

STATES OF JERSEY



RATIFICATION OF THE AGREEMENT FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS BETWEEN THE STATES OF JERSEY AND IRELAND

**Lodged au Greffe on 3rd June 2009
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 between the States of Jersey and Ireland as set out in the Appendix to the report of the Chief Minister dated 28th April 2009.

CHIEF MINISTER

REPORT

Agreement to be entered into with Ireland for the exchange of information relating to tax matters

1. The States are asked to ratify the signed agreement to be entered into with Ireland for the exchange of information relating to tax matters attached as an appendix to this report.

Background

2. 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 with each of the OECD Member States.
3. The Council of Ministers' current negotiating strategy in respect of tax information exchange agreements is –
 - to build up good political and economic relationships with individual countries, particularly those in the European Union;
 - to obtain general support for the Island where matters affecting the Island are being considered within international fora;
 - to obtain the removal of key barriers to market access, such as black lists;
 - to recognise that all the Island's wishes may not be achieved to the outset, and establish a platform from which to build in securing further benefits in the future;
 - to press for action to be taken by the OECD Member States against the non-committed/non-cooperative jurisdictions who may otherwise be gaining advantage from that position.
4. The Council of Ministers have also seen the negotiation of tax information exchange agreements as one of balance between –
 - the impact on business arising from the perception that Jersey is ahead of its competitors on transparency;
 - the impact on business of negative action taken by OECD/EU Member States against non-co-operative jurisdictions, if they should decide that Jersey is in that category;
 - the impact on business of the positive action taken by OECD/EU Member States when they recognise Jersey as a cooperative jurisdiction.
5. The action the Island has taken in signing tax information exchange agreements has been recognised by the international community. On 21st October 2008 at a Conference on the 'Fight against International Tax Evasion and Avoidance: Improving Transparency and Stepping Up the Exchange of Information on Tax Matters', held in Paris, the Secretary-General of the OECD commented favourably on the action taken by Jersey in negotiating tax information exchange agreements, and stated that what is now required is "a clear political recognition being given to those offshore financial centres that

have made progress”. In the Summary of Conclusions of the Paris Conference, it is stated that the participating countries “recognise the efforts made by certain jurisdictions [such as Jersey] that have set out a new direction for their financial centres and have signed tax information exchange agreements, which constitute effective instruments of fighting international tax fraud and evasion.

6. Jeffrey Owens, the Head of the OECD Centre for Tax Policy and Administration, said at the signing of the tax information exchange agreements with the Nordic countries in Helsinki on 28th October that “we at the OECD recognise the importance of the progress Jersey has made in signing TIEAs, and in receiving clear political endorsement from OECD member countries. To show that the choice Jersey has made is the right one we recognise the need for firm action to be taken with regard to those jurisdictions that are not showing the same commitment to tax information exchange”. The G20 Summit in Washington held on 15th November 2008 also issued a declaration which called upon national and regional authorities to implement national and international measures and protect the global financial system from unco-operative and non-transparent jurisdictions that pose risks of illicit financial activity.
7. These sentiments were then clearly reflected in the outcome of the G20 Summit held in London on 2nd April 2009. In particular, the list of countries published by the OECD in the form of a progress report on the jurisdictions surveyed by the OECD Global Forum in implementing the internationally agreed tax standards. Jersey was included in the list of jurisdictions that have substantially implemented the internationally agreed tax standard – what has become known as the “white list” – in which Jersey sits alongside the United Kingdom, the United States, Germany, France, Japan, etc.
8. The importance of achieving this result is evident from the G20 Summit declaration on strengthening the financial system issued on 2nd April 2009 which states: “we stand ready to take agreed action against those jurisdictions which do not meet international standards in relation to tax transparency. To this end we have agreed to develop a tool box of effective counter measures for countries to consider.”.
9. The G20 Summit welcomed the new commitments made by a number of jurisdictions, such as Switzerland, and encouraged them to proceed swiftly with implementation. The view was also held that if there is not genuine progress in agreeing, implementing and abiding by the necessary international agreements, particularly among those jurisdictions that have only just declared their commitment to international standards, the G20 should be encouraged to take the necessary action to ensure that all abide by the high standards and the level playing field that Jersey has long pressed for is achieved. This view is fully supported by the Council of Ministers.

