

**No. 49373**

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**Australia  
and  
Antigua and Barbuda**

**Agreement between the Government of Australia and the Government of Antigua and Barbuda on the exchange of information with respect to taxes. Saint John's, 30 January 2007**

**Entry into force:** *14 December 2009 by notification, in accordance with article 13*

**Authentic text:** *English*

**Registration with the Secretariat of the United Nations:** *Australia, 13 February 2012*

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**Australie  
et  
Antigua-et-Barbuda**

**Accord entre le Gouvernement de l'Australie et le Gouvernement d'Antigua-et-Barbuda relatif à l'échange de renseignements en matière fiscale. Saint John's, 30 janvier 2007**

**Entrée en vigueur :** *14 décembre 2009 par notification, conformément à l'article 13*

**Texte authentique :** *anglais*

**Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies :** *Australie, 13 février 2012*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE  
GOVERNMENT OF ANTIGUA AND BARBUDA ON THE EXCHANGE OF  
INFORMATION WITH RESPECT TO TAXES.**

The Government of Australia and the Government of Antigua and Barbuda,  
Desiring to facilitate the exchange of information with respect to taxes,  
Have agreed as follows:

**ARTICLE 1**

**OBJECT AND SCOPE OF THIS AGREEMENT**

The competent authorities of the Contracting States shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of those States 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.

**ARTICLE 2**

**JURISDICTION**

A Requested State is not obligated 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 Australia, taxes of every kind and description imposed under federal laws administered by the Commissioner of Taxation; and
  - (b) in Antigua and Barbuda taxes of every kind and description imposed under the laws of Antigua and Barbuda and administered by the Commissioner of Inland Revenue.

2 This Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The Agreement shall also apply to such other taxes as may be agreed in an exchange of letters between the Contracting States. The competent authorities of the Contracting States shall notify each other of any substantial changes to the taxation and related information gathering measures covered by this Agreement.

3 This Agreement shall not apply to taxes imposed by states, municipalities, or other political subdivisions, or possessions of a Contracting State.

## **ARTICLE 4**

### **DEFINITIONS**

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

- (a) the term "Applicant State" means the Contracting State requesting information;
- (b) the term "Australia", when used in a geographical sense, excludes all external territories other than:
  - (i) the Territory of Norfolk Island;
  - (ii) the Territory of Christmas Island;
  - (iii) the Territory of Cocos (Keeling) Islands;
  - (iv) the Territory of Ashmore and Cartier Islands;
  - (v) the Territory of Heard Island and McDonald Islands; and
  - (vi) the Coral Sea Islands Territory,and includes any area adjacent to the territorial limits of Australia (including the Territories specified in this subparagraph) in respect of which there is for the time being in force, consistently with international law, a law of Australia dealing with the exploration for or exploitation of any of the natural resources of the seabed and subsoil of the continental shelf;
- (c) the term "Antigua and Barbuda" means the State of Antigua and Barbuda and the territorial waters thereof;
- (d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (e) the term "competent authority" means in the case of Australia, the Commissioner of Taxation or an authorized representative of the Commissioner and, in the case of

Antigua and Barbuda, the Minister of Finance or an authorized representative of the Minister;

- (f) the term "Contracting State" means Australia or Antigua and Barbuda as the context requires;
- (g) the term "criminal laws" means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes;
- (h) the term "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Applicant State;
- (i) the term "information" means any fact, statement or record in any form whatever that may be relevant or material to tax administration and enforcement;
- (j) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting State to obtain and provide the requested information;
- (k) the term "person" includes an individual, a partnership, corporation, trust, trustee, estate, association or other body of persons;
- (l) the term "Requested State" means the Contracting State requested to provide information; and
- (m) the term "tax" means any tax to which this Agreement applies.

2 As regards the application of this Agreement at any time by a Contracting State, 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 State, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

## ARTICLE 5

### EXCHANGE OF INFORMATION UPON REQUEST

1 The competent authority of a Contracting State shall only make a request for information pursuant to this Article when the competent authority of such Contracting State is unable to obtain the requested information by other means, having made all reasonable efforts to do so.

2 The competent authority of the Requested State 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 criminal tax matter under the laws of the Requested State if such conduct occurred in the Requested State.

3 If the information in the possession of the competent authority of the Requested State is not sufficient to enable it to comply with the request for information, that State shall use all relevant information gathering measures to provide the Applicant State with the information requested, notwithstanding that the Requested State may not need such information for its own tax purposes.

4 If specifically requested by the competent authority of an Applicant State, the competent authority of the Requested State shall endeavour in good faith to provide information under this Article, to the extent allowable under the laws and administrative practices of the Requested State with respect to its own taxes, in the form of depositions of witnesses and authenticated copies of original records.

5 Each Contracting State shall ensure that its competent authority for the purposes specified in Article 1 of this Agreement, has the authority to obtain and provide upon request: information held by banks, other financial institutions, trusts, trustees, nominees, or persons acting in agency or fiduciary capacity (not including information that would reveal confidential communications between a client and an attorney, solicitor or other legal representative where the client seeks legal advice), or information respecting ownership interests in a person and all persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries.

6 The competent authority of the Applicant State shall provide the following information to the competent authority of the Requested State when making a request for information under this Agreement to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature and the form in which the Applicant State wishes to receive the information from the Requested State;
- (c) the reasons for believing that the information requested is foreseeably relevant or material to tax administration and enforcement of the Contracting State in question with respect to the person identified in subparagraph (a) of this paragraph;
- (d) the grounds for believing that the information requested is held in the Requested State or is in the possession or control of a person within the jurisdiction of the Requested State;
- (e) to the extent known, the name and address of any person believed to be in possession of the requested information;