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TAX INFORMATION AUTHORITY LAW

(2009 Revision)

TAX INFORMATION AUTHORITY REGULATIONS

(2009 Revision)

Revised under the authority of the Law Revision Law (1999 Revision).

The Tax Information Authority Regulations, 2006 made the 9th May, 2006 consolidated with the Tax Information Authority (Amendment) Regulations, 2009 made the 27th January, 2009.

Consolidated and revised this 16th day of June, 2009

TAX INFORMATION AUTHORITY REGULATIONS

(2009 Revision)

ARRANGEMENT OF REGULATIONS

1. Citation
2. Definitions
3. Form of Public Policy Certificate
4. Form of Certificate of Compliance
5. Form of Notice to Produce Information
6. Form of Notice of Request

TAX INFORMATION AUTHORITY REGULATIONS

(2009 Revision)

1. These regulations may be cited as the Tax Information Authority Regulations (2009 Revision). Citation
2. In these regulations - Definitions
“Schedule” means the Schedule to these regulations; and
“section” means a section of the Tax Information Authority Law (2009 Revision).
3. The form to be used for the purposes of section 6(2) is prescribed in Form 1 in the Schedule. Form of Public Policy Certificate
4. The form to be used for the purposes of section 7(3) is prescribed in Form 2 in the Schedule. Form of Certificate of Compliance
5. The form to be used for the purposes of section 8(4)(b) is prescribed in Form 3 in the Schedule. Form of Notice to Produce Information
6. The form to be used for the purposes of section 17(1) is prescribed in Form 4 in the Schedule. Form of Notice of Request

SCHEDULE

FORM 1

regulation 3

TAX INFORMATION AUTHORITY



CAYMAN ISLANDS

PUBLIC POLICY CERTIFICATE BY ATTORNEY-GENERAL

Issued pursuant to section 6(2) of the Tax Information Authority Law (2009 Revision).

UPON notification being made to me, on _____, 20..., by the Tax Information Authority pursuant to section 6(1) of the Tax Information Authority Law (2009 Revision) ("the Law"), that the Authority is in receipt of a request in the matter stated below which has been made pursuant to the terms of the Tax Information Agreement ("TIA") stated below *or* pursuant to Part IV of the Law by the country stated below [*delete as appropriate*], and that in the opinion of the Authority there are issues of public policy raised by the request

Name of matter to which the request relates:

Date of request:

TIA:

Agreement between the Government of the Cayman Islands and
[*name of country or territory*] dated [] and
scheduled as Schedule [] to the
Tax Information Authority Law
(2009 Revision);

or

Country:

[*name
of country which is a scheduled
Country for the purposes of the
Law*]

[*delete as appropriate*]

AND UPON my consideration of the request and the particulars thereof as set out in the said notification:

I HEREBY CERTIFY that the execution of the request is contrary to the public policy of the Cayman Islands.

Attorney-General

Dated this day of , 20...

TAX INFORMATION AUTHORITY



CAYMAN ISLANDS

CERTIFICATE OF COMPLIANCE

Issued pursuant to section 7(3) of the Tax Information Authority Law (2009 Revision).

The Tax Information Authority hereby certifies that the request in the matter stated below has been determined by the Authority to be in compliance with the Tax Information Agreement between the Government of the Cayman Islands and [name of country or territory] dated [] and scheduled as Schedule [] to the Tax Information Authority Law (2009 Revision) *or* the provisions of Part IV of the Tax Information Authority Law (2009 Revision) [delete as appropriate].

Name of matter to which the request relates:

Country making request: _____

Date of request:

Director, Tax Information Authority

Dated this day of , 20..

FORM 3

regulation 5

TAX INFORMATION AUTHORITY



CAYMAN ISLANDS

NOTICE TO PRODUCE INFORMATION

Issued pursuant to section 8(4)(b) of the Tax Information Authority Law (2009 Revision).

