

# STATES OF JERSEY



## **RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF JERSEY AND THE GOVERNMENT OF THE REPUBLIC OF SEYCHELLES FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

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**Lodged au Greffe on 12th August 2015  
by the Minister for External Relations**

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**STATES GREFFE**

## **PROPOSITION**

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

to ratify the Agreement between the Government of Jersey and the Government of the Republic of Seychelles for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, as set out in Appendix 1 to the report of the Minister for External Relations dated 31st July 2015.

MINISTER FOR EXTERNAL RELATIONS

## REPORT

### Background

1. Africa has been identified as an area with good business opportunities for Jersey as an international finance centre, which opportunities if taken advantage of would be of benefit to the developing countries.
2. In November 2014, Jersey Finance launched the 'Value to Africa' report, at Chatham House, which was commissioned to look at the role international financial centres could play in the growth of developing countries. The report, conducted by independent research organisation, Capital Economics, found that, while Africa is one of the fastest-growing regions globally, to sustain that growth it needs to invest US \$85 trn in infrastructure by 2040. This cannot be generated locally or through international aid, with the research paper estimating a shortfall of US \$11.4 trn in investment, US \$6.1 trn of which will need to come from outside the continent.
3. The Agreement with Seychelles is part of the general policy of developing business links with Africa, and in particular in supporting inward investment.
4. Approaches have been made to other African countries to initiate negotiations on entering into similar Agreements, and it is hoped that this Agreement will encourage other countries to progress negotiations. It is also intended that, alongside the Double Taxation Agreements (DTA), Bilateral Investment Treaties (BIT) will also be negotiated. Support has also been extended through assistance with asset recovery and through the enactment of legislation on Vulture Funds.
5. The combination of DTAs and BITs will support inward investment, thereby linking the role of Jersey as an international finance centre with the investment needs of the developing countries. The role that Jersey can play in this respect is also reflected in the presence in the Island of over 20 mining and natural resources companies with interests in Africa.
6. In February 2002, Jersey entered into a political commitment to support the OECD tax initiative on transparency and information exchange through the negotiation of tax information exchange Agreements to an agreed international standard. Successive G20 summits have encouraged jurisdictions to make progress in agreeing, implementing and abiding by the necessary international Agreements for information exchange. The international tax information exchange standard can be met through either a Tax Information Exchange Agreement (TIEA) or a Double Tax Agreement/Convention (DTA/DTC). The advantage of a DTA/DTC is that it offers benefits to individuals and the business community through the avoidance of double taxation or reduced rates of withholding tax, in addition to providing for exchange of information to the international standard.
7. The latest position in respect of the programme of negotiating tax Agreements is attached as **Appendix 2** to this report. A total of 37 TIEAs and 10 DTAs have now been signed, of which 33 TIEAs and 8 DTAs are in force. Almost without exception, 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.

8. Jersey is party to the Peer Review process of assessment of compliance with the international standards, and has been assessed as largely compliant, a rating common to the UK, the USA, and Germany among others.

### **The Agreement with the Republic of Seychelles**

9. The Double Taxation Agreement entered into with the Republic of Seychelles (“the Agreement”) is to the international standard set by the OECD.
10. The Agreement is attached as **Appendix 1** to this report. The Agreement is in line with the OECD Model Tax Convention, and provides for the avoidance of double taxation to facilitate exchange of goods and services and movement of capital, technology and people. The Agreement also makes provision for information exchange to the agreed international standard.

### **Procedure for signing and ratifying the Convention**

11. The Agreement was signed in London on 28th July 2015 by the Assistant 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. The Council of Ministers has authorised the Assistant Chief Minister to sign on behalf of the Government of Jersey.
12. The Agreement is now being presented to the States for ratification, following which it will be published and entered into the official record. The Agreement will enter into force when the domestic procedures of both parties have been completed.
13. The States, on 15th June 2010, adopted the Taxation (Double Taxation) (Jersey) Regulations 2010. The Schedule to these Regulations lists the countries with whom Double Tax Agreements have been entered into. The necessary Regulations to provide for the inclusion in the Schedule of the Agreement with the Republic of Seychelles will be presented to the States for adoption separately.

### **Financial and manpower implications**

14. There are no implications expected for the financial or manpower resources of the States arising from the ratification and implementation of the Agreement.

31st July 2015

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

**Preamble**

The Government of Jersey and the Government of the Republic of Seychelles,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

**Article 1****Persons Covered**

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

**Article 2****Taxes Covered**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property.
3. The existing taxes to which the Agreement shall apply are in particular:
  - a) in the case of Jersey:
    - the income tax;(herein after referred to as "Jersey tax"); and
  - b) in the case of Seychelles:
    - (i) the business tax;
    - (ii) income and non monetary benefits tax act; and
    - (ii) the petroleum income tax;(herein after referred to as "Seychelles tax").
4. This Agreement shall also apply 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

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Parties shall notify each other in writing of any significant changes which have been made in the respective taxation laws.

