

No. 49408

**Australia
and
Bahamas**

Agreement between the Government of Australia and the Government of the Commonwealth of the Bahamas on the exchange of information with respect to taxes. Washington, 30 March 2010

Entry into force: *11 January 2011 by notification, in accordance with article 13*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Australia, 6 March 2012*

**Australie
et
Bahamas**

Accord entre le Gouvernement de l'Australie et le Gouvernement du Commonwealth des Bahamas relatif à l'échange de renseignements en matière fiscale. Washington, 30 mars 2010

Entrée en vigueur : *11 janvier 2011 par notification, conformément à l'article 13*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Australie, 6 mars 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE
GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS ON THE EXCHANGE
OF INFORMATION WITH RESPECT TO TAXES

Whereas the Government of the Commonwealth of The Bahamas has entered into a formal written commitment to the Organisation for Economic Cooperation and Development's (OECD) principles of transparency and exchange of information and has subsequently actively participated in the OECD Global Forum on Taxation;

And Whereas the Government of Australia and the Government of the Commonwealth of The Bahamas ("the Contracting States") have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

Now therefore, the Contracting States, 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. The rights and safeguards secured to persons by the laws or administrative practice of the Requested State remain applicable. The Requested State shall use its best endeavours to ensure that any

such rights and safeguards are not applied in a manner that unduly prevents or delays effective exchange of information.

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 The Bahamas, taxes of every kind and description.

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 within a reasonable time.

- 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 exclusive economic zone or the seabed and subsoil of the continental shelf;
 - (c) the term "The Bahamas" means the Commonwealth of The Bahamas, encompassing the land, the territorial waters, and in accordance with international law and the laws

of The Bahamas any area outside the territorial waters inclusive of the exclusive economic zone and the seabed and subsoil over which The Bahamas exercises jurisdiction and sovereign rights for the purpose of exploration, exploitation and conservation of natural resources;

- (d) 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;
- (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 in the case of Australia, the Commissioner of Taxation or an authorised representative of the Commissioner and, in the case of The Bahamas, the Minister of Finance or the Minister's duly authorised delegate;
- (g) the term "Contracting State" means Australia or The Bahamas as the context requires;
- (h) 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;
- (i) the term "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Applicant State;
- (j) the term "information" means any fact, statement or record in any form whatever;
- (k) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting State to obtain and provide the requested information;