



BERMUDA

2005 : 47

**INTERNATIONAL COOPERATION (TAX INFORMATION
EXCHANGE AGREEMENTS) ACT 2005**

Date of Assent: 30 December 2005

Operative Date: 30 December 2005

ARRANGEMENT OF SECTIONS

1	Short title	6	Statutory duty to deliver information
2	Interpretation	7	Statutory defence
3	Duties of the Minister	8	Forwarding information to requesting party
4	Grounds for declining a request for assistance	9	Offences and penalties
5	Power to require information		

WHEREAS it is expedient to make general provision for the implementation of tax information exchange agreements entered into by the Government of Bermuda, as authorized by the Government of the United Kingdom, with other jurisdictions and to enable the Minister of Finance to provide assistance to the competent authorities of such jurisdictions under such agreements:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Short title

1 This Act may be cited as the International Cooperation (Tax Information Exchange Agreements) Act 2005.

INTERNATIONAL COOPERATION (TAX INFORMATION EXCHANGE AGREEMENTS) ACT 2005

Interpretation

2 In this Act, unless the context otherwise requires –

"agreement" means a tax information exchange agreement entered into by the Government of Bermuda, as authorized by the Government of the United Kingdom, with another jurisdiction;

"information" means any fact, statement or record in any form whatever that is relevant or material to tax administration and enforcement;

"Minister" means the Minister of Finance;

"requesting party" means a party that makes a request for assistance under an agreement.

Duties of the Minister

3 (1) The Minister is the competent authority for Bermuda under the agreements.

(2) The Minister may provide assistance to any requesting party according to the terms of the agreement with that party.

Grounds for declining a request for assistance

4 (1) The Minister may decline a request for assistance where the requesting party does not agree to pay the costs of providing the assistance, whether incurred by the Minister or any other person.

(2) The Minister may also decline a request for assistance if –

(a) the information is not present in Bermuda;

(b) the information relates to a period that is more than six years prior to the tax period in respect of which the request is made;

(c) the request pertains to information in the possession or control of a person other than the taxpayer that does not relate specifically to the tax affairs of the taxpayer;

(d) the information is protected from disclosure under the laws of Bermuda on the grounds of legal professional privilege;

(e) the requesting party would not be able to obtain the information –

(i) under its own laws for the purposes of the administration or enforcement of its tax laws; or

- (ii) in response to a valid request from the Minister under the agreement;
- (f) the disclosure of the information would be contrary to public policy; or
- (g) the Minister is not satisfied that the requesting party will keep the information confidential and will not disclose it to any person other than –
 - (i) a person or authority in its own jurisdiction for the purposes of the administration and enforcement of its tax laws; or
 - (ii) a person employed or authorized by the government of the requesting party to oversee data protection.

Power to require information

5 The Minister may, by notice in writing served on any person in Bermuda, require the person to provide any information that the Minister may require with respect to a request for assistance by a requesting party.

Statutory duty to provide information

6 (1) A person on whom a notice has been served under section 5 shall provide the information specified in the notice to the Minister, within the period specified in it.

(2) A person is not required to comply with a request for information if the information –

- (a) is not in Bermuda; or
- (b) is not in the person's possession or control.

(3) The Minister may extend the time specified in the notice if in his opinion the circumstances warrant.

Statutory defence

7 Compliance with any direction given in a notice served under section 5 on a person is an absolute defence to any claim brought against that person in respect of any act done or any omission made by him in good faith in obedience to that direction.

Forwarding information to requesting party

8 Where the Minister obtains any information pursuant to issuing a notice under section 5, he shall keep it confidential and may not

**INTERNATIONAL COOPERATION (TAX INFORMATION
EXCHANGE AGREEMENTS) ACT 2005**

provide it to the requesting party for a period of 20 days, commencing on the day on which he obtained the information.

Offences and penalties

9 (1) A person commits an offence who fails to provide information as required by section 6(1) or wilfully tampers with or alters such information so that it is not true when received by the Minister.

(2) A person commits an offence who, without lawful excuse, destroys or damages any information which the Minister, by notice under section 5, has directed him to provide.

(3) A person who commits of an offence under subsection (1) or (2) shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \$5,000, or to both.