

*Draft Order in Council laid before the House of Commons under section 173(7) of the Finance Act  
2006, for approval by resolution of that House.*

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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**TAXES**

**The International Tax Enforcement (Bahamas) Order 2010**

*Made - - - - [day] [Month] 2010*

At the Court at Buckingham Palace, the [date] day of [Month] 2010

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 173(7) of the Finance Act 2006(1) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 173(1) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows—

**Citation**

1. This Order may be cited as the International Tax Enforcement (Bahamas) Order 2010.

**Tax information exchange agreement to have effect**

2. It is declared that—
  - (a) the agreement set out in the Schedule to this Order has been made with the Government of the Commonwealth of The Bahamas with a view to the exchange of information foreseeably relevant to the administration or enforcement or recovery of the taxes, and debts relating to the taxes, covered by the agreement; and
  - (b) it is expedient that the agreement should have effect.

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK  
Statutory Instrument: The International Tax Enforcement (Bahamas) Order 2010 No. 2684

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*Name*  
Clerk of the Privy Council

SCHEDULE

Article 2

**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES**

Whereas:

the Contracting Parties have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

the Government of the Commonwealth of The Bahamas on 15 March 2002 entered into a political commitment to the OECD's principles of effective exchange of information;

Now therefore, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Commonwealth of The Bahamas, desiring to facilitate the exchange of information with respect to certain taxes, have agreed as follows:

**ARTICLE 1**

**Object and Scope of the Agreement**

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration or enforcement of the domestic laws of the Contracting 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. The requested Party shall use its best endeavours to ensure that any such rights and safeguards are not applied in a manner that unduly prevents or delays effective exchange of information.

**ARTICLE 2**

**Jurisdiction**

A requested Party is not obliged to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

**ARTICLE 3**

**Taxes Covered**

1. This Agreement applies to existing taxes of every kind and description imposed by either Contracting Party.
2. This Agreement shall apply to any identical or substantially similar taxes imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by this Agreement.

**ARTICLE 4**

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**Definitions**

1. For the purposes of this Agreement, unless otherwise defined:

- a) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom designated under its laws concerning the Continental Shelf and in accordance with international law as an area within which the rights of the United Kingdom with respect to the seabed and sub-soil and their natural resources may be exercised.
- b) the term “The Bahamas” means the Commonwealth of The Bahamas, encompassing the land, the territorial waters, and in accordance with international law and the laws of The Bahamas any area outside the territorial waters inclusive of the exclusive economic zone and the seabed and subsoil over which The Bahamas exercises jurisdiction and sovereign rights for the purpose of exploration, exploitation and conservation of natural resources;
- c) the term “Contracting Party” means the United Kingdom or The Bahamas as the context requires;
- d) the term “competent authority” means
  - i) in the case of the United Kingdom, the Commissioners for Her Majesty’s Revenue and Customs or their authorised representative;
  - ii) in the case of The Bahamas, the Minister of Finance or the Minister’s duly authorised delegate;
- e) the term “person” includes an individual, a company and any other body of persons;
- f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- g) the term “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;
- h) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
- i) the term “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- j) the term “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 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;
- k) the term “tax” means any tax to which this Agreement applies;
- l) the term “applicant Party” means the Contracting Party requesting information;
- m) the term “requested Party” means the Contracting Party requested to provide information;
- n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- o) the term “information” means any fact, statement or record in any form whatever;
- p) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party;
- q) the term “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;
- r) the term “national” means