

MONTSERAT

TAX INFORMATION EXCHANGE (AMENDMENT) ACT
2021

No. 3 of 2021

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I ASSENT

Governor

DATE:

MONTSERRAT

No. 3 of 2021

AN ACT TO AMEND THE TAX INFORMATION EXCHANGE ACT
(CAP.17.24).

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the authority of the same as follows:—

1. Short title

This Act may be cited as the Tax Information Exchange (Amendment) Act, 2021.

2. Interpretation

In this Act “**principal Act**” means the Tax Information Exchange Act (Cap. 17.24).

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3. Section 2 amended

Section 2 of the principal Act is amended—

(a) in the definition of “**effective date**” by deleting paragraph (a) and substituting the following:

“(a) in relation to a scheduled agreement, the date the agreement has the force of law in Montserrat; and”;

(b) by deleting the definitions of “**schedule agreement**”, “**taxation matter**” and “tax information exchange agreement” substituting the following definitions:

“**“schedule agreement”** means a tax information exchange agreement set out in Part A of the Schedule;

“**taxation matter**” includes a matter relating to the collection, calculation or assessment of a tax covered by a scheduled agreement or by the scheduled country requirements;

“**tax information exchange agreement**” means an agreement, to which Montserrat is a party, for the exchange of information on a taxation matter;” and

(c) by inserting the following definitions in the correct alphabetical sequence:

“**“exchange of information”** includes the—

(a) provision of information by the execution of a request under Part 4;

(b) spontaneous exchange of information;
and

(c) the automatic exchange of information;

“**spontaneous exchange of information**” means the exchange of information, without prior request, by a scheduled country to another scheduled country that is foreseeably relevant

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to that other scheduled country in the following circumstances:

- (a) the first-mentioned scheduled country has grounds for believing that there may be a loss of tax in the other scheduled country;
- (b) a person liable to tax obtains a reduction in or an exemption from tax in the first-mentioned scheduled country which would give rise to an increase in tax or to liability to tax in the other scheduled country;
- (c) business dealings between a person liable to tax in a scheduled country and a person liable to tax in another scheduled country are conducted through one or more countries in such a way that a saving in tax may result in one or the other scheduled country or in both;
- (d) a scheduled country has grounds for believing that a saving of tax may result from artificial transfers of profits within groups of enterprises; and
- (e) information forwarded to the first-mentioned scheduled country by the other scheduled country has enabled information to be obtained which may be relevant in assessing liability to tax in the latter scheduled country;”.

4. Section 4 amended

Section 4 of the principal Act is amended by deleting subsections (1) and (4) and substituting the following:

“(1) This Act does not permit the exchange of information to be made or executed prior to the later of the following—

- (a) the effective date; and
- (b) the date of commencement of this Act.

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(4) This Act, a scheduled agreement and the scheduled country requirements are to be construed as requiring the exchange of information on a taxation matter with a designated competent authority respecting—

(a) a person who is subject to or potentially subject to a tax covered by or a reporting requirement under the scheduled agreement or the scheduled country requirements; and

(b) property relevant to the taxation matter.”.

5. Section 5 amended

Section 5(1)(a) is deleted.

6. Section 6 amended

Section 6 is amended in subsection (1) by deleting “each scheduled agreement” and substituting “a tax information exchange agreement”.

7. Section 9 amended

Section 9(1) is amended by deleting the chapeau and paragraph (a) and substituting the following—

“9. (1) The functions of the Authority, subject to this Act, the Rules and any regulations made under this Act, include—

(a) the exchange of information on taxation matters including providing assistance with—

(i) serving documents; and

(ii) taking the testimony or statement of any person.

(aa) executing requests including providing assistance with searches and seizures in relation to a requests;”.

8. Heading of PART 4 amended

Part 4 of the principal Act is amended by deleting the heading and substituting “EXECUTION OF EXCHANGE OF INFORMATION”.

9. Section 23 amended

Section 23(1)(b) of the principal Act is deleted and following is substituted:

“(b) provides information to the Authority to facilitate the exchange of information for the purposes of a taxation matter.”.

10. Section 24 amended

Section 24(b) of the principal Act is deleted and the following is substituted:

“(b) to the Authority by a person to facilitate the exchange of information for the purposes of a taxation matter.”.

11. Section 25 amended

Section 25 of the principal Act is amended by—

(a) deleting subsection (1) and substituting:

“(1) Subject to this Act, a person shall treat as confidential the particulars of and matters related to—

- (a) a request;
- (b) the automatic exchange of information;
- (c) the spontaneous exchange of information; and
- (d) the provision of information for other tax purposes.”

(b) deleting subsection (2) and substituting:

“(2) A person who is notified of a request or is required to take action, produce a document or supply information respecting—

- (a) a request,

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- (b) the automatic exchange of information,
- (c) the spontaneous exchange of information or
- (d) the provision of information for other tax purposes,

shall not disclose the fact of the receipt of the request, the particulars required, the documents produced or the information supplied to another person.”

- (c) inserting the following as (2A)—

“(2A) Subsection 2(a) does not apply to a disclosure to—

- (a) that person’s legal representative; and
- (b) any other person that the Authority may authorise,

for the period that the person is notified by the Authority.”.

12. Deletion of “provision of information”

The principal Act is amended by deleting “provision of information” in section 4(2) and section 9(1)(c) and substituting “exchange of information”.

SPEAKER

Passed by the Legislative Assembly this day of , 2021.

CLERK OF THE LEGISLATIVE ASSEMBLY