Procedure for Signing and Ratifying the TIEAs

10. The procedure adopted in respect of individual agreements is for industry to be consulted, and for the views of industry to be taken into account by the Council of Ministers in deciding whether to support the signing of a tax information exchange agreement. If the Council of Ministers decide that it

would be in the Island's best interests for an agreement to be signed, both parties to the agreement then exchange signed agreements which allows both to start their ratification procedures contemporaneously. Agreements are signed by the Chief Minister 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. Subsequent to the signing by the Chief Minister, agreements are presented to the States for ratification, are published, entered into the official record and regulations are made for the agreements to enter into force when the domestic procedures of the other party also have been completed.

11. 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 need to be amended to include in the Schedule the jurisdiction and taxes concerned. The necessary Regulations to provide for the inclusion in the Schedule of Ireland and the relevant taxes are being presented to the States for adoption subsequent to the ratification of the Agreement for the exchange of information relating to tax matters being entered into with Ireland (*see* P.97/2009).
12. The Agreements do not come into force until both of the parties concerned have completed their own domestic procedures. The date when an agreement is to come into force is included in a forthcoming Schedule attached to the Regulations.

Agreement with Ireland

13. The negotiations with Ireland produced an agreement on the following, attached as an Appendix to this report –
 - (a) A tax information exchange agreement which is consistent with the agreements signed previously with other countries such as the United States of America in 2002, the Kingdom of the Netherlands in 2007, the Federal Republic of Germany in 2008 and the Nordic Countries in 2008.

The agreement provides for the exchange of information on tax matters on request. However, that request has to be formulated in writing with the greatest detail as possible. There can be no “fishing expeditions”. The agreement only comes into force once the States have ratified it and have approved the necessary Regulations, and Ireland has completed its own domestic procedures.
 - (b) Agreement for affording relief on double taxation with respect to certain income of individuals and establishing a mutual agreement procedure in connection with the adjustment of profits of associated enterprises.

- (c) A joint declaration which, among other things –
- recognises the other's commitment to operate international standards of financial regulation in order to combat money laundering and terrorist financing and to participate in international efforts to tackle financial and other crimes, including fiscal crime;
 - provides that Ireland will use its best endeavours to ensure that where EU Directives or Regulations concerning the regulation of financial services include provisions referring to the position of Third Countries, particularly in relation to assessments of equivalence in compliance with EU standards and access to EU markets, Jersey is treated as fairly and favourably as other Third Countries;
 - welcomes Jersey as a member of the community of nations committed to international cooperation and information exchange on tax matters, and assures the Government of Jersey that Jersey will be fully and equally treated as such by the Irish authorities;
 - provides for an ongoing dialogue to examine what measures could be adopted to further enhance and broaden their political and economic relationship including the further examination of undesired tax barriers and the further extension of the arrangements for information exchange.

14. The negotiation of the agreements has helped to establish a good relationship with Ireland, and has helped their understanding of, and has influenced favourably their attitude towards, the Island. The agreement is considered to enhance the Island's international personality and generally to lead to a more favourable response to the Island on a wide range of market access and other economic/political issues. There are no implications for the financial or manpower resources of the States arising from the ratification and implementation of the agreements with Ireland.

28th April 2009

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

WHEREAS Jersey and Ireland (“the Parties”) recognise that present legislation already provides for cooperation and the exchange of information in criminal tax matters;

WHEREAS the Parties have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

WHEREAS it is acknowledged that Jersey under the terms of its Entrustment from the UK has the right to negotiate, conclude, perform and subject to the terms of this agreement terminate a Tax Information Exchange Agreement with Ireland;

WHEREAS Jersey on the 22nd February 2002 entered into a political commitment to the OECD’s principles of effective exchange of information;

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

NOW, THEREFORE, the Parties have agreed to conclude the following Agreement which contains obligations on the part of Ireland and Jersey only:

Article 1
Scope of the Agreement

The Parties shall provide assistance through exchange of information that is foreseeable relevant to the administration and enforcement of the domestic laws of the Parties concerning the taxes covered by this Agreement, including information that is foreseeable relevant to the determination, assessment, enforcement or collection of tax with respect to persons subject to such taxes, or to the investigation or prosecution of tax matters in relation to such persons. A requested Party is not obliged to provide information which is neither held by its authorities nor in the possession of or obtainable by persons who are within its territorial jurisdiction. 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
Taxes Covered

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

(a) in the case of Ireland:

- (i) the income tax;
- (ii) the income levy;
- (iii) the corporation tax;
- (iv) the capital gains tax;
- (v) the capital acquisitions tax; and
- (vi) the value added tax.

