

**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED MEXICAN STATES  
AND THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS FOR THE  
EXCHANGE OF INFORMATION RELATING TO TAX MATTERS**

The Government of the United Mexican States and the Government of the Commonwealth of The Bahamas hereinafter referred to as “the Parties”;

**WHEREAS** the Government of the Commonwealth of The Bahamas on 15 March 2002 entered into a political commitment to the OECD's principles of effective exchange of information;

**WHEREAS** the Government of the United Mexican States and the Government of the Commonwealth of The Bahamas, desiring to facilitate the exchange of information with respect to taxes;

**Have agreed as follows:**

**Article 1  
Scope of the Agreement**

The Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the 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. A requested Party is not obliged to provide information which is neither held by its authorities, nor in the possession of or obtainable by persons who are within its

territorial jurisdiction. 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 Taxes Covered**

1. This Agreement shall apply to the following existing taxes imposed by the Parties:
  - a) in the case of Mexico, all federal taxes; and
  - b) in the case of The Bahamas, taxes of every kind and description.

2. This Agreement shall apply also to any identical or any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. The Agreement shall also apply to other taxes as may be agreed in an exchange of letters between the Parties. The competent authority of each Party shall notify the other of substantial changes in laws or measures which may affect the obligations of that Party pursuant to this Agreement.

## **Article 3 Definitions**

1. In this Agreement:

- a) "Mexico" means the United Mexican States, when used in a geographical sense it includes the territory of the United Mexican States, as well as the integrated parts of the Federation, the islands, including the reefs and cays in the adjacent waters, the islands of Guadalupe and Revillagigedo, the continental shelf and the seabed and sub-soil of the islands, cays and reefs, the waters of the territorial seas and the inland waters and beyond them the areas over which, in accordance with the international law, Mexico may exercise its sovereign rights of exploration and exploitation of the natural resources of the seabed, sub-soil and the suprajacent waters, and the air space of the national territory to the extent and under conditions established by international law;
  
- b) "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;
  
- c) "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. "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;

- d) "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) "competent authority" means,
  - (i) in the case of Mexico, the Ministry of Finance and Public Credit;
  - (ii) in the case of The Bahamas, the Minister of Finance or the Minister's duly authorised delegate;
- f) "criminal laws" means all criminal laws designated as such under domestic law, irrespective of whether such are contained in the tax laws, the criminal code or other statutes;
- g) "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the requesting Party;
- h) "information" means any fact, statement, document or record in whatever form;
- i) "information gathering measures" means laws and administrative or judicial procedures enabling a requested Party to obtain and provide the information requested;
- j) "national" means,
  - (i) any individual possessing the nationality or citizenship of a Party; or
  - (ii) any legal person, partnership, association or other entity deriving its status as such from the laws in force in a Party;

- k) "Party" means The Bahamas or Mexico as the context requires;
- l) "person" means an individual, a company or any other body or group of persons;
- m) "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
- n) "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) "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Parties;
- p) "requested Party" means the Party to this Agreement which is requested to provide or has provided information in response to a request;
- q) "requesting Party" means the Party to this Agreement submitting a request for or having received information from the requested Party;
- r) "tax" means any tax covered by this Agreement.

2. As regards the application of this Agreement at any time by a Party, any term not defined herein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws 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 4**

### **Exchange of Information Upon Request**

1. The competent authority of the requested Party shall provide upon request by the requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the requested Party if it had occurred in the territory of the requested Party. The competent authority of the requesting Party shall only make a request for information pursuant to this Article when it is unable to obtain the requested information by other means, except where recourse to such means would give rise to disproportionate difficulty.
  
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, the requested Party shall use all appropriate information gathering measures necessary to provide the requesting 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 the requesting 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.
  
