
STATUTORY INSTRUMENTS

2015 No. 801

TAXES

The International Tax Enforcement (Macao) Order 2015

Made - - - - *19th March 2015*

A draft of this Order was laid before the House of Commons in accordance with section 173(7) of the Finance Act 2006⁽¹⁾ and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 173(1) to (3) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the International Tax Enforcement (Macao) Order 2015.

Tax information exchange agreement to have effect

2. It is declared that—
 - (a) the agreement set out in the Schedule to this Order has been made with the Government of the Macao Special Administrative Region of The People's Republic of China with a view to the exchange of information foreseeably relevant to the administration or enforcement or recovery of the taxes, and debts relating to the taxes, covered by the agreement; and
 - (b) it is expedient that the agreement should have effect.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE

Article 2

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE MACAO SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA CONCERNING THE EXCHANGE OF INFORMATION

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Macao Special Administrative Region of the People's Republic of China

DESIRING to facilitate the exchange of information with a view to the effective administration of such taxes, the recovery and enforcement of tax claims, and other related matters.

ARTICLE 1

Object and Scope of the Agreement

The competent authorities of the Contracting Parties shall exchange information that is foreseeably relevant to the administration of the Contracting Parties concerning taxes covered by the Agreement, which shall include information that is foreseeably relevant to the determination of such taxes, the recovery and enforcement of tax claims, and other related matters. Information shall be exchanged in accordance with the Agreement and shall be treated as confidential in the manner provided in the Agreement. Information secured to persons by the laws or administrative practice of the Contracting Parties to the extent that they do not unduly prevent or delay effective

ARTICLE 2

ARTICLE 4

Definitions

1. For the purposes of this Agreement, unless otherwise stated:
 - a) the term “Contracting Party” means Macao or the United Kingdom as the context requires;
 - b) the term “Macao” means the Macao Special Administrative Region of the People's Republic of China; used in a geographical sense to include the islands of Taipa and Coloane;
 - c) the term “the United Kingdom” means Great Britain, Northern Ireland and any area outside the territorial sea of the United Kingdom in which the United Kingdom has jurisdiction concerning the Continental Shelf and in accordance with the provisions of the law within which the rights of the United Kingdom with respect to their natural resources may be exercised;
 - d) the term “competent authority” means:
 - (i) in Macao, the Chief Executive or his authorised representative;
 - (ii) in the United Kingdom, the Commissioners of Customs and Excise or their authorised representative;
 - e) the term “person” includes an individual, a company or other body corporate;
 - f) the term “company” means any body corporate or other body corporate for tax purposes;

- n) the term “information gathering measures” means procedures that enable a Contracting Party to obtain information;
- o) the term “information” means any fact, statement or document;
- p) the term “criminal tax matters” means tax matters liable to prosecution under the criminal laws of a Contracting Party;
- q) the term “criminal laws” means all criminal law provisions, irrespective of whether contained in the tax laws of a Contracting Party.

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

ARTICLE 5

Exchange of Information

1. The competent authority of the requested Party shall provide the information requested for the purposes referred to in Article 1. Such information shall be provided whether the conduct being investigated would constitute a criminal offence in the requested Party if such conduct occurred in the requested Party.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information gathering measures to provide the information requested, notwithstanding that the requested Party may

- a) the identity of the person under examination or inspection;
 - b) a statement of the information sought including a statement of the reasons why the requesting Party wishes to receive the information;
 - c) the tax purpose for which the information is sought;
 - d) grounds for believing that the information requested is held by the possession or control of a person within the territory of the requested Party;
 - e) to the extent known, the name and address of any person who is believed to be in possession of the requested information;
 - f) a statement that the request is in conformity with the law of the requesting Party, that if the requested information is held by the requesting Party then the competent authority of the requesting Party can obtain the information under the laws of the requesting Party in its administrative practice and that it is in conformity with the law of the requesting Party;
 - g) a statement that the requesting Party has pursued all reasonable steps within its jurisdiction to obtain the information, except those steps which would involve disproportionate difficulties.
6. The competent authority of the requested Party shall provide the information as promptly as possible to the requesting Party. To ensure a uniform application of the authority of the requested Party shall:
- a) Confirm receipt of a request in writing to the competent authority of the requesting Party and shall notify the competent authority of the requesting Party of the reasons for the request, if any, within 60 days of the receipt of the request;

ARTICLE 7

Possibility of Declining

1. The requested Party shall not be required to obtain information if the requesting Party would not be able to obtain under its own laws or enforcement of its own tax laws. The competent authorities shall not assist where the request is not made in conformity with the criteria in paragraph 1.