(b) in the case of Jersey,

- (i) the Income Tax; and
- (ii) the Goods and Services Tax.

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

Article 3 Definitions

1. In this Agreement:

"Ireland" means Ireland and includes any area outside the territorial waters of Ireland which has been or may hereafter be designated under the laws of Ireland concerning the Exclusive Economic Zone and the Continental Shelf, as an area within which Ireland may exercise such sovereign rights and jurisdiction as are in conformity with international law;

"Jersey" means the Bailiwick of Jersey, including its territorial sea;

"company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

"competent authority" means, in the case of Ireland: the Revenue Commissioners or their authorised representative; in the case of Jersey: the Treasury and Resources Minister or his authorised representative;

"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;

"criminal tax matters" means tax matters involving intentional conduct, whether before or after the entry into force of this Agreement, which is liable to prosecution under the criminal law of the requesting Party;

"information gathering measures" means laws and administrative or judicial procedures enabling a requested Party to obtain and provide the information requested;

"information" means any fact, statement, document or record in whatever form;

"person" means a natural person, a company or any other body or group of persons;

"principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;

"publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;

"public collective investment scheme" means any scheme or fund, in which the purchase , sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;

"requested Party" means the Party to this Agreement which is requested to provide or has provided information in response to a request;

"requesting Party" means the Party to this Agreement submitting a request for or having received information from the requested Party;

"tax" means any tax covered by this Agreement.

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

Article 4
Exchange of Information Upon Request

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

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

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

4. Each Party shall ensure that it has the authority, subject to the terms of Article 1, to obtain and provide, through its competent authority and 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)
 - (i) information regarding the legal or beneficial ownership of companies, partnerships and other persons, including in the case of collective investment schemes, information on shares, units and other interests;
 - (ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries and, in the case of foundations, members of the foundation council and beneficiaries;

provided that this Agreement does not create an obligation for a Party to obtain or provide ownership information with respect to publicly traded companies or public collective investment schemes, unless such information can be obtained without giving rise to disproportionate difficulties.

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

- (a) the identity of the person under examination or investigation;
- (b) the period for which the information is requested;
- (c) the nature of the information requested and the form in which the requesting Party would prefer to receive it;
- (d) the tax purpose for which the information is sought;
- (e) the reasons for believing that the information requested is foreseeable relevant to tax administration and enforcement of the requesting Party, with respect to the person identified in subparagraph (a) of this paragraph;
- (f) grounds for believing that the information requested is 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 or control of the information requested;
- (h) a statement that the request is in conformity with the law and administrative practices of the requesting Party, that if the requested information was within the jurisdiction of the requesting Party then the competent authority of the requesting Party would be able to obtain the information under the laws of the requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
- (i) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except where that would give rise to disproportionate difficulty.

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 endeavours to forward the requested information to the requesting Party as soon as possible.

Article 5
Tax Investigations 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 with the prior written consent of the individuals or other persons concerned. The competent authority of the requesting Party shall notify the competent authority of the requested Party of the time and place of the intended meeting with the individuals concerned.

2. At the request of the competent authority of the requesting Party, the competent authority of the requested Party may permit representatives of the competent authority of the requesting Party to attend 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 authorised 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 examination shall be made by the requested Party conducting the examination.

Article 6
Possibility of Declining a Request

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

2. This Agreement shall not impose upon 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 4 shall not by reason of that fact alone be treated as such a secret or trade process.

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

4. The requested Party shall not be required to obtain and provide information which if the requested information was within the jurisdiction of the requesting Party the competent authority of the requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.

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

Article 7
Confidentiality

1. All information provided and received by the competent authorities of the Parties shall be kept confidential.

2. Such information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial decisions.

3. Such information may not be used for any purpose other than for the purposes stated in Article 1 without the expressed written consent of the competent authority of the requested Party.

4. Information provided to a requesting Party under this Agreement may not be disclosed to any other jurisdiction.

Article 8
Costs

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

Article 9
Mutual Agreement Procedure

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

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Parties may mutually agree on the procedures to be used under Articles 4, 5 and 8.

