



**TAX INFORMATION EXCHANGE (INTERNATIONAL
CO-OPERATION) (AMENDMENT) ACT, 2024**

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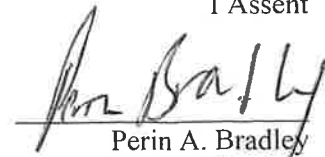
**TAX INFORMATION EXCHANGE (INTERNATIONAL CO-OPERATION)
(AMENDMENT) ACT, 2024**

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I Assent


Perin A. Bradley
Governor (Acting)

27. June 2024
Date

ANGUILLA

No. 17/2024

**TAX INFORMATION EXCHANGE (INTERNATIONAL CO-OPERATION)
(AMENDMENT) ACT, 2024**

An Act to amend the Tax Information Exchange (International Co-operation) Act, 2016.

[Gazette Date: 28th June, 2024] [Commencement: Assent under section 57 of the Constitution]

ENACTED by the Legislature of Anguilla

Interpretation

1. For the purpose of this Act the “principal Act” means the Tax Information Exchange (International Co-operation) Act, 2016.

General amendment to the principal Act

2. Sections 3, 4, 6, 7, 9, 10, 11 and 26 of the principal Act are amended by deleting the phrase “Permanent Secretary” and substituting the phrase “competent authority”.

Amendment to section 4

3. Section 4 of the principal Act is amended—

(a) in subsection (2) by deleting the phrase “subject to section 5”;

(b) by deleting subsection (3) by substituting with the following—

“(3) Where the competent authority determines that the request does not comply with the relevant agreement the competent authority shall promptly inform the requesting party and specify its objections to the request.”; and

(c) by inserting the following subsections after subsection (3)—

“(3a) Where—

(a) the request received is under an agreement referred to in subsection 3(b); and

(b) the grounds set out in section 5 have been met;

the competent authority shall promptly inform the requesting party and specify its objections to the request.

(3b) The agreements referred to in subsection (3a) are—

(a) a TIEA;

(b) the Multilateral Convention on Mutual Administrative Assistance in Tax Matters;

(c) an arrangement between Anguilla and the United Kingdom for the exchange of tax information;

(d) an arrangement between Anguilla and another country or countries for the exchange of information.”.

Amendment to section 5

4. Section 5 of the Principal Act is amended by deleting and substituting with the following—

“Grounds for declining a request for information

5. The competent authority may decline a request under an agreement referred to in section 4(3b) for information where the—

(a) competent authority of the requesting party would not be able to obtain the information—

(i) in response to a similar valid request from the competent authority of Anguilla under the relevant agreement, or

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

(b) disclosure of the information would be contrary to public policy or national security;

(c) information is protected from disclosure under the laws of Anguilla on the grounds that the information requested is subject to legal professional privilege;

(d) requested information is not foreseeably relevant to the administration or enforcement of the tax laws of the requesting party;

(e) requesting party does not agree to pay the costs of providing assistance in accordance with the relevant agreement, whether incurred or likely to be incurred by the Permanent Secretary or any other person; and

- (f) supply of information would disclose a trade, business, industrial, commercial or professional secret or trade process.”.

Insertion of sections 25A and 25B

5. The Principal Act is amended by inserting the following sections after section 25—

“Civil penalties for non-compliance

25A. (1) Where a person is given a notice under section 6 and he fails to provide the information required by the notice within the period specified in it he shall be deemed to be in breach of the notice and a civil penalty may be imposed under this section.

(2) Where a person breaches a notice the competent authority may order that person to pay to the competent authority within a specified time, a civil penalty consisting of—

- (a) a fine of not more than \$1,000 in respect of the first breach; and
- (b) thereafter, not more than \$2,000 in respect of each subsequent breach.

(3) Where the competent authority intends to impose a penalty in accordance with subsection (2), the competent authority shall give the person—

- (a) notice of its intention; and
- (b) a reasonable opportunity to—
 - (i) demonstrate that the person is compliant, or
 - (ii) show cause why the person should be fined an amount that is less than the proposed fine.

