



STATES OF GUERNSEY
TREASURY AND RESOURCES DEPARTMENT

FOREIGN TAX (RETENTION ARRANGEMENTS)

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R.R. GRAY, DIRECTOR

PLEASE QUOTE IN REPLY:

YOUR REFERENCE IS:

7th October 2010

Dear Sir / Madam

EU Savings Directive ("EUSD")

*****Important notes are contained in this letter – please do not discard*****

Once again, the process of collecting information and retention tax, in order to comply with Guernsey's obligations under its bilateral agreements with each EU Member State, has been completed smoothly, and I wish to thank you for your assistance in this process.

There are, however, some areas on which I wish to comment, as detailed below. In considering these, please bear in mind that this is a circular letter, being sent to all Guernsey paying agents, and the points raised are not directed specifically at your organisation:

1. Since 2009, when making your return of information it has only been necessary to submit one disc with your Paying Agent Return Form. (At one time there was a requirement to submit discs in duplicate for each country). **It is, however, necessary that the information for each country is shown in a separate folder on the disc and named by country accordingly.** I understand that there have been occasions where the disc submitted to this office includes only one folder providing details for all of the EU countries. It is not possible for this office to process such discs and in each case it has been necessary to refer back to the paying agent requesting a new disc containing separate folders.
2. The payment of retention tax should be made by bank transfer and I would ask that you ensure your Paying Agent ("PA") reference (as detailed at the top of this letter) is quoted on all payments made. If you are paying by BACS please ensure your PA reference is shown in the narrative field. If you are paying by Swift please ensure your PA reference number is shown in "field 70" (if applicable). This will then enable my colleagues to identify your payments more quickly and accurately.
3. If, exceptionally, you are unable to make the payment by bank transfer, please contact my colleague, Christina Le Pavoux, on the above telephone number to discuss the matter further.

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4. In all cases where you are providing information please ensure you include a total of the amount of interest and sale proceeds (showing each separately), in respect of each country, and for each currency separately. Please also ensure that you provide the total of the number of entries for each country.
5. You will no doubt be aware of the public consultation undertaken by the Fiscal and Economic Policy Group in May 2010 concerning the proposed move to automatic exchange of information. As a result of the public consultation the Chief Minister made a short statement outlining that a report would be submitted to the States of Deliberation in due course setting out the proposed move to automatic exchange of information from 1 January 2011 and no later than 1 July 2011.

The Director has decided to clarify a number of operational matters in the event the States of Deliberation approve the proposed move, as follows;

- (a) In the case of a move to the automatic exchange of information by no later than 1 July 2011, there should be no apportionment of an interest payment which is made after 30 June 2011 (in respect of a period covering the whole or part of a period prior to 1 July 2011). Interest paid prior to 1 July 2011 may be subject to retention tax or voluntary disclosure, however, interest payments made from 1 July 2011 will only be subject to disclosure.

For the avoidance of doubt paragraph 31 of the guidance notes issued by the Commerce and Employment Department (dated 30 June 2005) will not apply to the move to the automatic exchange of information.

- (b) The provisions contained in section 21(2) of the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Ordinance, 2005 will continue to apply following any move to the automatic exchange of information. For the ease of convenience that section is copied below:

“...for the avoidance of doubt and without limitation, “interest payment” does not include interest of a class or description which (whether by reference to the circumstances in which the interest is paid or the nationality, residence or domicile of the beneficial owner) is not subject to tax in the other contracting party under the laws relating to the taxation of income in force there.”

- (c) You will no doubt be aware that the EU Council is currently considering a draft directive to amend the EUSD. Should the directive to amend the EUSD be adopted by the EU Council this would not lead to the automatic adoption of the revised directive in Guernsey as Guernsey is not a signatory to EU Directive 2003/48/EEC (nor would it thus be a signatory to any amending directive). The measures equivalent to directive 2003/48/EEC are brought into effect in Guernsey under the bilateral agreements between Guernsey and each EU Member State, therefore, any change to the measures in Guernsey will require the negotiation and amendment of each bilateral agreement.

I should be obliged if you would pass this letter on to all members of staff who are involved with the operational matters of the EUSD, in order that they are made aware of the above points.

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Your co-operation with the above will be most appreciated and I thank you in advance for your assistance. If you wish to discuss any of the above or you have any queries with regard to the operational issues of the EUSD please contact one of my colleagues, Christina Le Pavoux or Nigel Garland, on the above telephone number, who will be pleased to assist you.

Yours faithfully

R GRAY

Director