4. Each Party shall ensure that it has the authority, subject to the terms of Article 1, to obtain and provide, through its competent authority and upon request:

- a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;
- b) information regarding the ownership of companies, partnerships, trusts, foundations, and other persons, including, within the constraints of Article 1, ownership information on all such persons; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries, and in all such cases ownership information on all such persons in an ownership chain;

provided that this Agreement does not create an obligation for a Party to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes, unless such information can be obtained without giving rise to disproportionate difficulties.

5. In order to facilitate the processing of a request by the requested Party the requesting Party shall formulate the request with the greatest detail necessary. The request shall specify in writing:

- a) the identity of the taxpayer under examination or investigation;
- b) the identity of the person in respect of whom information is requested, if that person is not also the taxpayer in subparagraph a) of this paragraph;
- c) the period for which the information is requested;
- d) the nature of the information requested and the form in which the requesting Party would prefer to receive it;

- e) the tax purpose for which the information is sought, including:
  - (i) the legal authority under the requesting Party's tax law with respect to which the information is sought; and
  - (ii) whether the matter is a criminal tax matter;
- f) the reasons for believing that the information requested is foreseeably relevant to tax administration and enforcement of the requesting Party, with respect to the person identified in subparagraph a) of this paragraph;
- g) grounds for believing that the information requested is present in the requested Party or is in the possession of or obtainable by a person within the jurisdiction of the requested Party;
- h) to the extent known, the name and address of any person believed to be in possession of or able to obtain the information requested;
- i) a statement that the request is in conformity with the laws and administrative practices of the requesting Party, that if the requested information was within the jurisdiction of the requesting Party then the competent authority of the requesting Party would be able to obtain the information under the laws of the requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
- j) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except where that would give rise to disproportionate difficulty.

6. The competent authority of the requested Party shall acknowledge receipt of the request to the competent authority of the requesting Party, shall advise if there are any expected delays in obtaining the requested information and shall use its best endeavours to forward the requested information to the requesting Party with the least possible delay.

## **Article 5**

### **Tax Examinations Abroad**

1. With reasonable notice, a Party may allow representatives of the competent authority of the other Party to enter the territory of the first-mentioned Party, to the extent permitted under its domestic laws, to interview individuals and examine records with the prior written consent of the individuals or other persons concerned. The competent authority of the second-mentioned Party shall notify the competent authority of the first-mentioned Party of the time and place of the intended meeting with the individuals concerned.

2. At the request of the competent authority of one Party, the competent authority of the other Party may permit representatives of the competent authority of the first-mentioned Party to attend a tax examination in the territory of the second-mentioned Party.

3. If the request referred to in paragraph 2 is granted, the competent authority of the Party conducting the examination shall, as soon as possible, notify the competent authority of the other Party of the time and place of the examination, the authority or person authorised to carry out the examination and the procedures and conditions required by the first-mentioned Party for the conduct of the examination. All decisions regarding the conduct of the examination shall be made by the Party conducting the examination.

**Article 6**  
**Possibility of Declining a Request**

1. The competent authority of the requested Party may decline to assist:
  - a) where the request is not made in conformity with this Agreement;
  - b) where the requesting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or
  - c) where the disclosure of the information requested would be contrary to national security or public policy.
  
2. This Agreement shall not impose upon a requested Party any obligation to provide items subject to legal privilege, or any trade, business, industrial, commercial or professional secret or trade process, provided that information described in Article 4, paragraph 4, shall not by reason of that fact alone be treated as such a secret or trade process.
  
3. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.
  
4. The requested Party shall not be required to obtain and provide information which if the requested information was within the jurisdiction of the requesting Party the competent authority of the requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.
  
5. The requested Party may decline a request for information if the information is requested by the requesting Party to administer or enforce a provision of the tax law of

the requesting Party, or any requirement connected therewith, which discriminates against a national of the requested Party as compared with a national of the requesting Party in the same circumstances.

