of the notification by the other Contracting Party.

2. All requests received by the Contracting Parties up to effective day of termination will be dealt in accordance with the terms of this Agreement.

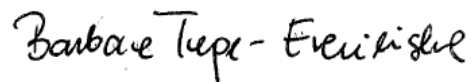
In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed the Agreement.

Done in duplicate at London this second day of December 2011, in the Polish and English languages, all texts being equally authentic.

For Jersey:



For the Republic of Poland:



**AGREEMENT
BETWEEN
JERSEY
AND
THE REPUBLIC OF POLAND**

**FOR THE AVOIDANCE OF DOUBLE TAXATION ON
INDIVIDUALS**

Jersey and the Republic of Poland, desiring to conclude an Agreement for the avoidance of double taxation on individuals,

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. The existing taxes to which this Agreement shall apply are in particular:

a) in the case of Poland:

i) the personal income tax,
(hereinafter referred to as "Polish tax");

b) in the case of Jersey:

i) the income tax;
(hereinafter referred to as "Jersey tax").

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

ARTICLE 3
General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the term "Poland" means the Republic of Poland and, when used in a geographical sense, means 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 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;
 - b) the term "Jersey" means the Bailiwick of Jersey, including its territorial sea;
 - c) the term "Contracting Party" and the other Contracting Party" mean Poland or Jersey, as the context requires;
 - d) the term "citizen", in relation to a Contracting Party, means any individual possessing the citizenship of that Party;
 - e) the term "competent authority" means:
 - i) in the case of Poland, the Minister of Finance or its authorised representative,
 - ii) in the case of Jersey the Treasury and Resources Minister or his authorised representative;
 - f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in the territory of a Contracting Party, except when the ship or aircraft is operated solely between places in the territory of the other Contracting Party;
 - g) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes.
2. As regards the application of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Party for the purposes of the taxes to which this 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 any person who, under the laws of that Party, 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 that Contracting Party in respect only of income from sources in that Contracting 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 Contracting Party where he has a permanent home available to him; if he has a permanent home available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer (centre of vital interests);
- b) if the Contracting 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 Contracting Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting Parties or in neither of them, he shall be deemed to be a resident only of the Contracting Party of which he is a citizen;
- d) if he is a citizen of both Parties or of 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, then it shall be deemed to be a resident only of the Contracting Party in which its place of effective management is situated.

ARTICLE 5
Income from employment

1. Subject to the provisions of Articles 6, 8 and 9, 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 Contracting Party unless the employment is exercised in the territory of the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting 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 territory of the other Contracting Party shall be taxable only in the first-mentioned Contracting Party if:

- a) the recipient is present in the territory of the other Contracting 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 Contracting Party; and
- c) the remuneration is not borne by a fixed place of business which the employer has in the territory of the other Contracting Party; and
- d) the employment is not a case of hiring out of labour.

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, may be taxed in the Contracting Party in which the place of effective management of the enterprise is situated.

ARTICLE 6
Directors' fees

Fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the management board, the supervisory board, or of a similar body of a company which is a resident of the other Contracting Party may be taxed in that other Contracting Party.

ARTICLE 7
Artistes and sportsmen

1. Notwithstanding the provisions of Article 5, 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 territory of the other Contracting Party, may be taxed in that other Contracting 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 Article 5, be taxed in the Contracting Party in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from such activities as defined in paragraph 1 performed within the framework of cultural exchange between the Contracting Parties, shall be exempt from tax in the Contracting Party in which these activities are exercised.

ARTICLE 8
Pensions and similar remunerations

Subject to the provisions of paragraph 2 of Article 9, pensions and other similar remunerations paid to a resident of a Contracting Party in consideration of past employment shall be taxable only in that Party.

ARTICLE 9
Government service

1. a) Salaries, wages and other similar remunerations paid by a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or authority shall be taxable only in that Contracting Party, subject to letter (b) of this paragraph.

b) However, such salaries, wages and other similar remunerations shall be taxable only in the other Contracting Party if the services are rendered on the territory of that Party and the individual is a resident of that Contracting Party who:
 - i) is a citizen of that Party; or
 - ii) did not become a resident of that Contracting Party solely for the purpose of rendering the services.

