

# STATES OF JERSEY



## **RATIFICATION OF THE AGREEMENT AND EXCHANGE OF LETTERS FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS BETWEEN THE GOVERNMENT OF JERSEY AND THE KINGDOM OF SPAIN**

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**Lodged au Greffe on 5th March 2018  
by the Minister for External Relations**

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to ratify the Agreement and Exchange of Letters between the Government of Jersey and the Government of the Kingdom of Spain, for the Exchange of Information Relating to Tax Matters, as set out in Appendices 1 and 2 to the attached report of the Chief Minister dated 26th February 2018.

MINISTER FOR EXTERNAL RELATIONS

## REPORT

### Background

1. In February 2002, Jersey entered into a political commitment to support the OECD tax initiative on transparency and information exchange through the negotiation of tax information exchange agreements to an agreed international standard.
2. In September 2009, the OECD Global Forum on Transparency and Information Exchange for Tax Purposes, a body of which some 150 jurisdictions are now members, adopted a peer review process to assess compliance with the international standard. A Peer Review Group of some 30 jurisdictions was established, of which Jersey was one of the Vice-Chairs. In 2017, the Global Forum commenced a new programme of assessments of compliance with revised standards which place much greater emphasis on the availability and accessibility of beneficial ownership information. Jersey was one of the first group of jurisdictions subject to this assessment, and was rated as fully compliant with all of the elements making up the revised standard. This is a rating not yet achieved by a number of G20, OECD and EU member states.
3. Successive G20 summits have encouraged jurisdictions to make progress in agreeing, implementing and abiding by the necessary international agreements for information exchange. In response, Jersey has maintained an active programme of negotiating agreements with EU, OECD, G20 member jurisdictions, and with other relevant partners. This has served to enhance the Island's international personality, and generally has helped to engender a more favourable view of the Island amongst the international community.
4. The international tax information exchange standard can be met through a bilateral Tax Information Exchange Agreement ("TIEA") or a Double Tax Agreement ("DTA"). The advantage of a DTA is that it offers benefits to individuals and the business community through the avoidance of double taxation or reduced rates of withholding tax, in addition to providing for exchange of information to the international standard.
5. The standard can also be met through the exchange of information with jurisdictions that are party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Jersey became a party to the Convention in June 2014. There are currently some 100 jurisdictions party to the Convention. Some that were in the process of negotiating a TIEA with Jersey have now decided to rely on the provisions of the Convention.
6. The latest position in respect of the bilateral tax agreements and the parties to the Multilateral Convention is attached as **Appendix 3** to this report. A total of 39 TIEAs and 13 DTAs have now been signed, of which 36 TIEAs and 12 DTAs are in force. Almost without exception, the delay in bringing agreements into force is due to the length of time taken by the other parties to the agreements to complete their domestic procedures for the ratification of the agreements.

7. In addition to compliance with the international standards on the exchange of information on request, Jersey was an “early adopter” of the Common Reporting Standard (“CRS”) on Automatic Exchange of Information (“AEOI”). Information on financial accounts held in the Island in 2016 was exchanged automatically, with some 50 jurisdictions in September 2017. Information on financial accounts held in 2017 will be exchanged with over 40 more jurisdictions in September 2018. It is expected that with the receipt of this information, jurisdictions will make more requests for additional information under the provisions of the TIEAs or the Multilateral Convention. Jersey is a Vice-Chair of a Global Forum Working Group on AEOI, and is actively involved in the development of the process for assessing compliance with the CRS, which assessments are expected to commence in 2020.

### **The Agreement with the Government of the Kingdom of Spain**

8. The Agreement entered into with the Government of the Kingdom of Spain (“the Agreement”) is a continuation of the ongoing programme of entering into tax agreements to the international standard with G20, OECD and EU member jurisdictions. Spain is a member of the OECD and the EU.
9. The Agreement is attached as **Appendix 1** to this report. The Agreement is in line with the OECD Model TIEA, and provides for the exchange of information on tax matters on request. It is consistent with agreements signed previously with other jurisdictions and which the States have ratified.
10. Great importance is attached to maintaining a good neighbour relationship with the EU Member States, and this Agreement is seen as a significant further strengthening of that relationship. It will also strengthen and enhance the existing business relationship with Spain, will lead in due course to the removal of Jersey from a Spanish blacklist, and will help to facilitate greater market access.