### Article 3

#### General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) the term "Jersey" means the Bailiwick of Jersey, including its territorial sea;
  - b) the term "Seychelles" means the territory of the Republic of Seychelles including its exclusive economic zone and continental shelf where Seychelles exercises sovereign rights and jurisdiction in conformity with the provisions of the United Nations Convention on the Law of the Sea;
  - c) the terms "a Contracting Party" and "the other Contracting Party" mean Jersey or Seychelles, as the context requires; the term "Parties" means Jersey and Seychelles;
  - d) the term "business" includes the performance of professional services and of other activities of an independent character;
  - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - f) the term "competent authority" means:
    - (i) in the case of Jersey, the Treasury and Resources Minister or his authorized representative, and;
    - (ii) in the case of Seychelles, the Minister of Finance or an authorised representative of the Minister of Finance;
  - g) the term "enterprise" applies to the carrying on of any business;
  - h) 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;
  - i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;
  - j) the term "national" means:

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- (i) in relation to Jersey, any individual resident in Jersey or any legal person, partnership or association deriving its status as such from the laws in force in Jersey, and;
  - (ii) in relation to Seychelles, any individual possessing the Seychelles nationality or any legal person, partnership or association deriving its status as such from the laws in force in Seychelles;
  - k) the term "person" includes an individual, a company and any other body of persons;
  - l) the term "tax" means Jersey tax or Seychelles tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes.
2. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

#### **Article 4**

##### **Resident**

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of incorporation or registration, place of management, or any other criterion of a similar nature, and also includes that Party and any pension fund or pension scheme recognized by that Party. This term, however, does not include any person who is liable to tax in that Party in respect only of income from sources in that Party or capital therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:
- a) he shall be deemed to be a resident only of the Party in which a permanent home is available to him; if a permanent home is available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
  - b) if the Party in which he has his centre of vital interests cannot be determined, or he does not have a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

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- c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party of which he is a national;
  - d) if he is a national of both Parties or of neither of them, the competent authorities of the 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 Parties, the competent authorities of the Parties shall settle the question by mutual agreement, having regard to such factors as the place of central management and control and the place of incorporation.

### Article 5

#### Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
  - a) a place of management;
  - b) a branch;
  - c) an office;
  - d) a factory;
  - e) a workshop;
  - f) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources;
  - g) a building site or construction or assembly or installation project or supervisory activity connected therewith where such site, project or activity continues for a period of more than 183 days; and
  - h) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue for the same or a connected project within the Contracting Party for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned.
3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - e) the maintenance of fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
4. Notwithstanding the provisions of paragraphs 1 and 2, where a person -other than an agent of an independent status to whom paragraph 5 applies- is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
  5. An enterprise of a Contracting Party shall not be deemed to have a permanent establishment in the other Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
  6. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

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**Article 6****Income from Immovable Property**

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

**Article 7****Business Profits**

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

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

#### Article 8

##### Shipping and Air Transport

1. Profits of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.
2. For the purpose of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular:
  - a) profits derived from the rental or lease by the enterprise on a bare boat charter basis of ships or aircraft used in international traffic ;
  - b) profits derived from the use, maintenance, rental or lease of containers by the enterprise;where such rental or lease profits or profits from such use, maintenance, rental, or lease, as the case may be, are incidental to the profits described in paragraph 1.
3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

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**Article 9****Associated Enterprises**

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party, and where the competent authorities of the Contracting Parties agree, upon consultation, that all or part of the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party may make an appropriate adjustment to the amount of the tax charged therein on those agreed profits. In determining such adjustment, due regard shall be had to the other provisions of the Agreement.

**Article 10****Dividends**

1. Dividends paid by a company which is a resident of a Party to a resident of the other Party who is the beneficial owner thereof, shall be taxable only in that other Party.
2. Paragraph 1 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights participating in profits (not being debt-claims), as well as income from other corporate rights which is subjected to the

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same taxation treatment as income from shares by the laws of the Contracting Party of which the company making the distribution is a resident.

4. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

#### **Article 11**

##### **Interest**

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

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

## **Article 12**

### **Royalties**

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

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**Article 13**

**Capital Gains**

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.
2. Gains derived by an enterprise of a Party from the alienation of ships or aircraft operated in international traffic, or from movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Party.
3. Gains of an enterprise of a Contracting Party from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the Operation of such ships or aircraft shall be taxable only in that Party.
4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting Party may be taxed in that Party.
5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Party of which the alienator is a resident.

**Article 14**

**Income from Employment**

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

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3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party may be taxed in that Party.

