

CAYMAN ISLANDS



Supplement No. 2 published with Gazette No. 18 dated
27th August, 2012.

**THE TAX INFORMATION AUTHORITY LAW
(2009 REVISION)**

**THE TAX INFORMATION AUTHORITY (AMENDMENT)
REGULATIONS, 2012**

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**THE TAX INFORMATION AUTHORITY (AMENDMENT)
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The Governor in Cabinet, in exercise of the powers conferred by section 25 of the Tax Information Authority Law (2009 Revision), makes the following regulations -

1. These regulations may be cited as the Tax Information Authority (Amendment) Regulations, 2012. Citation

2. The Tax Information Authority Regulations (2009 Revision) are amended in the Schedule by deleting Form 3 and Form 4 and substituting the following forms - Amendment of Schedule to the Tax Information Authority Regulations (2009 Revision)

“FORM 3

(Regulation 5)



CAYMAN ISLANDS

NOTICE TO PRODUCE INFORMATION

Issued pursuant to section 8(4)(b) of the Tax Information Authority Law (2009 Revision).

To: [name and address of holder of information]

WHEREAS

- (1) a request has been made to the Tax Information Authority (“the Authority”) pursuant to an Agreement for the provision of information in taxation matters scheduled to the Tax Information Authority Law (2009 Revision) (“the Law”) [or pursuant to Part IV of the Tax Information Authority Law (2009 Revision) (“the Law”)] [*delete as appropriate*];
- (2) the Authority has determined that the request is valid and has certified the request as compliant with the relevant scheduled Agreement [or Part IV of the Law] [*delete as appropriate*];
- (3) pursuant to the request, the Authority considers it necessary to obtain specified information/information of a specified description [*delete as appropriate*] from you in accordance with section 8(4)(b) of the Law:

THEREFORE:

The Authority hereby requires you to produce to the Authority the information specified in the [] Schedule to this Notice within [*specify time*] days of the date of issue of this Notice.

[Insert as appropriate (where required by the requesting party)] [*The information produced in compliance with this Notice shall be produced in the form in the Second Schedule to this Notice.*]

FURTHER TAKE NOTICE:

- (1) that if you fail without lawful excuse to produce any information which is in your possession or under your control and which you are required to produce as specified in this Notice, or if you alter, destroy, mutilate, deface, hide, or remove any such information, you may be guilty of a criminal offence and liable on summary conviction under section 24(1) of the Law to a fine of ten thousand dollars and to imprisonment for two years;
- (2) that pursuant to section 20 of the Law you are instructed by the Authority that the particulars of, and all matters relating to, the request are to be treated as confidential. You may not disclose the fact of the receipt of the request or any of the particulars required or documents produced or information supplied to any other person, except your attorney-at-law, for a period of ninety days from the date of issue of this Notice. Your attorney-at-law is also bound by section 20. It is a criminal offence for you to contravene section 20 of the Law and on summary conviction under section

24(2) of the Law you are liable to a fine of one thousand dollars and to imprisonment for six months.

Your attention is directed to the Notes below.

Director, Tax Information Authority

Dated this day of , 20 .

NOTES

1. This Notice is issued by the Tax Information Authority pursuant to section 8(4)(b) of the Tax Information Authority Law (2009 Revision) and is subject to the provisions of that Law. In particular, you should note the following:

- (a) "information" means any fact, statement, document or record in whatever form and includes -
 - (a) any fact, statement, document or record held by banks, other financial institutions, or any persons, including nominees and trustees, acting in an agency or fiduciary capacity; and
 - (b) any fact, statement, document or record regarding the beneficial ownership of companies, partnerships and other persons, including -
 - (i) in the case of collective investment funds, information on shares, units and other interests; and
 - (ii) in the case of trusts, information on settlors, trustees and beneficiaries;

"electronic record" means a record processed and maintained by electronic means; and

"electronic" means relating to technology having electrical, magnetic, optical, electromagnetic, or similar capabilities, whether digital, analogue or otherwise (section 2(1) of the Law);

- (b) the Authority may take copies or extracts of any information produced by you pursuant to this Notice. If you claim to have a lien on a document, the production of that document pursuant to this Notice is without prejudice to your lien (section 8(5) of the Law);
- (c) this Notice does not confer any right to production of, or access to, items subject to legal privilege (section 8(6)(a) of the Law);
- (d) where the information to which this Notice relates consists of information maintained as an electronic record, such information must