### **Procedure for signing and ratifying the Agreement**

11. The Jersey signing of the Agreement was undertaken by the then Assistant Chief Minister in London on 17th November 2015. The signing was in accordance with the provisions of Article 18(2) of the [States of Jersey Law 2005](#) and paragraph 1.8.5 of the Strategic Plan 2006–2011 adopted by the States on 28th June 2006. The Council of Ministers had authorised the Assistant Chief Minister to sign on behalf of the Government of Jersey.
12. The Agreement is now being presented to the States for ratification, following which it will be published and entered into the official record. The Agreement will enter into force when the domestic procedures of both parties have been completed.
13. The time taken to bring the signed Agreement to the States for ratification is due to the fact that subsequent to the signing, a difficulty arose over the omission of a word from the definition in Article 4(1)(b) of the Geographical Area of the Kingdom of Spain. In due course, it was agreed between the parties that the best way of dealing with the omission was through an exchange of letters which would be attached to the Agreement. The letters exchanged are

attached as **Appendix 2** to this report, and are included with the Agreement for ratification by the States.

14. The States, on 29th January 2008, adopted the [Taxation \(Exchange of Information with Third Countries\) \(Jersey\) Regulations 2008](#). The Schedule to these Regulations lists the third countries, and includes the taxes covered by the agreements being entered into. Following the ratification of Agreement and the Exchange of Letters, an Order will be made to provide for the inclusion in the Schedule of the Kingdom of Spain, and the relevant taxes covered.

#### **Collective responsibility under Standing Order 21(3A)**

15. The Council of Ministers has a single policy position on this proposition, and as such, all Ministers are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

#### **Financial and manpower implications**

16. There are no implications expected for the financial and manpower resources of the States arising from the ratification and implementation of the Agreement.

26th February 2018

**AGREEMENT ON EXCHANGE OF INFORMATION ON TAX MATTERS  
BETWEEN  
JERSEY  
UNDER ENTRUSTMENT FROM THE GOVERNMENT OF  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
AND THE KINGDOM OF SPAIN**

Whereas Jersey and the Kingdom of Spain (the Parties) wish to enhance and facilitate the terms and conditions governing the exchange of information relating to all tax matters;

Whereas the Parties recognise that the following Agreement contains obligations on the part of the Parties only;

WHEREAS it is acknowledged that Jersey has the right, under the terms of the Entrustment from the United Kingdom of Great Britain and Northern Ireland, to negotiate, conclude, perform and subject to the terms of this Agreement terminate a tax information exchange agreement with the Kingdom of Spain;

The Parties desiring to facilitate the exchange of information with respect to taxes have agreed as follows:

**Article 1**

**Object and Scope of the Agreement**

The competent authorities of the Parties shall provide assistance through co-operation in notifying Administrative Decisions of the Parties and exchanging 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. 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 the effective exchange of information.



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## 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 nor obtainable by persons who are within its territorial jurisdiction.

## Article 3

### Taxes Covered

1. The taxes which are the subject of this Agreement are:
  - a) in Spain:
    - the income tax on individuals (Impuesto sobre la Renta de las Personas Físicas);
    - the corporation tax (Impuesto sobre Sociedades);
    - the income tax on non-residents (Impuesto sobre la Renta de No Residentes);
    - the capital tax (Impuesto sobre el Patrimonio);
    - the inheritance and gift tax (Impuesto sobre Sucesiones y Donaciones);
    - the transfer tax (Impuesto sobre Transmisiones Patrimoniales y Actos Jurídicos Documentados)
    - the value added tax (Impuesto sobre el Valor Añadido);
    - the excise tax (Impuestos Especiales); and
    - the local taxes on income and on capital (impuestos locales sobre la renta y el patrimonio)
  - b) in Jersey :
    - the income tax;
    - the goods and services tax.
2. This Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Parties in the form of an exchange of letters. The competent authorities of the Parties shall notify each other in writing of any substantial changes to the taxation and related information gathering measures covered by the Agreement.



