

CAYMAN ISLANDS



Tax Information Authority Law

TAX INFORMATION AUTHORITY REGULATIONS

(2013 Revision)

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PUBLISHING DETAILS

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 and the Tax Information Authority (Amendment) Regulations, 2012 made the 31st July, 2012.

Consolidated and revised this 31st day of July, 2013.

Note (not forming part of the Law): This revision replaces the 2009 Revision which should now be discarded.



CAYMAN ISLANDS**Tax Information Authority Law**

TAX INFORMATION AUTHORITY REGULATIONS

(2013 Revision)

Arrangement of Regulations

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CAYMAN ISLANDS



Tax Information Authority Law

TAX INFORMATION AUTHORITY REGULATIONS

(2013 Revision)

Citation

1. These regulations may be cited as the Tax Information Authority Regulations (2013 Revision).

Definitions

2. In these regulations —
“**Schedule**” means the Schedule to these regulations; and
“**section**” means a section of the *Tax Information Authority Law (2013 Revision)*.

Form of Public Policy Certificate

3. The form to be used for the purposes of section 6(2) is prescribed in Form 1 in the Schedule.

Form of Certificate of Compliance

4. The form to be used for the purposes of section 7(3) is prescribed in Form 2 in the Schedule.



Form of Notice to Produce Information

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 of Request

6. The form to be used for the purposes of section 17(1) is prescribed in Form 4 in the Schedule.



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 (2013 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 (2013 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 (2013 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 .



FORM 2

regulation 4

TAX INFORMATION AUTHORITY
CAYMAN ISLANDS

CERTIFICATE OF COMPLIANCE

Issued pursuant to section 7(3) of the Tax Information Authority Law (2013 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 (2013 Revision) *or* the provisions of Part IV of the Tax Information Authority Law (2013 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 (2013 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 an Agreement for the provision of information in taxation matters scheduled to the Tax Information Authority Law (2013 Revision) (“the Law”) [or pursuant to Part IV of the Tax Information Authority Law (2013 Revision) (“the Law”)] *[delete as appropriate]*;
- (2) the Authority has determined that the request is valid and has certified the request as compliant with the relevant scheduled Agreement [or Part IV of the Law] *[delete as appropriate]*;
- (3) 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:

The Authority hereby requires you to produce to the Authority the information specified in Schedule [] to this Notice within *[specify time]* days of the date of issue of this Notice.

[Insert as appropriate (where required by the requesting party)] *[The information produced in compliance with this Notice shall be produced in the form in Schedule 2 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;



- (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 (2013 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” means relating to technology having electrical, magnetic, optical, electromagnetic, or similar capabilities, whether digital, analogue or otherwise (section 2(1) of the Law);
- “electronic record” means a record processed and maintained by electronic means; and
- (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 (2009 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 (2009 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]

SCHEDULE 1

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

[]

[specify information to be produced]

SCHEDULE 2 [Insert if required]

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

[].

FORM 4

regulation 6

TAX INFORMATION AUTHORITY

CAYMAN ISLANDS

NOTICE OF REQUEST

Issued pursuant to section 17(1) of the Tax Information Authority Law (2013 Revision).

To: [name and address of subject of request]

YOU ARE HEREBY NOTIFIED:

- (1) that you are the subject of a request received by the Tax Information Authority (“the Authority”) pursuant to the terms of an Agreement for the provision of information in tax matters *or* [from a scheduled Country pursuant to Part IV of the Tax Information Authority Law (2013 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 Agreement 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 (2013 Revision) and is subject to the provisions of that Law. In particular you should note the following:
 - (a) 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));
 - (b) the Authority will hold all information received as confidential except where the Tax Information Authority Law (2013 Revision) 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 email, 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 email.

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 name of country]

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 17th day of September, 2013.**

Clerk of Cabinet

