
Isle of Man Policy on Tax Information Exchange

Policy overview

The Isle of Man has a longstanding policy of compliance with international standards on transparency and information exchange and has developed an extensive network of international tax arrangements that provide for exchange of information in respect of tax matters, specifically:

- Tax Information Exchange Agreements ('TIEA')
- Double Taxation Agreements ('DTA'); and
- The OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended by the 2010 Protocol ('the Amended Convention').

TIEAs and DTAs are signed in accordance with an Entrustment given by the Government of the United Kingdom and Northern Ireland ('UK') and the Amended Convention applies to the Isle of Man by means of the UK's declaration of territorial extension to include the Isle of Man, dated 20 November 2013.

The Isle of Man has international tax agreements in place with over 100 jurisdictions, including all EU Member States, all G20 and Organisation for Economic Co-operation and Development ('OECD') Members, and other relevant partner jurisdictions (including partner jurisdictions primarily for the purposes of spontaneous and automatic exchange of information).

International tax agreements provide for exchange of information under the following headings:

1. Exchange of information on request ('EOIR')

EOIR is a system whereby the competent authority in a partner jurisdiction ('the Requesting Party') sends a request for information to the competent authority in another partner jurisdiction ('the Requested Party') that is foreseeably relevant to the administration and enforcement of the domestic tax laws of the Requesting Party.

A request may be in connection with a single taxpayer or a group of taxpayers, who may be identified by name or otherwise.

When a request is received, the Isle of Man competent authority ('the Assessor of Income Tax or her delegate') will ensure a request is made in conformity with the agreement under which the request is made and, using the Assessor's information powers contained in the Income Tax Act 1970, will obtain and exchange the requested information in accordance with the provisions of the particular agreement.

2. Automatic exchange of information ('AEOI')

The Isle of Man has been exchanging information automatically with other jurisdictions since 2005:

- The first AEOI was with EU Member States in respect of the taxation of savings income in the form of interest payments ('the Savings Directive'). The Savings Directive initially provided for AEOI or the payment of a retention tax. The retention tax option was removed in 2011 and between 2011 and 1 January 2016 assistance was provided in the form of AEOI in all cases. The Savings Directive was repealed on 1 January 2016;
- AEOI with the United States of America in line with their Foreign Account Tax Compliance Act ('FATCA'). The first FATCA exchange took place in September 2015;
- AEOI with the UK in line with the FATCA-style Intergovernmental Agreement ('UK IGA') in respect of 2014 and 2015 financial account information. The first UK IGA exchange took place in September 2016. The UK IGA was replaced by AEOI under the OECD Common Reporting Standard (CRS);
- AEOI under the CRS, that commenced with the first CRS exchange in respect of 2016 financial account information in September 2017; and
- AEOI that concerns the Isle of Man's implementation of Action 13 Country-by-Country Reporting ('CbCR') of the OECD Base Erosion and Profit Shifting (BEPS) measures to counter tax avoidance that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations. The first CbCR exchanges took place in 2018.

The Income Tax Division website includes copies of Multilateral and Bilateral Competent Authority Agreements ('CAA') that underpin the exchange of FATCA, CRS and CbCR data. In most cases these CAAs are reciprocal and as well as sending data to a partner jurisdiction, the Isle of Man will receive data to ensure tax compliance with our own domestic laws. Where a CAA is not reciprocal (e.g. the CRS CAA between the Isle of Man and Cayman Islands), the Isle of Man will receive data from the partner jurisdiction, but the Isle of Man will not send data to that particular partner.

3. Spontaneous exchange of information

The Isle of Man can assist partners in relation to spontaneous exchange of information. Such exchange is to the extent available under a DTA or the Amended Convention; or in relation to those TIEAs that provide for spontaneous exchange of information.

BEPS Action 5 Exchange of Tax Rulings ('ETR') is a form of spontaneous exchange of information that has been implemented in the Isle of Man and exchanges commenced during 2017.

Code of Conduct for Business Taxation and EU Listing Process from 2016

In 2016 the Council of the European Union (the "EU Council") committed as a priority to coordinated policy efforts in the fight against tax fraud, evasion and avoidance and against money laundering at an EU and global level. On 8 November 2016 the EU Council adopted the "Conclusions on criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes" (the "EU Listing Process").

Details of the Isle of Man's response to the EU Listing Process have been set out within the International Agreements section of the [Income Tax Division website](#).

Negotiating International Agreements

An important element of the Isle of Man's policy is to negotiate international agreements that include provisions for exchange of information based on the OECD Model, with all jurisdictions who are interested in entering into an information exchange agreement with the Isle of Man.