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## Article 4

### Definitions

1. For the purposes of this Agreement, unless otherwise defined:
  - a) "Party" means Spain or Jersey as the context requires;
  - b) "Spain" means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain including inland waters, the air space, the territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the sea bed, its subsoil and superjacent waters, and their natural resources;
  - c) "Jersey" means the Bailiwick of Jersey, including the territorial sea;
  - d) "competent authority" means:
    - i) in the case of Spain, the Minister of Finance and Public Administration or his authorised representative;
    - ii) in the case of Jersey, the Treasury and Resources Minister or his authorised representative;
  - e) "administrative decisions" means decisions and any instruments which emanate from the administrative authorities concerning the application of taxes covered by this Agreement;
  - f) "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;
  - g) "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this agreement which is liable to prosecution under the criminal laws of the Requesting Party;
  - h) "collective investment fund or scheme" means any pooled investment vehicle, irrespective of its legal form;
  - i) "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - j) "information" means any fact, statement or record in any form whatever;

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- k) "information gathering measures" means laws and administrative or judicial procedures that enable a Party to obtain and provide the requested information;
- l) "notification" means the delivery of documents to residents of either one of the Parties in accordance with the rules of the Party which makes such delivery;
- m) "person" means an individual, a company and any other body or group of persons;
- n) "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
- o) "public collective investment fund or scheme" means any collective investment fund or scheme in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
- p) "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 restricted to a limited group of investors
- q) "Requested Party" means the Party requested to provide information and/or to assist with notification;
- r) "Requesting Party" means the Party requesting information and/or assistance for notification;
- s) "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Parties;
- t) "tax" means any tax to which the Agreement applies;

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 law 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.

  
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## Article 5

### Exchange of Information upon Request

1. The competent authority of the Requested Party shall provide upon request 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 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, that Party shall use 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 of the Agreement, have the authority to obtain and provide upon request:
  - a) information held by banks, other financial institutions, trusts, foundations and any person acting in an agency or fiduciary capacity including nominees and trustees;
  - b) information regarding the legal and beneficial ownership of companies, partnerships and other persons and within the constraints of Article 2, any other persons in an ownership chain, including
    - (i) in the case of collective investment schemes, information on shares, units and other interests;
    - (ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries; and
    - (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries.

Notwithstanding the preceding paragraphs, this Agreement creates an obligation on the Parties to obtain or provide ownership information with respect to publicly traded

  
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companies or public collective investment schemes unless such information cannot be obtained without giving rise to disproportionate difficulties.

5. Any request for information shall be formulated with the greatest of detail possible and shall specify in writing:
  - a) the identity of the person under examination or investigation;
  - b) the period for which information is requested;
  - c) a statement of the information sought including its nature and the form in which the Requesting Party would prefer to receive the information from the Requested Party;
  - d) the tax purpose for which the information is sought;
  - e) the reasons for believing that the information requested is foreseeably relevant to the administration or enforcement of the taxes of the Requesting Party covered under Article 3 with respect to a person identified in sub-paragraph (a) of this paragraph;
  - f) grounds for believing that the information requested is held in the Requested Party or is in the possession of or in the control of or obtainable by a person within the jurisdiction of the Requested Party;
  - g) to the extent known, the name and address of any person believed to be in possession of or in the control of or able to obtain the requested information;
  - h) a statement that the request is in conformity with the law 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;
  - i) 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 in writing receipt of the request to the competent authority of the Requesting Party no later than ten working days after the receipt, advise if there are any unexpected delays in obtaining the requested information and shall use its best endeavours to forward the requested information to the Requesting Party no later than six months following the date of the confirmation of the receipt of the request.

  
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## Article 6

### Tax Examinations Abroad

At the request of the competent authority of the Requesting Party, the competent authority of the Requested Party may allow representatives of the competent authority of the Requesting Party to be present at the appropriate part of a tax examination by the Requested Party. If the request is acceded to, the competent authority of the Requested Party conducting the examination shall, as soon as possible, notify the competent authority of the Requesting 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 Requested Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the Requested Party conducting the examination.

## Article 7

### Possibility of Declining a Request

1. The Requested Party shall not be required to obtain or provide information that the Requesting Party would not be able to obtain under its own laws for purposes of the administration or enforcement of its own tax laws.
2. The provisions of this Agreement shall not impose on the Requested Party the obligation to supply information subject to legal privilege or which would disclose any trade, business, industrial, commercial or professional secret or trade process. Notwithstanding the foregoing, information of the type referred to in Article 5, paragraph 4 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.
3. The Requested Party may decline a request for information
  - 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 would be contrary to public policy (ordre public).
4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

  
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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 received by the Requesting Party may be used for purposes other than those stated in Article 1 when such information may be used for such other purposes under the laws of the Requesting Party and the competent authority of the Requested Party authorises such use.
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.

