

AGREEMENT BETWEEN THE KINGDOM OF SWEDEN AND THE STATES OF GUERNSEY FOR THE AVOIDANCE OF DOUBLE TAXATION ON INDIVIDUALS

The Government of the Kingdom of Sweden and the States of Guernsey (“the Parties”), desiring to conclude an Agreement for the avoidance of double taxation on individuals with respect to taxes on income, have agreed as follows:

Article 1

Individuals covered

This Agreement shall apply to individuals who are residents in one or both of the Parties.

Article 2

Taxes covered

1. The existing taxes to which the Agreement shall apply are:
 - (a) in the case of Guernsey:
income tax
(hereinafter referred to as “Guernsey tax”);
 - (b) in the case of Sweden:
 - (i) the national income tax (den statliga inkomstkatten);
 - (ii) the income tax on non-residents (den särskilda inkomstkatten för utomlands bosatta);
 - (iii) the income tax on non-resident artistes and athletes (den särskilda inkomstkatten för utomlands bosatta artister m.fl.); and
 - (iv) the municipal income tax (den kommunala inkomstkatten)
(hereinafter referred to as “Swedish tax”).
2. The 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. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their taxation laws concerning individuals and which may affect matters covered by the Agreement.

Article 3

General definitions

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

(a) the term “Guernsey” means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;

(b) the term “Sweden” means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction;

(c) the term “competent authority” means:

(i) in the case of Guernsey, the Administrator of Income Tax or his delegate;

(ii) in the case of Sweden, the Minister of Finance, his authorised representative or the authority which is designated as a competent authority for the purposes of this Agreement;

(d) the term “enterprise” applies to the carrying on of any business;

(e) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party.

2. As regards the application of the Agreement at any time by a 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 Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

Resident

1. For the purposes of this Agreement, the term “resident of a Party” means in respect of an individual any individual who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual who is liable to tax in that Party in respect only of income from sources in that Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident in both Parties, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);

(b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

(c) if he has an habitual abode in both Parties or in neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.

Article 5

Income from employment

1. Subject to the provisions of Articles 6, 7 and 8, salaries, wages and other similar remuneration, other than a pension, derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:

(a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and

(c) the remuneration is not borne by a fixed place of business through which the business is wholly or partly carried on which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Party, may be taxed in that Party. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden. Where a resident of Guernsey derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by Aurigny Air Services, such remuneration shall be taxable only in Guernsey.

Article 6

Directors' fees

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors of a company which is a resident of the other Party may be taxed in that other Party.

Article 7

Artistes and sportsmen

1. Income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another individual or legal entity, that income may be taxed in the Party in which the activities of the entertainer or sportsman are exercised.

Article 8

Government service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Party or a political subdivision or a statutory body or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or body or authority shall be taxable only in that Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.

2. The provisions of Articles 5, 6 and 7 shall apply to salaries, wages, and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a political subdivision or a statutory body or a local authority thereof.

Article 9

Students

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

Article 10

Elimination of double taxation

1. In Guernsey double taxation shall be avoided as follows:

Subject to the provisions of the laws of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey (which shall not affect the general principle hereof);

i) subject to the provisions of sub-paragraph iii), where a resident of Guernsey derives income which, in accordance with the provisions of this Agreement, may be taxed in Sweden, Guernsey shall allow as a deduction from the tax payable in respect of that income, an amount equal to the income tax paid in Sweden;

ii) such deduction shall not, however, exceed that part of the income tax, as computed before deduction is given, which is attributable to the income which may be taxed in Sweden;

iii) where a resident of Guernsey derives income which, in accordance with the provisions of this Agreement shall be taxable only in Sweden, Guernsey may include this income in calculating the amount of tax on the remaining income of such resident.

2. In Sweden double taxation shall be avoided as follows:

(a) Where a resident of Sweden derives income which under the laws of Guernsey and in accordance with the provisions of this Agreement may be taxed in Guernsey, Sweden shall allow – subject to the provisions of the laws of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) – as a deduction from the tax on such income, an amount equal to the Guernsey tax paid in respect of such income.

(b) Where a resident of Sweden derives income which, in accordance with the provisions of this Agreement, shall be taxable only in Guernsey, Sweden may, when determining the graduated rate of Swedish tax, take into account the income which shall be taxable only in Guernsey.

Article 11

Mutual agreement procedure

1. Where an individual considers that the actions of one or both of the 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 Parties, present his case to the competent authority of the 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 the 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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 12

Entry into force

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with.

2. The Agreement shall have effect:

(a) in Guernsey:

in respect of Guernsey tax, on taxes chargeable for any tax year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters into force;

(b) in Sweden:

in respect of Swedish tax, on taxes chargeable for any tax year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters into force.

3. Notwithstanding paragraph 2, this Agreement shall only have effect when the Agreement signed on 28 October 2008 between the Kingdom of Sweden and the States of Guernsey for the exchange of information relating to tax matters shall have effect.

Article 13

Termination

1. This Agreement shall remain in force until terminated by either Party. Either Party may terminate the Agreement by giving written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the calendar year next following the end of the six months period.

2. Notwithstanding paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 28 October 2008 between the Kingdom of Sweden 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 at Helsinki, this 28th day of October 2008, in duplicate in the English language.

For the Government of
the Kingdom of Sweden

For the States
of Guernsey