

Gibraltar signs TIEA with US

This bulletin provides a brief summary of the recent signed Tax Information Exchange Agreement with the United States based on the OECD Model.

Introduction

On 31 March, 2009, the United States Department of Treasury and the Government of Gibraltar signed an agreement to allow for the exchange of tax information between their respective countries.

The Tax Information Exchange Agreement will provide Gibraltar and the United States access to necessary information that is foreseeably relevant to the administration and enforcement of the domestic laws of both countries concerning the taxes covered by the Agreement.

Framework

The competent authority of the requesting party shall only make a request for information when it is unable to obtain it by other means or in the circumstance where recourse to such means would give rise to disproportionate difficulty.

Furthermore, the competent authority which is requested to provide information shall do so to the extent only allowable under its domestic laws.

The competent authority which is requested to provide information may decline to assist where the requesting party has not pursued all means available in its own territory to obtain the information or where the disclosure of the information requested would be contrary to public policy.

Out of scope

There will be no obligation to provide information subject to industrial, commercial and professional trade secrets or processes.

Moreover, information that would reveal confidential communication between a client and an attorney will be out of scope. This leaves any correspondence made for the purpose of seeking or providing legal advice or correspondence to be used in existing or contemplated legal proceedings out of reach of the Tax Information Exchange Agreement.

In scope

The information that could be requested by the parties is that which is held by banks, other financial institutions and nominees and trustees about the beneficial ownership of companies, partnerships and collective investment funds including information on shares, units, settlors, trustees and beneficiaries.

Entry into force

The Tax Information Exchange Agreement shall enter into force after written notification of the completion of necessary internal procedures of the countries involved.

For further information please contact:

PricewaterhouseCoopers Limited
International Commercial Centre
Casemates Square
Gibraltar
Telephone: +350 200 73520
Facsimile: +350 200 48267

edgar.c.lavarello@gi.pwc.com
robert.g.guest@gi.pwc.com
christopher.j.pitaluga@gi.pwc.com
raacida.amenzou@gi.pwc.com
aine.harrington@gi.pwc.com

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