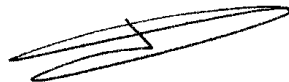
#### **Article 9**

##### **Request for Notifications**

1. The competent authority of the Requested Party, at the request of the competent authority of the Requesting Party, and in accordance with the rules which govern the notification of similar instruments in the first-mentioned Party, shall notify decisions and any other instrument which emanate from the administrative authorities of the second-mentioned Party and concern the application of taxes covered by this Agreement.
2. The competent authority of the Requesting Party shall inform the competent authority of the Requested Party of the name, address and any other relevant



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information of the addressee, when making a request for notification.

3. The competent authority of the Requested Party shall confirm receipt of a request in writing to the competent authority of the Requesting Party and shall notify the competent authority of the Requesting Party of deficiencies in the request, if any, within 30 days of the receipt of the request.
4. The competent authority of the Requested Party shall inform the competent authority of the Requesting Party immediately, and in any case within 60 days of the receipt of the request, of:
  - a) the date of transmission of the decision or instrument to the addressee;
  - b) the action that has been taken to reach the addressee and an explanation of the reasons for the inability, if it has been impossible to reach the addressee.

The Requesting Party shall subsequently decide whether or not to rescind its request. If it decides not to rescind its request, the Parties shall informally and directly, through mutual agreement or otherwise, discuss the possibilities to achieve the purpose of the request and consult with each other the manner in which to achieve that objective.

5. It shall be deemed that the notification has been impossible if the competent authority of the Requesting Party receives no communication from the competent authority of the Requested Party within 60 days of the receipt of the request.
6. The time restrictions mentioned in this Article do not in any way impact on the validity and legality of notification made under this Agreement.
7. This Article does not preclude the application of the domestic rules for notification of the Requesting Party, both procedures being equally valid.

#### **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 incurred in providing assistance (including costs of engaging external advisers in connection with litigation or otherwise) shall be borne by the Requesting Party. The respective competent authority 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.

  
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**Article 11**

**Implementation Legislation**

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

**Article 12**

**Language**

Requests for assistance and answers thereto shall be drawn up in English, or in Spanish and English.

**Article 13**

**Mutual Agreement Procedure**

1. Where difficulties or doubts arise between the Parties regarding the implementation or interpretation of this 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, 9 and 10.
3. The competent authorities of the Parties may communicate with each other directly for purposes of reaching agreement under this Article.
4. The Parties may also agree on other forms of dispute resolution should this become necessary.

**Article 14**

**Entry into Force**



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1. The Parties shall notify each other in writing through appropriate channels that the internal procedures required by each Party for the entry into force of this Agreement have been complied with.
2. The Agreement shall enter into force after a period of three months following the date of receipt of the later of the notifications referred to in paragraph 1.
3. The provisions of this Agreement shall have effect for any taxable periods, which could still be investigated at the moment of the information request, according to the laws of the Requesting Party.

This agreement shall have effect:

- (a) for criminal tax matters on that date; and
- (b) for all other matters covered in Article 1, in respect of taxable periods beginning on or after January 1<sup>st</sup> of the year next following the year in which the agreement entered into force or, where there is no taxable period, in respect of taxes due in respect of taxable events taking place on or after January 1<sup>st</sup> of the year next following the year in which the agreement entered into force.

4. Jersey shall cease to be considered one of the territories referred to in paragraph 1 of the First Additional Provision of the Spanish Law to Avoid Tax Evasion (Disposición Adicional primera de la Ley 36/2006 de Medidas para la Prevención del Fraude Fiscal) of 29 November 2006 on the date on which this Agreement shall have effect.
5. The information exchanged under this Agreement is considered to be “effective exchange of information” in accordance with the internal legislation of the Parties.

#### **Article 15**

##### **Termination**

1. This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement, through appropriate channels by giving written notice of termination.
2. Such termination shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notice of termination by the other Party.



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3. Notwithstanding any termination of this Agreement 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 by their respective Governments, have signed this Agreement.

DONE in duplicate in London on the 17th day of November, 2015, in the Spanish and English languages, all the texts being equally authentic.

For Jersey



Philip Ozouf  
Assistant Chief Minister

For the Kingdom of Spain



José Manuel Gutiérrez Delgado  
Counsellor(Finance)  
Embassy of Spain in London

**Chief Minister**  
**Government of Jersey**  
Cyril Le Marquand House  
St Helier  
Jersey JE4 8QT



Mr Jose Manuel Gutierrez Delgado  
Financial Counsellor  
Embassy of Spain to the UK  
39 Chesham Place  
London  
SW1X 8SB

18<sup>th</sup> October 2017

Dear Mr Delgado

I refer to the Agreement on Exchange of Information on Tax Matters, dated 17 November 2015, between the Government of Jersey, under Entrustment from the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the Kingdom of Spain, undersigned by Senator Philip Ozouf then an Assistant Minister acting on behalf of the Chief Minister representing the Government of Jersey, and yourself on behalf of the Government of the Kingdom of Spain ("the Agreement").