### **Article 7 Confidentiality**

1. All information provided and received by the competent authorities of the Parties shall be kept confidential.
2. Such information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial decisions.
3. Such information may not be used for any purpose other than for the purposes stated in Article 1 without the express written consent of the competent authority of the requested Party.
4. Where information provided pursuant to this Agreement for a criminal tax purpose is, subsequently, to be used for a non-criminal tax purpose (and vice versa), the competent authority which supplied the information shall be notified of this change in use, if not before, then within a reasonable time of the change in use occurring.

5. Information provided to a requesting Party under this Agreement may not be disclosed to any other jurisdiction including a foreign government.

### **Article 8 Costs**

Unless the competent authorities of the Parties otherwise agree, indirect costs incurred in providing assistance shall be borne by the requested Party, and direct costs incurred in providing assistance (including costs of engaging external advisors in connection with litigation or otherwise) shall be borne by the requesting Party. The respective competent authorities shall consult from time to time with regard to this Article, and in particular the competent authority of the requested Party shall consult with the competent authority of the requesting Party in advance if the costs of providing information with respect to a specific request are expected to be significant.

### **Article 9 Mutual Agreement Procedure**

1. Where difficulties or doubts arise between the Parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement.

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Parties may mutually agree on the procedures to be used under this Agreement.

3. The competent authorities of the Parties may communicate with each other directly for the purposes of reaching agreement under this Article.
4. The Parties shall agree on other forms of dispute resolution should this become necessary.

#### **Article 10 Implementation Legislation**

The Parties shall enact any legislation necessary to comply with, and give effect to, the terms of this Agreement.

#### **Article 11 Entry into Force**

This Agreement shall enter into force thirty (30) days after receipt of written notification by the latter Party of completion of all legal formalities required for entry into force. Upon the date of entry into force, it shall have effect in respect of completed taxable periods beginning on or after that date or, where there is no taxable period, all charges to tax arising on or after that date.

#### **Article 12 Termination**

1. This Agreement shall remain in force until terminated by either Party by serving a written notice of termination through diplomatic channels.

2. Such termination shall become effective on the first day of the month following the expiration of a period of six (6) months after the date of receipt of notice of termination by the other Party. All requests received up to the effective date of termination will be dealt with in accordance with the terms of this Agreement.

3. If the Agreement is terminated the Parties shall remain bound by the provisions of Article 7 with respect to any information obtained under this Agreement.

**IN WITNESS WHEREOF** the undersigned, being duly authorised in that behalf by the respective Parties, have signed the Agreement.

**DONE** in duplicate in Playa del Carmen, Quintana Roo, Mexico, on February 23,<sup>rd</sup> 2010, in two originals in the Spanish and English languages, both being equally authentic.

**FOR THE GOVERNMENT OF THE  
UNITED MEXICAN STATES**

**FOR THE GOVERNMENT OF THE  
COMMONWEALTH OF THE BAHAMAS**

**Ernesto Javier Cordero Arroyo  
Minister of Finance and Public Credit**

**T. Brent Symonette  
Deputy Prime Minister and Minister of  
Foreign Affairs**

## **PROTOCOL**

By signing the Agreement for the Exchange of Information relating to Tax Matters, this day concluded between the Government of the Commonwealth of The Bahamas and the Government of the United Mexican States, the undersigned have agreed that the following provisions shall form an integral part of such Agreement.

For the purposes of subparagraph c) of paragraph 5, of Article 4, it is understood that a request may also seek information relating to a time frame outside the taxable period specified in the request, however the request must clearly establish the connection between that taxable period and the timeframe for the information.

**IN WITNESS WHEREOF** the undersigned, being duly authorised in that behalf by the respective Parties, have signed this Protocol.

**DONE** in duplicate in Playa del Carmen, Quintana Roo, Mexico, on February 23,<sup>rd</sup> 2010, in two originals in the Spanish and English languages, both being equally authentic.

**FOR THE GOVERNMENT OF THE  
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**Ernesto Javier Cordero Arroyo  
Minister of Finance and Public Credit**

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