

No. 51644*

**Germany
and
Cook Islands**

Agreement between the Federal Republic of Germany and the Cook Islands on assistance in civil and criminal tax matters through exchange of information (with protocol). Wellington, 3 April 2012

Entry into force: *11 December 2013 by the exchange of instruments of ratification, in accordance with article 12*

Authentic texts: *English and German*

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**Allemagne
et
Îles Cook**

Accord entre la République fédérale d'Allemagne et les Îles Cook sur l'assistance dans le domaine fiscal, en matière civile et pénale, par l'échange d'informations (avec protocole). Wellington, 3 avril 2012

Entrée en vigueur : *11 décembre 2013 par échange des instruments de ratification, conformément à l'article 12*

Textes authentiques : *anglais et allemand*

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[ENGLISH TEXT – TEXTE ANGLAIS]

Agreement

between

the Federal Republic of Germany

and

the Cook Islands

on Assistance in Civil and Criminal Tax Matters through Exchange of Information

The Federal Republic of Germany
and
the Cook Islands

Whereas the Contracting States wish to enhance and facilitate the terms and conditions governing the exchange of information relating to all tax matters;

Have agreed as follows:

Article 1
Scope of the Agreement

The competent authorities of the Contracting States shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the respective laws of the Contracting States concerning taxes covered by this Agreement, including 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 criminal tax matters. The rights and safeguards secured to persons by the laws or administrative practice of the requested Contracting State remain applicable.

Article 2
Jurisdiction

A requested Contracting State is not obligated to provide information which is neither held by its authorities nor in the possession of or obtainable by persons who are within its territorial jurisdiction.

Article 3
Taxes Covered

(1) This Agreement shall apply to the following taxes:

a) in respect of the Federal Republic of Germany:

- the income tax (Einkommensteuer),
- the corporation tax (Körperschaftsteuer),
- the trade tax (Gewerbesteuer),
- the capital tax (Vermögenssteuer),
- the inheritance tax (Erbschaftsteuer),
- the value added tax (Umsatzsteuer), and
- the tax on insurance premiums (Versicherungsteuer),

including the supplements levied thereon;

b) in respect of the Cook Islands:

- the personal income tax,
- the company income tax,
- the withholding tax on dividends, interest and royalties, and
- the value added tax.

(2) This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the Contracting States so agree. The competent authorities of the Contracting States shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

Article 4
Definitions

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

- a) "Federal Republic of Germany" means the area in which the tax law of the Federal Republic of Germany is in force;
- b) The "Cook Islands" means the territory of the Cook Islands;
- c) "competent authority" means
 - (i) in respect of the Federal Republic of Germany, the Federal Ministry of Finance or the agency to which it has delegated its power; which in respect of criminal tax matters will be the Federal Ministry of Justice or the agency to which it has delegated its power,
 - (ii) in respect of the Cook Islands, the Collector of Inland Revenue or an authorised representative of the Collector,
- d) "person" includes an individual, a company and any other body 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 Contracting States,
- i) "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. The term "public collective investment fund or scheme"