

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE TAX INFORMATION  
AUTHORITY LAW (2013 REVISION) TO PROVIDE FOR THE  
AUTOMATIC EXCHANGE OF INFORMATION; AND FOR  
INCIDENTAL AND CONNECTED PURPOSES**

**THE TAX INFORMATION AUTHORITY (AMENDMENT)  
(NO. 2) BILL, 2014**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill would make provision for the Tax Information Authority to facilitate the automatic exchange of information as may be required under the terms of an Agreement scheduled to the Tax Information Authority Law and provide for incidental and connected purposes.

Clause 1 of the Bill would set out the short title.

Clause 2 of the Bill amends section 2 of the Tax Information Authority Law (2013 Revision) (the “principal Law”) which makes provision for the definition of words used in the legislation. This clause sets out what is meant by the automatic exchange of information by defining the words “automatic exchange of information”. This clause also inserts a new definition for the words “tax purposes” and removes the definition for the words “taxation matters”. It also makes amendments consequential to the repeal of Part IV and Schedule 2 of the principal Law.

Clause 3 of the Bill amends section 3 of the principal Law which makes provision for the ambit of the Law. This clause extends these parameters to expressly include the automatic exchange of information. This is necessary for fulfilment of obligations under intergovernmental agreements to implement the requirements of the United States Foreign Account Tax Compliance Act and similar agreements, which was not contemplated under the principal Law. This clause also makes amendments consequential to the repeal of Part IV and Schedule 2 of the principal Law. It deletes section 3(6) which is a consequential amendment.

Clause 4 of the Bill makes amendments consequential to the repeal of Part IV and Schedule 2 of the principal Law.

Clause 5 makes amendments consequential to the repeal of Part IV and Schedule 2 of the principal Law. It also inserts into section 5(2) a new paragraph (aa), and amends paragraph (e), to make provision for the Tax Information Authority to facilitate the automatic exchange of information arising out of obligations under scheduled Agreements.

Clause 6 makes amendments consequential to the repeal of Part IV and Schedule 2 of the principal Law.

Clause 7 makes amendments consequential to the repeal of Part IV and Schedule 2 of the principal Law.

Clause 8 makes amendments consequential to the repeal of Part IV and Schedule 2 of the principal Law.

Clause 9 repeals Part IV of the principal Law which contains sections 9 through 15.

Clause 10 amends section 17 and clarifies that the scope of this section only extends to individuals within the jurisdiction of the Islands. This clause also clarifies what is meant by “subject of a request” for the purposes of this section.

Clause 11 repeals and substitutes section 18, extending the scope of the legislation to protect persons who provide information to the Tax Information Authority for tax purposes.

Clause 12 amends section 19 so as to confirm that the provisions of the Confidential Relationships (Preservation) Law (2009 Revision) do not apply to information provided to the Authority for the satisfaction of obligations related to the automatic exchange of information.

Clause 13 makes amendments consequential to the repeal of Schedule 2 of the principal Law.

Clause 14 inserts a new clause to make provision for the confidentiality of all information provided or received by the Authority.

Clause 15 makes amendments consequential to the repeal of Part IV.

Clause 16 makes amendments consequential to the repeal of Part IV and Schedule 2 of the principal Law.

Clause 17 repeals Schedule 2 of the principal Law.

**THE TAX INFORMATION AUTHORITY (AMENDMENT)  
(NO. 2) BILL, 2014**

**ARRANGEMENT OF CLAUSES**

1. Short title
2. Amendment of section 2 of the Tax Information Authority Law (2013 Revision) - definitions and interpretation
3. Amendment of section 3 - implementation
4. Amendment of section 4 - Tax Information Authority
5. Amendment of section 5 - functions of the Authority
6. Amendment of section 6 - procedures for public policy determination
7. Amendment of section 7 - procedures for the execution of a request
8. Amendment of section 8 - powers of Judge to compel witness or for production of evidence
9. Repeal of Part IV - requests for information from scheduled countries
10. Amendment of section 17 - notification
11. Repeal and substitution of section 18 - protection of persons disclosing confidential information
12. Amendment of section 19 - restriction on application of Confidential Relationships (Preservation) Law (2009 Revision)
13. Amendment of section 20 - confidentiality with regard to a request
14. Insertion of section 20A - Confidentiality of information
15. Amendment to section 21 - restriction on use of information
16. Amendment to section 22 - interviews and examinations with consent
17. Repeal of Schedule 2 - scheduled countries specifying the Competent Authority, the relevant tax matters, the operative dates and the scope of assistance available to each such country