The Isle of Man complies with the requirement as set out in the "Handbook for Assessors and Jurisdictions" published by the Global Forum that:

"Ultimately, the standard requires that jurisdictions exchange information with all relevant partners, meaning those partners who are interested in entering into an information exchange agreement."

A full list of concluded agreements is published on the [Income Tax Division website](#). As stated, the Isle of Man has mechanisms in place to exchange information on request with all G20 and OECD Members, and all EU Member States. In addition, the Isle of Man has concluded agreements with Members of the Southern African Development Community and is actively engaged in ensuring all necessary agreements are in place to ensure the effective implementation of the CRS and BEPS, which includes concluding agreements with all signatories where agreements are not yet in place, for example with the British Overseas Territories, such as the agreement signed in September 2015 with the Government of the Cayman Islands.

The Isle of Man, as a UK Crown Dependency, negotiates agreements with other jurisdictions in accordance with its existing Letter of Entrustment from the UK.

Tax Information Exchange Agreements

In 1999, the Isle of Man became involved in the OECD's exercise on harmful tax practices, and in January 2001 the Isle of Man made an early commitment to the work of the OECD's Project on Transparency and Exchange of Information for Tax Purposes.

The Isle of Man played an active role in shaping the OECD Model TIEA, which was first published by the OECD in April 2002; and in 2003 the Isle of Man signed its first TIEA with the United States ('US').

In 2005 the Isle of Man broke new ground, when it signed the TIEA with the Kingdom of the Netherlands. This TIEA was the first to be signed that did not include the US as one of the parties.

Between 2005 and 2009 the Isle of Man concluded new agreements with countries throughout the world, and by 2 April 2009 the Isle of Man had signed 12 TIEAs and was named on the first OECD "White List" of jurisdictions that have substantially implemented the internationally agreed tax standard.

A full list of all TIEAs including the text of each agreement can be found on the [Income Tax Division website](#)

Double Taxation Agreements

The Isle of Man is developing a network of comprehensive DTAs based on the OECD Model Tax Convention on Income and Capital.

These agreements include provisions for the prevention of double taxation as well as provisions for all forms of EOI, namely AEOI, spontaneous EOI and EOIR. The Isle of Man has also had a DTA with the UK since 1955. This agreement was recently renegotiated and the new agreement, signed on 2 July 2018, is now in effect.

In addition, the Isle of Man has signed agreements, sometimes referred to as mini-DTAs, providing for the elimination of double taxation in relation to certain Model DTA articles, e.g. Pensions or Aircraft and Shipping Articles.

A full list of all DTAs including the text of each agreement can be found on the [Income Tax Division website](#)

OECD Convention in Mutual Administrative Assistance in Tax Matters, as amended by the 2010 Protocol ('the Amended Convention')

With effect from 1 March 2014, and following the declaration of territorial application by the United Kingdom, the Amended Convention was extended to the Isle of Man.

The Amended Convention provides for all forms of EOI. A jurisdiction may declare a reservation in respect of certain forms of assistance that would otherwise be available under the Amended Convention.

The Isle of Man has made the following reservations:

- pursuant to Article 30, paragraph 1(a), of the Amended Convention, the Government of the Isle of Man will not provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in Article 2, paragraph 1(b), of the Amended Convention.
- pursuant to Article 30, paragraph 1(b), of the Amended Convention, the Government of the Isle of Man will not provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes listed in Article 2, paragraph 1, of the Amended Convention.
- pursuant to Article 30, paragraph 1(c), of the Convention, the Government of the Isle of Man will not provide assistance in respect of any tax claim, which is in existence at the date of withdrawal of a reservation made under Article 30, paragraph 1(a) or (b), in relation to taxes of the category in question.
- pursuant to Article 30, paragraph 1(d), of the Amended Convention, the Government of the Isle of Man will not provide assistance in the service of documents for all taxes listed in Article 2, paragraph 1, of the Amended Convention.
- pursuant to Article 30, paragraph 1(e), of the Amended Convention, the Government of the Isle of Man will not permit the service of documents through the post as provided for in Article 17, paragraph 3, of the Amended Convention.

OECD Base Erosion and Profit Shifting (BEPS)

The Inclusive Framework on BEPS brings together over 125 countries and jurisdictions to collaborate on the implementation of the OECD/ G20 BEPS Package.

The Isle of Man is a BEPS Associate and works to support the implementation of the BEPS package.

To date the Isle of Man has fully implemented BEPS Action 5 ETR and BEPS Action 13 CbCR; and since 2017 the Isle of Man has sent ETR and CbCR information in accordance with its commitment to its international partners. The Isle of Man also receives ETR and CbCR information from its international partners.