2. The provisions of this Agreement shall not impose an obligation to supply information which would disclose any trade, business or professional secret or trade process. Notwithstanding the provisions referred to in Article 5, paragraph 4 shall not be treated as a refusal because it meets the criteria in that paragraph.

3. The provisions of this Agreement shall not impose an obligation to obtain or provide information, which would reveal confidential information of a client and an attorney, solicitor or other admitted legal representative, if the information is:
are:

- a) produced for the purposes of seeking or providing legal advice;
- b) produced for the purposes of use in existing or contemplated legal proceedings.

4. The requested Party may decline a request for information if the disclosure of the information would be contrary to public policy.

5. A request for information shall not be refused on the grounds that the request is disputed.

ARTICLE 10

Implementation Legislation

The Contracting Parties shall enact any legislation necessary to give effect to the terms of this Agreement.

ARTICLE 11

Language

Request for assistance and answers thereto shall be drafted in the language agreed bilaterally between the competent authorities of the Contracting Parties.

ARTICLE 12

Mutual Agreement Procedure

1. Where difficulties or doubts arise between the Contracting Parties in the implementation or interpretation of this Agreement, the Contracting Parties shall endeavour to resolve the matter by mutual agreement.

2. In addition to the agreements referred to in paragraph 1, the Contracting Parties may mutually agree on the procedure for resolving such difficulties or doubts.

3. The competent authorities of the Contracting Parties may meet directly for purposes of reaching agreement under this Article.

4. The Contracting Parties may also agree on other procedures for resolving such difficulties or doubts.

1. This Agreement shall remain in force until term
2. Either Contracting Party may terminate the Agreement by giving written notice of termination to the other Contracting Party. In such case, the termination shall take effect on the first day of the month following the end of the period of notice of termination by the other Contracting Party.
3. In the event of termination, both Contracting Parties shall be bound by the provisions of Article 8 with respect to any information obtained under the Agreement.

In witness whereof the undersigned being duly authorised have signed the Agreement.

Done at London this third day of September 2014, in duplicate in English and Portuguese languages, all texts being equally authentic. In the event of any discrepancy, the English text shall prevail.

**For the Government
of the United Kingdom of
Great Britain and Northern Ireland:**

**David Gauke
Financial Secretary to the Treasury**

**For the
Government
of the
Republic of
Ireland:**

**Tamara
Secretary**

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order contains an agreement (“the Agreement”) dealing with the exchange of information for tax purposes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Macao Special Administrative Region of The People’s Republic of China. This Order brings the Agreement into effect.

Article 1 provides for citation.

Article 2 makes a declaration as to the effect and content of the Agreement.

The Agreement provides for the exchange of information foreseeably relevant to the administration or enforcement of the taxes covered by the Agreement by the revenue authorities of the two countries. Information will be exchanged in accordance with the provisions of the Agreement.

The Agreement will enter into force on the thirtieth day after the later of the notifications by each country of the completion of its legislative procedures. It will take effect as follows:

- (a) in respect of requests relating to criminal matters, on the date of entry into force; and
- (b) in respect of all other requests, for taxable periods beginning on or after the first day of January of the year next following the date of entry into force, or, where there is no taxable period, for all charges to tax arising on or after that date.

The date of entry into force will, in due course, be published in the *London, Edinburgh and Belfast Gazettes*.

A Tax Information and Impact Note has not been prepared for this Order as it gives effect to a previously announced policy to enact a tax information exchange agreement.