

**AGREEMENT BETWEEN
THE REPUBLIC OF POLAND
AND
THE STATES OF GUERNSEY**

**FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO ENTERPRISES OPERATING
SHIPS OR AIRCRAFT IN INTERNATIONAL TRAFFIC**

**THE REPUBLIC OF POLAND
and
THE STATES OF GUERNSEY**

Desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,

Have agreed as follows:

Article 1
Scope of the agreement

This Agreement shall apply to enterprises operating ships or aircraft in international traffic which are residents of one or both of the Contracting Parties.

Article 2
Taxes covered

1. This Agreement shall apply to the following taxes imposed by the Contracting Parties:

a) in Guernsey:

income tax;

b) in Poland:

(i) personal income tax, and

(ii) corporate income tax.

2. This Agreement shall apply also to any identical or substantially similar taxes that are 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 significant changes that have been made in their taxation laws.

Article 3
Definitions

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

- a) the term "a Contracting Party" means Poland or Guernsey, as the context requires; the term "Contracting Parties" means Poland and Guernsey;
- b) the term "Guernsey" means the States of Guernsey and, when used in a geographical sense, means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;
- c) the term "Poland" means the Republic of Poland and, when used in a geographical sense, means the territory of the Republic of Poland, and any area adjacent to the territorial waters of the Republic of Poland within which, under the laws of Poland and in accordance with international law, the rights of Poland with respect to the exploration and exploitation of the natural resources of the seabed and its sub-soil may be exercised;
- d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) the term "competent authority" means:
 - (i) in the case of Guernsey, the Director of Income Tax, or his delegate;
 - (ii) in the case of Poland, the Minister of Finance or his authorised representative;
- f) the term "enterprise of a Contracting Party" means an enterprise, carried on by a resident of a Contracting Party;
- g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in the territory of a Contracting Party, except when the ship or aircraft is operated solely between places in the territory of the other Contracting Party;

- h) the term "person" includes an individual, a company and any other body of persons;
- i) the term "resident of a Contracting Party" means any person, who under the law of that Contracting Party is liable to taxation therein by reason of his domicile, residence, place of effective management or any other criterion of a similar nature.

2. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 4

Shipping and air transport profits and gains

1. Profits derived by an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

2. Gains derived by an enterprise of a Contracting Party from the alienation of ships or aircraft operated in international traffic or from movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

3. The provisions of paragraphs 1 and 2 shall also apply to profits and gains derived by an enterprise of a Contracting Party from the participation

in a pool, a joint business or an international operating agency.

4. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the territory of the Contracting Party in which the home harbour of the ship is situated, or, if there is no such home harbour, in the territory of the Contracting Party of which the operator of the ship is a resident.

Article 5

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Contracting Parties, present his case to the competent authority of the Contracting Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.

3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in

this Agreement.

4. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of applying this Agreement.

Article 6

Entry into force

1. This Agreement is subject to ratification, acceptance or approval in accordance with the law of each of the Contracting Parties. Each Contracting Party shall notify the other in writing of the completion of its necessary internal procedures for entry into force. This Agreement shall enter into force on the first day of the third month following the receipt of the later of these notifications.

2. Upon the date of entry into force this Agreement shall have effect in respect of taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, this Agreement shall only have effect when the Agreement signed on 6 December 2011 between the Republic of Poland and the States of Guernsey for the exchange of information relating to tax matters shall have effect.

Article 7

Termination

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate this Agreement

by giving written notice of termination at least six months before the end of any calendar year beginning on or after the expiry of two years from the date of entry into force of this Agreement.

2. In such event, this Agreement shall cease to have effect in respect of taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.:

3. Notwithstanding the provisions of paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 6 December 2011 between the Republic of Poland and the States of Guernsey for the exchange of information relating to tax matters.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE in duplicate at London this *8* day of *October*, 2013, in two originals in the Polish and English languages, both texts being equally authentic.

FOR
THE REPUBLIC OF
POLAND



FOR
THE STATES OF
GUERNSEY