To: [name and address of holder of information]

WHEREAS

- (1) a request has been made to the Tax Information Authority (“the Authority”) pursuant to a Tax Information Agreement (“TIA”) between the Government of the Cayman Islands and [name of country or territory] dated [] for the provision of information in taxation matters and scheduled as the [] Schedule to the Tax Information Authority Law (2009 Revision) (“the Law”) or by [name of scheduled Country] pursuant to Part IV of the Tax Information Authority Law (2009 Revision) (“the Law”) [delete as appropriate];

[If appropriate add the following paragraph

- (2) *pursuant to section 17 of the Law, a Notice of Request in relation to the request was issued to you on [insert date], and the Authority has considered your submissions in response to the Notice of Request in making its determination as to whether or not the request is*

- in compliance with the TIA or Part IV of the Law [delete as appropriate.];*
- (3) the Authority has determined that the request is in compliance with the TIA or Part IV of the Law *[delete as appropriate]* and has issued a certificate of compliance to that effect dated *[insert date]*;
 - (4) pursuant to the request, the Authority considers it necessary to obtain specified information/information of a specified description *[delete as appropriate]* from you in accordance with section 8(4)(b) of the Law:

THEREFORE:

In accordance with the provisions of the Law, and the TIA *[insert, if appropriate]*, and in terms of the request, the Authority hereby requires you to produce to the Authority the information specified in the [] Schedule to this Notice within *[specify time]* days of the date of issue of this Notice.

The information produced in compliance with this Notice shall be accompanied by an affidavit in the form in the Second Schedule to this Notice.

FURTHER TAKE NOTICE:

- (1) that if you fail without lawful excuse to produce any information which is in your possession or under your control and which you are required to produce as specified in this Notice, or if you alter, destroy, mutilate, deface, hide, or remove any such information, you may be guilty of a criminal offence and liable on summary conviction under section 24(1) of the Law to a fine of ten thousand dollars and to imprisonment for two years;

[If appropriate, add the following paragraph -

- (2) *that pursuant to section 20 of the Law you are instructed by the Authority that the particulars of, and all matters relating to, the request are to be treated as confidential. You may not disclose the fact of the receipt of the request or any of the particulars required or documents produced or information supplied to any other person, except your attorney-at-law, for a period of ninety days from the date of issue of this Notice. Your attorney-at-law is also bound by section 20. It is a criminal offence for you to contravene section 20 of the Law and on summary conviction under section 24(2) of the Law you are liable to a fine of one thousand dollars and to imprisonment for six months.]*

Your attention is directed to the Notes below.

Director, Tax Information Authority

Dated this day of , 20..

NOTES

1. This Notice is issued by the Tax Information Authority pursuant to section 8(4)(b) of the Tax Information Authority Law (2009 Revision) and is subject to the provisions of that Law. In particular, you should note the following:
 - (a) “information” means any fact, statement, document or record in whatever form and includes -
 - (a) any fact, statement, document or record held by banks, other financial institutions, or any persons, including nominees and trustees, acting in an agency or fiduciary capacity; and
 - (b) any fact, statement, document or record regarding the beneficial ownership of companies, partnerships and other persons, including -
 - (i) in the case of collective investment funds, information on shares, units and other interests; and
 - (ii) in the case of trusts, information on settlors, trustees and beneficiaries;
 - “electronic record” means a record processed and maintained by electronic means; and
 - “electronic” means relating to technology having electrical, magnetic, optical, electromagnetic, or similar capabilities, whether digital, analogue or otherwise (section 2(1) of the Law);
 - (b) the Authority may take copies or extracts of any information produced by you pursuant to this Notice. If you claim to have a lien on a document, the production of that document pursuant to this Notice is without prejudice to your lien (section 8(5) of the Law);
 - (c) this Notice does not confer any right to production of, or access to, items subject to legal privilege (section 8(6)(a) of the Law);
 - (d) where the information to which this Notice relates consists of information maintained as an electronic record, such information must be produced in a form in which it can be taken away and in which it is visible and legible or in a form in which it is visible and legible, as the case may be (section 8(12) of the Law);

- (e) this Notice shall have effect notwithstanding any obligation as to confidentiality or other restriction upon the disclosure of information whether imposed by the Confidential Relationships (Preservation) Law (1995 Revision), any other Law or the common law (section 8(6)(b) of the Law);
 - (f) by divulging confidential information in conformity with this Notice you are deemed not to commit any offence under the Confidential Relationships (Preservation) Law (1995 Revision), or any other Law for the time being in force in the Islands, by reason only of such disclosure. Furthermore, such disclosure is deemed not to be a breach of any confidential relationship between you and any other person, and no civil claim or action whatsoever will lie against you or your principal or employer by reason of such disclosure (section 18 of the Law).
2. You should contact the Authority to agree the time and place for production to the Authority of the information specified in this Notice.

