

TAX INFORMATION EXCHANGE AGREEMENT OF 30<sup>TH</sup> NOVEMBER, 2009  
AGREEMENT BETWEEN THE PORTUGUESE REPUBLIC AND the Principality of Andorra FOR THE  
EXCHANGE OF INFORMATION ON TAX MATTERS

Article 1

Scope of the Agreement

The competent authorities of the Parties shall provide assistance through exchange of information on request in accordance with the provisions of this Agreement. The required information must :

- a) Be foreseeably relevant to the administration and enforcement of the domestic laws of the requesting Party concerning taxes covered by this Agreement ;
- b ) Understand the information relevant to the determination presumably the assessment and collection of such taxes, the recovery and enforcement of tax claims , or the investigation or prosecution of tax matters ;
- c ) be treated as confidential under this Agreement.

Article 2

competence

The requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons within its territorial jurisdiction .

### Article 3

#### taxes Covered

. 1 This Agreement shall apply to the following taxes imposed by the Parties:

a) In the case of the Portuguese Republic:

i . The tax on personal income ( imposto sobre o rendimento das pessoas singulares - IRS ) ;

ii . The tax on corporate income ( sobre o imposto rendimento das pessoas colectivas - IRC ) ;

iii . The additional local tax on tax on income of legal persons

( derrama ) ; and

iv . Stamp duty on free transmissions ( imposto do selo sobre as transmissões gratuitas ) .

b) In the case of the Principality of Andorra:

i . Taxes on real estate transfers of assets ;

ii . Taxes on the increased value of real estate capital transfers and direct taxes imposed by existing laws

2 . This Agreement shall apply also to any identical or similar character imposed after the date of signature of this Agreement in addition to, or in place effective , if the parties agree.

3 . Competent authorities of the Parties shall notify relevant changes to the taxation and related information gathering measures that are described in the Agreement.

#### Article 4

##### definitions

1 In this Agreement. :

a) The term "Portugal" means the territory , including land space , territorial waters and air space above them , as well as the maritime areas adjacent to the territorial sea , including the seabed and sub-seabed on which the Portuguese Republic exercises sovereign rights or jurisdiction in accordance with international law and national law;

b) The term " Andorra " is the state of the same name ; used in a geographical sense, means the territory of the Principality , including any space on which , in accordance with international law, the Principality of Andorra exercises sovereign rights or jurisdiction;

c) the term "competent authority" means , in the case of Portugal , the Minister of Finance, the Director General of Taxes or their authorized representatives and, in the case of the Principality of Andorra , the Minister of Finance or his authorized representative ;

- d) The term " criminal law " means all designated as such under domestic law criminal provisions contained in the tax laws, the criminal code or other statutes ;
- e ) the term " criminal tax matters " means tax matters involving liable to prosecution under the criminal laws of the requesting Party intent;
- f) The term " information gathering measures " means laws and regulations and administrative or judicial procedures that enable a requested Party to obtain provisions and provide the requested information;
- g ) The term " information" means any fact, statement , document or record in any form whatever;
- h) The term "person" includes an individual , a company and any other body of persons ;
- i) The term " company" means any body corporate or any entity which is treated as a body corporate for tax purposes ;
- j) The term " principal class of shares " means the class or classes of shares representing a majority of the voting power and value of the company;
- k) The term " funds or collective investment scheme " means any pooled investment vehicle , irrespective of legal form;
- l) The term " fund or scheme of public funds" means any funds or collective investment scheme provided the units, shares or other interests can be readily purchased , sold or redeemed by the public . Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed " by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors ;

m ) the term " recognized stock exchange " means any determined by mutual agreement between the competent authorities of the Parties exchange;

n ) the term " requested Party " means the Party to this Agreement which is requested to provide or has provided information in response to a request;

o) The term " applicant Party" means the Party to this Agreement which makes a request for information or received information from the requested Party;

p ) the term "tax" means any tax covered by this Agreement .

2 . For the purposes of this Agreement at any time by a Party, any term or expression that is not defined moment , unless the context otherwise requires , have the meaning that it has at that time under the law of this Part , the meaning assigned to such term under the applicable tax laws of that Party prevailing over a meaning given to the other laws of that Party.

## Article 5

### Exchange of information on request

1. The competent authority of the requested Party shall provide upon request information for the purposes referred to in Article 1 and the information must be exchanged, that the conduct being investigated would constitute an offense under the Criminal law of the requested Party if such conduct occurred in that Party.

2 . If the information available to the competent authority of the requested Party is not sufficient to enable it to respond to the request for information , that Party shall use all relevant information gathering measures necessary to provide the requesting Party information requested , notwithstanding

that the requested Party does not need such information for its own tax purposes.

3 . Specifically requested by the competent authority of the requesting Party, the competent authority of the requested Party shall provide information under this Article , to the extent that national law so permits , in the form of depositions of witnesses and certified copies of the original documents .

. 4 Each Party shall ensure that they have the right , for the purposes referred to in Article 1 , to obtain and provide , through its competent authority and upon request :

a) information held by banks , other financial institutions, and any person acting as agent or trustee ; and

b) information regarding the ownership of companies, partnerships , trusts , foundations , Anstalt and others , including , within the limits of Article 2, ownership information on all such persons when they are part an ownership chain; in the case of trusts, information on settlors , trustees and beneficiaries and , in the case of foundations, information on founders, members of the foundation council and beneficiaries. In addition , this Agreement does not oblige Parties to obtain or provide ownership information on listed companies or funds or schemes of public collective investment unless such information can be obtained without giving rise to disproportionate difficulties.