- be produced in a form in which it can be taken away and in which it is visible and legible or in a form in which it is visible and legible, as the case may be (section 8(12) of the Law);
- (e) this Notice shall have effect notwithstanding any obligation as to confidentiality or other restriction upon the disclosure of information whether imposed by the Confidential Relationships (Preservation) Law (2009 Revision), any other Law or the common law (section 8(6)(b) of the Law);
 - (f) by divulging confidential information in conformity with this Notice you are deemed not to commit any offence under the Confidential Relationships (Preservation) Law (2009 Revision), or any other Law for the time being in force in the Islands, by reason only of such disclosure. Furthermore, such disclosure is deemed not to be a breach of any confidential relationship between you and any other person, and no civil claim or action whatsoever will lie against you or your principal or employer by reason of such disclosure (section 18 of the Law).

2. You should contact the Authority to agree the time and place for production to the Authority of the information specified in this Notice.

The contact details of the Authority are:

Address:

Tel: [number]

Fax: [number]

Email: [address]

FIRST SCHEDULE

This Schedule is referred to in the foregoing Notice to Produce Information dated []

[specify information to be produced]

SECOND SCHEDULE [Insert if required]

This Schedule is referred to in the foregoing Notice to Produce Information dated [].

FORM 4

(Regulation 6)



CAYMAN ISLANDS

NOTICE OF REQUEST

Issued pursuant to section 17(1) of the Tax Information Authority Law (2009 Revision).

To: [name and address of subject of request]

YOU ARE HEREBY NOTIFIED:

- (1) that you are the subject of a request received by the Tax Information Authority (“the Authority”) pursuant to the terms of an Agreement for the provision of information in tax matters *or* [from a scheduled Country pursuant to Part IV of the Tax Information Authority Law (2009 Revision) (“the Law”)] [*delete as appropriate*]. **The details of the request are specified in the Schedule to this Notice;**
- (2) that within the period of fifteen days from the date of receipt of this Notice, you may make a written submission to the Authority specifying any grounds which you wish the Authority to consider in making its determination as to whether or not the request is in compliance with the provisions of the Agreement specified in the Schedule *or* Part IV of the Law [*delete as appropriate*]. Your written submission may include any assertions that the information requested is subject to legal privilege;

Any written submissions should be made to:

The Director,

[Address] ;

- (3) that pursuant to section 20 of the Law you are instructed by the Authority that the particulars of, and all matters relating to, the request are to be treated as confidential. You may not disclose the fact of the receipt of the request, or any of the particulars required or documents produced or information supplied, to any other person, except your attorney-at-law, for a period of ninety days from the date of issue of this Notice. Your attorney-at-law is also bound by section 20. It is a criminal offence for you to contravene section 20 of the Law and on summary conviction under section 24(2) you are liable to a fine of one thousand dollars and to imprisonment for six months.

Your attention is directed to the Notes below.

Director, Tax Information Authority

Dated this day of , 20 .

NOTES

1. This Notice is issued by the Tax Information Authority pursuant to section 17(1) of the Tax Information Authority Law (2009 Revision) and is subject to the provisions of that Law. In particular you should note the following:

- (a) the Authority will consider any written submission made by you in compliance with this Notice but is not obliged to permit or consider any oral submission by or on behalf of any person who is the subject of a request for information (section 17(2));
- (b) the Authority will hold all information received as confidential except where the Tax Information Authority Law (2009 Revision) expressly provides otherwise. The proceedings and deliberations of the Authority will accordingly be closed to all persons not specifically authorised by the Authority or by the Law to be present at such proceedings or deliberations (section 17(3)).

2. Original written submissions should be forwarded to the Authority in accordance with paragraph (2) of this Notice. For convenience, written submissions may be made to the Authority by fax or by email:

By Fax: [number]

By Email: [address];

but where written submissions are made by fax or email, the original written submissions should be forwarded to the Authority at the address given in paragraph (2) of this Notice within five working days of the transmission of the fax or email.

3. Paragraph 2 of these Notes applies to any amendments to written submissions.

4. Where written submissions include assertions that the information requested is subject to legal privilege, any determination on such legal privilege will fall to be made by a Judge under section 8(9)(c) of the Law.

SCHEDULE

This is the Schedule referred to in paragraph (1) of the foregoing Notice of Request dated []

Name of matter to which the request relates:

Date of request:

Person specified in request:

Country making request: [Insert name of country]

General nature of information sought by request:

Director, Tax Information Authority

Dated this day of , 20 ."

Made in Cabinet the 31st day of July, 2012.

Kim Bullings

Clerk of the Cabinet.