Following that signature, the Government of Jersey submitted a correction to Article 4 b) that contains the definition of "Spain" for the purposes of the Agreement. The paragraph as it now stands says:

"Spain means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain including inland water, the air space, the territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the sea bed, its subsoil and superjacent waters, and their natural resources."

The correction proposed would insert the word "maritime" in between "and any" and "area outside". The revised paragraph would then read as follows:

"Spain means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain including inland water, the air space, the territorial sea and any maritime area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the sea bed, its subsoil and superjacent waters, and their natural resources."

It is the understanding of the Government of Jersey that the suggested language does not alter the meaning of the Agreement, nor that of the paragraph to which it refers or any part thereof. It is also our understanding that the suggested language does not constitute an amendment but only corrects an error of omission. I would be pleased to receive confirmation that the Government of the Kingdom of Spain concurs with our understanding.

.2.

Accordingly, should the Government of the Kingdom of Spain so concur, and should your reply convey that confirmation, the Government of Jersey would consider that the Agreement is revised in the manner herein proposed and that no further formal or legal undertakings would be necessary in that regard.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'I. Gorst', with a long horizontal stroke extending to the right.

**Senator Ian Gorst**  
**Chief Minister of Jersey**  
Direct dial: +44 (0) 1534 440546  
Email: [chiefminister@gov.je](mailto:chiefminister@gov.je)  
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SPANISH EMBASSY  
39 CHESHAM PLACE  
LONDON SW1X 8SB

Ministro Principal  
Gobierno de Jersey  
Cyril Le Marquand House  
St Helier  
Jersey JE4 8QT

12 de diciembre de 2017

Señor Ministro Principal,

Hago referencia a su carta de 18 de octubre de 2017, en la que propone subsanar la omisión observada en la definición de "España" que contiene el subapartado b) del apartado 1 del artículo 4 del *Acuerdo sobre intercambio de información en materia tributaria entre el Reino de España y Jersey por encomienda del Gobierno del Reino Unido de Gran Bretaña e Irlanda del Norte*, firmado en Londres el 17 de noviembre de 2015 por el entonces Ministro Principal Adjunto de Jersey, Senador Philip Ozouf, y por mí como plenipotenciario de España.

Dicho subapartado, en su redacción actual, establece que:

"“España” significa el Reino de España y utilizado en sentido geográfico, designa el territorio del Reino de España, incluyendo sus aguas interiores, el espacio aéreo, el mar territorial y las áreas exteriores al mar territorial en las que, con arreglo al Derecho internacional y en virtud de su legislación interna, el Reino de España ejerza o pueda ejercer en el futuro jurisdicción o derechos de soberanía respecto del fondo marino, su subsuelo y aguas suprayacentes, y sus recursos naturales;”.

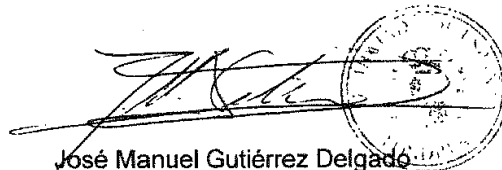
La corrección propuesta introducirá la palabra “marítimas” en la expresión “...las áreas exteriores al mar territorial...” de la mencionada definición en ambas versiones del Acuerdo que, en consecuencia, se leerán respectivamente así:

"“España” significa el Reino de España y utilizado en sentido geográfico, designa el territorio del Reino de España, incluyendo sus aguas interiores, el espacio aéreo, el mar territorial y las áreas marítimas exteriores al mar territorial en las que, con arreglo al Derecho internacional y en virtud de su legislación interna, el Reino de España ejerza o pueda ejercer en el futuro jurisdicción o derechos de soberanía respecto del fondo marino, su subsuelo y aguas suprayacentes, y sus recursos naturales;” y

“Spain” means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain including inland waters, the air space, the territorial sea and any maritime area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the sea bed, its subsoil and superjacent waters, and their natural resources;”.

Le confirmo la aceptación por España de esta propuesta, en el entendimiento de que su carta y la presente carta de respuesta constituyen la corrección del error de omisión existente en el párrafo afectado, que no altera el significado del Acuerdo ni el de dicho párrafo, y es parte de las versiones originales del Acuerdo.

