

No. 49428

**Australia
and
Mauritius**

Agreement between the Government of Australia and the Government of the Republic of Mauritius on the Exchange of Information with Respect to Taxes. Port Louis, 8 December 2010

Entry into force: *25 November 2011, in accordance with article 12*

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**Australie
et
Maurice**

Accord entre le Gouvernement de l'Australie et le Gouvernement de la République de Maurice relatif à l'échange de renseignements en matière fiscale. Port-Louis, 8 décembre 2010

Entrée en vigueur : *25 novembre 2011, conformément à l'article 12*

Texte authentique : *anglais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT
BETWEEN
THE GOVERNMENT OF AUSTRALIA
AND
THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS
ON
THE EXCHANGE OF INFORMATION WITH RESPECT TO TAXES**

The Government of Australia and the Government of the Republic of Mauritius, 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 will 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 Mauritius, taxes of every kind and description administered by the Director General of Mauritius Revenue Authority.
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 exclusive economic zone or the seabed and subsoil of the continental shelf;
 - (c) the term "Mauritius" means the Republic of Mauritius and includes:
 - (i) all the territories and islands which, in accordance with the laws of Mauritius, constitute the State of Mauritius;
 - (ii) the territorial sea of Mauritius; and
 - (iii) any area outside the territorial sea of Mauritius which in accordance with international law has been or may hereafter be designated, under the laws of Mauritius, as an area, including the Continental Shelf, within which the rights of Mauritius with respect to the sea, the sea-bed and sub-soil and their natural resources may be exercised;
 - (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,
 - (i) in the case of Australia, the Commissioner of Taxation or an authorised representative of the Commissioner; and
 - (ii) in the case of Mauritius, the Director General of Mauritius Revenue Authority or an authorised representative of the Director General.
- (g) the term "Contracting State" means Australia or the Republic of Mauritius, 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;
- (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 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;
- (o) the term "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- (p) the term "Requested State" means the Contracting State requested to provide information; and