In relation to BEPS Action 6, Prevention of Treaty Abuse, on 7 June 2017 the Isle of Man signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the "Multilateral Instrument" or "MLI"), which was subsequently ratified by Tynwald in October

2017; and in line with this commitment the Isle of Man has invited bilateral negotiations with existing treaty partners to update the mini-DTAs in line with the BEPS standard. As these negotiations are concluded, synthesised text of BEPS related amendments to existing treaties will be published on the Income Tax Division's [international agreements](#) webpage.

As stated, the Isle of Man and the UK have concluded negotiations and signed a new DTA. The DTA with the UK contains provisions related to BEPS.

The Isle of Man has also committed to implementing BEPS Action 14, Dispute Resolution – Mutual Agreement Procedure and will publish guidance on this action in the future.

Ratification of International Agreements

All information exchange agreements (i.e. DTAs, TIEAs and IGAs) signed by the Isle of Man require ratification by Tynwald. It is the Isle of Man's policy to ratify international agreements as soon as possible after signing and in practice this means agreements are usually ratified within 3 months of being signed.

OECD Global Forum on Transparency and Exchange of Information for Tax Purposes ('Global Forum')

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 150 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes ('the Standard').

Between 2009 and 2014 the Isle of Man was a member of the Peer Review Group ('PRG') which was set up by the Global Forum to develop the methodology and detailed terms of reference for a robust, transparent and accelerated EOI process.

In 2014 the Isle of Man's Assessor of Income Tax became a member of the Steering Group. Created in 2009, the Steering Group assists with preparing and guiding the Global Forum's future work.

In addition to engaging directly with the Global Forum through the PRG and the Steering Group, the Isle of Man has a number of trained peer review assessors who carry out Peer Reviews of other jurisdictions' legal and regulatory framework and practical implementation of the Standard.

In 2011 the Isle of Man was one of the first jurisdictions to be assessed by the Global Forum. The 2011 Peer Review combined assessments of the Isle of Man's legal and regulatory framework for transparency and EOIR, as well as practical implementation of that framework; and in November 2013 the Isle of Man was one of only 18 jurisdictions, from 50 rated jurisdictions, to be rated by the Global Forum to be Compliant with the Standard. In August 2015 the Global Forum updated its ratings, confirming the Isle of Man is one of only 21 jurisdictions, from 81 rated jurisdictions to be rated as Compliant with the Standard.

In 2016 the Global Forum agreed and implemented new Terms of Reference ('ToR') and Methodology for the second round of peer reviews. The new ToR are based on the principles of transparency and effective EOIR that are primarily reflected in the 2002 OECD's Model Agreement on Exchange of Information on Tax Matters ('the OECD Model TIEA') and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital ('the OECD Model Tax Convention') and its commentary as updated in 2012 (and approved by the OECD Council on 17 July 2012).

The 2012 revision to Article 26 includes, for example, commentary in relation the standard of 'foreseeable relevance' in terms of requests that deal with one taxpayer and requests that concern several taxpayers, also known as 'group requests'.

The 2016 ToR also considers the availability of, and access to, beneficial ownership information. The term 'beneficial owner' has the same meaning as that applying in the 2012 Financial Action Task Force ('FATF') recommendations.

In 2017 the Isle of Man was assessed by the Global Forum. This second round peer review was based on the 2016 ToR and Methodology, and in November of that year the Isle of Man's compliant rating with the Standard was reaffirmed.

Global Forum AEOI Group

In 2013 the Global Forum established its AEOI Group, of which the Isle of Man is a member.

The AEOI Group is tasked with creating a mechanism for monitoring and reviewing the implementation of the new Standard. Monitoring of implementation is underway, and in this regard the AEOI Group is creating a peer review process. Work has commenced for the creation of new Terms of Reference and a new Methodology, which will allow for Global Forum member and relevant non-member jurisdictions to be evaluated for the effectiveness of the implementation, including the meeting of confidentiality and data safeguard requirements.

Signed DTAs, TIEAs, IGAs and related Orders

Copies of signed agreements, including those that are awaiting ratification and entry into force are published on the International Agreements page of the Income Tax Division Website:

<http://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/international-agreements/>

Copies of the Orders ratifying international agreements are also published on the Income Tax Division Website:

<http://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/tax-practitioners-and-technical-information/regulations-and-orders/>

A copy of the Convention and related Commentary, and the up to date list of signatories to the Convention is available on the OECD website:

<http://www.oecd.org/ctp/exchange-of-tax-information/conventiononmutualadministrativeassistanceintaxmatters.htm>

A copy of the Isle of Man's reservations in respect of parts of the Convention and other matters related to the Isle of Man's participation is available on the Council of Europe website:

<http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/127/declarations>

Information contained in this document is accurate up to 05 June 2019