#### **Article 15**

##### **Directors' Fees**

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

#### **Article 16**

##### **Artistes and Sportsmen**

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

#### **Article 17**

##### **Pensions**

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Party in consideration of past employment shall be taxable only in that Party.
3. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting Party shall be taxable only in that Party.

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**Article 18****Government Service**

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.  
b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:
  - (i) is a national of that Party; or
  - (ii) did not become a resident of that Party solely for the purpose of rendering the services.
2. a) Any pension or other similar remuneration paid by, or out of funds created by, a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.  
b) However, such pension and similar remuneration shall be taxable only in the other Contracting Party if the individual is a resident of, and a national of, that Party.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting Party.

**Article 19****Students and Business Apprentices**

A student or business apprentice who is present in a Contracting Party solely for the purpose of the student or business apprentice's education or training and who is, or immediately before being so present was, a resident of the other Contracting Party, shall be exempt from tax in the first-mentioned Party on payments received from outside that first-mentioned Party for the purposes of the student or business apprentice's maintenance, education or training.

**Article 20****Other Income**

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

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

#### **Article 21**

##### **Elimination of Double Taxation**

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

#### **Article 22**

##### **Non-Discrimination**

1. Nationals of a 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 nationals of that other Party in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting Parties.
2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11 or paragraph 5 of Article 12 apply, interest, royalties and other disbursements

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paid by an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party.

4. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.
5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### Article 23

#### Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting Parties result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those Parties, present a case to the competent authority of the Contracting Party of which the person is a resident or, if the case comes under paragraph 1 of Article 24, to that of the Contracting Party of which the person is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.
3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together, including through a joint commission consisting of themselves or their representatives, for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

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**Article 24****Exchange of Information**

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

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**Article 25**

**Members of Diplomatic Missions and Consular Posts**

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

**Article 26**

**Entry into Force**

1. The Parties shall notify each other in writing that the legal requirements for the entry into force of this Agreement have been complied with.
2. This Agreement shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect in respect of taxes on income derived during any taxable period or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the Agreement enters into force.

**Article 27**

**Termination**

This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement by giving notice of termination in writing at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect in respect of taxes on income derived during any taxable period or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the notice of termination is given.

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

DONE at LONDON in duplicate, this 28<sup>th</sup> day of JULY 2015.

FOR THE GOVERNMENT OF  
JERSEY



FOR THE GOVERNMENT OF  
REPUBLIC OF SEYCHELLES

STATES OF JERSEYA. TAX INFORMATION EXCHANGE AGREEMENTS (TIEAs)

## 1. TIEAs signed (Note: dates in brackets are current best estimates)

<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	23rd May 2006
Netherlands	June 2007	Feb. 2008	Dec. 2007	1st March 2008
Germany	July 2008	January 2009	July 2009	28th August 2009
Sweden	October 2008	March 2009	Nov. 2009	23rd Dec. 2009
Norway	October 2008	March 2009	Sep. 2009	7th October 2009
Iceland	October 2008	March 2009	October 2009	3rd Dec. 2009
Finland	October 2008	March 2009	Dec. 2008	3rd August 2009
Denmark	October 2008	March 2009	March 2009	6th June 2009
Greenland	October 2008	March 2009	March 2009	6th June 2009
Faroese	October 2008	March 2009	June 2009	21st August 2009
U.K.	March 2009	July 2009	Nov. 2009	27th Nov. 2009
France	March 2009	July 2009	July 2010	11th October 2010
Ireland	March 2009	July 2009	April 2010	5th May 2010
Australia	June 2009	Nov. 2009	January 2010	5th January 2010
New Zealand	July 2009	Nov. 2009	Sep. 2010	27th October 2010
Portugal	July 2010	Sep. 2010	March 2011	9th Nov. 2011
People's Republic of China	October 2010	January 2011	October 2011	10th Nov. 2011
Turkey	Nov. 2010	Feb. 2011	August 2013	11th Sep. 2013
Mexico	Nov. 2010	Feb. 2011	Feb. 2012	22nd March 2012
Canada	January 2011	March 2011	Dec. 2011	19th Dec. 2011
Indonesia	April 2011	July 2011	Sep. 2014	22nd Sep. 2014
Czech Republic	July 2011	Nov. 2011	March 2012	14th March 2012
South Africa	July 2011	Nov. 2011	January 2012	29th Feb. 2012
Argentina	July 2011	Sep. 2011	July 2011	9th Dec. 2011
India	Nov. 2011	April 2012	January 2012	8th May 2012
Japan	Dec. 2011	April 2012	June 2013	30th August 2013
Poland	Dec. 2011	April 2012	August 2012	1st Nov. 2012
Italy	March 2012	May 2012	January 2015	26th January 2015
Austria	Sep. 2012	Nov. 2012	March 2013	1st June 2013
Latvia	January 2013	March 2013	Dec. 2013	1st March 2014
Brazil	January 2013	March 2013	(2nd half 2015)	(2nd half 2015)
Switzerland	Sep. 2013	Dec. 2013	October 2014	14th October 2014
Slovenia	Nov. 2013	Feb. 2014	June 2014	24th June 2014
Hungary	January 2014	March 2014	October 2014	13th Feb. 2015
Belgium	March 2014	June 2014	(2nd half 2015)	(2nd half 2015)
Romania	Dec. 2014	Feb. 2015	(2nd half 2015)	(2nd half 2015)
Korea	July 2015	(Sep. 2015)	(1st half 2016)	(1st half 2016)