Atentamente,



José Manuel Gutiérrez Delgado  
Consejero de Finanzas  
Embajada de España en Londres

MINISTERIO DE ASUNTOS EXTERIORES  
Y DE COOPERACION  
EMBATAA DE LONDRES  
CANCELLERIA  
SALI 12/12/2017 15:49 No REG.: 1067

SPANISH EMBASSY  
39 CHESHAM PLACE  
LONDON SW 1X 8SB

Chief Minister  
Government of Jersey  
Cyril Le Marquand House  
St Helier  
Jersey JE4 8QT

12 December 2017

Dear Chief Minister,

I refer to your letter of 18 October 2017, in which you propose rectifying the omission noted in the definition of "Spain" contained in Article 4.1 b) of the *Agreement on Exchange of Information on Tax Matters between the Kingdom of Spain and Jersey under Entrustment from the Government of the United Kingdom of Great Britain and Northern Ireland*, signed in London on 17 November 2015 by the then Assistant Chief Minister, Senator Philip Ozouf, and by myself, as plenipotentiary for Spain.

The current wording of Article 4.1 b) is as follows:

““Spain” means the Kingdom of Spain and when used in a geographical sense, means the territory of the Kingdom of Spain including inland waters , the air space, the territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the sea bed, its subsoil and superjacent waters, and their natural resources;”.

The correction proposed inserts the word “maritime” in the phrase “any area outside the territorial sea” from the aforementioned definition, in both versions of the Agreement, which as a result would read as follows:

““España” significa el Reino de España y utilizado en sentido geográfico, designa el territorio del Reino de España, incluyendo sus aguas interiores, el espacio aéreo, el mar territorial y las áreas marítimas exteriores al mar territorial en las que, con arreglo al Derecho internacional y en virtud de su legislación interna, el Reino de España ejerza o pueda ejercer en el futuro jurisdicción o derechos de soberanía respecto del fondo marino, su subsuelo y aguas suprayacentes, y sus recursos naturales;” and

““Spain” means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain including inland waters, the air space, the territorial sea and any maritime area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the sea bed, its subsoil and superjacent waters, and their natural resources;”.

I hereby confirm Spain's acceptance of this proposal, with the understanding that your letter and this answering letter shall constitute the correction of the erroneous omission from the paragraph in question, which alters neither the meaning of the Agreement nor that of said paragraph, and which is part of the original versions of the Agreement.

Yours sincerely,

José Manuel Gutiérrez Delgado  
Financial Counsellor  
Embassy of Spain in London