The contact details of the Authority are:

Address:

Tel: [number]
Fax: [number]
Email: [address]

FIRST SCHEDULE

This Schedule is referred to in the foregoing Notice to Produce Information dated
[]

[specify information to be produced]

SECOND SCHEDULE

This Schedule is referred to in the foregoing Notice to Produce Information dated
[]

[form of affidavit]

FORM 4

regulation 6

TAX INFORMATION AUTHORITY



CAYMAN ISLANDS

NOTICE OF REQUEST

Issued pursuant to section 17(1) of the Tax Information Authority Law (2009 Revision).

To: [name and address of person to whom request relates]

YOU ARE HEREBY NOTIFIED:

- (1) that you are the subject of a request for information received by the Tax Information Authority ("the Authority") pursuant to the terms of a Tax Information Agreement ("TIA") *or* from [name of scheduled Country] pursuant to Part IV of the Tax Information Authority Law (2009 Revision) ("the Law") [delete as appropriate]. **The details of the request are specified in the Schedule to this Notice;**
- (2) that within the period of fifteen days from the date of receipt of this Notice, you may make a written submission to the Authority specifying any grounds which you wish the Authority to consider in making its determination as to whether or not the request is in compliance with the provisions of the TIA specified in the Schedule *or* Part IV of the Law [delete as appropriate]. Your written submission may include any assertions that the information requested is subject to legal privilege;

Any written submissions should be made to:

The Director,
[Address]

;

- (3) that pursuant to section 20 of the Law you are instructed by the Authority that the particulars of, and all matters relating to, the request are to be treated as confidential. You may not disclose the fact of the receipt of the request, or any of the particulars required or documents produced or information supplied, to any other person, except your attorney-at-law, for a period of ninety days from the date of issue of this Notice. Your attorney-at-law is also bound by section 20. It is a criminal offence for you to contravene section 20 of the Law and on summary conviction under section 24(2) you are liable to a fine of one thousand dollars and to imprisonment for six months.

Your attention is directed to the Notes below.

Director, Tax Information Authority

Dated this day of , 20..

NOTES

1. This Notice is issued by the Tax Information Authority pursuant to section 17(1) of the Tax Information Authority Law (2009 Revision) and is subject to the provisions of that Law. In particular you should note the following:
 - (a) the date of receipt by you of this Notice is deemed to be fifteen days from the date of issuance indicated on this Notice (section 17(5));
 - (b) the Authority will consider any written submission made by you in compliance with this Notice but is not obliged to permit or consider any oral submission by or on behalf of any person who is the subject of a request for information (section 17(2));
 - (c) the Authority will hold all information received as confidential except where the Tax Information Authority Law (2009 Revision) or any other Law expressly provides otherwise. The proceedings

and deliberations of the Authority will accordingly be closed to all persons not specifically authorised by the Authority or by the Law to be present at such proceedings or deliberations (section 17(3)).

2. Original written submissions should be forwarded to the Authority in accordance with paragraph (2) of this Notice. For convenience, written submissions may be made to the Authority by fax or by email:

By Fax: [number]
By Email: [address];

but where written submissions are made by fax or e-mail, the original written submissions should be forwarded to the Authority at the address given in paragraph (2) of this Notice within five working days of the transmission of the fax or e-mail.

3. Paragraph 2 of these Notes applies to any amendments to written submissions.
4. Where written submissions include assertions that the information requested is subject to legal privilege, any determination on such legal privilege will fall to be made by a Judge under section 8(9)(c) of the Law.

SCHEDULE

This is the Schedule referred to in paragraph (1) of the foregoing Notice of Request dated []

Name of matter to which the request relates:

Date of request:

Person specified in request:

Country making request:

[Insert, if appropriate] **TIA:** Agreement between the Government of the Cayman Islands and [name of country or territory] dated [] and scheduled as Schedule [] to the Tax Information Authority Law (2009 Revision).

General nature of information sought by request:

Director, Tax Information Authority

Dated this day of 20..

Publication in consolidated and revised form authorised by the Governor in Cabinet this 16th day of June, 2009.

Carmena Watler
Clerk of Cabinet

(Price \$ 3.20)