



AGREEMENT BETWEEN
THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS
AND
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

Whereas the Government of the Commonwealth of The Bahamas and the Government of the Republic of Indonesia (the Parties) wish to enhance and facilitate the terms and conditions governing the exchange of information relating to all tax matters;

Now, therefore, the Parties have agreed to conclude the following agreement.

ARTICLE 1
OBJECT AND SCOPE OF THE AGREEMENT

The competent authorities of 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, enforcement, collection or recovery of such taxes, with respect to persons subject to such taxes, or to the investigation of tax matters or the prosecution of criminal tax matters in relation to such persons. 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 to the extent that they do not unduly prevent or delay 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 of or in the control of or obtainable by 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 The Bahamas, taxes of every kind and description.
 - b) in Indonesia:
 - (i) the income tax; and
 - (ii) the value added tax;
2. This Agreement shall also apply to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes, or any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the competent authorities of the Parties

so agree. The competent authorities of each Party shall notify the other of any substantial changes to the taxation and related information gathering measures covered by the 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 Party.

ARTICLE 4 DEFINITIONS

1. For the purposes of this Agreement, the term:
 - a) “The Bahamas” means the Commonwealth of The Bahamas, encompassing its land and territorial waters subject to the laws of The Bahamas, and any area outside the territorial waters inclusive of the exclusive economic zone and the seabed and subsoil thereof, over which The Bahamas exercises jurisdiction and sovereign rights for the purpose of exploration, exploitation and conservation of natural resources, in accordance with international law;
 - b) “Indonesia” comprises the territory of the Republic of Indonesia as defined in its laws, and parts of the continental shelf, exclusive economic zone and adjacent seas over which the Republic of Indonesia has sovereignty, sovereign rights or jurisdiction in accordance with the United Nations Convention on the Law of the Sea 1982;
 - c) “competent authority” means:
 - i) in the case of The Bahamas, the Minister of Finance or the Minister’s authorised representative;
 - ii) in the case of The Republic of Indonesia, the Minister of Finance or his/her authorized representative;
 - d) “person” includes a natural person, a legal person or any other body or group of persons;
 - e) “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) “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;

- g) “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
 - h) “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Parties;
 - i) “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;
 - j) “tax” means any tax to which the Agreement applies;
 - k) “requesting Party” means the Party requesting information;
 - l) “requested Party” means the Party requested to provide information;
 - m) “information gathering measures” means laws and administrative or judicial procedures that enable a Party to obtain and provide the requested information;
 - n) “information” means any fact, statement, document or record in any form whatever;
 - o) “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the requesting Party;
 - p) “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.
2. As regards the application of this Agreement at any time by a Party, any term not defined therein 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 5
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 such conduct 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 at its own discretion all relevant 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 its competent authorities, for the purposes specified in Article 1 and in accordance with Article 2 of the Agreement, have the authority to obtain and provide 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) (i) information regarding the legal and beneficial ownership of companies, partnerships, and other persons, including ownership information on all such persons in an ownership chain;
 - (ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries;
 - (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries; and

- (iv) in the case of collective investment schemes, information on shares, units and other interests;

provided that this Agreement does not create an obligation on either 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. Any request for information shall be formulated with as much detail as possible and 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 referred to in subparagraph (a);
- 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 citation of the legal authority under the requesting Party's tax or other 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 held by the requested Party or is in the possession of or in the control of or obtainable by a person within the territorial jurisdiction of the requested Party;
- h) to the extent known, the name and address of any person believed to be in the possession of or in the control of or able to obtain the requested information;
- 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 the request 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 those that would give rise to disproportionate difficulties.

6. The competent authority of the requested Party shall acknowledge receipt of the request to the competent authority of the requesting Party and shall use its best endeavours to forward the requested information to the requesting Party with the least reasonable delay.

ARTICLE 6

TAX EXAMINATIONS ABROAD

1. By reasonable notice given in advance, the requesting Party may request that the requested Party allow representatives of the competent authority of the requesting Party to enter the territory of the requested Party, to the extent permitted under its laws, to interview individuals and examine records with the prior written consent of the individuals or other persons concerned. The competent authority of the requesting Party shall notify the competent authority of the requested 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 allow representatives of the competent authority of the first-mentioned Party to be present at the appropriate part of a tax examination in the second-mentioned Party.
3. If the request referred to in paragraph 2 is acceded to, the competent authority of the Party conducting the examination shall, as soon as possible, notify the competent authority of the other Party about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the first-mentioned Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the Party conducting the examination.