(4) Unless the person demonstrates to the competent authority’s satisfaction that he is compliant, after the expiration of the time specified in a notice the competent authority may issue a written order to the person to pay a civil penalty consisting of the proposed fine.

(5) Where the person has demonstrated under subsection (3)(b)(ii) that he should be fined an amount that is less than the proposed fine the competent authority may issue a written order to the person to pay a civil penalty that competent authority considers to be appropriate.

(6) If a civil penalty imposed under this section is not paid in accordance with the order, the unpaid penalty may be recovered by the Government by action as a civil debt.

Appeals against penalties

25B. (1) Where a penalty has been imposed on a person pursuant to section 25A, that person may appeal to a Judge in Chambers within 90 days of the date on which the penalty was imposed.

(2) Notice of an appeal to the Judge in Chambers under subsection (1) must be served on the competent authority who shall be entitled to appear and be heard at the hearing of the appeal.

(3) The competent authority may, pending an appeal under subsection (1), suspend the operation of the penalty upon any terms the competent authority considers appropriate pending the determination of the appeal.”.

Amendment to section 26

6. Section 26 of the principal Act is amended by—

(a) deleting subsection (1) and substituting the following—

“(1) A person who is required under section 8 to produce any information that is in his possession or is under his control and who without lawful excuse fails to do so, within the time specified by the a Judge by order commits an offence and is liable on summary conviction to 2 years imprisonment and a fine of \$10,000.”; and

(b) inserting the following new section after subsection (1)—

“(1a) A person who is required under sections 6 or 8 to produce any information that is in his possession or is under his control and who alters, destroys, mutilates, defaces, conceals or removes the information commits an offence and is liable on summary conviction to 2 years imprisonment and a fine of \$10,000.”.

Insertion of section 26A

7. The principal Act is amended by inserting the following section after section 26—

“Defences

26A. (1) A person does not commit—

- (a) a breach under section 25A; or
- (b) an offence under section 26;

if the competent authority or court respectively are satisfied that there is a reasonable excuse for the failure to comply with these sections.

(2) For the purposes of this Act neither of the following is a reasonable excuse—

- (a) that the person relies upon another person to do something in relation to the Act; or
- (b) that there is an insufficiency of funds to comply with the Act.”.

Amendment to section 28

8. Section 28 of the principal Act is amended by deleting subsection (2)(b).

Insertion of section 28A

9. The principal Act is amended by inserting the following section after section 28—

“Agreements to be laid in the House of Assembly

28A. (1) The Minister with responsibility for Finance shall, as soon as possible after receiving a copy of a signed agreement, lay the agreement before the House of Assembly.

(2) For the purpose of this section a “signed agreement” means an agreement that is signed by both parties to the agreement.

(3) Where an agreement has been implemented before the coming into force of this Act, that agreement shall not be deemed to be not in force by reason of the agreement not having been laid in the house pursuant to this section.”.

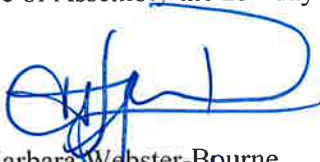
Repeal of Schedule

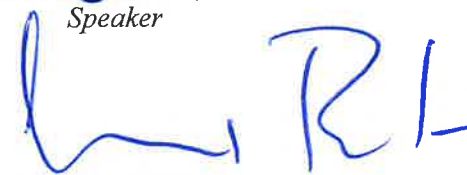
10. The Principal Act is amended by repealing Schedules 1 to 5.

Citation

11. This Act may be cited as the Tax Information Exchange (International Co-operation) (Amendment) Act, 2024.

Passed in the House of Assembly the 25th day of June, 2024


Barbara Webster-Bourne
Speaker


Lenox J. Proctor
Clerk of the House of Assembly