2. a) Notwithstanding the provisions of paragraph 1, any pensions and other similar remunerations paid by, or out of funds created by, a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or authority shall be taxable only in that Contracting Party.

b) However, such pensions and other similar remunerations shall be taxable only in the other Contracting Party if the individual is a resident of, and a citizen of, that Contracting Party.

3. The provisions of Articles 5, 6, 7 and 8 shall apply to salaries, wages, pensions and other similar remunerations in respect of services rendered in connection with a business carried on by a Contracting Party or a political subdivision or a local authority thereof.

ARTICLE 10
Students

Payments which a student, pupil or apprentice who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the territory of 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 first- mentioned Party, provided that such payments arise from sources outside the territory of that Party.

ARTICLE 11
Elimination of double taxation

1. In the case of Poland, double taxation shall be avoided as follows:

- a) Where a resident of Poland derives income which, in accordance with the provisions of this Agreement may be taxed in Jersey, Poland shall allow as a deduction from the tax on income of that resident an amount equal to the tax paid in Jersey. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such income derived from Jersey.
- b) Where in accordance with any provision of this Agreement, income derived by a resident of Poland is exempt from tax in Poland, Poland may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

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

Subject to the provisions of the laws of Jersey regarding the allowances of credit against Jersey tax and tax payable in a territory outside Jersey (which will not affect the general principle hereof);

- i) subject to the provisions of sub-paragraph (iii), where a resident of Jersey derives income which, in accordance with the provisions of this Agreement, may be taxed in Poland, Jersey shall allow as a credit from the Jersey tax on the income of that resident, an amount equal to the income tax paid in Poland;
- ii) such deduction shall not, however, exceed that part of the income tax, as computed before the credit is given, which is attributable to the income which may be taxed in Poland;
- iii) where a resident of Jersey derives income which, in accordance with the provisions of this Agreement shall be taxable only in Poland, Jersey may include this income in the tax base, but shall allow as a credit from the Jersey tax that part of the income tax which is attributable to the income derived from Poland.

ARTICLE 12
Non-discrimination

1. Citizens of a Contracting Party 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 citizens 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 Contracting Parties.

2. Nothing contained in this Article shall be construed as obliging either Contracting Party to grant to individuals not resident in that Contracting Party any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident or to its citizens.

3. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 13
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 12, to that of the Contracting Party of which he is a citizen. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement. The competent authorities of the Contracting Parties may by mutual agreement settle the mode of execution of the mutual agreement procedure and elements of the motion for instituting the mutual agreement procedure.
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 this Agreement. The solution so reached shall be implemented notwithstanding any time limits in the national laws 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 this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.
4. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of applying the Agreement.

ARTICLE 14
Members of diplomatic missions and consular posts

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

ARTICLE 15
Entry into force

1. This Agreement submits to acceptance in accordance with the law of each of the Contracting Parties, which shall be notified in writing between the Contracting Parties.

2. This Agreement shall enter into force on the first day of the third month following the receipt of the later of these notifications and shall thereupon have effect:

- a) in Poland in respect of taxes on income for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force;
- b) in Jersey in respect of taxes on income for taxes chargeable for any tax year beginning on or after 1 January of the calendar year next following the year in which the Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, this Agreement shall only have effect when the Agreement signed on...*02-12-2011 at London*... between the Republic of Poland and Jersey for the exchange of information relating to tax matters shall have effect.

ARTICLE 16
Termination

1. Either Contracting Party may terminate this Agreement by giving written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Agreement. In such event, this Agreement shall cease to have effect:

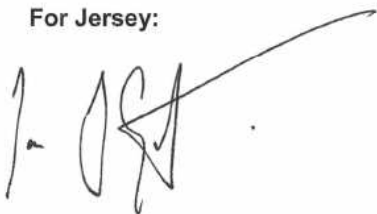
- a) in Poland in respect of taxes on income for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given;
- b) in Jersey in respect of taxes on income for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

2. Notwithstanding the provisions of paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on *... 07.12.2011 at London ...* between the Republic of Poland and Jersey for the exchange of information relating to tax matters.

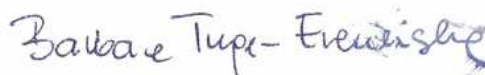
In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at *London*, this day of *01-12-2011* in the Polish and English languages, both texts being equally authentic.