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**A BILL FOR A LAW TO AMEND THE TAX INFORMATION  
AUTHORITY LAW (2013 REVISION) TO PROVIDE FOR THE  
AUTOMATIC EXCHANGE OF INFORMATION; AND FOR  
INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Tax Information Authority (Amendment) (No. 2) Law, 2014. Short title

2. The Tax Information Authority Law (2013 Revision), in this Law referred to as the “principal Law”, is amended in section 2 as follows - Amendment of section 2  
of the Tax Information  
Authority Law (2013  
Revision) - definitions  
and interpretation

(a) in subsection (1) -

(i) by inserting in the appropriate alphabetical sequence the following definitions -

“ “automatic exchange of information” means the systematic and periodic exchange of information for tax purposes between parties to a scheduled Agreement in the manner and to the specifications agreed between the parties or their competent authorities;

“tax purposes” means any tax purpose for which information may be provided under a scheduled Agreement or matters incidental thereto;”;

(ii) in the definition of the word “request” by deleting the words “or a request made by a scheduled competent authority under Part IV”;

- (iii) in the definition of the words “requesting Party” by deleting the words “and includes a scheduled country, as the context may require”;
  - (iv) in the definition of the words “scheduled Agreement” by deleting the words “in taxation matters” and substituting the words “for tax purposes”;
  - (v) by deleting the definitions of the words “scheduled competent authority” and “scheduled Country”; and
  - (vi) by deleting the definition of the words “taxation matters”;
- and
- (b) by repealing subsection (2).
- Amendment of section 3 - implementation
3. The principal Law is amended in section 3 as follows -
- (a) by repealing subsections (1) and (2) and substituting the following subsections -
    - “(1) This Law shall apply for the purpose of giving effect to the terms of a scheduled Agreement for the provision of information for tax purposes including the automatic exchange of information and including for the purposes of any proceedings taken by Parties or by any persons acting on their behalf, connected with, arising from, related to, or resulting from those tax purposes.
    - (2) Nothing in this Law shall require the provision of information under a scheduled Agreement for tax purposes that arose prior to the date of commencement of this Law, except where the terms of a scheduled Agreement otherwise so provide.”;
  - (b) in subsection (5)(a) by deleting the words “in taxation matters” and substituting the words “for tax purposes”; and
  - (c) by repealing subsection (6).
- Amendment of section 4 - Tax Information Authority
4. The principal Law is amended in section 4 by deleting the words “and in relation to any scheduled Country” wherever they appear.
- Amendment of section 5 - functions of the Authority
5. The principal Law is amended in section 5 as follows -
- (a) in subsection (1) by deleting the words “and in relation to any scheduled Country”; and
  - (b) in subsection (2) -
    - (i) by inserting after paragraph (a) the following paragraph -
      - “(aa) facilitating the automatic exchange of information for tax purposes in accordance with a scheduled

