STATUTORY INSTRUMENTS

2015 No. 804

TAXES

The International Tax Enforcement (Monaco) Order 2015

Made - - - - 19th March 2015

At the Court at Buckingham Palace, the 19th day of March 2015

Present,

The Queen's Most Excellent Majesty in Council

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

(**1**) 2006 c. 25.

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 FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES

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 with respect to taxes, have agreed as follows:

Article 1

Object and Scope of the Agreement

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

Article 2

Jurisdiction

1. A requested Party shall provide information in accordance with this Agreement without regard to whether the person to whom the information relates is, or whether the information is held by, a resident or national of a Contracting Party.

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

Article 3

Taxes covered

1. The existing taxes which are the subject of this Agreement are:

   a) in the United Kingdom, taxes of every kind and description; and

   b) in the Principality of Monaco:

      (i) the profit tax on commercial income levied from individual persons;

      (ii) the profit tax levied from companies;

      (iii) the inheritance tax;

      (iv) the gift tax;

      (v) the transfer tax.

2. This Agreement shall also apply 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 or in place of the existing taxes. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Contracting Parties. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:

a) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom designated under its laws concerning the Continental Shelf and in accordance with international law as an area within which the rights of the United Kingdom with respect to the seabed and sub-soil and their natural resources may be exercised;

b) the term "Monaco" means the Principality of Monaco and, when used in a geographical sense, means the territory of the Principality of Monaco including inland waters, the air space, the territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Principality of Monaco may exercise jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;

c) the term "Contracting Party" means the United Kingdom or the Principality of Monaco as the context requires;

d) the term "competent authority" means:

i) in the case of the United Kingdom, the Commissioners for Her

Majesty's Revenue and Customs or their authorised representative;

ii) in the case of the Principality of Monaco, the Minister for Finance and the Economy ("Conseiller du Gouvernement pour les Finances et l'Economie") or his authorised representative;

e) the term "person" includes an individual, a company and any other body of persons;

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

g) the term "publicly traded company" means any company whose principal class of shares is listed on a 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;

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

i) the term "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

j) the term "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. The term "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed "by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

k) the term "tax" means any tax to which this Agreement applies;

1) the term "applicant Party" means the Contracting Party requesting information;

m) the term "requested Party" means the Contracting Party requested to provide information;

n) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;

o) the term "information" means any fact, statement or record in any form whatever;

p) the term "national" means:

i) in relation to the United Kingdom, any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership or association deriving its status as such from the laws in force in the United Kingdom;

ii) in relation to the Principality of Monaco, any individual possessing the nationality of Monaco and any legal person, partnership, association or foundation deriving its status as such under the laws of Monaco.

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

Article 5

Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide upon request information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested Party if such conduct occurred in the territory of 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, that Party shall use all relevant information gathering measures to provide the applicant Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of an applicant 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.