For Jersey:



For the Republic of Poland:



AGREEMENT

BETWEEN

**JERSEY
AND**

THE REPUBLIC OF POLAND

**FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT
TO ENTERPRISES OPERATING SHIPS OR AIRCRAFT IN
INTERNATIONAL TRAFFIC**

Jersey and the Republic of Poland, desiring to conclude an Agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,

have agreed as follows:

ARTICLE 1
Persons covered

This Agreement shall apply to enterprises operating ships or aircraft in international traffic who are resident of one or both of the Contracting Parties.

ARTICLE 2
Taxes covered

1. The existing taxes to which this Agreement shall apply are in particular:

a) in the case of Poland:

- i) the personal income tax, and
 - ii) the corporate income tax
- (hereinafter referred to as "Polish taxes");

b) in the case of Jersey:

- i) the income tax
- (hereinafter referred to as "Jersey tax").

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

ARTICLE 3
General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
- a) the terms "Poland" means the Republic of Poland and, when used in a geographical sense, means 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 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;
 - b) the term "Jersey" means the Bailiwick of Jersey, including its territorial sea;
 - c) the terms "Contracting Party" and "the other Contracting Party" mean the Republic of Poland and Jersey as the context requires;
 - 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 which is treated as a body corporate for tax purposes;
 - f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in the territory of a Contracting Party, except when the ship or aircraft is operated solely between places in the territory of the other Contracting Party;
 - g) the term "competent authority" means:
 - i) in the case of Poland, the Minister of Finance or its authorised representative,
 - ii) in the case of Jersey, the Treasury and Resources Minister or his authorised representative;
 - h) the term "enterprise" applies to the carrying on of any business;
 - i) 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.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Party for the purposes of the taxes to which this 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 any person who, under the laws of that Party, 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 that Contracting Party in respect only of income from sources in that Contracting 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 Contracting Party where he has a permanent home available to him; if he has a permanent home available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer (centre of vital interests);
- b) if the territory of 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 Contracting Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting Parties or in neither of them, he shall be deemed to be a resident only of the Contracting 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 Contracting Parties shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than individual is a resident of both Contracting Parties, then it shall be deemed to be a resident only of the Contracting Party in which its place of effective management is situated.

ARTICLE 5
Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.
2. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.
3. The provisions of paragraphs 1 and 2 shall also apply to profits and gains derived by an enterprise of a Contracting Party from the participation in a pool, a joint business or an international operating agency.
4. If the place of effective management of a shipping enterprise is abroad a ship, then it shall be deemed to be situated in the territory of the Contracting Party in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the territory of the Contracting Party of which the operator of the ship or boat is a resident.

ARTICLE 6
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. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement. The competent authorities of the Contracting Parties may by mutual agreement settle the mode of execution of the mutual agreement procedure and elements of the motion for instituting the mutual agreement procedure.

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 this Agreement.

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 this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of applying the Agreement.

ARTICLE 7
Entry into force

1. This Agreement submits to acceptance in accordance with the law of each of the Contracting Parties, what shall be notified in writing between the Contracting Parties.

2. This Agreement shall enter into force on the first day of the third month following the receipt of the later of these notifications and shall thereupon have effect:

- a) in Poland in respect of taxes of income and capital gains, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force;
- b) in Jersey in respect of taxes of income and capital gains, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, this Agreement shall only have effect when the Agreement signed on 02-12-2011 at London between the Republic of Poland and Jersey for the exchange of information relating to tax matters shall have effect.

ARTICLE 8
Termination

1. Either Contracting Party may terminate this Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Agreement. In such event, this Agreement shall cease to have effect:

- a) in Poland in respect of taxes of income and capital gains, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given;
- b) in Jersey in respect of taxes of income and capital gains, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

2. Notwithstanding the provisions of paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on *02-12-2011 at London* between the Republic of Poland and Jersey for the exchange of information relating to tax matters.

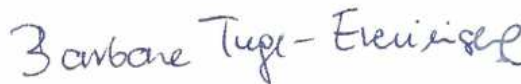
In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at *London*, this day of *02-12-2011* in the Polish and English languages, both texts being equally authentic.

