
STATUTORY INSTRUMENTS

2015 No. 804

TAXES

The International Tax Enforcement (Monaco) 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 (Monaco) 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 Principality of Monaco 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 PRINCIPALITY OF MONACO ON THE EXCHANGE OF INFORMATION

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Principality of Monaco, desiring to facilitate the exchange of information in respect to taxes, have agreed as follows:

Article 1

Object and Scope of the Agreement

The competent authorities of the Contracting Parties shall exchange information that is foreseeably relevant to the enforcement of the domestic laws of the Contracting Parties concerning taxes, including information that is foreseeably relevant to the assessment and collection of such taxes, the recovery and enforcement of tax claims, and the prosecution of tax matters. Information shall be exchanged in accordance with this Agreement and shall be treated as confidential in the Contracting Parties and safeguards secured to persons by the laws or administrative practices of the Contracting Parties shall remain applicable to the extent that they do not unduly prejudice the exchange of information.

Article 2

Jurisdiction

2. This Agreement shall also apply to any identical or similar taxes imposed after the date of the Agreement in addition to or in place of the existing taxes, or to any substantially similar taxes imposed after the date of the Agreement or in place of the existing taxes. Furthermore, the taxes shall be subject to the mutual agreement of the Contracting Parties. The competent authorities shall notify each other of any substantial changes to the tax measures covered by the Agreement.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined, the following definitions shall apply:
 - a) the term “United Kingdom” means Great Britain, the Channel Islands and the Isle of Man, outside the territorial sea of the United Kingdom, the United Kingdom’s Continental Shelf and in accordance with international law, the rights of the United Kingdom with respect to the resources that may be exercised;
 - b) the term “Monaco” means the Principality of Monaco, in the same sense, means the territory of the Principality of Monaco, including its airspace, the territorial sea and any area outside the territorial sea to which, with international law and on application of its constitution, Monaco may exercise jurisdiction or sovereign rights, including its subsoil and superjacent waters, and their natural resources;
 - c) the term “Contracting Party” means the United Kingdom or Monaco, as the context requires;

- j) the term “collective investment fund or scheme” irrespective of legal form. The term “public collection” means any collective investment fund or scheme provided that the fund or scheme can be readily purchased, sold or redeemed by shares or other interests in the fund or scheme can be purchased “by the public” if the purchase, sale or redemption is not restricted to a limited group of investors;
- k) the term “tax” means any tax to which this Agreement applies;
- l) the term “applicant Party” means the Contracting Party which has submitted an application for the Agreement to be applied to it;
- m) the term “requested Party” means the Contracting Party to which the Agreement is to be applied;
- n) the term “information gathering measures” means any administrative procedures that enable a Contracting Party to obtain information;
- o) the term “information” means any fact, statement or document;
- p) the term “national” means:
 - i) in relation to the United Kingdom, any British citizen, or any person possessing the citizenship of any other Commonwealth country, who has the right of abode in the United Kingdom, or any association deriving its status as such from the United Kingdom;
 - ii) in relation to the Principality of Monaco, any person who is a national of Monaco and any legal person, partnership, association or company having its status as such under the laws of Monaco.

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

- a) information held by banks, other financial institutions or fiduciary capacity including nominees and trusts;
- b) information regarding the ownership of companies, "Anstalten", "Stiftungen" and other persons, including ownership information on all such persons in an indirect manner; information on settlors, trustees and beneficiaries; information on founders, members of the foundation; Notwithstanding the preceding sentence, this Agreement shall not oblige the Contracting Parties to obtain or provide ownership information on publicly traded companies or public collective investment funds where such information can be obtained without giving rise to the disclosure of tax information.

5. The competent authority of the applicant Party shall provide to the competent authority of the requested Party when making a request under this Agreement to demonstrate the foreseeable relevance of the information sought:

- a. the identity of the person under examination or investigation;
- b. a statement of the information sought including the reasons why the applicant Party wishes to receive the information;
- c. the period for which the information is sought;
- d. the tax purpose for which the information is sought;
- e. grounds for believing that the information requested is necessary for the purposes of the investigation.

1. The requested Party may allow, to the extent permitted by its law, representatives of the competent authority of the applicant Party to interview individuals and examine records of persons concerned. The competent authority of the applicant Party shall determine the time and place of the examination concerned.

2. At the request of the competent authority of the applicant Party, the competent authority of the requested Party may allow representatives of the competent authority of the applicant Party to be present at the appropriate part of a tax examination.

3. If the request referred to in paragraph 2 is accepted, the competent authority of the requested Party shall, as soon as possible, notify the competent authority of the applicant Party about the time and place of the examination, the authority of the requested Party to be present at the examination and the procedures and conditions required for the examination. All decisions with respect to the conduct of the examination shall be made by the competent authority of the requested Party.

Article 7

Possibility of Declining

1. The requested Party shall not be required to obtain information if the applicant Party would not be able to obtain under its own law, or enforcement of its own tax laws.

2. The Competent Authority of the requested Party shall not be bound by a request not made in conformity with this Agreement.

3. This Agreement shall not impose on a requested Party

administrative bodies) in the jurisdiction of the Contracting Parties for the assessment or collection of, the enforcement or prosecution in respect of, or in relation to, the taxes covered by this Agreement or the information provided by the authorities shall use such information only for such purposes and shall not be used in public court proceedings or in judicial decisions. The Contracting Parties, or any other person or entity or authority or any other jurisdiction, shall refer to the competent authority of the requested Party.

Article 9

Costs

Incidence of costs incurred in providing assistance shall be determined by the Contracting Parties.

Article 10

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 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 to be followed.
3. The competent authorities of the Contracting Parties shall meet directly for purposes of reaching agreement under this Article.

2. Such termination shall become effective on the expiration of a period of six months after the date of receipt by the Contracting Party.

3. If this Agreement is terminated the Contracting Parties shall apply the provisions of Article 8 with respect to any information on

In witness whereof, the undersigned, being duly authorized representatives of the Governments, have signed this Agreement.

Done in two originals at London and Monaco on the twenty-third day of December 2014 in the English and French languages, both equally authoritative.

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

**David Gauke
Financial Secretary to the Treasury**

**For the
Monaco**

**José B
Minis
Coop**

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 Principality of Monaco. 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 date of the later of the notifications by each country of the completion of its legislative procedures. It will take effect as follows:

- (a) with respect to requests relating to criminal tax matters, on the date of entry into force; and
- (b) for all other matters described in Article 1 of the Agreement on that date, but only in respect of taxable periods beginning on or after that date 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.