

No. 49423

**Australia
and
Cook Islands**

**Agreement between the Government of Australia and the Government of the Cook Islands
on the exchange of information with respect to taxes. Rarotonga, 27 October 2009**

Entry into force: *2 September 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
Îles Cook**

**Accord entre le Gouvernement de l'Australie et le Gouvernement des îles Cook relatif à
l'échange de renseignements en matière fiscale. Rarotonga, 27 octobre 2009**

Entrée en vigueur : *2 septembre 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 COOK ISLANDS
ON
THE EXCHANGE OF INFORMATION WITH RESPECT TO TAXES

The Government of Australia and the Government of the Cook Islands,

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 Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of those 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. The Requested Party 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 Party 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 case of the Cook Islands, 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 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 this Agreement.

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

ARTICLE 4

DEFINITIONS

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

(a) the term "Applicant Party" means the Contracting Party 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 Cook Islands" means the territory of the Cook Islands;
- (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 Cook Islands, the Collector of Inland Revenue or an authorised representative of the Collector;
- (g) the term "Contracting Party" means Australia or the Cook Islands 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 Party;
- (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 Party to obtain and provide the requested information;
- (l) the term "person" includes an individual, a company and any other body of persons;
- (m) 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;
- (n) 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