

Guernsey/United Kingdom Double Taxation Agreement

A Protocol amending the Double Taxation Agreement between the UK and Guernsey has been entered into by an exchange of letters between the Governments of Guernsey and the United Kingdom. The amendments remove a potential loophole that may have allowed non-UK resident property developers to avoid income tax or corporation tax in the UK in certain circumstances and are effective from 16 March 2016. The agreement of this protocol demonstrates the UK's and Guernsey's joint commitment to working together to counter tax avoidance and evasion.

ARRANGEMENT BETWEEN HER MAJESTY’S GOVERNMENT AND THE STATES OF GUERNSEY AMENDING THE 1952 ARRANGEMENT BETWEEN THE TWO GOVERNMENTS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AS AMENDED BY THE 1994, 2009 AND 2015 ARRANGEMENTS BETWEEN THE TWO GOVERNMENTS

Her Majesty’s Government and the States of Guernsey,

Desiring to strengthen their economic relationship and to improve the operation of the existing arrangement between the two governments for the avoidance of double taxation and the prevention of fiscal evasion, have agreed as follows:

1. In this Arrangement the term “1952 Arrangement” means that Arrangement as amended by the 1994, 2009 and 2015 Arrangements.
2. To insert after subparagraph (4) of paragraph 3 of the 1952 Arrangement the following new subparagraph:

“(5) Where profits include items of income or capital gains which are dealt with separately in other paragraphs of this Arrangement, then the provisions of those paragraphs shall not be affected by the provisions of this paragraph.”
3. To insert after paragraph 3 of the 1952 Arrangement the following new paragraphs:

“3A. (1) Income derived by a resident of one of the territories from immovable property (including income from agriculture or forestry) situated in the other territory may be taxed in that other territory.

(2) The term “immovable property” shall have the meaning which it has under the law of the territory in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of subparagraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of subparagraphs (1) and (3) shall also apply to the income from immovable property of a United Kingdom enterprise and a Guernsey enterprise.”

“3B. (1) Gains derived by a resident of one of the territories from the alienation of immovable property referred to in paragraph 3A and situated in the other territory may be taxed in that other territory.

(2) Gains derived by a resident of one of the territories from the alienation of shares, other than shares in which there is substantial and regular trading on a Stock Exchange, or comparable interests, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other territory may be taxed in that other territory.”
4. Each of the territories shall notify to the other the completion of the procedures required by its law for the bringing into force of this Arrangement. This Arrangement shall enter into force on the date of the later of these notifications and shall thereupon have effect from 16 March 2016.