. 5 Any inquiry is formulated as much detail as possible and specify in writing :

a) The identity of the person subject to examination or investigation;

b) The period covered by the inquiry ;

c ) The nature of the information requested and the form in which the applicant Party wishes to receive the information from the requested Party ;

d) the tax purpose for which the information is sought;

- e ) The reasons which suggest that the information requested is foreseeably relevant to the administration and enforcement of the tax laws of the requesting Party regarding the person referred to in paragraph a) of this paragraph;
- f) The reasons for believing that the information requested is held in the requested Party or is in the possession of or obtainable by a person under the jurisdiction of the requested Party;
- g ) To the extent known, the name and address of any person whom there is reason to believe that it is in possession or has control of the information requested;
- h) A statement that the application complies with the laws , regulations and administrative practices of the requesting Party, the requesting Party may , in similar circumstances , to obtain the information requested under the law or the normal course of administrative practice, in response to a valid request made by the requirements under this Agreement Party;
- i) A statement that the applicant Party has used to obtain the information, all means available in its own territory, hor - set that would give rise to disproportionate difficulties.

6 . The competent authority of the requested Party shall acknowledge receipt of the request to the competent authority of the requesting Party shall endeavor to transmit as soon as possible the requested information to the requesting Party .

## Article 6

### Tax examinations abroad

1. The Applicant may, upon reasonable notice , request the requested Party allow representatives of the competent authority of the requesting Party to enter its territory , to the extent permitted by its domestic law authority to interview individuals physical and examine records with the written consent of the person concerned. The competent authority of the requesting Party shall inform the competent authority of the requested Party of the time and place of scheduled maintenance with the individuals concerned .

2 . At the request of the competent authority of the requesting Party , the competent authority of the requested Party may allow representatives of the competent authority of the requesting Party to attend a tax examination in the territory of the requested Party .

3 . If the request referred to in paragraph 2 is acceded to , the competent authority of the requested Party conducting the examination shall forthwith communicate to the competent authority of the requesting Party of the date and place of the examination , the authority or person designated to carry out the examination and the procedures and conditions required by

Party required to conduct this control. Any decision relating to the conduct of the tax examination shall be made by the

Party line .

## Article 7

### Possibility of Declining a Request

Is not required to obtain or provide information that the applicant Party would not be able to obtain under its own laws for the administration or enforcement of its own tax laws 1. Requested Party . The competent authority of the requested Party may decline to assist where the request is not made in conformity with this Agreement.

2 . This Agreement does not require a party to provide information which would disclose any commercial, industrial or professional secret or trade process . Notwithstanding the foregoing , the information referred to in Article 5 , paragraph 4, can not for that reason alone be considered a secret or trade process .

. 3 This Agreement does not require a Party to obtain or provide information which would reveal confidential communications between a client and an attorney or other authorized legal representative where such communications are :

- a) Have purpose of seeking or providing legal advice or
- b) are intended to be used in a lawsuit pending or contemplated.

4. The Requested Party may decline a request for information if the disclosure is contrary to public policy.

A request for information 5. Shall not be refused on the ground that the tax claim giving rise to the request is disputed.

. 6 The Requested Party may decline a request for information if the information is requested by the applicant Party to administer or enforce a provision of the tax law of the requesting Party - or any requirement connected therewith - that is discriminatory against a national of the requested Party as compared with a national of the applicant Party in the same circumstances.

## Article 8

### Privacy and data protection

1. All information provided and received by the competent authorities of the Parties shall be kept confidential .
- 2 . Such information is disclosed only to persons or authorities ( including courts and administrative bodies) concerned with the purposes specified in Article 1 , and such persons or authorities shall use the information only for the purposes referred , including decisions on appeal. They may disclose the information in public court proceedings or in judicial decisions.
- 3 . Supplied to a requesting Party under this Agreement information can not be disclosed to any other person or entity or authority or any other jurisdiction without the express written permission of the competent authority of the requested Party .
4. The communication of personal data can be made to the extent necessary to carry out the provisions of this Agreement and subject to the law of the requested Party.

The Parties 5. Ensure the protection of personal data to a level equivalent to that of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 , and undertake to comply with the principles based on Resolution 45 / 95 of 14 December 1990 , the General Assembly of the United Nations.

## Article 9

### costs

The apportionment of costs incurred in providing assistance shall be determined by mutual agreement by the Parties.

## Article 10

### Implementing provisions

The Parties shall enact any legislation to comply with this Agreement and give effect to it .

## Article 11

### mutual Agreement Procedure

1. Where difficulties or doubts arise between the Parties concerning the application or interpretation of this Agreement, their competent authorities shall endeavor to resolve the matter by mutual agreement .

2 . Besides the agreements referred to in paragraph 1, the competent authorities of the Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9.

3 . Competent authorities of the Parties may communicate with each other directly for the purpose of reaching agreement under this Article .

## Article 12

### Entry into force

1. This Agreement shall enter into force thirty days after the receipt of the notification , in writing and

through diplomatic channels that the formalities required by the national law of the Parties have been met.

. 2 The provisions of this Agreement shall take effect :

a) At that time, criminal tax matters ; and

b) At that time, in all other cases provided by Article 1 , but only in respect of taxable periods beginning on or after that date, or, if no taxable period, for all tax obligations to begin on or after that date.

## Article 13

### Duration and Termination

1. This Agreement shall remain in force for an unlimited period of time .

2 . Either Party may at any time terminate this Agreement with notice in writing through diplomatic channels.

3 . This Agreement shall cease to apply six months after the date of receipt of the respective notification.

4. Notwithstanding termination , the Parties shall remain bound by the provisions of Article 8 of this Agreement.