

AMENDMENT TO THE TAXATION (IMPLEMENTATION) (INTERNATIONAL TAX COMPLIANCE) (COMMON REPORTING STANDARD) (JERSEY) REGULATIONS 2015: LAW DRAFTING INSTRUCTIONS

1. Purpose of Report

The purpose of this report is to request the Minister for External Relations to amend, by means of an Order, the Schedules attached to the Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 2015, which Schedules list the Participating Jurisdictions, to add further participating partner jurisdictions and to remove the names of certain other jurisdictions.

Background

The Schedules attached to the Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 2015 list the jurisdictions which have agreed to exchange information under the Common Reporting Standard (CRS), described in the Regulations as “Participating Jurisdictions”. As additional jurisdictions agree to participate in the CRS, they must be added to the Schedules.

Once a jurisdiction has been listed in the Schedules to the CRS Regulations, financial institutions in Jersey are no longer required to look through investment entities resident in that jurisdiction to identify their controlling persons, and to treat them as Passive Non-Financial Entities for the purposes of the CRS due diligence and reporting rules. Financial institutions are required to apply the CRS due diligence rules in relation to account holders and controlling persons resident in that jurisdiction from 1 January in the year identified as the “relevant year” in the Regulations and in the table below, and to submit CRS reports to Revenue Jersey in relation to account holders and their controlling persons resident in that jurisdiction from the following year.

The jurisdictions listed below have implemented domestic legislation enabling them to collect CRS information from their domestic financial institutions, and have activated the necessary exchange of information agreements to allow them to exchange CRS information with Jersey from 2024 onwards (the “year of first reporting” shown in the table), based on financial accounts held in 2023 (the “relevant year”). Jurisdictions will therefore be treated as participating jurisdictions under the Jersey Regulations, in order to ensure Jersey is in a position to apply the rules on a reciprocal basis.

The jurisdictions which will be added to the Schedules to the CRS Regulations, together with the year from which they will be considered to be participating (“relevant year”) and the year from which reporting of CRS information will first be required (“year of first reporting”) are therefore as follows:

| Participating jurisdiction | Relevant year | Year of first reporting |
|----------------------------|---------------|-------------------------|
| Jamaica | 2023 | 2024 |
| Kenya | 2023 | 2024 |
| New Caledonia | 2023 | 2024 |
| Thailand | 2023 | 2024 |

It is intended that these jurisdictions will be added with immediate effect.

In addition, with the coming to an end of the initial transitional period provided for in the CRS, it is necessary to remove jurisdictions from the Schedules which have either not implemented the CRS in line with the commitments made by their governments, or with which Jersey does not have, or does not expect to have very shortly, an agreement in place permitting the exchange of CRS information.

The jurisdictions which will be removed from the Schedules to the CRS Regulations are as follows:

- Anguilla
- Liberia
- Montserrat
- Morocco
- Niue
- Trinidad and Tobago.

It is intended that these jurisdictions will be removed with effect from 1 July 2024.

2. Decision

The Minister for External Relations is asked to agree to amend, by way of an Order or Orders, the Schedules to the Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 2015, which Schedules list the Participating Jurisdictions, in order to add and remove the names of participating jurisdictions.

3. Recommendation

It is recommended that the Minister for External Relations agree to amend, by way of an Order or Orders, the Schedules attached to the Taxation (Implementation) (International Tax Compliance) (Common Reporting) (Jersey) Regulations 2015, which schedules list the Participating Jurisdictions, to add the further participating partner jurisdictions as set out in this report, and to remove the names of the jurisdictions set out in the report which have either not implemented the CRS or with which no agreement is in place, or is expected to shortly be in place, to permit the exchange of CRS information with Jersey.

4. Reason for decision

The Schedules attached to the Taxation (Implementation) (International Tax Compliance) Common Reporting Standard) (Jersey) Regulations 2015 list the jurisdictions which have agreed to exchange information under the Common Reporting Standard (CRS) with Jersey, described in the Regulations as "Participating Jurisdictions". As additional jurisdictions agree to participate in the CRS, they must be added to the Schedules. As a result of the ending of the initial transitional period, jurisdictions which have not implemented the CRS in line with the original commitments made by their governments should be removed from the Schedules, as should jurisdictions with which no agreement is in place, or is expected to be shortly put in place, to allow for the exchange of CRS information.

Regulation 1(6) of the Regulations gives the Minister for External Relations the power to amend the Schedules listing the Participating Jurisdictions by way of an Order. This decision will allow officers to issue law drafting instructions to permit the preparation of the necessary Order or Orders.

5. Resource implications

There are no financial or manpower implications arising from the proposed amendments.

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