3. The 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 provisions of this Agreement will be in writing directly to the competent authority of the other Party at such address as may be notified by one Party to the other from time to time. 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 authorised representatives.

Article 10
Entry into Force

This Agreement shall enter into force when each Party has notified the other in writing of the completion of its necessary internal procedures for entry into force. Upon entry into force, it 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 the first day of January 2010 or, where there is no taxable period, all charges to tax arising on or after that date.

**Article 11
Termination**

1. This Agreement shall remain in force until terminated by either Party.
2. Either Party may terminate this Agreement by giving notice of termination in writing. Such termination shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notice of termination by the other Party.
3. If the Agreement is terminated the Parties shall remain bound by the provisions of Article 7 with respect to any information obtained under this Agreement.

IN WITNESS WHEREOF the undersigned being duly authorised in that behalf by the respective Parties, have signed the Agreement.

DONE in duplicate, this 26th day of March, 2009.

FOR JERSEY:

FOR IRELAND:

**AGREEMENT BETWEEN IRELAND AND JERSEY
FOR AFFORDING RELIEF FROM DOUBLE TAXATION WITH RESPECT TO
CERTAIN INCOME OF INDIVIDUALS
AND ESTABLISHING A MUTUAL AGREEMENT PROCEDURE IN CONNECTION
WITH THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES**

The Government Ireland of and the Government of Jersey, recognising that the two Governments have concluded an Agreement for the Exchange of Information Relating to Tax Matters, and desiring to conclude an Agreement for affording relief from double taxation with respect to certain income of individuals and establishing a mutual agreement procedure in connection with the adjustment of profits of associated enterprises,

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 the following taxes imposed by the Parties:

- (a) in the case of the Jersey:
 - the income tax;
 - (hereinafter referred to as "Jersey tax");
- (b) in the case of Ireland:
 - (i) the income tax;
 - (ii) the income levy; and
 - (iii) the corporation tax;
 - (hereinafter referred to as "Irish tax").

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

ARTICLE 3
DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) "Jersey" means the Bailiwick of Jersey, including its territorial sea;
 - (b) "Ireland" means Ireland and includes any area outside the territorial waters of Ireland which has been or may hereafter be designated under the laws of Ireland concerning the Exclusive Economic Zone and the Continental Shelf, as an area within which Ireland may exercise such sovereign rights and jurisdiction as are in conformity with international law;
 - (c) "competent authority" means in the case of Jersey, the Treasury and Resources Minister or his authorised representative, and in the case of Ireland, the Revenue Commissioners or their authorised representative;
 - (d) "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;
 - (e) "Party" means Jersey or Ireland, as the context requires;
 - (f) "person" includes an individual, a company and any other body of persons; and
 - (g) "tax" means Jersey tax or Irish tax as the context requires.

2. As regards the application of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise

requires, have the meaning that it has at that time under the law of that Party 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 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 Party in respect only of income from sources in that Party.

2. Where, by reason of the preceding provisions of this Article, a person, being an individual, is a resident of both Parties, then the person's status shall be determined as follows:

- (a) he shall be deemed to be a resident only of the Party in which a permanent home is available to him; if a permanent home is available 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, the competent authorities of the Parties shall endeavour to resolve the question by mutual agreement.

3. Where by reason 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
PENSIONS AND ANNUITIES

1. Subject to the provisions of Article 6, pensions paid to an individual who is a resident of a Party in consideration of past employment and any annuity paid to such a resident in consideration of past employment 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 6
GOVERNMENT SERVICE

1. (a) 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 in the discharge of functions of a governmental nature 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 Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration 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 in the discharge of functions of a governmental nature shall be taxable only in that Party.

3. The provisions of this Article shall not apply to salaries, wages, pensions 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 7
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 8

ADJUSTMENT OF PROFITS OF 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, if it considers that the adjustment is justified, make an appropriate adjustment to the amount of the profits charged to tax therein. In determining

such an adjustment, due regard shall be had to the other provisions of this Agreement.

3. Where a Party intends to adjust the profits of an enterprise in accordance with the principles set out in paragraph 1, it shall in accordance with its domestic law inform the enterprise of the intended action in due time and give it the opportunity to inform the other enterprise so as to give that other enterprise the opportunity to inform in turn the other Party. However, the Party providing such information shall not be prevented from making the proposed adjustment.