**APPENDIX 3**

**STATES OF JERSEY**

**A. TAX INFORMATION EXCHANGE AGREEMENTS (TIEAs)**

**1. TIEAs signed (Note: dates in brackets are current best estimates)**

| <b><u>Countries</u></b>    | <b><u>Date Signed</u></b> | <b><u>Ratified by Jersey</u></b> | <b><u>Ratified by other Party</u></b> | <b><u>Entry into Force</u></b> |
|----------------------------|---------------------------|----------------------------------|---------------------------------------|--------------------------------|
| U.S.A.                     | Nov. 2002                 | May 2006                         | Nov. 2002                             | 23 May 2006                    |
| Netherlands                | June 2007                 | Feb. 2008                        | Dec. 2007                             | 1 March 2008                   |
| Germany                    | July 2008                 | Jan. 2009                        | July 2009                             | 28 Aug. 2009                   |
| Sweden                     | Oct. 2008                 | March 2009                       | Nov. 2009                             | 23 Dec. 2009                   |
| Norway                     | Oct. 2008                 | March 2009                       | Sep. 2009                             | 7 Oct. 2009                    |
| Iceland                    | Oct. 2008                 | March 2009                       | Oct. 2009                             | 3 Dec. 2009                    |
| Finland                    | Oct. 2008                 | March 2009                       | Dec. 2008                             | 3 Aug. 2009                    |
| Denmark                    | Oct. 2008                 | March 2009                       | March 2009                            | 6 June 2009                    |
| Greenland                  | Oct. 2008                 | March 2009                       | March 2009                            | 6 June 2009                    |
| Faroese                    | Oct. 2008                 | March 2009                       | June 2009                             | 21 Aug. 2009                   |
| U.K.                       | March 2009                | July 2009                        | Nov. 2009                             | 27 Nov. 2009                   |
| France                     | March 2009                | July 2009                        | July 2010                             | 11 Oct. 2010                   |
| Ireland                    | March 2009                | July 2009                        | April 2010                            | 5 May 2010                     |
| Australia                  | June 2009                 | Nov. 2009                        | Jan. 2010                             | 5 Jan. 2010                    |
| New Zealand                | July 2009                 | Nov. 2009                        | Sep. 2010                             | 27 Oct. 2010                   |
| Portugal                   | July 2010                 | Sep. 2010                        | March 2011                            | 9 Nov. 2011                    |
| People's Republic of China | Oct. 2010                 | Jan. 2011                        | Oct. 2011                             | 10 Nov. 2011                   |
| Turkey                     | Nov. 2010                 | Feb. 2011                        | August 2013                           | 11 Sep. 2013                   |
| Mexico                     | Nov. 2010                 | Feb. 2011                        | Feb. 2012                             | 22 March 2012                  |
| Canada                     | Jan. 2011                 | March 2011                       | Dec. 2011                             | 19 Dec. 2011                   |
| Indonesia                  | April 2011                | July 2011                        | Sep. 2014                             | 22 Sept 2014                   |
| Czech Republic             | July 2011                 | Nov. 2011                        | March 2012                            | 14 March 2012                  |
| South Africa               | July 2011                 | Nov. 2011                        | Jan. 2012                             | 29 Feb. 2012                   |
| Argentina                  | July 2011                 | Sep. 2011                        | July 2011                             | 9 Dec. 2011                    |
| India                      | Nov. 2011                 | April 2012                       | Jan. 2012                             | 8 May 2012                     |
| Japan                      | Dec. 2011                 | April 2012                       | June 2013                             | 30 Aug. 2013                   |
| Poland                     | Dec. 2011                 | April 2012                       | August 2012                           | 1 Dec. 2012                    |
| Italy                      | March 2012                | May 2012                         | Jan. 2015                             | 26 Jan. 2015                   |
| Austria                    | Sep. 2012                 | Nov. 2012                        | March 2013                            | 1 June 2013                    |
| Latvia                     | Jan. 2013                 | March 2013                       | Dec. 2013                             | 1 March 2014                   |
| Brazil                     | Jan. 2013                 | March 2013                       | (1st half 2018)                       | (1st half 2018)                |
| Switzerland                | Sep. 2013                 | Dec. 2013                        | Oct. 2014                             | 14 Oct. 2014                   |
| Slovenia                   | Nov. 2013                 | Feb. 2014                        | June 2014                             | 23 June 2014                   |
| Hungary                    | Jan. 2014                 | March 2014                       | Oct. 2014                             | 13 Feb. 2015                   |
| Belgium                    | March 2014                | June 2014                        | July 2017                             | 26 July 2017                   |
| Romania                    | Dec. 2014                 | Feb. 2015                        | Dec. 2015                             | 5 Feb. 2016                    |
| Korea                      | July 2015                 | Nov. 2015                        | Nov. 2016                             | 21 Nov. 2016                   |
| Spain +                    | Nov. 2015                 | (1st half 2018)                  | (1st half 2018)                       | (1st half 2018)                |
| Chile                      | July 2016                 | Oct 2016                         | (1st half 2018)                       | (1st half 2018)                |

+ Note: the delay in ratification arose because, subsequent to the TIEA being signed with Spain, an amendment was required to insert a missing word. This has now been agreed through an exchange of letters with the Spanish authorities, and ratification is proceeding.



2. **TIEAs where negotiations are well advanced with a draft Agreement exchanged:**

- Bulgaria
- Kenya
- Lithuania
- Slovakia.

**Note:** Bulgaria, Lithuania and Slovakia have signed and entered into force the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Kenya is a signatory to the Convention and it should enter into force shortly. As the Convention provides for the equivalent exchange of information on request with immediate effect, it is expected that all the jurisdictions mentioned will rely on the Convention and will not proceed further with the negotiation of a TIEA.

3. **Jurisdiction with which there has been some contact, but on which no further action has been taken to-date:**

- Russia.

**Note:** Russia has signed and entered into force the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and therefore does not need a TIEA to make requests for information.