For Jersey:



For the Republic of Poland:



STATES OF JERSEYA. TAX INFORMATION EXCHANGE AGREEMENTS (TIEAs)

1. TIEAs signed:

<u>Countries</u>	<u>Date Signed</u>	<u>Ratified by Jersey</u>	<u>Ratified by other Party</u>	<u>Entry into Force</u>
U.S.A.	Nov. 2002	May 2006	Nov. 2002	23 May 2006
Netherlands	June 2007	Feb. 2008	Dec. 2007	1 March 2008
Germany	July 2008	Jan. 2009	July 2009	28 Aug. 2009
Sweden	Oct. 2008	March 2009	Nov. 2009	23 Dec. 2009
Norway	Oct. 2008	March 2009	Sep. 2009	7 Oct. 2009
Iceland	Oct. 2008	March 2009	Oct. 2009	3 Dec. 2009
Finland	Oct. 2008	March 2009	Dec. 2008	3 Aug. 2009
Denmark	Oct. 2008	March 2009	March 2009	6 June 2009
Greenland	Oct. 2008	March 2009	March 2009	6 June 2009
Faroes	Oct. 2008	March 2009	June 2009	21 Aug. 2009
U.K.	March 2009	July 2009	Nov. 2009	27 Nov. 2009
France	March 2009	July 2009	July 2010	11 Oct. 2010
Ireland	March 2009	July 2009	April 2010	5 May. 2010
Australia	June 2009	Nov. 2009	Jan. 2010	5 Jan. 2010
New Zealand	July 2009	Nov. 2009	Sep. 2010	27 Oct. 2010
Portugal	July 2010	Sep. 2010	March 2011	9 Nov. 2011
People's Republic of China	Oct. 2010	Jan. 2011	Oct. 2011	10 Nov. 2011
Turkey	Nov. 2010	Feb. 2011	(1st half 2012)	(1st half 2012)
Mexico	Nov. 2010	Feb. 2011	(1st half 2012)	(1st half 2012)
Canada	Jan. 2011	March 2011	Dec. 2011	19 Dec. 2012
Indonesia	April 2011	July 2011	(1st half 2012)	(1st half 2012)
Czech Republic	July 2011	Nov. 2011	(1st half 2012)	(1st half 2012)
South Africa	July 2011	Nov. 2011	(1st half 2012)	(1st half 2012)
Argentina	July 2011	Sep. 2011	July 2011	9 Dec. 2011
India	Nov. 2011	(March 2012)	(Jan. 2012)	(March 2012)
Japan	Dec. 2011	(March 2012)	(1st half 2012)	(1st half 2012)
Poland	Dec. 2011	(March 2012)	(1st half 2012)	(1st half 2012)

Note: dates in brackets are the expected dates based on latest information from the country concerned.

2. **TIEAs initialled/agreed ready for signing:**
 - Austria
 - Brazil
 - Greece
 - Italy
 - Republic of Korea
 - Spain

3. **TIEAs where negotiations are well advanced with a draft agreement exchanged:**
 - Chile
 - Hungary
 - Kenya
 - Latvia
 - Lithuania
 - Slovenia

4. **Jurisdictions contacted from which there has been a positive response and/or initial action has been taken:**
 - Romania
 - Switzerland

5. **Jurisdictions approached but from whom a formal response is awaited:**
 - EU Member States:
 - Bulgaria
 - Cyprus
 - Slovak Republic
 - G20 Member States:
 - Russia
 - Saudi Arabia

B. DOUBLE TAXATION AGREEMENTS (DTAs)

1. DTAs signed:

- Malta –
signed 25th January 2010
ratified by Malta February 2010
ratified by Jersey June 2010
in force – 19th July 2010

- Estonia –
signed 21st December 2010
ratified by Jersey March 2011
ratified by Estonia December 2011
in force – 13th January 2012

2. DTAs initialled/agreed ready for signing:

- Hong Kong China
- Qatar

3. DTAs where negotiations have been initiated/draft agreements have been exchanged:

- Bahrain
- Belgium
- Luxembourg
- Singapore

**Enquiries concerning the above should be directed in the first instance to –
Adviser – International Affairs, in the Chief Minister’s Department;
Tel: 44(0)1534 440414; e-mail: c.powell@gov.je**

**Adviser – International Affairs
23rd January 2012**