

THE CHANNEL ISLANDS AND THE EUROPEAN UNION

TAX COOPERATION

Introduction

1. The Channel Islands (“the Islands”) consist of the Bailiwicks of Guernsey and Jersey. They are British Crown Dependencies (CDs). They are not part of the United Kingdom, but the UK has ultimate responsibility for their external affairs and defence. The Islands enjoy a high degree of autonomy, including their own fiscal and judicial systems. By virtue of Protocol 3 of the UK’s Accession Treaty, the Islands are part of the EU Customs Union. This will change following Brexit. They are already outside the EU (“third countries”) in all other respects. As third countries, the Islands maintain a “good neighbour” policy towards the EU and have built up close cooperation with the EU and individual Member States in many areas, including tax.

Tax policy in the Channel Islands

2. The standard rate of 0% corporate tax in the Islands is underpinned by strong general anti-avoidance rules (GAAR) and is based on (i) the principle of non-discrimination between resident and non-resident owned companies; and (ii) the principle of tax neutrality combined with transparency. As international finance centres, Guernsey and Jersey act as “financial entrepôts” in facilitating the investment of funds drawn from around the world into European financial markets. The return to the investors should be taxed in their home country and the business activity generated by the investment in Europe should be taxed in the jurisdiction where that activity takes place. That is why the Islands have given their full support for the transparency principles central to the current G20, OECD and EU tax initiatives.

Tax cooperation with the EU

3. The Islands voluntarily committed to the principles of the EU’s Code of Conduct on Business Taxation in 2003. In 2004 Guernsey and Jersey voluntarily entered into bilateral arrangements with all EU Member States (MS) under the EU Savings Directive (EUSD). These bilateral arrangements, which were limited to the interest income of individuals, were replaced in 2016 by automatic exchange of information (AEOI) under the Common Reporting Standard (CRS), which provides information on a much wider range of entities and financial information. The Islands were early adopters of the CRS, with the first AEOI in September 2017.
4. The Islands engage actively with the European Parliament (EP), the European Commission and Member States on tax issues, including through regular Ministerial and senior official level dialogue. In 2016, Pierre Moscovici, the EU Tax Commissioner, described Guernsey and Jersey as “*important partners of the EU*”.
5. On 12 March 2019, EU Finance Ministers (ECOFIN) formally confirmed Guernsey’s and Jersey’s positions as cooperative jurisdictions. This followed a two-year process that started in November 2016 when ECOFIN approved criteria for establishing an EU list of “non-cooperative jurisdictions for tax purposes” (NCJs) from over 90 jurisdictions whose tax regimes were to be assessed by the EU’s Code of Conduct Group (CoCG).
6. In response to concerns identified by the CoCG, Guernsey and Jersey each introduced a comprehensive Economic Substance Regime, enshrined in domestic law, with effect from 1 January 2019. All companies that are tax resident in Guernsey and Jersey must comply with this new regime for accounting periods commencing on or after 1 January 2019 and for all subsequent accounting periods. Failure will result in the application of sequential sanctions; escalating financial penalties; the spontaneous exchange of information; and ultimately company strike off.

7. Guernsey and Jersey worked closely with the Isle of Man. The three CDs valued the good working relationship established with the Commission Services and the constructive feedback received. This view was reciprocated. The published assessment by the Commission described the dialogue with the CDs as “*constant and constructive*”.

Future cooperation with the EU

8. Guernsey and Jersey attach importance to maintaining their position as cooperative jurisdictions, and to continuing to be good neighbours to the EU on tax matters. They recognise the importance of monitoring the effectiveness of their economic substance regimes, in particular the enforcement efforts. The future dialogue with the EU will also take forward two further political commitments made in December 2018 (a) to work with the EU to ensure on a reciprocal basis that company beneficial ownership information can be appropriately shared with EU tax and law enforcement authorities; and (b) to introduce legislation implementing mandatory disclosure rules for CRS avoidance arrangements and opaque offshore structures aligned to international best practices developed by the OECD.

International tax cooperation

9. The OECD Convention was extended to Guernsey and Jersey in 1990 and they are part of the UK for the purposes of its membership of the OECD. OECD Decisions and Recommendations apply to Guernsey and Jersey to the same extent as they do to the UK unless the contrary is specifically stated in a particular case.
10. In July 2019, the OECD’s Forum for Harmful Tax Practices (FHTP) confirmed that, following its own review, it concurred with the EU’s assessment that the Guernsey and Jersey tax regimes, including the new economic substance regime, were not harmful.
11. Guernsey and Jersey fully support the actions being taken under the OECD’s Base Erosion and Profit Shifting (BEPS) initiative to reach a globally fair and modern international tax system. In 2016 Guernsey and Jersey accepted the OECD’s invitation to become BEPS Associates and members of the newly established BEPS Inclusive Framework. All BEPS Associates are committed to consistent implementation of the BEPS package, including its four minimum standards.
12. In 2017, the Islands implemented BEPS minimum standards relating to exchange of tax rulings (Action 5) and country by country reporting (Action 13) between tax authorities. The Islands were amongst the first wave of jurisdictions to sign and ratify the multilateral treaty (MLI) to implement BEPS treaty related measures.
13. Guernsey and Jersey take an active role in the OECD. Jersey has been a vice-chair of the Global Forum’s AEOI working group and Guernsey a member of the working group. Guernsey is also a member of the Global Forum Peer Review Group. Jersey is the only non-sovereign member of the Ad Hoc Advisory Task Force established to provide advice on the future work of BEPS Working Party 1 (WP 1) on tax conventions and WP 6 on taxation of multinational enterprises. Jersey is vice chair and Guernsey is a member of the ad hoc working group established by the OECD to monitor international implementation of CBCR. Jersey is also a member of the Steering Group.

Further information

14. Further information about tax cooperation can be found on the websites of the [Guernsey](#) and [Jersey](#) governments. Further information about other aspects of Channel Islands cooperation with the EU, including on financial services and tackling financial crime, can be found on the [Channel Islands Brussels Office](#) website.