- Agreement and any implementing arrangements made under a scheduled Agreement;”;
- (ii) in paragraph (b) by deleting the words “and with Part IV”;
  - (iii) in paragraph (d) by deleting the words “or Part IV”; and
  - (iv) in paragraph (e) by deleting the words “or issuing operating procedures to scheduled competent authorities” and substituting the words “including matters in relation to the automatic exchange of information”.
6. The principal Law is amended in section 6(2) by deleting the words “or, in the case of a request from a scheduled Country, in accordance with Part IV,”. Amendment of section 6 - procedures for public policy determination
7. The principal Law is amended in section 7 as follows - Amendment of section 7 - procedures for the execution of a request
- (a) in subsection (1) by deleting the words “or Part IV, as the case may be,” wherever they appear; and
  - (b) in subsection (3) by deleting the words “or Part IV, as the case may be,”.
8. The principal Law is amended in section 8 as follows - Amendment of section 8 - powers of Judge to compel witness or for production of evidence
- (a) in subsection (4)(a) by deleting the words “or related investigations”;
  - (b) by inserting after subsection (4) the following subsection -
    - “(4A) For the purposes of subsections (4) and (13) the word “proceedings” means criminal proceedings.”;
  - (c) in subsection (9)(c) and (e) by deleting the words “or Part IV, as the case may be” wherever they appear; and
  - (d) in subsection (13) by deleting the words “concerning criminal proceedings” and substituting the words “concerning proceedings”.
9. The principal Law is amended by repealing Part IV. Repeal of Part IV - requests for information from scheduled countries
10. The principal Law is amended in section 17 as follows - Amendment of section 17 - notification
- (a) in subsection (1) -
    - (i) by deleting the words “an individual is the subject of a request for information” and substituting the words “an individual who is the subject of a request made by a requesting Party”;
    - (ii) by deleting the words “shall if his whereabouts or address” and substituting the words “shall if the individual’s whereabouts or address in the Islands”; and

- (iii) by deleting the words “or Part IV, as the case may be”; and
- (b) by inserting after subsection (5) the following subsection -

“(6) For the purposes of this section, “the subject of a request” means the individual identified in a request who is under examination or investigation in the requesting Party.”.

Repeal and substitution of section 18 - protection of persons disclosing confidential information

11. The principal Law is amended by repealing section 18 and substituting the following section -

“Protection of persons disclosing confidential information

18. (1) A person who divulges any confidential information or gives any testimony in conformity with an order or notice issued pursuant to a request, provides information to the Authority to facilitate the automatic exchange of information or otherwise provides information to the Authority for tax purposes shall, by reason only of such disclosure or the giving of such testimony or the provision of such information, be deemed not to commit any offence -

(2009 Revision)

- (a) under the Confidential Relationships (Preservation) Law (2009 Revision); or
- (b) under any other law for the time being in force in the Islands.

(2) The disclosure, testimony, provision of information for the facilitation of the automatic exchange of information or provision of any information to the Authority for tax purposes by a person to whom subsection (1) applies shall be deemed not to be a breach of any confidential relationship between that person and any other person, and no civil claim or action whatsoever shall lie against -

- (a) the person making the disclosure, giving testimony, providing information to facilitate the automatic exchange of information or providing information for tax purposes; or
- (b) the person’s principal or employer,

by reason of the disclosure, testimony, provision of information for the facilitation of the automatic exchange of information or information otherwise provided to the Authority for tax purposes.”.



12. The principal Law is amended in section 19 by inserting after the words “under this Law” the words “,facilitating the automatic exchange of information or information otherwise provided to the Authority for tax purposes”.
- Amendment of section 19 - restriction on application of Confidential Relationships (Preservation) Law (2009 Revision)
13. The principal Law is amended in section 20(1A) by deleting the words “and any scheduled competent authority”.
- Amendment of section 20 - confidentiality with regard to a request
14. The principal Law is amended by inserting after section 20 the following section –
- Insertion of section 20A - confidentiality of information
- Confidentiality of information “20A. Information provided to or received by the Authority for the facilitation of the automatic exchange of information or otherwise for tax purposes shall be kept confidential.”
15. The principal Law is amended in section 21(1) as follows -
- Amendment of section 21 - restriction on use of information
- (a) by deleting the words “The requesting Party shall not” and substituting the words “A requesting Party shall not”; and
- (b) by deleting the words “or Part IV”.
16. The principal Law is amended in section 22 as follows -
- Amendment of section 22 - interviews and examinations with consent
- (a) in subsection (1) by deleting the words “or Part IV, as the case may be,”; and
- (b) by repealing subsection (6) and substituting the following subsection -
- “(6) “In this section “specified person” means a person who is subject to a tax of the jurisdiction of a requesting Party that is covered in the relevant scheduled Agreement.”.
17. The principal Law is amended by repealing Schedule 2.
- Repeal of Schedule 2 - scheduled countries specifying the Competent Authority, the relevant tax matters, the operative dates and the scope of assistance available to each such country

Passed by the Legislative Assembly the            day of            , 2014.

Speaker.

Clerk of the Legislative Assembly.