ARTICLE 9
MUTUAL AGREEMENT PROCEDURE

1. Where any persons consider that the actions of one or both of the Parties result or will result for them in taxation not in accordance with the provisions of this Agreement, they may, irrespective of the remedies provided by the domestic law of those Parties, present their case to the competent authority of the Party of which they are 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.

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. Any agreement reached 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 this Agreement.

4. Formal communications made in connection with or pursuant to the provisions of this Agreement will be in writing directly to the competent authority of the other Party at such address as may be notified by one Party to the other from time to time. Any subsequent communications will be either in writing or verbally, whichever is most practical, between the aforementioned competent authorities or their authorised representatives.

ARTICLE 10
ENTRY INTO FORCE

This Agreement shall enter into force when each Party has notified the other in writing of the completion of its necessary internal procedures for entry into force. Upon the date of entry into force, it shall have effect:

- (a) in Jersey on taxes chargeable for any tax year beginning on or after the first day of January 2010, and;
- (b) in Ireland:
 - (i) in respect of income tax and the income levy, for any year of assessment beginning on or after the first day of January 2010;
 - (ii) in respect of corporation tax, for any financial year beginning on or after the first day of January 2010.

ARTICLE 11
TERMINATION

1. This Agreement shall remain in force until terminated by either Party.

2. Either Party may terminate this Agreement by giving notice of termination in writing. Such termination shall become effective:
 - (a) in Jersey on taxes chargeable for any tax year beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given, and;

 - (b) in Ireland:
 - (i) in respect of income tax and the income levy, for any year of assessment beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given;

 - (ii) in respect of corporation tax, for any financial year beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

3. Notwithstanding the provisions of paragraph 1 and 2, this Agreement shall, upon receipt of written notice of termination of the Agreement for the Exchange of Information Relating to Tax Matters between the Parties, terminate and cease to be effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notice.

In witness whereof the undersigned, being duly authorised in that behalf by their respective Governments, have signed this Agreement.

Done in duplicate, this 26th day of March, 2009.

FOR IRELAND:

FOR JERSEY:

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JOINT DECLARATION

BY THE GOVERNMENT OF JERSEY AND THE GOVERNMENT OF IRELAND

1. The Government of Jersey and the Government of Ireland have today signed two agreements which seek to strengthen and broaden their current economic and trading relationship.

2. Each Party recognises the other's commitment to operate international standards of financial regulation in order to combat money laundering and terrorist financing and to participate in international efforts to tackle financial and other crimes, including fiscal crime. The Agreement for the Exchange of Information Relating to Tax Matters signed today constitutes a step forward in the global effort to establish an international financial system that is based on transparency and effective exchange of information in tax matters.

3. Jersey already has an agreement on the taxation of savings income in effect with Ireland and each of the other Member States of the European Union ("EU"). In recognition of Jersey's 'good neighbour' policy, Ireland will use its best endeavours to ensure that where EU Directives or Regulations concerning the regulation of financial services include provisions referring to the position of Third Countries, particularly in relation to assessments of equivalence in compliance with EU standards and access to EU markets, Jersey is treated as fairly and favourably as other Third Countries.

4. Jersey and Ireland also recognise the possibility that taxation obstacles may in certain circumstances hinder the free movement of individuals and trade between

both Parties. Accordingly, through the Agreement for Affording Relief from Double Taxation with Respect to Certain Income of Individuals and Establishing a Mutual Agreement Procedure in connection with the Adjustment of Profits of Associated Enterprises signed today, both Parties have agreed to introduce measures to address this matter.

5. Ireland welcomes Jersey as a member of the community of nations committed to international co-operation and information exchange on tax matters, and wishes to assure The Government of Jersey that Jersey will be fully and equally treated as such by the Irish authorities. Following the entry into force of these Agreements, Ireland and Jersey will continue the dialogue to examine what measures could be adopted to further enhance and broaden their political and economic relationship including the further examination of undesired tax barriers and the further extension of the arrangements for information exchange.

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

Done in duplicate, this 26th day of March, 2009.

**FOR THE
GOVERNMENT OF JERSEY:**

**FOR THE
GOVERNMENT OF IRELAND:**

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