ARTICLE 7

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 the public policy of the requested Party.

2. This Agreement shall not impose upon a Party any obligation to provide items subject to legal privilege as provided for under the domestic law of the relevant Party, or any trade, business, industrial, commercial or professional secret or trade process, provided that information described in Article 5 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 the requesting Party would be unable to obtain under its own laws for the purpose of the administration or enforcement of its own tax laws or in response to a valid request made in similar circumstances from the requested Party under this Agreement.
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 8 CONFIDENTIALITY

1. All information provided and received by the competent authorities of the Parties shall be kept confidential.
2. Information provided to the competent authority of the requesting Party may not be used for any purpose other than the purposes stated in Article 1 without the prior express written consent of the requested Party.
3. Information provided shall be disclosed only to persons or authorities (including judicial and administrative authorities) 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.

4. The information provided to a requesting Party under this Agreement may not be disclosed to any other jurisdiction.

ARTICLE 9

PREJUDICIAL OR RESTRICTIVE MEASURES

1. Neither of the Parties shall apply prejudicial or restrictive measures based on "harmful tax practices" to residents or nationals of either Party so long as this Agreement is in force and effective.
2. A "prejudicial or restrictive measure based on harmful tax practices" is a measure applied by one Party to residents or nationals of either Party on the basis that the other Party does not engage in effective exchange of information and/or because it lacks transparency in the operation of its laws, regulations or administrative practices, or on the basis of no or nominal taxes and one of the preceding criteria.
3. Without limiting the generality of paragraph 2 the term "prejudicial or restrictive measure" includes:
 - a) the introduction of any tax law or administrative arrangements that specifically and adversely target taxpayers of one Party conducting business activities or investing in the other Party; or
 - b) the denial of a deduction, credit or exemption, the imposition of a tax, charge or levy, or special reporting requirements.
4. A "prejudicial or restrictive measure" does not include generally applicable measures, applied by either State, such as Controlled Foreign Company rules, Foreign Investment Fund rules, Transferor Trust rules, transfer pricing rules, thin capitalisation rules, the operation of dual exempt and foreign tax credit systems or general information reporting rules that relate to the disclosure of information from other countries or jurisdictions, or transactions with such countries or jurisdictions, such as record keeping requirements imposed on foreign owned subsidiaries to ensure access to information concerning parent companies.

ARTICLE 10

COSTS

Unless the competent authorities of the Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested Party, and extraordinary costs in providing assistance (including reasonable costs of engaging external advisers in connection with litigation or otherwise) shall be borne by the requesting Party. The respective competent authorities shall consult as necessary 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 11

LANGUAGE

Requests for assistance and answers thereto shall be drawn up in English, or in the Indonesian and English languages.

ARTICLE 12

MUTUAL AGREEMENT PROCEDURE

1. Where difficulties or doubts arise between the Parties regarding the implementation or interpretation of the Agreement, the competent authorities shall endeavour 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 Articles 5, 6 and 10.
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 may also agree on other forms of dispute resolution should this become necessary.

ARTICLE 13

ENTRY INTO FORCE

1. Each Party shall notify to the other in writing the completion of the procedure required by its law for the entry into force of this Agreement.

2. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect with respect to all matters covered in Article 1, for all taxable periods beginning on or after that date or, where there is no taxable period, for all charges to tax arising on or after that date.

ARTICLE 14 TERMINATION

1. Either Party may terminate the Agreement by serving a written notice of termination through the relevant channels of the other Party required by its respective law.
2. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notice of termination by the other Party.
3. If the Agreement is terminated, the Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

In witness whereof, the undersigned, being duly authorised thereto have signed the Agreement.

DONE at Nassau, The Bahamas on the 25th day of June in the year 2015 in 2 (two) identical originals, each in the Indonesian and English languages, all texts being equally authoritative. In case of divergence between the Indonesian and English text, the English text shall prevail.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF INDONESIA**

**HON. MICHAEL B. HALKITIS
Minister of State for Finance**

**H.E. TEISERAN FOUN CORNELIS
Ambassador Extraordinary and
Plenipotentiary of the Republic of
Indonesia to the Republic of Cuba**