

**PROTOCOL BETWEEN IRELAND AND THE STATES OF GUERNSEY AMENDING
THE AGREEMENT OF 26 MARCH 2009 FOR AFFORDING RELIEF FROM DOUBLE
TAXATION WITH RESPECT TO CERTAIN INCOME OF INDIVIDUALS AND
ESTABLISHING A MUTUAL AGREEMENT PROCEDURE IN CONNECTION WITH
THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES**

The Government of Ireland and the States of Guernsey;

Desiring to conclude a Protocol to amend the Agreement between Ireland and the States of Guernsey for Affording relief from Double Taxation with respect to Certain Income of Individuals and Establishing a Mutual Agreement procedure in Connection with the Adjustment of Profits of Associated Enterprises signed on 26 March 2009;

Have agreed as follows:

ARTICLE I

The Preamble to the Agreement shall be deleted and replaced by the following Preamble:

“The Government of Ireland and the States of Guernsey, recognising that the two Parties have concluded an Agreement for the Exchange of Information Relating to Tax Matters;

Desiring to conclude an Agreement for affording relief from double taxation with respect to certain income of individuals and establishing a mutual agreement procedure in connection with the adjustment of profits of associated enterprises;

Intending to eliminate double taxation with respect to the taxes covered by this agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows.”.

ARTICLE II

Paragraph 1 of Article 9 (Mutual agreement procedure) of the Agreement shall be deleted and replaced by the following:

“1. Where a person 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 either Party. 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.”.

ARTICLE III

The following new Article 9A (Entitlement to benefits) shall be inserted after Article 9 (Mutual agreement procedure) of the Agreement as follows:

“ARTICLE 9A

Entitlement to benefits

1. Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.
2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Party that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the Party to which the request has been made will consult with the competent authority of the other Party before rejecting a request made under this paragraph by a resident of that other Party.”.

ARTICLE IV

1. Each of the Parties shall notify to the other in writing the completion of the procedures required by its law for the bringing into force of this Protocol.
2. This Protocol shall enter into force on the date of the later of these notifications, and its provisions shall have effect for tax years beginning on or after the first day of January in the calendar year following the year of the entry into force of this Protocol.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at London this 8th day of December 2021, and at London this 8th day of December 2021.

For the Government of Ireland:

Adrian O'Neill

For the States of Guernsey

Jonathan Le Tocq