## **B. DOUBLE TAXATION AGREEMENTS( DTAs)<sup>1</sup>**

1. **DTAs signed:**

- Malta – signed January 2010  
ratified by Malta February 2010  
ratified by Jersey June 2010  
in force – 19th July 2010
- Estonia – signed December 2010  
ratified by Jersey March 2011  
ratified by Estonia December 2011  
in force – 30th December 2011
- Hong Kong  
China – signed February 2012  
ratified by Jersey May 2012  
ratified by Hong Kong June 2013  
in force – July 2013

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<sup>1</sup> The DTAs listed are those that are to the standard of the OECD Model Convention. In addition there is a DTA with the United Kingdom entered into in 1952 and a number of partial DTAs details of which can be found on the Taxes Office website – <http://www.gov.je/TaxesMoney/InternationalTaxAgreements/DoubleTaxation/Pages/PartialDoubleTaxation.aspx>  
A new DTA is in the process of being negotiated with the United Kingdom which will meet the standard of the OECD Model Convention.

- Qatar – signed March 2012  
ratified by Jersey May 2012  
ratified by Qatar November 2012  
in force – 22nd November 2012
- Singapore – signed October 2012  
ratified by Jersey January 2013  
ratified by Singapore May 2013  
in force – 2nd May 2013
- Guernsey – signed January 2013  
ratified by Jersey June 2013  
ratified by Guernsey May 2013  
in force – 9th July 2013
- Isle of Man – signed January 2013  
ratified by Jersey June 2013  
ratified by the Isle of Man May 2013  
in force – 10th July 2013
- Luxembourg – signed April 2013  
ratified by Jersey July 2013  
ratified by Luxembourg July 2014  
in force – 5th August 2014
- Rwanda – signed June 2015  
ratified by Jersey October 2015  
ratified by Rwanda April 2016  
in force – 27th June 2016
- Seychelles – signed July 2015  
ratified by Jersey October 2015  
ratified by Seychelles December 2016  
in force – 5th January 2017
- United Arab Emirates – signed April 2016  
ratified by Jersey September 2016  
ratified by UAE February 2017  
in force – 15th February 2017
- Cyprus – signed July 2016  
ratified by Cyprus August 2016  
ratified by Jersey October 2016  
in force – 17th February 2017
- Mauritius – signed March 2017  
ratified by Mauritius February 2018

**2. DTAs ready for signing:**

None.

**3. Jurisdictions where DTA negotiations have been requested/initiated/draft agreements have been exchanged:**

- Bahrain
- Botswana
- China (People's Republic)
- Ghana
- India
- Kenya
- Lesotho
- Liechtenstein
- Malawi
- Nigeria
- Saudi Arabia
- South Africa
- Swaziland
- Uganda
- Zambia.

**4. Jurisdictions with whom Jersey does not have a bilateral TIEA or DTA, but who are party (i.e. have signed and entered into force) to the OECD/ Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which provides for exchange of information on request on the same basis as the bilateral TIEAs:**

- Albania
- Andorra
- Azerbaijan
- Barbados
- Belize
- Bulgaria
- Cameroon
- Colombia
- Cook Islands
- Costa Rica
- Croatia
- Georgia
- Ghana
- Greece
- Guatemala
- Israel
- Kazakhstan
- Lebanon
- Liechtenstein
- Lithuania
- Malaysia
- Marshall Islands
- Moldova

- Monaco
- Nauru
- Nigeria
- Niue
- Pakistan
- Panama
- Russia
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- Saudi Arabia
- Senegal
- Slovak Republic
- Tunisia
- Uganda
- Ukraine
- Uruguay.

**Jersey became a party to the Convention on 1st June 2014. Some jurisdictions with whom TIEA negotiations have been engaged may decide not to progress the latter and rely on the Multilateral Convention.**

**5. Jurisdictions with whom Jersey has signed a TIEA or DTA who are also party to the Multilateral Convention (i.e. it is signed and in force):**

- Argentina
- Australia
- Austria
- Belgium
- Brazil
- Canada
- Chile
- China (People's Republic)
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Hungary
- Iceland
- India
- Indonesia
- Ireland
- Italy
- Republic of Korea

- Japan
- Latvia
- Luxembourg
- Malta
- Mauritius
- Mexico
- Netherlands
- New Zealand
- Norway
- Poland
- Portugal
- Romania
- Seychelles
- Singapore
- Slovenia
- South Africa
- Spain
- Sweden
- Switzerland
- United Kingdom.

**Enquiries concerning the above should be directed in the first instance to – Mr. C. Powell, Adviser – International Affairs, Chief Minister’s Department, telephone: 44(0)1534 440414; e-mail: [c.powell@gov.ie](mailto:c.powell@gov.ie).**

**Colin Powell  
Adviser – International Affairs**

**12th February 2018**