**2. TIEAs initialled or agreed ready for signing:**

- Chile
- Spain

**3. TIEAs where negotiations are well advanced with a draft Agreement exchanged:**

**[Note, however, that Lithuania and Slovakia are party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, with which Jersey is also joined. As this provides for the equivalent exchange of information on request with immediate effect, it is not expected that they will proceed with the TIEA.]**

- Bulgaria
- Kenya
- Lithuania
- Slovakia

**4. Jurisdiction approached on which no further action has been taken to date:**

- Russia

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**B. DOUBLE TAXATION AGREEMENTS (DTAs)<sup>1</sup>**

**1. DTAs signed:**

- Malta –  
signed January 2010  
ratified by Malta February 2010  
ratified by Jersey June 2010  
in force – 19th July 2010
- Estonia –  
signed December 2010  
ratified by Jersey March 2011  
ratified by Estonia December 2011  
in force – 30th December 2011
- Hong Kong China –  
signed February 2012  
ratified by Jersey May 2012  
ratified by Hong Kong June 2013  
in force – July 2013

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<sup>1</sup> The DTAs listed are those that are to the standard of the OECD Model Convention. In addition there is a DTA with the UK, entered into in 1952, and a number of partial DTAs, details of which can be found on the Taxes Office website – <http://www.gov.je/TaxesMoney/InternationalTaxAgreements/DoubleTaxation/Pages/PartialDoubleTaxation.aspx>



- Qatar –  
signed March 2012  
ratified by Jersey May 2012  
ratified by Qatar November 2012  
in force – 22nd November 2012
- Singapore –  
signed October 2012  
ratified by Jersey January 2013  
ratified by Singapore May 2013  
in force – 2nd May 2013
- Guernsey –  
signed January 2013  
ratified by Jersey June 2013  
ratified by Guernsey May 2013  
in force – 9th July 2013
- Isle of Man –  
signed January 2013  
ratified by Jersey June 2013  
ratified by the Isle of Man May 2013  
in force – 10th July 2013
- Luxembourg  
signed April 2013  
ratified by Jersey July 2013  
ratified by Luxembourg July 2014  
in force – 5th August 2014
- Rwanda  
signed June 2015
- Seychelles  
signed July 2015

**2. DTAs initialled or agreed ready for signing:**

- Mauritius

**3. Jurisdictions where DTA negotiations have been requested/initiated/draft Agreements have been exchanged:**

- Bahrain
- Botswana
- Cyprus
- Ghana
- Lesotho
- Liechtenstein
- Malawi

- Nigeria
- Saudi Arabia
- Swaziland
- UAE
- Zambia

**4. Jurisdictions with whom Jersey does not have a bilateral TIEA or DTA, but who are party (i.e. have signed and entered into force) to the OECD/ Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which provides for exchange of information on request on the same basis as the bilateral TIEAs:**

- Albania
- Azerbaijan (01-10-2015)
- Belize
- Cameroon (01-10-2015)
- Colombia
- Costa Rica
- Croatia
- Cyprus
- Georgia
- Ghana
- Greece
- Kazakhstan (01-08-2015)
- Lithuania
- Moldova
- Nigeria (01-09-2015)
- Russia
- Slovak Republic
- Spain
- Tunisia
- Ukraine

**Jersey became a party to the Convention on 1st June 2014. Some jurisdictions with whom TIEA negotiations have been engaged may decide not to progress the latter and rely on the Multilateral Convention. One such jurisdiction is Greece.**

**5. Jurisdictions with whom Jersey has signed a TIEA or DTA who are also party to the Multilateral Convention (i.e. it is signed and in force):**

- Argentina
- Australia
- Austria
- Belgium
- Canada
- Czech Republic
- Denmark
- Estonia
- Finland

- France
- Hungary
- Iceland
- India
- Indonesia
- Ireland
- Italy
- Republic of Korea
- Japan
- Latvia
- Luxembourg
- Malta
- Mexico
- Netherlands
- New Zealand
- Norway
- Poland
- Portugal
- Romania
- Seychelles (01-10-2015)
- Slovenia
- South Africa
- Sweden
- United Kingdom

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

**Adviser – International Affairs**

**29th July 2015**